

**Natalia Duarte Neubern**

**Navigating on Thin Ice while not Breaking the Ice:  
Norway's performativity of sovereignty over and around Svalbard in face  
of Russia**

**Tese de Doutorado**

Thesis presented to the Programa de Pós-Graduação em Relações  
Internacionais of PUC-Rio in partial fulfillment of the requirements for the  
degree of Doutor em Relações Internacionais.

Advisor: Prof. Monica Herz  
Co-advisor: Prof. Erica Simone Almeida Resende

Rio de Janeiro  
April, 2024



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Rio de Janeiro, April 18, 2024

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## Natalia Duarte Neubern

The author graduated in Social Communication - Journalism from Universidade Estadual de Londrina (UEL) in 2004. She obtained a *Lato Sensu* Specialisation in International Relations from Damásio Educacional in 2016 with the monograph titled “The Innovations of the Colombian Peace Process: Lessons Learned from Norway’s Facilitation”. She previously served at the Defence Attaché of the Embassy of Belgium in Brasília, where she coordinated the I European-South American Regional Security Symposium. In 2019, she earned a Master’s degree in International Relations from PUC-Rio, with a dissertation entitled “Peace Discourse in Norwegian Foreign Policy: An Analysis of Norway’s Identity Representations in Peace Facilitation and War Engagements”. She has become an expert in Norwegian Foreign Policy built on her work at the Royal Norwegian Consulate General in Rio de Janeiro, in addition to completing courses in Peace, Climate, Norwegian, and Arctic studies at the Universities of Oslo (UiO), Bergen (UiB), and Svalbard (UNIS). Drawing on her current thesis and the course for Polar Research at the University of Svalbard, as well as participations in the Arctic Congress Bodø and the IV Moscow Youth International Model Arctic Council, she recently co-authored the article “Redefining Arctic Boundaries in a Changing Climate: Interdisciplinary Perspectives on Governance Strategies” with peer scholars at NVP/UNIS, published in Polar Geography.

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To my mother, Cíntia, and my father, Victor, anchors of eternal return and affective  
reference for my unfathomably wanderer spirit.

You are my deepest roots and my most resilient foundation, who relentlessly structure  
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## Abstract

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The case of Svalbard is illustrative of Norway's performativity to ascertain its sovereignty in the Arctic in face of Russia, both bilaterally and in two multilateral instances of world politics: NATO and UNCLOS. The insularity and distance of the archipelago from mainland Norway coupled with the peculiarity of its juridical status situate those islands in a vulnerable crossroads between Russia's speculations over NATO's responses in a crisis (Wither, 2018, p. 28) besides contestations over the status of Svalbard's extraterritorial waters, on the one hand, and Norway's performativity of sovereignty, on the other hand. The factual deconstruction of this sovereignty resorts to the presentation of the following conundrums: the maritime disputes entailed in the legal uncertainty for the area surrounding the archipelago, the evolution of a local democratic course in Svalbard, and the deactivation of Norwegian mining operations. All conundrums seem to relate with one another, and the overarching imbroglio of Norway's contested claims of a contiguous continental shelf around the archipelago conditions the paradoxical equation comprising Norway's double-edged self between an oil and gas supplier and a friend of the environment. The deterioration of Norway's bridge-building stance between the West and Russia via NATO in face of a mounting security dilemma causes extra strain on Norway's performativity of sovereignty. By assessing how those events relate to Norway's performativity of sovereignty, the present research aims at tracing subjectivities and insights of discursive narratives that construct representations, departing from the assumption that there are instabilities of the Norwegian performativity of sovereignty from the standpoint of its security and environment practises in relation with Svalbard. It seeks to problematise these instabilities as well as to situate this analysis based on the conceptual history of the contextualised constitution of meaning of a key political vocabulary in Norway for these contexts, which is sovereignty. It builds on extant literature that scrutinises the very concept of sovereignty as contingent upon

context and purpose. The present study therefore bases itself on the argument according to which Norway's performances of statehood are important to assert its sovereignty in view of its paradoxical policies and practices. Norway's performativity of sovereignty gains extra relevance in face of those conundrums insofar as they depend on a political - and not sheerly technical - settlement. In that sense, by combining the literature on performativity with post-structuralism, it is possible to evince narratives and discursive practices not only in the co-constitution among discourse, foreign policy and identity, but ultimately the mechanisms through which sovereignty is validated via performativity and the ways this performativity is imbued with discursive practices also co-constituting identity and foreign policy.

## **Keywords**

sovereignty; Svalbard; Norway; performativity



## Resumo

Neubern, Natalia Duarte. Herz, Monica (Orientadora); Resende, Erica Simone Almeida (Co-Orientadora). **A performatividade da soberania da Noruega no Ártico fave à Rússia: o caso da soberania "plena e absoluta", porém qualificada, da Noruega sobre Svalbard.** Rio de Janeiro, 337p. Tese de Doutorado – Instituto de Relações Internacionais, Pontifícia Universidade Católica do Rio de Janeiro.

O caso de Svalbard é ilustrativo da performatividade da Noruega para assegurar a sua soberania no Ártico face à Rússia, tanto em nível bilateral como em duas instâncias multilaterais da política mundial: OTAN e CNUMAD. A insularidade e a distância do arquipélago em relação à Noruega continental, juntamente com a peculiaridade do seu estatuto jurídico, situam essas ilhas em uma encruzilhada vulnerável entre as especulações da Rússia sobre as respostas da OTAN em uma crise (Wither, 2018, p. 28) e as contestações sobre o estatuto das águas extraterritoriais de Svalbard, por um lado, e a performatividade da soberania da Noruega, por outro. A desconstrução factual desta soberania recorre à apresentação dos seguintes dilemas: as disputas marítimas implicadas na incerteza jurídica para a área circundante do arquipélago, a evolução de um percurso democrático local em Svalbard, e a desativação das operações mineiras norueguesas. Todas essas questões parecem relacionar-se entre si, e o imbróglio global das reivindicações contestadas da Noruega de uma plataforma continental contígua em torno do arquipélago condiciona a equação paradoxal que compreende a dupla face da Noruega entre um fornecedor de petróleo e gás e um amigo do ambiente. A deterioração da posição norueguesa de construção de pontes entre o Ocidente e a Rússia por meio da OTAN, face a um dilema de segurança recrudescente, causa uma tensão adicional na performatividade da soberania da Noruega. Ao avaliar a forma como esses acontecimentos se relacionam com a performatividade da soberania da Noruega, a presente investigação pretende traçar subjetividades e percepções de narrativas discursivas que constroem representações, com base no pressuposto de que existem instabilidades da performatividade da soberania norueguesa sob o ponto de vista das suas práticas de segurança e ambientais em relação a Svalbard. Procura-se problematizar essas instabilidades, bem como situar essa análise com base na história conceitual da constituição contextualizada do significado de um vocabulário político chave na Noruega para estes contextos, que é a soberania. A tese é construída sobre a literatura existente que escrutiniza o próprio conceito de soberania

como dependente de contexto e de objetivo. O presente estudo baseia-se, portanto, no argumento segundo o qual a performance da Noruega enquanto estado soberano é importante para afirmar a sua soberania por meio da performatividade, tendo em conta as suas políticas e práticas paradoxais. Essa performatividade ganha relevância acrescida face a esses dilemas, na medida em que eles dependem de uma resolução política - e não meramente técnica. Nesse sentido, ao conjugar a literatura sobre performatividade com o pós-estruturalismo, é possível evidenciar narrativas e práticas discursivas não só na co-constituição entre discurso, política externa e identidade, mas, em última análise, os mecanismos por meio dos quais a soberania é validada via performatividade, e os modos como essa performatividade se imbrica com práticas discursivas também co-constitutivas da identidade e da política externa.

### **Palavras-chave**

soberania; Svalbard; Noruega; performatividade.

*“The curious and qualified meaning of Norway’s ‘full and absolute sovereignty’ over Svalbard and its territorial waters are at the heart of this dispute, as is the idea of limiting sovereignty over previously un contemplated but newly accessible resources. ‘Qualified yet full and absolute sovereignty’ has the ring of an oxymoron”.*

Christopher Rossi, *Norway’s imperiled sovereignty claim over Svalbard’s adjacent waters.*

*“Don’t rock the boat; that’s the official Norwegian attitude to international agreements regulating the Arctic, and the same goes for the Svalbard Treaty”.*

Arne O. Holm, *High North News.*

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## Disclaimer

No matter how deeply my soul inclines for Norway nor how strongly I resonate with Norway's values and mindset, or even how enmeshed I am in Norway's culture, I must acknowledge my Brazilian nationality and the tropical backdrop against which I have written most of these lines. Just as Norwegians' perceptions of Brazil may sometimes seem naively inaccurate and unconsciously biased to Brazilians, I recognise that my own perspectives may similarly carry initial incongruencies. However, I aim to harness my irreversibly mingled Brazilian-Norwegian lens to provide a nuanced understanding from the standpoint of an outsider intimately familiar with Norway's significant geopolitical landscape.

Guided by a post-structuralist approach and immersed in Norway's Foreign Policy daily, I maintain a cautious distance, acknowledging both its benefits and limitations. While this detachment affords me a broader perspective on Norway's Arctic role, it also ensures that I remain not fully entrenched in its reality. Over nine years of engagement with Norwegian Foreign Policy, both as a scholar and a practitioner, I have navigated the challenges of impartiality while upholding confidentiality terms and ethical conduct, all while endeavouring to offer constructive insights.

Although I possess the autonomy to express my views as a researcher, I remain mindful of my role as a representative of the Norwegian Ministry of Foreign Affairs. While this PhD thesis does not officially represent the Norwegian government, it reflects the knowledge and insights gained through my professional, academic, and personal interactions with Norway. It seeks to present a critical perspective from the outlook of a curious learner, devoid of biases that often accompany the addicted gaze of a resident, while delving into the complexities of sovereignty, which cannot be taken for granted.

That said, a caveat is necessary: the object of this assessment has never been to "rock the boat" (Holm, 2021) – or disrupt the *status quo* – of the Svalbard Treaty. Neither is this study a contestation of Norway's sovereignty over Svalbard. Instead, it seeks to unravel the complexities of a "full and absolute" yet nuanced sovereignty in light of broader geopolitical concerns of Svalbard being catapulted as a flashpoint (Østhagen, 2023).



I hope to contribute to Norway's narratives of framing sovereignty in a manner consistent with responsible stewardship of the environment and oceans. This includes recognising that managing the surrounding waters of Svalbard is intertwined with knowledge and policy acumen in addressing climate change, thereby reinforcing Norway's position as a responsible custodian of this vital resource.

In essence, Norway has the opportunity to enhance its justification for exercising sovereign stewardship over Svalbard's extraterritorial waters by emphasising its portrayal as an accountable guardian of the area. Sustainable management of the region is critical for maintaining the oceans' role as a crucial regulator of climate change, particularly in an area renowned as a linchpin and laboratory for the dual impacts on climate dynamics.

Rio de Janeiro, March 15, 2024.

## Introduction

The oxymoron behind Norway's sovereignty over the North Pole archipelago of Svalbard as "full and absolute" albeit qualified is the object of the present study. This "qualified yet full and absolute sovereignty" (Rossi, 2015, p. 110) resulted from the negotiated settlement the Allies contrived under a perspective of balance of power following Post World War I, in order to solve a four-century dispute over these islands, also dubbed as the "Spitsbergen archipelago" and currently known as the "Svalbard Box" (Dyndal, 2014, p. 83). In 1925, the ensuing "Spitsbergen Treaty" (now named "Svalbard Treaty", Berg, 2013) granted that sovereignty upon conditioning it with a series of limitations, among which the forbiddance of using the land for warlike purposes (Grydehøj *et al.*, 2012; Dyndal, 2014, Rossi, 2017; Pedersen, 2006). While the legal basis of Norwegian sovereignty over the territory of Svalbard is strictly uncontested, a pluralist arrangement stemming from exceptions render this scheme a "hybridized", qualified sovereignty, which defies the scope of the legality entailed in the notion of a *domain réservé* (Rossi, 2017, p. 110) and ultimately brings to the fore reworkings on the limits between exclusive and common rights.

Even if most jurisprudence scholars agree that Norway's sovereignty over the archipelago stems from both the accurate codification of the Svalbard Treaty and international customary law, the same treaty that entitles Svalbard to the Kingdom of Norway provides exceptions to that sovereignty with regard not only to military provisions but equally taxation, and it stipulates non-discriminatory rights for other nationals in terms of mining, hunting and fishing, and not least immigration (Pedersen, 2017, p. 98). The uncertainty as to the jurisdiction of the maritime waters around Svalbard flames the most heated debate within the academia of jurisprudence as well as among the signatory countries to the Treaty of Svalbard. Since the Treaty of Svalbard precedes the current regime of the Law of the Sea, the treaty only mentions "territorial waters", with no reference to current concepts such as Exclusive Economic Zone and continental shelf, which hitherto meant high seas.

Views polarise between those opinionists that buttress prominent jurisprudence voices like that of Geir Ulfstein, who sees Norway's sovereignty as a result of "effective occupation", and others that join Carl August Fleisher by defending that

Norwegian sovereignty must naturally extend onto the area beyond Svalbard territorial waters (Pedersen, 2017, p. 104). As for the disagreement among the 14 original High Contracting Parties<sup>1</sup>, on the one side of the spectrum of the debate stands Norway, which holds that the treaty's provisions strictly apply to the literal scope of the land and the territorial waters of Svalbard. According to an in-between interpretation, which the United Kingdom mainly holds, Norwegian jurisdiction and the Treaty provisions should coincide geographically on both territory and waters (Pedersen, 2006, p. 7). On the other side of the spectrum, of which the most vocal are Russia and Iceland, there is the belief that Norway's sovereignty ensues from the treaty and is therefore of limited geographical scope, without legal foundation to prolong Norwegian jurisdiction beyond it.

The idiosyncratic possession of Norway over Svalbard is a flagrant sign that its sovereignty is in constant risk of contestation, which leads the state to validate its presence legally, economically and via international cooperation while Russia problematises Norway's jurisdiction over the archipelago (Grydehøj *et al.*, 2012, p. 100). Russia has openly protested against Norwegian regulations for the area beyond the territorial waters of Svalbard<sup>2</sup>. In that sense, Norway's "full sovereignty" over Svalbard is absolute only provided that it does not face contestations nor that Norway approaches controversies by circumventing any potential debate to revisit the Spitsbergen Treaty (Grydehøj *et al.*, p. 111; Østhagen, 2018).

Torbjørn Pedersen (2017, p. 104) denounces that a cognitive bias stemming from the international ambience and hallmarks of Svalbard, such as tax and visa free policies, leads laypeople and some policymakers to deem the paradoxical recognition of Norway's "full and absolute" yet restricted sovereignty as a gateway to conclude Svalbard's legal status as unsettled. In face of this and in parallel to geological assessments to validate or refute its continental shelf claims<sup>3</sup>, Norway has constantly

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<sup>1</sup> See the Svalbard Treaty: [https://www.spitzbergen.de/wp-content/uploads/2020/01/Spitsbergen-treaty\\_English.pdf](https://www.spitzbergen.de/wp-content/uploads/2020/01/Spitsbergen-treaty_English.pdf)

<sup>2</sup> Russia defends a multilateral management, under the Svalbard Treaty, of the maritime zones beyond Svalbard's territorial waters not only because any change of regime must be based on consent but also because the treaty curtails Norwegian sovereignty with a geographical limitation. Russia supports its view with the wording of the treaty, as it refers to land territory, territorial waters, fjords, and ports. See: <https://polarconnection.org/svalbard-fisheries-protection-zone/>

<sup>3</sup> See [nor2009\\_executivesummary.pdf](#)

sought to ascertain its sovereignty via presence in the archipelago. The legal and practical disputes over the waters surrounding Svalbard conform to an overarching imbroglio that encompasses three interrelated conundrums.

Firstly, the unclear status of the extraterritorial waters of Svalbard in view of Russian contestations over Norwegian claims for an extended continental shelf and a Fisheries Protection Zone around Svalbard problematises and potentialises Norway's double stance between a global oil and gas supplier and a friend of the environment. Norway's foreign policy comprises public attempts to reconcile the complex stalemate between energy security, on the one hand, and environment security, on the other hand. Beyond domestic oriented moves to strike a balance between a resourceful oil and gas industry and vocal environmentalists, Norway's foreign policy for the Arctic is also part of the outer dilemma of the ice melt in the Arctic stemming from oil and gas and maritime activities, which cause a feedback effect onto more ice melt and climate change. Against this backdrop stands a perception of Russia not being environmentally responsible, and most environmental justifications inform Norwegian restrictions relative to Russian activities (Pedersen, 2006).

Secondly, both Norway and Russia have heavily depended on non-profitable coal industries in Svalbard solely for the purpose of maintaining their presence in the archipelago. The underlying paradox of those operations, which cause a major impact on climate change, coupled with increased debts, led Norway to deactivate mining plants. In order to keep ascertaining its sovereignty by means of constant presence and control, Norway has turned to investing in research and tourism, which risks alluring a non-Norwegian community (Pedersen, 2017).

Thirdly, after years of a tighter grip from mainland Norway, Norway has granted more autonomy to the local government of Svalbard. This development has two implications. Firstly, Norway has solved an apparent contradiction between refraining the local administration of Svalbard from charting its own democratic course while othering Russia as "non-democratic". Secondly, and interrelated with the mining conundrum, the deactivation of most coal plants has paved the way for *Store Norske*, the century-old Norwegian coal company, to compensate for the vacuum of power and meddle into local administration matters, even in real estate ownership, which not only

entails keeping Norwegian presence via corporate businesses but also draws criticism in terms of expanding the company's authority in detriment of the community's autonomous path towards local democracy.

Notwithstanding the penchant of the extant literature in Norway for claiming that Norway's sovereignty over Svalbard is juridically uncontested and that any reference to Svalbard being an international territory stems from lay appraisals (Pedersen, 2006, 2017; Grydehøj *et al.*, 2012; Jensen, 2020), the final jurisdiction over the status of the waters surrounding Svalbard remains open to debate. This means that, contrary to this body of literature that lobbies for restricting the jurisprudence to the positivation of rights under the Svalbard Treaty and in view of the possible insufficiency of decisive solutions based on strictly legal grounds<sup>4</sup>, it is necessary to assume the importance of power in practice for sustaining claims of sovereignty, and this necessarily encompasses consistent approaches to conundrums as the ones previously described.

In that sense, Norway's constitutive sovereignty over Svalbard may be unquestionable, however, paradoxical interpretations ensued from that oxymoron indicate that this legal sovereignty does not suffice as it is not a corroboration from a given essence but rather a contingent condition that requires permanent validation by means of a practical, functional sovereignty. Sovereign states are not pre-given entities, but rather the ontological effects of the performative enacting of practices (Weber, 1998). While the Norwegian government strategy unveils attempts to circumvent larger geopolitical framings of Svalbard and to firmly uphold a position of sovereignty while

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<sup>4</sup> Previous jurisprudence of the International Court of Justice has advised that in "nonliquet" cases (not clear or not proven) as is the Svalbard Treaty, where *lacunae* exist and the law is imperfect, Courts should not judge. This goes against an international methodology that has a penchant for trying to choose norms among the comprehensive system of international law, and for making up for any legal interstice by applying customary law or general principles of law. For further information on the legal debate around the case of Svalbard, see Peter Thomas Örebech's (2017) "The Geographic Scope of The Svalbard Treaty and Norwegian Sovereignty: Historic - Or Evolutionary - Interpretation?". The interstices of the Svalbard Treaty indicate that, in either way, be it without a decisive legal judgment or by compensating that lack with customary law and general principles, any interpretation may entail power practices capable of steering visions on jurisdiction.

conciliating international interests (Hovelsrud *et al.*, 2020, p. 424), the example of the Norwegian mining presence and the only recently acquired local democracy in Longyerabyen are a starting point to explore paradoxical policies and practices in view of Norway's performativity of sovereignty.

In her seminal book "Simulating sovereignty: Intervention, the state and symbolic exchange", Cynthia Weber (1995) contends that the polysemic concept of sovereignty, beyond being an ontological status, translates statehood in the political practice of constituting and stabilising the concept's meaning of it as a political identity, conforming a perpetual struggle to write the state by means of boundaries, competencies, and legitimacies. In accordance with Iver Neumann and Ole Jacob Sending (2020), "statehood is confirmed and secured through actions that manifest or make the state visible and tangible beyond the taken for granted aspects of the state's embedding in society". Butler (1990) had described gender as a "persistent impersonation that passes as the real". If we think likewise of sovereign states, then it is possible to evince the co-constitutive process of foreign policy as a boundary-producing practice through discourse and identity. The instability of statehood as a subject performatively effected and thereby dependent on consistent performative reiterations to demarcate that subjectivity unmasks spiralling interactions that may even potentialise patterns of deterioration due to looping effects (Hacking, 1999). Judith Butler's (1990) theory of performativity and her widely known concept of "doing gender" hereby means "doing statehood" through a bordering process of discursive reiterations that cause (mis)perceptions and lead the other to perform in a certain way, which causes a "looping effect". Ian Hacking (1999) dubbed these interactional dynamics as "looping effect" insofar as "there can be strong interactions. What was known about people of a kind may become false because people of that kind have changed in virtue of how they have been classified, what they believe about themselves, or because of how they have been treated as so classified".

Cynthia Weber (1998, p. 90) contends that "performativity disseminates and decentres meanings so that all meanings are ultimately undecidable". When Weber (1998, p. 90) applies to state and sovereignty the reasoning that Butler (1990), based on Nietzsche, had elaborated on sex and gender, that is, that those are "discursive

effects of performative practices”, then there is admittedly no sovereign state behind expressions of sovereignty, which renders the state “an in-between space”, trying to re-stabilise meanings of Self and Other due to the sheer lack of a foundational ontology (Butler, 1990).

Since Foreign Policy<sup>5</sup> addresses are the enactment of this attempt to solve the inexistence of being sovereign by means of insisting on the sovereign subjectivity in “a persistent impersonation that passes as real” (Weber, 1998; Butler, 1990), a discourse analysis is necessary in order to grasp this “proliferation of performances” in “crisis of representation” (Butler, 1990). Othering processes constitute state practices of representation as a sovereign identity or, as David Campbell (1998) dubs, Foreign Policy. As such, Foreign Policy, being a performative reproduction of particular modes of subjectivity, is a boundary-producing practice that enables the constitution of political subjects as unstable effects of power representations (Laffey, 2000). Once state representational practices reflect a subjectivity, they constitute the inside and the outside, the domestic and the foreign (Laffey, 2000).

Performativity reinstates the formation of Norway and Russia as Arctic sovereign subjects but also the production of their bodies as sovereign territories. Beyond a materialist partake on performativity by means of sovereign territories and just as Tracy Morison and Catriona Macleod (2013, p. 566) use performance to supplement performativity by furnishing the analysis of performativity with a narrative-discursive methodology, this study interrelates performativity with performance, in the sense that these states become subjects and doers only as a fiction. Despite deriving from the same verb “to perform”, performance and performativity are different concepts. While the first evokes the execution of something, the latter is the materialising effect of that execution. As Chapter 5 will elaborate, performance can be an event that carries a social, political or economic meaning to an audience by means

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<sup>5</sup> David Campbell (1998) differentiates Foreign Policy, in capital letters, against foreign policy in the broader sense, written in small letters. Foreign Policy, in its institutional format, adopts available collective social practices and stabilises both internal and external disturbances of the Self with official deeds, whereas foreign policy is the social instantiation that produces meanings. These meanings, in turn, provide the “the grid of intelligibility” (Milliken, 1999, Doty, 1993), *i.e.* the discursive economy that informs Diplomacy’s decisions.

of staging a plot rife with – but not limited to – theatricality, such as demonstrations, parades, terrorism, and debates (Ringmar, 2013, p. 73-74). Butlerian theory based on Nietzsche states that, since there is no being behind doing, acting or becoming, it is thanks to performed deeds that the doer manifests itself, albeit only as an illusionary subject (Morison & Macleod, 2013).

The theoretical framework for the assessment of sovereignty as dependent on performativity is based on the critique of sovereignty that Jens Bartelson (1995, 2006) raised as against the Sixteenth Century view that Jean Bodin had incepted of sovereignty being absolute and indivisible. Bartelson's argument according to which sovereignty is contingent upon context and therefore unstable may inform the workings through which performativity is a necessary condition for states to rewrite themselves as sovereigns. Just as Bartelson (1995, 2006) deems the state's attribute of sovereign as problematic and thus prefers to highlight its functional dimension rather than considering it an essential, static attribute, Janice Thomson (1994) unpacks the transient and bounded condition of sovereignty into its constitutive dimension, based on historical formation, and its functional one, based on variations of authority within sovereignty. Her appraisal on the relation between functional changes and the constitutive dimension of claims of sovereignty invites the assessment of relations among the state, state practices and transformations in the institution of sovereignty.

For the object at stake, Norway's double dimension of sovereignty as constitutive and functional over Svalbard adds to the theoretical critique of sovereignty as contingent. Norway's constitutive sovereignty over the territory of Svalbard requires to be performatively enacted not only because of contestations over its constitutive dimension relative to its maritime space but also in face of its functional dimension when it comes to the aforementioned imbroglios of its maritime jurisdiction as against overlapping orderings, the deactivation of its mining operations, and the granting of a democratic local government. The present research is thus an attempt to address the inquiry on the relation between the functional and the constitutive dimensions of Norway's sovereignty over Svalbard. But, contrary to assessing how the functional dimension erodes the constitutive one, it aims to unpack how the latter depends on reinforcements only possible by the functional dimension in order to seem natural and



uncontested. These functional reinforcements are performative deeds that, for practical purposes in this study, encompass environmental versus business related impasses, maritime jurisdiction, and governance and control of the island. It rests to explore whether Norwegian discourse is successful in establishing and changing sovereignty norms, and the example that Norway sets a Fisheries Zone is a good case in point. The peculiar oxymoron of the idea of “full and absolute sovereignty” rife with exceptions constitutes a starting point to enquire to what extent these changes in sovereignty end up changing sovereignty itself.

In “An Arctic ‘marriage of inconvenience’: Norway and the othering of Russia”, Leif Christian Jensen (2017) approaches the Norwegian policy to the Arctic and the Othering of Russia through the lenses of national identity and discourse under a post-structuralist International Relations theory. Jensen makes a diagnosis of the literature on the Arctic and perceives a lack of post-structuralist appraisals on the region. Although he fills that gap, he does so by concentrating more on identity and less on performance and performativity. The extant post-structuralist literature on the theme lacks appraisals of Norway’s performativity of functional sovereignty especially aiming to rewrite its constitutive sovereignty by reinstating its functional sovereignty over but also around Svalbard. A post-structuralist approach to the co-constitution among identity, discourse, and foreign policy thus offers a valuable tool for spurring assessments on Norway’s performativity of its constitutive and functional sovereignty.

The debates revolving around the status of the waters surrounding Svalbard, Norwegian mining presence on Svalbard as a means to ascertain Norway’s sovereignty over the archipelago as well as transformations stemming from local democracy will thus serve to frame Norway’s performativity of sovereignty. The discursive practices enmeshed in this performativity will be assessed in face of Norway’s relations with Russia in the Arctic. These interactions will be framed from the standpoint of discursive practices of the Norwegian Foreign Policy against the backdrop of a kind of new Cold War between two capitalist nations in the Arctic as a Climate Change laboratory, with climate governance as the ultimate limit to the capitalist notion of unrestricted growth. For the purposes of the present research, Norway’s performativity of sovereignty comprises paradoxes of the Norwegian Foreign Policy such as that between being an

oil state and environmentally proactive within the environment governance, or that between the Othering of Russia while a state void of democracy and Norway's anxiety when granting local democracy to Svalbard while needing to uphold control and authority over the local community.

It is important to note that the relations between Norway and Russia in the context of the Arctic as a climate change laboratory may be a harbinger for a major climate change conflict of global dimension, which relates to the urge of striking a new balance between economic growth and the protection of the environment, a *sine qua non* condition for putting into practice the guidelines of the Paris Agreement. The misleading media depiction of potential conflicts between Norway and Russia as a "new Cold War" hence needs some actualisation insofar as the bipolar tension between communism and capitalism has given way to a new dichotomy on the same capitalist side, which is that between sustainable economic growth and unlimited economic growth. These conflictual interactions could still render a new type of Cold War insofar as there are confrontations that are not warful but rather depict how two capitalist nations border their differences when attaining the equation between economic growth and climate change.

The Arctic is a laboratory of climate change because the melting of circumpolar caps is both a cause and a consequence of global warming. The greying of the icecaps ensuing from the loot of ever more intense maritime activities relative to tourism, oil and gas exploration, and commercial shipping renders an otherwise white, reflective surface, into a black carbon one that absorbs sunlight and thus melts and warms the water, in a "feedback loop" (Ebinger & Zambetakis, 2009). Furthermore, there is a spillover effect from climate change governance to security governance. The polycentric governance relative to climate change can point as a theoretical framework in order to grasp a general evolution from government to governance in other areas such as that of security (Krahmann, 2003). This synergy renders climate change policies the state-of-the-art of intricacies among environment, security, and governance in the Arctic, and with global repercussions.

Stefano Guzzini (2012, p. 3) proposes to reflect on governance as "political order", where the purposes of "public interest" and "common good" resonate a political

drive. When relating the concept of governance to that of power, Guzzini (2012, p. 3) has the care of not conflating both. In order to make the distinction, the author (2012, p. 7) argues that the assessment of structural power elements, such as the autonomy to personally affect and influence, social domination, and impersonal rule do not suffice to grasp the very structure of power as an ordering domination entailed in governance. Guzzini (2012, p. 8) equally denounces the philosophical bias entailed in some analyses that do not distinguish power and order. That is because power pervasively enmeshes in the political order but only inasmuch as this order encompasses the omnipresence of power by adding it to other elements, all the more because values such as that of “common interest” do not reduce to power.

With these relations in mind and also basing on Guzzini’s (2012, p. 5) delineation of appraisals on global governance either from an institutionalist and public policy focus on steering power and that from the broader outlook of public choice for common good and reduction of transaction costs, the governance of the Arctic does not escape from the logic of power entrepreneurship that is intrinsic to regimes (Stokke, 1990; Rowe, 2018). It is the very complexity of that governance framework that, like in other regimes, creates gapping interstices and ambiguities. States, in turn, acutely steer these overlaps and *lacunae* based on certain resources, representations and positioning that conform to a significant performativity (Rowe, 2018). Power relations thus bolster that complexity and form competences that sustain Arctic politics (Rowe, 2018). Performativity, in this sense, entails power insofar as representations situate practices in a certain context. The analysis of the intricacy of power relations enmeshed in geopolitical representations and how those reflect on trans-border relations in practice elucidates how the very workings of Arctic cross-border governance entail the enacting, the maintenance, and the production of power relations (Rowe, 2018). Since material power does not translate automatically into power in practice (Adler Nissen & Pouliot, 2014; Rowe, 2018), it is noteworthy how governance results from relations of power in practice. Such power dynamics carry a performance and a performativity and entailing status, recognition, convincement, etc, which, in turn, constitute sites of governance that depend on context and contingency (Neumann & Sending, 2010). As

Rowe (2018) indicates, those relations of power are mostly detectable in decisive situations that lead to a contestation of the *status quo*.

Notwithstanding the ontological consummation and the epistemological need relative to transmute sovereignty within governance frameworks, these comprise power relations whose performativity carries struggles to reinstate the sovereigns. In other words, these power relations in practice within governance not only entail performance through status, recognition, and audience, but also performativity, in the sense of the practises through which states come into being states. Based on an institutionalist perspective of Norwegian Foreign Policy, this study aims to find inflection points between the interplay of Norway's bilateral relations with Russia and shifting governance dynamics in the Arctic. Since governance can reflect the confluence of power in practice, the performativity of Norway in face of Russia is a case study for a broader outlook of performativity of power in the dynamics of governance in the Arctic. The geopolitical moulding of representations is manifest in the everydayness of the "geopower" comprising actors' practices and techniques in global governance (Rowe, 2018).

The assessment of performativity of Norway's constitutive and functional sovereignty within the governance for the Arctic and with reference to the object at stake will occur, in the present study, by means of a post-structuralist analysis of Norway's statehood within a global sphere, namely the Commission on the Limits of the Continental Shelf of UNCLOS, and of a regional sphere, via NATO, conforming to the framing of those conundrums under environment and security governance frameworks.

It is therefore meaningful to assess how the governance structure of the Arctic as a linchpin and laboratory for climate change and as the grounds of a security dilemma ensuing from militarisation relates with power interactions between Russia and Norway. In accordance with Rowe (2013, p. 1), "Norway is unique in the sheer amount of political capital and discursive space that is showered on Arctic international relations". This performativity is somehow a translation of Norway's material powers in the region: as Mathieu Landriault *et al.* (2020) argue,

“Norway is the biggest fisheries nation in Europe, the world’s second biggest exporter of gas and its seventh biggest oil exporter. It would be surprising if Norway’s foreign policy remained classically ‘small state’ in a region that attracts attention for just these things— fisheries, oil and gas [...] This all suggests that Norway’s approach to the Arctic may differ from its more modest, ‘small-state’ approach to international relations more generally and is in keeping with an increasing desire for the country to stand out as a ‘leading country’ in targeted areas”.

Given Norway’s and Russia’s geography, NATO’s policies for the Arctic region are necessarily imbricated in these countries’ bilateral relations and vice-versa. As Wrenn Yennie Lindgren & Nina Græger (2017) argue, these bilateral relations not only co-constitute an inseparable triangulation with NATO, but they equally mirror the temperature of the relationship between Russia and the West. Norway’s behaviour in face of Russia’s assertiveness in the Arctic unveils pendulum practices between deterrence and assurance. At the same time that Norway depends on NATO, Russia sees this proximity as a threat. However, Norway has been deemed an “international relations entrepreneur in the Arctic”: “Norway has sought to distinguish itself through a role as a ‘convenor’ in Arctic affairs — bringing together different kinds of actors and interests — and also as a ‘bridge builder’, especially in assisting other countries in their relationship to and understanding of Russian northern policy” (Lindgren & Græger, 2017). In the context previous to escalating tensions, even Russian Minister Lavrov had availed of Norway’s role as a “bridge-builder” between NATO and Russia<sup>6</sup>. Russia’s official address on Norway and NATO then reinstated the Norwegian leadership in building a bridge between the organisation and Russia, pointing that a reassessment of the European security should place Norway “first in the line”, as Minister Lavrov stated (NATO, 2019). When it comes to deterrence, besides engaging in the politicisation of energy issues and placing the field into a “high politics” game, Norway pledged NATO to emphasise the territorial defence of its member states, a victory included in the organisation’s 2010 Strategic Concept (Lindgren & Græger, 2017).

The boost of military presence of NATO in Norway, on the one hand, and of Russia in the Arctic, on the other, has bred ground to a security dilemma, with Russia

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<sup>6</sup> See: <https://www.nato.int/docu/review/articles/2019/06/28/the-changing-shape-of-arctic-security/index.html>

accusing Norway of breaking a Cold War policy of not hosting armed forces in its territory unless under attack<sup>7</sup>. In accordance with Ken Booth's and Nicholas Wheeler's (2008, p. 23) definition on securitisation, it presupposes a dilemma both of interpretation and of response. Just as Andreas Behnke (2013) argued that both the constitution and containment of the otherness of the Soviet Union depended on "a mutually reinforcing logic of military capability and political uncertainty", the re-signification of NATO's enmity towards Russia – and no longer the USSR – has placed a new role for the Arctic regarding NATO's reconceptualisation since the demise of Cold War.

On a larger scope, the failure of interpreting and responding to those regional security challenges may spill over to a global security issue<sup>8</sup>:

"As the Far North continues to be a source of international focus due to threats of climate change, those security concerns may now have to share figurative space with classical power politics, as the region continues to move away from the strategic periphery and towards an uncertain mainstream in emerging global strategic discourses".

All in all, the assessment of the Arctic militarisation must take into account a broader perspective of international security studies that encompasses both military and non-military security accounts in order to grasp matters of cause and solution to security imbroglios (Crawford, 1991). This broader analysis is important all the more because militarisation in the Arctic also involves issues of an equally broader scope, such as climate change<sup>9</sup> and the ensuing increase of traffic flows as the ice melts. The steep increase of Russian militarisation beyond its exclusive economic zone goes in tandem with Russian claims to international waters with natural resources<sup>10</sup>. NATO's defence coordination in the Arctic both depends on Norway and was, at least until the Russian invasion of Ukraine, beneficial to Norway. Not only did Norway play the role

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<sup>7</sup> Notwithstanding Norway's ban on NATO's bases on its territories, the country does not forbid allied training, especially for US and British forces. As a consequence, Moscow has blamed Norway for not complying with its base ban policy. Norway, in turn, expresses concern over the largest Russian exercise since 1985 off the coast of northern Norway in August 2019.

<sup>8</sup> See: <https://www.nato.int/docu/review/articles/2019/06/28/the-changing-shape-of-arctic-security/index.html>

<sup>9</sup> This does not mean, however, that climate change could alone lead to conflict or militarisation.

<sup>10</sup> See: <https://www.maritime-executive.com/editorials/the-nato-alliance-s-role-in-arctic-security>

of bridge-builder between the Western ally and Russia, but it also used to coordinate some stances with Russia within the Arctic Council.

Interpretation of the Other emerges as a key epistemological assessment to describe the state-of-the-art of the triangulation comprising Norwegian-Russian inter-subjective relations within NATO. Julie Wilhelmsen and Kristian Lundby Gjerde (2018) make a relevant caveat according to which the determination of the kind of relations that will persevere in the Arctic does not depend on the policies of a sole state under a dichotomous perspective, but rather on the appraisal of the entanglement of changing foreign policies and the interpretation of them under a scale. The present study therefore aims to assess the Norwegian-Russian relations within NATO under this inter-subjective and multidimensional prism. A multi-directional approach to the complex interactions that cause Norway to perceive NATO as a necessity for the stability and peacefulness of the Arctic region while Russia interprets that presence as a threat (Wilhelmsen & Gjerde, 2018) entails assessing how shifting representations enable conditions for the co-constitution among identity, foreign policy, and discourse.

Those authors (Wilhelmsen & Gjerde, 2018) hold that Moscow's campaign in Ukraine potentialised representations that spurred NATO's presence, which consequently made Russia step up its military stronghold of the Arctic, a move that plays a major role not only on Norway seen as "NATO in the North" but also on Western-Russian relations and the way the representations of threats may lead to militarisations and security dilemmas. The in-between stance of Norway in face of Russia and the West exposes Norway not only to a physical threat, but also to external pressures given that Norwegian-Russian relations reflect those between NATO and Russia (Græger, 2019). The Russian invasion of Ukraine on February 24, 2022 has also had profound implications on Svalbard, as will further be explored, to the extent that the Ukrainian crisis has also been exported to the Arctic.

One important provision is noteworthy: the present study is by no means a contestation of Norway's sovereignty over Svalbard, which is undisputable, nor is it a relativisation of Norway's "full and absolute sovereignty" in face of misconceived characterisations of Svalbard as 'a shared space' with a supposedly ambiguous status, like Andreas Østhagen, Otto Svendsen and Max Bergmann (2023) warned against. The

object at stake is not sovereignty *per se*, but rather Norway's performativity of sovereignty in face of others' relativisation of such and against the complex backdrop of geopolitics in the Arctic.

In addition to disputes over how Norway interprets the Svalbard Treaty by its other signatories and contestations against Norway's increasingly stringent environmental regulations, enhanced coordination of research endeavours, and the imposition of limitations on specific activities, primarily motivated by concerns for the delicate archipelago environment, the alleged ambiguity takes a larger scope with regards to NATO, in view of raising questions on whether Svalbard falls under the Alliance's territorial security guarantee (Bergmann, 2023). The discussion of Norway's performativity of sovereignty in face of such contestations entails assessments of the intricacies of the geopolitics of the Arctic and, more specifically, of Svalbard as a flashpoint for spillover conflicts, and security implications for Norway.

In a nutshell, the following chapters will explore Norway's performativity of sovereignty over Svalbard as follows. The dimension of Norway's constitutive sovereignty will concentrate on the description of the main *problemata* of the Svalbard Treaty in constituting Norway as a "full and absolute" sovereign over Svalbard at the same time it qualified this constitutive sovereignty with limitations, such as that of non-discrimination to the other signatory states. The Svalbard Treaty not only constituted Norway's sovereignty over the territory of Svalbard, but equally conditioned its functional sovereignty when it comes to stipulations on mining, taxation, and security, for instance. Norway's sovereignty over Svalbard has a constitutive and territorial dimension stemming from the Svalbard Treaty. It also has a functional and territorial dimension regarding mining and other stipulations from the Svalbard Treaty. Another functional dimension of its sovereignty over the territory encompasses democracy, research, and tourism. As regards the regional scope of NATO, the functional dimension of Norwegian sovereignty over the territory appears in performativity relative to militarisation and in the interplay with functional restrictions of that sovereignty stemming from the Svalbard Treaty. The functional sovereignty of Norway on maritime domains around Svalbard relates with the performativity of sovereignty claims within the global scope of the Commission on the Limits of the Continental



Shelf (CLCS)<sup>11</sup> of UNCLOS to validate continental shelf claims, as well as sovereign reinstatements relative to the management of fisheries and oil and gas. This dimension has implications for discourses on the Environment, the Climate Change governance for the Arctic, the Othering of Russia, and not least debates around the performativity of ascertaining sovereignty in view of the ongoing deactivation of Norwegian mining in Svalbard. This latter finally relates with democracy and the Othering of Russia as non-democratic.

Considering these, how can Norway functionally sustain its sovereignty over Svalbard in face of Russia and complex conundrums stemming from overlapping claims of continental shelves and NATO's presence in the region? Through which discourses may Norway consistently harmonise its double-edged Self between an oil and gas supplier and a friend of the Environment? How can the co-constitution among identity, discourse and foreign policy comprising narratives, deeds and performance enact a performativity able of rendering the constitutive “full and absolute” yet qualified sovereignty a fully-fledged functional sovereignty?

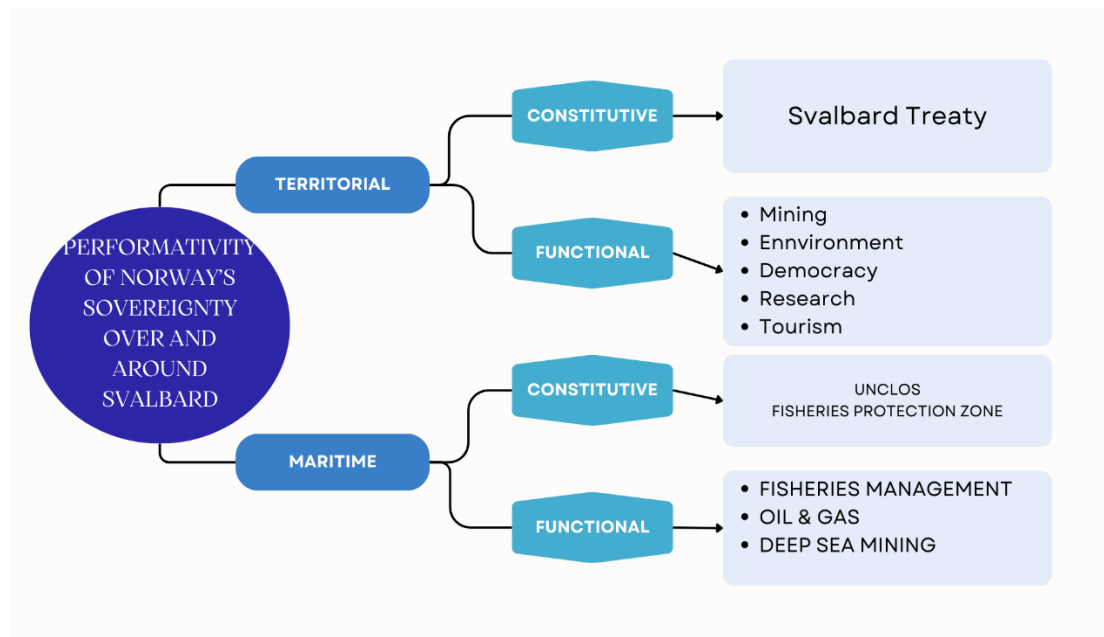


Image 1: Mental Map 1

<sup>11</sup> See: [https://www.un.org/depts/los/clcs\\_new/clcs\\_home.htm](https://www.un.org/depts/los/clcs_new/clcs_home.htm)

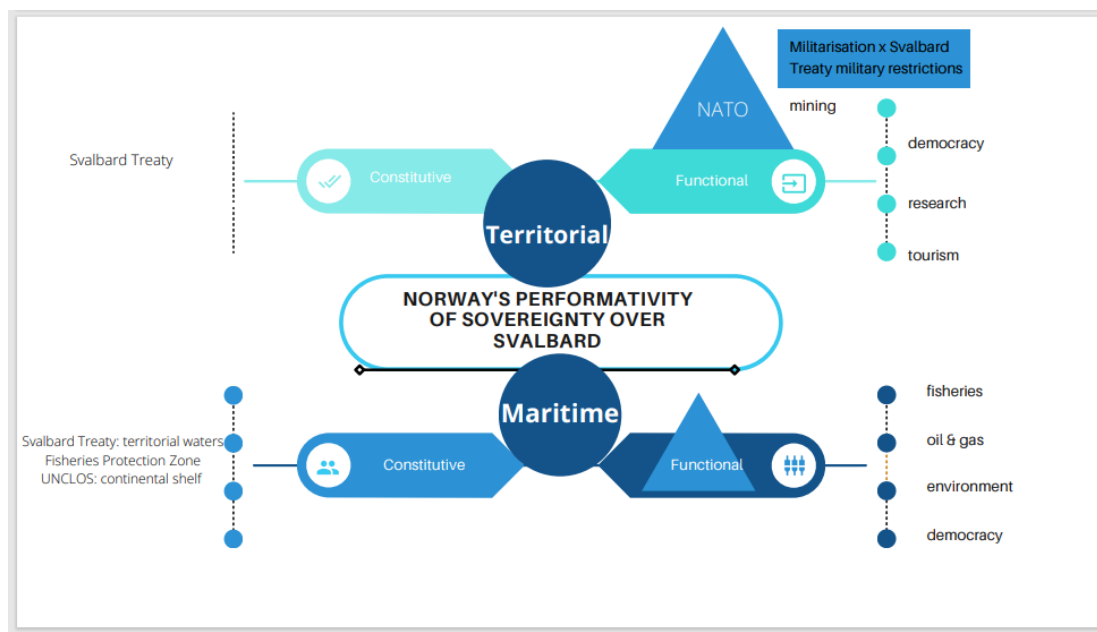


Image 2: Mental Map 2

## Methodology and Analytical Strategies

Sovereignty is a departing point for the analytical strategies of the future research, be they ontological or hermeneutical. Jens Bartelson (1995, p. 2-3) argues that sovereignty, either as a concept or as a property of States, implies an experience that is both semantic and empiric. With this in view, the assessment on sovereignty will be both theoretical and empirical.

Kevin C. Dunn and Iver B. Neumann (2016, p. 36) mention attempts to paraphrase the “threedimensional model” of the proponent of Critical Discourse Analysis Norman Fairclough (1995) – “the text (‘the communicative event’), the discursive practices within which this text is embedded (‘order of discourse’), and the social practices encompassing the order of discourse (the ‘social field’) – with “separate exercises of description, interpretation, and explanation respectively” that Titcher *et al.* (2000) bring about. Notwithstanding this correlation, Neumann and Dunn (2016, p. 36) read these three activities as permeating all Fairclough’s three dimensions. Likewise, the methodological separation between theory and practice, in this research, attends didactic purposes and does not preclude assessments of the communicative event, the order of discourse and the social field in both theory and empirics, nor are description, interpretation and explanation exclusive to one or another, although the assessments lead the study to formal interpretations and explanations.

The initial, theoretical approach will comprise a literature conceptual review, wherein a brief genealogy of sovereignty will be put into the context of overlapping sovereignties of the “de-bordering Arctic” and the very genealogy of bordering as “sovereign practices” (Walker, 1991) of a space that is “outside the international”. This contextualisation will pave the way for the theoretical assessment of Norway’s sovereignty over Svalbard as well as for bridging that analysis with a literature review of the performativity of that sovereignty regarding Norway’s relation with Russia and NATO and the co-constitution of those discursive practices with foreign policy and identity.

As regards the empirical approach, the discourse analysis of official, public addresses will be complemented with a succinct ethnographic field practice on Svalbard, described in the Appendix. The ethnographic research will serve not only to perceive informal diplomacy as performativity, but also to grasp convergences and divergences over the Norwegian sovereignty of Svalbard between the analysed discourses of Foreign Policy<sup>12</sup> and the Norwegian settlement in Longyearbyen.

The High North has been deemed Norway's most strategic priority area since 2006 (Grydehøj *et al.*, 2012, p. 100). As an example of Norway's consistent investments in political capital and discursive space on Arctic international relations (Mathieu Landriault *et al.*, 2020), the Norwegian Minister of Foreign Affairs, Ine Eriksen Søreide (2020)<sup>13</sup>, recently declared:

“The Arctic is our most important area of strategic responsibility. This is reflected in the budget proposal for 2021 and in the Government's long-term priorities. We must safeguard Norwegian interests in the north and to do so we must further develop North Norway as a strong, viable and highly competent region”.

One must bear in mind that, albeit clear discursive investments from Norway with regard to the High North and notwithstanding the implicated ministerial identity building in speech writing, a speech or a strategy document from the Norwegian Ministry of Foreign Affairs, like almost every deep-seated bureaucratic process and public address, tends to be vague and undeviating (Neumann, 2007, p. 194).

As such, an ethnographic field study appears to complement the theoretical and empirical discourse analysis. Patrick Thaddeus Jackson (2008, p. 91) heeds attention to the practical differentiation between the methodological aim of ethnography to make sense of something, and the collection of data, which he deems the “participant-observation methods”. For him, Ethnography, being a kind of interpretive research, consists in

“systematizing the unique experiences that a researcher has in the field, positioning her - or himself on the borderline between the inside and the outside of a social group so as to reveal the distinctive social practices associated with that group. [...] Indeed, in interpretive research, the researcher is the research instrument, so attempts to minimize

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<sup>12</sup> Norway's official Foreign Policy, with capital letters, refers to David Campbell's (1992) differentiation against foreign policy in the broader sense, written in small letters.

<sup>13</sup> See: [https://www.regjeringen.no/en/aktuelt/focus\\_north/id2768595/](https://www.regjeringen.no/en/aktuelt/focus_north/id2768595/)

unique or idiosyncratic aspects of the researcher's individual experiences would make little sense" (Jackson, 2008, p. 92).

With this in mind, a fieldwork in Svalbard may provide the study with further (though not detached from personal experiences) insights on the "microphysics of power" (Neumann, 2007, p. 192) relative to the discursive practices of the performativity of Norway's sovereignty over the archipelago. This can encompass not simply the observation and interpretation of those practices, but also semi-structured interviews<sup>14</sup> with Norwegian stakeholders in the settlement of Longyearbyen.

Drawing on Kevin Dunn's and Iver Neumann's (2016, p. 2-3) assumptions of discourse as based on language (as a set of collective codes and conventions that give meaning and endow particular identities), as being structured (producing intelligibility), and relational (given its fluidity), as well as open-ended and productive of reality (therefore being not only ideational, but equally responsible for organising practices, though not in a decisive way), the discourse analysis to be undertaken, in order to "to specify the bandwidth of possible outcomes" (Dunn & Neumann, 2016, p. 2-3), builds on some sources as hereby illustrated:

When it comes to deterrence of Russia, the language of power prevails (Folland, 2021). Conversely, assurance appears with words such as "transparency", "predictability", "stability", "accountability", "cooperation", etc (Folland, 2021). When it comes to compensating the gapping Norwegian presence in Svalbard after the deactivation of its major mining activities, the 2015-16 Norwegian White Paper for the High North brings about a third pillar, in order to ascertain its sovereignty:

"This is the first-ever High North whitepaper that deliberately has a third leg to stand on, in addition to the international situation in the Arctic and the relationship with our neighbors, *i.e.* development in Northern Norway. That is so because having people live in the High North and having a strong, vital, and competent Northern Norway is the best way in which we can assert Norwegian interests. That is why societal development here matters to all of Norway."<sup>15</sup>

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<sup>14</sup> The interviews are not transcribed in this study and served solely as a complementation to the summer school undertaken in 2022 at the University of Svalbard.

<sup>15</sup> The speech equally consubstantiates a performativity of sovereignty in the attempt to subjugate what is good for Svalbard into the interests of Norway as a whole. See: <https://www.highnorthnews.com/en/new-norwegian-high-north-whitepaper-focusing-people-and-societal-development-arctic>

This study aims to combine the literature of performativity with that of post-structuralism insofar as they account for changes within continuity. As Mark Laffey (2000, p. 431) asserts,

“To the extent that a performative appears to ‘express’ a prior intention, a doer behind the deed, that prior agency is only legible as the effect of that utterance’. Subjects do not exist somehow behind or outside discourse but are constituted in and through it. Performativity is the ‘vehicle through which ontological effects [such as the effect of a doer behind the deed] are established’. At the same time, this constitution is ‘an activity not an act; the subject is not a final product but an ongoing, always incomplete series of effects of a process of reiteration”.

As a result, in order to grasp the context and contingency of co-constitution processes, one needs to assess these lenses on the basis of a power in practice that stems from both continuity and change. With that in view, David Campbell’s performative accounts of state action based on Butlerian theory can also serve as a means to assess particular modes of ongoing and changeable subjectivity that comprises other processes of performativity, such as Norway’s sovereign practices.

When illustrating the Norwegian participation in the Libyan operation, Neumann & Sending (2020) describe that Norway was initially hesitant to the use of force in Libya only until the United Nations Security Council passed the 1973 Resolution, and that change in course of action owes to a narrative of Norway traditionally upholding the regime of order. However, the extension of the UN mandate by means of the Norwegian facilitation towards “regime change” in order to preserve a reputation of a “good ally” portrays the contingency not only of purposes but equally of audiences as regards to which narrative a state chooses in the performing of its statehood: “Different audiences will judge the same performance on different merits. Anticipating this, a performer will often attempt to perform differently for different audiences, so-called multiple signalling” (Neumann & Sending, 2020).

The analysis of these co-constitutive interactions frames nuances of narratives, concepts, performance, and audience, with an attempt to unravel the influencers behind specific narratives and their roles within or beyond a particular space, involving its characteristics, inhabitants, and entities. Rather than employing these tools as exhaustive theoretical frameworks, and drawing on Ragnhild Dale’s (2019) methodology, I will utilise them as heuristic indicators—approaches to delve into their

dynamics in shaping the performativity of Norway's sovereignty by means of scrutinising processes inherently performative, intending to yield tangible real-world effects. Since performative sovereignty involves both the execution of essential governmental functions and the conceptualised role of the "people" who actively fulfil their duty as the primary holders of sovereignty (Aalberts, 2004), the analysis will equally contemplate a bottom-down perspective of that performativity, particularly in the discussions on democracy on Svalbard.





## Chapter One

### Norway and the archipelago of Svalbard

The purpose of this chapter is to construct the object of the present thesis and the paradox that warrants a critique on sovereignty. As such, the opening section presents the object of the present thesis: the archipelago of Svalbard, the northernmost inhabited area of the world. Or, as plenty of ecotourism websites, advertise: where no one is allowed to die<sup>16</sup>. In order to do so, the present chapter will start by rendering the lay reader familiar with this “fairytale” land of white wilderness with descriptions on its discovery, history, geography, climate, nature, population, demographics, settlements, economic activities, the role of whale hunting, mining, research and ecotourism, political organisation, relationship with continental Norway, environmental concerns, Arctic science and governance, main challenges, and political issues of Svalbard.

#### **1.1 Svalbard: where no one is allowed to die**

Svalbard means “Cold Coast” in Old Norse<sup>17</sup>. The first references to Svalbard feature in Icelandic texts from the 12<sup>th</sup> century. The modern history of the archipelago began thanks to its “discovery” by Dutch explorer Willem Barents in 1596, who named the main island ‘Spitsbergen’ (Dyndal, 2014, p. 82). The coast of Svalbard soon became useful for Dutch, English, Danish and Norwegian hunters to produce whale oil along the sixteenth century (Dyndal, 2014, p. 82). Jean Bodin<sup>18</sup>’s inception of “absolute and indivisible” sovereignty as early as in the 16<sup>th</sup> century serves as a background for Christopher Rossi (2017, p. 1511) to situate the discovery of Spitsbergen, the status of which became more problematic in the subsequent centuries, in a context when the “pooling” of sovereignty arising from the delegation of a state’s authority to

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<sup>16</sup> See: <https://vimeo.com/232614312>

<sup>17</sup> See: Svalbard | Geography, History, & Facts | Britannica

<sup>18</sup> “La souveraineté est la puissance absolue et perpétuelle d’une République”. Bodin, J. Les Six Livres De La République, 1576.

international agents or organisations intensified records of “divisible sovereignty” along with increased global exchange networks (Rossi, 2017).

Clashes among several states for sovereignty over the archipelago of Spitsbergen in view of whale and walrus hunting trace back to the 17<sup>th</sup> century. The quandary of ownership, however, seemed puzzling, insofar as both England and Denmark-Norway claimed Spitsbergen, whereas Holland defended common access based on Dutch Huig de Groot’s (Hugo Grotius’s) principle of *mare liberum* – “freedom of the seas” (Rossi, 2017). In face of Walker’s (2009; 2016) appraisal of the “outside of the international”, it is possible to assume that Svalbard was even outer than it is now, as it used to be a *terra nullius*, being not dependent on any jurisdiction nor on state sovereignty (Jensen, 2020).

As a “no man’s land”, it was at once an “all man’s land”, insofar as many states have shown interest in the archipelago through hunting, fishing and mining. As such, the area had until the Svalbard Treaty been deemed *terra nullius* (a “no man’s land”), and, for business endeavours, *terra communis* (a “free-for-all land”) (Dyndal, 2014, p. 82). The quandary between either subjecting Svalbard to one state’s sovereignty or managing the archipelago via an international regime resurfaced due to coal extraction on Svalbard in the 19<sup>th</sup> century. The emerging coal-mining industry and an ensuing settlement with permanent residents in the late 19<sup>th</sup> century called for a local political administration (Rossi, 2017, p. 1511). A lax regulation emerged by banning the “titre de souverain”, with no state entitled with possession claims to the lands (Rossi, 2017, p. 1511).

Svalbard has represented a long-standing appeal to Norway, but it was the Norwegian national coal industry that spurred even more the interest in Svalbard. Russia forestalled Sweden-Norway’s efforts to claim the archipelago in 1871. As per Øystein Jensen (2020), Norwegian efforts to render the archipelago a part of Norway became more evident after the dissolution of the Swedish-Norwegian Union, in 1905, with Norway asking for the resumption of talks on the status of Svalbard. During this period, Norway did not aim to seize the territory but rather acquire it via an international agreement. Norway consequently took the prospective acquisition of the archipelago for the scrutiny of other countries, a claim that subsided in face of Russian

expectations to keep Svalbard a *terra nullius* (Jensen, 2020). Norway made three more attempts of annexation – in 1910, 1912, and 1914 –, but faced opposition from Sweden, Germany, France, England, and not least Russia, countries that comprised the main stakeholders in the midst pre-World War international conferences (Dyndal, 2014; Rossi, 2017; Jensen, 2020). These conferences aimed to agree on Svalbard's administration by means of the artifice of *terra nullius*, whereby the inhibition of any state's annexation was the condition for harnessing the economic opportunities of Dutch, British, US, Russian, and Swedish-Norwegian mining shareholders (Rossi, 2017, p. 1512). Rossi (2017, p. 1511) contends that the epithet “no man's land” was taken for granted as it laid over Svalbard a “hybridized” kind of sovereignty that ultimately “reworked the limits of legal pluralism” (2017, p. 1511).

Following World War I, Norway expressed eagerness to resume talks on the issue within the peace accords, showing a change in standpoint: Norway aimed at full sovereignty over Svalbard (Jensen, 2020). In alignment with a self-representation of an identity of peace resonating with its ethos (Neubern, 2019), Norway justifies its claims as follows, and as Jensen (2020) reproduces<sup>19</sup>:

“The Norwegian Government is convinced that it is serving the interests of peace in submitting to the Conference this question, which has been for so long in litigation, and expresses the hope that all the Powers will agree to return this archipelago definitively to Norway, the only country which has ever exercised sovereign rights there”.

Previous contestations on exclusive rights ensued from an English whaling company and from the then kingdom of Denmark-Norway, which the Dutch countered with the principle of “Mare Liberum”, relative to the liberty of the seas, followed by contestations of newly independent Norway, Russia, and the United Kingdom, among others, based on the then status of the archipelago as *terra nullius*. After a joint sovereignty proposition by Norway, Sweden and Russia had faced opposition by the USA and Germany, the solution came in 1919 at the Paris Peace Conference, which granted Norway with sovereignty over Svalbard at the same time it allowed international activity in the islands, resulting in the 1920 “Treaty Concerning the Archipelago of Spitsbergen” (Grydehøj *et al.*, 2012, p. 101). Among the drivers for

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<sup>19</sup> Meld. St. 32 (2015–2016), 18. Available on: <https://www.regjeringen.no/no/dokumenter/meld.-st.-32-20152016/id2499962/> Access on: November 19, 2021.

such conciliation is the compensation to Norway for its aid to the Allies during World War I, but also retaliation against Germany and Bolshevik Russia. This did not preclude contestations by the Norwegian Parliament and press over the restrictions of that treaty and of the Mining Code imposed upon Norway's sovereignty (Grydehøj *et al.*, 2012).

World War I represented a watershed for negotiations revolving around Svalbard. Norway had faced major shipping and industry impairment, and the need for a balance of power led the Allies to refrain their rivals – particularly after the Russian Revolution – from having a stronghold in the North Pole (Dyndal, 2014, p. 83). The 1919 peace conference thus decided to grant Norway the “full and absolute” yet restricted sovereignty over the “Spitsbergen archipelago”, comprising the islands between 10–35° East and 74–81° North, which is dubbed the ‘Svalbard Box’, upon conditioning that sovereignty with a series of limitations, among which the forbiddance of using the land for military purposes (Grydehøj *et al.*, 2012, Dyndal, 2014; Rossi, 2017; Jensen, 2020). As Rossi (2017, p. 1511) conveys, the decision of granting Norway's sovereignty over Svalbard was rife with both internal and external stipulations for maintaining a condominium framework to foster unrestrained scientific and meteorological exchange. In accordance with the author, this arrangement, too, became a “hybridized” sovereignty that would challenge legality and pluralism (2017).

The remote archipelago of Svalbard encompasses a group of islands<sup>20</sup> at 78° North of continental Norway, located in the Arctic Ocean approximately 650 miles from the North Pole and north of the Arctic Circle (Offerdal & Melino, 2016). Tourism websites portray the islands as a dream-like, unique place, which may at first sight seem “desolate and barren” but that ends up causing the traveller to be beaten by “the Polar bug”, that is, the constant desire to return<sup>21</sup>. As such, it is one the most inhospitable yet somehow colonised places on Earth. Even so, its everyday life is enmeshed with artificial solutions and devoid of indigenous communities. There is no such place elsewhere in the world when it comes to the combination of its magical landscape of

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<sup>20</sup> Among the largest islands are Spitsbergen, Nordaustlandet, Barentøya, Edgeøya, and Prins Karls Forland.

<sup>21</sup> See: <https://en.visitsvalbard.com/>

tundra, mountains, sheerly 60% of Arctic glaciers and otherworldly icebergs, the midnight sun, the polar night, and *Aurora Borealis*, let alone animal wildlife in this land that is home to polar bears (totalling over 3,000, which outnumber human settlers) – so much so, that everyone except tourists are entitled to carry a gun for self-defence. Even so, polar bears are protected by law, and it goes without saying that it is an offence to kill, chase or disturb them. Roughly 65% of Svalbard comprises protected areas, which include three nature reserves, six national parks, 15 bird sanctuaries and one geo-topical protected area. It also features Norway's largest glacier, Austfonna. Austfonna is the third-largest icecap on the globe after Antarctica and Greenland, making up a front that is 200 kilometres long<sup>22</sup>.

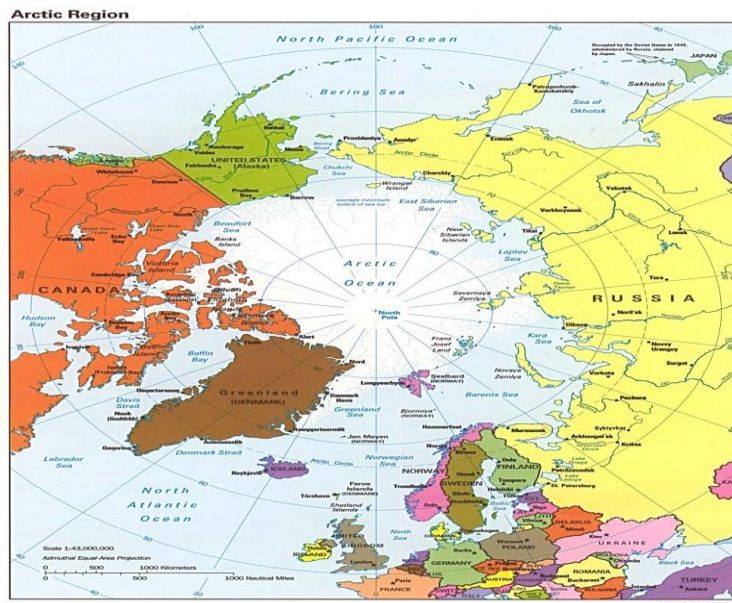


Image 3: Svalbard Archipelago seen from the North Pole

Source: [https://www.gifex.com/fullsize-en/2009-09-18-7449/Arctic\\_political\\_map.html](https://www.gifex.com/fullsize-en/2009-09-18-7449/Arctic_political_map.html)

<sup>22</sup> See: Getting to Svalbard (npmarathon.com)



Image 4: Mainland Norway and Svalbard.  
Source: Wikimedia Commons



Image 5: Detailed map of Svalbard

Source: <https://www.mapsland.com/europe/svalbard/large-detailed-map-of-svalbard-with-relief-and-other-marks>

The remoteness and wilderness of Norway's Arctic invites debates on the intricacies between international and global politics, and reflections on how inside or outside the international Svalbard's Fisheries Protection Zone stands in relation to configurations such as Exclusive Economic Zones. Svalbard is also home to the Global Seed Vault, an international benchmark that stores seed duplicates from all gene banks for posterity, for catastrophic events or in case of a back-up need – reasons that inform



its nickname as “The Doomsday Vault”<sup>23</sup>. Ironically, the vault, designed to safeguard the world’s most valuable seeds from global disasters, found itself exposed to a climate-related accident due to a breach that resulted in water flooding into the entrance tunnel, which gained widespread international attention<sup>24</sup>. The Svalbard Global Seed Vault receives guidance from the United Nations Food and Agriculture Organisation (FAO), and serves for humanitarian purposes, to ensure global food supply<sup>25</sup>.



Image 6: Plate in front of the Global Seed Vault

Source: Natalia Neubern, Svalbard 2022

Svalbard additionally houses the Arctic World Archive thanks to the conservation benefits of its permafrost soil, rendering the AWA a world cultural heritage. Established in 2017, AWA draws inspiration from the nearby Global Seed Vault, aiming to preserve invaluable information and cultural heritage indefinitely,

<sup>23</sup> See: <https://www.theguardian.com/environment/2023/mar/03/global-seed-vault-svalbard-virtual-tour-aoe>

<sup>24</sup> See: <https://medium.com/nysn%C3%B8-climate-investments/all-eyes-on-svalbard-b7759292eb9c>

<sup>25</sup> See: [https://www.seedvault.no/our-contribution\\_\\_trashed/our-purpose/](https://www.seedvault.no/our-contribution__trashed/our-purpose/)



immune to corruption, loss, or technological obsolescence<sup>26</sup>. That said, the Arctic World Archive has built a solid reputation as a bastion of trustworthy data preservation over the years by safeguarding humanity's digital legacy. Nestled 300 meters deep within the retired Mine 3 (*Gruve 3*) and in the Arctic permafrost, the cold, dry and dark facility claims it offers unparalleled protection against time, natural calamities, and cyber threats<sup>27</sup>. The treasury ensures data longevity for centuries on future-proof storage media, featuring highlights like deposits from institutions such as The National Museum of Norway, the Vatican Library, and the European Space Agency, among others.



Image 7: AWA Entrance

Source: Natalia Neubern, Visit to Gruve 3, June 2022

Like the Svalbard Seed Vault, AWA is a testament of Norway's ownership and performativity of sovereignty. Operated by Piql, a Norwegian technology firm specialising in digital preservation, and by storing data offline on resilient piqlFilm—a medium designed to last centuries with guaranteed future access—the initiative ensures the transfer of knowledge across generations, fostering present and future narratives rooted in the past<sup>28</sup>. It is, moreover, aligned with Norway's values and

<sup>26</sup> See: <https://en.visitsvalbard.com/inspiration/various/arctic-world-archive>

<sup>27</sup> See: <https://arcticworldarchive.org/>

<sup>28</sup> The use of nano-resolution QR codes and human-readable text facilitates manual retrieval in the absence of advanced technology. See: <https://en.visitsvalbard.com/inspiration/various/arctic-world-archive>

narratives of sustainability, insofar as it is powered solely by the mountain's climate. The electricity-free vault thus claims it offers a sustainable solution for long-term data preservation, securing a legacy for generations to come<sup>29</sup>.

Svalbard's cosmopolitan atmosphere stems not only from scientific research interest, but equally because the archipelago is a visa-free zone, with no residence permit requirement. The immigration rules for Svalbard therefore differ from those applicable for mainland Norway in two ways. Firstly, the clearance of visa and residence requirements does not extend to continental Norway. Secondly, Svalbard is not part of the Schengen agreement, the treaty that concedes freedom of circulation to European nationals of the signatory countries. This means that all flights towards Svalbard require going through international gates beyond the Schengen area, with passport control even for Norwegian nationals.



Image 8: “International Post Box”, comprising mails to continental Norway.  
Source: Natalia Neubern, Svalbard 2022.

<sup>29</sup> See: <https://en.visitsvalbard.com/inspiration/various/arctic-world-archive>



Image 9: A booklet at Longyearbyen's post office portrays the stamp of when Norway took over Svalbard, placing a Norwegian flag. Norwegian flagging on Svalbard is now rare.

Source: Natalia Neubern, Svalbard 2022.

Svalbard has a permanent population of only 2500 inhabitants, being Longyearbyen the most populated settlement and the siege of the Governor<sup>30</sup>. There are multiple settlements on Spitsbergen, but Longyearbyen is the Norwegian administrative centre, whereas Barentsburg is the Russian one<sup>31</sup>. Pyramiden, a former Russian coal mining settlement abandoned in 1998, allures tourists for being a “ghost town”. There is no road connection between the settlements on Svalbard.

The largest settlement, Longyearbyen, is the northernmost inhabited town on Earth, where the majority of Svalbard residents live. Even so, the archipelago is a working locality, and it was for years a coal mining community. According to the treaty, people are not allowed to live there if they cannot take care of themselves, nor are they allowed to die or be born<sup>32</sup>. Burials are not possible on Svalbard due to

<sup>30</sup> See: <https://en.visitsvalbard.com/>

<sup>31</sup> Small settlements include Ny-Ålesund, a Norwegian international research centre of 25 inhabitants, Svea Gruva, a Norwegian mining community with a few commuters, and Hornsund, a Polish research station.

<sup>32</sup> See: <https://www.lifeinnorway.net/svalbard-facts/>

permafrost, and, although there is a small cemetery, it stopped receiving bodies, especially after a flu virus that had killed seven miners remained preserved. Longyearbyen is also an Arctic science hub, wherein the Svalbard Science Centre hosts the Norwegian Polar Institute, EISCAT radar, and Svalbard Science Forum.

Norway's stronghold of territorial sovereignty over Svalbard thus lies in Longyearbyen, a community that has evolved from being a coal mining town towards a research hub and a wildlife tourism attraction. With the deactivation of major Norwegian mining plants, Norway's historic coal mining company *Store Norske* has also diversified businesses in the community. At the same time, the Governor (*Sysselimesteren*) is the Norwegian government's highest representative on the archipelago and has a role as both police chief and state administrator, reporting to the Norwegian Ministry of Justice and Emergency Preparedness but equally performing other ministries' tasks. It is Norway's main mode of ascertaining its sovereignty in the archipelago, and it has witnessed a process of liberalisation versus corporate attempts of control, with ensuing debates on how the local administration can strike a balance between this transition entailed by the closure of mining operational plants and the local need to chart its own democratic path.

The Chief of Police office in Longyearbyen is responsible for rescue services, marriages and divorces, environmental issues, firearm licences, and residence. The Community Council – *Longyearbyen Council* – holds a four-year mandate to administer local education, culture, sports, fire service, the energy company, and is equally responsible for roads, water, waste management and sewage, as well as town planning.

Notwithstanding the short distance between Svalbard and the North Pole, the climate on the archipelago is relatively mild, with average temperature ranging from -14°C in winter to 6°C in summer. With very low air humidity, Svalbard is deemed an "arctic desert", with annual rain- and snowfall that do not surpass 200 ~ 300 millimetres. However, there can be weather variations on Svalbard<sup>33</sup>. Climate is, in general, a worrisome issue in the Arctic, and, on Svalbard, a very pressing one. The Arctic suffers from three times faster warming as compared to the average global

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<sup>33</sup> See: <https://www.swoop-arctic.com/svalbard/getting-there>

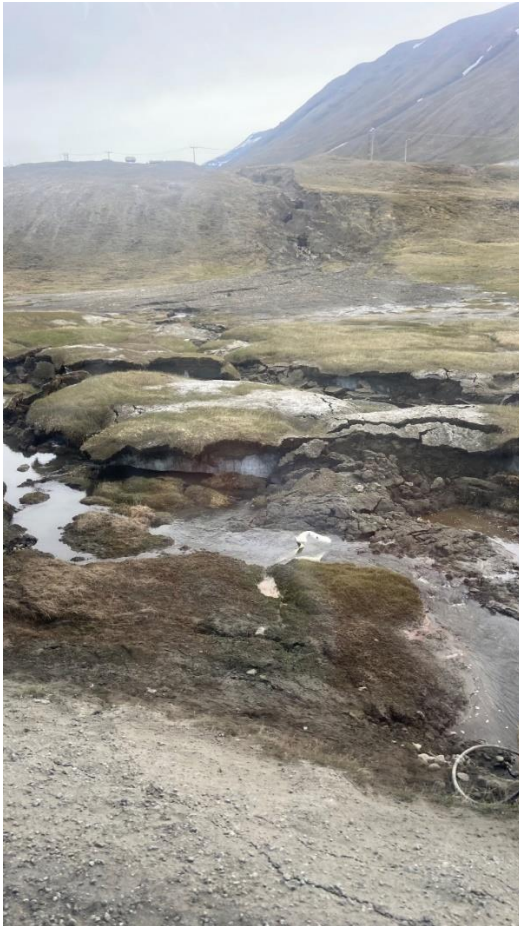
warming mainly due to ice melt, causing the Arctic waters to absorb more heat due to disappearing white, reflective surfaces<sup>34</sup>. The Northern Barents Sea, where Svalbard is located, is the fastest warming region in the entire Arctic. Besides warming and connected to this phenomenon, Svalbard has witnessed sea ice loss and sea level rise, changing precipitation patterns, and thawing permafrost. The decrease of permafrost<sup>35</sup> triggers a cycle dubbed as the *permafrost-carbon feedback*, which releases previously solid carbon stored in the ground as carbon dioxide and methane, thereby generating additional warming.



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<sup>34</sup> <https://www.npolar.no/en/themes/climate-change-in-the-arctic/>

<sup>35</sup> Permafrost occurs chiefly in polar regions and is a permanently frozen submerged layer of soil.



Images 10 and 11: Permafrost seen in Summer 2022

Source: Natalia Neubern

In accordance with the Bjerknes Centre for Climate Research<sup>36</sup>, Svalbard has reached up to 7°C in warming during winter. With reference to the gloomy forecast by the “Climate in Svalbard 2100” report that the Norwegian Environment Agency commissioned, observed and projected climate changes may affect Longyearbyen and Ny-Ålesund in an unprecedented severity by 2100, with a peak in temperature of up to 10 °C, between 45% and 65% increase in annual precipitation, loss of glaciers with ensuing global sea-level rises, and a harbinger of more landslides and avalanches<sup>37</sup>.

Svalbard sits on a continental shelf, the seabed of which is mostly yet to be explored. It had overlapping claims from both Norway and Russia, who share

<sup>36</sup> See: <https://www.uib.no/en/matnat/124318/svalbard-has%20A0experienced-warming-4%C2%B0c-last-50-years#:~:text=The%20already%20observed%20warming%20is,0.87%C2%B0C%20in%20total.>

<sup>37</sup> The worst ever avalanche to hit Longyearbyen occurred in 2015, killing two people and causing major destruction.



contiguous shelves that meet under Svalbard. As the following sections will show, the major implication from the neglect of Svalbard Treaty to Norway's sovereignty over the surrounding waters of Svalbard is an overarching imbroglio that involves dilemmas over Norway's oil and gas and environmental policies, mining, local government, and the governance framework affecting Svalbard in these matters, namely, UNCLOS and NATO<sup>38</sup>.

## 1.2 The Svalbard Treaty: from *terra nullius* to *terra communis*

The aim of this section is to show how the 1925 Svalbard Treaty transmuted the journey of the archipelago from *terra nullius* – a no man's land – into *terra communis* – an all-man's land. Additionally, it seeks to unpack and problematise issues and contradictions emerging from its current status with regard to both Norwegian and Russian performativity of presence in the region.

In order to describe the treaty and argue for its importance for the present research problem, this section will convey the history of the treaty, its purposes, the signatory parties to the treaty, the treaty's appraisals of sovereignty, and the consequences of these. With regard to political disputes ensued from the treaty, it will also unpack the positions of Norway, Russia, and other relevant players such as Iceland and the United Kingdom, with a description on how the treaty impacted the definition of the continental shelf, demilitarisation, environment, and governance, in connection with the free access to the nations that signed the treaty.

The Svalbard Treaty stands as one of the few post-World War I instruments that remains in force as in its original form, having been resilient to the political and territorial shifts in Europe until today. The mainstay of the Svalbard Treaty resides in the very acknowledgement of Norway's sovereignty over Svalbard, as Article 1 already enunciates: "The High Contracting Parties undertake to recognise, subject to the

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<sup>38</sup> A complex and networked set of global governance organisations and actors inform overlapping regimes for Svalbard besides UNCLOS and NATO, such as the Arctic Council, the Barents Euro-Arctic Council, the Svalbard Treaty, the Svalbard Act – and its subsidiaries the Svalbard Environmental Protection Act, the Svalbard Economic Act, the Mining Code, the local Governor, mainland Norway, and the signatory parties to the Svalbard Treaty.

stipulations of the present Treaty, the full and absolute sovereignty of Norway over the Archipelago of Spitsbergen”<sup>39</sup>.

The 1920 Spitsbergen Treaty – known in Norway as the Svalbard Treaty — conferred to Norway a peculiar kind of “full and absolute sovereignty” (Article 1), wherein provisions of “equal enjoyment” and “equal liberty of access” for nationals of signatories to the accord ultimately restrict Norway’s sovereignty over it (Rossi, 2015, p. 94-95). Adam Grydehøj *et al.* (2012) heed attention to this conceptual peculiarity:

“the archipelago’s insularity – its geographic ‘otherness’ – has led to its simultaneously belonging to everyone and to no one. Svalbard is an example of the periphery being valued by national governments precisely because it is ‘peripheral’; and being valued by local residents precisely because it is ‘home’”.

Among the provisions of the Svalbard Treaty, non-discrimination of rights is key, including those pertaining to property rights and mining activities (Article 7), provided that Norway is entitled to *environmental jurisdiction*, which applies equally to all (Adam Grydehøj *et al.*, 2012, p. 102, *my highlight*). Moreover, while Norway interprets Article 9 of the Svalbard Treaty as a prohibition of all foreign military activity, this does not preclude the exercise of Norway’s *sovereignty* in addition to the already mentioned *protection of the environment*, to the extent that it allows the presence of Norwegian military forces, especially the coast guard, as well as defensive measures, including activities under NATO’s Article 5<sup>40</sup> (Wither, 2018, p. 30, *my highlight*).

Article 9 of the Svalbard Treaty impedes any warlike purpose and prohibits Norway from engaging in the establishment of any naval bases or military fortifications on Svalbard. Article 9 is very succinct<sup>41</sup>:

“Subject to the rights and duties resulting from the admission of Norway to the League of Nations, Norway undertakes not to create nor to allow the establishment of any naval base in the territories specified in Article 1 and not to construct any fortification in the said territories, which may never be used for warlike purposes”.

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<sup>39</sup> See: [http://library.arcticportal.org/1909/1/The\\_Svalbard\\_Treaty\\_9ssFy.pdf](http://library.arcticportal.org/1909/1/The_Svalbard_Treaty_9ssFy.pdf) Last access on November 29, 2021

<sup>40</sup> Article 5 of the Chart of NATO purports collective defence, the crux of which is the solidarity that binds the allies together, meaning that an attack against one ally equates to an attack against all allies. See: [https://www.nato.int/cps/en/natohq/topics\\_110496.htm](https://www.nato.int/cps/en/natohq/topics_110496.htm)

<sup>41</sup> See: <https://www.jus.uio.no/english/services/library/treaties/01/1-11/svalbard-treaty.xml>



Military activities that Article 9 does not explicitly comprise are nevertheless allowed (such as coastguards), which means that Svalbard is not a legally demilitarised area. Additionally, Norwegian sovereignty applies with regard to military use, in the sense that Norway has exclusivity to use Svalbard for military activities that surpass the scope of Article 9.

Article 9 is currently subject to the United Nations Security Council's decision-making power based on Chapter VII of the UN, which provides the UN Security Council with coercive authority aiming to maintain peace and security even on Svalbard, although it is unclear whether Article 9 bans Norway from using that territory for its own defence in case of war (Jensen, 2020).

Inasmuch as it precedes UNCLOS, the Svalbard Treaty also antedates the United Nations Charter, which nevertheless does not automatically mean that the treaty takes legal precedence over the two subsequent instruments. Jensen (2020) heeds attention to open-ended questions once one interprets Article 9 of the Svalbard Treaty onto the background of the latter. As such, Chapter VII of the UN Charter has the prerogative of use of force, applicable also on Svalbard, whereas Article 51 of that same instrument<sup>42</sup> also applies to Norway having authority to defend Svalbard. Even so, it remains unclear whether Article 9 forestalls Norway from using Svalbard in case of needing to defend mainland Norway and other parts of its territory in a context of war (Jensen, 2020).

Another weakness of the Svalbard Treaty refers to maritime contentions stemming from its neglect to the issue of extended maritime zone insofar as the Svalbard Treaty precedes the United Nations Convention on the Law of the Seas (UNCLOS), with no legislation over jurisdiction outside the archipelago's territorial sea. Norway consequently asserts its exclusive rights to the continental shelf according

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<sup>42</sup> See: <https://www.un.org/en/about-us/un-charter/chapter-7> Last access on November 29, 2021. **Article 51:** "Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security".

to UNCLOS, though with some caveats, on the grounds that the Svalbard Treaty has no application there (Wither, 2019, p. 30).

The disregard to dispute settlement procedures over the interpretation of the treaty in the accord itself (Pedersen, 2006, p. 11) exacerbates bewilderment. But, at the same time this negligence fans the flames, it also opens room for states' manoeuvres and sets the ground for new appraisals on jurisprudence and global governance, ultimately shedding light on political forms of solution to account for that legal insufficiency, as the following sections will address.

The bone of contention over the continental shelf of Svalbard lies in Article 3 of the Svalbard Treaty, which grants all parties with free and equal access to the waters, fjords and territories of the archipelago, encompassing the equality to engage in maritime, industrial, commercial and mining activities, be they on land or in the territorial waters (Pedersen, 2006, p. 4). Since the treaty preceded the modern sea regime, it does not address any of the contemporary concepts – such as exclusive economic zone or continental shelf – other than “territorial waters”, the equivalent to the modern “territorial sea” (Pedersen, 2006, p. 4).

Regulations on the environment on Svalbard are seemingly tricky. While Article 5<sup>43</sup> welcomes research conventions with the signatory parties and in view of no such conventions so far, Norway has exercised its sovereignty both via Article 1<sup>44</sup> and Article 2<sup>45</sup> to guide research on Svalbard, as is the case of the Svalbard Environmental

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<sup>43</sup> See: <https://www.jus.uio.no/english/services/library/treaties/01/1-11/svalbard-treaty.xml> “Article 5: The High Contracting Parties recognize the utility of establishing an international meteorological station in the territories specified in Article 1, the organization of which shall form the subject of a subsequent Convention. Conventions shall also be concluded laying down the conditions under which scientific investigations may be conducted in the said territories”.

<sup>44</sup> See <https://www.jus.uio.no/english/services/library/treaties/01/1-11/svalbard-treaty.xml> “Article 1: The High Contracting Parties undertake to recognize, subject to the stipulations of the present Treaty, the full and absolute sovereignty of Norway over the Archipelago of Spitsbergen, comprising, with Bear Island of Beeren-Eiland, all the islands situated between 10° and 35° longitude East of Greenwich and between 74° and 81° latitude North, especially West Spitsbergen, North-East Land, Barents Island, Edge Island, Wiche Islands, Hope Island or Hopen-Eiland, and Prince Charles Forland, together with all islands great or small and rocks appertaining thereto”.

<sup>45</sup> See <https://www.jus.uio.no/english/services/library/treaties/01/1-11/svalbard-treaty.xml> “Ships and nationals of all the High Contracting Parties shall enjoy equally the rights of fishing and hunting in the

Protection Act. As such, Norway is entitled to actively protect the environment of Svalbard.

### 1.2.1. Sovereignty around Svalbard: an overarching imbroglio

Norway has held one of the major sea claims in the world, encompassing petitioned exclusive economic zones and a resource rich continental shelf that form an area six times larger than the mainland itself (Pedersen, 2006, p. 1). Against this background, the Svalbard Treaty functions as a double-edged juridical instrument in the sense that it grants Norway “full and absolute sovereignty” over the archipelago at the same time it grants states signatories to the treaty equal fulfilment and “liberty of access” for fishing, hunting, and pursuing other activities. Like Rossi (2015, p. 1507) explains to us, “the Treaty’s *ratione loci* extended these non-discrimination features only to Svalbard’s territorial water and *terra firma*”. Norway thus consistently claims that such most favoured nation status stands no further than the territorial application of the treaty.

It is worth mentioning that the most encompassing pelagic regime that currently exists, namely the United Nations Convention on the Law of the Sea (UNCLOS), emerged only in 1982, long after the Svalbard Treaty, which dates from 1920. This means that maritime stipulations of the current pelagic regime such as contiguous zone, continental shelf, extended continental shelf, Exclusive Economic Zone, Fisheries Protection Zone, in addition to spatial designations to glacial or far-out spaces were then non-existent. However, the concept of the high seas was already in use back then (Rossi, 2017, p. 1507), at least since 1609, when, based on natural law, Dutch jurist

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territories specified in Article 1 and in their territorial waters. *Norway shall be free to maintain, take or decree suitable measures to ensure the preservation and, if necessary, the re-constitution of the fauna and flora of the said regions, and their territorial waters*; it being clearly understood that these measures shall always be applicable equally to the nationals of all the High Contracting Parties without any exemption, privilege or favor whatsoever, direct or indirect to the advantage of any one of them. Occupiers of land whose rights have been recognized in accordance with the terms of Articles 6 and 7 will enjoy the exclusive right of hunting on their own land: 1) in the neighbourhood of their habitations, houses, stores, factories and installations, constructed for the purpose of developing their property, under conditions laid down by the local police regulations: 2) within a radius of 10 kilometers round the headquarters of their place of business or works; and in both cases, *subject always to the observance of regulations made by the Norwegian Government* in accordance with the conditions laid down in the present Article” (my highlight).

Hugo Grotius buttressed, in his famous treaty *Mare Liberum*, “The Freedom of the Seas”, according to which no national jurisdiction can govern the high seas, a domain of freedom where vessels from all nations are entitled to the right of passage, trade, and exploitation. Tanja Aalberts (2014) problematises that the appraisal of the high seas as a sheerly international space entails free exercises of sovereign power, which also brings about disputes of sovereignty in view of lacking delimitations between contested claims.

As Rossi depicts (2017, p. 1504), the remoteness of the icy Arctic Ocean has historically favoured Norway: although the allies convening at the 1919 Paris Peace Conference showed some indifference towards Spitsbergen’s sovereign status, it had already been dear to Norway. Ever since the signature of the Svalbard Treaty, the Law of the Sea has faced insurmountable changes, which have led Norway, in accordance with the author, to pursue “a managerial practice that associates Norwegian stewardship with a course of dealing that intends to incrementally convert into an uncontested sovereign rights claim certain changes to the evolving Law of the Sea regime”. In this sense, the country has had to reinstate its sovereignty performatively. Against the backdrop of the political isolation the country faces in view of its long-term and tenuous defence of sovereignty over Svalbard’s adjacent waters and continental shelf, some authors (*e.g.* Kramviken, 2017 apud Rossi, 2017, p. 1504; Wither, 2018) dub Svalbard as “Norway’s Achilles Heel”. Norway’s interpretation according to which the jurisdiction of the treaty does not extend beyond the 12 nautical-mile territorial sea<sup>46</sup> faces opposition from most signatory parties, who claim that Svalbard has its own continental shelf, where the 1920 Treaty’s non-discriminatory provisions also apply (Pedersen, 2006, p. 1).

Even though Norway alleges that, by being sovereign over Svalbard, the archipelago generates an economic zone in line with that around continental Norway,

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<sup>46</sup> In this sense, Norway holds a restrictive interpretation of the treaty, implying that the accord categorically laid down all obligations of Norway, including restrictions to those sovereign rights, meaning that those provisions have no relevance to the scope it does not specify and therefore cannot be applicable in detriment of Norwegian sovereignty (Pedersen, 2006, p. 6).

Russia and other signatory states contest Norway's claim and question its entitlement to maritime zones around Svalbard (Offerdal & Melino, 2016, p. 16-17). Albeit Norway's understanding that it has the right to an Exclusive Economic Zone around Svalbard according to UNCLOS, it has instead devised a "Fisheries Protection Zone" of 200 miles, which also originates disputes with Russia and the other parties to the conflict (Wither, 2019, p. 30).

The establishment of the fisheries protection zone around Svalbard occurred in 1977, one year after Norway had settled the 200-nautical-mile exclusive economic zone off the mainland coast<sup>47</sup>. The FPZ around Svalbard complies with the Act of 17 December 1976<sup>48</sup> – "the Zone Act" – relative to the Economic Zone of Norway, which enacts, "from the applicable baselines" (§ 1 of the Act)<sup>49</sup> and seawards, a 200-nautical-mile Economic Zone, authorising management and conservation of living resources within the zone and refraining, in principle, fishing in the EEZ by foreigners, with applicable exceptions upon mutual agreement. In total, then, Norway has established three zones of 200 nautical miles: an exclusive economic zone around the Norwegian mainland (EEZ), a fishery protection zone around Svalbard, and a fishery zone around the Jan Mayen island<sup>50</sup>.

The country created all three zones pursuant to the Act of 17 December 1976 relating to the economic zone of Norway. Norway's 2021 White Paper equally recalls the Commission on the Limits of the Continental Shelf in New York, which confirmed, in 2009, that the Norwegian continental shelf extends beyond 200 nautical miles in the area north of Svalbard. In fact, as far as it concerns resources on the ground, it may extend up to 350 nm from the shoreline (Dyndal, 2014, p. 85). In that sense, ever since 1963, Norway has upheld that its mainland continental shelf extends up to and beyond Svalbard (reaching 84.30° North), which thereby makes a special legal case for Svalbard insofar as the archipelago would not have a continental shelf of its own.

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<sup>47</sup> See: [https://www.regjeringen.no/en/dokumenter/arctic\\_policy/id2830120/](https://www.regjeringen.no/en/dokumenter/arctic_policy/id2830120/)

<sup>48</sup> See: <https://www.fao.org/faolex/results/details/en/c/LEX-FAOC002033/>

<sup>49</sup> Available on <http://extwprlegs1.fao.org/docs/pdf/nor2033E.pdf>

<sup>50</sup> See: [https://helcom.fi/media/documents/Country-fiche\\_NO\\_Jan2015.pdf](https://helcom.fi/media/documents/Country-fiche_NO_Jan2015.pdf)

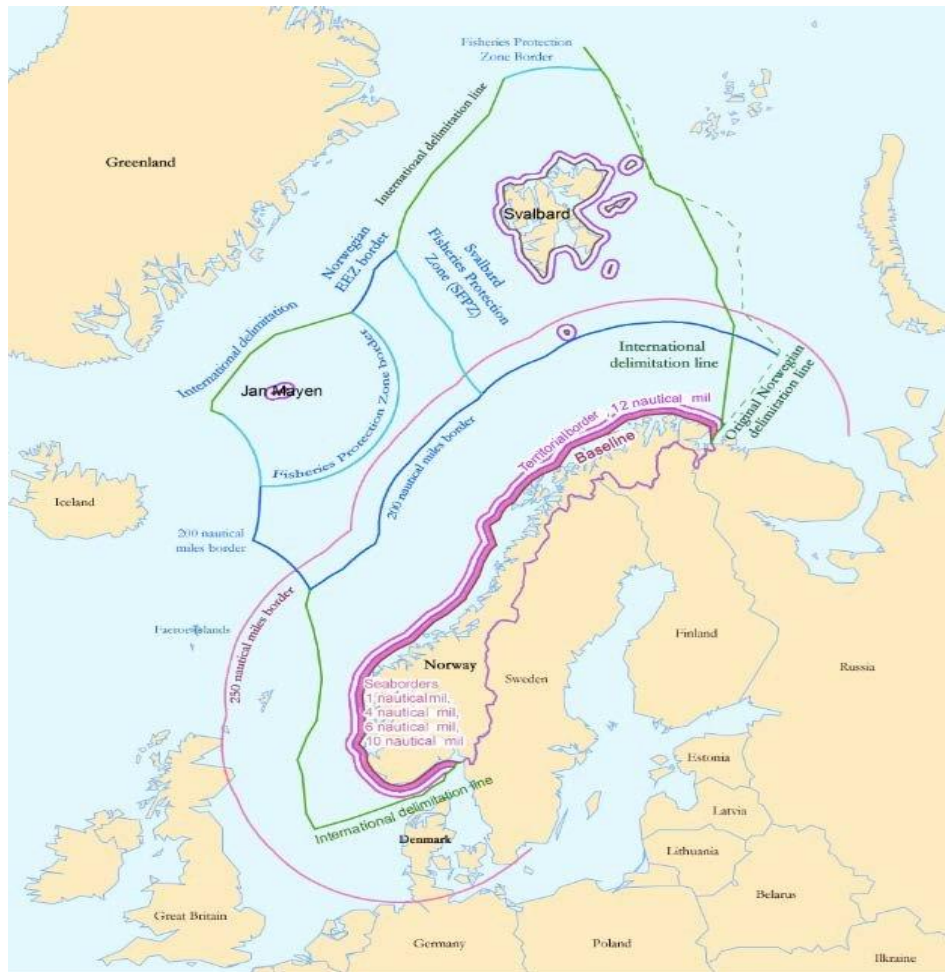


Image 12: Delimitation lines

Source: <https://www.arctictoday.com/how-a-standoff-over-cod-could-test-the-boundaries-of-the-svalbard-treaty/>

Discursive practices are telling of vested interests. It is curious how Oslo decided to avoid the use of the term “economic zone”, fearing negative reactions from the signatories to the Svalbard Treaty (Offerdal & Melino, 2016, p. 17-18). The creation of a special “Fisheries Protection Zone” is equally suggestive of Norway’s attempt to keep the international interpretation of the treaty on a low-key level (Dyndal, 2014, p. 85). Moreover, the establishment of the FPZ entailed management by the Norwegian Coast Guard, which belongs to the Norwegian armed forces. Kristine Offerdal and Matthew Melino (2016, p. 18) convey that Moscow interpreted this as an attempt of militarisation, and, in face of Russian protests, Norway caved in for

rendering Svalbard a demilitarised zone<sup>51</sup>. Those authors hold that the establishment of the FPZ was very representative of a test of Norway's sovereignty around Svalbard, and the simultaneous massive investment in civilian development in Longyearbyen was also indicative of Norway's assertion of its sovereignty.

Rossi (2017, p. 1504) highlights that, since the 1970s, Norway has diplomatically conciliated the strategic management of resources of the High North with potential confrontations by means of incepting a property regime under Norwegian sovereignty and attempting to attenuate disputes. Norway's stake in the Arctic implicates the Svalbard Treaty insofar as the country's sovereignty claims in the region depend on the accord. Persistent reiterations of its sovereignty claim around Svalbard are thus high on Norway's Foreign Policy agenda. Even so, Norway crafts its policy, politics, and communication by literally restricting the interpretation of the Svalbard Treaty, arguing that any accurate reading of the accord shall limit it to Svalbard's territorial waters (Dyndal, 2014, p. 83).

The Svalbard Treaty, then, functions as the existential condition for Norway's sovereignty over Svalbard, but only to the extent to which that same condition is itself conditioned upon the very limitation of the text that grants that sovereignty. But, if a literal interpretation of the treaty should serve to refrain the signatory states from extending their rights to Svalbard's surrounding area, that reading could likewise enclose Norway's sovereignty within territorial waters. The very basis that refrains such tautological consideration from being double-edged resides in the winning argument of the continental shelf. If Svalbard has a continental shelf and an EEZ of its own, the stipulations of the Svalbard Treaty relative to diminished taxation and equal rights to exploration would extend to that area. Conversely, should it be a contiguous extension of the seabed of the Norwegian mainland, then Norway would have sovereign rights to those areas regardless of the Svalbard Treaty, as the country has officially claimed since 1970 (Dyndal, 2014).

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<sup>51</sup> As mentioned, Article 9 of the Svalbard Treaty prohibits the establishment of military bases for warlike purposes only. Norway has nevertheless decided to ban military aircraft from landing on Svalbard and has kept to a minimum the presence of its military forces in the archipelago.

Norway has consistently withheld its position according to which both the wording of the Treaty of Svalbard and its development along history stipulate special rules to the territory of Svalbard, not extensive to the outer area beyond territorial waters, thus not applicable to the continental shelf or zones that the subsequent United Nations Convention on the Law of Sea created<sup>52</sup>.

Russia has been by far the main opponent to Norway's standpoint and, since 1970, it has issued public outcries against Norway's objection to extend the Treaty's jurisdiction to the continental shelf. In the 1960s, the approach by a foreign oil company interested in exploring hydrocarbons on the continental shelf sparked media debates around Norway's interpretation of the Treaty (Jensen, 2020). Upon Norway's establishment of the 200-mile fisheries protection zone around Svalbard, in 1977, the Soviet Embassy in Oslo filed an official protest to the Norwegian Ministry of Foreign Affairs, stating that the decision represented another illicit move to expand rights in the area (Jensen, 2020).

Ilan Kelman *et al.* (2020) sustain that, while Svalbard remains a strategic and geopolitical priority for Norway's Arctic agenda, it is "subject to carefully crafted political dialogue and calculations between Norway and Russia" insofar as Russia contests Norway's Fisheries Protection Zone (FPZ) around the archipelago. Norway established the zone in 1977 as a means to counter possible stipulations stemming from the neglect, in the Svalbard Treaty, to the issue of extended maritime zone. Albeit Russian contestations, the countries agreed to disagree as long as Russian fishermen would have access to the zone but, in view of Norwegian stricter enforcement rules and

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<sup>52</sup> Besides Russia, Iceland, the Netherlands, Spain, and the UK argue that the treaty's restrictions apply to Norway's provisions beyond the territorial waters, while France, Germany and the USA have not conveyed a clear-cut position. Finland and Canada, in turn, buttress Norway's interpretation, and the latter even positivised this sustenance in a bilateral agreement on fisheries on the high seas (Jensen, 2020). Dyndal (2014, p. 85), however, highlights the 1978 "Consensus Declaration", which gathered the UK, France, West Germany, and the USA as an opposition to Norway's "Continental Shelf Doctrine". According to Dyndal (2014), Iceland and Spain have been practical opponents by getting involved in several prosecution cases by Norway.



ensuing incidents in 1998, 2001, 2005 and 2011, the escalation of conflict is a concern for both countries, with the Russian Ministry of Defence stating that Svalbard is a potential area for future conflict with Norway and NATO (Østhagen, 2018).

Russian contentions over Norwegian governance are nothing new and, as Jensen (2020) notes, the most prominent objection relates to Norway's standpoint according to which the Svalbard Treaty does not extend rights to other states with regard to the seabed beyond the archipelago's territorial waters. A deep-seated border dispute between Norway and Russia encompassed the ownership standstill over the "Svalbard Box", a 173,000 square kilometres wide area strategically located in the heart of BEAR (the Barents Euro-Arctic Region), containing roughly 12 billion barrels of oil (Beck *et al.*, 2007, p. 9). Despite Norwegian claims to the territory based on scientific research of the continental shelves and the ocean floor, the disagreement with Russia remained unresolved until 2010. Having been a "pseudo-international" territory with "disputed usufruct rights" and continental shelves with potential riches not only rendered the settlement of specific borders more difficult, but also spurred governments to engage in scientific research and to value even more the disputed seabed (Beck *et al.*, 2007, p. 9).

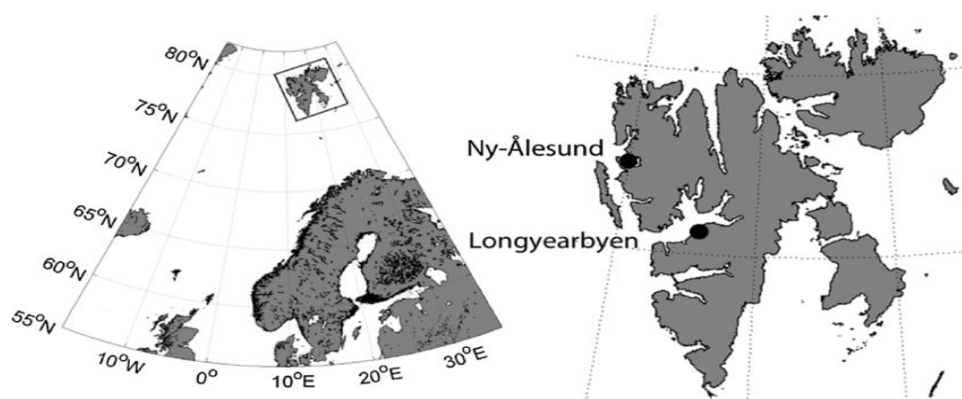


Image 13. Location of Svalbard Box in relation to Norway, Sweden, Finland, Denmark, and Eastern Europe.

Source: Zappa, Christopher & Brown, Scott & Laxague, Nathan & Dhakal, Tejendra & Harris, Ryan & Farber, Aaron & Subramaniam, Ajit. (2020). Using Ship-Deployed High-Endurance Unmanned Aerial Vehicles for the Study of Ocean Surface and Atmospheric Boundary Layer Processes. *Frontiers in Marine Science*. 6. 777. 10.3389/fmars.2019.00777.

Russia has continuously been attentive to the developments on the Svalbard shelf. The activities of the Russian joint stock company Marine Arctic Geological Expedition (MAGE) on the continental shelf around Svalbard raised suspicions when, instead of conducting scientific research as in accordance with UNCLOS, its seismic vessel seemingly brought about collects ensued from oil exploration, which is prohibited, rather than from regional mapping, as allowed (Pedersen, 2006, p. 10). Not only did this incident kindle Norwegian political and scientific distrust, but it was also a harbinger as to how problematic it would be for Norway to open up the area for exploration should the surrounding maritime areas come to be part of the Svalbard Treaty, meaning no economic incentive stemming from taxation beyond that for Svalbard's administration<sup>53</sup> as well as equal rights to resources for the signatories (Dyndal, 2014, p. 86).

As a result, Norway would decidedly not open the surrounding seabed of Svalbard for oil and gas exploration unless it would not herald international disagreements leading to Norway's non profitability (Dyndal, 2014, p. 86). In this worst-case scenario, Norway could, as Dyndal (2014) caveats, impose environmental preservation reservations in line with the Svalbard Treaty, which would forestall any such activity. Anticipating such a hypothesis may somehow form part of Russia's principal concern with Norway's fixation over environmental protection and the implementation of the 2001 Svalbard Environmental Act (Dyndal, 2014, p. 83).

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<sup>53</sup> As Dyndal (2014) asserts, this would be in stark contrast as compared with the figure of roughly 78% that Norway yields from taxation in its EEZ.

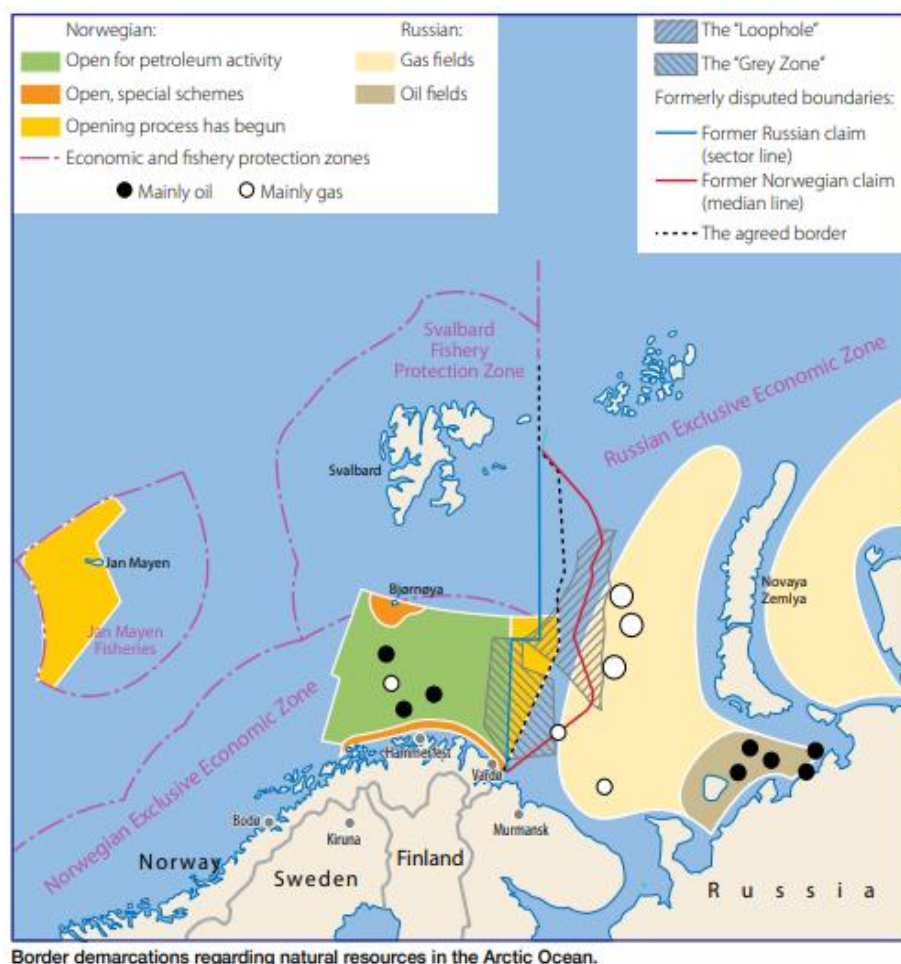


Image 14: Border demarcations regarding natural resources in the Arctic Ocean.

Source:

file:///C:/Users/Windows/Downloads/Oil\_and\_Gas\_Extraction\_in\_the\_Barents\_R.pdf

Notwithstanding similarities with UNCLOS's continental shelf, such as the 200-mile extension, the fisheries zone, contrary to mainland Norway's continental shelf, is in fact a zone of equal treatment and non-discrimination, in alignment with the Svalbard Treaty. This means that, in practice, Russians can fish in the area, in compliance with Norwegian-Russian bilateral stance on fisheries in the Barents. Likewise, EU states with cod fishery history in the area are equally entitled to fish a certain amount in those waters. Pedersen (2006, p. 11) argues that a rather lenient treatment of Norway towards Russian vessels may lead other signatories deem it an unjust and discriminatory stance. This may be the case also for Russia's self-perception as "a privileged party to the treaty": since Svalbard is part of the common Norwegian-Russian continental shelf, Russia somehow perceives the FPZ as applying to third countries, while it repeatedly suggests a joint regulatory framework with Norway for

the area (Pedersen, 2006, p. 83). A dualistic position thus depicts Russia's stance, being both favourable to a special relationship with Norway and claiming a common, "high seas perspective", with the treaty provisions also applicable to the whole of the Svalbard Box (Pedersen, 2006).

The Fisheries Protection Zone finds reasonable support in jurisdiction. The International Court of Justice concluded the *Nord-Troms Tingrett* judgement by reinforcing international recognition of that fisheries zone, whereby the zona quota regime is non-discriminatory, in compliance with the provisions of the Svalbard Treaty. The court equally declined any treatment favouring Russia in detriment of other signatory countries<sup>54</sup>. However, since nearly one-fourth of Russia's total fish stock in the Barents Sea stems from Svalbard, Russian authorities may have an interest in preserving the cooperative regime of the Fisheries Protection Zone, also as means to keep at bay third states with no fishing history in the region (Pedersen, 2006, p. 12).

Even in the context of Russia invading Ukraine and of Norway's chairship over the Arctic Council, Norway has maintained the fisheries cooperation with Russia, allowing Russia to keep up with the fishing quotas around Svalbard. The heat is mostly stored in the oceans, and that is under communicated by IPCC<sup>55</sup>. The Arctic is deemed "the barometer of the globe", clearly reflecting and causing a feedback loop on global warming and climate change<sup>56</sup>. Fisheries are moving upwards, and the Norwegian cod is heading towards the North bordering Russia, which is why Norway has an ongoing negotiation with Russia, even with the war. Norway's decision to keep quotas for Russia aims at refraining Russia from fishing the baby stocks that later will migrate to the Norwegian coast.

From a geopolitical standpoint, Russia continues to be the principal security concern. This is attributed to the significant presence of Russian fishing vessels annually operating in the zone as part of the co-management regime for shared fish

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<sup>54</sup> As much as Iceland, Russia does not recognise the jurisdiction of the International Court of Justice (Pedersen, 2006, p. 11).

<sup>55</sup> Lecture 'The new Arctic: The establishment of Arctic governmental and scientific Cooperations', presented by Lars-Otto Reiersen at UNIS summer school 'The Global Arctic', June 2022. Decrease in PH with the rise of water in the oceans – acidification of oceans (cold water stores more CO<sub>2</sub>, whereas hot releases it)

<sup>56</sup> [https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.un.org%2Fesa%2Fsocdev%2Ffunpfii%2Fdocuments%2FEGM\\_cs08\\_Cochran.doc&wdOrigin=BROWSELINK](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.un.org%2Fesa%2Fsocdev%2Ffunpfii%2Fdocuments%2FEGM_cs08_Cochran.doc&wdOrigin=BROWSELINK)

stocks in the Barents Sea (Østhagen *et al.*, CSIS, 2023). Besides the geopolitical and economic underpinnings of the fisheries management, it is also worth assessing the added value entailed by performing over certain spaces. Research on marine conflicts extensively focuses on detailing the social, economic, and political variables integral to the studied conflict. Conversely, the analysis often overlooks an explicit spatial component, neglecting a crucial dimension of marine conflicts tied to resource utilisation and spatial competition (Dahlet *et al.*, 2023).

Jensen (2020) holds that it is thanks to the lenient application of fisheries guidelines that Norway has managed to keep avoiding disputes on the status of the area beyond territorial waters until the 1990s and did so by keeping the enforcement of the FPZ stipulations at a minimum (Dyndal, 2014, p. 85). Thereafter, Norway enhanced enforcement in face of Icelandic (1994) and Russian (1998; 2001) trawler assaults (Dyndal, 2014), being the latter event of a hostile kind insofar as Russia demanded for the liberation of the boat by arguing that “it was fishing in waters that belong to the Svalbard archipelago [...] but outside the area in which [the Svalbard Treaty] applied, that is, where the norms of international law apply for the high seas” (Jensen, 2020). After the 1990s, Norway tightened the control by taking ever more vessels into custody, resulting in a steep increase of objections to the Norwegian regime (Dyndal, 2014, p. 85). More recently, the judgement of the Norwegian Supreme Court on the case concerning Latvia’s snow crab fishing gained the news with renewed debates on the maritime imbroglio between the Svalbard Treaty and UNCLOS, as will be explored in Chapter 4.

Notwithstanding these developments, Pedersen perceives the management of the fisheries as rather fortunate (Pedersen, 2006), whereas Andreas Østhagen’s main argument in the 2020 Arctic Yearbook is that fisheries rather oil pose a major risk of future conflicts in the circumpolar region. Østhagen (2020) holds that the main concern for the case of fisheries in Svalbard does not relate to allocations and access to a single stock, but rather to potential escalations of clashes between Russian fishing interests and the Norwegian enforcement regime, particularly given an increased migration of fish stocks northwards, into the FPZ, as a result of climate change (Østhagen, 2020, p. 7). Pedersen (2006), in turn, contends that, contrary to the relatively fortunate

management of the fisheries based on equal treatment, oil and gas explorations on the continental shelf around Svalbard entail rather fierce positions, with escalating conflict (Pedersen, 2006). In 2015, Russian diplomacy contested Norwegian oil and gas licences in the Barents Sea, arguing that the resources on Svalbard's continental shelf ought to be subject to the provisions of the Svalbard Treaty.

One year before ratifying the 1958 Geneva Convention on the Continental Shelf, Norway proclaimed a 4-mile territorial sea<sup>57</sup>. The groundwork for claiming maritime shelves along the 1950s and the 1960s posed the first significant objections against Norway's interpretation of the treaty (Dyndal, 2014, p. 83). Apart from claiming a 4-nautical mile territorial sea (extended to 12 nm in 2004), Norway claimed that its continental shelf was an extension of the Norwegian mainland towards the north of Svalbard. A report (Pedersen, 2006, p. 5; Dyndal, 2014, p. 83) disclosed that, by doing such move of stating the limits of Svalbard's territorial waters and claiming that the seabed of Svalbard was a continuation of Norwegian mainland, Norway aimed to limit the scope of application of the treaty to an area smaller than Svalbard Box, at a time when various oil companies had been drilling onshore Svalbard in alignment with the Treaty.

As an anticipation to the third United Nations Conference on the Law of the Sea (UNCLOS III), Norway enacted, by means of a Royal Decree, the Economic Zone Act and the establishment of a 200 nm economic zone along its mainland (Pedersen, 2006, p. 6). In parallel to it and after several diplomatic consultations, a 1977 Royal Decree established a rather "softer" maritime regime for Svalbard by means of proclaiming a 200 nm fisheries protection zone around the archipelago instead of an economic zone, but in compliance with that Economic Zone Act (Pedersen, 2006).

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<sup>57</sup> The four Geneva Conventions of April 1958 address the territorial sea and the contiguous zone, the continental shelf, the high seas, and fishing and conservation of living resources on the high seas. Notwithstanding continental shelf claims prior to the Continental Shelf Convention, it was Article 2 of this instrument that entitled a coastal state the sovereignty over the seabed of its coastline. It entered into force in 1964, and Norway became a signatory to it as of 1971 (Pedersen, 2006, p. 5; Dyndal, 2014, p. 83). In 1982, the United Nations Convention on the Law of the Sea (UNCLOS) replaced those four instruments.

It is worth remembering that the 1920 Svalbard Treaty limits the definition of the archipelago to its islands and rocks, with no reference whatsoever to areas beyond territorial waters (Pedersen, 2006). As such, Norway justifies that the treaty has no jurisdiction over the 200 nm FPZ nor the continental shelf. Not least important to note, Norway argues that “full and absolute sovereignty” – rather than a mandate over Svalbard – is pursuant to the understanding of the LOS Convention according to which sovereigns have the privilege of full enjoyment of exclusive rights to those areas (Pedersen, 2006). Moreover, the Svalbard continental shelf, where the treaty is sterile, is a physically continuous seabed congruent to mainland Norway’s coastline, where Norwegian legislation applies. Norway consequently denies any distinction between an alleged Svalbard shelf and its continental shelf not only because the applicable legal regime is the same to both, but ultimately because any attempt to delimitate it would be pointless as it would entail Norway negotiating it with itself<sup>58</sup> (Pedersen, 2006, p. 6).

Pedersen (2006) described that, in view of any inconsistency of the concept of “waters” in the treaty, previous jurisdiction interpreted that Norwegian sovereignty has prevalence over international exploitation rights, since the Spitsbergen Commission Report from the 1919 Paris Peace Conference stated that the treaty encompasses all restrictions on Norwegian sovereignty over Svalbard. As already stated, the main opponents to this interpretation – Russia and Iceland – believe that Norway’s sovereignty over Svalbard ensues from a treaty and not from customary law. That sovereignty is consequently limited and, since the 1920 Treaty downsizes the geography and the scope of that sovereignty, Norway has no legal foundation to claim jurisdiction over a fisheries zone nor over the continental shelf adjacent to the archipelago (Pedersen, 2006, p. 7).

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<sup>58</sup> Interestingly, Norway’s claims of uninterrupted extension of its continental shelf from Norway’s landmass towards and beyond Svalbard are based on comparison with Great Britain’s Shetland Islands and Russia’s Novaya Zemlya and Franz Josef Land (Rossi, 2015, 1508-1509). Norway downturns any argument on Svalbard having its own continental shelf, a stance that some believe is at odds with UNCLOS’ prescription for islands (Rossi, 2017, p. 1508-1509; UNCLOS, Part IV, “Archipelagic States” - [https://www.un.org/depts/los/convention\\_agreements/texts/unclos/unclos\\_e.pdf](https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf)).

A third view recognises the Norwegian sovereignty around Svalbard beyond 12 nautical miles from the baseline of the archipelago. According to this perspective, both Norwegian jurisdiction and the treaty provisions should coincide geographically, meaning that the non-discrimination principles would have the same physical scope of application as the geographical location of Norway's sovereignty. The United Kingdom holds this interpretation, and believes that Svalbard has its own continental shelf, where the Svalbard Treaty also applies (Pedersen, 2006, p. 7). None of these visions, however, recalls a Westphalian-informed model of sovereignty. As Christopher Rossi (2014, p. 1511) contends, the idiosyncratic condition of the Svalbard Treaty renders Norway's "full and absolute sovereignty" oxymoronic and not least extraordinary also when compared with modern genealogy.

As a major actor in multilateralism, Norway, for several reasons that the author of these lines previously assessed<sup>59</sup>, and namely because it is a rather infant sovereign of small size, is a fierce defender of the rule of international law<sup>60</sup>. Its non-accession to the 1969 Vienna Convention on the Law of the Treaties<sup>61</sup> thus seems an inconsistency in the country's foreign policy. Such assumption falls short in view of Pedersen's (2006) contention that Article 31 of the Law of the Treaties<sup>62</sup>, by requiring states to interpret a treaty "*in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its objects and purpose*", could suggest that the provisions of the Svalbard Treaty, in face of that article, could be more favourable to the treaty's parties than serve to protect Norwegian sovereign rights (Pedersen, 2006).

It is not the intention of this study to undertake research on the objective or subjective motivations that have informed Norway's absenteeism in terms of not

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See:

[https://www.academia.edu/58506219/Peace\\_Discourse\\_in\\_Norwegian\\_Foreign\\_Policy\\_An\\_Analysis\\_of\\_Norway\\_S\\_Identity\\_Representations\\_in\\_Peace\\_Facilitation\\_and\\_War\\_Engagements](https://www.academia.edu/58506219/Peace_Discourse_in_Norwegian_Foreign_Policy_An_Analysis_of_Norway_S_Identity_Representations_in_Peace_Facilitation_and_War_Engagements)

<sup>60</sup> As an example for the topic of the maritime legal regime, Soria Moria II declaration reinstates the international legal order as foundational for Norway's political strategy in the Arctic region, with particular reference to the principles and rules that states agree relative to maritime use and jurisdiction (Jensen, L.C *et al.*, 2011, p. 16)

<sup>61</sup> See: [https://treaties.un.org/pages/ViewDetailsIII.aspx?src=TREATY&mtdsg\\_no=XXIII-1&chapter=23&Temp=mtdsg3&clang=\\_en](https://treaties.un.org/pages/ViewDetailsIII.aspx?src=TREATY&mtdsg_no=XXIII-1&chapter=23&Temp=mtdsg3&clang=_en) Access on November 27, 2021

<sup>62</sup> See [https://treaties.un.org/doc/Treaties/1980/01/19800127%2000-52%20AM/Ch\\_XXIII\\_01.pdf](https://treaties.un.org/doc/Treaties/1980/01/19800127%2000-52%20AM/Ch_XXIII_01.pdf)



acceding to the 1969 Vienna Convention on the Law of the Treaties, dubbed “the Treaty of the treaties”. In spite of this, two cues follow. Firstly, Norway may not be positively signatory to that treaty, however, as other non-signatory countries, Norway complies with the regime that the Law of the Treaties has enacted by means of customary law. Secondly, the interpretation of Article 31 may as well sound favourable to Norway insofar as it puts forward the need to interpret any treaty in accordance with the original context and goals that informed its creation. The context, then, preceded the Law of the Sea, whereas the purpose was to settle an agreement of authority over the land of Svalbard. In fact, the Vienna Convention on the Law of the Treaties does provide support for both perspectives to interpret agreements, insofar as the interpretation according to the ordinary meaning supports Norway’s textual and restrictive reading of the treaty, whereas the situation of that meaning according to context buttresses the contextual canon of the others (Rossi, 2017, p. 1512).

Such reasoning, however, further aggravates the intricacies of the problematic in face of opponents’ claims according to which the Svalbard Treaty purposely aimed to provide law and order to a hitherto *terra nullius* area by turning it into an “all man’s land” without disposing of its international character, to the extent that it is deemed “close to an internationalised area” or “l’internationalisation imparfaite”, whereby Norway has the duty to administer on behalf of the international community (Pedersen, 2006, p. 7). Pedersen’s (2006) correlation between Norway not acceding to the Law of the Treaties and the favouring of Article 31 of the 1969 Vienna Convention over other signatory parties of the Svalbard Treaty may equally fall short in view of Norway’s eagerness to maintain the Svalbard Treaty. Against this background, it makes sense that Norway upholds and expects reciprocity in compliance with the treaty, which, in spite of a few restrictions, grants the country “full and absolute sovereignty” over Svalbard.

### 1.3 Norway’s “full and absolute” yet qualified sovereignty over Svalbard as an oxymoron

The aim of this section is to show how the political dynamics described in the previous section offer an opportunity to reflect on the very concept of sovereignty both in terms of political theory and in International Relations. As such, how can Norway’s

‘full and absolute’ sovereignty coexist with a web of overlapping sovereignties in the Arctic? Is Norway’s sovereignty “full and absolute”? In order to assess this inquiry, it will be necessary to describe the paradox that Svalbard presents in relation to the common conceptual understanding of sovereignty by contrasting Norway’s sovereignty as “full and absolute” with the treaty’s stipulations of common usufructs.

Jensen (2020) argues that deeming Norway’s sovereignty over Svalbard as “full and absolute” is an attempt to highlight that it pertains to customary appraisals of sovereignty. Notwithstanding efforts to apply conventional wisdom to this status, there are significant exceptions to it that render Norway’s sovereignty over Svalbard peculiar. First and foremost, contrary to other sovereigns, Norway does not have the freedom to transfer its sovereignty to other states without incurring into the termination of the treaty, meaning not only that Norwegian sovereignty is the backbone of the treaty, but ultimately that Norway is obliged to exercise that sovereignty under international law. Albeit evident negative economic yields to maintain that sovereignty, it is out of scope that Norway would resign from such a duty, as Svalbard is admittedly far more important both in security and in environmental terms, to the extent that Norway annually transfers reasonable funds from its ordinary state budget in order to cover for the deficits stemming from infrastructure such as airport, hospital and police force in the Arctic (Jensen, 2020).

Norway’s sovereignty over Svalbard stopped from being straightforward along the 1960s, when petroleum discoveries in the Arctic enticed foreign oil companies to prospect for oil on the continental shelf of the archipelago. To make things worse, the launch of the UNCLOS meant that interpretations started to pit the old against the new law, “on a collision course” (Jensen, 2020) as to whether Norway was sovereign over Svalbard’s extraterritorial waters or if those were subject to the treaty, meaning equal power among all parties.

In other words, should one read the old law retroactively from the standpoint of the new one? If so, the signatory parties, having rights onto the territory of Svalbard,

would have extended rights towards the waters. Or should one read the new law by respecting the old one and adding current developments? Norway, being sovereign over Svalbard, would then naturally be sovereign over all surrounding waters. Likewise, the retrospective application of the new law onto the old one grants Norway with sovereignty over the waters surrounding the archipelago as much as the reading of the new law from the perspective of the old one consequently extends rights to the parties. Such reasoning becomes tautologic insofar as there is insufficient source on *ex ante* and *ex post* to regulate these inconsistencies.

A basic solution would be to expand the current regime of the Svalbard Treaty, applicable onto the territory only as Norway claims, to the surroundings of its archipelago, meaning exceptions to the sovereignty of Norway as there are on the territory itself. The crux of the matter, then, is whether the application of UNCLOS refers to the “full and absolute” sovereignty of Norway over Svalbard or rather to the “limited” sovereignty in view of the signatory parties’ rights.

Meanwhile the quandary persists and resorts to discursive manoeuvres aiming to weigh on one or the other side of the scales, the growing interest in the area has prompted Norway to buttress its sovereignty, the application of the Svalbard Treaty, the maintenance of peace and stability, the preservation of the environment and the continued presence of Norwegian communities through a series of White Papers ever since 1975<sup>63</sup>, to the extent that Norway has deemed its dubbed “High North” the top priority of its foreign policy.

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<sup>63</sup> **1975:** This marks the beginning of Norway's modern strategic documentation on Svalbard, reflecting the country's increasing interest and formal approach to governance in the Arctic region.

**1986:** Another significant update was made to Norway's policies on Svalbard, addressing geopolitical and environmental concerns.

**1999:** This update included new developments and strategic interests.

**2009:** The focus was on modern challenges, sustainability, and international cooperation.

**2016:** Known as “Meld. St. 32 (2015–2016)”, this document provided a comprehensive analysis and future outlook for Svalbard.

**2020:** Addressed the strategic role of Svalbard in the Arctic, economic diversification, and environmental protection.

Jensen (2020) elaborates on these action plans by stating that it is out of question that Svalbard is Norwegian territory and that Norway's enforcement of sovereignty on accounts of the treaty also encompasses a foreseeable management of resources and the Environment. Peace and stability are key to Norway insofar as legal norms rather than power relationships dictate the *rationale* of its foreign policy and because Svalbard's distant though strategic location requires a policy of non-confrontation. Norway has also continuously upheld the conservation of the Environment, thereby aiming to keep Svalbard's condition as "one of the world's best-managed wilderness areas" (Jensen, 2020).

Last but not least, the most encompassing aim in terms of rendering the status of Norway's *de jure* sovereignty into a *de facto* sovereignty is by means of endorsing the Norwegian population in Svalbard. This performativity via presence is not an end in itself but rather a means to assertively render Longyearbyen a stronghold in face of declining coal mining activities and the consistent presence of Russians (Jensen, 2020). As such, these attempts to "performate" sovereignty are evident in Norway's relentless efforts to diversify activities and ensure costly though good infrastructure in Svalbard. That performativity is also evident in generous remittances and in state ownership of major companies in Svalbard – among others, *Store Norske*, which has operated in Svalbard for more than a hundred years (Jensen, 2020). As Jensen (2020) underscores, the Norwegian government owns most of the land in Svalbard, as opposed to the scant amount of less than 1% that belongs to others, already including *Trust Arktikugol*, the Russian state-owned coal company.

Authority is dear to sovereignty and cannot dispose of legislation to enforce that power. As such, Norway also performates its sovereignty over Svalbard by means of the Svalbard Act, which the Ministry of Justice and Police presented and, after having been approved on the same day via a royal decree, came into force

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**2024:** The latest White Paper, focusing on contemporary challenges and reinforcing Norway's commitment to a sustainable presence on Svalbard.

simultaneously with the very Svalbard Treaty, on 14 August 1925 (Jensen, 2020). As for Norway's jurisdiction over the archipelago, the Svalbard Act limits it to criminal law and the administration of justice, being exceptions subject to special provisions (Jensen, 2020). This restricted scope resides in the peculiarities of Svalbard in terms of distance, climate, sparse population, and minimal bureaucracy, rendering enforcement more challenging (Jensen, 2020). As of the 1990s, the modernisation of society in Longyearbyen has kindled debates on the need to apply Norwegian legislation to Svalbard, disclosing Norway's government wish to make the country's legislation as applicable to Svalbard as possible. Notwithstanding these efforts to turn exceptions into the rule, those new regulations of mainland Norway that do not regard criminal law nor the administration of justice still require specific decisions on whether they will extend to the archipelago (Jensen, 2020).

Mining regulations in Svalbard make up yet another quandary. The Svalbard Treaty comprises duties to Norway, among which is the adoption of mining guidelines upon previous consultation with the other signatory states. As of 1925, the Mining Code stands under Section 4 of the Svalbard Act, stipulating mining operations and the acquisition of coal and other resources (Jensen, 2020). In line with Article 3 principle of non-discrimination and extensive to the whole archipelago, the Mining Ordinance provides the parties equal rights to explore reserves and claim patent over new reserves of coal, oil, and other minerals (Pedersen, 2006, p. 4-5). It remains unclear, however, whether Norway is entitled to change the regulations unilaterally or if the country needs to consult the other states previously<sup>64</sup>. While some interpret the ordinance as a treaty, thus subject to the same procedure as that of its creation, others hold that it is a

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<sup>64</sup> This has happened only three times, relative to price adjustments of regulation fees according to inflation. As Jensen (2020) tells, the then Soviet Union protested on two of those occasions, but the latest adjustment faced no objection, which may indicate that Norway may dispose of assessing the signatory states, as Article 8, paragraph 4 pursues, when it comes to minor changes to the Mining Code. No other amendment occurred with the exception to a 1966 outline from the Ministry of Industry, which lifted the need for petroleum claimers to provide physical proof of findings via samples, as well as a 1967 statement of that same ministry according to which the ordinance applied offshore, in a still unclear territorial sea (Pedersen, 2006. p. 5).

Norwegian legal instrument, thus entitling the Norwegian Parliament to make changes provided they comply with the Svalbard Treaty (Pedersen, 2006, p. 5).

Norway's unprecedented incursions onto the shelf sparked international criticism in a way Norway had not anticipated, as when the government conveyed its intent to open for exploration its northernmost limit towards the Svalbard Box and the Barents Sea South<sup>65</sup>. Torbjørn Pedersen (2006, p. 9) conveys that this probably informed Norway's stance to (until recently) refrain from announcing exploration blocks and to welcome equal access also to the Svalbard shelf. As a result, Norway extended a non-discriminatory policy to the shelf. Pedersen (2006) holds that Norway would not be able to manage a non-discriminatory exploration of petroleum as the country does with fisheries, based on their activities' history, meaning that the country may be subject to treaty-related confrontations, as, for instance, relative to the scope of application of the Mining Ordinance and the legality of taxation beyond those limits under the treaty.

Notwithstanding signatory states' contestations over how Norway treats non-Norwegians or applies regulations onto the adjacent waters to the archipelago, Norway's sovereignty over Svalbard has not been under dispute, as Jensen (2020) conveys. The only time when this happened was in 1944, when, besides claiming Bear Island, the then USSR upheld that Svalbard should become a Norwegian-Soviet condominium, thereby incepting the "Svalbard crisis", solved only in 1947 thanks to Cold War pressure from the USA and the UK (Jensen, 2020). Jensen (2020) asserts that the "Svalbard crisis" unearthed the intricate interests of other states in maintaining Norway's sovereignty over Svalbard. In other words, it unveiled that, say, the United States spurs Norwegian sovereignty over the archipelago, and that may be a reason why Russians have not resumed attempts to challenge it anymore.

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<sup>65</sup> Between 1920 and 1964, there were a series of non-successful attempts to find oil deposits on the Svalbard shelf, led by British, US, and French oil companies. Norway's announcement to open up areas up to 74.30° North for exploration, which already make up the Svalbard Box, triggered the objection from the URSS and the UK, after which Norway did not award blocks, leading some authors to deem the repercussion as "a test of other states" (Dyndal, 2014, p. 86).

Albeit the inexistence of straightforward contestations against Norwegian sovereignty over Svalbard in view of the clear-cut provision of Article 1 of the treaty, criticisms against Norway's authority abound, such as on the occasion of the centenary of the Svalbard Treaty, when Russian Foreign Minister Lavrov bluntly accused Norway of breaching the treaty. Among the points that the highest level in Russia raised, the allegedly illegal establishment of a fishery zone, the expansion of environmental areas and the deportation of Russians are noteworthy (Jensen, 2020). Norway assertively declined Russia's request for talks, on the grounds that any negotiation on Norwegian territories was far-fetched (Jensen, 2020).

### 1.3.1. The three conundrums: Svalbard "waters", mining, and democracy

The present section will start by problematising the overarching imbroglio of the status of the surrounding waters of Svalbard as a means to present the interrelated conundrum of mining, and not least that of democracy. This interrelation entails contextualising Norway's double-edged self between an oil and gas supplier and a friend of the Environment.

Svalbard expert and Editor-in-Chief at High North news Arne O. Holm<sup>66</sup> warns: "Don't rock the boat; that's the official Norwegian attitude to international agreements regulating the Arctic, and the same goes for the Svalbard Treaty". Holm holds that Norway's sovereignty is not contested. Rather, she argues that the contestation, if any, is solely due to the fact that the Treaty of Svalbard completed 100 years, a *jubileum* that may cause contempt as to how such an old agreement could have endured contemporary politics and so many shifts in the European continent.

Norway contends that one cannot ingrain the extrapolated significance of the current pelagic regime by retrospectively and anachronistically applying it onto the Svalbard Treaty. As Christopher Rossi (2017, p. 1508) argues, the reading of a previous

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<sup>66</sup> See: <https://www.highnorthnews.com/en/svalbard-treaty-100-years-journey-terra-nullius-all-mans-land> Access on November 27, 2021.

treaty according to the perspective of modern law would entail a backwards thought in the sense that it “would foist presumptions onto the intentions of original signatories that conform to a mythology about what they would have done had they been aware of Law of the Sea developments in 1920”. In order to avoid so, Norway sticks to attaining to the “natural linguistic meaning” of its text (Rossi, p. 1508).

Conversely, as Pedersen (2006, 7-8) presents, another strand of literature (*e.g.* Robin Churchill and Geir Ulfstein, in their 1992 book “Marine Management in Disputed Areas”) believes in the evolutionary enlargement of the scope of the Svalbard Treaty inasmuch as the development of concepts shall grant a dynamic interpretation to the accord. According to this perspective, besides grasping the purpose of its creation as an international settlement of Svalbard’s legal status, one shall equally adapt the hodiernal application of this long-standing instrument to current legal and social transformations, particularly in view of the current international maritime regime and the dynamic assessment of the term “waters” (Pedersen, 2006). As such, today’s international law posits that archipelagos generate their own continental shelves. Furthermore, Norway has used Svalbard as basis for a fisheries zone, consequently entailing that the archipelago has an independent continental shelf. And, thanks to international law, Svalbard saw the addition of those areas; by the same token, then, should the non-discriminatory principle also catch up with such an encompassing move (Pedersen, 2006).

Rossi (2014, p. 1505) heeds attention to how such intermittent mishmash of connections flames juridical and diplomatic impasses at the same time it defies the Arctic’s global governance and the jurisdiction of UNCLOS as the stronghold of legality and as the prevention in face of common spoils. In turn, Norway withstands any retrospective interpretation of the treaty on the grounds that it would extrapolate its original meaning, in an anachronistic reading of the intentions of the agreement from the perspective of the recent developments of the modern Law of the Sea. Besides adulterating the context of the agreement to favourable terms not translating the past, it would retrospectively give advantage to the other signatories as if they had been aware of the later evolution in the Law of the Seas. Following this reasoning, Norway



refuted claims of illegal enforcement in the snow crab incident<sup>67</sup>, which took place outside Svalbard territorial waters. As Rossi (2017, 1508) conveys, the groundwork of the Spitsbergen Commission buttressed Norway's interpretation insofar as it granted Norway with "unqualified sovereignty" beyond the communal area of Svalbard<sup>68</sup>. To this effect, the preparatory work of that commission clearly stated: "For the rest, the sovereignty of Norway should be applied" (Rossi, 2017, 1508).

In its most recent White Paper<sup>69</sup> on the Arctic, Norway reinforced the commitment of the five coastal states around the central Arctic Ocean – Canada, Denmark, Norway, Russia, and the US – to the framework of the Law of the Sea in the Ilulissat Declaration. By adopting the ministerial declaration in 2008, those states clarified the international legal groundwork for managing activities in the Arctic Ocean, such as shipping, environmental protection, and research. Not least importantly, the states appointed UNCLOS as the international legal instrument for delimitation of the outer limits of the continental shelf, thereby reaffirming "their commitment to the orderly settlement of possible overlapping claims to maritime areas" as "a basis for orderly, predictable relations between the coastal states" (Government.no, 2021).

The High North has allured the oil industry not only in view of growing demand for energy and the facilitated access to the resources beneath an ever more melted ice cover stemming from climate change, but also because the region provides predictability for business, as opposed to the Middle East and North Africa (Dyndal, 2014, p. 82). With high estimates of untapped resources in the seabed, energy production has moved north. Notwithstanding a prevailing wish to cooperate in the Arctic, there are conflicting interests both among and inside states operating in the region. While, for instance, Norwegian foreign and economic policy set the course for the energy industry, this industry is at once a domestic and international player on its

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<sup>67</sup> See: <https://www.asil.org/insights/volume/24/issue/4/snow-crab-dispute-svalbard>

<sup>68</sup> Rossi (1508) equally mentions previous jurisdiction on this kind of impasse by describing the Abu Dhabi Arbitration, a case that questioned whether the existence of exclusive drilling rights from the sheikh of Abu Dhabi could extend to the continental shelf, a concept that had not existed legally by the time of the signature of a concession contract. The defence rejected any extension to the contracted party, based on the verdict that reading an agreement in a retrospective way would be an artificial manoeuvre.

<sup>69</sup> Government.no. The Norwegian Government's Arctic Policy: People, opportunities and Norwegian interests in the Arctic - Abstract. Report | Date: 26/01/2021. Available on: [https://www.regjeringen.no/en/dokumenter/arctic\\_policy/id2830120/](https://www.regjeringen.no/en/dokumenter/arctic_policy/id2830120/) Access on: November, 19, 2021.

own (Dyndal, 2014), and its stances often clash with those of the environmentalists. Even so, that industry depends on Norway for solving the imbroglio of the country's maritime waters before opening up for hydrocarbon prospective explorations and not least exploitation (Dyndal, 2014).

Gjert Lage Dyndal (2014) expresses that “Although Norwegian politicians publicly present this as an issue of environmental challenges and international law, in the background, a game of power, economic policy and commercial interests, as well as geopolitics, is underway”. From a phase of absenteeism deemed as “non-policy”, between 1920 and 1960, when Norway avoided any stance that could generate tension, the country started to set new guidelines between the late 1970s and the mid-1990s, and, from then on, Norway has adopted a more aggressive standpoint, to the extent that the country has been enmeshed in notorious diplomatic incidents as the Elektron<sup>70</sup> case, in 2005, and Britain's hosting of a conference on the status of the region without including Norway. Just like Norway expects that the FPZ becomes customary law by attempting to place it on a lower threshold of public exposure, the criticism stemming from Norway approaching any oil and gas plans for the Svalbard region justifies a rather bashful public positioning on the extraction rights (Dyndal, 2014, p. 85).

Defection from publicly approaching any political decision also lies on the assumption that the matter is simply not subject to negotiation (Dyndal, 2014). Norway equally tries to withhold a long-term status of “full and absolute sovereignty” as a means to naturalise the country's entitlement and ownership brought about the legal framework that the country created – mainly the Fisheries Protection Zone. The disagreement over the status around Svalbard goes beyond the judicial scope, comprising geostrategic interests and power politics, particularly when it comes from Norway's main opponents: Russia, in addition to the United Kingdom. As Dyndal (2014) conveys, an increased trend of nationalisation of the oil industry in the three countries causes prominent companies to back their governments and vice-versa, an

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<sup>70</sup> In that context, Russian Foreign Minister Lavrov reinforced Russia's official non recognition of the Norwegian regime in the fisheries protection zone (Jensen, 2020).

interwovenness that reflects not only on the high degree in which political decisions are tangled with industrial interests, but equally in how intertwined domestic and national politics have become, impacting international politics.

As Norway wishes to become “carbon neutral” by 2030, carbon trading dependency will worsen in order to catch up with the amount of oil production, which, in turn, concerns environmentalists over the risk of oil and gas spills onshore (Kristoffersen & Young, 2010, p. 577-584). Berit Kristoffersen and Stephen Young (2010, p. 577) assess the interplay between what they deem “peak oil anxieties” and Norwegian state spaces and practices, resulting in environmental justice developments. When framing the dispute over hydrocarbon deposits in the Norwegian Arctic – the “Battle of the North”, they heed attention to three underlying aspects of this difficult equation between the oil industry and environmentalists:

“(i) the continuing relevance of the state in the governing of nature-society relations, (ii) the increasingly fragmented and fluid nature of state space, and (iii) the significance of ‘security’ as a term around which social, economic and environmental tensions pivot”.

In the case of Norway, a vigorous national policy for oil and gas set the scene for the then incipient industry, and, in 1971, the Parliament approved the “10 oil commandments”, a package of policies aiming for a fair national economic development, characteristic of the post-war Keynesian context, but which, with Norway’s comprehensive welfare system, has proved to endure until today (Kristoffersen & Young, 2010, p. 578-579). Among the commandments, the decision to nationalise the oil revenues by reinvesting in public resources, by establishing a fully national oil company with preferential status – Statoil, now Equinor – and by creating one of the most resourceful sovereign funds to this date. The purpose behind the creation of Statoil, in 1972, was also to foster political support for public and private oil operations in Norway by rendering the company an adviser to government bodies with regard to competing companies in return for state allocations of resourceful oil fields (Dyndal, 2014, p. 85). After going for privatisation in part, Equinor is now a public limited company, depicting close ties between national policy and politics with a broader industrial framework of strategies and agreements, in a context of a global trend of reverting oil and gas private corporations into national oil companies, or into

corporations of major state ownership of the oil market, causing consequences also for international politics (Dyndal, 2014).

Besides alluring a number of trips and studies from oil states and national oil companies to Norway in order to apprehend the model, the Norwegian oil industry has up until recently cemented the perception that the benefits from that industry translate into overall gains for the country (Dyndal, 2014). Notwithstanding opinions that formal state institutions and practices welcome and include the activism from civil society organisations, B. Kristoffersen and S. Young (2010, p. 578-579) problematise the “oil fairytale narrative” by describing the material and ideological transformations of the state space stemming from several struggles as of the 1970s.

Those authors situate the deepening of consensus in the context of “Konkraft”, a Norwegian arena built around 2000 for the oil industry to liaise with government officials in order to render Norway’s shelf competitive in a global scale, particularly by granting that industry access to unexplored hydrocarbon deposits in the Barents Sea, namely in the Lo-Ve region. This forum allegedly also functioned as an advisory board whereby secret meetings framed the conception of a successful board by improving the environmental image of the oil industry and the state policy (Kristoffersen & Young, 2010, p. 580). Energy security is therefore pivotal for re-scaling policy-making processes and state spaces by concentrating the controversy relative to oil and environment within those closed-doors discussions, thus out of the public debate purview (Kristoffersen & Young, 2010, p. 580). New policy developments go in tandem with these escalation processes, including the part privatisation of Statoil, as a means to welcome private investments for drilling in high-risk ventures such as in the Arctic offshore, so that enough funds can account for the ecological and political uncertainties (Kristoffersen & Young, 2010, p. 580).

In 2005, a newly elected centre-left coalition launched the “Declaration of Soria Moria”, which, as Dyndal (2014) argues, translated the interests of the “Oil-Industry Complex” by presenting an updated policy for the High North, in order to draw NATO’s attention to the region security-related matters, resources and the industry in the region. Later, in 2009, the Labour-Socialist Left-Centre triad stated: “We will preserve and protect Norwegian sovereignty, promote sound management of natural

resources and *environment*, low tension and work for full implementation of the Law of the Sea” (Dyndal, 2014, my highlight). It is noteworthy that, along with a greater embeddedness of the oil industry into the Norwegian state, Norway has increasingly experienced an “environmentalization of the state” as of the 1980s (Kristoffersen & Young, 2010, p. 579), and, from 1990s, the debate in Norway has been between “extraction and protection” (Jensen, L.C. *et al.*, 2011, p. 16).

The mounting pressure of the Green party for Norway to curb fossil fuel exploration and end all production by 2050 as neighbouring Denmark has pledged<sup>71</sup> led the most recent parliamentary election in Norway, in 2021, to become internationally dubbed “the climate election”. Both the centre, the Conservatives and the Labour Party nevertheless agreed that the production should continue after 1950, along with a regular green transition based on oil revenues. Although the most climate ambitious parties got some adherence during the campaign and even though the conclusions from the International Energy Agency and the United Nations helped steer the debate towards climate, the victory of the Labour Party, led by former Foreign Minister Jonas Gahr Store, is an indication that Norway is not ready to take a radical step towards transmuting the heavy dependence of its economy on fossil fuels, which would have generated roughly NOK 184 billion by the end of 2021<sup>72</sup>, 30 billion higher than expected, thereby engrossing even more the world’s largest sovereign fund<sup>73</sup>.

The overarching conundrum of the status of the waters around Svalbard intrinsically relates to that of the Arctic, which is the “feedback loop” (Ebinger & Zambetakis, 2009) of ice melt and increased activity, both for maritime and oil and gas exploration purposes. This reciprocal movement with progressive escalation receives the name of “albedo effect”, as the Norwegian Polar Institute demonstrates<sup>74</sup>. This also means that global dependence on fossil fuels spurs resource extraction at the same time it escalates global warming and Arctic melt, which, in turn, further enables that

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<sup>71</sup> See: <https://www.theguardian.com/world/2021/sep/12/norway-votes-but-is-europes-biggest-oil-giant-ready-to-go-green> Access on December 1st, 2021.

<sup>72</sup> See <https://www.norskpetroleum.no/en/economy/governments-revenues/>

<sup>73</sup> See <https://www.nbim.no/>

<sup>74</sup> “Albedo” is the capacity of white surfaces such as snow and ice to reflect sunlight and refrain oceans from absorbing it and getting warm. Ice melt combined with increased pollution heats the Earth by rendering surfaces darker, which further absorbs light, melts the ice, and heats the globe, in a self-reinforcing mode. See <https://www.npolar.no/en/fact/albedo/>

exploration. Norway is not at all exempt from such conundrum, insofar as the country faces the “image problem” of becoming a credible global friend of the Environment while it sustains an economy that harnesses and furnishes the world with fossil fuels<sup>75</sup> (Jensen, L.C. *et al.*, 2011, p. 18).

Post-Cold War politicisation of energy and environment became core to Norway also to secure Norwegian presence and sovereignty on the Northern territory by exposing its energy sector to increased competition in face of the disputed border with Russia (Kræmmer, no press)<sup>76</sup>. Norway’s “dual track” energy policies between the “black gold” and “green ambitions”<sup>77</sup> comprise the double-edged self between “an energy supplying nation (*energinasjon*) and an environmentally conscious nation (*miljønasjon*)” (Kjersti Kræmmer, no press). The incompatibility between energy security and environment security in the region lies in the argument according to which oil extraction is not environmentally safe. A 2021 report from the International Energy Agency<sup>78</sup> exhorted for net zero emissions by 2050 in order to keep global warming below the expected 1.5°C level and prevent more dramatic climate changes, to which Norway responded by indicating no major shift in its oil and gas policies<sup>79</sup>.

A further conundrum relates to the Norwegian performativity of sovereignty by means of its mining activities. As an example of performativity of sovereignty when it comes to the Norwegian mining presence, from the start, Norway has pursued to compensate its “relative” sovereignty by purchasing mining rights, a practice that Russia accompanied, to the extent that these are the only states that have exercised mining rights over the past 80 years (Grydehøj *et al.*, 2012, p. 103-104). The

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<sup>75</sup> Chapters Four and Five will further elaborate, by means of a post-structuralist discourse analysis, on the daunting task of harmonising a narrative between Norway’s attempt at portraying credible stewardship of the environment and resorting to this environmental discourse as a means to shield its sovereignty in face of Russian interests at the same time that Norwegian funds stem from the same exploration that causes climate change on a faster pace in that region.

<sup>76</sup> Available at: [https://www.academia.edu/4718263/The\\_Norwegian\\_Arctic\\_Energy\\_Economy\\_and\\_the\\_Environment?email\\_work\\_card=title](https://www.academia.edu/4718263/The_Norwegian_Arctic_Energy_Economy_and_the_Environment?email_work_card=title)

<sup>77</sup> See <https://overthecircle.com/2021/06/23/norways-energy-policies-caught-between-black-gold-and-green-ambitions/> Access on December 1st, 2021.

<sup>78</sup> See <https://www.iea.org/news/pathway-to-critical-and-formidable-goal-of-net-zero-emissions-by-2050-is-narrow-but-brings-huge-benefits>

<sup>79</sup> See <https://overthecircle.com/2021/06/23/norways-energy-policies-caught-between-black-gold-and-green-ambitions/> Access on December 1st, 2021.

Norwegian state-led mining industry *Store Norske* has persisted with mining operations even without profitability and in stark contrast with Norway's environmental policies, all the more in view of criticisms over the paradox that the power supply in Svalbard stemmed from coal, a major polluter exactly where temperatures rise the most due to climate change<sup>80</sup>. If, on the one hand, pro-environmental discourses in Norway have vied with the Norwegian conduct of mining activities<sup>81</sup>, on the other hand, the recent deactivation of the greatest Norwegian mining company in Svalbard<sup>82</sup> has as backlash insecurities and anxieties revolving around Norway's attempts to reinstate its sovereignty by new modes of performativity.

At the same time, James K. Wither (2018, p. 31) recalls that "In 2001, Russia objected to the introduction of the Svalbard Environmental Protection Act, which it claimed was an attempt by Norway to challenge its mining rights on the islands and impede the Russian presence on the archipelago". Russia's assertiveness in Svalbard became noteworthy with the country's struggles to open a new mine at Colesbukta, to which the Governor opposed based on Norwegian law, most notably the 2001 Svalbard Environmental Protection Act (Grydehøj *et al.*, 2012, p. 110). In view of Russia's accusations that such was a political instrument upon which Norway could justify restrictions on Russia, this dispute opens up the inquiry on how Norway's environment-related arguments may serve to defend sovereignty.

This inquiry becomes even more relevant against the current backdrop of climate change. Being a laboratory of both climate change and structured governance, the ice melt of what I deem the "de-bordering" Arctic has put environmental concerns and norms on an unprecedented threshold in international relations even though environmental treaties are the least respected, to the extent that they have become the most serious limit to the capitalist system. The Cold War bipolarity between capitalism and communism is now updated with a new tension, that between a capitalist system based on unlimited growth, on the one hand, and the notion of planetary limits and

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<sup>80</sup> See: <https://www.rcinet.ca/eye-on-the-arctic/2020/07/30/climate-change-hits-back-at-svalbard-coal-mine-flooded-by-melting-glacier-in-norway/>

<sup>81</sup> See: <https://www.reuters.com/article/us-norway-coal-greenpeace-idUSTRE5913QT20091002>

<sup>82</sup> See: <https://www.arctictoday.com/norwegian-government-proposes-an-end-to-svalbard-coal-mines/>

nature protection, on the other hand. In that respect, Norway and Russia are now on the same side of the coin, even if they have different government systems: they have capitalist interests, are signatories to the Paris Agreement, and recognise the need for environmental protection.

It is noteworthy that, although mining is not lucrative, it has for years served for both Norway and Russia as a means to settle on the territory. Russia does not depend on Norway's facilitation for initiatives in national research as other states do. As a consequence, Russians have transformed the mining settlement of Barentsburg by turning part of the mining town of Trust Arktikugol into the Russian Scientific Centre in Spitsbergen, with the stated aim of the "Russian Government Commission on Presence in the Spitsbergen Archipelago" to assert the country's stronghold there (Pedersen, 2021). In view of the declining reserves of coal under Barentsburg, Russia has justified the settlement on the grounds of preserving Russian strategic stakes in the region (Pedersen, 2021).

While the legal basis for running a Russian company town in the Norwegian islands derives from the Mining Code of 1925 and arguably necessitates an active mining operation, Trust Arktikugol has earned the permission of the Norwegian government, *e.g.* through revised land-use plans, to expand its activities in Barentsburg to include the new research facilities as well as tourism-related infrastructure.

It is natural, then, that Norway's decision to deactivate most of the operations in a context already rife with recrudescing geopolitical moves<sup>83</sup> also from non-Arctic states in the region has heightened concerns regarding the assurance of Norway's sovereignty over Svalbard. The problem is that, by refraining from activities in mining, Norway must reinvent its ways to materialise its sovereignty over Svalbard, and the Norwegian presence in the archipelago has turned into investments in tourism and scientific research<sup>84</sup>.

Even so, the lay assumption according to which Svalbard is an international or internationalised territory poses concerns, for Norwegian sovereignty, over foreign

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<sup>83</sup> See: <https://thebarentsobserver.com/en/arctic/2017/10/end-comes-100-years-norwegian-coal-mining-svalbard>

<sup>84</sup> See [https://www.regjeringen.no/no/dokumenter/arctic\\_policy/id2830120/](https://www.regjeringen.no/no/dokumenter/arctic_policy/id2830120/)  
<https://www.rexsac.org/blog/mining-settlements-in-transition-reflections-from-svalbard/>



research. Pedersen explores how foreign researchers' "national posturing"<sup>85</sup> in Svalbard may represent a security issue for the Norwegian government, which also justifies Norway's active engagement in managing the presence of international research in the archipelago (Pedersen, 2021)<sup>86</sup>. In the context of Svalbard, scientific research is a "soft" or "smart power"<sup>87</sup> as a means to guarantee national presence in the region, as "a ticket to the venues of Arctic power and influence, where regional governance is shaped" (Pedersen, 2021).

Torbjørn Pedersen (2017, p. 96) exposes the extent of the dilemma of Longyearbyen resulting from the deactivation of most *Store Norske's* coal mining operations between 2014 and 2016. The Norwegian coal company had to halt most of its long-run businesses in view of an acute deficit in revenues (due to an over 50% decrease in coal prices) and a decision from Norway's government to terminate coal subsidies as a means to be coherent with a global drive to combat global warming sources. Since *Store Norske* was deemed the cornerstone of Norwegian presence in the archipelago, the necessity to compensate for the gap ensuing from that closure has spurred business alternatives. As Pedersen (2017, p. 96) contends, alternatives to account for that void of Norwegian presence by means of research, tourism and a fisheries industry pose yet another problem, as these activities allure a non-Norwegian population, which could arguably challenge Norway's goals to ascertain its sovereignty via presence in the long run.

Grydehøj *et al.* (2012, p. 109, 110) argue that, independently of the "interests of the community in Longyearbyen, the Norwegian government regards Longyearbyen primarily as an instrument of its sovereignty". Likewise, the authors argue that Russian continued influence over Svalbard does not stem from law, but rather from practice, and, since the Svalbard Treaty is so open to interpretation, its jurisdiction is based on precedence and perception. In this sense, the common assumption that Russians would have a special treatment is due to practice rather than law, meaning that Russia does

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<sup>85</sup> The concept of "national posturing" comprises national features such as symbols and statements that, in the case of Svalbard, are manifest in the research infrastructure of the archipelago and equally refer to the assertion of a nation's presence (Pedersen, 2021).

<sup>86</sup> Available on: <https://www.tandfonline.com/doi/epub/10.1080/2154896X.2021.1883900?needAccess=true>

<sup>87</sup> The author refers to Joseph Nye's concepts.

not possess special legal rights as compared to other treaty signatories (Grydehøj *et al.*, 2012, p. 111). In accordance with that reasoning, Russian geopolitical moves, tourism, and unprofitable mining activities in Barentsburg may not seem naïve nor be taken for granted. For those authors, Barentsburg is as essential to Russia as Longyearbyen is for Norway, in the sense that those are ends in themselves, and not because of the activities these countries support there. As those authors argue, “Barentsburg is vital to Russia in the same way as Longyearbyen is vital to Norway: they are important because they exist, rather than because important work is done there” (Grydehøj *et al.*, 2012, p. 111).

Interrelated with the impasse of mining is the conundrum of democracy. Longyearbyen gained local democracy (on January 1st, 2002) after long discussions and several polls where the main question was: Do we want local democracy? Surprisingly, the surveys unveiled divided opinions. Longyearbyen’s local council is similar to a municipal council, with the chair largely exerting the same tasks as a mayor and being responsible for most of the services to the inhabitants<sup>88</sup> (my translation). Just as Norway’s decision to deactivate major mining operations in Svalbard has laid the ground for raising new ways to ascertain its sovereignty, so too has the implementation of local democracy in Longyearbyen challenged Norway’s jurisdiction over the archipelago (Grydehøj *et al.*, p. 108).

The local administration of Svalbard has actively managed the archipelago ever since the Svalbard Treaty came into force in 1925, being the local Governor responsible for the roles of chief of police, prosecution, and *notarius publicus*. Moreover, the Governor equals a county governor in Norway, and is in charge of protecting the environment of the archipelago (Grydehøj *et al.*, 2012). By reporting to the Ministry of Justice in Norway, the Governor (*Sysselimesteren*)<sup>89</sup> represents Norway’s core formal means to exercise its sovereignty over Svalbard.

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<sup>88</sup> <https://www.kommunal-rapport.no/debatt/demokrati-i-motvind/71579/>

<sup>89</sup> See: <https://www.sysselimesteren.no/nb/>



Image 15: Boat by the Polar County/ Governor, at the Port of Longyarbyen

Source: Natalia Neubern, Svalbard, 2022.

Since the 1970s, the archipelago's largest settlement – Longyearbyen – has faced gradual liberalisation, with administrative functions being passed over from the Norwegian state mining settlement to the Governor, who became responsible for environmental protection, among other policing tasks seeking the “effective enforcement of Norwegian sovereignty” (Grydehøj *et al.*, 2012, p. 102). Notwithstanding Norway's control of the archipelago via the Governor, such authority dwindled in practice after the local government in Longyearbyen started to chart its own democratic course, thereby reducing the Governor's *de facto* jurisdiction over the town (Grydehøj, 2013, p. 4).

The deactivation of mines of *Store Norske Spitsbergen Kulkompani* (SNSK)<sup>90</sup> is interrelated with the problem of Norway's state presence in the archipelago and with that of the local government charting its own democratic course. Not only has the Norwegian government retrieved land that the company used to own and shared some of its ownership even for the Chinese, but so has this selling sparked outcries for local autonomy. This is because, in practice, *Store Norske* continued exerting influence over local development insofar as Longyearbyen is still under a thirty-year-old process from being a company town towards becoming a local democracy<sup>91</sup>. In 2002, the local community decided for a local democratic government for the sake of the best distribution of resources, power, and authority<sup>92</sup>.

Stark criticism against *Store Norske* surpassing its executive steering power towards the administrative dimension of local politics is, to some extent, a hybridisation between an energy company and domestic policies also in that microcosm of Svalbard, which equally opens up enquiries about how this intertwinedness interrelates with the politics of environmental control on a local dimension. Business interests informing the management of a land may not be so much

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<sup>90</sup> Store Norske Spitsbergen Kulkompani AS, SNSK, Longyearbyen, is a Norwegian state-owned mining group that operates Norwegian coal production on Svalbard through the subsidiary Store Norske Spitsbergen Grubekompani. See: [https://snl.no/Store\\_Norske\\_Spitsbergen\\_Kulkompani\\_AS](https://snl.no/Store_Norske_Spitsbergen_Kulkompani_AS)

<sup>91</sup> See: <https://www.highnorthnews.com/nb/demokratiet-settes-i-fare-pa-svalbard>

<sup>92</sup> See: <https://www.highnorthnews.com/nb/demokratiet-settes-i-fare-pa-svalbard>

the case as mining decreases, but this latter only transmutes power of that corporation towards a diversification of the company's domains, which currently encompass mining, housing, logistics, and energy. The implications of these operations are not sheerly economic, insofar as the allocation of house constructions and the management of the town's real estate by the state to such a company entails the state's desire to keep its presence in a physical structure, for instance. Still, when focusing on the expanded authority of the corporation, there are concerns of decimation of local democracy, in a reverted process from democracy towards a company town again, with SNSK allegedly having received more state allocations for the operation of Svea plant than the local steering committee board received to manage services for the inhabitants<sup>93</sup>.

In a 2008 report on the local elections of 2007, Trine Monica Myrvold and Hilde Lorentzen (p. 10 - 11) assess "grey areas" of power, wherein the competition for the exercise of authority between local and central authorities creates an impression that local politicians are overruled and powerless in shaping the local community:

"Longyearbyen's local government operates in the intersection between big politics and local politics. Svalbard's geographical location and international status indicate that it will be necessary for society at large to be more directly present in Longyearbyen than in local communities on the mainland. This means that the local government scheme must find its place within narrower framework conditions. In the slightly longer term, the tax case seems to have led to a greater awareness among central authorities of the importance of the local government being consulted on matters affecting citizens and businesses in Longyearbyen. Nevertheless, there will still be many areas in Longyearbyen and the surrounding areas where the interests of local and central authorities may conflict".

There are local oppositions to local democracy as well, on the grounds not only of short-term residents not being fully aware of local processes, but also because greater democracy means increased bureaucratic costs<sup>94</sup>.

The delegation of power and authority for the local administration must fulfil not only the mainland's goals but equally the local community's expectations so that it becomes credible and legitimate (Myrvold & Lorentzen, 2008, p. 10-11). As Jens Bartelson (2006, p. 478) contends, the discursive assessment of sovereignty delineates

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<sup>93</sup> See: <https://www.highnorthnews.com/nb/demokratiet-settes-i-fare-pa-svalbard>

<sup>94</sup> See: <https://www.kommunal-rapport.no/debatt/demokrati-i-motvind/71579/>

polities, however, it is not obvious how political communities emerge from those polities while a governed population according to the constitutional requirements of sovereignty, which demand for a meticulous analysis between constituting and constituted power, in the sense of clarifying how citizens make a *demos* that, in turn, furnishes the government with authority and democratic legitimacy.

No matter how uncontested Norway's sovereignty over the territory of Svalbard may be, Svalbard's authority on certain fields is subject to a three-layered governance: that of the local government, the one from mainland Norway via Governor, and that stemming from the non-discriminatory stance of the signatory states by means of conventions. The Treaty of Svalbard had certain administrative *pacta de contrahendo* provisions, spurring the parties to agree on agreements in the future, such as by subsequent conventions on the establishment of meteorological and scientific investigations (Article 5), the establishment of a communication infrastructure (Article 4), and equal environmental controls (Article 2)<sup>95</sup> (Rossi, 2017, p. 1509). Even if the core of such stipulations is subject to consensual arrangements by all stakeholders and may lead to interpretations as if they would serve to curtail Norway's "unrestricted sovereignty" (Molenaar, 2012; Rossi, 2017, p. 1509), thereby resonating a diffusion of sovereignty, it is more advantageous for Norway to delegate the practicalities of it for the lower threshold of the local government than to lose it for the multi-layered governance of the treaty through a shared authority with the signatories.

Russian attempts to constrain Norway's exercise of its "full and absolute" sovereignty are significant not only because of the greater geopolitical scenario in the Arctic, but also because, being the only signatory state capable of weighing Norway's sovereignty, Russia receives support from other signatory states to exercise their rights, and many of them also oppose Norway's continental shelf's claims around Svalbard (Grydehøj *et al.*, 2012, p. 114). However, as previously mentioned, it is also at the interest of the signatories that Norway takes on sovereign assertions in face of Russia, which again places meaningfulness in the ability of Norway to performate power

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<sup>95</sup> See: <https://www.jus.uio.no/english/services/library/treaties/01/1-11/svalbard-treaty.xml>  
Last access on December 2nd, 2021.

practices not based on confrontation but rather on striking a balance in face of so many complexities.

Albeit the prevailing framing of the Svalbard dispute as a judicial matter, the assessment of the stalemate over its continental shelf must not rely on a strictly legal perspective. Authors such as Torbjørn Pedersen (2006, p. 2) contend that legal theory cannot comprise a sufficient settlement, especially when that “high-latitude” conflict discloses an intricate set of interdisciplinary layers that weigh on the reading of and on the impacting onto the circumstances. Janice Thomson (1994) invites research on variations of authority within claims of sovereignty, which would assess how functional changes would be consistent with its constitutive dimension, and how the functional dimension can erode the constitutive one. This entails appraisals of the relations among the state, state practices and transformations in the institution of sovereignty, as the following chapter will approach.

## Chapter Two

### Svalbard as a case to rethink sovereignty in contemporary times

The purpose of this chapter is to offer a literature review on the concept of sovereignty for the case of Svalbard by unveiling how Bartelson's critique allows us to think about sovereign in terms of a double dimension (functional and constitutive), and explore the theoretical implications of this critique to think about authority, overlapping and competing sovereignties, orders, borders, and boundaries.

In view of the incommensurable debate on sovereignty in the extant literature of International Relations and for the purpose of the focus of this research on perceptions of Norway's performativity of sovereignty, the present work will not account for the causes nor the consequences of changes in uses of the concept of sovereignty, but will rather assess the intersections between discursive representations of Norway's sovereignty over Svalbard and the constitution of a political and legal reality of that sovereignty by means of performativity.

The further chapters of the present thesis will attempt to appraise, by means of a post-structuralist analysis of discourse, the nuances of an allegedly peculiar sovereignty, which, being a non-conventional, non-essential, contingent, and conditional sovereignty, resorts to attempts to fix its meaning via performativity. Even if traditional sovereignty as a contested concept abounds in the extant literature, the assessment of a qualified sovereignty over the "outside the international" (Walker, 2009, p. 69) shall not follow the path of least resistance. That said, it must rely on the problematisation not only of sovereignty as a concept in general, but also of the dispersion of authority towards levels of governance above and below the central government (Bartelson, 2006, p. 466). In other words, it must unpack the outer and the inner layers of the qualified sovereign – Norway – via appraisals of regimes, governance and jurisprudence as its outer dimension, and its inconsistencies as its inner dimension.

In order to do so, the present chapter will assess sovereignty in the context of the Arctic by means of a framing that will revolve around the core concept of



overlapping sovereignties, that is, layers of sovereignty from both geographic and thematic standpoints. An introduction to the contingency of sovereignty in general will precede the analysis of overlapping sovereignties of the “de-bordering Arctic” and in relation to the very genealogy of bordering and of “sovereign practices” (Walker, 2009) at a space that is “outside the international” (Walker, 2009). Following the approach to the imbroglio of contested claims in the Arctic by redeeming concepts such as “overlapping sovereignty” (Waller, 2018, p. 259); “layered sovereignty” (Carlson *et. al*, 2013) and “graduated sovereignty” (Ong, 2006), it is necessary to address the evolution of the very concept of sovereignty in a brief genealogy under Norway’s perspective. The core part of the study will then consist in contextualising Norway’s sovereignty over and around Svalbard after having presented, in the previous chapter, the peculiarity of its juridical status and ensuing imbroglios relative to maritime waters, mining, and democracy.

## **2.1 Literature review of the concept of sovereignty: from Bodin to recent critiques**

The aim of this section is to review the literature on the concept of sovereignty, from the classical discussion made by Jean Bodin to more recent critiques made by authors such as Jens Bartelson, Janice E. Thomson, Stephen Krasner, and others.

The classical concept of sovereignty, which posits that the state represents the highest form of political and social organisation, dates to the 14<sup>th</sup> century. This theory came into being as a reaction to the waning universal authority wielded by both the Pope in Europe and the Emperor. The comprehensive presentation of this theory is credited to Jean Bodin, who articulated it in his book “Six livres de la République”, published in 1576. In his work, Bodin associated sovereignty with absolute monarchy, defining it as an unassailable power that exists independently of external influences and entails complete autonomy from subjects. The turning point towards the idea of national sovereignty was earmarked – even though in hindsight, by Political Science scholarship – with the Peace of Westphalia in 1648, which dwindled a universalist trend in Europe concerning the Empire and the Papacy. This peace treaty established the

existence of independent and equal countries that recognised autonomy in matters of faith and religion. The treaty provided monarchs with sovereignty in Bodin's sense, which meant absolute power, independent of external factors, and with unlimited authority (Chęciński *et al.*, 2013).

Jean Bodin's account on sovereignty represented a watershed for public law insofar as he contributed to leveraging the status of the latter into a scientific discipline thanks to his partake in authority. However, his claim that sovereignty would be indivisible, or rather concentrated within a single individual or group, proved problematic, especially if he were to misconstrue institutional arrangements to validate his thought that power could not be shared (Franklin, 1992, p. xiii; p. xx). This first reference against the object at stake leads to the thought on how divisible and shared sovereignty over Svalbard is, as will be developed further.

In addition to Jean Bodin, Thomas Hobbes was another pioneering figure in modern political thought, who also formulated the concept of sovereignty in a systematic manner. Hobbes specifically defined sovereignty as the supreme authority established by individuals via a social contract, and personified in a single individual that creates laws. To emphasise the innovative idea of a supreme political authority that is also connected to both lawmaking and enforcement, Hobbes portrayed sovereignty through the attributes of unity, indivisibility, unconditionality, and boundlessness of an absolute power, which is not constrained by the very covenant that gave rise to it (Hobbes, 1985).

Hobbes and Bodin thus laid the foundation for the prevailing understanding of sovereignty that would last for centuries by introducing a groundbreaking concept of political supremacy built on legal terms and law. This idea shaped the modern political order by creating the sovereign state, characterised by its territorial boundaries and supreme political authority. The novelty of this concept was twofold: it unified diverse elements of society under the rule of law and established the source of legal legitimacy as the sovereign's command, rather than tradition or religion (Gümplová, 2015, P. 4).

In realist, liberal, and mainstream constructivist literature, the primary unit of analysis has consistently been the territorially sovereign nation-state, as evidenced in works of authors such as Doyle (1986), Morgenthau (1948), and Wendt (1992). This

prevailing perspective finds its roots in the Peace of Westphalia, signed in 1648, which was later heralded as the conclusion of religious conflicts in Europe and the emergence of territorially defined statehood (Tickner, 2011, p. 5). This historical breakthrough cemented the separation of the inside, characterised by exclusive sovereign authority, from the outside, where such authority was absent (Edwards, 2020).

Andreas Osiander (2001, p. 251- 252) denounces the myth behind the fictional International Relations narrative of Westphalia, which is a 19<sup>th</sup> and 20<sup>th</sup> century fabrication of sovereignty based on the 17<sup>th</sup> century Holy Roman Empire's alleged fear that the Habsburgs would pose a threat to incipient states. In accordance with Osiander, common wisdom overlooks the fact that the Thirty Years' War was not about assuring the survival of the states nor defending the Habsburg's Empire. In that regard, the author unpacks the rather abstract backdrop against which the IR discipline has evolved: a script for a narrative on the 17<sup>th</sup> century that the 19<sup>th</sup> and 20<sup>th</sup> century theories contrived. The mythical consensus reached in 1648 is commonly believed to have epitomised the establishment of a modern system of sovereign independent nation-states in Europe, frequently denoted as the Westphalian system (Axworthy & Milton, 2016). The critical expression "Myth of Westphalia", then, conveys a largely imaginary backdrop against which the International Relations narrative and discipline has set its foundational object of analysis, whereas "Westphalia" was concerned exclusively with the 17<sup>th</sup> century context of the Holy Roman Empire, and the notion around Westphalia as the inception of the international system was a by-product of the settlement, along the 19<sup>th</sup> and 20<sup>th</sup> centuries, of the concept of sovereignty (Osiander, 2001).

The separation between the domestic and international domains gained particular prominence in the field of IR with the transition from classical to structural/systemic or neo-realist theory, notably advocated by Kenneth Waltz (1959; 1979), whose framework envisioned the world as a collection of formally similar units, each containing its own sovereignty, within an international system defined by anarchy in the absence of a higher authority (Edwards, 2020; Barkawi 2010, 1361). Besides acknowledging variations in power and capability among states, the emphasis on their formal similarity, especially regarding their presumed territorial stability, led to the recognition of their sovereign statehood as almost innate, as if bestowed by nature. This

perspective has anchored IR theory in “the reification of state territorial spaces as fixed units of secure sovereign space” (Agnew 1994, p. 77; Edwards, 2020).

The wake of the Balkan disintegration and the boost of globalisation spurred the acknowledgement of sovereignty as a social construction, bringing about queries on when and why sovereignty receives recognition, and whether it is necessarily bound to a territorial space or can be linked to defining a population rather than a state (Biersteker and Weber 1996; Edwards, 2020). Some scholars aimed to elucidate the variations in sovereign expressions and capacities, particularly concerning the perceived shortcomings of “postcolonial statehood” (Aalberts, 2004, 245; Doty, 1996; Edwards, 2020). Constructivist perspectives, most notably Wendt’s (1992) re-conception of “anarchy” as “what states make of it”, enabled the constitutive relationship between sovereignty and statehood, highlighting that neither exists in isolation from intersubjectively negotiated meanings, social practices, and relationships (Edwards, 2020).

As Richard Ashley and Robert Walker (1990) contend, discussing sovereignty is never an act of naming something already in existence nor does it entail referring to a self-identical source of truth and power that exists independently or goes without saying. This nonessentialism and the denial of the compatibility between a self-perception and power or of equal sovereign units in the international system make them to admit that, paradoxically, the fundamental concepts in International Relations (IR) seem to work towards depleting the substance of international relations itself. Some less critical constructivist viewpoints nonetheless fell into the same descriptive pitfalls as realist and liberal conceptions of the sovereign state. They still assumed a similar representation of the international system as a framework of formally identical units, even though they acknowledged the social production, rather than the natural givenness, of this order. The amalgamation of the state concept with these territorial fixations, characterising this space not merely as the ‘domestic’ but also as the core and origin of “sovereignty” itself—linked to the idea of “an internal realm of order and tranquillity” (Doty, 1996, p. 148) has enabled the framing of sovereignty as an inherent, pre-discursive attribute of the territorial state (Edwards, 2020).

Iver Neumann (2007, p. 190-191) heeds attention to the need of constantly repeating a policy so that it does not wane down. According to him, the nearly impossible fixation of meanings requires the discursive power of stabilising what is in constant flux by referencing representations and identities, to the extent of naturalising them in a way that renders them “almost doxic”. As a man-made concept, sovereignty requires a reflexive assessment on its association with the political reality (Bartelson, 1995, p. 3), being the commonsensical appraisal of sovereignty as attached to the Westphalian nation state but a single among a constellation of possible definitions of sovereignty in the globalised and changing contemporaneity (Hansen *et al.*, 2012, p. 2).

Norway’s sovereignty over Svalbard is undisputable, positivised on the Svalbard Treaty. However, the maritime imbroglio in the extraterritorial waters of Svalbard, in addition to the need to decarbonise and to democratise and yet maintain the Norwegian stronghold and statehood over the archipelago call for “performance”<sup>96</sup> of deeds of claim and control to constantly fix that sovereignty in domains that are peculiar and exceptional. This study, as previously stated, does not aim to falsify a sovereignty that is a fact, but rather to build on discourse and narratives that may reify that sovereignty, especially in terms of maritime disputes and of strengthening a Norwegian identity in a place of various nationalities and exceptions. Moreover, this study problematises the notion of sovereignty not as a static possession nor an uncontested claim, but rather as an ongoing performance.

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<sup>96</sup> Performance hereby refers to the performance, via deeds, narratives, and discourse, aimed at performativity, in order to render a constitutive sovereignty functionally sovereign in its statehood.

### **2.1.1. Bartelson's critique on sovereignty**

The aim of this section is to present and review Bartelson's groundbreaking critique on the concept of sovereignty, and to show how his ideas enter a conversation with other authors such as to expand and broaden the discussion on sovereignty.

When unmasking contested perspectives on the conceptual change of sovereignty, Jens Bartelson (2006, p. 464) argues that such divergence is due more to ontological discrepancies than to different accounts of the world, being language the driving force not only to what we make of sovereignty but also to open a new field of inquiry that enables the resignification of the concept. In this sense, by borrowing the logic according to which language not only represents but also constitutes political and legal realities (Bartelson, 2006), the concept of overlapping sovereignties not only reflects contested powers and orders, but equally constitutes a reality of contested jurisdictions.

As per Bartelson (2006, p. 464), there are two main stakes on those ontological discrepancies on sovereignty. On the one hand, new forms of authority and community may transcend not only the domestic dimension, but also the international one, thereby bringing about unprecedented political forms overlooking this divide. If that is the case, the author argues that there will be a flagrant linguistic lack to account for these new constellations of power insofar as they do not correspond with sovereignty as being a unity, thereby requiring either letting go of it or revisiting the concept. On the other hand, there are claims that such transformations will but enhance the conceptual power of sovereignty, which reinforces its long-lasting theoretical and practical purpose based on meaning and norms.

For the purposes of the present object of Norway's contested sovereignty over Svalbard, it is worth referring to the derailing combination of multilayered governance in the Arctic with not only economic pressures but also a not so effective or functional central government, which results in a diffusion of sovereignty and in a dispersion of authority to governance levels above and below the central government (Bartelson, 2006, p. 466).

Notwithstanding the latent awareness of the tension between traditional partakes on sovereignty as indivisible and, for the case at stake, the diffusion of

authority to both sub- and supranational levels of governance, the legitimation of authority of these other parties gives rise to imbroglios that ultimately resort to discursive claims enabling the expected ordering to re-establish itself as the normative overarching power (Bartelson, 2006, p. 467-468). New forms of sovereignty may dispose of territory, rendering boundaries functional to the extent that autonomy is no longer bound in the integrity of some land (Bartelson, 2006, p. 468). Jens Bartelson (2006) believes that the evolution of this recent form of sovereignty has bred the ground for the international system to become a world polity (Bartelson, 2006, p. 468).

The assessment of sovereignty for the case of Svalbard must therefore escape the axiom of the deleterious consequences of transnationalism upon the workings of sovereignty whether by eroding its structure or by boosting its survival. Jens Bartelson (1995, p. 470-471) describes how Jef Huysmans managed to break up this traditional question thanks to reverting it onto effects upon the “*matrix of sovereignty*”, which transnationalism turns into functional polities that thwart the territorialised, fixed distinction between the national and the international, thereby constituting pluralised rather than unified politics. This perspective is nonetheless tautological insofar as it intends to evade the spectre of sovereignty while it departs from its logic (Bartelson, 2006, p. 471).

Ole Jacob Sending and Iver B. Neumann (2006) point to correlated assertions within the literature on global governance, according to which an approach to government as a process rather than an institution is necessary in order to engender an analytical move from a sovereignty and hierarchy-based perspective towards a horizontal and network-based mode of governing, which, with reference to James Roseneau (1999, 2002), dislodges political authority towards “transnational policy-networks and functionally specific ‘spheres of authority’ (SOAs), where the state plays a strategic but not necessarily dominant role” (Sending & Neumann, 2006, p. 651). As Sending and Neumann (2006) argue, the extant literature insists on framing the very concepts it aims to transcend, namely those of sovereignty, authority, and legitimacy, thereby bolstering the same state-centric perspective that it seeks to overcome.

However, instead of being limiting, the constitutive power of language can also lead to an expansive, dynamic, and contextual constellation of meanings. In this sense,

Bartelson (2006, p. 472) describes how Stéphane Beaulac (2004), by turning down useless attempts at definition due to the impossibility of language to overcome itself, exploits the normative power of the “Myth of Westphalia” (Osiander, 2001), which dynamically transforms and creates the alleged universalistic and timeless connotation of sovereignty along changes in its employment. As Bartelson (2006, p. 473) argues, Beaulac took credit in appointing sovereignty both as indispensable and problematic: if, on the one hand, it constitutes the modern political order, on the other, the assessment of that order by means of this concept falls prey to the circularity intrinsic to the language that had originated that same order.

Bartelson (2006, p. 474) conveys that, in a world rife with competing normative frameworks, cosmopolitanism and imperialism coexist in face of a lacking normative meta-vocabulary, to the extent that any claim of world community may disguise an imperial aspiration. The author (1995, p. 2) believes that concepts and discourses are open-ended and subject to a rhetorical battle over truth, which leads them to more unintended than intended directions.

By drawing on Ruggie (1982)’s description of how the medieval mishmashes and overlapping organisation of space, with tangled and interwoven jurisdictions, evolved into sovereign units that are both juridically exclusive and territorially fixed, Janice E. Thomson (1994, p. 14-15) argues that modern sovereignty has structured a set of authority claims that ultimately organise world politics from a bottom-up perspective, based on the formation of that unity, which then structures the global space. It is noteworthy that, from the hitherto top-down perspective, the medieval space was intrinsically international, with fluid boundaries and itinerant rulings. The genealogical description of the discursive transformations of the previous order towards an international system of sovereign states necessary bears a simultaneous epistemic change, which, according to Bartelson (1995, p. 187), is both a condition of possibility for sovereignty and a result of it, in a mutually constitutive relationship. Likewise, Duzinas (2006, p. 38) points to how the conception of the globe and the political context are interrelated by recalling Carl Schmitt’s assertion that the structuration of a metaphysical perspective of the world in each epoch resembles the political organisation of that society in that same period (Duzinas, 2006).



As a bounded, ephemeral and variable attribute, sovereignty entails two dimensions that Thomson problematises (1994, p. 151): the constitutive dimension, based on its historical structuration, and the functional dimension. Bartelson (1995, p. 12), in turn, by switching from the question of meaning towards that of function and aiming to investigate how the concept of sovereignty subtly endows meaning to political discourses, compares function and attribute. In doing so, what Thomson (1994) deems as the functional dimension, Bartelson (2006, p. 472) similarly understands as “condition of possible agency”, which would ultimately enable the very constitution of political entities and society at large.

Janice E. Thomson (1994, p. 151) calls for the ever variation of sovereignty on the grounds that authority over violence has changed over time, which thenceforth leads her to conclude that “sovereignty is far from fixed”, or rather “a potentially variable institution” than “a fixed principle”. According to Thomson (1994), even though sovereignty is different from heteronomy in many ways, there are varying modes of authority within sovereignty, and it rests to be analysed the extent to which that change would transform sovereignty into something else beyond a variation in sovereignty itself. This movement towards heteronomy or what she deems “neoheteronomy” leads her to unpack sovereignty into two dimensions: the constitutive and the functional. The constitutive domain is what distinguishes sovereignty in its constitution and from historical or imaginable alternatives, whereas the functional dimension implies variations within sovereignty. Thomson (1994) therefore calls for future research on how functional changes impact or even erode the constitutive dimension of sovereignty, as a means of also shedding light on the relationship among state, state practices, and transformations of sovereignty. For the object of stake, this study will at times relate constitutive sovereignty with the sovereignty *de jure*, and the functional sovereignty with sovereignty *de facto*.

Jens Bartelson (1995; 2006) in turn divides partakes on sovereignty into two main framings. According to him, some authors deem the concept as a condition of agency, while others dub it as an attribute. The author heeds attention to how the latter is problematic. Likewise, performativity is rather linked to a condition than to an attribute, in the sense that it is contingent and contextual, and not intrinsic. By down

turning both the realist state-centric claim of sovereignty and the interdependence theorists' one according to which sovereignty has eroded, Thomson (1994) invites research on variations of authority within claims of sovereignty, which would assess how functional changes would be consistent with its constitutive dimension, and how the functional dimension can erode the constitutive one. This entails assessing relations among the state, state practices, and transformations in the institution of sovereignty. Thomson (1994, p. 151) believes that, although the hegemonic power is not able to solely set the rules, internationally active European state leaders have been prominent in establishing and changing sovereignty norms.

Sovereignty thenceforth renders the state the "actor" of international politics, with a juridically designated space that is the repository of its absolute authority. Thomson (1994, p. 16) dubs this the "constitutive dimension" of sovereignty. The state's practice of its authority in that delineated space, with consequences on the outer space, represents its "functional dimension". If, on the one hand, the boundary between the domestic and the international realms is the constitutive dimension of a territorially fixed sovereignty, the functional dimension relates to economic, political, state, and non-state boundaries, which are not automatic and concern outer relations in world politics (1994).

It is not the scope of this research to describe the evolution of assessments on sovereignty that different schools of International Relations Theory have made ever since the Liberals contested the Realist view of the concept as unitary and absolute. Notwithstanding the richness of contributions present in the extant literature, contingency is the claim worth mentioning for this research. Contingency hereby entails the lack of stability, predictability, and essentialism of sovereignty at the same time it informs the need of a state to constantly reassure it by means of performativity. Since the very history of a sovereign is associated with the very history of knowledge in terms of rendering sovereignty politically fathomable (Bartelson, 1995, p. 53), it goes without saying that the history of sovereignty is "a history of the epistemic discontinuities, conceptual reversals and changing metaphors that breathe life into political philosophy and animate the discourse on sovereignty" (Bartelson, 1995, p. 53).

When unpacking “the variable, contingent, and practical nature of sovereignty”, Janice E. Thomson (1994, p. 12) reiterates the critical theorists’ following inquiry: “How is it possible that states are sovereign?” (1994, p. 12). By combining the perspective of sovereignty as a social and practically constituted regime with that of collectively constituted by other state rulers in the international system, the author brings to the fore the debate on boundaries (1994, p. 13). In that regard, she unveils boundaries as discretionary, mutable, and questionable by recalling the following puzzle that critical theory aims to unpack: “How are these boundaries produced, reproduced, legitimated, contested, changed, and naturalized?” (1994, p. 13). In addition to framing sovereignty as intrinsic to the modern state system, which state rulers constitute and reproduce, this view adds to the critical partake of sovereignty as territorially bound into a political space, thereby rendering this global organisation a “set of institutionalized authority claims” (1994, p. 14).

In their assessment of borders, boundaries and “bordering” (this latter taken as the inscription of borders), Noel Parker and Rebecca Adler-Nissen (2012) contend that “the lines-in-the-sand critical agenda” must furnish the traditional “politics of the line” with epistemologies, ontologies and topologies able to account for the tenacious attempts to fix and hold borders, not surprisingly dubbed “scars of history” (2012, p. 774). Borders, being the formal territorialisation of boundaries (which, in turn, encompass a broader and figurative meaning), are more manifest than boundaries. As a subcategory of boundaries, borders become manipulable instruments for states to modify boundaries (2012, p. 777). In accordance with post-structuralism’s preference for differentiations, borders constitute conceptions of the world, therefore they precede entities such as figurative notions of boundaries (2012, p. 778). In other words, borders form the core ontological presumptions for generating boundaries as the epistemological results ensuing from the inscription of particularities within their own identities (2012, p. 778).

Moreover, borders set the groundwork – the “condition of possibility” – for states to make decisions, thus enabling “actorness” (2012, p. 779). As a consequence, the inscription of borders materialises states by means of territorial, economic, coercive, legal, linguistic, cultural and knowledge boundness (2012, p. 785). The

authors deem those dimensions as “planes” and contend that there is no straightforward coincidence between those planes and the drawing of congruent borders, a mismatch that entails “disaggregating” movements (2012, p. 786). This means that the state territorial and functional borders may not correspond - or “aggregate”, and that the dynamics and sustenance of them rely on various - and sometimes overlapping - forces and authorities (p. 786-787). A sovereign statehood thence encompasses the topographical plane of territory, the topological manifestations of a permanent population, the capacity to govern by means of the coercive use of force, among other planes as inscription of borders, the aggregation of which makes up a *sine qua non* condition for state sovereignty (2012, p. 787).

Notwithstanding the efforts of Western state building in terms of aggregating those planes into a bordered repository of authority, bordering practices have been continuous movements across time and space, to the extent that non-aggregational forces have currently challenged sovereign borders with border-infringing processes, thereby forcing states to adapt to new circumstances of non-aggregation, which, rather than abandoning sovereignty, transmute it (2012, p. 788-789). Borrowing the notion of a state “picking and choosing” (2012. 793) sovereignty, Norway’s picking and choosing sovereignty over Svalbard illustrates the disaggregation between the plane of territory with those of, say, population and the use of force, not only when it comes to the archipelago *per se*, but particularly beyond its adjacent waters, where contested jurisdictions apply. If, as in the third interpretation, the geographical scope of the treaty should coincide with that of Norway’s sovereignty, then any other view would conform with a full sovereignty whereby Adler Nissen’s planes of sovereignty would totally aggregate.

From the critical standpoint according to which boundaries – be they between the domestic and the international, the economic and the political, and the state and non-state domains – are subject to contentions, fortuity, and transformation, Thomson (1994, p. 18) unmasks the allegedly essential way by which the production and reproduction of borders render them natural and fixed. The modern national-state system enacted an institutional change in sovereignty, whereby the coincidence of authoritative and territorial boundaries enabled not only the clarification of those but

also both the recognition of external claims as territorially based and the accountability of the state for coercive activities of their residents taking place outside their borders (1994, p. 19).

The debate on sovereignty in legal and political theory has mainly centred on whether legal or political sovereignty takes precedence. This discussion leads to a deadlock, as sovereignty is either constituted by law and isn't truly autonomous, or it is above the law and therefore unlimited. To resolve this, one approach is to consider that sovereignty embodies both the power that enacts law and the law that regulates power. In this perspective, political power is presupposed by law and established through a legal code with basic rights. This dynamic process of mutual constitution and containment of law and politics defines modern sovereignty. Consequently, modern autonomy, self-determination, and legitimacy rely on the concept of sovereignty (Gümplová, 2015).

Norway's sovereignty in terms of enacting laws is stated in the Svalbard Treaty insofar as the agreement calls for the Norwegian sovereign power to legislate on the protection of the Environment, among other Acts. This sovereignty is nonetheless restricted not solely by the agreement itself, but also by the equal treatment it grants to the other signatories and not least in the governance framework of the Arctic.

As Petra Gümplová (2015) argues, sovereignty has been consistently linked to notions of unlimited power, command theory of law, and state monopoly over coercion. The author lists four assumptions supporting this paradigm: 1) sovereignty is concentrated in a single organ or person; 2) legal coherence relies on the sovereign's will, who is above the law; 3) law should be obeyed solely because it originates from the sovereign; and 4) sovereignty encompasses specific privileges, including the right to wage war, which opposes the notion of independent international law. Consequently, any idea suggesting limited or shared sovereignty has been deemed contradictory. State sovereignty theories and popular sovereignty concepts often rely on absolutist principles. Influential thinkers include Rousseau, who believed in the inalienable general will of unified people, John Austin, who viewed the state as possessing absolute legal competence without accountability, and Carl Schmitt, who saw sovereignty as the power to make dictatorial decisions.

Sovereignty has faced criticism from liberal political theory, which aims to protect individuals from state power abuses through checks and balances and constitutional rights. Kelsen proposed dissolving sovereign authority into legal norms, Arendt equated sovereignty with tyranny and called for reinventing public space, and Foucault's analysis of modern power led to examining alternative forms of discipline and governmentality. In accordance with Petra Gūmplová, at the heart of these critiques lies a conceptual misinterpretation about the nature and extent of sovereign authority, as well as an oversight of the values that validate sovereignty. Absolutist sovereignty, thought to be the essence of the concept, stems from a historical context associated with the rise of the absolutist state during Europe's seventeenth-century religious and civil wars. Sovereignty has evolved over time, with its core idea remaining consistent as a supreme political authority within a territory. This concept develops in practice according to changing social and political institutions. Two primary aspects can be analysed – the location and form of sovereign authority and its scope and limitations. Absolutist sovereignty is historically specific, and believing that it must reside in a single, unlimited body is an essentialist fallacy (Gūmplová, 2015).

Petra Gūmplová (2015, p. 7) proposes an alternative to absolutist sovereignty, which is its 'de-absolutization' by re-examining the connection between law and power and accepting that divided and limited political power can also be sovereign. From a practical standpoint, this perspective has been proven since the emergence of modern constitutional democracy, evident in institutions such as separation of powers, federalism, popular sovereignty, representative government, basic rights, and checks and balances. These developments do not equate to a lack of sovereignty in the system.

Pluralist regimes, transnational governance, regional integration, human rights, humanitarian intervention, cosmopolitan law, and many other aspects of modern global politics have called either for an update of the concept of sovereignty beyond the essentialist perspective of absolute, indivisible, and lawless authority or even for the dismissal of sovereignty in the context of a "post-sovereign" era (Gūmplová, 2015, p. 4). Petra Gūmplová (2015) contends that, unlike attempts to dismiss sovereignty, a 'de-absolutization' of sovereignty is indeed achievable. Furthermore, it is crucial for liberal

democracies to maintain their sovereignty as it forms the connection between democratic practices and the rule of law.

In accordance with Gūmplová (2015) and relevant to the case of Svalbard, such link is particularly vital in transnational environments characterised by soft law with a deficit in democracy or those involving transnational economic governance and military interventions. As will be explored further, the democratic shortfall for the case at stake is latent both in terms of a macro-perspective of othering Russia at a transnational regime of soft law economic governance such as that of the Arctic Council, of military activities such as those of NATO (*i.e.* simulations around Trondheim, Norway), and in terms of striking a balance between controlling and granting autonomy to Svalbard's society, which is international and not fully-fledged democratic.

In the international sphere, the discourse on sovereignty's decline presents several key arguments. One contention highlights the diminishing role of states as distinct communities and autonomous legal-political entities due to globalisation and technological advancements. This process transforms states into intricate structures with interconnected networks and transnational governance systems replacing traditional rule-making functions. Various "external disjunctures" gradually erode sovereign states, such as international law, global economy, and transnational decision-making regimes (2015). Notable scholars like Held, Sassen, and Slaughter discuss the effects of these changes on traditional institutions of governance, pointing towards a shift to decentralised networks as the primary actors in a world of "disaggregated sovereignty" (Gūmplová, 2015, p. 7).

Theorists assume that globalisation and the interdependence of the world lead to a decline in state sovereignty due to reduced control over internal affairs and trans-border movements. However, this assumption is based on a misunderstanding of sovereignty (Gūmplová, 2015, p. 11). Sovereignty is more about internal supremacy and external autonomy, rather than a list of specific prerogatives. Border control isn't an essential aspect of sovereignty, but the capacity for self-determination in establishing rules is.

Given the growing importance of an emerging global legal framework, proponents of global constitutionalism are exploring whether the concept of post-sovereignty provides a plausible explanation for the realities of our increasingly globalised world (Gümplová, 2015, p. 11; Cohen, 2012, p. 30). Cohen argues persuasively that the true challenge to sovereignty is not its inability to constrain itself but the apparent paradox of having two independent and valid legal systems simultaneously operating in the same territory or governing the same subjects and matters (Cohen, 2012, p. 8). When both a transnational legal order and a domestic legal order coexist, governing individuals concurrently at the same time and space, the question arises: can sovereignty still be asserted? (Gümplová, 2015, p. 14). If so, whose sovereignty is more evident or influential?

As we will see, this is not only the case of a *de jure* in contrast to, in practice, a dysfunctional sovereignty over the land of Svalbard given the equal treatment to other signatory parties. This imbroglio is equally a predicament set by UNCLOS according to which the same maritime areas are applicable by different parts of maritime law that grant sovereignty to more than one sovereign, making up a “bundle of rights” (Byers, 2010) that conform a zone of overlaid sovereignty, the dispute of which cannot be solved solely by law. This is why the intricacies of power and narratives are so important in those interpretations and practices.

Legal pluralism may also be borrowed as a theoretical lens to assess the peculiarities of Norway’s sovereignty practiced over Svalbard and not least the overlapping sovereignties of the Arctic. Legal pluralism can be simply defined as a situation in which two or more legal systems coexist within the same social domain (Merry 1988, p. 870; Bertelsen, 2007), or it can refer to a scenario in which the law in a social field comprises multiple sets of binding rules with differing and sometimes conflicting behavioural requirements (Bertelsen, 2007). Analytical perspectives on the concept of legal pluralism abound, with a fundamental distinction being made between juridical legal pluralism and empirical legal pluralism. Juridical legal pluralism pertains to a specific type of legal framework that is unified but includes mechanisms to accommodate cultural and other forms of diversity by recognising or applying specific sets of rules or procedures for distinct groups. Empirical legal pluralism, on the other



hand, describes a factual situation in which an actor encounters various and possibly contradictory behavioural expectations (Bertelsen, 2007).

Taking such lenses to approach the case of Svalbard, one would assess it to be a hybrid form of juridical legal pluralism and empirical legal pluralism, where a somewhat unified legal framework under the Svalbard Treaty umbrella would at the same time be conjoint to the framework of UNCLOS and would also comprise diversity, though distinct groups instead comply with the same set of rules. At the same time, one would see some empirical legal pluralism when facing contradictory behavioural expectations, such as the common, though wrong perception of Svalbard as an international space that has a low-key performativity as being Norwegian sovereign (as attested in Chapter Five). Or, given the temporal precedence of the Svalbard Treaty to UNCLOS and diverging interpretations on the application of both regimes, one could also state that the legal framework is not unified and therefore allows for specific set of rules to be applied for distinct groups.

In addition to the legal aspect of sovereignty, this thesis digs into a more philosophical one: that of performativity of power. The prevalence of a Foucauldian approach to power introduces specific challenges. If power is distributed throughout society, ingrained in institutions, disciplines, and self-construction processes, the question arises: how do we account for the pervasive existence of legal discourse that revolves around the conventional notion of the state as the focal point of society, a primary legislative authority, and an arbitrator? (Hansen & Stepputat, 2006).

The set of characteristics linked to sovereignty—such as territory, recognition, autonomy, and control—has been widely assumed, albeit often implicitly, to define states within the international system. However, only a limited number of states have possessed all these attributes simultaneously (Krasner, 1999, p. 220). Interestingly, Norway's sovereignty over Svalbard contrasts the idea of boundless power as it is defined by a list of positive prerogatives outlined in the Svalbard Treaty. This demonstrates that different approaches to sovereignty are possible, and Norway's specific case highlights the variability and complexities in defining and applying sovereignty concepts.

The contemporary concept of state sovereignty encompasses population, territory, political power, and the ability to engage in international relations<sup>97</sup>. Some distinction though interconnectedness is made between external autocratic sovereignty (independent international action) and internal omnipotence (full regulation of internal affairs): as interconnected aspects, the diminishing of any of these aspects indicates a loss of sovereignty (Chęciński *et al.*, 2013). The question of whether sovereignty is normative under international law is debated, with varying positions in legal doctrine. While sovereignty is mentioned in international conventions like the Montevideo Convention and the UN Charter, the increasing transfer of competencies to supranational entities challenges traditional notions of sovereignty. In the future, the idea of complete sovereignty, as envisioned by Rousseau, may evolve in the face of diminishing barriers and increasing global interconnectedness. The debate also involves the relationship between state law and international law, with questions about hierarchy and conformity (Chęciński *et al.*, 2013).

Moreover, the right to self-determination is a crucial element in the sovereignty discourse insofar as it belongs to the nation. At the international level, it becomes the basis for the sovereignty of the state created by the nation (Chęciński *et al.*, 2013). If the international performativity of sovereignty is based on a national self-determination, the question arises about how Norway's performativity of sovereignty over Svalbard, a multinational territory, can build on Norwegian national values to enhance its sovereignty on its extraterritorial waters, as will be further explored in Chapter Five.

## **2.2. Concepts and issues related to a critical understanding of sovereignty in the Arctic**

The aim of this section is to discuss concepts and issues that emerge from Bartelson's critique on sovereignty, relevant to both political theory and to international relations, such as the relationship among authority, jurisdiction and sovereignty, Rob Walker's 'sovereign practices' on a space that is 'outside the

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<sup>97</sup> Article 1 of the Montevideo Convention on the Rights and Duties of States signed in 1933 by American countries.

international', the notions of 'overlapping sovereignty', 'layered sovereignty', 'graduated sovereignty', and 'paternal sovereignty', as well as the role of international institutions – such as UNCLOS and NATO – in constructing multiple borders and orders for governance production in an international system comprising sovereign states. These concepts will later be assessed for the governance framework of the Arctic presented in Chapter Three.

The modern state's connections with both domestic and global social and economic interplays currently exert a major role in shaping the state's capacity to act with authority, and such authority has adapted to the external constraints of global and transnational movements. The conventional emphasis on sovereignty as a concept of exclusive and self-reliant state authority is not particularly useful in assessing modern international relations (Vayrynen, 2001) let alone the geopolitical dynamics at play in the Arctic. For the case of Svalbard, in particular, sovereignty should be regarded as a principle and action that is intricately woven into both domestic and global networks of influence and engagement. The interactions between the principle of sovereignty as practiced in customary Law and Politics and postulated on the Svalbard Treaty with some caveats, and acted, performed and performatized in domestic global networks of influence and engagement, as further explored with the literature on performativity, unveil that the Norwegian sovereignty over Svalbard is conditioned by and conditions influence and engagement into domestic and global networks, thence it is not an unconditional authority.

Stephen Krasner (1999, p. 3-4) locates the uses of sovereignty into four different categories. At first comes international legal sovereignty, which entails mutual recognition among juridically independent units. Then comes Westphalian sovereignty, which excludes external interference of a jurisdiction of authority. Domestic sovereignty, in turn, refers to the organisation of authority and effective control within the borders of a polity. Finally, interdependence sovereignty implies the ability to regulate and control cross-border movements but still with a lacking authority. The imbroglio of Norway's "full and absolute" albeit qualified sovereignty over Svalbard is a matter that touches upon each of these dimensions (Krasner, 1999, p. 3-4). Outside rulers can, for instance, compromise a state's *de facto* autonomy while

maintaining a *de jure* independence (1999, p. 6), which may be the case at stake. Moreover, Walker (Krasner, 1999, p. 6) heeds attention to the danger of reconfiguration of authority structures within states by external rulers, compromising actual autonomy while maintaining juridical independence.

In August 2007, a Russian mini-submarine unprecedentedly ventured into the depths of the Arctic Ocean, and the Russian expedition planted a titanium flag on the seabed of the North Pole. As a deed marred with symbolic significance, such performance mirrored the European Age of Empire as a traditional act deemed the initial step for territorial claims. The instant repercussion of the fact prompted the then Canadian Foreign Minister Peter McKay to declare: “This isn’t the 15<sup>th</sup> century. You can’t simply travel the world planting flags and declaring territorial claims”. His statement emphasised the necessity of international acknowledgment for any territorial claims that Russia might have considered, casting doubt on the legitimacy of their actions (Wood-Donnelly, 2013). Besides being a contested attempt to claim for authority in the final frontier of the globe in both imaginary and geographic terms, at a place “outside the international” and under still contended jurisdictions, this episode is testament to the necessary legitimization for performative deeds for claims of authority to acquire a sovereign status. Furthermore, it is illustrative of the Arctic as a space at the crossroads among authority, sovereignty and jurisdiction in an international regime that applies distinct rules in maritime regions as opposed to terrestrial territory wherein planting flags is no longer considered an acceptable method for asserting annexation (Wood-Donnelly, 2013).

The definition of sovereignty in the Arctic is historically based on a regime comprising socially constructed norms, tracing its origins back to the Treaty of Tordesillas in 1494. However, the specific transformation leading to the emergence of new conceptions of territory in the Arctic was a result of a sequence of events set in motion by the Truman Proclamation of 1945 and culminating in the United Nations Convention on the Law of the Sea in 1982. Arctic maritime claims are presently determined based on their proximity to sovereign land surrounding the Arctic Ocean. This vast and historically unorganised territory, which remains sparsely populated, was incorporated into the sovereign jurisdiction of states through imperialist policies of an

earlier era, following established rules governing territorial acquisition (Wood-Donnelly, 2013).

Sovereignty over these regions has primarily been upheld by the principle of effective occupation through security initiatives. However, as new international norms, such as the right to self-determination for indigenous peoples, have been introduced, relying solely on effective occupation has created uncertainty regarding the legitimacy of sovereignty over certain Arctic territories. This is particularly true due to the tenuous political connection between the core and the remote extremities of these Arctic regions, which were historically primarily dedicated for defence and economic exploitation. In the Ilulissat Declaration of 2008, the five coastal states affirmed that Arctic sovereignty would be defined according to established principles of international law. This declaration not only rejected the idea of establishing an Arctic Treaty but also underscored their commitment to collaborative efforts in addressing the distinctive challenges of the Arctic Region (Wood-Donnelly, 2013). Notwithstanding this governance, claims and contestations remain at stake in the Arctic.

### **2.2.1. Overlapping sovereignties in the Arctic**

The complex overlapping of sovereignty over continental shelves in the Arctic basin coupled with the various institutional instruments to address relations in the Circumpolar North call for a governance-oriented approach in order to grasp local, regional and global dynamics (Landriault *et. al.*, 2020). Governance entails sovereignty insofar as it comprises the harmonisation of state-centric approaches and interests, to the extent that this administration guides major projects in far-flung environments such as the Arctic (Landriault *et. al.*, 2020). However, Landriault *et. al.* (2020) contend that overstating sovereignty jeopardises the macro regional perspective, which is why the landscape of assessment shall equally evolve from a sovereignty towards a governance perspective. The focus on how governance frameworks manage physical borders serves therefore as an umbrella necessary to encompass symbolic and intersubjective borders.

A focus on the concertation of governance frameworks on intersecting policy fields is of paramount importance not only to grasp the fluidity of boundaries (Rowe, 2018) but also to frame the performativity of power relations that both impacts and

stems from governance dynamics. This methodological organization from the macro perspective of regimes towards the micro perspective of foreign policy complies with practical needs but also with purposes of interest. Firstly, any theme relative to the Arctic is enmeshed with other subject fields, and the author must therefore navigate into this mosaic of “overlapping or nested Arctic policy fields” (Rowe, 2018) with some sense of direction “while retaining the sense that these cross-border policy fields are intimately connected to both local and national settings and other global governance issues” (Rowe, 2018). Secondly, although governance is timely, it is not as timely as foreign policy, which renders the assessment from the macro to the micro a more contextual course. Like Elana Rowe (2018) reminds us, cross-border cooperation in the Arctic evolved with the “shifting power landscapes” ensued from the demise of the Cold War and the consequent dissolution of the Arctic as “a frozen front between the United States and the Soviet Union”. The subsequent intertwinement and complexity of unprecedented forms of cooperation but also conflict paved the way for the creation of governance mechanisms such as the Arctic Council, the Council of Baltic Sea States, and further cross-border structures for contact in the Barents region (Rowe, 2018). Thirdly, the primary focus on the networking process of governance in order to grasp physical, conceptual and inter-subjective boundaries between Norway and Russia may be the most reasonable direction and adequate framing to grasp these dynamics insofar as it conforms to the current diffusion of political authority ensued from trans-governmentality (Sending & Neumann, 2006). The practices of those bilateral power relations in that context of multi-layered governance as a networking process may indicate new paths to the analytical lacunae in this literature, which, as Sending and Neumann (2006) argue, still focuses on the concepts it aims to transcend, namely those of sovereignty, authority, and legitimacy, thereby bolstering the very state-centric perspective it seeks to overcome.

With regard to this intricacy of actors and politics in the Arctic that stem from globalising networks, Elana Rowe (2018) asserts:

“Some argue that the nature of political power itself has been transformed by rapid post-Cold War globalisation, with economic interdependence, international institutions and new technologies rendering military force and deterrence less useful [...]. Global governance suddenly seemed mostly about processes of learning, spread of norms, deliberation, and persuasion amongst motley groups of non- governmental organisations

(NGO), business and State representatives. Power, when addressed, was primarily the power of discourse to shape the thinkable and the doable rather than the existence of inequality between relevant actors”.

New analytical tools urge to transform the framing on what actors are and where they stand towards what they actually do within governance processes (Sending & Neumann, 2006). The very equation between the capitalist prospects for exploitation of resources in the Arctic and the urge to tackle climate change and comply with sustainable growth places the interactions between Norway and Russia at the very crossroads between Michel Foucault’s partake on sovereignty as the imposition of obedience and the employment of law, as opposed to government, which he describes as “the conduct of conducts”, aimed at harnessing the governed to achieve goals (Sending & Neumann, 2006). With that reasoning, Norway’s and Russia’s sovereign pushes for the Arctic are somehow dissipated and diluted in face of the processes of governance aimed at the overall wellbeing of the governed. With this in view, the assessments of power relations between both countries departing from a governance-based approach that transcends sovereignty, authority and legitimacy may shed a new light to assess their physical, conceptual, and inter-subjective boundaries. Through this lens of “governmentality” as Sending and Neumann (2006, p. 668) buttress, it is possible to evince how rules, practices and techniques define different governmental rationalities, which, in turn, engender particular actions, orientations, and agents.

The framing of those geopower practices within the major scope of governance equally complies with the feature of the Arctic as being a complex compound of nested policies on intersecting fields. Being an umbrella framework, governance matters are utterly embedded in other policy fields and networks of global, national, local scales (Sending & Neumann, 2006), and not least in intersubjective dynamics such as those pertaining to Norwegian and Russian regional entourage. As Rowe (2018) argues, cross-border Arctic cooperation consists of an

“ecosystem of ‘policy fields’[...] that have important overlaps, shared contours or key disjuncture from other more local, national, regional or global policy fields relating to Arctic governance issues. This helps to overcome the problem of ‘scalar fix’, which can be understood as the analytical shortcomings that result from the standard scholarly practice of identifying a ‘scale’ of governance (local, national or global) at the start of a study. Fixing the scale first can easily overlook or exclude important intersections between these levels of socio- political life”.

A Global Arctic purview impacts comparative law understandings insofar as it claims for complex multi-layered governance regulations to approach the region's unprecedented "overlapping sovereignties" (Waller, 2018). This is because instruments such as the United Nations Convention on the Law of the Sea, by granting "layers of sovereignty" (Carlson *et al.*, 2013) to coastal states and allowing a further extension of the 200-mile limit of the continental shelf, ironically nationalises at the same time it internationalises the ocean (Waller, 2018), thereby rendering a "bundle of rights" (Byers, 2009). Therefore, finding out requirements for a structured governance (Chatterjee, 2004) in a way to face this updated form of "graduated sovereignty" (Ong, 2005) is of unsurmountable importance to contribute with producing research aimed at conciliating interests in the mitigation of climate change effects with sustainable economic prospects in the Arctic region, hence spreading the importance to preserve peaceful relations in the High North. By taking into account that borders are inescapable of a temporal perspective, this melting process that results in what the present study deems the "de-bordering of the Arctic" also follows the bordering logic, as it produces global capitalist times and spaces resulting in contentions that conversely end up erasing those very forms of appropriating spaces (Mezzadra *et al.*, 2013).

### **2.3. A Brief Genealogy of Norwegian Sovereignty**

As per Bartelson (1995, p. 21), the approach to the source of sovereignty must comply with three basic enquiries. Firstly, how do international political theory and macrosociology respectively explain or justify the origin or foundation of the existence of the sovereign state? Secondly, where, and with whom inside the state do the theories assign sovereignty to? And thirdly, what does this sovereignty entail in terms of reach and scope? Based on this triad of assessment, the appraisal of the existence of Norway's sovereignty over Svalbard follows a similar outline, whereby a brief genealogy of Norway's mainland sovereignty and the inception of Norwegian sovereignty by means of the Treaty of Svalbard contextualises discussions revolving around authority, including the approach to three imbroglios stemming from the question around the



scope of that sovereignty: the Svalbard waters, local democracy, and the deactivation of mining.

Before delving into Norway's assertion of sovereignty over Svalbard, it is pertinent to contextualise and scrutinise Norway's relatively nascent sovereignty over mainland Norway itself. From 1536 until 1905, Norway was not an independent sovereign state. In practical terms, Norway became a Danish province after Denmark abolished the Norwegian national council in 1536, subjecting Norway's territory and populace to Danish rule amidst the Reformation (Danielsen *et al.*, 1995, p. 123; Neubern, 2019). Danielsen (1995, p. 123) highlights that the awareness of Norway's distinct identity was as potent in 1814 as it had been in 1536. This awareness of Norway as a longstanding nation without a sovereign state forms the basis for analysing how Norway's self-assurance as a nation – a boundary – may correlate with the country's need to assert its uniqueness upon achieving constitutive sovereignty – a bordered territory.

Although absolutism granted Norway the status of a kingdom, this status was largely nominal (Danielsen, 1995, p. 196), as both governance and administration were centralised in Copenhagen. During the Napoleonic wars, Denmark-Norway aligned with France, while Sweden, Denmark's rival, opposed Napoleon (Øivind & Libæk, 2007). Sweden faced a succession crisis, prompting the appointment of Jean Baptiste Bernadotte, also known as Carl Johan, as the ruler of Sweden (Øivind & Libæk, 2007). Betraying Napoleon, Carl Johan agreed to rule Sweden and laid claim to Norway, which the Great Powers had promised to Sweden as spoils of war (Øivind & Libæk, 2007). However, Norwegian elites (not the general populace) had previously supported Danish Prince Christian Fredrik as Norway's ruler and, on 17 May 1814, the Norwegian people adopted the "Eidsvoll Constitution", electing Christian Fredrik as the king of an independent Norway. In the summer of that year, Carl Johan invaded Norway and enforced a union that, while allowing Norway to maintain its constitution and domestic policies, subjected Norway's foreign affairs to Sweden. This underscores the fact that Norway remained partially constrained in its sovereignty until 1905.

In the realm of foreign policy, tensions escalated with Sweden, with Norway's "growing self-awareness" harnessing the demand for external assertion (Øivind &

Libæk, 2007). When Sweden threatened war over Norway's intention to establish its own consulates and foreign minister, the *Storting* (the Norwegian Parliament) opted to fund the modernisation of Norway's defence against its "union brother Sweden" (Øivind & Libæk, 2007, p. 26). Following unsuccessful negotiations with Sweden regarding foreign policy, the *Storting* boldly declared Norway's dissolution of ties with Sweden (Øivind & Libæk, 2007, p. 26).

Free Norway endured for only thirty-five years, from 1905 to 1940, and the management of foreign affairs presented one of the new State's challenges. Despite declaring neutrality in World War I, Norway's vulnerability, given its substantial fleet and reliance on British exports, inclined it towards the Allies, earning it the label of "a neutral ally" (Libæk *et al.*, 2012, p. 33; Neubern, 2019). The Russian Revolution catalysed some radicalisation within the Norwegian Labour Party, prompting domestic opposition. Furthermore, the U.S. stock market crash brought dire consequences for Norwegians, including farmer bankruptcies, widespread unemployment, and civil unrest (Libæk *et al.*, 2012, p. 40). Against this backdrop emerged the extreme right-wing movement through the "National Gathering" a rally orchestrated by a former Norwegian military officer named Vidkun Quisling on May 17, 1933, Norway's National Day, purportedly to combat Marxism and Communism (Libæk *et al.*, 2012, p. 41).

The Nazi invasion, however, caught Norwegians off guard. When Vidkun Quisling proclaimed the world's first radio *coup d'état*, King Haakon refused to yield, despite Hitler reinforcing German soldiers sent to ensure the campaign's success (Libæk *et al.*, 2012, p. 47). The Allies' efforts to defend Norway faltered, leading to Neville Chamberlain's relinquishment of power to Winston Churchill (Libæk *et al.*, 2012). Germany supported a Nazi regime in Norway, with Hitler installing Quisling as Minister-President in 1942 (Libæk *et al.*, 2012, p. 53). Significant historical repercussions of the Nazi occupation, such as a heightened sense of national unity and the acknowledgment of the failure of neutrality, prompting a call for stronger Norwegian defences (Libæk *et al.*, 2012, p. 61), spurred Norway's accession to NATO as a founding member.

One of the most notable outcomes of the Nazi occupation was the emergence of an even stronger national identity. Clemens Maier (2007, p. 1) contends that Norway's (and Denmark's) characterisation of this period as the "dark parenthesis" profoundly shaped Norway's self-perception and identity, with lasting effects. By underscoring the dependence on foreign intervention for the country's liberation's, the author illustrates the extent to which these trying years traumatised Norway's population:

"The nation-state that had often just recently been built [in the case of Norway, it was just 40 years old] to protect the integrity of the territory and to protect its citizens had lost its legitimacy. The experience of treason and helplessness added to the deep sense of insecurity. The nations were in 'urgent need of patriotic memories' to support the process of reconstruction – of both souls and infrastructure" (Maier, 2007, p. 2).

To combat insecurity, Norway actively cultivated a patriotic memory that celebrated resistance while overlooking the realities of occupation, fostering a widespread belief that it was resistance that safeguarded the nation. Historians often address such omissions in a nation's past by unveiling revelations akin to Roland Barthes' notion of myth, simplifying complex events to imbue them with social significance. This mythmaking not only prevented resistance fighters from feeling their efforts were futile, as liberation came from external forces, but also served to reconstruct a nation ravaged by war. By glorifying resistance, Norway asserted its agency and reaffirmed its sovereignty in a challenging context (Maier, 2007, p. 3-47). Once we put into perspective the Soviet-backed coup over Czechoslovakia as one of the major threatening events preceding Norway's decision to enter NATO, it comes as no surprise that Norway sees with concern the audacious moves of Russia onto Ukraine by placing some fear on the Russian presence in the Norwegian Arctic, for example, as will be further explored.

## 2.4. Norway's sovereignty over Svalbard: bare or borne?

When assessing why it took five years between signing the Svalbard Treaty and Norway assuming full sovereignty (1920-25), Thor Bjørn Arlov<sup>98</sup> categorises three assumptions. Firstly, some took that sovereignty as a gift, meaning it was a compensation from great powers for Norwegian war efforts. Secondly, some assumed that sovereignty as a hard-earned victory based on patient political work and lasting national will. Thirdly, others viewed this sovereignty as national restoration, on the grounds that Svalbard has always been Norwegian, and in 1920 an age-old justice was rectified.

The coal mining expeditions that sparked what is referred to as “the coal rush on Svalbard” (Arlov, 2019; Vold Hansen, 2024) entailed a growing interest from various countries in the coal resources, thereby prompting a re-evaluation of sovereignty of a hitherto deemed *terra nullius* (Arlov, 2019). Only in the aftermath of World War I did a resolution to settle Svalbard's status come into being, thanks to the altered power dynamics resulting from the war, coupled with Norway's role as a “neutral ally”, which played a crucial role in shaping the Svalbard issue during that period (Arlov, 2019).

Svalbard is the expression of a larger predicament in Political Theory and International Relations as regards sovereignty insofar as it is not absolute and indivisible as Jean Bodin had preconised in the 16<sup>th</sup> Century, but rather contingent and fluid. By referring to Roxanne Lynn Doty's argument that a state's internal sovereignty risks losing its legitimacy once it is no longer clear what constitutes the nation, Torbjørn Pedersen (2017, p. 99) alerts to the danger that demographic changes in Longyearbyen from a predominantly Norwegian to an international sovereignty effectively impact internal sovereignty. Pedersen (2017) equally problematises the existence of a “parallel” nation on Svalbard, namely the Russian settlement of Barentsburg, which, basing on Stephen Krasner's notion of domestic sovereignty, opens up debates on the effectiveness of Norwegian control in its internal sovereignty.

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<sup>98</sup> Public/open lecture at UNIS: ‘The Svalbard Treaty. From *Terra Nullius* to Norwegian Sovereignty’. Lecturer: Thor Bjørn Arlov (NTNU and UNIS), June 2022.

All the more, Pedersen (2017) also bases himself on Doty's belief of national identity being a dynamic process, wherein considerable shifts of a population blur the boundaries between the inside and the outside, thereby leading him to question whether Svalbard may risk becoming a "quasi-state", of whose sovereignty is rather juridical than empirical. This discussion will be further assessed in this study in the section of field research, especially given the recent Norwegian decision to restrict the right to vote in Longyearbyen to Norwegian nationals or citizens that have previously lived in mainland Norway for at least three years<sup>99</sup>.

Beyond truisms of the kind that sovereignty is falling apart, Costa Duzinas (2006, p. 38) argues that sovereignty has not lost power but rather shown a retreat in view of its inability to account for a post metaphysical epoch, which dismantles any claim to essentialism and unmasks existential interpretations or validations. Even if sovereignty cannot account for these transformations, the other way round, of a post metaphysical approach to account for sovereignty, is hereby a condition of possibility for transmuting insufficient ways to make sense of the oxymoronic contention of Norway's "full and absolute" yet qualified sovereignty over Svalbard.

Robert J. Walker (2009, p. 100) brings to the forefront of the attempts to destabilise the discussion on sovereignty the problematic on how the extant literature falls short of conceptualisations once one disposes of forms of discrimination that enable narratives on absence and presence. In doing so, he unpacks not only the conventionalisms in framing the epistemology but also relations between sovereignty and ontological appraisals on time and space that entitle both sovereignty and epistemology to become paramount "forms of authorizing authority". When it comes to modern political discriminations based on space, R. J. Walker (2009) points to internal and external differentiations of the like of boundaries, borders, and limits, while also heeding attention to the need for critical acknowledgements to encompass two other discriminations: those types of authority emanating from a higher towards a lower level, and articulated temporally between before and after (2009, p. 100-101).

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<sup>99</sup> See: <https://www.nettavisen.no/nyheter/innenriks/utlendinger-mister-stemmeretten-pa-svalbard/s/12-95-3424284721>

The case of *ex-poste* imbroglios relative to maritime sovereignty around Svalbard shall gain epistemological contours in this fragment by Walker (2009, p. 101):

“I want to insist not only on the absurdity of ambitions for universality as a solution to problems generated by a very specific framing of the necessary relation between universality and particularity, but also on the need to pay much greater attention to the ways in which modern political life has been able to distinguish between universality and particularity within very specific and often very troubling limits. These limits work, in part, in the spatial practices of bordering, most troublingly when borders become the site at which all universalist aspirations become subject to exceptional conditions, as they do. They also work in the temporal practices of founding, most troublingly when myths of origin become sites at which universalist aspirations for a particular array of universalities within particularities are constructed as the exception to all prior forms of human experience, as the special case that is in principle apart from, but nevertheless claims to be coextensive with, the world as such. Many discriminations may indeed be utterly banal, but others are certainly not, though the grounds on which I or anyone else is able to make judgements about the difference remain eminently contestable”.

Once one assesses the “full and absolute sovereignty” of Norway over Svalbard onto the double and troublesome background of so many exceptions to the latter for it being an international territory in the Arctic, a space in turn deemed “outside the international” (Walker, 2009, p. 69), tracing limits between sovereignty, international, and the outer world becomes a daunting task. This is so not only because of the peculiarity of that sovereignty, which is “full and absolute” yet limited, but also because of the overlapping and multi-layered sovereignties in a space that remains outside the international system of states. As Walker reminds us, it sounds absurd to conceive of anything beyond the international insofar as the international comprises everything within the modern world, being international relations interchangeable with world politics. Notwithstanding the ambition of maternity to render history a “linear and teleological” History, the author (2009, p. 69) heeds attention to the persistence of the doubled outside of this process of internationalisation as internalisation, which generates exceptions to normal and legal assessments of politics:

“This is where questions about boundaries shift from simple geographical or administrative descriptions of borders or philosophical and legal elucidations of limits to questions about political authority: about sovereign capacities to authorize discriminations and to make judgements about the legitimacy of making exceptions and marginalizations. Yet it is important to keep in mind that the limits of modern political life are articulated not only at the territorial borders of the modern state, as almost all modern critical political

analysis has tended to assume, but at the boundaries of the modern international, even though it is far from clear where, or when, these boundaries are supposed to be”.

In view of the shifting infoldings of modern political boundaries, which generate deep spatiotemporal re-articulations among subjectivities, the state, and the modern international, Walker (2009, p. 69) criticises the insufficiency of those linear conceptions such as “globalization”, “empire”, or even “nation-state” to account for the intricacies of boundaries as contingent. According to him, the modern international has jotted down these “flat” notions onto a “spherical” planet that had ironically hitherto been outside the international (2009).

In accordance with Walker (2009, p. 102), contemporary sovereignty sets literal claims by physical territory and metaphorical ones via institutional principles, to the extent that boundaries comprise physical borders that coincide with limits of principle, jurisdiction, and identity. Those inscriptions of limits onto territory equate with power limitations. Given these preconditions, which, as Walker (2009) emphasises, are “neither natural nor universal”, it rests to assess how blurred is the conjunction between borders and limits in the case of Norway’s sovereignty over Svalbard. Since authority may be beyond or below the line of the border in view of competing claims stemming from localisms, regionalisms, globalisms, and networks of governance, sovereignty, in this case, is out of the line: it is not straightforward.

Walker argues that, albeit predominant regulators of modern political life, the ambition of clean lines does not translate the complexity of the modern states’ boundaries (2009, p. 66-67). As the author points out, the overrated truism of stating that established boundaries are troubling by using Manichaeian ideas of continued presence of the state authority versus impending absence in face of globalising movements make up clichés that drive us away from apprehending the intricate spatiotemporal movements of bordering, limiting, including, and excluding. As such, there is a flagrant conceptual and vocabulary insufficiency to make sense of articulations, disarticulations, and rearticulations of boundaries, overstated by spatial borders and limits of legal jurisdiction, but which frame the most significant though intangible phenomena, which is the state of being, located in the middle (Walker, 2009, p. 68).

In this sense, in the middle of a bounded territory, Norway exerts full yet qualified sovereignty over the archipelago in face of a few important caveats, which not only differentiate Svalbard from the remainder of Norway, but also put it in a grey zone between inside and outside the international. Among these exceptions, the restriction on Norway's taxation, the non-discrimination principle, the provisions for Norway to regulate the polemical mining activity, the privileged status to Russian nationals in the context of the Bolshevik revolution, and the obligation for Norway to keep Svalbard demilitarised are noteworthy (Rossi, 2015, p. 1510). Among all these exceptions, it is worth reflecting that the non-discriminatory treatment entails anarchical relations. In view of these anarchical dynamics, the need to reinforce state sovereignty in a gap of authority and order in need of compensation cause power imbrications that resort to performativity deeds.

There are at least three idiosyncratic features of the Svalbard Treaty that allow economic, administrative, and political permutations on Norway's sovereignty over Svalbard (Rossi, 2015, p. 1510). The Treaty limits Norway's fiscal policy on the archipelago by restricting taxes to what is strictly required and not allowing remittance towards mainland Norway. This, in addition to the most favoured nation status, comprise economic limitations to Norwegian sovereignty. On the administrative domain, *pacta de contrahendum* provisions on the treaty ascribed to Norway meant that the country would need to comply with agreements to agree in the future, such as by promulgating mining regulations equally applicable to all parties. The demilitarisation of Svalbard constitutes a political limitation on that sovereignty (Rossi, 2015). Another caveat that further aggravates the demeaning status of Norway as sovereign is the concession to "stateless" Russian nationals, in the context of Bolshevik Russia, of rights on an equal footing as those nationals of the other most favoured nations (Rossi, 2015).

The regime of the Svalbard Treaty, inserted into the governance framework of the Arctic, is thus placed in an in-between location that attenuates both a fully-fledged sovereignty and international anarchy. When approaching the traditional dichotomy between state sovereignty and international anarchy, Nizar Messari (2001) asserts that each one is dependent on the other to exist, in a dialectic though asymmetrical



relationship insofar as sovereignty would entail avoidance of anarchy whereas anarchy would call for emulation of sovereignty. As per Ashley (1988), the only bond between state and anarchy is what he deems “heroic practice”, which can only result in some sort of order amidst anarchy thanks to the hierarchical architecture and the existence of strong, core powers (Messari, 2001, p. 229-230). Likewise, the concertation of countries signing the Svalbard Treaty conformed a heroic practice to insert the anarchical condition of equal treatment and non-discrimination, though with the reservation of Norway’s duty to administer the territory.

Albeit symbolic acts such as the Russian flagging on the seabed of the North Pole in 2007, the Arctic region is claimed to have no sheer anarchy (Jensen *et al.*, 2011, p. 17). International law governs the Arctic Ocean. As such, clarification of rights and duties in this part of the globe is not solely a foreign policy mainstay for Norway, but “also crucial from a legal viewpoint, since Norway’s national interests in the Arctic tend to be reflected in norms and rules at the international level” (Jensen *et al.*, 2011).

Based on Bartelson’s belief according to which epistemic changes condition sovereignty and are conditioned by it, it rests to be assessed how political and juridical epistemic transformations may uphold or change sovereignty. The imbroglio revolving around the Svalbard Treaty in face of the evolution of the Law of the Sea is unsolvable on juridical terms. On the grounds that the various existing interpretations often disguise political interest and based on the assumption that borders can be an instrument to manipulate boundaries, the solution to this imbroglio may be political.

## Chapter Three

### Arctic governance and sovereignty

Based on Rob Walker's observation and assuming that the Arctic represents the convergence of hard questions revolving around the status of boundaries, "of borders, distinctions, discriminations, inclusions, exclusions, beginnings, endings, limitations, margins and exceptions", the aim of this chapter is to identify and characterise the Arctic governance system, pointing out competing claims and disputes regarding sovereignty and jurisdiction rights in the region. The chapter will also highlight current disputes between Norway and Russia vis-à-vis the Arctic region and, specifically, Svalbard.

#### 3.1. Borders, boundaries and bordering on the Arctic

The recrudescence of global climate change and its deep-felt effects on the poles as the extreme edges of the globe has propelled the Arctic into the forefront of geopolitics. The melting Arctic ice and its ensuing shifting borders have promoted Arctic interest from primarily scientific into a maelstrom earmarked by intense competition in commercial, national security, and environmental domains. These developments bear significant ramifications for the international legal and political framework (Ebinger & Zambetakis, 2009), which is a confluence of science and power interests aiming to strike a balance between the economic prospects of the melting polar caps, on the one hand, and the surmounting environmental causes and consequences of climate change, on the other hand, based on the geostrategic importance of the region in view of these two contrary forces. Factors impacting the Arctic such as greenhouse gas emissions, resource extraction, tourism and migration from lower latitudes conform challenges of the degradation of its natural environment (Bennett, 2020), heating a debate already charged by global interest given its strategic and economic potential (National Research Council, 2014).

At the same time, perspectives of the Arctic as the homeland of certain people and as a global resource for combating climate change, boosting emerging nations' prosperity, unveil how Arctic boundaries are perceived, which can be optimistic,

opportunistic, or grim. Recent events like the COVID-19 pandemic and the Russian invasion of Ukraine have disrupted scientific collaboration and increased geopolitical instability in the region, leading to a political stalemate and a temporary standoff in the activities of the Arctic Council<sup>100</sup>. Defining the Arctic involves spatial delineation and boundary definition beyond state affairs, encompassing civil societies, cultures, scientific knowledge, and private interests. Understanding the intricate relationship between policy-influenced science and science-informed policy<sup>101</sup> is crucial for comprehending the multifaceted dynamics of Arctic borders and boundaries. This understanding carries significant ramifications for resource management, environmental preservation, risk reduction, and global diplomacy (Nanni *et al.*, 2024, p. 6-7).

The complexity inherent in defining boundaries in the Arctic suggests that traditional boundary-setting and knowledge-production systems are ill-suited for this intricate ecosystem where all elements are interconnected. The non-human environment, often referred to as “nature” does not neatly conform to the borders that the complex interplay of actors and factors delineate. As we witness the Arctic’s transformation, it is not only redefining its boundaries but also posing challenges for both human and non-human communities that must adapt to rapid changes occurring on time scales shorter than their resilience and across spatial scales larger than their usual scope of action. As the Arctic serves as a repository for greenhouse gas emissions, pollutants, and increasing human activity, it also poses hazards extending beyond its own boundaries due to its potential role in sea-level rise, influence on oceanic/atmospheric circulation, and the presence of frozen carbon reservoirs.

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<sup>100</sup> The Arctic Council discussions resumed in May 2023 once Norway took over its chairship after Russia, spearheading four thematic priorities that reflect Norway’s Arctic policy: the oceans; climate and environment; sustainable economic development; and people in the north (See: <https://www.regjeringen.no/en/aktuelt/priorities-for-norways-chairship-of-the-arctic-council/id2968499/?fbclid=IwAR05FHo7K4QTa5rCygtdgrKLB9bmP1uR9KhQyaouFlg6ds2km4zR-9du4k>). As Chapter 5 will discuss, Norwegian performativity of sovereignty over Svalbard is greatly justified upon the pressing climate and environmental arguments, and Norway’s chairship of the Arctic Council is a window of opportunity to showcase this purpose.

<sup>101</sup> As we will see, the interrelation between political action based on science and scientific assessments fuelled a confluence explored by positivist legal scholarship on shelf delineation, which bears scientific, non-legal approaches on treaty interpretation but only to the extent that this technical data reinforces seabed treaty claims.

Regionally tailored responses to these changes, based on transdisciplinary knowledge production involving diverse actors and scales, have become necessary to prevent crossing tipping points from local to global scales (Nanni *et al.*, 2024, p- 29-31).

The Arctic area offers differing viewpoints. Geographically, political boundaries of the Arctic, along with its transnational institutions and coalitions (*e.g.*, the Arctic Council, the Arctic Five, Inuit Circumpolar Council, the Sámi Council), create avenues for collaboration and cooperation among various parties (Minghi, 1963; Nanni *et al.*). These organisations function as forums for discussions involving governments, Indigenous communities, scientific institutions, and civil society members, and are evident in the narrative that perceives the Arctic as a peaceful and cooperative region, a sentiment shared by Mikhail Gorbachev, former General Secretary of the Soviet Unions's Communist Party, in 1987 and Russia's President Vladimir Putin in 2010 (Young, 2011). This viewpoint is also echoed by researchers who often deem the Arctic as a Polar Mediterranean (Steinberg *et al.*, 2015), signifying an area of cultural and political interaction rather than just a logistics passage or natural resource hub (Nanni *et al.*, 2024, p. 6-7).

Alternatively, considering the aspects of state territoriality, sovereignty, and economic opportunities, the Arctic is widely regarded as a frontier-like expanse with untapped potential and possibilities for exploration, which makes up a neo-colonialist “scramble for the Arctic” narrative (Carlson *et al.*, 2013). This perception has led to increased competition and tensions among different states (Kristoffersen & Langhelle, 2017; Newman & Paasi, 1998; Nanni *et al.*, 2024). The United Nations Convention on the Law of the Sea allows coastal nations to assert sovereignty and extend their continental shelf limit by 200 nautical miles (Carlson *et al.*, 2013). This approach simultaneously nationalises and internationalises the ocean, establishing international regulations and a range of rights (Byers, 2010; Waller, 2018).

However, the changing biophysical conditions in the Arctic have triggered processes that challenge traditional maritime boundaries (Mezzadra & Neilson, 2013), emphasising the temporal nature of borders, the human inclination to create new ones, and, in addition, the different temporality of natural and human changes in these borders. While transnational institutions can encourage collaboration among

stakeholders, an excessive focus on state territoriality, sovereignty, and economic divisions may foster competition and tensions. Addressing these challenges thus entails a broader perspective on boundaries that encompasses political, cultural, and physical dimensions (Nanni *et al.*, 2024, p. 8).

The recent geopolitical transformations in the Arctic, driven by emerging economic opportunities and the Arctic's role as a symbol and indicator of climate change, can be seen as the construction of the Arctic as a meta-region of modernity within the Anthropocene era (Sörlin, 2018; Nanni *et al.*, 2024). These developments underscore the interplay between two significant trends: the shrinking physical boundaries of the Arctic and the expanding political boundaries in the region. Consequently, there is a pressing need for a fresh approach to governance in the Arctic (Nanni *et al.*, 2024). With the increasing accessibility of the Arctic, there is a growing recognition that the conventional nation-state-centric perspective on defining the region's boundaries is no longer adequate (Kikkert & Lackenbauer, 2019; Nanni *et al.*, 2024). Instead, it urges a more inclusive approach, one that considers the viewpoints and interests of civil societies, cultures, and private actors. By deconstructing outdated meanings and perceptions associated with the Arctic, new insights into the region can evince how its transformation is intricately intertwined with societal and environmental interactions that cannot be easily disentangled. (Nanni *et al.*, 2024, p. 14-15).

The brief exploration of the genealogy of sovereignty in the case of Svalbard cannot escape from a contextualisation on sovereignty in a broader sense in the Arctic region. Walker (1991, p. 445-460) problematises the idea of limit insofar as it is a mistake to think that the state as an entity is bound to disappear. Since there is a multiplicity of other forms of sovereign power, the displacement of sovereignty to the global space is not equivalent to the disappearance of the logic of sovereignty. In that regard, sovereignty practices are ever more present in the Arctic as a global space. The very “de-bordering” of the Arctic, however, is what increases mobility fluxes, which restores the claim of border not as an obstacle but as a connecting device. Apart from being a contested space of transit, the Arctic is also an oceanic world with “overlapping sovereignty” (Waller, 2018, p. 261-272). By recalling debates in Atlantic and Pacific studies, Nicole Waller (2018, p. 259-261) points to the “challenges of remapping Arctic

sovereignty” that cause some analysts to argue that “softening of ice demands hardening of law”, without disregarding successful networked governance such as the Arctic Council. The very caveat that UNCLOS provides in terms of allowing a further extension of the 200-mile limit of the continental shelf has, according to Waller (2018), “led to a flurry of mapping exercises across the Arctic by littoral countries keen to lay claim over the significant natural resources and shipping routes that lie throughout the region”. This change “in the exclusive nature of territorial sovereignty ...[with] overlapping rights, responsibilities, and political authority” (Carlson *et al.*, 2013) renders a new kind of “layered sovereignty”, based not on monopoly, but rather on simultaneous national and international “bundle of rights” (Byers, 2009) regulating the same coastal zones (Waller, 2018, p. 261).

The Arctic region surrounding Svalbard is undergoing substantial changes that have implications for how we define the Arctic. Climate change has caused a significant reduction in Arctic Sea ice cover at the end of summer, with observations from satellite data since 1979 indicating a nearly 50% decline (Stroeve & Notz, 2018). This diminished ice cover allows for greater heat penetration into the water column, thereby weakening the once-stable barrier known as the “halocline”, which separates warmer deep waters from colder surface waters (Polyakov *et al.*, 2010). The weakened halocline has resulted in increased melting of the Arctic Sea ice cover at its base (Polyakov *et al.*, 2017), primarily due to the intrusion of heat from the Atlantic Waters (Nanni *et al.*, 2024, p. 16-18). Furthermore, the northward movement of the Atlantic Waters brings along increased nutrient availability and primary productivity, exerting significant ecological impacts on the Arctic system (Hunt Jr. *et al.*, 2016). This phenomenon has led to the borealisation of the region, characterised by the northward displacement of commercially important fish stocks and marine organisms. These changes in nutrient dynamics and ecological health have transformed the Arctic ecosystem in notable ways (Nanni *et al.*, 2024, p. 19).

As Ugo Nanni *et al.* (2024) explain, the aforementioned transformations present significant challenges for fishery management organisations and have sparked international conflicts regarding resource allocation (Hollowed *et al.*, 2022). Climate

model projections suggest that the Arctic Ocean is likely to become ice-free during the summer season before 2050 (Notz & SIMIP Community, 2020), creating new opportunities for plankton production in previously inaccessible areas. Consequently, several species have been identified as potential candidates for expansion into the high Arctic. Addressing this shift requires the scientific community to develop new monitoring strategies. International and national cooperation plays a crucial role in ensuring conflict resolution, sustainable stock management, and marine conservation (Galappaththi *et al.*, 2022). Collaborative efforts at both levels are essential to adapt to these changes, promote effective resource management, and safeguard the marine ecosystem (Nanni *et al.*, 2024).

The process of borealisation in Svalbard's waters has emphasised the complex interplay between shifting natural boundaries and legal-political boundaries. The dispute over Svalbard's maritime zones has originated from the conflict between established maritime zones and the boundaries defined by the Svalbard box, which do not align with natural boundaries and have been further complicated by the effects of climate change on sea ice and species distribution. Norway has made efforts to establish a clear legal framework for managing the region's resources, but the dispute over Svalbard's waters remains intricate and multifaceted. On the one hand, the increased accessibility of the region due to retreating sea ice has complicated negotiations, as Russia and the United Kingdom show growing interest in the region's oil industry. On the other hand, the borealisation of Svalbard's waters needs adjustments to maritime boundaries, potentially affecting fishery zones (Nanni *et al.*, 2024).

For instance, if the Fisheries Protection Zone were to be converted into an Exclusive Economic Zone (EEZ), Norway could deviate from the principle of non-discrimination, potentially leading to resource disputes. The current changes in natural boundaries have reinforced a situation where political decisions are deeply intertwined with industrial interests, highlighting the significant international repercussions of national and domestic politics (Dyndal, 2014). Consequently, the dispute over the legal boundaries of Svalbard's waters is likely to remain a source of tension and negotiation between Norway and other signatory states in the foreseeable future, given the profound impact of climate change in the Arctic (Nanni *et al.*, 2024, p. 19-20).

The shifting physical and socio-political boundaries of the Arctic manifest in two simultaneous trends. Firstly, the physical boundaries of the region are diminishing due to climate change, resulting in adverse effects on wildlife and local communities. Secondly, the political and cultural boundaries of the Arctic are expanding, driven by increased geopolitical significance, tourism, and recognition of the rights of indigenous peoples. These evolving trends necessitate a fresh approach to governance that embraces inclusivity and considers the perspectives of civil societies, cultures, and private actors. The concept of the Global Arctic resonates with this need, acknowledging the region as both a site and receiver of global flows and impacts, as well as a contributor to the socio-ecological conditions of the Anthropocene.

In light of these transformations, it becomes crucial to redefine the boundaries of the Arctic and adopt a more comprehensive understanding that encompasses the dynamic interplay among physical, political, cultural, and global factors. This shift in perspective highlights the importance of holistic governance and cooperative frameworks that can effectively address the complex challenges facing the Arctic region in the contemporary era (Nanni *et al.*, 2024, p. 27).

### **3.1.1. Multi-Structured Governance in the Arctic**

The melting down of the polar ice caps has rendered the Arctic borders faltering. If, on the one hand, borders are a device for the articulation of flows (Mezzadra *et al.*, 2013), the process of what is hereinafter dubbed as “de-bordering” of the Arctic also paves the way for the articulation of flows by creating a space of transit. The de-bordering of the Arctic creates constant imbroglios for the delimitation not only of the diminishing ice space, but also for the conciliation between maritime legislations and sovereignty rights.

Despite attempts to attribute permanence to Arctic space, the necessary acknowledgement of the dynamic nature of the Arctic’s materiality and, consequently, its evolving social function writes off the traditional binary classification of space into land and water in terms of equating land to territory and water to non-territory, which



inadequately captures the region's actual materiality (Tasch, 2010). This tangible reality has long confronted both resident and non-resident travellers in the region, prompting them to adapt to its ever-changing nature.

Speaking of the multiple drivers of change<sup>102</sup> implied in a “Changing Arctic” (Wegge & Keil, 2018) is, then, unescapable of thinking about changing borders. Albeit unstable, the need to portray clean borders pertain to the desire of segregation through boundaries. As Robert Walker (2018, p. 66) argues, against the instability of boundaries, there is an acknowledged effort to maintain institutions and principles, to renew the state and strengthen the international system albeit increasing complexities, to reinforce citizens' stance into spatial, sociocultural and legal containments. Basing on Walker (2018), the Arctic represents this convergence of hard questions revolving around the status of boundaries, “of borders, distinctions, discriminations, inclusions, exclusions, beginnings, endings, limitations, margins and exceptions”. Walker (2018) states that “It remains unclear whether we live amidst a structural condition of invariance under transformation, transformations taking us away from presumed conditions of structural invariance, or, my own guess, somehow both at once”.

Here, the proliferation and heterogenisation of borders relate not only to their multiplicity of types, such as economic, social, and cultural borders that do not coincide with the magnetic line (Walker, 2018) but also to coincidental statuses over the same territory, thereby forming a complex mosaic of abstract boundaries relating to a single space. The diversity of both conceptual and material borders in the Arctic shall be a leading framing to address mobility in the Arctic, as it is a necessary precondition to assess issues of assemblage such as cooperative governance, infrastructure, and over-layered sovereignties.

As a consequence of this misperception of the border being at the border and of its institutional character enabling a materialisation on the map, mapping practices of the Arctic entail struggles dictated by the temporality of the “de-bordering”, over-layered sovereignties and an assemblage of governance. Once we think that borders are settings for confrontation, contestation, contact, blockade and passage (Mezzadra *et al.*, 2013), the de-bordering of the Arctic is *per se* a problem that invites such frictions.

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<sup>102</sup> See: <https://www.amap.no/adaptation-actions-for-a-changing-arctic-part-c>

We shall not forget that here, too, meta-geography is an unconscious spatial structure that organises not only our geographical but also historical, political, anthropological (Mezzadra *et al.*, 2013), and all kinds of conceptual imagination of the Arctic. Maps also create territory in the Arctic: since its icy territory is transient, an unreliable portrayal may either create or destroy its territory, and likewise, enlarge or decrease the representation of the opening routes of its passage. There are alternative maps illustrating the mobility of Inuit indigenous people across the Arctic, which aggregate understandings on developments in the region by providing different perspectives on Arctic occupation. Despite this, putting those perspectives under a satellite map does not translate the personal and embodied experience of that occupation<sup>103</sup>.

The Arctic does not escape Sandro Mezzadra's *et al.* (2013, p. 28) acknowledgement that "maps are more involved with encoding than decoding the world" insofar as maps, by creating or destroying territory, territorialise and de-territorialise each Arctic State's influence over the region, thereby engendering a "cartographic anxiety" (Mezzadra *et al.*, 2013) that may potentially affect future territorial disputes, such as between Norway and Russia. Being social institutions that mark tensions between crossing and controlling, borders produce an ambivalent nexus of politics and violence as they connect and divide (Mezzadra *et al.*, 2013).

Mezzadra *et al.* (2013), based on Heideggers's notion of representing production, remind us that the cartographic representation is equally productive, and it is necessary to read modern maps by framing the hyperbolic moment of production of the world from the encounter between reason and madness, or between the Self and the Other, or between the West and the Rest, which connects at the same time it divides (Mezzadra *et al.*, 2013, p. 35). The productive representation through cartography has led to a primitive accumulation of maps, the improvement of which enabling the convergence between geographic and cognitive borders, between the material and conceptual space that the ontological encounter produces (Mezzadra *et al.*, 2013). In the case of the Arctic, however, the decrease of the territorial space and the consequent increase of the transit space is a meta-mobility, a mobility that creates a mobility, or a

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<sup>103</sup> See: <https://rhulgeopolitics.wordpress.com/2016/03/16/exploration-mobility-and-geographical-imaginaries-the-living-geography-of-polar-spaces/>

mobility that stems from another mobility. Depending on the perspective, the Arctic either appears or disappears, and such reasoning leads us to think not of a convergence of geographical and cognitive borders, but rather of a divergence. The territorial trap of the Arctic means a hovering illusion of each state's attempt to naturalise contemporary geographical stances as if they were permanent, or even to anticipate natural changes that do not coincide with the human temporality. Russia, for instance, is the only Arctic country with a solid shipping development of icebreakers, and its eagerness to dominate the transport of liquefied natural gas in the region means challenging the own temporality of climate change.

The shifting status of the Arctic and its ever-changing territory call for an analysis on the consequences of such mobility on borders, boundaries, and sovereignty. Neil Brenner and Stuart Elden (2009, p. 353), referring to attempts to overcome the challenging “territorial trap” and based on Henri Lefebvre's undertheorised though insightful understanding of territory in relation to state power, call for a consistent assessment of the synergies among states, space, and territory. This approach implies not only addressing political economy in a spatialised form but also assuming that the very notion of territory is interwoven with the concept of modern state (Mezzadra *et al.*, 2013). That relation becomes clear when the production of territory unveils politics of space in the form of state territorial strategies. This politics is so seductive to the extent that the state naturalises its territorial form, masking its permanent transformative nature. Hence the importance to historicise borders so as not to fall prey to the risk of naturalising borders, which puts a veil on seeing contemporary transformations (Mezzadra *et al.*, 2013).

Once we adapt to the Arctic space Lefebvre's (1991) statement according to which every space in general, and abstract space, in particular, is essentially political, we perceive political workings to territorialise the Arctic as both a “space of transit and an oceanic world” (Waller, 2018) and to govern an abstract state that will stem from what I call the “de-bordering” of the Arctic space. The framing of the very mobility of the Arctic, then, requires exploring not only space-state-territory conceptions, but also borders, frontiers and boundaries; fluxes; sovereignty; temporality; and assemblages informing the spatialisation of the political in the Arctic.

Gilles Deleuze and Felix Gattari (1987) conceptualise the appraisal of space within a spectrum, on the one extreme of which they deem it sedentary or “striated”, and, on the other extreme, they deem it nomadic or “smooth”. State space is sedentary, wherein the state occupies a space by controlling it in points, be it with infrastructure, resource exploitation and the determining of borders. Conversely, the nomadic or smooth space comprises “assemblages of deterritorialization: a desert that starts blowing over a city, a slum area that has no connection to government, a forest that grows back, ice freezing over, flooding engulfing a city after a hurricane, and so on.” (Du Plessis, 2020). The nomadic movement in space is multidirectional rather than between points, and, in the quality of a vector, it conforms a space that is not homogeneous but rather amorphous and unlimited (Du Plessis, 2020). These two categories do not conform identities but rather a relationship to space, taking place in hybrid forms. In accordance with Deleuze and Gattari (1987, p. 479), there is a constant translation of a smooth space into a striated space; likewise, there is a continual reversion of a striated space into a smooth space. The Arctic space illustrates these movements, with transformations from polar caps to sea routes such as the Northern Sea Route and the Northwest Passage, and from state occupation to the resistance of indigenous populations such as the Sami and the Inuit, as well as natural events, the perception of which ensues from symptoms rather than measures, and comprises intensities, wind, and noise relative to rafting ice.

Gitte du Plessis (2020) argues that Deleuzian thought brings about more accurate spatial theorisations that are useful tools to address the ongoing struggles relative to the Arctic tundra insofar as it does not approach space as ontologically homogenous and socially constructed for human politics. Rather, it is a complex intricacy in constant transformation:

“The Arctic tundra as the site of ongoing struggles between interests in resource extraction and the continuance of traditional ways of subsistence mirrors broader contemporary geopolitics in the Arctic, where retreating ice due to climate change is opening up new sea routes, resources, and potentials for conflict (...) Utilizing Deleuzian thought for spatial-political analysis in the Arctic answers calls made to apply assemblage and complexity theory in critical geopolitics scholarship (Dittmer 2014) and for critical attunement to Arctic geopolitics that pays attention to embodiment, localities, and the everyday”.

Du Plessis (2020) applies Deleuze's and Gattari's categorisations of space to the colonial relationship between the state and the nomadic space of the indigenous Sami population in the Arctic. The author claims that the assessment of state and nomadic forms of life as isomorphic entities refrains the observer from envisaging power differences in that relationship. Likewise, to treat Russia and Norway while Arctic states and the governance framework for the region as isomorphic entities in their use of space oversees significant power interactions. In this sense, and basing on Deleuze and Gattari, the current wave of militarisation in the Arctic is a self-destructive force that, albeit the territorialisation of the military, ends up becoming "a deterritorializing force" (Du Plessis, 2020) that destructs the smooth space.

In accordance with Du Plessis (2020), the state's cultivation of predatory forces such as NATO blends striation and deterritorialisation, wherein the state keeps smooth space only to cultivate predation and deterritorialisation fitting its biopolitical regime and to deter both Russia and the smooth state from becoming a threat to the state. In that sense, roads, railroads, and borders help the state to boost its control even over the "predatory cultivations" (Du Plessis, 2020) it deems necessary.

Du Plessis (2020) argues:

"The Arctic geopolitics of the Nordic states are impeding biodiversity in a large-scale spatial striation effort that expands a forceful homogenization of the Western form of life based on consumption, profit, and growth. Given how destructive this form of life is due to its fundamental misunderstanding of what kind of relationship it is possible to have to the surrounding ecology, this homogenization is not only genocidal toward other forms of life, it is ultimately self-destructive. Forms of life that differ from the dominant Western form of life, intimately wedded to the state apparatus, are under continuous attack in the Arctic. Perhaps the "friction of terrain" (Scott 2009) of an icy ecology that prohibits agriculture is part of the reason why there is still some alterity left to attack in this part of the planet. As Holbraad, Pedersen, and de Castro (2014) write: To differ is itself a political act. This would require us to accept that such noncontroversially "political" notions as power, domination, or authority are relative stances towards the possibility of difference and its control. To put it very directly (crudely, to be sure), domination is a matter of holding the capacity to differ under control—to place limits upon alterity. The point is not that Sámi and reindeer forms of life should be protected because they can save the West from itself. Nothing can save the West from itself. Forms of life that embody alterity deserve acknowledgement simply because they are different, lest we cater to the violence of the homogenizing alternative".

With that in view, Russia, being capitalist (notwithstanding its planned economy), would also equate to a Western country devoted to "consumption, profit and

growth” (Du Plessis, 2020). Du Plessis’ argument equally bolsters Neumann’s and Sending’s (2020) stake according to which governance must transcend not only authority, but, as Du Plessis puts it, equally power and domination, which are relative stances. The Arctic governance, therefore, must not treat entities as isomorphic, and must thereby acknowledge alterity without placing limits.

### **3.2. The Arctic as a “borderline”: the bordering between Norway and Russia**

Indra Overland and Andrey Krivorotov (2015) hold that

“The Barents Sea and its petroleum province are divided in two by the 1,680-km Norwegian–Russian maritime boundary (...). The length of this boundary, greater than the distance between Berlin and Moscow, means that the two countries have extensive and complex relations. The boundary crosses some of the world’s richest fish stocks; Russia’s only year-round, ice-free port in the Arctic is the Barents city of Murmansk; the Svalbard Archipelago on the Norwegian side of the boundary is Norwegian territory, but subject to the 1920 Svalbard Treaty, which gives other signatory states including Russia the right to engage in economic, maritime, research, and other activity on the archipelago; and, finally, the Barents Sea is the gateway to the Northern Sea Route leading to the Pacific Ocean. There are thus many opportunities for entanglement between Norwegian and Russian actors, including the joint management of fish stocks, illegal fishing, coast guards arresting fishing vessels, oil spills, nuclear accidents, and so on”.

With regard to the delimitation of parts of the Arctic, Norway and Russia surprisingly signed a treaty in Murmansk on 15 September 2010 by splitting into two nearly equal parts an “area of overlapping claims”. Apart from setting the maritime boundary, the countries agreed on the exploitation of oil and gas along that boundary as well as the maintenance of cooperation with regard to management of fisheries (Moe *et al.*, 2011, p. 145)<sup>104</sup>.

The authors heed attention to the importance of discerning the difference between borders and boundaries insofar as it concerned “the delimitation of exclusive economic zones (mainly governing the exploitation of living resources) and continental shelves (determining rights to exploration of minerals in the seabed) of the two countries” and “exclusive economic zones and continental shelves are not the same as sovereign territories, which are limited to 12 nautical miles from the shore”. Because of that, “the Norwegian-Russian dispute in the Barents Sea should therefore be referred

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<sup>104</sup> See: <https://www.amap.no/adaptation-actions-for-a-changing-arctic-part-c>

to as a ‘marine delimitation dispute’ or a ‘boundary dispute’ rather than a ‘border dispute.’” (Moe *et al.*, 2011, p. 147-148). The authors also point to the fact that the solution to the dispute does not owe solely to recent developments in international law (such as the precedent median line principle that the International Court of Justice applied in 2009 for the maritime delimitation between Romania and Ukraine). They argue that the strikingly “near perfect 50/50 division of the originally disputed area [...] underscore that willingness to find a political compromise lay behind the resolution” (Moe *et al.*, 2011, p. 149). One must neither take for granted border as the only possible limit, and must take into account the very volatility of limits and the difference among concepts such as border, limit, frontier and boundary (Moe *et al.*, 2011). Referring to the aforementioned (Moe *et al.* 2011, p. 145) unprecedented Murmansk Treaty differentiation between boundary and border goes against Mezzadra’s *et al.* (2013) definition according to which, albeit polysemic, border and boundary are interchangeable but distinct from frontier.

Walker’s (2005, p. 68) argument that boundaries such as legal borders are underrated and instead should be deemed as the framing that gives meaning to their contents can illustrate this not so obvious political meaning behind the obvious demarcation of the boundary between Russia and Norway in the Arctic. This delimitation is also an example of “the emergence of political movements outside the framework of territorial states” (Agnew & Corbridge, 1995, p. 80). As to the unsettled boundaries in the Arctic, the Arctic states manage the cooperation by abiding to international legislations that are strongly compatible with their self-interests (Stokke, 2011, p. 836).

As an example of tensions on the limits of the Arctic, the Elektron incident is indicative of raising Russian trespassing intentions towards Norwegian exclusive fishing zones off Svalbard since 2005<sup>105</sup>. Other than that, in 2007 Russia tried to territorialise Lomonosov, an underwater ridge far away from its exclusive economic zone, as part of a militarisation move to monopolise natural resources in the High North by claiming internationally recognised waters (Stokke, 2011). Recent events of

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<sup>105</sup> See <https://www.maritime-executive.com/editorials/the-nato-alliance-s-role-in-arctic-security>

mistrust involved an allegedly spy beluga whale with a camera off the Norwegian Arctic coast that supposedly belonged to the Russian navy of the headquarters of Murmansk<sup>106</sup>. Kirkenes, the northern city of Norway that the Soviets liberated from the Nazi occupation, is also deemed a spy city<sup>107</sup>. It is useful, then, to frame how security challenges affect the protection of freedom of movement and risk management in the Arctic. To do so, it is worth exploring power assemblages and new technologies concurring to the formation of smart borders in the Arctic.

Additionally to this challenge, Pavel K. Baev (2013) argues that “Sovereignty is the Key to Russia’s Arctic Policy”: “The discourse of ‘conquering’ and ‘owning’ the High North is organic to the Russian state identity, incoherent as it is, and is often exploited as political expediency dictates, which increases the sensitivity of public opinion to setbacks and accidents that tend to bedevil many Arctic projects”. Ilan Kelman *et al.* (2020) hold that Russia’s maintenance of Barentsburg, Pyramiden, and Grumant lies in the country’s intention not only in terms of rights and access to potential resources, but ultimately as an important outpost in the Arctic for Russia to project “its national prestige and position as a world power”.

In the contemporary era, the Russian state reinforces irredentist claims by leveraging historical narratives to justify violations of sovereignty. Rectifying perceived historical injustices, particularly those resulting in ethnic Russians residing outside the Russian state, served as the underlying rationale for both the 2007 cyber-attacks on Estonia and the 2014 annexation of Crimea. More recently, in Ukraine, the Kremlin exhibited a readiness to employ force to achieve political objectives grounded in alternative historical interpretations (McVicar, 2020).

Similarly, the Svalbard narrative revolves around Moscow’s perception of unjust exclusion from the 1920 Spitsbergen Treaty, leading to the alleged mistreatment of the 10-20% ethnic Russian population on Svalbard (McVicar, 2020). Despite Moscow’s criticism of other countries for non-compliance with treaty requirements, Russia’s core interests receive relatively weak protection under the Spitsbergen Treaty.

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<sup>106</sup> See <https://www.bbc.com/news/world-europe-48090616> and <https://www.theguardian.com/world/2019/may/02/russian-spy-whale-has-defected-to-norway-locals-claim>

<sup>107</sup> See <https://www.telegraph.co.uk/news/2019/08/11/arctic-town-centre-norway-russia-spy-war/>



Consequently, engaging in asymmetric bilateral negotiations with Oslo emerges as the most appealing approach for Moscow (McVicar, 2020).

There is some empirical correlation between the Russian military's power projection and territorial negotiations with Norway (McVicar, 2020). During the 2007 negotiations on overlapping claims in the Barents Sea, Russia significantly increased bomber patrols along the Norwegian coast, marking a 500% surge equivalent to the cumulative activities of the past 15 years. Russian air forces also engaged in provocative manoeuvres near Norwegian air defence systems and conducted a bombing drill around Bodø, the new Norwegian command centre. Ultimately, the dispute was resolved in 2010 with Russia successfully conceding an area in the Barents Sea equivalent to three Crimeas. While the effectiveness of Russian power projection on the Norwegian delegation remains uncertain, it appears to be a strategic and cost-effective approach (McVicar, 2020).

This does not mean that Russia does not accept the Svalbard Treaty. According to the 1920 Svalbard Treaty, to which Russia is a party and has not contested, sovereignty over the area remains undisputed. Furthermore, as an integral part of Norwegian territory, Svalbard is unequivocally covered by NATO's Article 5 (Østhagen *et al.*, 2023). Given the heightened tensions between Russia and the West, it is imperative for Norway to collaborate with the United States and other allies in decisively refuting any misconceptions regarding NATO's stance on the archipelago (Østhagen *et al.*, 2023).

Russia's utterances on sovereignty are noteworthy: the country's aim "to preserve sovereignty and territorial integrity ranks among the top priorities within the "Basic Principles of Russian Federation State Policy in the Arctic to 2035"<sup>108</sup>. As Bruno Gomes Guimarães (2020) portrays, in an annual message to the Legislative in 2003, Putin states that "Russia's national interests in the international sphere lie in upholding its sovereignty and strengthening its positions as a great power and as one of the influential centres of a multipolar world [...]" This discourse revolves around Russia's fear of collapse within its borders. As Guimarães (2020) asserts, "this speech,

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<sup>108</sup> See: <https://www.sipri.org/commentary/essay/2020/russias-new-arctic-policy-document-signals-continuity-rather-change>

against the background of the separatist conflict in Chechnya, shows how being a great power is considered a fundamental issue for the very existence of the Russian state in Putin's view". This analysis, coupled with Russia's principles for the Arctic and regarding Russia's disagreement over Norway's Fisheries Protection Zone in Svalbard and with performative deeds such as the planting of a titanium flag on the seabed of the North Pole (Hønneland, 2016), unveil a rhetoric of land ownership behind that of security, which justifies a military build-up in face of NATO's activities around its borders.

Another transversal disagreement between both countries relates to Norway's contestation of the Russian plans to develop the Northern Sea Route, a shipping shortcut that, by connecting the bordering Murmansk with Norway and running to the Alaskan Bering Strait, would significantly shorten the connection between Asia and Europe, thereby majorly replacing the Suez Canal as a route. Norway's resistance portrays mainly concerns over environmental damages ensuing from the development of the route<sup>109</sup>.

The Northern Sea Route alongside the Russian northern coast is unescapable of ice changes, facilitating Russia's access to its resourceful Siberia and fostering Russian incisive assertions over great chunks of the Polar Sea. The importance of it equally resides in the shortening of shipping routes between northern Europe and north-east Asia by 40 per cent compared with the existing routes through the Suez or Panama canals (Ebinger & Zambetakis, 2009). Elana Rowe (2014) argues that Russia's swift behaviour resonates with Arctic hierarchy. Whereas Canada and Russia claim to be "Arctic powers", Norway defines itself as a "leading Arctic state" (Utenriksdepartementet, 2011). Being part of the Arctic 5, Norway prefers to address Arctic independently, bilaterally or within the Arctic Council, which reflects its own-perception as different from an otherwise small-state.

Norwegian and Russian relations unveil an equation between a militarisation to secure the exclusive exploitation of resources such as fisheries and oil and gas in addition to disagreements over new routes for shipping versus complying with the

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<sup>109</sup> See: <https://www.themoscowtimes.com/2019/08/26/norway-russia-dispute-arctic-shipping-route-a67013>

United Nations Sustainable Development Goals such as peace and justice, life under water, and clean energy. Within the Arctic governance regime, Norway's concerns over environmental damages notably ensue from Russia's plans for the Northern Sea Route and the Russian eagerness to dominate the transport of liquefied natural gas in the region, whose icebreakers speed up the melting and thereby challenge the own temporality of climate change, with frictions surmounting in face of deregulations in the maritime transport.

The very bordering between Russia and Norway in the High North nevertheless evinces some temporal tensions: although it was the Soviets who liberated Norway from the Nazi occupation, their totalitarian stance and imperialist expansion literally knocked Norway's door especially when its border with Finland disappeared and, in turn, Norway saw itself bordering the USSR in an overnight. In this respect, Mezzadra *et al.* (2013) refer to the dynamic nature of borders as not solely an important geographical aspect, but also a temporal one. In accordance with the authors, efforts to theorise globalisation must consider indirect social relationships, such as those involving third parties and abstract agents, which denote economic, humanitarian, and logistical forces like the movement of capital, goods, and labour.

The assessment of borderscapes allows us to glimpse the tensions immanent in the constitution of the border, its disputed determination, in order to focus on the strife around the increasingly unstable borders and the inclusions and exclusions that arise from them (Mezzadra *et al.*, 2013). The concept describes simultaneous expansions and contractions of the political space and consequent challenges, resistances, and appeals. The author of the concept is Suvendrini Perera, who, based on the Pacific Solution, described the implementation of an immigrant control outpost after the Tampa incident in 2011, when Australia refused migrants that the Norwegian humanitarian assistance had rescued, and sent them to Nauru (Mezzadra *et al.*, 2013, p. 12). All the more, borderscapes translate different timing and an overlapping of emerging locations or emplacements (Mezzadra *et al.*, 2013). Being a "flexible entity that goes beyond the space of the border and the borderland" (Schimanski, 2014), even art and literature can resist acts of borderscaping of a geopolitical significance, such as the Norwegian-Russian borderscape. The deregulation of the maritime transport is an

element of friction in the Arctic, insofar as the cheaper free circulation of ships allows breaching the system. These tensions, combined with a graduated sovereignty in the form of overlapping sovereignties, invite contenders to create borderscapes in the region.

### **3.3. The Arctic as a Climate Change laboratory**

The Arctic is a Climate Change laboratory insofar as its melting down both stems from Climate Change and recrudesces it, thereby generating a vicious cycle. Arctic melt is no longer a looming forecast and has become a challenging reality. In accordance with a study comprising 21 research institutes, even a swift and substantial reduction of global emissions capable of maintaining global warming below 2 Celsius Degrees does not suffice to refrain the Arctic Sea ice from utterly disappearing in Summer by 2050 (Notz & Stroeve, 2018). Beyond releasing greenhouse gases, the warming of Arctic tundra leads to rapid plant growth, thereby increasing the darkening and melting of the surfaces (Ebinger & Zambetakis, 2009).

The speedy melting down of the Arctic's Polar Caps due to Climate Change and ensuing commercial competition in addition to security concerns have put the Environment at the core of geopolitics in an unprecedented way, thereby envisaging a new phase for Climate Change Governance, wherein its very threat to the Capitalist system may unveil more positive prospects in face of the low adherence to environmental treaties. The permanence of economic, military, and environmental challenges to governance of the Arctic melt leads some authors to claim for the boosting of existing institutions in detriment of the emergence of new ones as long as the regulatory frameworks become more robust (Ebinger & Zambetakis, 2009; Rowe, 2018).

Being home to riches such as oil and gas and fisheries particularly in a context of longer ice-free periods, the Arctic puts at the forefront the debates revolving around the extension of continental shelves under the United Nations Convention on the Law of the Sea (UNCLOS) and the Commission on the Limits of the Continental Shelf (CLCS) (Ebinger & Zambetakis, 2009). The United Nations lacks a clear mandate to

address the lagging procedure necessary for a State to claim an extension to 350 nautical miles of its continental shelf, which leads authors to pledge for a strengthening of UNCLOS all the more because shifting to new institutions risks losing all progress made, particularly in view of different deadlines for submissions to the CLCS (Ebinger & Zambetakis, 2009). According to Charles K. Ebinger and Evie Zambetakis (2009), this is an interesting debate insofar as it brings together the oil industry, the military, and the environmental community, which agree on the need for stable legal frameworks given the risks that operating in such far-off environment pose to costly energy projects, response to accidents, management of fisheries, etc.

The melting down of the polar caps, ensuing the opening of new sea routes, raises the question on the way states naturalise a shifting Arctic as a means to maintain their power relations with that space. Adapting Agnew's (1994) insights to the case at stake, escaping the territorial trap in the Arctic may enable us to visualise, in retrospect, the political-economic configurations in the Arctic territory as well as how its transformations reflect current relations between states and space in the region. The shifting Arctic would also challenge preconceptions of territory simply as a bounded or to-be-bounded space, as it is the very abnegation of bounding, whose transformation opens up new routes and prospects. The Arctic as a networked governance under the Arctic Council does not escape Brenner's and Elden's (2004, p. 356) denunciation of a shortcoming in terms of theorising the being and becoming of the territory and its relations with state power.

The transient Arctic paves the way for transit. Once we put the Arctic under a macro-perspective, it is possible to see how the aspects of de-bordering, temporality and sovereignty are banded together. Nicole Waller (2018) argues that the increased accessibility ensued from the melting ice characterise the shifting Arctic both as a transit passage linking the Atlantic and the Pacific and as an oceanic world as a contact zone. By doing so, she assesses the Arctic as a transit space in the dispute over the Northwest Passage and describes the Arctic as an oceanic space under newly proposed forms of sovereignty in that region.

Albeit current challenges in the icebreaking capacity to render the Arctic transit space an ice-free passage and the fact that it is only possible to navigate it during

summer, once one puts this development under a temporal perspective, the Arctic will potentially become an in-between ocean in an unprecedented scale of connection. Temporality, then, is an interesting tool to frame potentialities of this new landscape into novel forms of economic, military, political and cultural exchange, but equally the intermingling of marine life (Waller, 2018).

Besides the Russian plans to develop the Northern Sea Route, another waterway envisioned for the Arctic is the Northwest Passage, which has caused a sovereignty dispute between the USA and Canada. As Nicole Waller (2018) describes, the new prospects stemming from global warming in the Arctic “have produced a celebratory neo-colonial language of shipboard travel and exploitation, accompanying what some commentators have called the ‘scramble for the Arctic’. Ironically, the Northern nations, which are majorly responsible for environmental changes, are the ones to gain from the spoils of the shifting Arctic.

But Waller (2018) points to peculiarities of this new imperialist race: firstly, speaking of the shifting nature of the Arctic, one must necessarily accept the slowness of a process that depends on non-linear and unpredictable environmental transformations. Here, I heed attention to the dual temporalities of the Arctic: that of man, and that of nature. Increased interest in the Arctic stems from its changing borders. In accordance with Stokke (2011, p. 838), a major movement of the tree lines and of the permafrost boundary on land has entailed “a gradual displacement of Arctic deserts by tundra, and of tundra by forests, with corresponding changes in the spatial distribution and diversity of species”. Because of such unpredictable and interconnected changes, space and time are two concepts that also have changing scales in the Arctic. These changes may affect both marine and terrestrial resources, let alone shipping conditions, which lead some to deem the Arctic as “a global weather kitchen” (Stokke, 2011).

Young (2012, p.75) emphasises how that those changes ensue from forces of globalisation and climate change:

“As we move deeper into the Anthropocene, the volatility of socioecological systems is increasing. For those endeavoring to steer such systems, this puts a premium on the capacity to identify approaching tipping points in a timely manner and on the ability to respond to the resultant changes in ways that capitalize on

opportunities associated with them. Nowhere is this challenge more prominent than in the Arctic, a region experiencing transformation arising from the interactive forces of climate change and globalization. Positive feedbacks in the Arctic resulting from mechanisms like the lowering of surface albedo following the recession of sea ice and the release of methane resulting from the melting of permafrost are accelerating the impacts of climate change.”.

The increased interest in the prospects ensuing from the melting of the Arctic must therefore comply with a natural timing different from human temporality. This also means that, although future holds for the Arctic a major linking role between the Atlantic and the Pacific and consequently an interconnectedness in an unprecedented scale, currently there are obstacles to rendering the Arctic a perennially ice-free passage, and speeding up this process leverages the notorious consequences of climate change.

As Waller (2018) reminds us, there is a quite unprecedented governance framework to tackle the Arctic and, finally, besides being an in-between space of transit that will potentially connect the Atlantic to the Pacific beyond a geographic and theoretical link, the Arctic is a transnational oceanic world encompassing various indigenous peoples and nation-states: “a view of the Arctic centred on the North Pole thus reveals a circumpolar space characterized by potential transnational and transcultural contact, competition, extraction, surveillance, and exchange that tends to intensify as its ice melts”.

Basing on Aiwā Ong’s use of the idea of “graduated sovereignty” with a neoliberal predicament, Klaus Dodds (2012) expands the assessment on how elites manage territories to address territorial integrity claims and state power performance over different scales by illustrating the Canadian Arctic policy. The author (Dodds, 2012) equally develops on how a sort of “paternal sovereignty” serves to manage “the normative ideas of territorial integrity, the presence of exceptional circumstances, and the role of future uncertainties”. Bodin supported the idea of sovereign power by drawing parallels with paternal authority and equating the power of fathers with that of sovereigns, thereby naturalistic, personal, and patriarchal views of authority with the desire to construct a rational, impersonal state (Koganzon, 2016). Norway’s

sovereignty over Svalbard, as we will see, is paternal and patriarchal in the sense that it aligns with the Keynesian corporate statehood of the country.

These unique and unprecedented forms of sovereignty and such mosaic of legislation informing territorial practices over the Arctic, combined with networked governances such as the Arctic Council, inevitably heeds our attention to the character of assemblage at play in the region.

When referring to global assemblages, Aihwa Ong and Stephen J. Collier (2005, p. 4) clarify:

“As global forms are articulated in specific situations – or territorialized in assemblages – they define new material, collective, and discursive relationships. These ‘global assemblages’ are sites for the formation and reformation of what we will call, following Paul Rabinow, anthropological problems. They are domains in which the forms and values of individual and collective existence are problematized or at stake, in the sense that they are subject to technological, political, and ethical reflection and intervention”.

Likewise, the Arctic is a global space in that a global governance framework regulates it and therefore it is not restricted to a specific country’s own socio-economic and cultural settings. In that sense, the Arctic’s inhabitants represent a de-territorialisation that summarises the rupture among state, ethnicity and citizenship. It is equally a materialisation of a graduated sovereignty of the Arctic states and the attempt to claim that graduated sovereignty over incursions from non-Arctic stakeholders such as China and Japan. This graduated sovereignty, being a post-liberalism concept, captures new modes of organisation also in the Arctic.

This problematic circumstance has gendered claims for a structured governance: “that new buzzword in policy studies, is, I will suggest, the body of knowledge and set of techniques used by, or on behalf of, those who govern” (Chatterjee, 2004, p. 4). By applying Peter Osborne’s (1995) and Matijn Konings’ (2018) insights on temporality and capitalism, one can trace hybridism in the Arctic as a complex of public and private integrations in the planning and supply of security, proving that capital also performs in the Arctic a de-territorialisation, thereby disorganising and de-regulating movements. Oran Young (2012, p. 75) describes that the dramatic biophysical processes in the Arctic have triggered a steep interest from both private and public actors in the sectors of shipping, oil and gas, fisheries, maritime



tourism and environmental protection. This concept of assemblage in the Arctic allows us to conceive the Arctic as a totality with organicity, thereby granting the possibility to envisage a whole that would otherwise be heterogeneous and fragmented. Assemblage, then, is a product of multiple determinations that render displacing forms. The shifting Arctic is *per se* an assemblage always on the making, a moving process of situated and partial contingencies. The assemblage of overlayed sovereignties and networked governance aimed to manage this transient space but lasting transit ensued from the de-bordering of the Arctic means a mobility inside another mobility, and such meta-mobility is unescapable of a logic of temporality.

Behnke (2013, p. 31) explains that sovereignty “comprises more than the demarcation of political space” since “it also describes an ideal position or vantage point from which this space is mapped and organized” and “defines the authoritative point from which knowledge can be formulated, and order established. The heterogeneity in the Arctic thus comprises not only shifting borderings and temporalities, but also attempts to securitise via certain configurations of territory and bordering in a space that resists territorialisation. Because of such resistance, the articulation of assemblages in the Barents sea, a meeting space between Norway and Russia, also apprehends an ambivalence between territorialisation and fluidity.

The issue of governance must navigate in a dichotomous spectrum translating the Arctic’s melting scenario, namely ranging between being the object of a new imperialist phase of spoils and the resourceful preservation of the world’s ultimate pristine wilderness (Rowe, 2018). Moreover, prospects for the region vary from a common media representation of being on the brink of a new cold war to a vanguard of cooperation within multi-structured governance frameworks (Rowe, 2018).

Regimes conceived as governance arrangements comprising rules, norms and procedures have also become a common parlance in the Arctic region, although with dissent over the applicability of the concept between the establishment of a regime or the management of relations among states, which ultimately mirrors discord between those that perceive the area as a harbinger for animosity and contention, on the one hand, and those that envisage a region of cooperation and collaboration (Nord, 2016). Ken Booth (1985) also addressed the fact that instruments such as the United Nations

Convention on the Law of the Sea and its positivisation of sovereignty over the sea meant that the idea of freedom of the seas was eroding. In this sense, it is interesting to think about the trend towards the territorialisation of the seas, which incites nations to grow a feeling of patriotism over the ocean, with consequent drives for being protective and sensitive, thereby generating a collection of “psychological-legal” boundaries.

Rob Walker (2010, p. 70) argues that the simplest way to delineate and differentiate peoples is by equating culture to nation, then nation to sovereign state, then state sovereignty to other forms of sovereignty. Although this commonplace equation furnishes social sciences with convenient methodologies, there are many other starting points to apprehend sovereignty, such as by claiming histories, ethnicities, traditions, lifestyles, the concept of “civilization” and culture “as a process rather than as an achieved condition, as a verb rather than a noun, as hybridization rather than pure form, as contingency rather than necessity, as a matter of cultivations rather than of naturally given essences” (Rob Walker, 2010). In this sense, Rob Walker points to a purchase of sovereignty on the grounds of culture as a work in progress, which reiterates sovereignty as a fluid concept. For him, there is an astounding definition of the modern nation state in terms of culture and authorisation (Rob Walker, 2010).

Anne Orford (2006, p. 40) asserts that jurisdiction functions as a *sine qua non* condition of possibility for community insofar as “coming together” entails speaking of the law, thereby functioning as a ground zero sort of sovereignty, or “bare sovereignty”: “It expresses the coming together, the cum of togetherness, the com of community or the con of the constitution” (Orford, 2006). For Orford, “bare sovereignty” is the starting and the final point of a community, which, by arranging its “coming together” innerly and asserting its bare sovereignty often by recalling a heroic or mythical past or by positing a glorious future, “gives itself to itself”. It is the outward expression of its inner peculiarity that renders existence to it.

Bare sovereignty is, in sum, the conjunction of jurisdiction, politics, and law in community. In accordance with Orford (2006), it is the consubstantiation of a common space and identity within a jurisdiction, the politics of being together, and the legal regulation of internal and external space as well as continuity in time “the synchronic

expressions of commonality”, whereby “Polis is the name, politics is the content, and law the form of community” (Orford, 2006).

It rests to analyse how bare or borne this sovereignty is in Svalbard, with its sense of community, uniqueness, and, above all, belonging to a land where no one is allowed to be born nor to die, and where only Norwegian nationals with proven contact to mainland Norway can vote. Previously to this assessment, it was important to situate mainland Norway into the debate of sovereignty by tracing back the history of this recent sovereign state.

### **3.4. Geopolitics and Governance in the Arctic**

In a 2023 CSIS policy brief, Andreas Østhagen, Otto Svendsen and Max Bergmann contend Arctic security studies often oversimplify complexities, leading to broad conclusions that neglect regional intricacies and the diverse security challenges above the Arctic Circle. They call for a meticulous examination of specific Arctic environments, such as Svalbard, which they deem crucial for a more nuanced understanding of regional geopolitics and how potential conflict scenarios might unfold in the North.

The longstanding emphasis on cooperation in Arctic politics has diminished, with a shift from the Cold War era when NATO member Norway and the Soviet Union maintained a geopolitical balance. In the early 2000s, heightened interest in the Arctic led to increased engagement among Arctic states, including Russia, in various domains. However, Russia’s augmented military presence, particularly after the annexation of Crimea in 2014 and the full-scale invasion of Ukraine in 2022, escalated security tensions, eroding regional cooperation. The deepened ties between Russia and China further complicate matters, challenging the claims of the seven other Arctic states (Østhagen *et. al.*, CSIS, 2023).

The analysis of the interplay between geography and power politics around Svalbard underscores the intricate nature of Arctic geopolitical competition, the complexity of which leads Østhagen, Svendsen, and Bergmann to caution against oversimplified conflict or no-conflict scenarios and call for careful examination by

European High North countries, the NATO alliance, and the United States. Furthermore, Svalbard's waters are rich in fish stocks and metal minerals, with melting ice opening up opportunities for increased resource exploitation and shipping activity. Russia is particularly focused on the impact of climate change on the commercial development of the Northern Sea Route, a crucial shortcut for vessels between Europe and Asia along the Russian Arctic coast. Despite the changing Arctic landscape offering new opportunities for states, a nuanced examination of specific geopolitical competitions in the region is essential, as broad framings of the rivalry can be overly simplistic (Østhagen *et al.*, CSIS, 2023).

Although the Russian invasion of Georgia, in 2008, had little or no effect onto the Arctic according to the calculations of Jonny Didriksen (2022), it was the Russian annexation of Crimea, in 2014, that indented a swift change in the political landscape of the Arctic. The biggest impact happened on the military sector, which saw the end of cooperation of joint fleets. All things considered, the rest still looked normal, and Russia took over the Chairship of the Arctic Council in 2021. The Russian invasion of Ukraine envisages the great leap between a long-standing perspective of the Arctic as a sheltered place and a zone of peace on its own, until 2009, and that of nowadays, of a Global Arctic, being so interconnected with global geopolitics, to the extent that some argue that “Ukraine also happens in the Arctic” (Didriksen, 2022)<sup>110</sup>. Numerous facets of Arctic politics traditionally deemed stable have been facing scrutiny, particularly the notion that the far north is largely detached from geopolitical issues in other parts of the world, a concept commonly referred to as “Arctic exceptionalism”<sup>111</sup>.

The Russian invasion of Ukraine has shifted the security dynamics in the Arctic, to the extent that the region has become an arena for power projection in geopolitical tension and a stage for potential conflict spillover (Bergmann, 2023)<sup>112</sup>. Svalbard represents the embodiment of multifaceted economic, scientific, political, and security

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<sup>110</sup> Lecture: “Future governance in the High North in a time of rapidly developing security challenges”. Lecturer: Jonny Didriksen (Norwegian Armed Forces, Norwegian Joint Headquarters). UNIS, Svalbard, June 21, 2022.

<sup>111</sup> See: <https://www.rcinet.ca/eye-on-the-arctic/2023/08/03/blog-svalbards-travails-in-a-changing-arctic/>

<sup>112</sup> Arctic Geopolitics: Svalbard and the European High North. Available on: <https://www.youtube.com/watch?v=wVyNSwrzK6E>

implications for countries in the High North, the United States, and the North Atlantic Treaty Organization (NATO) alliance. Østhagen *et al.* (CSIS, 2023) contend that the Svalbard archipelago serves as a significant case study due to its complex and distinctive status as Norwegian sovereign territory, which includes provisions for foreign nationals, Russia's presence on the archipelago, its maritime interests, and the archipelago's proximity to vital Russian military installations, which render Svalbard a possible hotspot for geopolitical tensions.

The recent developments ensuing the Russian invasion of Ukraine have compelled the Norwegian Ministry of Foreign Affairs to sheerly reassess Norway's relationship with Russia while committing to ensure open and constructive communication with its eastern neighbour. For Prime Minister Jonas Gahr Støre, Norway's ties with Russia have undergone a profound and lasting transformation, and determining the path for the future neighbourly relations is a monumental question<sup>113</sup>. As per the assessment of the Norwegian Police Security Service (PST), the intelligence threat from Russia in Norway has grown and, as such, the Norwegian government<sup>114</sup> decided to allocate more resources to boost operational capacity, especially in the northernmost counties:

“‘The Norwegian Government wishes to strengthen the security of the Norwegian population and of Norwegian interests, and we will act quickly. We are therefore proposing a number of measures to further secure Norway. We must prevent, discover, and combat intelligence, sabotage, and influence from foreign states in Norway. We will allocate a total of NOK 100 million for this work,’ says Minister of Justice and Public Security Emilie Enger Mehl ‘We will therefore strengthen the PST and the police by increasing personnel and upgrading equipment, which will enhance our operational capacity and presence, especially in our northernmost counties. We are allocating NOK 57 million to strengthen this work, which will go to the new police/PST unit to combat complex threats, and to increased counterintelligence and a greater presence in Northern Norway,’ states Ms Mehl”.

In addition to the unique provisions of the Treaty of Svalbard and mounting geopolitical tensions between Russia and Norway, some authors assume some NATO ambiguity on the status of Svalbard as a complicator in the equation of geopolitical power staging and projection onto the Arctic (McVicar, 2021). As Chapter Four will

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<sup>113</sup> See: Støres Russland-hodepine – Ytring (nrk.no). Available on: <https://www.nrk.no/ytring/stores-russland-hodepine-1.16003951>

<sup>114</sup> See: <https://www.regjeringen.no/en/aktuelt/regjeringen-vil-styrke-sikkerheten-sarlig-i-nord/id2907492/>

explore, debates about “NATO ambiguity” surround the archipelago, with questions arising about whether it falls under the territorial security guarantee of the alliance. As such, these dubious assessments add to a bundle of misconceptions prevalent in both scholarly and journalistic works, which portray Svalbard as a “shared space” or question the clarity of its legal status, as well as unfounded claims suggesting disputes among the signatories regarding the Norwegian interpretation of the Svalbard Treaty (Østhagen *et al.*, CSIS, 2023).

Despite the abundance of writings on access and claims to untapped offshore oil and gas resources as a direct result of thawing ice, this has not proven to be a source of conflict or aggression. As Østhagen (2020) argues, the Arctic resources that have garnered the most attention and speculation, even sparking claims of impending land-grabs and conflict, primarily revolved around oil and gas. However, the notion of potential resource conflicts in the northern regions over hydrocarbons has since been debunked (Østhagen, 2020). Oil and gas resources, both onshore and offshore, are situated within the exclusive economic zones (EEZ) or continental shelves of the Arctic littoral states, which aim for stable operating environments to extract valuable resources, often distant from their potential markets (Østhagen, 2020).

It is also worth mentioning that, despite the symbolic importance of the seabed area around the North Pole, the extension of one’s continental shelf does not yield immediate economic advantages. The conduct of offshore drilling in high latitudes, especially in the remote North Pole region, poses significant challenges and would only be economically feasible with a substantial increase in energy prices. However, given the global trend towards renewable energy, such a scenario seems increasingly unlikely, at least for oil drilling in those circumstances. Deep sea mining, in turn, has unprecedentedly surged in the agenda, as will be explored further. In summary, assertions of a “scramble for the Arctic” appear unfounded (Todorov, 2023).

Instead, another ocean-based resource is emerging as the primary rationale for disputes in the Arctic: marine living resources. Despite a pro-active moratorium on High Arctic fisheries, issues such as quota distributions for mackerel, snow crab, and access to the maritime zone/shelf around Svalbard have proven particularly conflictual in northern waters. As Østhagen (2020) conveys, Arctic states have heavily dependent

on fisheries as a source of economic wealth and food security. Moreover, these disputes equally disclose vested interests in terms of ascertaining sovereignty over extraterritorial waters. As an example, if the Norwegian Supreme Court had voted favourably to Latvia in the case of snow crabs, the implications of the decision would entail not only Norway's absenteeism in managing fisheries around Svalbard but would also put in discredit the country's claim over the continental shelf of the archipelago.

Apart from strategic considerations along the "East–West axis", the Northern region grapples with challenges related to the demarcation and utilisation of maritime space and resources, sparking disputes among states. Those involved in such disputes may possess varying perspectives on international law, resource management, and principles of distribution (Østhagen, 2020). Divergent expectations and interpretations of rules and regulations on traffic conform a potential source of friction among powers, which is why UNCLOS and ensuing interpretations are paramount for enabling freedom of navigation operations (Wall *et al.*, 2020).

By echoing Mikhail Gorbachev's assertion that "[The] Arctic is not only the Arctic Ocean... It is the place where the Eurasian, US, and Asian Pacific regions meet, where the frontiers come close to one another and the interests of states...cross" (cited in Keskitalo 2004, 43), Jeremy Tasch (2010) argues that such a space could be administered not as a confined, fixed entity (following the territorial state model) or its conceptual opposite (the ostensibly ungoverned space of the world-ocean) but as a dynamic realm of intersections. According to Tasch (2010), climate change has brought a previously overlooked divergence to the forefront of political awareness, impacting Arctic states and beyond. On the one hand, the changing climate creates opportunities in the Arctic, prompting states to reconsider how they define the region within the spatial framework of the state system. This involves viewing it either as a developable space to be encompassed within territories or as a transit space exempt from direct state control. On the other hand, the same environmental shifts that fuel increased interest in the region have made it increasingly challenging for Arctic stakeholders to clearly delineate specific points in Arctic space as definitively "inside" or "outside" state territory. Albeit quotes framing the Arctic as an ocean surrounded by continents, not

the other way around, which would make flag planting on seabed non sensical<sup>115</sup>, the concept of the Arctic as a unique and claimable space, despite its primary feature being the Arctic Ocean, still shapes national policies (Tasch, 2010).

The increased global exploitation of wild fisheries has led to a decline in the total available biomass of marine resources, exacerbated by changes in fish stocks' migratory patterns due to alterations in the marine environment, as previously shown. These shifts pose challenges for the international management of transboundary fish stocks, especially those moving between neighbouring Exclusive Economic Zones (EEZs) and high seas. Scholars predict a rise in the failure of global cooperation as the impact of climate change on fish stocks becomes more evident (Tasch, 2010).

In the Arctic, the retreat of sea ice and the effects of climate change are reshaping the distribution of marine living resources. Concurrently, the demand for these resources has increased, posing a challenge to existing management regimes for transboundary resources and necessitating novel forms of cooperation. As a result, numerous disputes over Arctic fisheries have surfaced in the past decade, occasionally escalating into full-fledged conflicts (Tasch, 2010).

The intricate nature of geopolitical competition in the Arctic warrants a comprehensive examination of the interplay between geography and power politics concerning the distinct political and economic status of Svalbard, as well as it underscores the inadequacy of oversimplified conflict or no-conflict scenarios in understanding this dynamic landscape (Østhagen *et al.*, 2023). The dynamic interaction among climate change, human activities and shifting borders, be they non-human, human, material, or conceptual, shaping and being shaped by activities in the Arctic, unveils a complexity of policies, scientific knowledge, and performativity.

The recent geopolitical events coupled with the accelerated thawing of the Arctic have caused Svalbard to swiftly emerge as a region of enduring geopolitical

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<sup>115</sup> Based on the quote from a representative of the U.S. Arctic Research Commission, “[The Arctic] is an ocean surrounded by continents, not the other way around. So I believe, from a government standpoint, we don’t become overly concerned about flags being planted [on the seabed]” (Interview, June 2008, Tasch, 2010).



significance (McVicar, 2021), as a flashpoint of geopolitical tension and as a geopolitical arena for power projection (Bergmann, Østhagen & Maddox, 2023). Beyond separating or connecting the Atlantic and the Pacific, the importance and role of the Arctic has changed dramatically, with all allies rediscovering the Arctic and with military presence in all domains – see, land and air (Didriksen, 2022).

Svalbard holds a paramount geostrategic importance for Russia due to its potential role in controlling access to and from Russia's Northern Fleet on the Kola Peninsula, home to strategic nuclear submarines (Østhagen *et al.*, CSIS, 2023). While Murmansk houses Russia's largest fleet, advanced infantry, air units, and notably a nuclear submarine port with direct access to the Atlantic Ocean via GIUK Gap<sup>116</sup>, Svalbard's strategic positioning and its proximity with Russia's northernmost military base, Nagurskoye Airbase, stand both as a challenging obstacle and an appealing site to Russia. Norway's control of the Svalbard archipelago and NATO presence in the High North curb Russia's ability to fully extend naval influence into the Atlantic by limiting Russian missile and air operations in the High North, thereby presenting a considerable hindrance to Russia's Northern fleet operations (McVicar, 2022). Svalbard's potential as a site for reconnaissance and surveillance undermines the appeal of Nagurskoye as a forward staging base and ballistic missile hub. Moreover, the strategic importance of Svalbard is heightened by the constraints faced by Russia's Baltic Sea Fleet at chokepoints such as the Danish Straits and limitations on the Black Sea Fleet imposed by the Montreux Convention<sup>117</sup> (McVicar, 2022).

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<sup>116</sup> GIUK gap has historically been particularly important as it is used as the only route for soviet submarines to leave naval bases in North Russia and access the Atlantic Ocean and the East coast of the US.

<sup>117</sup> The Montreux Convention, governing the regime of straits, grants Turkey authority over the crucial waterway connecting the Black Sea, which houses a significant Russian naval force, to the Mediterranean Sea and beyond. It imposes restrictions on the passage of both civilian and military vessels through the Dardanelles and Bosphorus straits, forming the maritime link between the Black Sea and the Mediterranean via the Sea of Marmara. In the context of the Ukraine conflict, Ukraine has requested Turkey to block the straits for Russian warships, underscoring Turkey's pivotal role in maintaining regional stability. See: <https://theconversation.com/what-the-montreux-convention-is-and-what-it-means-for-the-ukraine-war-178136>



Image 16

Source: CSIS Briefs, September 2023.

In this context, Russia closely monitors the implications of climate change on the commercial viability of the Northern Sea Route, which serves as a more direct passage for vessels travelling between Europe and Asia, primarily tracing the Russian Arctic coastline. Russia is a land-based nation, being the Northern Fleet based in Kola Peninsula the hub of its naval capacities. Although the Northern Sea Route is far from becoming an alternative to Suez Canal, the volume of transports has increased. In view of a yet to be increased East-West flow and lack of investments, Russia sees some windows of opportunity for close cooperation with other Asian countries.

In this context where Russia propitiates the materialisation of China's self-entitled status as a "near Arctic state"<sup>118</sup>, it is crucial to address China's unbridled ambitions in the Arctic by engaging the country with regional stakeholders on environmental and sustainable economic development issues in the Arctic, as a means to allow for legitimate research activities on Svalbard and to ban any unwarranted Chinese interference in the governance and security affairs of the European High North (Østhagen *et al.*, 2023).

Arctic geopolitical tensions are not uniform across the region, with military activity mainly concentrated in the High North/North Atlantic and North Pacific/Bering Sea regions. In the former, Russia's military buildup in the Northern

<sup>118</sup> See: <https://www.kas.de/en/web/auslandsinformationen/artikel/detail/-/content/der-selbsternannte-fast-arktisstaat>

Fleet is linked to larger geostrategic competition with the West, influencing nuclear deterrence capabilities and access to the Atlantic. In the latter, Russia's military developments contribute to enhanced cooperation with China, highlighting the delayed recognition by the United States of Arctic security and geopolitical issues on its northwestern periphery (Østhagen *et al.*, 2023).

When it comes to Arctic governance, the United States should work towards maintaining the Arctic's geopolitical exceptionalism, preserving the historical exclusion of hard security issues from regional governance. This involves leveraging the limited resumption of work in the Arctic Council, resumed by seven of its eight member states in June 2022 after a stalemate following the Russian invasion of Ukraine (Østhagen *et al.*, 2023).

The Arctic region, once perceived as a zone of potential cooperation following the signing of the United Nations Convention on the Law of the Sea (UNCLOS) in 1982, has undergone significant transformations over the years. Initially, the Arctic Council expressed interest in supporting the region's development through the exploration of oil and gas resources, with a vision to transform the Arctic into a zone of peace. However, the landscape evolved following a phase-out of potential conflicts arising from access to fossil fuel but leading to new conflicts and security dilemmas.

Contrary to the optimistic expectations of reduced tension and enhanced cooperation following the disintegration of the Soviet Union, diverse Arctic scenarios have surfaced, each introducing unique security concerns. There is an ongoing transformation in power dynamics and geometries, disrupting the historical dominance of old European powers and conventional Arctic states in Arctic initiatives. The concept of multiple Arctics entails both a topographical and topological perspective. While the static topography may portray the Arctic as unchanging (notwithstanding the melting down of ice caps), a topological approach allows for a consideration of potential shifts in the geopolitical landscape. For instance, the question arises: What would happen to the United Kingdom and Denmark if Scotland and Greenland were to gain independence? Would these entities remain aligned with the Arctic or Arctic states? (Østhagen *et al.*, 2023; Nanni *et al.*, 2024; Larsen *et al.*, 2022).

The role of private companies in the militarisation of the Arctic is another critical aspect when assessing the multitude of possible Arctics. Commercial sectors, with a vested interest in utilising Arctic space, play a significant role in shaping security dynamics. Satellite companies, in particular, raise questions about governance and ownership of these spaces. Considering sovereignty in a non-traditional sense, challenges posed by the militarisation of cyber technologies and questions of ownership in the space domain abound. A comprehensive analysis of the evolving Arctic security landscape, considering geopolitical shifts, the emergence of multiple Arctics, and the role of private entities in shaping the region's future requires delving into these complexities aiming at a nuanced understanding of the challenges and opportunities inherent in the Arctic's dynamic security environment.

A shift from a poor political quality of collaboration towards a possible institutional change has coincided with Norway assuming the Chairship of the Arctic Council. It rests to reflect whether the forum will remain a symbol of High North peace that has "fractured along territorial lines" or will, in the future, recover its *status quo ante*, of active cooperation with Russia<sup>119</sup>. The emptied forum raises questions about its efficacy: "Technically speaking, there's no 'Arctic Council' without Russia", says Svein Vigeland Rottem<sup>120</sup>. Although Russia declared the country would remain in the council as long as it serves its interests and that it is now in Norway's hands to resume cooperation after the standstill, the accession of Finland and Sweden to NATO means a closing in on Russia, as all seven Western Arctic Council members are NATO allies<sup>121</sup>. This also raises a situation awareness to Norway insofar it is no longer the only NATO country bordering Russia nor stands as a mediator between East and West.

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<sup>119</sup> Cooperation derailed also due to Russia's withdrawal from the Barents Euro-Arctic Council (BEAC), established in 1993. See: <https://www.highnorthnews.com/en/russia-withdraws-barents-cooperation>

<sup>120</sup> See: <https://foreignpolicy.com/2023/05/31/arctic-council-russia-norway/>

<sup>121</sup> See: <https://www.highnorthnews.com/en/russia-will-stay-arctic-council-long-it-serves-our-interests>

## Chapter Four

Svalbard as the object of dispute in two multilateral instances of world politics:

NATO and UNCLOS/CLCS

The aim of this chapter is to analyse Norway's request for recognition of the extent of its continental shelf and to pit it against Russia's contestation in the broader context of the maritime imbroglio entailed by UNCLOS. Afterwards, it aims to identify the dynamics taking place within the scope of NATO. As such, it seeks to disclose Norway's performance and performativity both in the area of security (hard) and in the area of law and science (soft) in two important international instances, one international and the other more global. With the evidence collected and shown in this chapter, an unfolding Norwegian performance and performativity of sovereignty will be assessed in the last chapter of the thesis.

### 4.1. The maritime imbroglio: UNCLOS and the Svalbard Treaty

It is important to reiterate that Norway's sovereignty on Svalbard is not contested (Churchill & Ulfstein, 2011). This treaty, ratified by 46 parties, serves a dual purpose by granting Norway complete and absolute sovereignty over the region known as the "Svalbard box". The "Svalbard box" defines the area where the rights and obligations outlined in the Svalbard Treaty are applicable and acts as a legal and political boundary. Specifically, the treaty describes this area as encompassing "the Archipelago of Spitsbergen, including Bear Island or Beeren-Eiland, and all the islands situated between 10 degrees and 35 degrees east longitude of Greenwich, and between 74 degrees and 81 degrees north latitude" (The Svalbard Treaty, 1920, Article 1)<sup>122</sup>. Additionally, the treaty grants signatory states the equal rights to engage in fishing and hunting activities within the aforementioned territories and their territorial waters (The Svalbard Treaty, 1920, Article 2); (Nanni *et al.*, 2024).

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<sup>122</sup> See: [http://library.arcticportal.org/1909/1/The\\_Svalbard\\_Treaty\\_9ssFy.pdf](http://library.arcticportal.org/1909/1/The_Svalbard_Treaty_9ssFy.pdf)

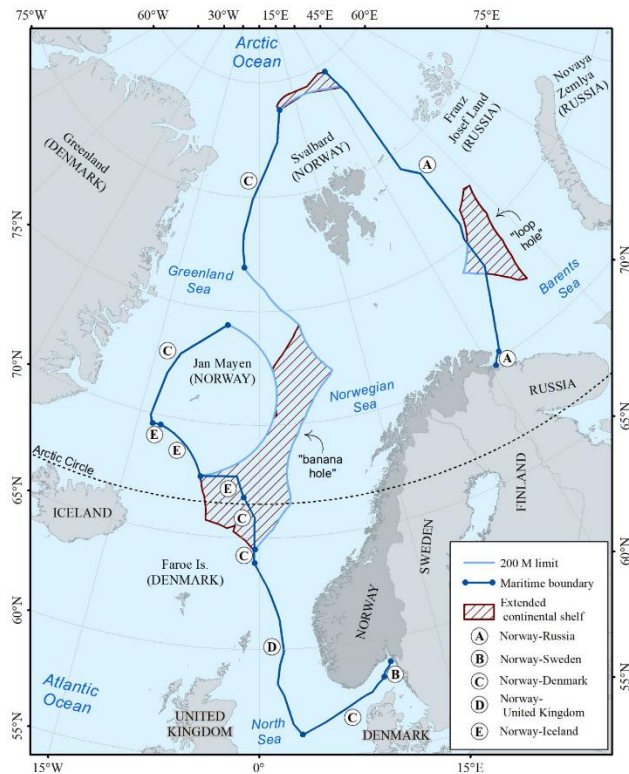


Image 17: Maritime boundaries

Source: International Institute for Law of the Sea Studies. Available on: <https://iilss.net/tag/territorial-sea-around-svalbard/>

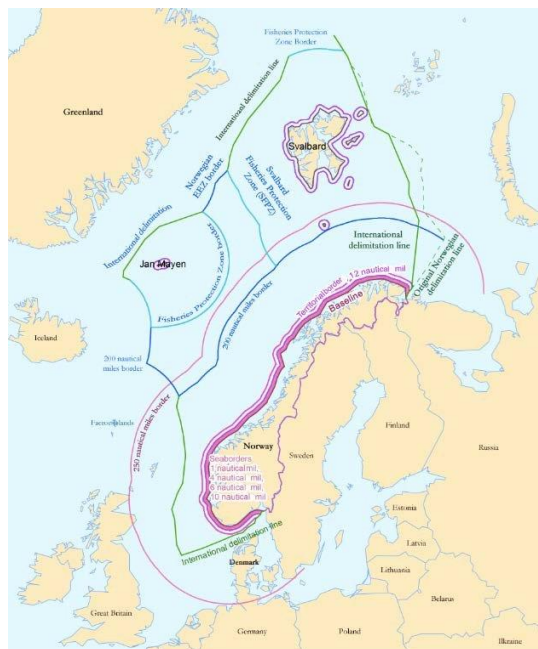


Image 18: Maritime economic zones

Source: [https://www.arctictoday.com/wp-content/uploads/2021/08/norway-maritime-economiczones\\_kartverket.jpeg](https://www.arctictoday.com/wp-content/uploads/2021/08/norway-maritime-economiczones_kartverket.jpeg)

In 1976 and 1977, Norway and Russia defined their 200-nautical mile Exclusive Economic Zones (EEZs). Subsequently, Norway, having already established its EEZ in the Barents Sea, opted to create a Fisheries Protection Zone (FPZ) around the Svalbard Archipelago in 1977. Norway asserts that the 200-mile maritime zone around Svalbard falls outside the purview of the Treaty, constituting a regular EEZ where Norway holds sovereign rights (Østhagen, 2018).

Norwegian sovereign rights within the 200-mile Exclusive Economic Zone (EEZ) and on the continental shelf are, however, a subject of dispute, a contention that poses challenges for both fisheries management within the 200-mile zone and the initiation of petroleum activities on the continental shelf surrounding Svalbard. The Norwegian government highlights that the extension of sovereignty beyond 12 miles aligns with international law while also favouring a literal interpretation of the Treaty by asserting that the non-discrimination rights outlined in Articles 2 and 3 do not extend beyond the territorial sea. Some support for this interpretation is found in the *travaux préparatoires* of the Svalbard Treaty and the Abu Dhabi and Qatar cases (Churchill & Ulfstein, 2011).

Section 22 of the Svalbard Act, enacted by Norway in 1925<sup>123</sup>, asserts that land areas not recognised as treaty land belong to the Norwegian State. There has been ongoing discussion regarding the extent to which the Norwegian State may claim participation rights for land ownership under Section 22 (Churchill & Ulfstein, 2011).

While Norway has uncontested sovereignty over the territory of Svalbard, the contested sovereignty over the archipelago's extraterritorial waters gains a new dimension once one sees it under the perspective of Norway being essentially a maritime nation, to the extent that the Norwegian Foreign Service officially dubs this self-identity as "The ocean nation of Norway". Norway's best in class industries and economy have historically evolved by being intertwined among themselves and driven by Norwegians delving into the oceans, who have thrived on the abundant fish stocks along the Norwegian coast for generations by refining their tools, equipment, and sea

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<sup>123</sup> See:

[https://icsid.worldbank.org/sites/default/files/parties\\_publications/C8394/Respondent%27s%20documents/RL%20-%20Legal%20Authorities/RL-0023-ENG%201925-07-17.pdf](https://icsid.worldbank.org/sites/default/files/parties_publications/C8394/Respondent%27s%20documents/RL%20-%20Legal%20Authorities/RL-0023-ENG%201925-07-17.pdf)

knowledge over time. The growth of Bergen and Trondheim as cities and trading hubs, dating back to the Hanseatic League, was intricately linked to the teeming fisheries of the Lofoten archipelago. Coastal trade fostered connections between North Norway and the country's west and south-west, sparking the emergence of new industries. Technological advancements in vessels acted as a link to the majestic sailing ships of the 19<sup>th</sup> century, which eventually yielded to steam, paving the way for the modern maritime industry, and setting the stage for Norway's remarkable foray into oil exploration. Nowadays, offshore petroleum technology serves as a cornerstone for the progress of offshore aquaculture and ocean-based renewable energy<sup>124</sup>.

The symbolic attachment to the seas since immemorial times of the Viking Age goes in tandem with Norway's figures as an ocean nation, with the stretch of its coastline ranking among the lengthiest globally, the marine territories under its management exceeding five times the size of its land, and the country currently standing as the fourth world largest shipping nation in terms of ship values<sup>125</sup>. Moreover, Norway stands as a major global producer of oil and gas and holds the position of the world's second-largest exporter of fish and seafood, accompanied by a world-class supply industry. Additionally, Norway takes the lead in ocean research and practices in responsible management of marine resources<sup>126</sup>, which not by chance makes Norway more accountable to claim ownership for protecting Svalbard's fisheries zones.

Norway is not only a prominent maritime nation but has also become a significant coastal state thanks to the law of the sea, granting jurisdiction over approximately two million square kilometres, six times the size of Norway's land territory (Pedersen, 2006). It is worth mentioning that over 80 per cent of Norway's sea territory and 40% of its land territory are in the Arctic, and are equivalent to France, Spain, and Germany altogether (Lindgren & Græger, 2017). But despite asserting its right to a complete exclusive economic zone around Svalbard, the Norwegian government has not established one to date. Instead, in 1977, Norway implemented a

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<sup>124</sup> See: <https://www.regjeringen.no/en/topics/havet/the-ocean-nation-of-norway/id2609341/>

<sup>125</sup> See: <https://www.rederi.no/globalassets/dokumenter/alle/rapporter/ref-konjunkturrapport23-eng-web.pdf>

<sup>126</sup> See: <https://www.regjeringen.no/en/topics/havet/the-ocean-nation-of-norway/id2609341/>



temporary fisheries protection zone (FPZ) extending 200 nautical miles around Svalbard, aiming to safeguard marine resources and regulate fishing sustainably. However, Norway's rights within the FPZ are constrained compared to a full exclusive economic zone, as it lacks exclusive fishing rights and manages fishing quotas' distribution to other nations. The allocation of quotas is grounded in traditional fishing practices in the region, ensuring countries like Russia and Iceland receive equitable licenses.

Notwithstanding Russia's adherence to Norway's FPZ regulations, Russia contends that Norway breaches the Svalbard Treaty with the FPZ. Incidents include protests from Russian officials following occasions when the Norwegian Coast Guard detained Russian fishing vessels for violations<sup>127</sup>. Although Russia contests it, resolutions of maritime law in bilateral disputes have now subsided potential conflicts. However, the geopolitical escalation in the regional can potentially spill over into that domain<sup>128</sup>.

Even though the primary concern in Norwegian waters has been the escalation of interactions with Russian fishing vessels, questions have arisen on the broader activities of Russian vessels in the region, particularly after an incident in January 2022 when a subsea cable essential for Svalbard's information technology was cut, with speculation linking it to Russian intelligence gathering. The sabotage of Nord Stream gas pipelines in the Baltic Sea in September 2022 further highlighted the relevance of this issue in the Norwegian security and defence debate. Complicating matters is the access rights of both Russian fishing and research vessels in Norwegian waters, which are challenging to restrict. The burden of proof for illegal activities falls on Norwegian authorities, creating operational and bureaucratic challenges for law enforcement. Russia's refusal to acknowledge Norwegian authority in Svalbard's waters raises concerns about potential military threats if inspections and arrests are made, despite the general acceptance of inspections by Russian fishers (Østhagen *et al.*, 2023)

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<sup>127</sup> See: The Norwegian Svalbard Policy - Respected or Contested? | The Arctic Institute – Center for Circumpolar Security Studies

<sup>128</sup> See: Arctic Geopolitics: Svalbard and the European High North - YouTube

Svalbard thus poses challenges for Norwegian politicians not only in interpreting the treaty concerning contemporary developments under the law of the sea but also in addressing foreign and security policy issues. Over the years, the Norwegian coastguard has demonstrated a shift from a lenient policing approach to a more assertive stance in managing the fisheries protection zone around Svalbard, with the Russians perceiving the Norwegian coastguard as aggressive. While sovereignty over Svalbard itself is not the primary focus, the management regime for the waters and continental shelf surrounding the archipelago has been a source of foreign policy and legal uncertainty, leading to increased tension (Jensen *et al.*, 2010).

Other countries have also contested the FPZ. The EU, Iceland, the UK, and Spain assert that the Svalbard Treaty applies beyond territorial waters and onto the continental shelf<sup>129</sup>, while Norway contends that the Svalbard Treaty does not encompass the continental shelf surrounding the archipelago. Norway asserts that Svalbard lacks an independent continental shelf, as the contiguous shelf falls under Norwegian sovereign rights (Østhagen & Raspotinik, 2019). All things considered and with the scenario of the Arctic becoming a flashpoint of geopolitical tension and an arena for power projection, Norway and the EU have currently agreed to disagree so as not to divide opinions in face of Russia<sup>130</sup>.

In 1982, the United Nations Convention on the Law of the Sea (UNCLOS, 1982) was established as the most comprehensive framework for the management of marine resources. Also referred to as the Law of the Sea – UNCLOS, this convention grants jurisdictional rights to coastal states through various zones defined by specific distances. These zones include the territorial sea (12 nautical miles – nm, as stated in Article 3), the contiguous zone (24 nm, as stated in Article 33), and the exclusive economic zone (EEZ; 200 nm, as stated in Article 57), which extends from the baselines used to measure the territorial sea. Of particular significance is the exclusive economic zone (EEZ), which confers economic and resource-related sovereign rights and jurisdiction to the coastal state. Within its EEZ, the coastal state is granted the

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<sup>129</sup> See: The Norwegian Svalbard Policy - Respected or Contested? | The Arctic Institute – Center for Circumpolar Security Studies

<sup>130</sup> See: <https://www.youtube.com/watch?v=wVyNSwrzK6E&t=1846s>

authority to explore, exploit, conserve, and manage natural resources. This grants the coastal state extensive control over the economic activities and resources within its designated EEZ<sup>131</sup>.

These two international agreements establish distinct legal and political boundaries, leading to disputes concerning jurisdiction over Svalbard waters. The central issue revolves around whether the principles of equal access and non-discrimination outlined in the Svalbard Treaty take precedence or if the coastal state's sovereign rights under UNCLOS apply (Pedersen, 2006, 2020). The Svalbard Treaty explicitly mentions "territorial waters" as the designated area of application. However, it is important to note that at the time of the Treaty's signing, UNCLOS had not yet been established, and the term "territorial waters" only provided states with an approximate distance of 3-4 nm from their shores, unlike the 12 nm defined as the territorial sea 57 years later by UNCLOS (Nanni *et al*, 2023, 2024).

Norway adopts a textual interpretation of the Svalbard Treaty, asserting that a strict reading of the agreement limits its application to the territorial waters of Svalbard, which extend 4 nautical miles from the shore (Dyndal, 2014, p. 83). This interpretation could potentially restrict signatory states from extending their rights to the vicinity of Svalbard. However, this interpretation hinges on the outcome of the continental shelf argument. If Svalbard possesses its own continental shelf and exclusive economic zone (EEZ), the equal exploration rights granted to all signatory states under the Svalbard Treaty would be applicable in that area, extending 200 nautical miles from the shore. Conversely, if Svalbard is considered a contiguous extension of Norway's mainland seabed, Norway would possess sovereign rights over these areas independent of the Svalbard Treaty, as it has officially claimed since 1970 (Dyndal, 2014).

Norway argues that, by virtue of UNCLOS, it also has uncontested sovereignty over the continental shelf around Svalbard insofar as it is contiguous to that of mainland

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<sup>131</sup> Within its Exclusive Economic Zone (EEZ), a coastal State possesses: (a) sovereign rights for the exploration, exploitation, conservation, and management of natural resources, both living and non-living, in the seabed, subsoil, suprajacent waters, and other activities for economic exploitation and exploration, such as energy production from water, currents, and winds; (b) jurisdiction, as outlined in international law, regarding the establishment and use of artificial islands, installations, and structures, marine scientific research, and the protection and preservation of the marine environment; and (c) additional rights and obligations stipulated by international law. See: [https://www.un.org/depts/los/convention\\_agreements/texts/unclos/unclos\\_e.pdf](https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf)

Norway. What is at stake, then, is the regulation of its authority in terms of taxation as it is not clear whether the equal treatment of the Svalbard Treaty applies to the region or not:

“Can the shelf areas around Svalbard correctly be described as part of the Norwegian continental shelf?

It is clear that Svalbard is part of Norway, and no one questions that. All continental shelf areas that originate from Norwegian territory are Norwegian in the sense that they are subject to Norwegian jurisdiction. Accordingly, the shelf areas around Svalbard are part of the Norwegian continental shelf.

But isn't there disagreement about the scope of the Svalbard Treaty?

It is true that there are differing views on the geographical scope of certain provisions of the 1920 Treaty of Paris in respect of the maritime areas off the archipelago. However, this has nothing to do with the outer limits of the continental shelf. Where the outer limits of the continental shelf around Svalbard lie has no bearing on the question of what rules should apply to the shelf within those limits.

What is the difference of opinion about the Svalbard Treaty about?

The 1920 Treaty of Paris confirms that Norway has full and absolute sovereignty over the Archipelago of Svalbard. By virtue of its sovereignty over Norwegian territory, Norway also has sovereign rights over continental shelf areas under international law. The only matters that could be open to interpretation in relation to the Treaty concern the geographical scope of equal treatment rules and tax limitations. But that question relates to how Norway is to exercise its **authority**, not whether the continental shelf areas are subject to Norwegian jurisdiction”<sup>132</sup> (my highlight).

On the other hand, other signatory states, particularly Russia and the European Union, argue that the Treaty should be interpreted in accordance with the current understanding of maritime delimitation under UNCLOS. They advocate for an equal distribution of resources within the EEZ. Russia contends that the existing arrangement discriminates against other signatory states, providing Norway with sole advantages in conducting economic activities in the region. Opposing the Norwegian position, these parties argue that Svalbard possesses its own continental shelf, and therefore, the non-discriminatory provisions of the 1920 treaty should grant equal access rights to these areas (Pedersen, 2006, p. 1).

Should the Fishery Protection Zone (FPZ) be transformed into an Exclusive Economic Zone (EEZ), Norway could deviate from the principle of non-discrimination, potentially avoiding clashes such as the recent disagreement on cod

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<sup>132</sup> See: <https://www.regjeringen.no/en/topics/foreign-affairs/international-law/continental-shelf--questions-and-answers/id448309/>

between Norway and the EU<sup>133</sup>. This does not imply a change in Norway's stance on the Treaty; rather, it suggests that converting the FPZ into an ordinary EEZ would subject it to the United Nations Convention on the Law of the Sea (UNCLOS) rather than the Svalbard Treaty.

In 2006, Norway submitted its proposed outer limits of its continental shelf in compliance with the United Nations Convention on the Law of the Sea (UNCLOS) to the Commission on the Limits of the Continental Shelf (hereinafter also referred to as “the Commission” or CLCS)<sup>134</sup>, which issued its recommendations in 2009. Although the CLCS determined that Norway's continental shelf pertaining to Svalbard extended beyond 200 nautical miles, there was no direct deliberation on Svalbard or the 1920 treaty (Østhagen & Raspotnik, 2019). In other words, The CLCS determined that the continental shelf surrounding Svalbard was indeed contiguous to that of the Norwegian mainland. However, in line with its mandate, the CLCS did not explicitly address whether the Treaty is applicable to the continental shelf areas around Svalbard.

The ongoing debate surrounding jurisdiction over Svalbard waters is further exemplified by the recent ruling of the Norwegian Supreme Court on March 20, 2023 (Norwegian Supreme Court, 2023). This ruling pertained to the denial of a foreign fishing company's license to engage in snow crab<sup>135</sup> fishing on the continental shelf of Svalbard. The case started when the Latvian vessel “Senator” was apprehended for engaging in unauthorised snow crab fishing on the continental shelf within the Loop

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<sup>133</sup> <https://www.wita.org/blogs/cod-quotas-svalbard-treaty/>

<sup>134</sup> The Commission is one of three international bodies established by the Convention on the Law of the Sea (LOS Convention), alongside the International Seabed Authority and the International Tribunal of the Law of the Sea. It operates as an independent institution with the specific goal of facilitating the implementation of the United Nations Convention on the Law of the Sea concerning the establishment of outer limits of the continental shelf beyond 200 nautical miles from the baselines used to measure the breadth of the territorial sea. The Commission's functions, outlined in Annex II of the LOS Convention, encompass tasks such as considering data and materials submitted by coastal states regarding the outer limits of the continental shelf in areas extending beyond 200 nautical miles. The Commission is responsible for making recommendations in accordance with Article 76 and the Statement of Understanding adopted on August 29, 1980, by the Third United Nations Conference on the Law of the Sea (Peters, 2016). Comparable to scientific bodies established to provide advice on treaty implementation, the Commission, in fulfilling its functions, also undertakes legal-administrative responsibilities. Its recommendations to individual coastal states carry substantial legal implications, serving, for instance, as a form of interpretation under the Vienna Convention on the Law of Treaties (Jensen, 2014).

<sup>135</sup> The presence of snow crab in the Barents Sea is a relatively recent development, with its discovery in 1996 as it migrated westward from Russian waters (Østhagen & Raspotnik, 2019).

Hole. To the surprise of authorities, the ship presented documentation claiming to have received authorisation from the EU to fish in that specific area. In 2019, the matter escalated to the Supreme Court, which decreed that Norway possessed full authority to penalise EU vessels participating in snow crab fishing within the protective zone surrounding Svalbard<sup>136</sup>.

Back in 2016, the European Union notified Norway that the European Commission had granted licenses for snow crab fishing around Svalbard, which prompted Norway's vehement objection, with the Norwegian minister of fisheries stating "we will not give up one single crab". The Norwegian Coast Guard consequently apprehended a Lithuanian trawler holding an EU license, with attempts by Baltic fishermen to bring the case before the European Free Trade Association's (EFTA) surveillance authority being rejected, and Latvia threatening to escalate the matter to the international court in The Hague<sup>137</sup>.

On June 4, 2018, the Appeals Selection Committee of the Norwegian Supreme Court<sup>138</sup> outlined the following decision:

"The hearing by the Supreme Court will only focus on whether the snow crab is a sedentary species giving Norway an exclusive right to exploit it under UNCLOS Article 77, and whether snow crab catching on the Norwegian continental shelf without the vessel having obtained valid exemption from the prohibition is punishable regardless of the application of the Svalbard Treaty in the relevant area, and regardless of whether section 2 of the Regulations on the Prohibition against Catching of Snow Crab, or the practicing thereof, contravenes the principle of equal rights. There will be no hearing of the issue regarding the Svalbard Treaty's geographic area of application until such clarification is required".

The judgement by the Norwegian Supreme Court in 2023 reinforced Norway's understanding according to which the Latvian case is spatially situated outside the scope of the Svalbard Treaty:

"The district court concluded that the snow crab is a sedentary species under the United Nations Convention on the Law of the Sea (UNCLOS), and that Norway has an exclusive right to exploit it, see Article 77. It was also concluded that the Snow Crab Regulations 3 would contravene the principle of equal rights under the Svalbard Treaty 'if the Treaty [could] be invoked in the case'. However, the district court found that the Svalbard Treaty

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<sup>136</sup> See: - Snow Crab Verdict as Expected ([highnorthnews.com](https://highnorthnews.com))

<sup>137</sup> See: <https://www.thearcticinstitute.org/norwegian-svalbard-policy-respected-contested/>

<sup>138</sup> See: <https://www.domstol.no/globalassets/upload/hret/decisions-in-english-translation/hr-2019-282-s.pdf>

does not apply beyond Svalbard's territorial border of 12 nautical miles; hence, it does not apply where the catching took place (p. 2-3).

The understanding equally assumes “judicial disagreement on Norway’s obligations under international law” and the contestation “by several other countries”:

“Although the appellants contend that the Snow Crab Regulations entail an intentional discrimination in contravention of the Treaty, no abuse of power has been asserted. In my view, it is unnatural to characterise a practice associated with judicial disagreement on Norway’s obligations under international law as abuse of power. In this case, it is clear that Norwegian authorities find that the Svalbard Treaty does not apply in the relevant area, while the authorities of several other countries are of a different opinion” (p. 11)

Specifically, the Latvian shipping company maintains that Articles 2 and 3 of the Svalbard Treaty also applies to the continental shelf off Svalbard, and that the decision and the Norwegian regulation are therefore in conflict with the equal treatment principle of the Svalbard Treaty. Article 2 of the Svalbard Treaty addresses the matter of Norwegian jurisdiction over non-Norwegian vessels fishing in Svalbard’s territorial sea<sup>139</sup>. While paragraph 1 affirms equal fishing and hunting rights for all parties, paragraph 2 grants Norway the freedom to implement measures for preserving and, if necessary, restoring the region’s fauna and flora, including territorial waters, provided that such measures are applied uniformly to nationals of all High Contracting Parties (Churchill & Ulfstein, 2011).

Both the District Court and the Court of Appeal had previously concluded that the Svalbard Treaty’s Articles 2 and 3 do not apply on the continental shelf<sup>140</sup>. The following unanimous decision by the court concluded that the principle of equality, as stipulated in Articles 2 and 3 of the Svalbard Treaty, applies to Svalbard’s internal waters and maritime territory (12 nm), but not to the continental shelf of Svalbard, such as oil and gas, as snow crab is categorised as a sedentary species under UNCLOS<sup>141</sup>.

<sup>139</sup> See: <https://www.jus.uio.no/english/services/library/treaties/01/1-11/svalbard-treaty.html>

<sup>140</sup>

[https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwjh\\_Y\\_htfmCAxV1qpUCHbZ2CxoQFnoECAsQAQ&url=https%3A%2F%2Fwww.svalbardposten.no%2Fhoyestere-tt-snokrabbe-svalbard-sokkel%2Fhar-norge-enerett-pa-ressursene-pa-svalbard-sokkelen%2F500211&usg=AOvVaw02dldn4T7mUQ72JgpCEqsh&opi=89978449](https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwjh_Y_htfmCAxV1qpUCHbZ2CxoQFnoECAsQAQ&url=https%3A%2F%2Fwww.svalbardposten.no%2Fhoyestere-tt-snokrabbe-svalbard-sokkel%2Fhar-norge-enerett-pa-ressursene-pa-svalbard-sokkelen%2F500211&usg=AOvVaw02dldn4T7mUQ72JgpCEqsh&opi=89978449)

<sup>141</sup> See: [https://www.un.org/depts/los/convention\\_agreements/texts/unclos/unclos\\_e.pdf](https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf)

The linguistic interpretation of the meaning of the Svalbard Treaty as well of its context is noteworthy in the judgement of the Norwegian Supreme Court<sup>142</sup>, which is an independent judiciary:

“After a collective and unified interpretation of the treaty text, interpreted in accordance with the ordinary meaning of the words in the context in which they are included, and in light of the treaty’s object and purpose, the Supreme Court concludes that the equality rule of Article 2 applies to Svalbard’s internal waters and maritime territory – which stretches 12 nautical miles from the baselines – but not on the continental shelf off Svalbard. Nor does the equality rule of Article 3 applies to the continental shelf off Svalbard”.

Even though Norway is part of the North East Atlantic Fisheries Commission (NEAF)<sup>143</sup>, the court decision elucidates that Norway’s involvement in the NEAFC Convention does not imply consent to allow vessels with Latvian authorisation to engage in snow crab harvesting within the so-called “loop hole”<sup>144</sup>.

What is noteworthy for the case of Svalbard is Norway’s attempt at separating the Svalbard Treaty and UNCLOS as two clear cut instruments, with no mention to the Svalbard Treaty in the deliberations from the Commission on the snow crab case, and punctual mentions from the Norwegian Supreme Court when it related to Norway’s sovereign rights.

This ruling aligns with Norway’s longstanding position regarding Svalbard waters. If the fishing company had been granted the right to catch snow crab on the continental shelf, it would have significant implications for access to all natural

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<sup>142</sup> See: <https://www.domstol.no/globalassets/upload/hret/decisions-in-english-translation/hr-2023-491-p.pdf> and <https://www.highnorthnews.com/en/victory-norwegian-state-case-snow-crab-fishing-svalbard>

<sup>143</sup> The North East Atlantic Fisheries Commission (NEAFC) functions as the Regional Fisheries Management Organisation (RFMO) overseeing the North East Atlantic, recognised as one of the most prolific fishing regions globally. The geographical scope defined by the NEAFC Convention, known as the Convention on Future Multilateral Cooperation in North-East Atlantic Fisheries, extends from the southern tip of Greenland, east to the Barents Sea, and south to Portugal. NEAFC’s primary objective is to ensure the long-term conservation and optimal utilisation of fishery resources within the Convention Area, fostering sustainable economic, environmental, and social benefits. In pursuit of this goal, NEAFC implements management measures for various fish stocks and enforces control measures to guarantee their effective implementation. Additionally, NEAFC adopts measures to safeguard other components of the marine ecosystem from potential adverse impacts arising from fisheries activities. See: <https://www.neafc.org/about>

<sup>144</sup> See: <https://www.highnorthnews.com/nb/snow-crab-verdict-expected>



resources. However, the judgement that the Supreme Court of Norway made on the case brought by Latvia may be appealed in the International Court of Justice.

Independently of the verdict should the case go to the International Court of Justice, the curtailment of jurisdiction and, consequently, of the sovereignty of a nation-state, coupled with the delegation of these powers to an international court, emerges as a transformative process that is unlikely to be reversed. This development arises in response to the evolving needs of the international community (Coban-Ozturk, 2014).

Legal literature addressing maritime law and Arctic-related concerns has extensively explored the challenges of delimiting the outer continental margin in the Arctic and the role of the Commission on the Limits of the Continental Shelf. Criticism has been directed at certain provisions of UNCLOS related to outer continental margin delimitation due to perceived complexities and implementation difficulties. This raises the question of whether the existing international legal framework adequately addresses the new claims in the Arctic or if a novel legal approach needs to be considered (Peters, 2016).

In a 2005 Arctic Policy White Paper by the Norwegian government, the issue of jurisdiction in the high northern latitudes was acknowledged for its “potential for conflict of interests”. The Standing Committee on Foreign Affairs in the Norwegian parliament *Stortinget* commented during the White Paper reading that one of Norway’s primary challenges lies in the significant northern areas where Norwegian management or sovereignty is contested. In these regions, many states have yet to adopt a clear position aligned with the Norwegian perspective (Pedersen, 2006, p. 2).

The Norwegian rights as an uncontested and pre-assumed fact are noteworthy in the language that Norway uses to emphasise this property in the executive summary submitted to the Commission in 2006<sup>145</sup>: “The rights of the coastal State over the continental shelf exist *ipso facto* and *ab initio*, as reflected in article 77 of the Convention”, meaning that Norway’s rights exist “by the fact itself” and “from the start” of this act rather than from the legal decision. Norway, extending halfway across

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<sup>145</sup> See: Continental Shelf Submission of Norway in respect of areas in the Arctic Ocean, the Barents Sea and the Norwegian Sea. Executive Summary. Available on: [https://www.un.org/depts/los/clcs\\_new/submissions\\_files/nor06/nor\\_exec\\_sum.pdf](https://www.un.org/depts/los/clcs_new/submissions_files/nor06/nor_exec_sum.pdf)

the Arctic Circle, holds one of the most extensive sea claims globally. The claimed exclusive economic zones (EEZs) and continental shelf of Norway, hosting a wealth of natural resources, constitute an area six times larger than the Norwegian mainland (Pedersen, 2006, p. 1).

The Norwegian Petroleum Directorate, an independent agency operating under the Royal Ministry of Petroleum and Energy, spearheaded the preparation efforts relative to Norway's claims. As Norway's authoritative body for offshore geology and geophysics, the Directorate played a key role. Additionally, various agencies and institutions, namely the Norwegian Mapping Authority, the Norwegian Polar Institute, the University of Oslo, and the University of Bergen have contributed scientifically to the submission. Under the guidance of the Royal Ministry of Foreign Affairs, the submission was meticulously crafted<sup>146</sup>. In addition to peer institutions in Russia, Iceland, and Denmark, along with the Faroe Islands and Greenland, collaborative efforts included joint-venture data acquisition and research analysis.

Furthermore, scientific research institutions in Germany, Sweden, and the USA contributed to gathering data on the extent of the continental shelf. Norway also engaged in various Arctic research projects. Geological data acquisition was conducted in tandem with the surveying of continental shelf areas beyond 200 miles until the year of submission (Jensen, 2011).

Norway's submission of extension of its continental shelf beyond 200 nautical miles from the baselines concerned three distinct maritime regions in the North East Atlantic and the Arctic: the Loop Hole in the Barents Sea<sup>147</sup>; the Western Nansen Basin<sup>148</sup> in the Arctic Ocean; and the Banana Hole in the Norwegian Sea.

As per the United Nations Convention on the Law of the Sea, both coastal states and the United Nations Commission on the Limits of the Continental Shelf possess the power to interpret Article 76<sup>149</sup> and utilise it in determining the extent of a state's continental shelf (Graben & Harrison, 2015).

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<sup>146</sup> See: [https://www.un.org/depts/los/clcs\\_new/submissions\\_files/nor06/nor\\_exec\\_sum.pdf](https://www.un.org/depts/los/clcs_new/submissions_files/nor06/nor_exec_sum.pdf)

<sup>147</sup> Claims overlapping with those from Iceland and Denmark/the Faroe Islands.

<sup>148</sup> Claims overlapping with Denmark.

<sup>149</sup> See: [https://www.un.org/depts/los/convention\\_agreements/texts/unclos/part6.htm](https://www.un.org/depts/los/convention_agreements/texts/unclos/part6.htm)

Norway cites the stipulations outlined in paragraphs 1, 3, and 4 of Article 76 as the basis for determining the outer limits of the continental shelf extending beyond 200 nautical miles. The continental margin segments linked to Norway in the three addressed areas are situated exclusively to the north of the Iceland-Faroe Ridge. The primary section encompasses the continental margin adjacent to Mainland Norway and the Svalbard Archipelago. Extending from the South in the North Sea, through the Norwegian and Greenland Seas, up to the Eurasian Basin of the Arctic Ocean in the north, this contiguous expanse maintains consistency in both morphology and geology across its entire length (Executive Summary, p. 9).

Russia, in turn, was the first Arctic state to submit claims to the CLCS, in 2001. The UN body asked Russian authorities to conduct additional oceanographic research in the central Arctic Ocean. However, what has evolved in the meantime is an increased focus on calculating subterranean territory, driven by a growing awareness of changes in the Arctic due to ice melting. Debates over accessibility involving various parties, including both coastal and non-coastal states, have further heightened this attempt to understand and delineate the region. The delineation of measurable territory relies on underwater interventions, with the efforts of mini-submarines and survey vessels contributing to the creation of conditions for additional sovereign interventions. While maps and surveys constitute one aspect of this intervention, various other activities and practices also play a role, such as narratives and discourse, as well as presence, international recognition, and the government's attempts to protect the integrity of the borders of its territory (Dodds, 2010, p 4).

At the core of this issue is a competition for a clear understanding – or, as Klaus Dodds (2010) puts it, the “legibility of territory”, particularly in the maritime Arctic. The continual effort by coastal states to map and survey their continental shelves is a significant manifestation of this desire to render a claim both accurate and acknowledged. This desire for such qualities is further fuelled by a range of “bordering practices”, encompassing activities from demarcating the outer continental shelf to speculating about new concerns related to illegal transshipment and illicit flow through an ice-free Arctic (Dodds, 2010, p. 10).

Norway and Russia<sup>150</sup> overlapped their claims of continental shelf beyond 200 nautical miles over the Loop Hole, in the Barents Sea, and in the Western Nansen Basin, in the Arctic Ocean. This area, as well as the Western Nansen Basin, were part of the delimitation set by the maritime agreement between those countries, ratified in 2010.

The conclusive boundary resolution represents a revised form of the initial positions held by Russia and Norway. According to Article 1 of the Treaty<sup>151</sup>, with reference to the once-contested region in the Barents Sea, the established demarcation line essentially lies midway between Norway's previous median line claim and Russia's sector claim. This agreement unmistakably reflects a compromise based on foreign policy efforts, as both countries have made concessions from their original stances (Jensen, 2011).

However, controversy extends beyond fishing in the Svalbard region. In 2015, Norway's decision to open new oil and gas blocks in the northern part of the Barents Sea drew protests from Russia. Russia contended that some of these blocks encroach upon the continental shelf of Svalbard, accusing Norway of violating the Svalbard Treaty by initiating these activities without consulting the treaty's contracting parties. In contrast, Norway maintains that this area falls within the Norwegian continental shelf, asserting its right to proceed with oil and gas operations without the need for consultations with Russia or other stakeholders<sup>152</sup>. While the Norwegian government maintains a firm stance on the issue and refrains from engaging on any discussion on the intricate aspects of the Svalbard Treaty, Russian officials keep a strategic ambiguity and point to Norwegian soft spots, especially when it comes to Svalbard<sup>153</sup>.

Each of the Arctic states with extended shelves, namely Canada, Norway, Russia, the United States, and Denmark (Greenland), has been actively conducting mapping activities in the Arctic Ocean to establish their respective rights in accordance

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<sup>150</sup> The Russian Federation was first state to submit a claim to the Commission on the outer limits of the continental shelf in the Arctic, depositing its submission on 20 December 2001 (notification CLCS.01.2001. LOS, accessible on the webpages of the Division for Ocean Affairs and the Law of the Sea (DOALOS) within the UN Office of Legal Affairs at <[www.un.org/Depts/los/index.htm](http://www.un.org/Depts/los/index.htm)>

<sup>151</sup> See: <https://www.un.org/depts/los/LEGISLATIONANDTREATIES/PDFFILES/TREATIES/NOR-RUS2010.PDF>

<sup>152</sup> See: <https://www.thearcticinstitute.org/norwegian-svalbard-policy-respected-contested/>

<sup>153</sup> See: <https://www.youtube.com/watch?v=wVyNSwrzK6E&t=1846s>

with Article 76. This mapping activity holds true with Sando Mezzadra's (2013, p. 28) acknowledgement according to which, in the Arctic, "maps are more involved with encoding than decoding the world". As already pointed in Chapter 1, these mapping process not only affects the power dynamics of each Arctic State in the region, giving rise to a "cartographic anxiety" (Mezzadra, 2013), but also unveil a complex interplay among territorial disputes, law, and performativity of power.

Except for the United States, these states have submitted their findings to the Commission for review and consideration. In a collective effort, they issued the Ilulissat Declaration on May 29, 2008<sup>154</sup>, emphasising the existence of a comprehensive international legal framework applicable to the Arctic Ocean. They acknowledged that the law of the sea encompasses significant rights and obligations regarding the delineation of outer limits of the continental shelf. Furthermore, policymakers have publicly pledged to peacefully resolve any disputes in accordance with Article 76. In essence, despite the potential for disputes, it is anticipated that Arctic states will approach the determination of their rights through a dutiful adherence to the law as they submit their cases to the Commission (Graben & Harrison, 2015, p. 773).

Confronted with the need to advocate based on technical data, each of the Arctic littoral states has made substantial efforts to prioritise shelf research and conduct the necessary scientific investigations to support their claims. Owing to budget constraints, coastal states frequently employ standard mapping technology and outsource the mapping required for submission to the Commission. Nevertheless, each of the Arctic states possesses a robust economy, extensive bureaucracies, and considerable experience in oil and gas development, serving as a significant contributor to national revenue (Graben & Harrison, 2015). As such, both policies informed by science and money are artifices for power. The next section will delve into the elements driving authority in shelf delineation.

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<sup>154</sup> See: <https://arcticportal.org/images/stories/pdf/Ilulissat-declaration.pdf>

## **4.2. The interplay among Science, Law, and Politics impacting authority within CLCS**

As mentioned, the maritime zone surrounding Svalbard is subject to a jurisdictional dispute concerning access rights, stemming from different boundaries established by the Svalbard Treaty of 1920 and the United Nations Convention on the Law of the Sea (UNCLOS) of 1985. Complicating matters further, climate change has been gradually altering the natural boundaries of the Svalbard waters, primarily due to the reduction in summer sea-ice extent and the northward movement of warm Atlantic waters. As a result, commercially significant fish stocks have shifted northward, leading to increased fishing activities in the Svalbard maritime zone. The current state of affairs underscores the intricate interplay among political decisions, industrial interests, and the substantial international implications arising from national and domestic politics.

In addition to the claim to dutiful adherence to the rule of law, scientific discourse also plays a role in impacting authority within the Commission. Research institutions are involved in mapping activities of continental shelf worldwide. Both human and natural elements play a pivotal role in shaping and being shaped by shifts of Arctic boundaries in face of climate change and growing human presence. These dynamics encompasses policies, scientific and legal knowledge, and the concept of performativity. Moreover, the interrelation among these three entails both practices of policy-based science and science-based policy, informing and being informed by power. Politics, on the one hand, and law and/or science, on the other, convey a symbiotic relationship, being sometimes complementary to one another, whereas, in other times, even supplementary.

When treaty interpretations and the science supporting them lead to conflicts, the explanatory value of positivist perspectives on Commission authority becomes limited. This is because in cases where scientific consensus, which is central to the notion of authority, is absent due to uncertainty, the law may lose its ability to decisively determine outcomes or make reliable predictions. While it is natural for legal scholars to anticipate disputes over the interpretation and application of law, without the legal authority of the Commission to resolve such disputes, the responsibility for

settlement is often relegated to the realm of politics (Graben & Harrison, 2015, p. 774). Or, as Churchill and Ulfstein argue, “It is ... not possible to reach a clear-cut and unequivocal conclusion as to the geographical scope of the non-discriminatory right of all parties to the [Spitsbergen] Treaty to fish and mine in the waters around Svalbard” (Østhagen & Raspotnik, 2019).

While analytical interpretations of treaty language can be valuable, they fail to elucidate how state interests are mobilised in relation to international law when those interests diverge. As a result, they do not adequately explain how law acquires meaning within the broader social context of international relations. Analytical jurisprudence focused on the interpretation of legal texts remains important but ultimately insufficient for determining the practical impact (Graben & Harrison, 2015). This is one of the driving factors to include performativity of power in the analysis of these dynamics, as the next chapter will delve into.

Drawing on existing scholarship<sup>155</sup> that acknowledges the influence of scientific discourse in global governance and specific observations of scientific discourse in Arctic shelf delineation, Sari Graben and Peter Harrison (2015, p. 775) assert that the authority of the Commission derives from both legal provisions and the transnational technocratic regime governing shelf science. In accordance with the concerns of this legal process perspective, the Commission’s authority cannot be adequately explained by solely focusing on its legal constitution. Instead, this approach explores how the Commission resorts to administrative, procedural, and soft law powers to reinforce and impact compliance (2015, p. 775).

Uncertainty may revolve around these legal and scientific processes aiming at continental shelf extensions. For instance, a state party might not concur with the Commission’s interpretation of the data submitted. Limited previous access to the Arctic Ocean and the ocean floor has resulted in all data from shelf research being

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<sup>155</sup> See Øystein Jensen. The Commission on the Limits of the Continental Shelf: An Administrative, Scientific, or Judicial Institution?. *Ocean Development & International Law*, 2014, 45:2, 171-185, DOI: 10.1080/00908320.2014.898921; S. V. Suarez. Commission on the Limits of the Continental Shelf and Its Function to Provide Scientific and Technical Advice’, 2013, 12 CJIL 339; A. Cavnar. ‘Accountability and the Commission on the Limits of the Continental Shelf: Deciding who Owns the Ocean Floor’. 42 *Cornell Int’l L. J.* 387, 2009.

novel, and many interpretations of that data remain unverified. Additionally, theories regarding shelf structure have undergone substantial changes since the Convention's terms were settled and made available for signature in 1982 (Graben & Harrison, 2015). Moreover, there are many actors (and interests) at stake in the Commission, insofar as it relies on a legal advisory board, which comprises the Division for Ocean Affairs and the Law of the Sea of the United Nations Office of Legal Affairs (for procedural issues), and the Legal Counsel of the United Nations (for substantive legal issues).

In contrast to a purely legal process approach, the legal process perspective previously mentioned adopts a constructivist understanding to better assess how Arctic states address the uncertainties surrounding Article 76 by relying on scientific consensus to temporarily resolve debates about treaty interpretation. By employing constructivism as a framework to empirically examine the role of law, the extant literature examines the discursive practices of science and illustrate how the Commission's regulatory authority is continually reaffirmed through its interactions with Arctic states as creators, consumers, and validators of scientific knowledge (Graben & Harrison, 2015). In this sense, the authority of the Commission is legitimated through a performance that is created, consumed, and validated.

While the Commission's authority, whether derived from hard law or soft law, can be attributed partly to the language of the Convention, the core argument of this scholarship is that the Commission's authority also stems from its approach to scientific verification and consensus-building, which aligns with the discourses prevalent in scientific communities at both domestic and transnational levels (Graben & Harrison, 2015, p. 775). As such, performativity is the lenses adopted in this study to assess the workings of law, science, and politics, among others, to ascertain sovereignty.

When it comes to the policy-science symbiosis, policy-based science refers to the generation of knowledge influenced by policy agendas and broader political interests, including decisions made by political actors like the Arctic Council and the incorporation of traditional knowledge in decision-making processes (White & Lidskog, 2023). This can sometimes result in selective knowledge that aligns with existing beliefs or power dynamics. The dispute over Svalbard's maritime zones



demonstrates this process on the grounds that scientific knowledge regarding the nature of the Svalbard continental shelf is strategically used to support Norway's political stance (Nanni *et al.*, 2024).

In contrast, science-based policy entails policymakers making decisions based on the best available evidence rather than preconceived notions or political ideologies. Competent actors across various jurisdictions adapt their knowledge production to address pertinent issues arising from biophysical changes. This knowledge production both shapes and is shaped by evolving boundaries. The process that led to the Arctic region's definition by the Arctic Monitoring and Assessment Programme (AMAP)<sup>156</sup> serves as an example, as the Arctic region's definition is rooted in biophysical criteria and has elevated its visibility on the policy agenda. Scientific research often informs policy-making processes, while political interests mould scientific knowledge production, creating an intricate interplay that is challenging to disentangle (Nanni *et al.*, 2024).

Norway's legal sovereignty alone is insufficient and requires ongoing validation through practical and functional sovereignty. Such complexities involving science, policy, and performativity are pervasive across the Arctic and influence its future boundaries at various scales. For instance, climate model predictions can shape public opinion and policy decisions, potentially leading to self-fulfilling prophecies. Economic forecasts may drive investments and development in Arctic resources, ultimately impacting the region's environmental and social outcomes. Projections of geopolitical tensions in the Arctic can affect international relations and military posturing, potentially resulting in conflicts (Nanni *et al.*, 2024). This reflection is

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<sup>156</sup> The Arctic Monitoring and Assessment Programme (AMAP) was established in 1991 to implement key aspects of the Arctic Environmental Protection Strategy (AEPS), adopted by Ministers of the eight Arctic countries. Operating as one of the working groups of the Arctic Council (AC), AMAP was tasked with assessing the Arctic environment concerning specific pollution issues. To ensure a comprehensive approach, AMAP defined its assessment focus beyond the traditional Arctic Circle boundaries, incorporating elements such as political boundaries, climatic factors, vegetation boundaries, permafrost limits, and major oceanographic features. This broader perspective aimed to address global connections associated with the long-range transport of contaminants. AMAP represented a groundbreaking effort to define the Arctic from a global and interdisciplinary standpoint, effectively regionalizing environmental concerns within the context of interconnected global systems. Its success lies in identifying emerging issues, presenting them in policy forums, and elevating their importance on the policy agenda (AMAP, 1998, Chapter 2; Kankaanpää & Young, 2012).

paramount for briefing governments on the deleterious consequences of arousing escalatory reactions and on the importance of adopting cautionary posturing in contexts of breaking points.

### **4.3. The geopolitics in Norway's Arctic Waters**

The assessment of security policy in the Arctic must start by exploring the real balance of power, which comprises the political realities and political strength, as well as the international legal system and legal principles. When it comes to the geopolitics in Norway's Arctic waters, key aspects of international law at play include bilateral demarcation of the continental shelf, the claim of exclusive economic and fishery zones in the Barents Sea, and the stewardship of marine resources around Svalbard. Norway's claim to exclusive rights over the continental shelf surrounding the once *terra nullius* Arctic Archipelago of Svalbard is contentious, and the ambiguous scope of the Svalbard Treaty is acknowledged as a primary challenge by Norway's parliament. The matter appears to resist judicial settlement, making the controversy a subject of international politics (Pedersen, 2006). Norway's foreign policy is also intertwined with power dynamics on a broader scale, as it forms a transatlantic dimension with continental Europe and the United States, in addition to a triangular relationship with Russia. Various factors impact Norway's security, including military strategy, fisheries management practices, and petroleum extraction in the Arctic waters, conveying an intersection between international law and politics (Jensen & Rottem, 2010, p. 75-76).

In view of overlapping sovereignties and the legality of coincidental claims over the same maritime space, the solution to maritime contestations lies beyond law. Scientific discourse impacts the authority of the Commission in the Arctic insofar as it stems not only from its mandate under the Convention but also from the alignment of its regulatory frameworks with the discursive practices employed by transnational networks to achieve scientific consensus and resolve disputes concerning jurisdiction and sovereign rights (Graben & Harrison, 2015).

The delineation process has proven to be an interpretative challenge for both Arctic states and the Commission due to the involvement of different scientific theories

regarding shelf measurement outlined in Article 76. Disagreements persist regarding the method for measuring the median line that delimits state boundaries, the selection of relevant zones or coasts to establish the median line, the significance of islands in the process, the relevance of prior behaviour, and the support provided by geomorphology. According to those authors, these divergences have contributed to the contentious nature of Arctic delimitation (Graben & Harrison, 2015, p. 772).

The challenge arises when authority is granted to multiple entities to interpret and determine compliance, as the Convention recognises various legitimate sources of legal interpretation without establishing a definitive mechanism to determine which interpretation should prevail. Consequently, it is possible for states to act in contradiction to each other or even the Commission while still being considered in compliance with international law (Graben & Harrison, 2015).

Making the link between the authority that Norway is to establish in relation to equal treatment rules and tax limitations on the continental shelf under its jurisdiction and other states' rights to authority to claim jurisdiction over contested areas that, under international law, are subject to overlaid sovereignties, it is easy to fall prey of a diverse array of convincing interpretations based on the workings of the law. This imbroglio may get even more complex to untie with these mental exercises once pitting the aforementioned argument of the Norwegian Ministry of Affairs according to which "By virtue of its sovereignty over Norwegian territory, Norway also has sovereign rights over continental shelf areas under international law", on the one hand, against the acknowledgement of the Norwegian Supreme Court relative to "judicial disagreement on Norway's obligations under international law" and the contestation "by several other countries".

Even though the prevailing literature on the subject takes a legal stance by assuming that the conflict regarding maritime zones around Svalbard is a legal dispute, legal theory proves inadequate to address the diverse potential avenues for resolution, especially when the conflict does not follow any such path (Pedersen, 2006, p. 2). Politics, and the substrate of it, namely performativity of power, play a significant role in ascertaining interests in this dispute.

As a territory subject to jurisdictional disputes since its discovery in the 16<sup>th</sup> Century<sup>157</sup> (Grydehøj *et al.*, 2012, p. 100), Svalbard is believed to exert a major impact not only on global trade, but also on international relations over the coming years (Grydehøj *et al.*, 2012, p. 100), in view of emerging resources currently ensuing from ice melt and increased access and technology (Rossi, 2016, p. 93), in addition to the qualification of Norway's "full and absolute sovereignty (Grydehøj *et al.*, 2012, p. 102).

Such conundrums have called for governance contemplations inasmuch as they have paved the way for speculations according to which Russia's presumed attempts to divide the West may target vulnerable NATO's flanks such as Svalbard in order to test the Alliance solidarity (Wither, 2018, p. 28). The insularity and distance of the Svalbard from mainland Norway coupled with the peculiarity of its juridical status situate those islands in a vulnerable crossroads between Russia's speculations over NATO's responses in a crisis (Wither, 2018, p. 28) and Norway's performativity of sovereignty.

#### **4.3.1. Norway: no longer a lonely NATO in the North**

Norway's pushes to be a founding member of NATO stem not only from the Soviet occupation of Czechoslovakia but also from Norway's failure to remain neutral in view of the Nazi occupation of Norway during World War II, which led to the realisation of the need to bolster Norwegian defences (Neubern, 2019, p. 66). Norway's sovereignty therefore requires a contextualised reading: it did not last one year before

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<sup>157</sup> Dutch explorer William Barents discovered Svalbard in 1596, and contestations on exclusive rights ensued from an English whaling company and from the then kingdom of Denmark-Norway, which the Dutch countered with the principle of *Mare Liberum*, relative to the liberty of the seas, followed by contestations of newly independent Norway, Russia and the United Kingdom, among others, in view of the then status of the archipelago as *terra nullius*. After a joint sovereignty proposition by Norway, Sweden and Russia faced opposition by the USA and Germany, the solution came in 1919 at the Paris Peace Conference, which granted Norway with sovereignty over Svalbard at the same time it allowed international activity in the islands, resulting in the 1920 *Treaty Concerning the Archipelago of Spitsbergen* (Grydehøj *et al.*, 2012, p. 101). Among the drivers for such conciliation is the compensation to Norway for its aid to the Allies during World War I, and retaliation against Germany and Bolshevik Russia. This did not preclude contestations by the Norwegian Parliament and press over the restrictions of that treaty and of the Mining Code imposed upon Norway's sovereignty (Grydehøj *et al.*, 2012).

the infant State of Norway had its short-lived independence from Denmark annulled with the invasion from Sweden. Its final independence, in 1905, was put in jeopardy with the Nazi occupation, the liberation of which came from the Soviet Empire in Hammerfest, Northern Norway. Albeit Norway is an old nation, it is a recent sovereign state, venturing into an “engagement spree” (Neubern, 2019, p. 67) with regard to the institutional framework emerging after the end of the world wars, which was a clear attempt of Norway to ascertain its recently acquired sovereignty via the international rule of law.

Norway punctuated a change in its Foreign Policy when it “de facto and almost overnight, helped to expand the concept of security by joining others in declaring war on an abstraction (‘terror’)” (Jensen, 2013). When the then Norwegian Prime-Minister and current Secretary-General to NATO, Jens Stoltenberg, decided to render Norway the head of NATO’s air campaign in Libya, a tip of an iceberg emerged in the High North: the use of force that dissented such a self-identity representation of peace as Norway’s unveiled how the Norwegian overarching framing of Russia as the Other is highly connected to Norway’s compliance with NATO’s “war on terror”- driven aggressions for the sake of a collective defence in face of a potential threat around its immediate territory:

“Making visible and relevant military contributions to US- and NATO-led military operations would be one way of ensuring Norway’s reputation as a state that more-than fulfilled its alliance obligations. In the last instance, the prestige garnished was also to serve as a ‘reservoir of goodwill’, increasing the likelihood that Norway’s allies would provide support in case of a conflict with Norway’s unpredictable great power neighbour: the Russian Federation” (Jakobsen *et al.*, 2016; p. 16).

Such unexpressed hope on reciprocity is not in vain. It is noteworthy that Article 5 of the Washington Treaty pledges the alliance “to deter and defend against any threat of aggression against the territory of any NATO member state”. Not only does this reasoning allow us to link the bombing of Libya with the hope to count on collective defence against a potential threat in Arctic, but it also stands out as a synchronicity the fact that that the then Norwegian Prime-Minister Jens Stoltenberg, who then decided for the bombing of Libya, is NATO’s current Secretary-General (Neubern, 2019).

Norway's security and defence linchpin has been the preparation to receive allied assistance. As Nina Græger (2019, p. 10) puts it, Norway has tried to compensate its hitherto Cold War role as "Cold War role as NATO's 'watchtower' in the High North" by engaging in the organization's transition through the deployment of troops in the Balkans, Afghanistan, post-war Iraq and Libya.

The increased Russian military presence in the European Arctic since 2005 highlights the strategic significance of Svalbard. Despite lacking military fortifications, Norway is concerned about potential rapid Russian attempts to control the archipelago in a full-scale NATO-Russia conflict. Svalbard's proximity to the Russian Northern Fleet and its strategic value for anti-access and area denial (A2AD) operations in the Barents Sea and North Atlantic drive Russian security interests. While some question Svalbard's continued relevance due to technological advancements, it is likely to remain a potential area for Russian power projection. The primary security concern for Norwegian defence planners is the Russian threat, particularly in a NATO-Russia conflict scenario. Other EU or NATO states are unlikely to challenge Norway's sovereignty, and distant adversaries like China pose no immediate to medium-term threat to Svalbard (Østhagen *et al*, 2023; McVicar, 2020; Wither, 2018).

Notwithstanding over 100 years of success of the Svalbard Treaty to guarantee peace and demilitarisation, the status of Svalbard has come to the forefront of the wrangling between Norway and Russia particularly after Russia's annexation of Crimea bred the ground for hostilities involving NATO and an ensuing security dilemma (Wither, 2018, p.37). The sheer absence of confidence building measures to forestall "misunderstandings and miscalculations" (Wither, 2018) has worn out Norway's conciliating stance between assurance and deterrence, which leads Wither (2018, p. 37) to assert that: "In this environment, Svalbard is exposed both politically and militarily. It is a potential focus of friction in a bilateral crisis between Norway and Russia and would become a dangerous flashpoint if broader Western and Russian antagonisms spilled over into the Arctic".

Miscalculation and opportunism are drivers for a potential armed conflict (Wither, 2018, p. 28) insofar as Svalbard already represents a highly tense scenario for geopolitical ambitions from Arctic and non-Arctic states. There is rising concern that

Russia could venture into seizing territory on the flanks ahead of any capacity from NATO to mobilise or engage in confrontations to retrieve land, the lost credibility of which could derail the balance of power in Europe (Wither, 2018, p. 28). By evincing such hypothesis, Svalbard emerges as a credible target should Russia dare to test the Alliance solidarity (Wither, 2018). Drawing on Nathan Freier's dubbing of such a situation as "risk confusion", wherein both action and inaction seem equally perilous, Wither (2018, p. 36) argues that action could be escalatory, whereas inaction would entail appeasement, which could cause irreversible damage in the long run.

Svalbard became part of NATO's defence area in 1951, and the collective defence clause (Article V) of the alliance's 1949 North Atlantic Treaty extends to the islands. However, some authors point out potential challenges arising from misinterpretations such as the one on "NATO's ambiguity".

On the one hand, literature shows beliefs according to which NATO Secretary-General Stoltenberg's assertion that a potential conflict limited to Svalbard would trigger Article V is a vague statement overlooking the internal discord and lack of consensus among NATO members regarding the status of Svalbard (McVicar, 2020). According to this belief, the internal division within the alliance due to the United States and other countries' reservations about Norway's economic rights around Svalbard makes it convenient for Russia to exert pressure on Norway for concessions, or potentially execute a *fait accompli*, mirroring the successful strategy employed in Crimea (McVicar, 2020). On the other hand, others sustain that Russia does not have established territorial claims against NATO states and recognises that any military action, whether direct or indirect, against Norway or any NATO member poses a higher risk compared to aggression against Georgia or Ukraine (Wither, 2018). Moreover, this perspective gains new insights based on Russia' interest in stability, particularly concerning gas exports and transit, such as the Yamal project, towards Asia<sup>158</sup>, as Østhagen (2023) reminds us<sup>159</sup>.

All in all, while Russia lacks territorial claims against NATO states, the potential vulnerability of Svalbard in view of its heightened geostrategic location

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<sup>158</sup> <http://yamallng.ru/en/>

<sup>159</sup> See: <https://www.youtube.com/watch?v=wVyNSwrzK6E&t=1846s>

makes it a target for a strategic gamble by Russia to advance its long-term objectives of dividing the West and neutralising NATO, despite the higher risks associated with military actions against NATO members and not least Russian economic and political interests to keep stability (Wither 2018). Acknowledging Svalbard as NATO's "Achilles Heel", and thus under Article 5 collective clause<sup>160</sup>, James Wither, back in 2018, argued that, in a crisis, political determination could facilitate the airlifting of a deterrent force to Svalbard, which could be seen as a violation of the Svalbard Treaty, potentially provoking a Russian military response and signalling an escalation to a broader armed conflict.

This "NATO ambiguity" can be a double-edged sword: if, on the one hand, Article 9<sup>161</sup> of the Svalbard Treaty bans the use of Svalbard for warlike purposes, on the other hand, NATO's Article 5<sup>162</sup> invokes the alliance's core principle, that of collective defence. In case of dubious interpretations and in face of the risk of Russian exploiting the caveat of Article 9 of the Svalbard Treaty, it rests to Norway to count on NATO mitigating it by minimising capability development and military exercises in or around Svalbard (Østhagen *et al.*, CSIS, 2023). Furthermore, the Norwegian government ought to reinforce this strategic restraint by maintaining a robust amphibious force in mainland Norway, supported by military exercises designed to respond to conventional Russian escalation in or around Svalbard, thereby integrating this effort into NATO's biannual Cold Response exercises, hosted by Norway to assess allied troops' capabilities in an Arctic environment (Østhagen *et al.*, CSIS, 2023).

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<sup>160</sup> See: <https://www.rcinet.ca/eye-on-the-arctic/2023/08/03/blog-svalbards-travails-in-a-changing-arctic/>

<sup>161</sup> "Article 9. Subject to the rights and duties resulting from the admission of Norway to the League of Nations, Norway undertakes not to create nor to allow the establishment of any naval base in the territories specified in Article 1 and n: [http://library.arcticportal.org/1909/1/The\\_Svalbard\\_Treaty\\_9ssFy.pdf](http://library.arcticportal.org/1909/1/The_Svalbard_Treaty_9ssFy.pdf)

<sup>162</sup> "The Parties agree that an armed attack against one or more of them in Europe or North America shall be considered an attack against them all and consequently they agree that, if such an armed attack occurs, each of them, in exercise of the right of individual or collective self-defence recognized by Article 51 of the Charter of the United Nations, will assist the Party or Parties so attacked by taking forthwith, individually and in concert with the other Parties, such action as it deems necessary, including the use of armed force, to restore and maintain the security of the North Atlantic area. Any such armed attack and all measures taken as a result thereof shall immediately be reported to the Security Council. Such measures shall be terminated when the Security Council has taken the measures necessary to restore and maintain international peace and security." See: [https://www.nato.int/cps/en/natohq/topics\\_110496.htm](https://www.nato.int/cps/en/natohq/topics_110496.htm)



Additionally, the policy brief recommends that it is crucial to clarify that NATO's Article 5 extends to cover Svalbard as an integral part of Norwegian territory, hence eliminating any strategic ambiguity. All these are performative deeds aimed to ascertain sovereignty and statehood.

The High North has steadily been a top priority for Norwegian Foreign Policy, and Norway's official discourse has placed even more emphasis on the need to ascertain presence in the region, deemed a major task for Norway in NATO<sup>163</sup>:

"Russia's aggressive war against Ukraine has highlighted how important NATO is to our security," said Ms Huitfeldt.

"The meeting provides an opportunity for me to draw attention to the important role Norway plays for NATO in the north. A large part of Russia's strategic nuclear weapons are located close to the border with Norway. We monitor military activity closely. Another of Norway's key tasks is to ensure a stable energy supply to Europe. We welcome NATO's engagement in efforts to protect critical infrastructure on the seabed," said Ms Huitfeldt".

Norwegian-Russian interactions used to be particularly poignant given that Norway's border represented the only Arctic land boundary between NATO (or "the West") and Russia (Kelman *et al.*, 2020). This is no longer the case since Finland's accession to NATO, and it rests to assess how this and Sweden's near accession will influence Norway's performativity of power in the transatlantic organisation insofar as Norway has relinquished a brokering role between East and West via NATO since the Ukrainian war and because Scandinavian historically neutral values are now currently subject to being revisited within the Alliance. At the same time, this move enhances Norway's protection in face of Russia and aligns with Norway's historic pledge for NATO to prioritise the defence of the High North.

One significant development is the integration of the Arctic region and the Baltic Sea into a unified Great North, sharing common security concerns. Additionally, the heavy reliance of a significant portion of Europe on Russian energy sources has elevated the importance of pipelines across the Baltic Sea, particularly in times of crisis. The substantial presence of NATO member countries around the Baltic Sea has

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<sup>163</sup> See: Meeting of NATO Ministers of Foreign Affairs in Oslo further cements Alliance unity - regjeringen.no Available on: <https://www.regjeringen.no/en/aktuelt/meeting-of-nato-ministers-of-foreign-affairs-in-oslo-further-cements-alliance-unity/id2982196/>

led some to dub it a “NATO lake”, reflecting the strategic shift in the regional context. This shift results from the deep integration of means and strategic cultures among Nordic and Baltic countries (Cinciripini, 2022).

Both countries will contribute with advanced weaponry and highly trained forces to the alliance, along with providing shorter routes to potential flashpoints and significantly strengthening the northern flank by bolstering the collective defence and deterrence strategies for the European part of the High North, an extensive and sparsely populated region primarily above the 65<sup>th</sup> parallel encompassing parts of Norway, Sweden, Finland, and Russia<sup>164</sup>. The integration of Finnish and Swedish forces into NATO additionally entails a shift of defence focus from strict national borders to an encompassing geography, thereby enhancing the defence of the alliance’s northernmost flank over an area extending from the Arctic tip of Norway to the Baltics’ border with Russia. This increased collaboration will contribute to better containing Russian fleets in Murmansk, St. Petersburg, and Kaliningrad, gradually diminishing Moscow’s capacity to pose a threat to NATO’s northern flank (Cinciripini, 2022).

Such security evolution goes in tandem with a potential upgrade of significance of the High North for NATO, aligning with Norway’s defence needs and security priorities, insofar as the integration will provide all countries in the region with a comprehensive situational awareness both in the air and at sea. Moreover, it is a fruitful outcome of Norway’s arduous and consistent entrepreneurship to make the alliance heed attention to the High North. Although the defence of northern Norway against potential Russian westward expansion has long been a concern for NATO planners, NATO had hitherto considered the High North secondary in priority. Russia, in turn, has always deemed the region crucial, given the proximity to Russian second-strike capability, the Northern Fleet, and vital for monitoring U.S. long-range air and missile strikes along Arctic routes, serving as the potential starting point for any Russian interception of U.S. reinforcements to Europe.

Before the Ukrainian conflict, increased NATO involvement in the Arctic was approached with caution due to concerns about Moscow’s potential reaction. The

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<sup>164</sup> See: <https://warontherocks.com/2022/08/cooperation-can-make-the-nato-lake-a-reality/>

Norwegian Intelligence Service had consistently warned of increased military activity in the Barents Sea. Consequently, both NATO<sup>165</sup> and Russian military exercises unsurprisingly occurred in this Arctic region in 2020, prompting provocative statements from U.S. and Russian officials. In view of Russia's persistence in seeking opportunities to challenge and create divisions within the Western alliance, a once "low tension" region then gave way to more realistic forecasts that Russia might explore less contentious targets on NATO's peripheries to assess the cohesion of the Alliance (Wither, 2018).

The boost of Atlantic Alliance engagement makes NATO's involvement in Arctic security and defence unavoidable and puts timely policy recommendations high on NATO's action plans in a region once deemed of "low tension". This shift follows the gradual reinforcement of the Atlantic Alliance's presence in the region, partly influenced by significant political pressure from Norway over the years (Cinciripini, 2022).

Norway's performativity of power is on the spotlight in this political move as it is to be credited mainly to NATO's Secretary General Jens Stoltenberg, a Norwegian citizen whose mandate was extended for the fourth time in face of amounted importance of NATO's unity following the Russian invasion of Ukraine<sup>166</sup>. In his tweet following the disclosure of a decision that was based on a stalemate, Stoltenberg hailed from his Norwegian origins of recent sovereignty: "The transatlantic bond between Europe & North America has ensured our freedom & security for nearly 75 years, and in a more dangerous world, our Alliance is more important than ever". As a seasoned politician with deep *savoir faire* in negotiating and maneuvering, Stoltenberg patiently led Turkey to acquiesce to Sweden's accession while also ensuring that Turkey and NATO would be aligned in terms of assisting Ukraine. He has additionally showcased Norway's expertise in mediation by facilitating the contact among the United States, other NATO members, and Ukraine.

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<sup>165</sup> The alliance conducted its largest Arctic military exercise in 2022, involving 27 allied countries with nearly 30,000 soldiers, highlighting increased risks in a historically stable region (Güçyetmez, 2023).

<sup>166</sup> [https://www.nato.int/cps/en/natohq/news\\_216761.htm](https://www.nato.int/cps/en/natohq/news_216761.htm)

The reinforcement of the transatlantic alliance goes in tandem with the weakening of multilateral instances as Russia has transitioned from being a challenging partner to posing a threat to the entire alliance. This shift is evident in various consequences, including the halted cooperation with Russia in the Arctic, its exclusion from different Arctic bodies, and efforts to formulate temporary approaches for operating in the region without Russia (Brańka, 2022).

Moreover, Stoltenberg's stance resonates with Norway's self identity representation of peace resolution facilitator through dialogue and drawing on the concept of transparency (Neubern, 2019):

“The Eastern flank countries insist on ‘no business as usual’ as the guiding principle of NATO-Russia relations after the annexation of Crimea. Yet, calls for resumed and better dialogue with Russia do exist [...]. More recently, Secretary General Jens Stoltenberg, in line with his native Norway's general approach to Russia, argued that: ‘Dialogue is important. Especially when times are difficult as they are now, then it is important to sit down and discuss also difficult issues. (...) Even without any improvement in the relationship between NATO allies and Russia, I believe that at least we have to manage a difficult relationship - on transparency, risk reduction and also addressing arms control’” (Blessing *et al.*, 2021).

Furthermore, the recent condemnation by the allies against Russia's withdrawal from the Treaty on Conventional Armed Forces in Europe (CFE) not only emphasises the risk of misperceptions but also resonates concepts frequently found in Norway's official discourse, such as trust, confidence, and transparency<sup>167</sup>:

“Allies reiterate their continued commitment to reduce military risk, and prevent misperceptions and conflicts. Allies strive to build trust and confidence, based on key principles of transparency, compliance, verification, reciprocity and host nation consent, thereby contributing to peace and security. Allies invite those states that share this commitment and these principles, to join our efforts to also contribute to increasing predictability and stability in the Euro-Atlantic area”.

#### 4.3.2. High North: Low Profile in High Politics

Finland and Sweden joining NATO, influenced by Russia's aggressive actions, has implications for security dynamics in the High North and the Arctic. Previously viewed as an exceptional and stable region, the Arctic's security landscape is now more

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<sup>167</sup> See: [https://www.nato.int/cps/en/natohq/official\\_texts\\_219811.htm](https://www.nato.int/cps/en/natohq/official_texts_219811.htm)

connected to broader geopolitical tensions. The conflict in Ukraine has led to the suspension of all Arctic Council cooperation with Russia, introducing a potential “spoiler” element by Russia in the Arctic due to its foreign policy behaviour (Hassebrauck, 2023). The High North and the North Atlantic, crucial for supply routes and US reinforcements, face challenges in protecting critical infrastructure, particularly vulnerable submarine cables. Recent sabotage incidents underscore the vulnerability of maritime infrastructure, while improved anti-submarine warfare capabilities are deemed essential to safeguard these areas (Hassebrauck, 2023). Additionally, the vast “GIUK gap” in the North Atlantic poses a challenge for NATO’s defence, creating a constant risk of enemy forces bypassing defences and launching surprise attacks. The maritime capabilities of Finland and Sweden are therefore seen as crucial for mitigating these risks and eventually closing the GIUK gap (Hassebrauck, 2023).

During the Cold War, NATO’s focus was on containing the Soviet fleet in the Arctic through the GIUK Gap. The area, equipped with underwater listening posts, has regained significance, prompting NATO to reinvest in anti-submarine capabilities after years of neglect. However, a new concern arises as Russia’s advanced ship-based missiles can now target NATO ships or territories from locations north of the GIUK Gap<sup>168</sup>. The current situation draws parallels with the 1980s, leading to discussions about adopting a more offensive maritime strategy, reminiscent of the Reagan era, to directly engage the Russian Northern Fleet in the Arctic instead of further south, and emphasising the need for a forward maritime approach to address the evolving threat<sup>169</sup>.

It rests to assess the consequences of NATO’s enlargement for Norway’s presence over Svalbard. It is still early to state how vulnerable the archipelago is in face of the recent developments of NATO’s Arctic defence posture. However, two arguments already unfold from the recent move: the territory’s geographical isolation from mainland Norway has lessened, and Russia’s attempts to test NATO’s cohesion and solidarity during a crisis (Wither, 2018) have become less challenging in view of that integration. Furthermore, the entry of Finland and Sweden into NATO entails the doubling of the NATO-Russia border, creating challenges for Russia’s interference.

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<sup>168</sup> See: NATO is facing up to Russia in the Arctic Circle (economist.com)

<sup>169</sup> See: NATO is facing up to Russia in the Arctic Circle (economist.com)

Beyond the military context, the symbolic and diplomatic significance of Finland and Sweden relinquishing their historic military neutrality in reaction to Russia's invasion is that it diplomatically isolates Russia in the Arctic region. This means that, besides having a double geographical border, in the Arctic and in the Baltic, Russia is now ousted by a cultural border.

The enlargement process raises geopolitical tensions, with potential military operations impacting all NATO countries, leading to increased military expenditures and challenges for certain member states. The strategic significance of Finland and Sweden's NATO membership in both the Arctic and Baltic regions has broader implications for Russia's defence posture in its western region. In essence, NATO's Arctic expansion addresses security challenges posed by Russia but brings about complex geopolitical considerations for member states and Russia (Güçyetmez, 2023).

Russia's updated naval doctrine<sup>170</sup> poses a dual challenge to both the Arctic region and NATO, reflecting Russia's determination not to be encircled by the alliance. This revised doctrine signifies a significant shift in Russia's security strategy, with the adoption of a distinct position to counter potential encirclement in the Baltic and Arctic areas. Notably, the emphasis on strategic locations such as Svalbard, Franz Josef Land, Novaya Zemlya, and Wrangel Island in Article 50 appears to be a precautionary measure against Sweden's potential NATO membership (Güçyetmez, 2023).

It is also worth mentioning the impact of such enlargement onto other multilateral organisations besides the emptying process of the Arctic Council. In order to counter this vacuum, the adoption of an interest-based approach would prompt NATO to enhance political and military collaboration with the multilateral

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<sup>170</sup> Vladimir Putin's 2035 Arctic Strategy aims to capitalise on the expanding accessibility of the northern region's resources, driven by melting permafrost due to climate change. The strategy focuses on utilizing Arctic riches, including oil and heavy metals, to bolster Russia's economy and enhance military facilities, particularly along the Northern Sea Route. In October 2023, Russia reorganized its Northern Fleet, reassigning its four constituent regions to the revamped Leningrad Military District. This recreation, located near Finland and NATO territory, suggests Russia's readiness for potential conflict with the Baltic States and NATO. With an 800-mile border shared with Russia, Finland is both vulnerable and strategically significant in the face of potential Russian aggression in the Arctic. Despite initial concerns following the invasion of Ukraine, Finland's newly acquired NATO protection has alleviated fears, coupled with a reduced Russian military presence in the North as troops were deployed to Ukraine. See: <https://www.globsec.org/what-we-do/commentaries/nato-russia-and-strategic-importance-arctic>

organisations that include Sweden and Finland, such as the Arctic Council (Blessing *et al.*, 2021, p. 122). NATO could also forge stronger partnerships with the Nordic Defense Cooperation (NORDEFCO), composed of Denmark, Finland, Iceland, Norway, and Sweden, to reinforce both joint and national capabilities among the Nordic nations.

#### **4.4. Navigating on thin ice around Svalbard: Unravelling Geopolitical Complexities in the Arctic Amidst the Russia-Ukraine Conflict, NATO's Enlargement, and China's Strategic Engagement**

Svalbard is a microcosm of hybrid threats arising from global escalatory geopolitical moves. In a context of a changing Arctic landscape and governance challenges in the Arctic region, particularly in light of the ongoing Russian aggression against Ukraine and the deepening strategic partnership between Russia and China, Svalbard is a case in point to illustrate the complex interplay among environmental pressures, security threats, geopolitical dynamics, and economic interests. With China increasingly identifying itself as a “near-Arctic country” and in view of NATO's enlargement and escalatory militarisation, the geopolitical landscape in the Arctic has evolved towards requiring nuanced assessments of the multifaceted dimensions of strategies in diplomatic approaches, conceptual underpinnings, and policy-oriented implications in the context of global power dynamics. The investigation of the intricate interplay among the Russia-Ukraine conflict, NATO's enlargement, China's strategic engagement, and the challenges facing the Arctic Council must incorporate a multidisciplinary lens encompassing political science, international relations, security/war studies, intelligence studies, history, and international law, to unravel the geopolitical complexities shaping the Arctic region and to assess how these global challenges influence Arctic governance and the strategic positions of Norway and other Arctic states. This assessment goes beyond the scope of this thesis but is a further requirement for this study.

As shown, the High North has witnessed significant changes driven by global climate shifts in the Age of the Anthropocene. These transformations are intertwined

with notable trends, including increased commercial shipping and heightened fisheries and oil interests, coupled with a surge in militarisation within the region. Impactful geopolitical events, namely the Russian aggression against Ukraine and NATO's enlargement, coupled with the accelerated thawing of the Arctic, have caused Svalbard to swiftly emerge as a flashpoint of geopolitical tension and as an arena for power projection (Østhagen *et al*, 2023; McVicar, 2021). The confluence of these events has heightened geopolitical tensions with repercussions extending to the Arctic. As these global challenges intersect, understanding their implications for Arctic governance in relation to Svalbard becomes imperative. Owing to its strategic positioning, the Arctic is now regarded as a prospective alternative communication route for the future. Consequently, these developments have sparked intense inter-state competition and rivalry among the Arctic littoral states, as control over the region is deemed crucial for asserting supremacy in the 21st-century global arena (Wither, 2018; Østhagen *et al*, 2023).

Contrary to the common misconception of an impending war in the Arctic, Østhagen (2024) highlights the region's stability and settlement by emphasising the complexity of triggering conflicts, given the vast distances and eight countries involved, including Russia, the Nordic states, the USA, and Canada<sup>171</sup>.

Environmentally, Svalbard has witnessed alarming warming, six times higher than the global average, impacting wildlife and scientific activities. Economically, shifts away from coal mining to increased tourism post-COVID are evident, affecting Russian towns on the islands. Geopolitically, amid east-west tensions, Svalbard faces external pressures despite the 1920 Spitsbergen Treaty. Recent international challenges involve disputes relative to fishing rights and objections from China regarding research restrictions<sup>172</sup>. Security concerns include incidents like the severance of an underwater cable, and Svalbard, despite the enlargement of NATO, is perceived as a potential pawn in regional power competition. The upcoming Norwegian government's White Paper in 2024 aims to address evolving dynamics, reflecting international interest in

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<sup>171</sup> See: <https://www.forskning.no/arktis-fridtjof-nansens-institutt-klime/blir-det-krig-i-arktis-forskere-avliver-tre-myter-om-nordomradene-1/2308549>

<sup>172</sup> See: <https://www.thearcticinstitute.org/identity-relationship-building-china-arctic-diplomacy/>



Norway's approach to Arctic geopolitical complexities. Most recently, Norway made an unprecedented move, being the first country to open its continental shelf for mineral exploration<sup>173</sup>, as will be explored in Chapter Five.

The Arctic region is undergoing rapid and irreversible changes due to the intersection of global geopolitics and climate change, making it a critical “tipping point” of a breakneck speed of irreversible change (Young, 2012, p.75). While receding sea ice opens opportunities for shipping, resource extraction, and tourism, the melting permafrost, increased shipping pollution, and competition for fisheries exacerbate the adverse effects of climate change. The Arctic serves as a laboratory for understanding climate change and complex governance dynamics influenced by global factors.

The confluence of the Russia-Ukraine conflict, NATO's expansion, China's Arctic strategy, and challenges within the Arctic Council adds complexity to the geopolitical landscape. These dynamics, particularly focused on Svalbard, impact the Arctic and Norway's strategic decisions and are therefore high on the policy agenda of the Norwegian government. Before the Ukrainian conflict, concerns about Moscow's response led to caution in NATO's Arctic involvement. Heightened military activity in the Barents Sea raised tensions, turning the once low-tension Arctic into a focal point for NATO cohesion assessment (Wither, 2018). Norway's influence pushed NATO to increase engagement in Arctic security, coinciding with Russia's transition from a challenging partner to a threat. This shift led to halted cooperation with Russia in the Arctic and exclusion from Arctic bodies. Finland and Sweden joining NATO, driven by Russia's actions, and the conflict in Ukraine suspended Arctic Council cooperation with Russia. Challenges in protecting infrastructure, the GIUK gap, and discussions on an offensive maritime strategy highlight NATO's Arctic focus (Blessing *et al*, 2021; Hassebrauck, 2023; Brańka, 2022; Güçyetmez, 2023).

NATO's enlargement impacts Norway's presence over Svalbard, creating geopolitical tensions and military implications for all NATO countries. Finland and Sweden joining NATO isolates Russia in the Arctic diplomatically. Russia's updated naval doctrine aims to counter Arctic encirclement, focusing on strategic locations. China's expanding Arctic involvement, marked by Arctic Council observer status,

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<sup>173</sup> See: <https://www.wired.com/story/norway-deep-sea-mining-arctic-svalbard-batteries-environment/>

emphasises scientific diplomacy and economic engagement, especially through the Ice Silk Road (Lanteigne, 2017). The growing Russian-Chinese interests in the Arctic and Baltic regions has potential implications for global geopolitics, and the Arctic exceptionalism, being detached from outer dynamics, or the epithet “High North, low tension” are no longer the context (Cinciripini, 2022). As NATO’s military leader, Admiral Rob Bauer, recently outlined, “A threatening Russia, a China with unclear intentions and a stronger interaction between the two – not least in an increasingly navigable Arctic Ocean, is seen through NATO’s north-facing binoculars”<sup>174</sup>.

In-depth transdisciplinary approaches shall contribute to the academic understanding of Arctic governance challenges in the context of geopolitical shifts, providing policymakers with insights to develop informed strategies that promote regional stability, sustainable development, and international collaboration. A qualified assessment on the subjectivities of politics will be unravelled in the next chapter under the angle of performativity of power. The relevance of the study lies in the pressing need to inform diplomacy-oriented military moves – and not the other way round – towards a double encirclement: Russia being encircled in the Arctic with NATO’s enlargement, and the Arctic being encircled in face of Russian-Chinese relations, the silk road and the northern sea routes. This broader context is the backdrop against which a narrower approach will be unravelled: Norway’s performativity of sovereignty over and around Svalbard.

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<sup>174</sup> See: <https://www.highnorthnews.com/en/natos-military-leader-we-must-be-prepared-military-conflicts-arising-arctic>

## Chapter Five:

### Norway's performance and performativity of sovereignty in Svalbard

Based on the elements gathered in the previous chapter, the aim of this chapter is to analyse these dynamics at the UN and NATO as part of a Norwegian foreign policy to consolidate its favourable position in the Arctic governance system. Hence the issue of the performance and performativity of sovereignty as a feature of this Norwegian foreign policy, which makes a lot of sense to stabilise (in the sense of (re)write) a Norwegian identity that is national, regional (in the sense of being Arctic) and global at the same time. A brief literature review of performance and performativity will set the context for assessing the dynamics of Norwegian foreign policy at the UN and NATO, followed by some application of this theoretical assessment of sovereignty both as discourse and practice to the field of Svalbard.

#### **5.1. Performance and Performativity: contending sovereignty as non-essential.**

The processes of defining and redefining the boundaries in the Arctic highlight the interconnected nature of power and knowledge in shaping our perception of reality. This underscores the significance of the performative aspects inherent in discursive practices. Performativity, as a concept, implies that specific actions, behaviours, or statements actively contribute to shaping social realities rather than merely describing or mirroring them. As per Foucault's theory of knowledge (1970), power operates through discourse, and language and knowledge function as tools of power, defining and regulating social norms, institutions, and subjectivities. In this context, performativity also influences the dynamic boundaries in the Arctic, necessitating constant reproduction, cognitive and symbolic representation, and enactment in everyday experiences.

Drawing from the insights of scholars like Michel Callon, Michel Foucault, and Erik Swyngedouw, the concept of performativity has been widely embraced and applied across diverse academic disciplines. Performativity, a concept found within

various theoretical traditions, has emerged as a crucial framework through which social theorists and scholars scrutinise the construction and negotiation of social realities, as well as the socially and normatively accepted behaviour. In simple terms, it suggests that certain actions, behaviours, or statements actively contribute to shaping social realities, rather than merely describing, or mirroring them (Nanni *et al.*, 2024).

For instance, Callon's exploration of the performativity of economics (1998) illuminates the pivotal role that economic theories and models play in shaping actual economic circumstances. Foucault's investigations into the interplay between power and knowledge underscore the performative aspects of discursive practices. In the domain of political ecology and critical geography, Swyngedouw delves into how performative processes influence power dynamics and the construction of socio-environmental imaginaries. Thus, these theorists offer distinct perspectives on how performativity actively contributes to the creation, replication, and transformation of social realities across various contexts and scales. In sum, performativity emphasises that social realities and identities are not static; instead, they are in a constant state of (re)construction through language, the production of knowledge, and political processes (Nanni *et al.*, 2024).

As elaborated in the previous chapter, power is a determinant of outcomes both within the UN/CLCS and NATO. When it comes to the delimitation of the continental shelf, conflicts arising from treaty interpretations and scientific uncertainties weaken positivist perspectives on the authority of the Commission (CLCS), especially when lacking scientific consensus. This limits the law's effectiveness, pushing dispute resolution into the political realm (Graben & Harrison, 2015, p. 774). Analytical interpretations of treaties fall short in explaining state interest mobilisation in international law, highlighting the insufficiency of focusing solely on legal text interpretation. This gap underscores the need to incorporate the performativity of power in understanding these dynamics. As Chapter Four introduced, the significance of performativity is emphasised in observing the unique international event of determining extended continental shelf limits in the Arctic. States are expected to establish definitive legal rights by adhering to international law, demonstrating the

practical impact of performativity in shaping legal and sovereign expectations (Graben & Harrison, 2015).

According to a recent survey, a significant majority of Norwegians believe that Norway's participation in the NATO military alliance enhances the security of the country, a perspective accounted for 80 percent of the survey respondents. Within the Norwegian parliament, the stance advocating Norway's withdrawal from the military alliance is only held by the two left-wing parties—the Socialist Left Party and the Red Party<sup>175</sup>.

Norway faces several concerns, including the imperative to maintain peaceful regional relations, dispel the notion of Svalbard as a “shared international space”, and assert its stance on Svalbard's maritime zones (Østhagen *et al.*, 2023). Consequently, Norway must persist in educating its neighbours, NATO, and other stakeholders about the unique characteristics of this region and the associated challenges it presents (Østhagen *et al.*, 2023). In this context, Norway's performativity of sovereignty with regard to its membership to NATO requires heeding attention to escalating security concerns in the Arctic while trying to recover the expression “High North, low tension”, which aptly captures Norway's preference for a functioning international system, more broadly, and its Arctic relations, more narrowly, particularly concerning its relationship with its Russian neighbour (Nanni *et al.*, 2024).

It is of utmost importance for Norway to performate within the UN and NATO when the object at stake is Svalbard. Even though Norway possesses undisputable sovereignty over the archipelago, the maritime, mining and democracy imbroglios highlight the significance to validate this sovereignty. Although Svalbard falls under Norwegian sovereignty, its governance is grounded in international law, which leads some to posit that Norway's sovereignty over Svalbard is not as unqualified as asserted by the Norwegian government. Consequently, Norway must consistently reaffirm this sovereignty through economic endeavours, national laws, and international collaboration (Grydehøj *et al.*, 2012).

The unpacking of sovereignty as a feature that must not be taken for granted has performativity as cause and consequence of sovereignty, insofar as sovereignty

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<sup>175</sup> <https://www.statista.com/statistics/1294333/survey-perception-nato-membership-norway/>

relies on performance deeds to be both established and reiterated. By the same token, sovereignty functions as both the medium and the outcome of state practices (Edwards, 2020). The fixation of that feature, however, provokes the illusionary outcome of naturalness and intrinsicity. As previously shown, sovereignty has been a foundational element of international relations scholarship since the inception of the discipline. Through a series of theoretical simplifications, this concept has taken on a life of its own, being treated as an inherent reality that exists independently of its practical and discursive manifestations. Instead of emerging from accumulated real-world practices, sovereignty has become an unquestioned and fixed state of existence (Edwards, 2020).

The application of performativity hereby serves as a valuable instrument in deconstructing discourses of sovereignty. The assessment of sovereignty as a performative concept unveils the emergence of the sovereign subject through discourses, offering a non-essentialist perspective on the concept. This approach posits that the subject exists within discursive practices, devoid of inherent priority over the discourses, including those that contribute to its own formation (Mathieu, 2021). This deconstruction entails reconceptualising the sovereign subject. The analysis of the sovereign subject through a performative lens underscore how the foundations of the sovereign state are not only discursively constructed but also involve the performance of sovereignty with an inherent connection to an 'Other'. Contrary to the common association of sovereignty with independence, a sovereign self cannot exist in isolation; it is contingent upon the presence of others, whether sovereign or non-sovereign (Mathieu, 2021). It equally entails unpacking the sources of power and authority. By understanding how sovereignty is discursively performed, performativity sheds light on the intricacies of the power dynamics inherent in the sovereign state. This analysis helps unveil the interdependence between the sovereign and the discourses that legitimise its authority (Mathieu, 2021). Furthermore, the denaturalisation of sovereignty requires challenging entrenched and reiterated realities associated with the sovereign state. The study of performativity, then, serves to disrupt and reevaluate prevailing notions surrounding the nature of sovereignty (Mathieu, 2021).

Performance has evolved into a subject of institutionalised research from the 1980s, leading to the establishment of performance studies as an interdisciplinary field. This domain, originating largely from drama departments, encompasses various areas such as ritual and play theories, performativity, performing as a practice, performing processes, and intercultural performance. The expansion of performance studies has grown substantially, making it challenging to delineate its academic boundaries. Richard Schechner, considered the pioneer of this field, emphasises that performance studies resist or reject a precise definition (Velten, 2012). Furthermore, the intertwined evolution and migration of the concepts ‘performance’ and ‘performativity’ pose challenges, as neither usage has fully displaced nor seamlessly accommodated the other (Velten, 2012).

As Hans Rudolf Velten (2012) argues, the concepts of “words do something in the world” (Austin) and “saying makes it so” (Searle) are often regarded as “carry-home-concepts”, encapsulating valuable yet easily understandable ideas that can be detached from their original context without significant loss. These concepts are indeed collectively dubbed as “performativity”, playing a crucial role in addressing diverse intellectual challenges (Velten, 2012).

Drawing on Michel Foucault’s (1991) concept of governmentality, which provides a fruitful framework for delving into people’s relationships with territory rather than the territory itself, sovereignty can be scrutinised as a social and cultural performance (Roszko, 2015). This performance is carried out by both state and non-state actors, and it is further amplified by the influence of mass media, cartographic representations, and national discourses. Foucault’s insight posits that state governmentality is more concerned with effectively managing the population and its connections to resources, territory, customs, ways of acting, and thinking than merely exercising sovereignty within a given territory (Roszko, 2015).

Tanja Aalberts (2004) proposes a shift in understanding sovereignty by moving away from foundational meaning and instead recommends analysing it through a Wittgensteinian language game, emphasising the pivotal role of recognition. Ultimately, the ability of entities to act as sovereign states is facilitated by the recognition they receive from other states, who acknowledge them as equals.

Recognition, therefore, emerges as the pivotal element determining the existence of sovereign states within the international community (Edwards, 2020).

Aalberts (2004) argues that essentialist readings of sovereignty have ideological consequences, particularly in terms of legitimating political actions aimed at restricting perceived key elements of sovereignty. In taking a performative approach to understanding sovereignty as both discourse and practice, Nico Edwards (2020) demonstrates how the idea of a sovereign state as an essential concept is not a harmless intellectual mistake (Aalberts, 2004). In other words, theoretical simplifications are essential to the concealment of sovereignty as a political practice (Edwards, 2020).

In line with a critical view on sovereignty as an intersubjective and institutional fact constructed within a broader discursive framework, with its meaning dependent on its usage, an appreciation of the practices and discourses that shape the institution of sovereignty is made necessary. Tanja Aalbert's (2004) analogy of sovereignty as a language game, drawing inspiration from later Wittgenstein, underscores the shift from positivism to post-positivist approaches in international relations theory. Language is portrayed not merely as a neutral medium to represent an external reality but as an active form of action, with meaning derived from its use in the language. Wittgenstein's concept of language as a game highlights the importance of shared rules in understanding the relationship among language, action, and meaning. Aalberts (2004) suggests that sovereignty is a practical category, and its empirical contents evolve based on active practical consensus among statesmen, emphasising the role of constitutive rules in shaping the conditions of possibility for sovereign actions. The concept of sovereign statehood is not an independent and pre-existing entity but is rather constituted and regulated by diplomatic practices and international legal discourse (Edwards, 2020).

The lack of recognition of Norway's sovereignty over the extraterritorial waters around Svalbard requires understanding how the meaning of sovereignty is shaped through intersubjective actions within a normative framework and, by using Aalberts' lenses, on elucidating how these actions contribute to the negotiation and (re)construction of state sovereignty. As Aalberts (2004) argues, in essence, recognition is genuinely constitutive – it does not regulate only, but actively creates the



possibility of sovereign statehood, a concept that does not exist until formally acknowledged. Constitutive rules, by their nature, bring into existence what they describe. Therefore, recognition is not a result of ‘empirical statehood’; rather, it operates in the opposite direction. International society allocates the supposed qualities of ‘sovereign statehood’ to various entities through recognition, making it a political act and a tool of statecraft (Edwards, 2020). In this framework, law serves as a means of distribution and discipline. It can be argued that the norm, in this case, is the creator of the fact. While the criteria and practices of recognition may evolve with changes in international society, the fundamental constitutive nature of the rule, and its resulting consequences, remains intact (Edwards, 2020).

Building upon Bergson and Deleuze, Hannes Černý (2023) proposes an interpretation of sovereignty as virtuality. In this conceptualisation, past and present exist concurrently, and sovereignty, treated as virtual, may or may not manifest in statehood. With this exploration, the disentanglement between sovereignty and statehood becomes evident. Norway’s attestation of sovereignty over Svalbard’s extraterritorial wates depends on the constitutive statehood that law would bring into existence. However, there are many possible laws and no final legal solution, meaning that the answer resides beyond law. What philosophical means of distribution and discipline would ascertain that sovereignty? The answer lies in the power of performativity to ascertain that sovereign statehood over contested waters. Statehood, in this sense, would be constituted by law, and sovereignty should manifest in statehood in order to ascertain that sovereign statehood through performativity.

Making a parallel with Gëzim Visoka’s (2018) unpacking of the constitution of sovereignty for case of Kosovo, the establishment and reinforcement of sovereign statehood, along with the resolution of external challenges, involve the significant influence of everyday, prudent, and context-specific discourses, as well as diplomatic performances and interconnections. The successful consolidation of sovereign statehood, according to this author (Visoka, 2018), results from a situational assembly of diverse discourses, enacted through a wide array of performative actions, and influenced by intricate entanglements with global norms, actors, relations, and events. This perspective highlights the importance of understanding the everyday aspects of

diplomatic practices, revealing how micro-level actions contribute to macro-level dynamics in world politics.

The debate on sovereignty and law presupposes discussions on precedence of both – what comes first: does law legitimate a sovereign or is it the other way round? It also presupposes debates on the origins as much as the outcomes of power and legitimization. Performativity is imbued with perceptions and needs to stabilise sovereignty through performance of power and statehood.

As Aalberts proposes (2004) and Edwards (2020) elaborates, especially significant in the context of the discussion on sovereignty as a language game is the inquiry into what defines the standard of “real statehood”. Supposedly, in the traditional game, the legal framework was logically positioned behind the practical realities. In this classical game, participants are those possessing domestic authority and power, making them credible on the international stage – essentially, they embody “empirical statehood”. Therefore, classical sovereign states exist independently of the game; the game is established merely to facilitate their interactions. In this view, the game serves to regulate existing activities (specifically, international relations) among pre-existing actors, losing its constitutive character in relation to the players themselves. According to this perspective, international law (whether natural or positive) is a product of states, not their originator, presupposing the existence of “empirical states”. The traditional sovereignty game is shaped by established, classical states, which, in turn, define and shape the rules for new participants.

Hence, it can be argued that two distinct notions of games coexist: a rational choice game in the case of the “classical sovereignty game” and a language game (following speech act theory) concerning postcolonial states. The latter emphasises the intersubjective nature of (quasi-)states and recognises the game's constitutive role in shaping the very existence of new players. Postcolonial states, in this perspective, are not self-contained entities, as their domestic foundations are supported from an international legal standpoint – at least for the time being (Aalberts, 2004; Edwards, 2020).

To a certain extent, Norway’s bid of sovereignty over Svalbard’s extraterritorial waters shall comply with a script of narratives and deeds similar to those entailed in a

postcolonial state's attempt at ascertaining sovereignty. Although all states are equally sovereign in view of law, some states are more sovereign than others. By the same token, albeit no sovereignty is a pre-given and uncontested qualification, some sovereigns require more legitimation than others.

Sovereignty as discourse it at the core of the advocacy for performativity of sovereignty, especially in cases such as the one at stake, wherein the validation of sovereignty as an institutional fact relies on its reality being shaped within and sustained by a broader discursive framework. Or, as Aalberts (2004) reminds us, it requires post-positivist approaches as an inter-relational and intersubjective construction. As a result, the interpretation of sovereignty relies on its application. Despite commonly portraying this meaning as static, it is crucial to recognise the practices and discourses that underpin and shape the institution. Sovereignty is portrayed as a pragmatic concept but it has empirical contents that are not rigid and evolve dynamically, mirroring the active processes at play (Aalberts, 2004).

Contrary to rationalistic partakes, post-structuralism neglects the agency of a rational and uniform state and, instead, problematises the constant dispute around meanings. Sovereignty, being an "empty signifier" (Laclau & Mouffe, 1985), is a concept void of essential meaning, and, when producing discourses, states must always reinforce intended meanings, consequences, or connotations as they have no control over the system of significations, which is unstable. In accordance with Jens Bartelson (1995, p. 2), rhetoric constantly modifies conceptual systems or discourses in contestations, which generates interpretations that are more unexpected than intended.

The aforementioned bordering processes hereby assume significance as analytical tools for a post-structuralist partake on the performativity of interactions. In this sense, the appraisal of physical bordering should ponder the interaction between territorial defence and how the Other shall perceive such steps (Wilhelmsen & Gjerde, 2018b). By the same token, the Othering processes and the Inter-subjective boundaries constitute state practices of representation as a sovereign identity or, as David Campbell (1992) dubs, Foreign Policy. Foreign Policy, being a performative reproduction of particular modes of subjectivity, is a boundary-producing practice that enables the constitution of political subjects as unstable effects of power

representations (Laffey, 2000, p. 431). Once state representational practices effect subjectivity, they constitute the inside and the outside, the domestic and the foreign (Laffey, 2000). Sovereign states are not pre-given entities, but rather the ontological effects of the performative enacting of practices (Weber, 1998).

In his book “Writing Security”, Campbell delineates how sovereignty relies on performative acts, forming and upholding its own identity. Campbell employs the analogy of the performative acts associated with gender and the body to illustrate this idea. He proposes that, akin to the performative constitution of gender and the body, the state’s constitution is also performative. Campbell suggests that the state lacks ontological status independent of the acts that bring about its reality. Its role as a sovereign presence in world politics is established through a discourse of primary and stable identity. The identity of any particular state is seen as “tenuously constituted in time...through a stylized repetition of acts” (Campbell, 1998, p. 10) and achieved not by a founding act but rather through a regulated process of repetition<sup>176</sup>.

Laffey (2000, p. 434) justifies the combination of performativity with post-structuralism on the grounds that:

“Post-structural scholars (and many others) claim that we live in a period of dramatic and profound change. But performative accounts of subjectivity often emphasize the reproduction of the self. The seeming tension between these two positions offers a place to begin in analysing the politics of performativity”.

Since the assessment of Norwegian-Russian relations are inescapable of departing from and resulting in approaches to governance, it is also necessary to locate those relations in the contingency of transnational transformations that impact non-territorial movements and an assemblage of flows, including ecological ones, which rearticulate spaces, reform identities and ultimately cause various struggles over boundaries, physical or abstract (Laffey, 2000, p. 434).

Judith Butler’s (1990) theory of performativity and her widely known concept of “doing gender” hereby means “doing statehood” through a bordering process of discursive reiterations that cause (mis)perceptions and lead the other to perform in a certain way, which causes a “looping effect”. Ian Hacking (1999, p. 104) dubbed these

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<sup>176</sup> See: <http://web.isanet.org/Web/Conferences/FLACSO-ISA%20BuenosAires%202014/Archive/410abe7d-4e45-44be-ada5-2028b8264b7e.pdf>

interactional dynamics as “looping effect” insofar as “there can be strong interactions. What was known about people of a kind may become false because people of that kind have changed in virtue of how they have been classified, what they believe about themselves, or because of how they have been treated as so classified. There is a looping effect”.

Just like Butler (1990) challenges the assumption that there is a “natural” sexual dichotomy that serves as a stable substratum for gender, this study hereby aims to denaturalise the dichotomies that Russia and Norway perform as a means to shed light on bordering practices that lead to misperceptions and possible “looping effects” of militarisation. Performativity, being linked not only to the formation of sovereign subjects but also of bodies (territories), is important to grasp the production of interactions so as to suggest a new way of dealing with differences that could otherwise lead to conflicts.

One can hereby trace a parallelism, wherein performativity reinstates the formation of Norway and Russia as Arctic sovereign subjects but also the production of their bodies as sovereign territories. Beyond a materialist partake on performativity by means of sovereign territories and just as Tracy Morison and Catriona Macleod (2013, p. 3) use performance to supplement performativity by furnishing the analysis of performativity with a narrative-discursive methodology, this study interrelates performativity with performance, in the sense that these states become subjects and doers only as a fiction. Butlerian theory based on Nietzsche states that, since there is no being behind doing, acting or becoming, it is thanks to performed deeds that the doer manifests itself, albeit only as an illusionary subject (Morison & Macleod, 2013).

Morison and Macleod (2013, p. 4) contend that the narrative-discursive method serves as an analytical approach to tackle “subject positioning and interactional trouble within the micro politics of particular localized discursive contexts”. However, they criticise its assertion that interactive accounts derive from overarching societal meanings, arguing that this perspective “does little to acknowledge that these resources are dynamic and changeable” (Morison & Macleod, 2013, p. 4). According to the authors (Morison & Macleod, 2013, p. 5), “Butler’s theorization of performativity and of gender trouble (...) helps to account for both the entrenchment of norms and their

instability and permeability”. Considering “changes within continuity” (Hansen, 2006), a post-structuralist perspective on performativity becomes essential for addressing (mis)perceptions of evolving scenarios and the instability of discourses. As such, it is an incipient though insightful perspective to evaluate the relations between Norway and Russia in the Arctic.

In accordance with Neumann & Sending (2020), “statehood is confirmed and secured through actions that manifest or make the state visible and tangible beyond the taken for granted aspects of the state’s embedding in society”. Butler had described gender as a “persistent impersonation that passes as the real”. If we think likewise of sovereign states, then it is possible to evince the co-constitutive process of foreign policy as a boundary-producing practice through discourse and identity. The instability of statehood as a subject performatively effected and thereby dependent on consistent performative reiterations to demarcate that subjectivity unmasks spiralling interactions that may even potentialise patterns of deterioration due to looping effects.

Cynthia Weber (1998, p. 90) contends that “performativity disseminates and decentres meanings so that all meanings are ultimately undecidable”. When Weber (1998) applies to state and sovereignty the reasoning that Butler (1990), based on Nietzsche, had elaborated on sex and gender, that is, that those are “discursive effects of performative practices”, then there is admittedly no sovereign state behind expressions of sovereignty, which renders the state “an in-between space”, trying to re-stabilise meanings of Self and Other due to the sheer lack of a foundational ontology (1990). Since Foreign Policy addresses are the enactment of this attempt to solve the inexistence of being sovereign by means of insisting on the sovereign subjectivity in “a persistent impersonation that passes as real” (Weber, 1998; Butler, 1990), a discourse analysis is necessary in order to grasp this “proliferation of performances” in “crisis of representation” (Weber, 1998).

In her seminal book “Simulating sovereignty: Intervention, the state and symbolic exchange” (1995), Cynthia Weber contends that the polysemic concept of sovereignty, beyond being an ontological status, translates statehood in the political practice of constituting and stabilising the concept’s meaning of it as a political identity, conforming a perpetual struggle to write the state by means of boundaries,

competencies, and legitimacies. Notwithstanding the ontological consummation and the epistemological need relative to transmute sovereignty within governance frameworks, these comprise power relations charged with performativity struggles to reinstate the sovereigns. In other words, these power relations in practice within governance not only entail performance through status, recognition, and audience, but also performativity, in the sense of the practices through which states come to being states. Performative sovereignty for the case at stake contributes to assessments of maritime law, environmental, economic and security policies, and of the concept of performativity itself. Not least importantly, these interactions equally imply stigmatisation based on (mis)conceptions and (mis)interpretations, with ensuing looping effects, as will be shown.

In crucial situations, the acknowledgment of state sovereignty becomes an act in itself: recognition contributes to the establishment of sovereignty, paradoxically, as it seems to merely mirror it. Performative assertions of sovereignty are likely to gain recognition when the individuals carrying them out are socially aligned with their audience. This necessitates an examination of the social dynamics among the agents representing sovereignty externally, such as diplomats, and the broader relationships in which they are situated (Brundage, 2023).

When assessing the linguistic performativity of hate speech, Judith Butler (1997, p. 363) argues that fascination with performativity arises from the assumption that deeming speech as conduct operates simultaneously in various political spheres pursuing political objectives that are not always easily reconcilable. According to her, utterance is conceived not merely as a representation of ideas or its verbal byproduct but as a powerful mode of existence for authority. This phenomenon can be seen as the “linguistification” of the political field, a transformation for which discourse theory bears minimal responsibility (Butler, 1997, p. 353).

For Butler (1997, p. 357), the authority of the state’s judicial language in establishing and upholding the boundaries of publicly permissible speech implies that the state’s role goes beyond mere limitation; it actively shapes the realm of socially acceptable discourse. The state not only draws the line between what can be spoken and what cannot but also retains the authority to create and sustain this consequential

demarcation. Butler (1997) argues that the attributed power to speech encompasses absolute and effective agency, operating with performativity and transitivity simultaneously—it both enacts what it communicates and fulfils the stated intentions towards the addressed party in the speech act.

Butler (1997) contends that the invocation of the sovereign performative occurs against the backdrop of a political landscape where power is no longer confined within the traditional sovereign structure of the state. Dispersed across various and competing sectors of the state apparatus, as well as diffusing through society in diverse forms, power cannot be easily or definitively traced back to a singular subject that embodies it, such as a sovereign representative of the state.

Drawing on Foucault's assertion that contemporary power relations emanate from multiple possible sites, she argues that it becomes evident that power is no longer bound by the confines of sovereignty. Language, then, surges as a displaced arena of politics insofar as it functions as a tool to emphasise the displacement of power and an attempt to revert to a simpler and more secure mapping of power, one wherein the assumption of sovereignty can be reinstated (Butler, 1997, p. 357). The windows of opportunity for the workings of power through language exist because what is expressed is never precisely identical to the intended meaning, and it is within this fortunate lack of commensurability that the linguistic opportunity for change exists (Butler, 1997, p. 377).

## **5.2. Performativity of Norway's Sovereignty over Svalbard: Conceptual Framework**

This thesis does not contest that Norway is sovereign over Svalbard, but its methodology aligns with this anti-foundationalist view of sovereignty as not merely a characteristic of a state but rather as a performative process. The concept of performative sovereignty, as proposed by Tanja Aalberts (2004), provides a framework for understanding the apparent contradiction between sovereignty as a state attribute and a right inherent to the people. Moreover, this thesis does not aim to problematise Norway as a sovereign over Svalbard. Rather, it unpacks this sovereignty – and the claim for sovereignty over the extraterritorial waters – as predetermined, which thereby



require being shaped through linguistic performance. Subjectivities rely on language acts to solidify over time and, since performativity, in connection with performance, provides insights into the reshaping of languages, identities, and change, languages are also focused here from an anti-foundationalist standpoint (Pennycook, 2004, p. 2).

With this disclaimer, it is interesting to situate the domains of performativity of power at the object studied, that is, the sources of performative sovereignty of Norway over and around Svalbard. By describing the co-constitution among Norwegian foreign policies and Norwegian national identity through a discursive and political practice, Jensen (2017, p. 15) argues that “Those who formulate foreign policy usually present Norwegian identities as though they were objectively given, while, in fact, such explicit or implicit claims of objectivity are themselves necessarily reproductive performances”. Likewise, basing on Cynthia Weber’s concept of sovereignty, on Judith Butler’s concept of performativity and on Ian Hacking’s concept of “looping effect”, this study argues that Norway’s continuous efforts to perform its sovereignty (Weber, 1995) as a means to render its statecraft performatively sovereign (Butler, 1990) render interactions and misperceptions in a “looping effect” (Hacking, 1999) that ultimately foster militarisation and a “security dilemma” (Booth, 2008).

The three major conundrums for Norway’s performativity of sovereignty over and around Svalbard – the maritime imbroglio, mining, and democracy – will be assessed by unpacking “floating concepts” and “empty signifiers” (Laclau & Mouffe, 1985) revolving around narratives and practices aimed at performing Norway’s sovereign statehood. Ernesto Laclau and Chantal Mouffe (1985) define empty signifiers as terms that simultaneously articulate themselves and construct systems of meaning while requiring the reinforcement of a prevailing order due to their inherent emptiness. Despite their elusive nature, these conceptual links can acquire meanings and comply with a diverse array of demands through past fixations, influencing contemporary articulations and contaminating interpretations. Laclau’s and Mouffe’s (1985) elaboration on “empty signifier” (alongside their elaboration of “floating signifier”) thus provides theoretical and analytical grounds to grasp the panoply of uses of concepts such as sovereignty, security, environment, sustainability, and, more generally, democracy, among a broad array of empty signifiers.

In the context of Norway's Foreign Policy, this diverse use creates a temporary, homogenous narrative that seeks to naturalise an identity as a bastion of the environment under the umbrella of an empty container like sovereignty. This approach helps reconcile potential contradictions and materialises different instantiations of that identity across various fields. Conversely, the empty signifier, in order to serve different purposes, conceals its "missing fullness" behind a coherent chain of equivalence. Its openness allows it to flexibly adapt or even twist meanings in accordance with the dominant use in each context (Laclau, 1996, p. 57-58).

It is noteworthy to relate two of the arguments hitherto presented. On the one hand, Hans Rudolf Velten (2012) posits that performativity underscores the notion of executing or accomplishing an action, with its origins traced back to Austin's incorporation of performative verbs in his theory of speech acts. Positioned within the linguistic or analytical framework, performativity is intimately connected to language "acts", delving into the pragmatics of language. As presented, the statements "words do something in the world" (Austin) and "saying makes it so" (Searle) are identified as "carry-home-concepts", signifying that they convey a valuable yet not overly intricate idea (Velten, 2012). These concepts can be detached from the specific circumstances of their formulation without significant loss and are capable of effectively addressing a wide range of intellectual challenges or problems (Velten, 2012).

On the other hand, we have the elaboration of Laclau and Mouffe (1985) on empty signifiers as terms that articulate themselves and construct meaning systems while relying on the reinforcement of a prevailing order due to their inherent emptiness. Despite their elusive nature, as we saw, these conceptual links can acquire meanings and adapt to diverse demands through past fixations, influencing current articulations and interpretations.

Speech acts are not ready-made ideas and, just like floating concepts, they need performativity in order to achieve accomplishment or execution. Similarly, both can be detached from the particular conditions of their origin without notable loss and can be effectively applied to a diverse array of cognitive quandaries or predicaments. Furthermore, they both rely on discourse in order to come into reality, even if some deem this a "virtual" reality (Černý, 2023).

The first argument focuses on the concept of performativity, which underscores the idea of actions being executed or accomplished, particularly within the realm of language “acts”. This perspective, rooted in Austin’s theory of speech acts, views statements as “carry-home-concepts”, indicating that they convey valuable yet easily understandable ideas applicable to a wide range of challenges.

The second argument delves into “floating concepts” and ‘empty signifiers’ according to Laclau and Mouffe (1985). Empty signifiers, characterised by their simultaneous articulation and construction of meaning, require reinforcement due to their inherent emptiness. Despite their elusive nature, these conceptual links influence contemporary articulations and interpretations, providing theoretical grounds to understand the diverse uses of concepts such as sovereignty, security, environment, and democracy.

Both arguments, while originating from different perspectives, share a common thread in exploring the performative nature of language and concepts within specific contexts, emphasising their practical implications and potential complexities. In sum, both require at the same time they enable (in the sense they are the conditions of possibility of) performativity in order to be enacted and acquire meaning.

A post-structuralist discourse analysis on the disputes around such an “empty signifier” (Laclau & Mouffe, 1985) as the concept of environment may point to divergent interests inasmuch as it may unveil how these uses impact the co-constitution among discourse, identity and foreign policy/Foreign Policy (David Campbell, 1992) and the relation between this co-constitution and the performativity of sovereignty. How do discursive practices revolving around environmental protection, for instance, serve as a pretext for Norway to performatively ascertain its sovereignty? While Norway has decided to halt most of its mining operations even at the expense of environmental coal waste, Norway is a target of criticisms for its environmental blueprint proactivity at the same time it is a major oil and gas exporter.

A discourse analysis on how Norway frames the concept of environment may point to divergent interests inasmuch as it may unveil how the country uses the concept as a means to stir regimes and to other Russia. Even if the two countries do not engage in direct military confrontation, they do already engage in territorial, legal, ideological,

and discursive confrontation for the use of resources or protection of the Arctic by equally defending a certain national identity in the international sphere. For the case at stake, Norway's performativity of sovereignty is a discursive practice rife with representations stemming from the co-constitution of discourse with identity and foreign policy. If, on the one hand, Norway is all in for economic exploration, it is "green" as a country.

In that sense, how can Norway produce sovereignty and become entitled as a sovereign over Svalbard via discursive practices, such as for the protection of the environment, which construct an authority over Russia by differentiating the Other with a self-identity representation that is environmental friendly, and how are paradoxes such as the mining presence for sovereignty or the oil and gas industry enabled by discourses aiming to conform a sovereign?

Norway's performativity stands out as an instrument of paramount significance for the country to assert its sovereignty. Drawing on Adam Grydehøj (2013, p. 12), who argues that the establishment of local democracy in Svalbard has led Norway to ascertain its sovereignty by means of informal diplomacy, performativity, in this case, also comprises informal diplomacy. Besides referring to previous literature on "the problematic meaning of full and absolute yet qualified sovereignty within the context of the Svalbard Treaty" (Rossi, 2015, p. 93), the analysis of performativity based on a post-structuralist discourse analysis may ultimately serve for a build-up of sovereignty reinstatements through representations and narratives.

### **5.3. The case of performativity of sovereignty for the maritime imbroglio**

Maritime disputes have often been marginalised in conflict literature, frequently portrayed as case studies, viewed as peripheral, and excluded from the broader discussion on inter-state conflicts (Østhagen, 2018). Moreover, maritime spaces are commonly depoliticised, portrayed as apolitical and based on technical, economic, and legal factors (Østhagen, 2018). The apparent depoliticisation of maritime disputes is a contradiction in face of the performativity of power, politics and discourse impacting

the enactment of sovereignty, which, for the case of the maritime imbroglio of Svalbard, go beyond legal interpretations and entail philosophical approaches of its subjectivities.

Andreas Østhagen (2024) dispels the widespread myth that melting sea ice in the Arctic will trigger a resource and land battle. He emphasises that, unlike many other regions, there is no ambiguity regarding borders in the Arctic. All boundaries have been clearly defined, with the last dispute between Canada and Greenland resolved in 2022. The importance of sea borders lies in resource management and potential conflicts, governed by the law of the sea, granting coastal states sovereign rights in their economic zones.

Drawing inspiration from Foucault, it is possible to raise the question of how the rules of governmentality adapt to the materiality of a landscape, especially one that is a seascape (Roszco, 2015). In light of the post representational approach to cartography, a new perspective emerges on the process of territorialisation, asserting that ‘a territory does not precede a map’; instead, it is the ‘mapping [that] activates territory’ (Kitchin 2010; Roszco, 2015). Edyta Roszco (2015) argues that, unlike land borders, sea borders cannot be visibly delineated, therefore states increasingly utilise human presence, installations, buildings, or other structures designed for human occupancy to signify their relationships with territory, generate historical evidence, and serve as the foundation for national claims and mapping.

The concept of a “boundary” in the ocean is inherently elusive insofar as establishing a maritime limit is fundamentally a technical procedure typically grounded in widely accepted legal principles. It manifests as a line on a map without the presence of defined physical markers, unlike a land border (Østhagen, 2019). Moreover, the depiction of “territorialisation of the sea” is a paradox, where the sea is treated as ‘land’ based on the simplified depiction of a map (Roszco, 2015). Nevertheless, as maritime boundaries delineate the operational space for states, companies, and individuals, the resolution of maritime disputes becomes a profoundly political process with potentially significant repercussions (Østhagen, 2019). This is because maritime territorialisation refers to, among other rights, the incorporation of the sea and its resources into the territory of a state (Roszco, 2015). Hence, as Østhagen (2019) posits, the politicisation

of maritime space underscores the importance of studying how states engage with disputes at sea.

The demonstration of sovereignty through the use of maps and counter-mapping is a specific projection of a socially constructed image of the state's geographical entity, capitalising on strong nationalistic sentiments (Roszco, 2015). Drawing on Claudio Lomnitz' (2001) argument that to stimulate the nation's collective imagination, nationalism 'has to be tied to sites of local memory in effective ways', Edyta Roszco (2015) contends that the demarcation of maritime spaces as 'ancestral land' and national territory through local-customary fishing practices and man-made features constitutes a 'para-legal' performance of sovereignty. This not only 'creates' national soil and historical evidence but also functions as a technology for mapping the nation-state in a legible manner. It is precisely through such a performance, in a non-normative and destabilising manner, that an attempt is made to visualise the sovereignty and nationhood of modern states for a global audience (2015).

As noted in the previous chapter, Norway's national identity is grounded on its collective bonds to the seas, to the extent that the Norwegian government dubbed Norway as 'an ocean nation'. The enactment of Norway's territorial and ocean sovereignty in the Arctic not only intersects with regional and global networks but is also embedded in a nationalism of a maritime identity that traces back to the Viking Age.

The exploration of state prestige, a driving force behind the Norwegian *Drang nach die Arktis* (Drive towards the Arctic, Berg, 2013, p. 170), takes on added significance when considered within Norway's self-identity as an ocean nation. This quest, described as an effort to "place Norway in that position in the world of science that it was destined to by Nature", as articulated by oceanographers seeking state funding for their 1870s expedition (Berg, 2013), embodies a performative aspect of sovereignty. In a parallel vein, Nansen, in 1908, emphasised the role of Norwegian oceanographic research in bolstering the country's "national vanity". This strategic endeavour aimed to present Norway globally, preventing major powers from regarding the recently independent nation, post-union dissolution with Sweden, as negligible (Berg, 2013). Anchored in Norway's self-identity representation as an ocean nation,

this performativity of sovereignty unfolds as a deliberate and impactful demonstration, utilising oceanographic research to enhance visibility and garner recognition on the world stage<sup>177</sup>.



Image 19: North Pole Expedition Museum in Longyeabyen

Source: Natalia Neubern, 2022

This nationalism is enmeshed in Norway's performativity of sovereignty in face of Svalbard's maritime imbroglio in four major domains: fisheries management, oil and gas, coal mining on Svalbard, and, most recently, prospects of deep-sea mining. The following session will delve into these domains and explore the performativity of power for the enactment of Norway's sovereign statehood over them, which resorts to floating concepts such as security, environment, and sustainability.

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<sup>177</sup> Roald Amundsen stands as the most prominent Norwegian in pole exploration that garnered global recognition as having led the first expedition to reach the South Pole, in 1911, with dog sledges.

### 5.3.1. Fisheries Management

Norwegian-Russian interactions in the Fishery Protection Zone may be an issue of concern for escalation not only between Russian vessels and the Norwegian coast guard, but also in view of broader activities of Russian vessels in Norwegian waters (Østhagen *et al.*, 2023). These concerns are a product of a performativity of distrust and speculations of Russian intelligence gathering and hybrid activities in the Norwegian Arctic revolving around recent incidents such as the cutting of a crucial subsea cable for information technology on Svalbard in January 2022, which occurred after extensive operations by Russian fishing vessels in the area (Østhagen *et al.*, 2023).

The Fisheries Protection Zone (FPZ) around Svalbard has been the backdrop for several minor incidents involving Norway and Russia, specifically between the Norwegian Coast Guard and Russian fishing vessels. While none of these incidents have escalated into major conflicts, a few have taken on a state-to-state dimension as Russian authorities responded to Norwegian actions. Despite this, both nations have successfully prevented further escalation and resolved the issues at hand (Østhagen, 2018), which demonstrate possibilities also for positive feedback loop.

When Russian fishing vessels undergo inspections by the Norwegian Coast Guard in the Fisheries Protection Zone (FPZ), it is a customary practice for them to decline signing the inspection documents (Østhagen, 2018). According to Østhagen (2018), this symbolic gesture serves to underscore Russia's non-recognition of Norwegian authority within the Zone, even though they permit the Norwegian Coast Guard to conduct inspections on their vessels. This gesture is charged with performativity of Russia's denial of the FPZ. Moreover, the Russian Coast Guard has proposed joint fisheries inspections in the FPZ around Svalbard, but the Norwegian Government has consistently rejected such suggestions, as they would pose a challenge to Norwegian sovereignty and authority in the area (Østhagen, 2018). Likewise, Norway's refusal carries the performativity of such.

The floating concept of sustainability functions as a conducting wire for Norway's performativity of sovereignty also in the domain of fisheries management. In accordance with Geir Hønneland (2004), the Norwegian discussion regarding the



governance of Barents Sea fisheries has predominantly revolved around the concept of “sustainability”: whether the implementation of quotas aligns with sustainable practices and adheres to the precautionary approach to fisheries management. Within this overarching conversation, Hønneland (2004) explores two distinct discourse coalitions that thereby emerge, each sharing fundamental assumptions but differing significantly in their recommended solutions: the “official” and the “critical” sustainability discourses. Both iterations of the sustainability discourse assert that conflicts related to quota allocation primarily center on issues of sustainability, and both emphasise the well-being of fishermen’s households and coastal communities as the primary human goals in achieving sustainable fisheries management. The sustainability discourse nonetheless takes two divergent paths in addressing the aforementioned questions. According to the official variant, quota settlements are deemed sustainable. In contrast, the critical version of the discourse contends that management practices in the 1990s have pushed the Northeast Arctic cod stock to the brink of extinction. While it may have been deemed “necessary” to deviate from scientific recommendations in the quota settlements to uphold the bilateral regime with Russia, the critical perspective argues that such management practices have unquestionably not been sustainable.

When comparing these discourses with that of Russia, Hønneland (2004) deems it primarily state centred insofar as it regards the quota settlements on a 50-50 basis between Norway and Russia as a significant national confrontation between the two involved states. However, with regards to the maritime community discourse, Hønneland (2004) unveiled a surprising sense of “comradeship” among Russian and Norwegian fishermen and Coast Guard inspectors.

Albeit the halt in institutional cooperation between Norway and Russia in the aftermath of Russia’s full-scale invasion of Ukraine, the Norwegian government has managed to maintain bilateral collaborations on fisheries and resource management, border issues, and emergency preparedness. The cooperation in fisheries and resource management allows Norway and Russia to agree on the extraction of fish and fishing in each other's economic zones, crucial for the sustainable management of the world’s largest cod stock in the Barents Sea<sup>178</sup>.

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<sup>178</sup> See: <https://www.aftenposten.no/meninger/kronikk/i/GMV7ql/norge-samarbeider-med-russland-boer-samarbeidet-utvides>

Norway's decision to uphold collaboration in these areas conveys that the government's rationales revolve around three major argumentative narratives: Security policy arguments mainly focus on the importance of these collaborative areas in avoiding misunderstandings and escalation of unintended incidents, preserving geopolitical stability, and predictability in shared proximity. Legal arguments center around binding bilateral and multilateral agreements that, through Norwegian and Russian adherence, guide the continuation of these specific collaborative areas. Lastly, area-specific utility arguments emphasise the concrete benefits of the collaboration in question, with a particular focus on whether the potential negative consequences of discontinuing the collaboration would be disproportionately significant compared to the retained advantages of maintaining it.

Despite tensions following Russia's invasion of Ukraine, Norway chose to maintain the overall Norwegian-Russian fisheries and resource management collaboration, grounded in bilateral agreements dating back to before the dissolution of the Soviet Union. This collaboration regulates and controls shared fish stocks in the Barents Sea. Annual meetings between Norway and Russia set total quotas based on recommendations from the International Council for the Exploration of the Sea (ICES). After Russia's invasion of Ukraine, Russian participation in ICES was suspended, leading to the creation of a bilateral working group to ensure continued collaboration (Vyvial, 2023).

Arguments for sustaining this collaboration include security considerations, emphasising the need for stability and predictability in the northern regions despite geopolitical tensions. Another key argument is area-specific utility, highlighting the importance of sustaining the institutional collaboration for long-term, sustainable management of fish stocks in the Barents Sea. The government also points to legal obligations arising from the United Nations Convention on the Law of the Sea, emphasising shared responsibility with Russia for the conservation and continuation of fisheries collaboration in the northern regions. Critics question the government's commitment to national security, but the government maintains that decisions are aimed at preserving the sustainable management collaboration. Overall, the three main arguments are grounded in security policy, area-specific utility, and legal obligations (Vyvial, 2023).

Norway's othering of Russia in the domain of climate change in the Arctic revolves around narratives according to which the assessment on the extent and consequences of climate change in the north crucially depends on Russian data. Norway justifies this on the grounds that the Arctic has warmed three to four times faster than the global average and with worldwide impacts, and that Russia occupies half of the Arctic, with over 60 percent of its territory on permafrost. Science and politics play a symbiotic role in forwarding the argument, and several researchers emphasise that a lack of data on the Russian Arctic could create an 'irreparable gap' in climate science, particularly concerning permafrost measurements in Siberia, as permafrost thawing could lead to significant greenhouse gas emissions (Vyvian & Rottem, 2024).

An ongoing question in the discussion on research collaboration is whether data sharing could also have military implications. Is there a risk that Western researchers, through collaboration with Russians, might transfer knowledge for purposes other than agreed upon? (Vyvian & Rottem, 2024). The authors resonate an ethical enquiry on whether there is a principled and moral distinction between collaboration on fisheries and emergency preparedness, and what many consider to be the greatest challenge facing humanity— greenhouse gas emissions and global climate change (Vyvian & Rottem, 2024). As they point out, Norwegian authorities have been criticised as naive for continuing to collaborate with Russia, accused of being primarily self-interested. Despite the internationally disputed invasion of Ukraine, there is an argument that Norway should engage more, not less, with Russia. This stance, according to Vyvian and Rottem (2004), does not necessarily indicate capitulation; rather, it involves holding two thoughts simultaneously. Such apparently contradictory standpoint conveys the Norwegian discourse as not uniform but rather a compound, let alone ambivalent voice. A crucial question, as they highlight, is whether specific collaborative efforts could be construed as support for Russia's war in Ukraine, which unveils the anxious self towards ambiguous actions<sup>179</sup>.

Keil (2004) alerts against conceptualising the state as an unchanging entity distinct from the economy and civil society. Rather, it is a dynamic and contested realm

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<sup>179</sup> See: <https://www.aftenposten.no/meninger/kronikk/i/GMV7ql/norge-samarbeider-med-russland-boer-samarbeidet-utvides>

encompassing discourses, policies, and social relations, which are interconnected across various scales contributing to a continuously evolving landscape. It is also noteworthy, as she caveats, that that these relations do not coalesce around a single, shared focal point; rather, they generate fragmented institutions, priorities, and practices that often operate in tension rather than in harmonious balance.

The deconstruction of this double-sided thought entails the unpacking of a Norwegian self that equates to a mosaic conforming various layers, interests, and voices. Moreover, by pointing to possible risk assessments on the consequences of science and military diplomacy of the Norwegian-Russian conjoint management of fisheries onto broader policies, it is possible to evince a preponderant sense of care and responsibility in Norway's performativity of power towards Russia in fisheries management, insofar as it drives the actions and justifies the materialisation of them. All in all, the underlying alleged responsibility in the fisheries management as a drive for this performativity serves to make Norway credible for an exclusive zone around Svalbard thanks to Norway self-dubbed epithet as "a leading ocean nation"<sup>180</sup> and "a responsible player in the North (Jensen, 2011; Dale, 2019) and "a friend of the environment" (Jensen, 2017), in line with the country's performed commitment to ocean research and responsible marine resource management. In this sense, Norway's claim to responsibility is also a performativity.

In May 2023, the Arctic Council discussions recommenced as Norway assumed the chairship from Russia. Norway's performativity of power based on environment is also reflected in Norway's leadership of the council insofar as the country has prioritised four key themes of the mandate, which align seamlessly with Norway's Arctic policy: oceans, climate and environment, sustainable economic development, and the well-being of northern communities. Likewise, Norwegian performativity of sovereignty over Svalbard is greatly justified upon the pressing climate and environmental arguments, therefore Norway's chairship of the Arctic Council is a window of opportunity to showcase this purpose.

Despite the unquestioned sovereignty of Norway over Svalbard, debates have persisted since 1920 regarding Norway's adherence to the treaty and the

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<sup>180</sup> See: <https://www.regjeringen.no/en/topics/havet/the-ocean-nation-of-norway/id2609341/>

implementation of its provisions. Norway, as the sovereign authority, oversees all activities in the archipelago, yet citizens and businesses from various other countries engage in operations there. Criticism from certain treaty signatories has intensified over time, alleging breaches as Norway enforces more stringent environmental regulations, enhances the coordination of research activities, and imposes restrictions on specific types of activities, particularly with a focus on preserving the fragile environment of the archipelago (Østhagen *et al.*, 2023).

The Fisheries Protection Zone around Svalbard in the northern parts of the Barents Sea, established by Norway in 1977, faces non-acceptance from other states engaged in fishing in the area. To prevent provocation, Norway, until the arrest in 2001, refrained from apprehending violators in this zone (Hønneland, 2004).

As Øystein Jensen (2010) argues, the assessment of contemporary challenges related to the Svalbard Treaty involves not only interpreting the law of the sea but also navigating foreign and security policy concerns for Norwegian politicians. Tensions and perceptions of aggression, particularly from Russia, followed a more assertive fisheries management from Norway. As Jensen (2010) contends, while the focus is not on sovereignty over Svalbard itself, the management regime for the surrounding waters and continental shelf has caused foreign policy and legal uncertainty, creating potential security policy implications. Although incidents have been diplomatically resolved, they highlight the strain in relations between Norway and Russia, with concerns about the possibility of disputes escalating, even though the likelihood of large-scale military confrontation is considered low.

Jensen and Rottem (2010) regard incidents such as the 2001 seizure and the attempted seizure in 2005 as indicative of ‘low politics’<sup>181</sup>, as resolutions were sought through channels other than conventional military means. What is at stake is the way that agency constitutes the state as a subject that, albeit not necessarily unitary, conforms an identity by means of performativity, wherein different types of crisis call

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<sup>181</sup> In 2001, the Norwegian coastguard switched from a lenient policy towards demonstrating its authority by seizing a Russian trawler. Tensions flared up again in 2005 when Norwegians attempted to apprehend the trawler *Elektron* for fisheries violations, resulting in the ‘kidnapping’ of two Norwegian coastguard officers by the trawler’s skipper. While the situation was peacefully resolved, Russians perceived unfair treatment and viewed the Norwegian coastguard as an aggressive entity (Jensen & Rottem, 2010).

for different kinds of statehood responses and practices (Neumann & Sending, 2020). This means that even though the narratives and rhetoric, say, of physical, conceptual and inter-subjective borders are meaningful, the performativity and the performance of statehood rely on formerly institutionalised repertoires that comprise a package of routine practices that the state resorts to depending on the kind of crisis. As a possible example, Iver Neumann and Ole Jacob Sending (2020) quote the episode in which Norway possibly had its sovereignty at stake, when, in 2005, Norwegian coast guard inspectors on-board the Russian fishing boat “Elektron”, which sailed international waters, could not leave the boat when it went back to Russian waters. The diplomatic incident incited a standardised procedure and cooperation between the Norwegian Ministries of Foreign Affairs and Defence (Neumann & Sending, 2020).

In a scenario where a coastguard confronts armed opposition while boarding a Russian trawler, the situation would clearly take on a different dimension. Likewise, Østhagen (2024) mentions that such incidences could escalate in view of contemporary tensions. In those incidents, there were exchanges of sharp words between the countries, and such occurrences undeniably harm diplomatic relations and communication channels between Norway and Russia. However, the likelihood of these incidents escalating into a large-scale military confrontation is considered to be very low (Jensen, 2010; Østhagen, 2024).

Most recently, Norway’s performativity as a responsible and sustainable actor gained new contours in view of the opposition that the country faces from the European Union with regard not only to the snow crab dispute but equally, as we will see, deep-sea mining. The issue of snow crab is interconnected with broader Norway-EU relations and intersects with the EU’s Arctic policy. The EU, emphasising its role as a ‘responsible’ actor, advocates for a sustainable and sometimes restrictive approach to marine resource development in the northern waters, further complicating the ongoing dispute (Østhagen, 2019). When it comes to the ongoing issue on deep-sea mining, the narrative of responsibility is highlighted in Norway’s address in response to the EU resolution against the unprecedented Norwegian move towards deep-sea mining.

### 5.3.2. The unprecedented decision on deep-sea mining

In January 2024, the Norwegian parliament approved the government's authority to grant permissions for private exploration of the Norwegian continental shelf for mineral resources. By signaling possible initiation of deep-sea mining in the Norwegian Sea, Norway has become the first country to approve deep-sea mining on its continental shelf. While numerous countries are interested in commencing deep-sea mining activities, both within their own territories and internationally, the actual industrial-scale exploitation of deep-sea mining has not commenced anywhere globally<sup>182</sup>.

Norway's initial move involves the opening of a 281,000-square-kilometer expanse of the sea, a zone comparable in size to Italy, for deep-sea mining exploration. This area spans Norway's extended continental shelf, where it holds jurisdiction, and the territorial waters of the Svalbard archipelago, which Norway contends would constitute its exclusive economic zone (EEZ) (an ownership claim opposed by Russia, as we saw, the U.K., and no least EU nations)<sup>183</sup>. The decision that has drawn criticism from scientists, environmentalists, and not least the international community.

Scientists are concerned that the environmental impacts of mining in Norway may extend far beyond its borders insofar as the disturbance of the seafloor could affect sea life of neighbouring countries like Iceland, Greenland, and the Faroe Islands, as well as the broader Arctic region. According to criticism, the decision by Norway to allow this more invasive form of mining potentially challenges rich and unstudied ecosystems<sup>184</sup>.

The European Parliament has been incisive in reservations about Norway's deep-sea mining plans in the Arctic through a recently passed resolution<sup>185</sup>. In 2018, the European Parliament had adopted a resolution advocating for a global moratorium

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<sup>182</sup> Internationally, China, India, Japan, Russia, and South Korea are at the forefront, collectively holding about half of the exploration licenses issued by the International Seabed Authority (ISA), the U.N.-affiliated organisation overseeing deep-sea mining in international waters. See: <https://news.mongabay.com/2024/02/eu-parliament-expresses-disapproval-of-norways-deep-sea-mining-plans/>

<sup>183</sup> See: <https://news.mongabay.com/2024/02/eu-parliament-expresses-disapproval-of-norways-deep-sea-mining-plans/>

<sup>184</sup> See: <https://www.wired.com/story/norway-deep-sea-mining-arctic-svalbard-batteries-environment/>

<sup>185</sup> See: [https://www.europarl.europa.eu/doceo/document/B-9-2024-0095\\_EN.html](https://www.europarl.europa.eu/doceo/document/B-9-2024-0095_EN.html)

on deep-sea mining, a stance reaffirmed in 2021 through its biodiversity strategy for 2030. Globally, there is mounting pressure on the deep-sea mining industry, with 24 countries, including France, Germany, and the UK, calling for a moratorium until further research is conducted. The European Union has also proposed a temporary ban, and major companies like Microsoft and Ford have committed to avoiding raw materials sourced from deep-sea mining. Despite this pushback, the decision has brought global attention to the threats posed by deep-sea mining, raising awareness of its potential impact on the future<sup>186</sup>.

Notably, the latest resolution was passed a month subsequent to Norway's parliamentary decision in January to permit deep-sea mining along its coast, sparking criticism from scientists, conservation experts, and the general public. Although the resolution itself lacks legal authority to halt Norway's actions, it signifies a strong disapproval from the European Union, with which Norway maintains a close partnership. The resolution highlighted various concerns, such as potential disruptions to fisheries, release of methane, biodiversity loss, and inadequate environmental impact assessments. Lastly, it emphasised that several EU states, international entities, and Norway's own Environment Agency have called for a moratorium or ban on deep-seabed mining<sup>187</sup>.

The Norwegian government, in turn, contends that deep-sea mining plays a pivotal role in the global energy transition, as it has the potential to significantly boost the supply of minerals essential for the electrification shift, including cobalt and copper<sup>188</sup>. However, environmentalists argue that this rationale amounts to

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<sup>186</sup> See: <https://www.wired.com/story/norway-deep-sea-mining-arctic-svalbard-batteries-environment/>

<sup>187</sup> See: <https://news.mongabay.com/2024/02/eu-parliament-expresses-disapproval-of-norways-deep-sea-mining-plans/>

<sup>188</sup> In the period spanning 2018 to 2020, the Norwegian Petroleum Directorate (NPD) undertook comprehensive mapping endeavours on the Norwegian Continental Shelf (NCS). This initiative brought to light potential mineral resources situated within extensive sulphide deposits and manganese crusts. The surveyed areas encompass volcanic ridges encircling Jan Mayen and extending northwards toward Svalbard. Findings from the 2018-20 expeditions disclosed that the sulphides predominantly comprised zinc, copper, cobalt, gold, and silver. Furthermore, manganese crusts off the coast of Norway exhibited elevated levels of manganese and iron. Particularly noteworthy is the presence of unusually high concentrations of scandium and lithium, along with a substantial proportion of rare earth elements in these crusts. These discoveries underscore the significance of the NCS as a reservoir of valuable minerals, emphasising the potential for strategic resource exploitation and its implications for national policies. See: [https://www.offshorenorge.no/globalassets/konkraft/eng\\_klimarapport-ver020822-v2.pdf](https://www.offshorenorge.no/globalassets/konkraft/eng_klimarapport-ver020822-v2.pdf)



greenwashing. They assert that deep-sea mining is not only extractive and unsustainable but also diverts attention from the more environmentally friendly practice of using land-based sources and recycling existing minerals<sup>189</sup>.

The Norwegian government holds that no exploitation plans will be approved until there is sufficient knowledge about the potential environmental impact, ensuring sustainable and responsible practices aligning with the precautionary principle. Norway asserts its sovereign right, guided by the UN Convention of the Law of the Sea, to exploit national resources in harmony with environmental policies and marine preservation duties. The official narrative asserts that the precautionary principle and a knowledge-based approach are integral to Norwegian ocean-based activities, reflecting a commitment to responsible use, notably seen in fisheries management. These principles govern decisions, including any potential seabed mining activities. Balancing sustainable use with conservation is emphasised, acknowledging the need for minerals in the green transition for a growing global population dependent on energy. The commitment includes exploring alternatives and substitutes, but the necessity for additional minerals in the green transition is acknowledged.

According to this decision, companies must apply for exploration licenses, but the parliamentary approval would still be required for the exploitation plans. While the decision to open up a vast area for prospecting is significant and the path to materialise is long winding, the move could potentially set a precedent for the deep-sea mining industry. Ida Soltvedt Hvinden, a researcher at the Fridtjof Nansen Institute, notes that Norway's perceived role as a sustainable ocean manager makes its practices and approvals influential on a global scale<sup>190</sup>.

Sustainability and responsibility are concepts that resonate both with the European Union and Norway, as much as the claim on a knowledge-based approach:

“Norway and the European Union have a shared interest in and commitment to comprehensive, knowledge-based, and sustainable ocean management, which balances both conservation and sustainable use of ocean resources’, [State Secretary Maria] Varteressian said in an emailed statement. ‘Our European partners may rest assured that these principles will form the basis of all activities in Norwegian waters’, she added. ‘We

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<sup>189</sup> See: <https://www.wired.com/story/norway-deep-sea-mining-arctic-svalbard-batteries-environment/#:~:text=Politicians%20claim%20the%20move%20could,headaches%20and%20is%20environmentally%20unsound>.

<sup>190</sup> See: <https://www.wired.com/story/norway-deep-sea-mining-arctic-svalbard-batteries-environment/>

take our role as a sustainable ocean nation seriously and will continue to do so in the process to come”<sup>191</sup>.

The Norwegian official discourse describes seabed mining as a new ocean industry that the government will facilitate:

“In addition, the government presents a strategy demonstrating how Norway aims to be a global leader in a fact- and knowledge-based management of seabed mineral resources”<sup>192</sup>.

It is the very discourse of environment and sustainability focused on energy transition that justifies Norway’s unprecedented move. Furthermore, the concept of security equally aligns with the need to become self-sufficient in terms of sourcing the energy transition with sea minerals:

“In addition, the government presents a strategy demonstrating how Norway aims to be a global leader in a fact- and knowledge-based management of seabed mineral resources. Seabed minerals can become a source of access to essential metals, and no other country is better positioned to take the lead in managing such resources sustainably and responsibly. Success will be crucial for the world’s long-term energy transition, says Minister of Petroleum and Energy, Terje Aasland”<sup>193</sup>.

Norway’s self-identity as a steward of sustainable ocean practices and a responsible manager of sustainable solutions – a friend of the environment – is hereby noteworthy. Another aspect of the discourse recalls the previous discussion of science-based policy and policy-based science:

“– Seabed mineral activities are a new industry, both globally and in Norway. Currently, we have limited knowledge about the deep-sea areas where the resources are located. I firmly believe that if the industry identifies resources that they consider economically viable to extract, it will be possible to extract these resources *sustainably and responsibly*. We will proceed step by step, continue building experience, and base our regulatory framework on *facts and knowledge*. Environmental considerations will weigh heavily throughout the value chain, says Aasland” (my highlight).

This is the case in which the relationship between science and policy acquires such a symbiotic outlook that it looks difficult to disentangle which drives the interest of what, if it is the state or the industry.

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<sup>191</sup> See: <https://www.wired.com/story/norway-deep-sea-mining-arctic-svalbard-batteries-environment/>

<sup>192</sup> See: [https://www.regjeringen.no/en/aktuelt/the-government-is-facilitating-a-new-ocean-industry-seabed-mineral-activities\\_/id2985941/](https://www.regjeringen.no/en/aktuelt/the-government-is-facilitating-a-new-ocean-industry-seabed-mineral-activities_/id2985941/)

<sup>193</sup> See: [https://www.regjeringen.no/en/aktuelt/the-government-is-facilitating-a-new-ocean-industry-seabed-mineral-activities\\_/id2985941/](https://www.regjeringen.no/en/aktuelt/the-government-is-facilitating-a-new-ocean-industry-seabed-mineral-activities_/id2985941/)

The justification of knowledge-based approach is shortcoming in the sense that the only little knowledge existent on the domain already points to perilous and pernicious consequences of the exploitation to the environment. Norway's Environment Agency expressed reservations regarding the Norwegian government's environmental impact assessment, citing "substantial knowledge gaps in the areas of nature, technology, and potential environmental effects" related to its proposed mineral extraction activities.

There are uncertainties regarding the impact on fishing stocks, with concerns raised by the Norwegian Fishermen's Association about an alleged lack of consultation<sup>194</sup>. In turn, the government states the following:

"The impact assessment and the proposal for opening an area on the Norwegian continental shelf were subject to public consultation. The consultation responses can be found on the ministry's website. The ministry's assessment of the consultation responses is included as an appendix to the impact assessment"<sup>195</sup>.

If on the one hand the Norwegian government acknowledges the uncertainty surrounding the sustainability of mining activities in its waters, on the other hand, the lack of knowledge regarding the environmental impact and the specific minerals present raises concerns. Despite objections from the Environment Agency and the Institute of Marine Research in Bergen, the decision was made without a comprehensive environmental assessment, leading to doubts about the government's commitment to environmental considerations. Legal experts warn that such a move may not only violate Norway's environmental protection laws but also European and international laws, potentially leading to legal challenges from local communities or NGOs.

At the same time, the grounding on knowledge potentially brings the harbinger of a scarcity of thorough knowledge-based assessments so long the very decision authorising this exploitation has passed. Now that parliament has reached a decision, the opportunity for an extensive examination of environmental impacts seems to have elapsed. Insofar as the legislation is now established, it mandates assessments for

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<sup>194</sup> See: <https://www.wired.com/story/norway-deep-sea-mining-arctic-svalbard-batteries-environment/>

<sup>195</sup> See: [https://www.regjeringen.no/en/aktuelt/the-government-is-facilitating-a-new-ocean-industry-seabed-mineral-activities\\_/id2985941/](https://www.regjeringen.no/en/aktuelt/the-government-is-facilitating-a-new-ocean-industry-seabed-mineral-activities_/id2985941/)

punctual and specific projects, thereby leaving large-scale, regional environmental effects unexplored<sup>196</sup>.

Apart from the ecological concerns, the decision could have geopolitical implications, increasing international competition for resources in the Arctic. Experts suggest that the move may provide precedent and intent for other nations, such as Russia and China, to establish their own deep-sea mining practices<sup>197</sup>.

Most importantly to the object at stake, the decision covers an area that overlaps with the continental shelf and fishery protection zone around the Svalbard archipelago, leading to disputes over interpretation and potential breaches of a 1920s treaty among signatory nations. Soltvedt Hvinden suggests that the signatories might perceive any allowance granting Norwegian companies special rights for exploration and exploitation as a violation of the treaty. Iceland and Russia have already indicated their alignment with this perspective<sup>198</sup>. By the same token, since the stakes are higher concerning the seabed, the other states' claim of application of the treaty to the continental shelf around Svalbard could install a dispute for the equal treatment for Norwegian and foreign companies. Crucially, this would severely restrict the revenue Norway could derive from activities like these explorations, as the country cannot impose taxes beyond the region's benefit.

Norway disagrees with the European Parliament's assertion that the Svalbard Treaty is relevant to this decision. By highlighting that this decision specifically pertains to areas on the Norwegian continental shelf beyond the territorial sea (12 nautical miles), the Norwegian government maintains that provisions regarding equal treatment in the Svalbard Treaty of 1920 do not extend to areas outside the territorial sea, which render the treaty irrelevant to this decision. Furthermore, Norway recalls the unanimous judgment by the Norwegian Supreme Court on March 20, 2023, on snow crab, which confirmed that the provisions on equal treatment in the Svalbard Treaty do not apply to the continental shelf beyond 12 nautical miles.

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<sup>196</sup> See: <https://www.wired.com/story/norway-deep-sea-mining-arctic-svalbard-batteries-environment/>

<sup>197</sup> See: <https://www.wired.com/story/norway-deep-sea-mining-arctic-svalbard-batteries-environment/>

<sup>198</sup> See: <https://www.wired.com/story/norway-deep-sea-mining-arctic-svalbard-batteries-environment/>

In view of the exposed, it can also be argued that this recent move is an example of Norway's attempt at ascertaining a sovereign decision over these waters comprising areas subject to dubious interpretations raised by other countries. The Norwegian Parliamentary authorisation is illustrative of a performativity of statehood and an opportunity to profile and showcase Norway's self-entitled attributes such as a responsible, sustainable and exemplary manager of the oceans.

### 5.3.3. Oil and Gas: the Norwegian Fairytale

In the same year that humans achieved the historic feat of landing on the moon, marking their initial steps into space, Norway discovered the Ekofisk, then the world's largest offshore oil field, on its continental shelf. This significant find presented immense opportunities for the relatively small country<sup>199</sup>. As exposed in the introduction, Norway's state ownership of the oil wealth in the ground-breaking discovery of an oil field outside Stavanger in 1969 incepted public policies that are behind the world's richest sovereign fund<sup>200</sup>, which also finances the energy transition towards sustainable solutions. The political imperative to keep the petroleum industry under public ownership and redistribute profits through welfare programs was solidified with the enactment of the "10 oil commandments" in Parliament in 1971<sup>201</sup>. Reflecting the Keynesian state prevalent globally in the post-war era, this legislation aimed to invest significant public funds in exploiting national resources. The generated oil revenues were earmarked for building infrastructure, fostering amenities, and promoting a more geographically equitable national economic development (Gociu, 2021). Unlike the negative connotations of the "resource curse" often linked to

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<sup>199</sup> See: <https://www.equinor.com/magazine/ten-oil-commandments>

<sup>200</sup> Petroleum taxes, reaching as high as 78%, contribute to the Government Pension Fund, established to preserve the wealth for the benefit of future generations. See:

file:///C:/Users/u13475/Downloads/Making\_resource\_futures\_petroleum\_and\_pe.pdf

<sup>201</sup> Rolf Hellem, a station inspector and politically active, was elected to the Norwegian parliament – *Storting* – in 1965, the same year the Norwegian continental shelf (NCS) was opened for oil exploration. He soon developed an interest in petroleum policy, and was the parliamentary spokesman for the process to establish the Norwegian Petroleum Directorate and Statoil on 14 June 1972. After the discovery of Ekofisk, he wrote the ten oil commandments. Hellem's commandments were adopted by the Storting and became an important foundation for the petroleum policy Norway would implement. Not surprisingly, Rolf Hellem came to be called "the Moses of petroleum policy". See: <https://www.equinor.com/magazine/ten-oil-commandments>.

petroleum-exporting nations, Norway's encounter with oil and gas is frequently characterised as the "petroleum fairytale" or the "Norwegian model" (Dale, 2019, p. 63).

The 'Oil Commandments' also gave rise to Statoil, a state-operated company granted preferential status over transnational oil companies for production rights. These commandments equally served as the foundation for Norway's oil constitutionalism, outlining key principles, including national ownership and control, the development of new industrial activities based on the petroleum sector, and considerations for environmental protection. Notably, the legislation mandated that petroleum from the Norwegian Continental Shelf should primarily be landed in Norway<sup>202</sup>.

Norway's 'oil constitution' set Norwegian oil policy over several decades, influencing and directing political decisions related to oil by underscoring the significance of national control over oil and gas resources while prioritising sustainability by means of a transition to domestic renewable sources of energy. Additionally, a deemed 'go slow' policy played a dual role, not only enforcing control over oil production but also enhancing Norway's negotiating leverage with major oil companies (Gociu, 2021, p. 34). In this sense, bureaucrats and public servants performed pivotal roles in shaping policy in the subsequent years. The 1974 Report to the Norwegian Storting on 'The role of petroleum activities in Norwegian society' outlined the vision that the wealth generated from oil should contribute to the development of a "qualitatively better society" (Dale, 2019). It emphasised the need for Norway to adopt a "moderate pace" in petroleum extraction (St.meld. nr 25, 1973-1974) and imposed a production cap set by the *Storting* at a maximum of 90 million

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<sup>202</sup> The 10 'Oil Commandments': Ensure national ownership and control for all operations on the Norwegian Continental Shelf. Exploit petroleum resources to make Norway as independent as possible in crude oil supplies. Develop new industrial activity based on the petroleum sector. Consider existing industry, nature conservation, and environmental protection in oil business development. Unacceptable flaring of unwanted natural gas on the Norwegian Continental Shelf, except for brief testing periods. Petroleum from the Norwegian Continental Shelf must be landed in Norway, with exceptions based on socio-political considerations. Government involvement at all appropriate levels, coordination of Norwegian interests, and building an integrated oil community. Establish a state oil company to safeguard government commercial interests and collaborate with domestic oil interests. Consider special socio-political considerations north of the 62nd parallel. Acknowledge that Norwegian petroleum discoveries could impact Norway's foreign policy.

tons of oil equivalents per year (Dale, 2019). While these measures were not explicitly driven by climate considerations, they reflected a concern with the external impacts of oil activities (Dale, 2019).

Ihlen (2007) delves into the public relations strategies of the Norwegian petroleum industry, highlighting a consistent endeavour within the sector to solidify the notion that ‘What is good for the oil industry is good for Norway’. Government officials have often supported this connection, emphasising the significance of oil revenues in creating one of the world’s most comprehensive welfare systems. Consequently, Norway is commonly characterised in both popular and academic discourse as a ‘Keynesian state,’ marked by national organisation and certain distance from the global trend towards more neoliberal, entrepreneurial, or competitive forms of statehood. It is worth noting that these narratives emphasise ownership, exclusivity, and control.

In alignment with the updated perspective on realistic sustainability with the boost provided by the green shift agenda, Statoil underwent a name change to Equinor in 2018 (a move that environmentalists could coin as ‘whitewashed’ or ‘greenwashed’). The new name amalgamates “equi”, signifying concepts such as “equality and equilibrium”, with “nor”, indicating its Norwegian roots<sup>203</sup>. Equinor has committed to allocating 15-20% of its overall capital expenditures to innovative energy solutions by 2030.

Along history, the company has equally built a more corporate identity with attempts to establish independence from the state, which however does not alter the Norwegian performativity of corporate statehood. The Norwegian state is marked by a robust corporatist system, wherein labor unions, businesses, and the government collaboratively establish terms for industrial development through negotiations covering aspects such as wages, labour conditions, safety, and the environment (Dale, 2019, p. 63). Initially dominated by foreign control, the petroleum industry evolved into a Norwegian Petroleum Innovation System, establishing alliances within the Norwegian industrial landscape, local oil companies, the research and development sector, public administrative institutions, and Norwegian politicians. Over different

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<sup>203</sup> See: <https://www.equinor.com/news/archive/15mar2018-statoil>

historical phases, this innovation system became increasingly integrated into the broader Norwegian national innovation system, emerging as a cornerstone of that system.

Oil and gas do not lurk as a potential cause of conflict in the Arctic as the literature used to portray, at least not nowadays nor as compared to fisheries. In the context where oil and gas presented a major cause for concern in the Arctic, studies (Keil, 2004) delved into how ‘peak oil’ anxieties were interwoven into the fabric of the state in Norway and the implications of this for environmental justice and the broader public sphere. The conflict over access to hydrocarbon deposits in the Norwegian Arctic, then dubbed as the ‘Battle of the North’, had three broader theoretical observations: (i) the enduring importance of the state in governing nature-society relations, (ii) the increasingly fragmented and fluid nature of state space, and (iii) the significance of ‘security’ as a central concept around which social, economic, and environmental tensions revolve (Keil, 2014).

Norway’s greatest oil and gas reserves are expected to be found in the Barents Sea, which already has resulted in the development of fields such as *Snøvit* - “Snow White”, “Goliat”, and “Skrugart”. The Norwegian Petroleum Directorate mapped the potential field of Versterålen and Lofoten (located between the Norwegian and the Barents Sea, above the Arctic Circle, and henceforth deemed Lo-Ve). If, on the one hand, Lo-ve was believed to hold substantial amounts of the most easily accessible oil and gas in Northern Norway, on the other hand, the prospects to explore the hydrocarbon deposits subsided in face of mounting criticism on the local, regional and national spheres for environmental justice. Rather than neutral and technical, these mapping and surveying practices are charged with political interests based on technologies that disclose the availability of natural resources, which conform cartographies of state governmentality, unveiling specific knowledge of spatial production (Powell & Dodds, 2014, p. 133).

The Battle of the North stemmed from transnational oil companies (TOCs) and the government-controlled Statoil (today’s Equinor) alarming an imminent ‘energy crisis’ and cautioning the development of new fields in the north. Back in 2008, the government had expressed conditional support for allowing oil and gas activities in



Lo–Ve, arguing that the move would not only create new employment opportunities in the region but also generate the necessary revenues to sustain ongoing social spending (Keil, 2014).

‘Security’ in connection with ‘energy’ is telling of how the concept adapts to different contexts other than the one relative to countering a physical threat. Security is hence a floating concept (Laclau & Mouffe, 1985) that functions as an umbrella encompassing the juncture of social, economic and environmental concerns (Kristoffersen & Young, 2010).

The conceptual umbrella of security comprises concepts of related meaning, such as predictability and stability. The assessment of claims for energy security unveils how the framework of state space in Norway, involving institutional arenas and spatial strategies to reconcile economic growth, social justice, and environmental protection, is more exclusively performed in public-private spheres, without engaging in public debate (Keil, 2014).

According to Kathrin Keil (2014), the extant literature normally highlights the limited consideration of the state in research on nature and resource geographies, which she attributes to two main factors. Firstly, within radical political ecology, the state is viewed as inherently destructive to the environment, rendering it irrelevant to advancing ecological concerns. Secondly, broader social theory trends depict the state as incapable of effective governance in a world shaped by deregulation, privatisation, and globalisation (Keil, 2014). Despite this general trend, energy as a domestic policy is normally rendered international by the state, and, in this case, Svalbard stands out, suggesting Norway’s drive to ascertain its presence also through the performativity of energy security.

The uneven integration of specific discourses related to the environment and energy supplies into the state space of Norway, particularly concerning the evolution of the concept of the state in relation to security, has deep connections with Norway’s performativity of sovereignty. While assessing the material outcomes resulting from these integrated discourses, Keil (2014) contends that the discourse of ‘security’ has evolved beyond its traditional association with military conflicts between nation-states

since the end of the Cold War. In Norway, where oil significantly contributes to national export revenues and is linked to programmes associated with ‘social security’, she explores how conflicting ‘security’ concerns related to oil have interacted within the institutional spaces and territorial strategies of the state by delving into the development of the oil industry in Norway and its role in supporting welfare spending as well as by examining how ‘environmental security’ concerns reshaped the state space, positioning Norway as a leader in ecological modernisation since the 1970s<sup>204</sup>. The “environmentalization of the state” in the 1980s involved environmentalists participating in government committees, implementing regulations, and introducing a CO2 emissions tax in 1991. Former Prime Minister Gro Harlem Brundtland played a key role, publishing the influential report “Our Common Future” in 1987. The transformation reflected an open and inclusive Norwegian state, allowing environmental organisations access and influence (Dale, 2019).

Norway, a prominent global oil producer, has undertaken an unconventional path by gradually shifting to renewable energy as an alternative income source, moving away from its traditional reliance on oil. This transition has stirred controversy, given the dual commitment of the Norwegian legal system to environmental protection and sustainable resource use, alongside supporting the petroleum industry. The conflict between these priorities gained attention in 2017 when environmental groups erected an ice sculpture near the Oslo courthouse<sup>205</sup>. The sculpture depicted Article 112 of the

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<sup>204</sup> In 1972, the UN conference in Stockholm marked the start of a new era in environmental politics, with global environmental threats gaining prominence, as discussed in “Limits to Growth”. Growing concerns about the depletion of non-renewable resources and unsustainable economic growth led to the emergence of environmental advocacy groups, including international alliances. In Norway, influenced by these debates, the world’s first environmental ministry was established in 1972, and Environmental Non-Governmental Organizations (ENGOS) emerged, advocating for sustainable development models. The 1970s saw significant environmental protests, particularly in Alta, northern Norway, where the indigenous Sami population, environmentalists, and local fishermen opposed a hydropower plant project encroaching on Sami land. Despite losing the case in the Norwegian Supreme Court, the Alta conflict raised awareness of Sami rights and influenced ENGOS to oppose large-scale hydropower projects. This conflict catalysed a political transformation, fostering ideological and practical changes, leading to increased environmental monitoring and regulation in the 1980s.

<sup>205</sup> See: <https://www.worldoil.com/News/2017/11/13/Arctic-Oil-Drilling-Under-Attack-As-Norway-Dragged-To-Court>

Norwegian Constitution, which codifies the principles of sustainability and environmental protection, and highlighted a significant legal proceeding regarding future oil exploration in the Arctic. In this case, NGOs contested the Norwegian Government's decision to grant oil exploration licenses in the Arctic, illustrating a legal challenge that was unprecedented for a nation known for its strong stance on environmental protection and sustainability.

Drawing from its experience in hydropower, Norway gradually established a regulatory framework for the petroleum industry, aiming to maintain state control over oil and gas reserves. The early regulations and the evolution of oil and gas policies played a crucial role in setting the stage for a gradual shift from oil towards renewables, despite having substantial reserves on the Norwegian Continental Shelf. This transition was made possible by the early adoption of a realist sustainability principle in oil and gas regulations, predating its elevation to constitutional status. By examining the development of early Norwegian oil and gas policies and regulatory frameworks, one can grasp the underlying philosophy guiding Norway's contemporary approach to sustainability, environmental protection, and the transition to renewable energy (Gociu, 2021).

Following the Paris agreement, the notion that Norway can play a pivotal role in addressing the demand for reliable and environmentally friendly fossil fuel energy has become a central theme in both intense political discussions and public debates within the country (Dale, 2019). The perception of Norway as a responsible participant in the northern region has been a significant factor supporting the argument for the exploration of new fields in the Barents Sea during the 2010s (Jensen 2011; Dale, 2019).

Even so, Norway ranks as the seventh-largest exporter of emissions related to oil and gas worldwide (Gociu, 2021, p 59). Despite maintaining exceptionally low levels of internal emissions through initiatives like promoting electric cars and generating electricity primarily from hydropower plants, Norway's emissions from exported oil and gas are ten times higher than its domestic emissions (Gociu, 2021). Norway's latest election was dominated by the delicate equation the state needs to strike between embracing electric cars and environmental consciousness while

navigating the necessity to transition their oil-dependent economy away from its primary source of wealth<sup>206</sup>.

Norway, often projecting itself as environmentally conscious, faces a dilemma as its substantial wealth is primarily derived from oil and fossil fuels, raising concerns about its commitment to addressing climate issues. The recent climate-focused election highlighted the tension between portraying a pro-nature image and the economic reliance on fossil fuels. As the leading petroleum producer in Western Europe and the third-largest global exporter of natural gas, Norway grapples with the challenge of transitioning from an industry that contributes significantly to its revenues, employs a substantial workforce, and sustains the world's largest sovereign-wealth fund. Policymakers argue that this shift will be a lengthy process due to the entrenched nature of the oil and gas sector in the country<sup>207</sup>.

Under the lenses of an identity crisis, Jensen (2017) approaches contradictions such as that of Norway being both an environmental-friendly and an oil and gas-friendly nation, which he deems 'drilling for the environment' (Jensen, 2017). He does so by pointing to the othering of Russia, according to which Norway's alleged stance as an "altruistic, credible steward and protector of the vulnerable High North environment – while also earning money from extracting oil and gas in the very same region" would be casted as "morally superior and something the Russians could learn from" (Jensen, 2017). "Drilling for the sake of the oil" means that a pro-oil argument co-opted Norwegian environmentalists on the grounds that, if Norway left the job to Russia and to private businesses, they would do a worse job by overlooking environmental-friendly practices, rendering this "a Norwegian attempt to other Russia to justify its own Arctic identity" (Wallace, 2018). In accordance with Jensen (2017), the solution to such conflicting identity depends on a consistently reiterated discourse that frames Norway's identity as "one of the high-tech world leaders in environmental friendliness – but which in turn identifies Russia as an environmental laggard" and which "instead of leading to a re-appraisal of the question of drilling for oil, this

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<sup>206</sup> See: <https://www.politico.eu/article/norwegian-election-big-win-oil-industry-norway-green-party/>

<sup>207</sup> See: <https://www.nytimes.com/2021/09/13/world/europe/norway-climate-election.html>

discourse manages to re-shape the environmental problem – and in doing so makes the solution dovetail with Norwegian economic interests”.

The resistance against exploration in Lo-Ve that resulted in the “Battle of the North”, the discussion on the need to strike a balance between energy security and climate goals, the latest dubbed “climate election”<sup>208</sup> or Norway’s “fossil fuels election”<sup>209</sup>, and Norway’s expanding energy frontier evince the state’s prioritisation of energy politics. This makes the discussion on coal mining deactivation in Longyearbyen all the more relevant as a source of energy security in view of Russia’s invasion of Ukraine, and the performativity of that securitisation is noteworthy as a means to ascertain statehood not only over resources, but also as a secure, stable, responsible and predictable provider of energy to Europe. In this sense, institutional space is the locus of performativity of spatial strategies towards ascertaining that presence.

It is interesting, then, to see how particular discourses about the environment and energy supplies have been integrated unevenly into state space in Norway and the material outcomes they produce in the context of the evolution of the concept of the state in relation to security (Keil, 2014). The decision to open the Arctic regions for extraction was also linked to security considerations, both in terms of setting safety standards for potential exploration by other Arctic nations and maintaining activity in the Norwegian part of the Barents Sea (Jensen 2007; Jensen & Hønneland, 2011). This evolution gets particularly evident in view of the current development around the polemics of deep-sea mining, as seen beforehand. The performativity of ownership over resources and its relation with state space is also noteworthy when it comes to oil and gas and, as we will see, mining on Svalbard.

As Dale (2019) highlights, it is enlightening to jointly examine how Norway’s historical experience with energy resources unfolded during pivotal moments in the formation of Scandinavian nation-states. Norway boasts a landscape abundant not only in petroleum resources but also in waterfalls that have been harnessed for hydropower.

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<sup>208</sup> See: <https://www.theguardian.com/world/2021/sep/12/norway-votes-but-is-europes-biggest-oil-giant-ready-to-go-green>

<sup>209</sup> See: <https://time.com/6096977/norway-fossil-fuels-election/>

The early era of industrial-scale hydropower utilisation coincided with Norway's emergence as an independent nation-state in 1905. At a time of heightened Norwegian nationalism, policymakers were focused on self-governance and wary of ceding resource rights to foreign investors. To address these concerns, a condition was introduced: at the end of the 60-year concession period, concessions would revert to the Norwegian state without any payment or compensation to foreign companies.

When comparing the recent move of considering licenses for deep-sea mining, the ownership over resources gives way to a performativity of a sovereign manager of these resources. Likewise, in May 1963, Einar Gerhardsen's government asserted sovereignty over the Norwegian Continental Shelf (NCS). New regulations established state ownership of NCS natural resources, granting exclusive authority to the government (King) for issuing exploration and production licenses. In that year, companies were granted the opportunity to conduct preparatory exploration, which encompassed seismic surveys but excluded drilling rights<sup>210</sup>. The discovery of petroleum occurred concurrently with intense debates about Norway's potential accession to the EEC (now the European Union). These discussions heightened the perception of Norway as a small nation, with its populace inclined towards self-governance rather than being part of a shared market or subject to foreign corporate rule (Dale, 2019). Lastly, Statoil was established with the explicit objective of maintaining control over resources within Norwegian jurisdiction (Dale, 2019).

As Ragnhild Dale (2019) explores, the narrative of oil in northern Norway has traversed cycles of anticipation, geopolitical dimensions, and government strategies since the 1980s. The discourse revolves around exploiting resources, fostering growth, and positioning the Arctic as a global focal point. The Norwegian government's anticipatory logics prioritize forecasting energy realities over environmental concerns, projecting Norway as a politically stable and secure nation. The Arctic policy emphasises drivers like mining, oil, gas, fish farming, tourism, and the northern sea route, framing the future in terms of global economic opportunities. Despite the non-renewable nature of fossil fuels, the rhetoric of 'drilling for the environment' persists,

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<sup>210</sup> See: <https://www.regjeringen.no/en/topics/energy/oil-and-gas/norways-oil-history-in-5-minutes/id440538/>

aligning with industry claims about Norway's role in European energy security. Examining Norwegian Arctic policy reveals a performative model directing attention to selected elements, omitting consideration of the local population's future beyond global economic networks. The narrative shapes landscapes and intervenes in contested spaces, influencing cultural, historical, and identity aspects. The security perspective on oil in northern Norway varies; it poses a threat near the Lofoten islands, impacting fisheries and local identity, while in Hammerfest, it provides a pragmatic adaptation for long-term economic viability. The Barents Sea activities, although impacted by the 2014 oil price crash, remain a focal point for exploration, with lowered expectations but significant undiscovered petroleum resources. The state continues to expand licenses in the Barents Sea, incentivising exploration through a tax scheme, balancing local and national interests (Dale, 2019, p. 74-79).

This contextualisation of Norway's oil and gas history is important to pave the way not only to the coming discussion on the performativity of state space towards mining on Svalbard, but also in view of the double-edged self of a state that "drills for the environment" (Jensen, 2020). Mining on Svalbard is justified upon energy security but has also served as a means for Norway to ascertain its presence by territorialising a Norwegian mining settlement. It is a contradiction to pursue a polluting activity on a space that suffers from and causes climate change in escalatory proportions as compared with the rest of world.

#### **5.4. The Floating Concept of Environment for the case of Svalbard**

An encompassing assessment of the dynamics surrounding environmental protests against oil exploration in the Barents Sea entails exploring the role of environmental organising in Norway. Notably, a recent addition to Norwegian politics is the emergence of a Green party, complementing environmental arguments historically present in various political parties, including the Socialist Left (SV), the Liberal Party (Venstre), the Christian Democrats (KrF), the Centre Party (Senterpartiet), and the Red Party (Rødt) (Dale, 2019, p. 69).

Norway boasts a diverse array of organisations dedicated to environmental interests, with focuses ranging from energy and climate to broader considerations of

nature, consumption, and markets. Among them, *Naturvernforbundet* (Friends of the Earth), founded in 1914, and *Den norske turistforening* (Norwegian Trekking Association), established in 1868, play significant roles. *Fremtiden i våre hender* (Future in our hands) addresses global overconsumption and social justice, while *Natur og ungdom* (Nature and Youth) mobilises youth on issues related to climate change and nature conservation (Dale, 2019, p. 69).

Norwegian civil society stands out for its high level of organisation, with environmental NGOs receiving financial support and maintaining close ties with the state. While some analysts suggest cooptation due to participation in official committees, critics highlight that Norwegian environmentalism is distinct, characterised by moderation and a unique blend of high centralisation with citizen control. This distinctive approach contributes to a generally higher level of public trust in political processes and governance (Dale, 2019, p. 69).

Environmentalism is amalgamated by the Norwegian state, and, as such, the completed deed of performing a sovereign statehood over the matter of environment is double sided: there is the performativity of sovereignty based on the concept of environment in an inward direction, towards the environmental grassroots movements and the domestic agenda, but also outwards, by assimilating and officialising the environmental narratives of these movements as a foundation that justifies positing against Russia and the adoption of measures aimed at ascertaining presence over Svalbard.

As mentioned, Norway is often perceived as a leader in environmental matters, especially during Gro Harlem Brundtland's tenure as Prime Minister. The Brundtland commission introduced the concept of 'sustainable development', emphasising the need to meet present needs without compromising future generations. At the same time, Norway separates the environment and energy ministries, giving more power to political networks in the energy sector (Dale, 2019).

When it comes to reconceptualising entities for the sake of the energy transition, in addition to the shift from "Statoil" to "Equinor", the Norwegian Ministry of



Petroleum and Energy changed name to the Ministry of Energy from 1 January 2024<sup>211</sup>, which depicts a growing attempt of the Norwegian nation to detach its self-identity from the image of an oil state. Prime Minister Jonas Gahr Støre declares:

“A growing proportion of our energy comes from new sources such as wind, sun and water. We are in the midst of the green transition and we will continue to expand renewable energy production in the years ahead. The name of the ministry responsible for energy policy should not therefore highlight any particular energy source. However, the ministry will continue to have exactly the same areas of responsibility after the name change”.

In alignment with the drive of this modification, the Norwegian Petroleum Directorate (NPD) and the Petroleum Safety Authority (PSA) in Stavanger equally underwent name changes effective from January 1, 2024, having the NPD been rebranded as the “Norwegian Offshore Directorate”, while the PSA adopted the new name of the “Norwegian Ocean Industry Authority”<sup>212</sup>.

For the case of Svalbard, as will be explored further, the performativity of sovereignty based on the concept of environment gains an elevated significance as the treaty stipulates that Norway has the responsibility of maintaining, preserving, and, if necessary, reconstituting the fauna, flora, and territorial waters of the region.

## 5.5. Mining on Svalbard: from the black gold to the green shift

The historical narrative of Svalbard’s evolution, founded in 1906 under the name Longyear City is the framework for this section, which will explore how the Arctic region underwent significant transformations primarily driven by the coal mining industry. Initially established for coal extraction, Longyearbyen, like other Arctic mining settlements, emerged as company towns to accommodate workers and generate profits for supporting companies. Amidst geopolitical shifts during World War I, private companies, notably *Store Norske Spitsbergen Kulkompani*, played a pivotal role in shaping political authorities’ stance on sovereignty, ultimately leading

<sup>211</sup> See: <https://www.regjeringen.no/en/aktuelt/norway-to-establish-new-ministry/id3000284/#:~:text=In%20addition%2C%20the%20Ministry%20of,as%20wind%2C%20sun%20and%20water.>

<sup>212</sup> See: <https://www.sodir.no/en/whats-new/news/general-news/2023/the-norwegian-petroleum-directorate-and-the-petroleum-safety-authority-are-changing-their-names/>

to Norwegian government control over the archipelago. This control transitioned private enterprises into instruments of Norwegian ambitions, marking a shift in the performativity of sovereignty from company-oriented to government-oriented.

The process of defining Svalbard's identity as Norwegian exemplifies a state preceding a nation, emphasising the strategic utilisation of private companies to enhance Norway's position on the archipelago. However, the evolving geopolitical landscape and environmental concerns have prompted recent shifts, including Norway's decision to phase out coal energy in Longyearbyen, signaling a transition towards renewable energy solutions.

It is argued that this transition, while addressing environmental and economic concerns, also reflects Norway's efforts to maintain its symbolic capital and assert its sovereignty in the region. As Svalbard navigates this transition, characterised by performative acts aimed at facilitating and legitimising the shift away from coal dependence, the challenge for Norway lies in redefining and sustaining its sovereignty in the absence of mining operations, requiring innovative approaches to maintain a strong national presence on the archipelago amidst changing geopolitical dynamics.

### **5.5.1. The company that made Svalbard sovereign but whose business was phased out by the sovereign**

Founded in 1906 under the name Longyear City, Longyearbyen was established primarily for coal extraction. Similar to other Arctic regions, mining settlements, often referred to as monotowns or company towns, were created to accommodate and sustain workers while generating profits for the supporting companies (Brode-Roger, 2023). At the onset of World War I, the Spitsbergen archipelago had minimal Norwegian coal mining activity. However, during the war, new private companies emerged, notably the *Store Norske Spitsbergen Kulkompani* (hereafter Store Norske)<sup>213</sup> in 1916. In 1918 – 1919, the Norwegian government expressed its desire for full sovereignty over the

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<sup>213</sup> Interestingly, the name “Longyear” comes from Store Norske's largest shareholder, John M. Longyear. See: <https://svalbardi.com/blogs/news/coal-climate-and-community-svalbard-in-transition> By openly endorsing a Norwegian resolution for Spitsbergen, undoubtedly rooted in political and legal considerations, he acted as a representative for private enterprise while simultaneously facilitating the path to sovereignty (Arlov, 2022).

archipelago, a request granted through the treaty of 9 February 1920 as a product of the peace negotiations in Paris.

Thor Bjørn Arlov (2022) posits that private companies played a pivotal role in shifting political authorities from a passive to an active stance on sovereignty during the war's final phase and the subsequent peace conference in 1919. Their primary motive was safeguarding their own interests<sup>214</sup>. Once sovereignty was secured in 1920, these dynamics shifted insofar as these private enterprises became an instrument of the Norwegian government's ambitions. According to Arlov (2022), the government strategically utilised these companies to enhance Norway's position on the archipelago before implementing the treaty and settling property rights. The performativity of sovereignty in coal mining switched from being company oriented towards being government oriented.

The construction of Svalbard's identity as Norwegian is an example of a state preceding a nation, wherein the settlement of a sovereignty required informing it with a national identity *a posteriori*. As Arlov (2022) holds, the Norwegian government, while clearly affected by a sense of resignation regarding the restrictive outcome in Paris, adopted a proactive strategy best described as an assertive effort to maximise Svalbard's Norwegian identity by "making Svalbard as Norwegian as possible"<sup>215</sup>. Norway's performativity of sovereignty therefore depended on the enactment of legislation and jurisdiction, such as a regulatory mining code, as well as on the approval of the treaty from Germany and Soviet Russia, non-signatories at the time, but deemed necessary.

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<sup>214</sup> Arlov (2022) explains that the outbreak of the war had immediate repercussions for exploration and mining activities on Svalbard, with embargoes and restrictions complicating existing operations, which caused companies and operators' downswing and departure from Spitsbergen. The gap left by these departures was largely filled by new private Norwegian coal companies established during the war. Notably, the *Store Norske Spitsbergen Kulkompani* was founded in 1916, acquiring all assets of the ACC. This shift in economic interests saw rapid growth in Norwegian influence on Svalbard during the war, elevating Norway to a dominant position as a national economic actor. This newfound self-confidence likely played a role when, in March 1919, during the ongoing peace conference in Paris, the Norwegian government formally expressed its desire to attain sovereignty over the archipelago.

<sup>215</sup> Drawing on Parliamentary minutes, Arlov rephrases Prime Minister Mowinckel's statement during the *Stortinget* debate in July 1925 on the affiliation of Svalbard: "We must invest money, work, and interest in Svalbard. Let us then do what we can to make it as Norwegian as possible in practice".

Svalbard possesses significant mineral wealth, including copper, zinc, gold, and silver. While all treaty signatories had mining rights, only Russia and Norway have maintained a presence since 2012. Despite declining coal reserves, both nations have aimed to retain their political influence in the Arctic by sustaining their foothold in Svalbard. In order to sustain the Norwegian population on the islands, successive Norwegian governments provided subsidies for coal mining, primarily through the state-owned company Store Norske, and supported the largest community, Longyearbyen (Østhagen *et al.* 2023). In parallel, Moscow sought to maintain a significant Soviet population by utilising the state-owned mining company *Arktikugol* in the company towns of Barentsburg, Pyramiden, and Grumant, among which only Barentsburg remains active today (Østhagen *et al.* 2023).



Image 20: Russian travel company in Longyearbyen  
Source: Natalia Neubern, Svalbard, 2022

Shortly after the signing of the Svalbard Treaty, Store Norske's economic stability crumbled due to a severe accident that forced the closure of its productive mine. In response, the Norwegian government provided subsidies to the coal company to ensure the continuity of Norwegian economic activity on the archipelago (Arlov, 2022; Vold Hansen, 2024). This financial support transformed Store Norske into an effective tool for Norwegian authorities to enhance their position on Svalbard before the Treaty's enforcement in 1925 (Arlov, 2022). As Store Norske continued to face

economic challenges, the Norwegian government decided to fully nationalise<sup>216</sup> the company during the 1970s (Vold Hansen, 2024).

Coal mining has been the backbone of Svalbard community identity, in stark difference with mainland Norway, dedicated to portraying an image of being at the forefront of cutting-edge green solutions. If one would think of contrafactual history, it would be valid to enquire: what if there were no coal on Svalbard, would Norway keep investing in whaling, for instance? Whatever activity Norway would pursue, none would be compared to coal mining in terms of ascertaining a foothold by means of spatial presence and thus of a performativity of sovereignty. Mining is all about territorialisation and, as such, is a far more sustained subject of anthropological and ethnographic interest – perhaps due to mining’s territoriality more immediately and obtrusively interfering in the life worlds of anthropologists’ interlocutors (Dale, 2019, p. 61).

In January 2021, the Norwegian government publicly announced its decision to phase out coal energy in Longyearbyen<sup>217</sup>. Shortly thereafter, the Longyearbyen Community Council (hereafter referred to as the Community Council) opted to terminate the coal purchasing agreement with the coal company *Store Norske Spitsbergen Kulkompani AS* (hereafter Store Norske) by September 2023. Despite these recent moves towards phasing out coal mining on Svalbard, the legacy of mining persists in shaping both space and local identity through various manifestations, including public sculptures, educational visits to the Mine by schoolchildren, the transformation of a defunct Mine (*Gruve 3*) into a tourist attraction, photographs of miners adorning the walls of the local pub, and alterations to the man-made landscape (Brode-Roger, 2023). The built environment of the town and, more broadly, Svalbard itself, bears visible traces of mining. Since 1992, structures erected before 1946 receive automatic protection, forming an extensive park of industrial and cultural heritage (Brode-Roger, 2023). The Longyear valley is marked by remnants of mining, such as pillars that once supported coal wagon cables, boarded-up entrances/exits to mines,

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<sup>216</sup> See: <https://www.regjeringen.no/no/dokumenter/meld.-st.-32-20152016/id2499962/>

<sup>217</sup> <https://www.regjeringen.no/no/dokumentarkiv/regjeringen-solberg/aktuelt-regjeringen-solberg/oed/pressemeldinger/2021/ny-energilosning-for-longyearbyen/id2827886/>

hills and knolls formed by mounds of debris, and scattered coal with the accompanying scars on the earth (Brode-Roger, 2023).



Image 20: Gruve 3

Source: Natalia Neubern, 2022





Images 22, 23, 24 and 25: Mining installations in Longyearbyen's landscape

As Tiril Vold Hansen (2024) unpacks, the political process of coal phase-out initiated as a conflict involving environmental, economic, and energy security interests on one side, and industry, workers, and the geopolitical interests of the government in terms of maintaining presence, on the other. This conflict represents a classic clash of interests, where opposing concerns intersect (Vold Hansen, 2024). Despite the government's awareness of the climate impact and the challenges associated with coal production, there seemed to be no perceived alternative that could adequately cater to the community's needs and the related geopolitical objectives. This nondecision-making approach kept the issue of phasing out coal from becoming a prominent national political concern. From a climate perspective, coal is deemed the most detrimental among fossil fuels, being the primary contributor to global temperature rise (Vold Hansen, 2024, p.4). The extraction of coal in an area designated as Norway's best-managed wilderness was hence frequently viewed as a climate paradox.

The assessment on how this paradox has been prolonged for such time has sparked a renewed interest in view of the recent changes. Some believed that due to Store Norske's pivotal role in the Longyearbyen community, there was a socialisation to support coal mining, as it provided stable Norwegian jobs and served as a significant



geopolitical instrument for the government in maintaining Norwegian communities on the archipelago. The industry's reputation made it challenging for environmental concerns to gain traction (Vold Hansen, 2024, p. 5). Over the past century, Store Norske has been a pillar in both the Longyearbyen community and Norwegian Svalbard politics. Their influential worldview has contributed to downplaying the interests in favour of phasing out coal locally and at the national level. This sheds light on why financial and environmental issues related to coal production were not emphasised by the Norwegian government or the local community in the past.



Image 26: World War II Memorial by Store Norske

Source: Natalia Neubern, Svalbard 2022

Apart from environmental considerations, economic and energy security motives eventually also played a role in the decision to phase out coal on Svalbard. The government acknowledged in the 2015-16 Svalbard White Paper that the coal power

plant was approaching its maximum capacity, leading to challenges in maintaining the energy infrastructure for Longyearbyen. Additionally, supplying energy to Longyearbyen was identified as one of the Community Council's most expensive tasks. As the Community Council opted to terminate the coal purchasing agreement and explore new energy solutions, Mine 7 lost its purpose for production. With the rise in coal prices due to Russia's war in Ukraine, Store Norske continued production for commercial purposes for two more years. However, the era of Norwegian coal on Svalbard concluded in September 2023, as Longyearbyen transitioned from coal energy to diesel generators, the former being the backup solution for the coal power plant. Yet, a long-term, renewable energy solution has not been finalised (Vold Hansen, p. 2-4).

When it comes to discourse analysis, the decommissioning of the Svea mine has been characterised as a pivotal moment in the narratives depicting Svalbard's shift from a mining community to a showcase for the future. This process aligns with the Norwegian government's official environmentalist narrative, positioning Svalbard as a hub for innovative environmental initiatives and solutions (Ødegaard, 2022; Vold Hansen, 2024). Simultaneously, the environmental concerns surrounding coal gained prominence, contributing to its worsening reputation. The idea of phasing out coal for environmental reasons found increasing support in Longyearbyen, possibly influenced by the establishment of The Green Party Svalbard, reflecting a growing climate awareness (Vold Hansen, 2024).

However, as Vold Hansen (2024) conveys, opposition to the decision existed, particularly among miners and other residents who argued that phasing out coal could adversely impact the local community, Norwegian sovereignty, energy security, and even the environment. Despite the transformed geopolitical role of the coal industry, a commonly heard argument against the decision was that it would weaken Norway's position on Svalbard. Concerns were raised that without credible mining activity, Russia could potentially claim the mining areas previously held by Store Norske.

For the matter of mining on Svalbard, the performativity of Norwegian sovereignty equates with territorialisation and with ownership of territory. By ascertaining its presence through property and by literally owning land, Norway's

corporate statehood has maintained a stronghold over the Norwegian company town of Longyearbyen by means of the state owned SNSK (*Store Norske Spitsbergen Kullkompani*). It is worth mentioning that SNSK recently won a purchase bid on Hurtigruten's real estate, increasing its stake as a property manager, a transaction made financially possible by the state via the Ministry of Trade, Industry and Fisheries (Brode-Roger, 2023).

Store Norske is remarkably shaping the transition in Svalbard by redefining its role, shifting focus to property management, logistics, tourism, and exploring eco-friendly solutions like wind, solar, and thermal energy storage in the Arctic climate. As Cecilie Vindal Ødegaard (2022) emphasises, SN not only plays a central role in preserving mining history and maintaining abandoned structures but is also responsible for the cleanup in Svea. This transformation alters the perception of mining from a lived experience to a memory, concurrently reshaping nature in the region into a human-designed entity labeled as "wild, pristine nature". As the mines close down, questions arise about how Norwegian authorities will signify national presence in the area (Ødegaard, 2022).

Store Norske's encompassing role on Svalbard makes it a relevant political actor and resonates with the concept of corporate diplomacy, through which corporations adopt new roles, undertaking responsibilities to address issues where governments have faced challenges, essentially taking on more political functions. The concept of "corporate diplomacy" thus suggests that corporations aim to position themselves as institutions and, by assuming some traditional state functions, gain the status of interlocutors in non-governmental settings. By the same token, corporate diplomacy is pertinent for corporations involved in activities where they identify opportunities or challenges in a host country, collaborating with stakeholders at various levels, including civil society, to develop sustainable solutions (Mogensen, 2019).

The recent changes conform a coherent continuity, that of a corporate statehood informing Norwegian sovereignty towards strengthening its bureaucracy as a means to keep the dependency of a hitherto company town upon the workings of the state-backed large corporation of Svalbard, which now also incorporates mottos of energy transition.

Furthermore, as a corporate manager of the company town under a renewed grip by Store Norske, the Norwegian state also needs to perform as a responsible manager.

Besides digital security, energy security is the biggest challenge on Svalbard. Since diesel is more expensive and in view of the recent crisis following the Russian invasion of Ukraine, the deactivation of Norway's last coal plant – *Gruve 7* – had been postponed for two years, until the ultimate move in September 2023. The discourse on energy security is noteworthy to justify the postponement as much as the assessment of environment-friendly alternatives:

“Any failure in Svalbard energy supply can have grave consequences. Supply security is the most important regard when evaluating opportunities for a new energy solution”<sup>218</sup>, declared Oil and Energy Minister Tina Bru in a press statement<sup>219</sup>. According to this narrative, the long-term goal is an energy supply with the highest possible share of renewable energy, ensuring supply security and avoiding significant impact on Svalbard's delicate nature.

In view of the decreased stance of coal mining, the government attempts at filling the void of such presence with other means to allure a community:

“As the number of employees in the coal mining company Store Norske has decreased, it is important to the Government that Longyearbyen also in the future remain a viable local community that is attractive to families. In this white paper the Government signals a continued focus on research and higher education, tourism, and other varied economic activities. At the same time, the Government will support the development of a more diverse economy within the framework of the Svalbard policy objectives”<sup>220</sup>.

In the past mining era, miners frequently used caged canaries to assess air quality in mining shafts. If the canary succumbed to unconsciousness, it signaled dangerously low oxygen levels, prompting an immediate evacuation from the coal mine. Today, a fitting analogy of the metaphor emerges, as the Arctic community has assumed the role of the caged canary, serving as a warning to the world about imminent dangers<sup>221</sup>.

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<sup>218</sup> See: <https://www.highnorthnews.com/en/norwegian-government-announces-new-energy-solution-longyearbyen>

<sup>219</sup> See: <https://www.regjeringen.no/no/dokumentarkiv/regjeringen-solberg/aktuelt-regjeringen-solberg/oed/pressemeldinger/2021/ny-energilosning-for-longyearbyen/id2827886/>

<sup>220</sup> Meld. St. 32 (2015–2016) - regjeringen.no

<sup>221</sup> See: <https://medium.com/nysn%C3%B8-climate-investments/all-eyes-on-svalbard-b7759292eb9c>

Just as Svalbard is the laboratory of climate change, there is equally an attempt to portray Svalbard as the vanguard for cutting-edge energy transition experiments (Vold Hansen, 2024; Ødegaard, 2022). In this transformed political landscape, the government, the mining company, and the Community Council found it necessary to redefine their roles to maintain relevance<sup>222</sup>. The competition for symbolic capital became crucial, with the perceived leader in the energy transition gaining an advantage in the symbolic order contest. This competition has historical roots in the development of the Longyearbyen community. Initially, Norway focused on securing sovereignty over Svalbard in international negotiations, a task accomplished with the Svalbard Treaty in 1920. Despite the settlement, the Norwegian government has continuously navigated the interests of other states in its Svalbard policies, using a robust environmental management regime to signal its sovereignty enforcement. Leading the energy transition is seen as an assertion of Norwegian sovereignty, reinforcing the country's credibility as an environmental actor. Furthermore, Longyearbyen's history as a company town, dominated by Store Norske, has shaped the power dynamics. The Community Council, a newcomer in Svalbard politics, had to establish itself as a significant force alongside the cornerstone company. The ongoing dispute between the council and the company can be interpreted as an extension of this historical struggle for influence (Vold Hansen, 2024).

The transition from a mining-centric economy to one centred on research, education, and tourism has led to shifts in the population dynamics, as the latter is characterised by a more international composition, a change that has raised dubious interpretations (Vold Hansen, 2024). While some scholars emphasise that this transformation may pose challenges to Svalbard's "Norwegianness" and potentially contribute to misconceptions regarding its legal status under Norwegian sovereignty (Pedersen, 2017), others argue that the closure of mines reflects Norway's commitment to environmental responsibility, presenting a novel approach to asserting national presence (Ødegaard, 2022; Vold Hansen, 2024, p. 2). As an example, the decommissioning has been depicted as a pivotal moment in the narratives about

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<sup>222</sup> To understand the competencies' division between the Governor and the Lokastyre, see: <https://www.lokalstyre.no/for-foreigners.603838.no.html>

Svalbard's shift from a mining community to a showcase for the future<sup>223</sup>. This process aligns with the Norwegian government's official environmentalist narrative, positioning Svalbard as a hub for innovative environmental initiatives and solutions (Ødegaard, 2022).

This shift involves more than just an energy transition; it represents Norway's prestigious diplomatic strategy, embodying the role of a responsible and innovative steward of resources. This symbolic move reconciles the paradox of a leading environmentalist nation engaging in coal mining in environmentally vulnerable areas where climate change impacts are exacerbated.

The assessment of the dispossession, disentanglements, and disembeddedness resulting from this transition requires attention to the hopeful narrative framings and the creation of new connections and possibilities as these shifts on Svalbard testify that the act of making and unmaking resources is seen as having temporal effects, shaping past, present, and future through ideational systems or resource imaginations (Ødegaard, 2022). Ødegaard (2022) equally frames Svalbard's energy transition process into a broader anthropological context, emphasising the long-standing recognition that both material things and social relations derive value from performative acts. This perspective focuses on the emergence of social realities through material-discursive practices insofar as understanding the underlying rhetorical and aesthetic models of modern social dramas is crucial, especially in the context of current environmental instabilities and green transitions, commonly referred to as the Anthropocene (Ødegaard, 2022).

For Ødegaard (2022), the narrative and performative aspects of this transition, particularly in the context of "post-carbon narratives", go beyond the shift to a new energy source insofar as efforts to initiate such transitions, specifically moving away from coal dependence, involve various performances and actions aimed at facilitating and legitimising the transition process. The current absence of a decision regarding the

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<sup>223</sup> Store Norske's CEO, Jan Morten Ertsaas, outlined ambitious plans to leverage their expertise in icy environments to hasten the green transition. With 1,500 Arctic communities relying on coal, oil, and diesel due to a lack of central grid connections, there is potential to transform them into off-grid renewable energy islands. The Isfjorden Radio Station serves as the initial pilot site, with Kverneland Energi and local entities collaborating on solar panels, battery banks, and thermal storage. See: <https://medium.com/nysn%C3%B8-climate-investments/all-eyes-on-svalbard-b7759292eb9c>

replacement for coal in Svalbard adds complexity to the diverse and multi-layered performative acts employed by certain actors to actualise ‘transition’, recognising the pivotal role of energy in shaping modernity and influencing people’s perceptions of the world.

The evolution of mining in Svalbard, initially pursued as a primary goal and later integrated into strategic demarcations of national presence, aligns with Norway’s imperative to perform sovereignty through territorialisation and presence. This strategic evolution was particularly pronounced during the Cold War when Svalbard served as a crucial Eastern/Western outpost (Ødegaard, 2022). The increased geopolitical significance of the territory further underscored the importance of asserting Norwegian sovereignty through visible and tangible markers. However, with the phased-out mining operations, the challenge arises for Norway to redefine and sustain its performative sovereignty in Svalbard, especially in the face of closures like that in Svea. This shift requires innovative approaches to maintain a strong national presence on the archipelago. The energy shift, then, serves as both a predicament and a repossession as much as it solves a paradox and actualises Norway’s performativity of a world class environmental state.

## **5.6. Democracy in Longyearbyen: a far-fetched utopia?**

Human presence on the archipelago of Svalbard has undergone significant influence over the years due to geopolitical interests and the utilisation of the region as a resource. The Svalbard Treaty, drafted on February 9, 1920, and implemented on August 14, 1925, continues to play a pivotal role in shaping various forms of presence on the archipelago, whether it be through public or private businesses, state involvement, or individual activities.

During the 1970s, Longyearbyen underwent a transformation, breaking away from the “company town” model and gradually aligning itself with communities on the Norwegian mainland (Arlov, 2019). This era marked the initiation of economic diversification in Longyearbyen, with the government actively promoting research and tourism alongside the coal industry, aiming to establish these sectors as economic pillars by the 1990s (Vold Hansen, 2024, p. 2). The transformation of Longyearbyen

from a company town to a local democracy started with the democratically elected Svalbard Council in 1971. It was not until 2002, with the formation of the Longyearbyen Community Council (*Longyearbyen Lokalstyre*, hereafter the Community Council) that the town acquired a form of local democracy. The establishment of the Community Council represented a significant development, mirroring mainland municipalities with democratically elected leadership and similar responsibilities. Notably, the Community Council also assumed the unique responsibility for energy supply, distinguishing it from mainland municipalities (Vold Hansen, 2024, p. 2). Since then, mining has decreased, tourism has flourished, and there has been a solidification of education and research. The region has faced challenges due to rapid climate changes affecting local infrastructure and experiencing increased media attention (Brode-Roger, 2023).

Despite its original intention to secure access for extractive industries rather than the establishment of family-oriented communities, such communities have indeed emerged on Svalbard. Initially, these communities were seasonal, but over time, company towns were established. Among these, only Longyearbyen has evolved into a semblance of local democracy (Brode-Roger, 2023). Dina Brode-Roger (2023) contends that the transition from a company town model to a local democracy is unlikely to reach full fruition due to the prevailing Norwegian state perspective on sovereignty and the unique territorial status established by the Svalbard Treaty. Brode-Roger (2024) explores the outcomes derived from employing an Identity of Place framework.

In 1989, *Store Norske* underwent a decentralisation of powers, separating its community services from mining operations. As a result, the subsidiary *Svalbard Samfunnsdrift*, fully public since 1993, assumed responsibility for managing the town of Longyearbyen, while *Store Norske* delegated various functions to newly established entities: *Svalbard Naeringsutvikling AS* for commercial development, *Spitsbergen Travel AS* for tourism operations, and *Svalbard Naeringsbygg AS* for commercial property. This gradual reduction of *Store Norske*'s authority aimed to strengthen the Governor's role and facilitate the diversification of Longyearbyen's economy. Ultimately, the transformation sought to evolve the town from an unprofitable mining



center into a more conventional settlement, reinforcing Norway's jurisdictional claims through its administration (Grydehøj, 2019).

By drawing on distinctions among the concepts of place, space, and materiality and on the place-centred concept of 'Identity of Place' and the human-centred notion of 'place-identity' in order to delineate the intrinsic nature of a place (Identity of Place) in shaping an individual's identity (place-identity), Brode-Roger (2023) contends that, in locales with special territorial status, such as Longyearbyen, the Identity of Place becomes intricate due to external perspectives that position it within a more abstract, geopolitical sphere. Places with special territorial status hold conceptual or instrumental significance, carrying layers of meaning beyond those encountered in the lived experience of residing there. The constructed environment of Longyearbyen mirrors this complexity, showcasing a multiplicity of narratives, belongings, and meaning-making that interweave politics of presence, politics of space, and individual identities. (Brode-Roger, 2023, p.6).

The peculiarity of Svalbard goes beyond its special territorial status. Unlike other Arctic regions, Svalbard lacks an indigenous population, and the significance of the Svalbard Treaty in political decision-making shapes considerations of inhabitation, presence, and entitlement differently. Longyearbyen experiences a notable population turnover, with varying durations of residency—some for short-term work opportunities and others for several years. Housing accessibility, particularly for non-Norwegian citizens employed in the private sector, poses a challenge in Longyearbyen (Ødegaard, 2022).

When investigating how residents' perceptions of Svalbard's unique territorial status influenced their sense of community and while exploring challenges related to establishing a long-term family community within the framework of a developing local democracy (p. 11-12), Brode-Roger highlights that Longyearbyen was perceived as intricate, with a confused and unclear identity. Despite being systemically Norwegian in terms of management, daily life often portrayed an international atmosphere<sup>224</sup>. This ambiguity, being Norwegian in some respects and international in others, directly stems

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<sup>224</sup> International references on Svalbard are present even in names of places, such as the "Burma Road", and "Sugarloaf".

from Svalbard's special territorial status. While Norway maintains full sovereignty, it has no control over who enters, as no work visa is required. This, coupled with the transition to a more 'normal' town, attracts foreigners to Longyearbyen. While Norwegians run the place, maintaining Norwegian values, even with a significant foreign presence, a rejection of place-attachment by certain Norwegians raises questions about what elements of the place evoke non-acceptance from Norwegians and what makes non-Norwegians feel they should be accepted as much as it reveals a performativity of sovereignty.

Moreover, the elevation of 'nature' to a pivotal role, both in defining national presence and constructing narratives depicting Svalbard as an environmental exemplar, gives rise to specific expectations regarding the Svalbardian individual. The idealised persona is not an industrial worker or miner but rather an environmentally conscious expert—someone governable and cosmopolitan, ideally with connections to Norway. In 2021, the government not only suggested expanding environmental laws in Svalbard but also introduced contentious restrictions aiming to curtail political representation and voting rights for residents lacking Norwegian citizenship (Ødegaard, 2022). Ødegaard (2022) interprets these initiatives as part of a distinct politics of presence, representing another form of settler colonialism, which, although does not comprise the displacement of indigenous populations, it entails a recolonisation of the place through environmental management and the accommodation of a specific type of inhabitant.

Regardless of citizenship, both short- and long-term residents express strong emotions and engagement concerning changes, community development, and the management of natural areas in the archipelago (Ødegaard, 2022). When it comes to the audience or receiver of Norway's performativity of sovereignty, from a bottom-up perspective, the tightened grip of the Norwegian state over Svalbard is also perceived from the living community as utilitarian, in the sense that the community is deemed a geopolitical tool for Norway to ascertain its presence and control (Sokolickova *et al.*, 2022).

Norwegian authorities assert the continuity of their strategy for Svalbard, but the tangible changes in Longyearbyen since the 1990s occasionally diverge from the

stated plan. Residents observe an increasing assertion of control by the state, particularly evident in areas such as environmental regulations affecting tourism, avalanche protection, services, and housing management reorganization. From a grassroots perspective, the rapid development of Svalbard in recent decades presents challenges, and there is not unanimous support for the firm control exercised by the state. The international discourse on Svalbard has predominantly focused on the principle of possessing the region, overshadowing the significance of Svalbard as a place with its inhabitants (Sokolickova *et al.*, 2022, p. 268).

The manifestation of Norway's sovereignty relies significantly on elements of identity within Longyearbyen. Despite English being the universal language in the town and a considerable number of short-term residents from outside the Nordic region not expected to learn Norwegian, council business and political activities persist predominantly in Norwegian. Notably, the electoral politics in Longyearbyen are dominated by local branches of mainland-based parties, making it electorally an extension of Norway (Grydehøy, 2019). This element, in addition to the recent restriction of voting<sup>225</sup> to Norwegian citizens, has raised discussions on the feasibility of a fully-fledged democracy in Longyearbyen.

The Norwegian government has introduced a requirement of three years of residency in a Norwegian municipality, excluding Norwegian citizens, for voting and eligibility in the local council elections in Longyearbyen. This move is seen as a response to the evolving demographics of Longyearbyen, which has witnessed a significant increase in direct immigration from abroad in recent years. The increased immigration directly to Svalbard, driven by the absence of immigration regulations for the archipelago, has altered the demographic landscape<sup>226</sup>. Moreover, the move may be depicted as a contemporary form of Norwegianisation and of performativity of Norway's presence and control of the region.

The government's decision to impose a three-year residency requirement for non-Norwegian citizens is motivated by the belief that ties to the mainland contribute

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<sup>225</sup> See: <https://www.regjeringen.no/no/aktuelt/ender-reglene-for-valg-til-longyearbyen-lokalstyre/id2919502/>

<sup>226</sup> See: <https://www.regjeringen.no/no/aktuelt/ender-reglene-for-valg-til-longyearbyen-lokalstyre/id2919502/>

to a better understanding of Svalbard policies and the unique framework governing the region. Moreover, the government justifies the decision on the grounds that Longyearbyen's local council lacks independent taxation authority, and the overall tax rate is low. Consequently, substantial funding from the mainland economy supports service provision and infrastructure. The requirement for mainland connections is seen in light of this financial support, as residents with ties to the mainland have likely contributed to this funding (Grydehøy, 2019). This legislative shift underscores the performative aspect of Norwegian connections and identification in shaping local governance policies in Longyearbyen. Moreover, it represented, in practice, the exclusion of one-third of Longyearbyen residents from the recent election<sup>227</sup>.

Moreover, the various layers of the international society in Longyearbyen – often grouped in clusters of Norwegian and non-Norwegians – challenges a full integration and makes local democracy shortcoming. Limited access to housing, healthcare, news sites, events, and nature may also be perceived as form of performativity of sovereignty by Norway, for and by Norwegians. As Brode-Roger (2023) contends, although non-Norwegians are allowed entry on Svalbard, they are denied access to “social rights” they would have enjoyed if residing in mainland Norway. This complex situation often leads to confusion in Longyearbyen. The transition from a company town to a more conventional one since the 1970s has fostered expectations of social benefits, creating a shift in the town's dynamics. The portrayal of Longyearbyen as a family community with local democracy has generated expectations for available services, which are not the case and, in addition to the restriction on voting, does not allow for a fully functioning democracy.

Certain exclusionary mechanisms are in place, creating a discrepancy between the perception of Longyearbyen as a normal town with local democracy and the lived reality of it being a Norwegian settlement maintained for political reasons. This dissonance challenges the expectation of equal rights for all residents. Internationally, there is a perception of Norway as insecure and needing to assert itself in Svalbard. Some attribute this to Norway's historical weaker position, making it challenging to

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<sup>227</sup> See: <https://thebarentsobserver.com/en/2023/10/local-elections-svalbard-are-held-first-time-new-restrictions-foreigners>

assert control over Russian activities, while others speculate it may be linked to Svalbard's unique territorial status (Brode-Roger, 2023).

The proximity of the Governor (which reports to mainland Norway) to the Local Community Council is another noteworthy challenge in establishing a robust democracy on Svalbard. When the Governor (*Sysselmesteren*) takes a stance, the government in Oslo is immediately involved. This close relationship raises concerns about the effectiveness of the democratic process on Svalbard due to its tight structure insofar as the government's significant control might lead to potential conflicts between local administration preferences and decisions made in Oslo. This situation prompts questions about the legitimacy of Svalbard as a 'normal' town with a genuine local and democratic decision-making process (Brode-Roger, 2023).

While othering Russia as non-democratic, particularly in the context of the invasion of Ukraine, in which the concept of democracy abounds in narratives and gains prominence as a differentiating value of the West, maintaining Svalbard as not sheerly democratic is a paradox for Norway, but equally convenient for performing its sovereignty.

Adam Grydehøy (2019) posits that conditions and power structures within Longyearbyen may undergo changes in the upcoming decades. As such, considering the absence of borders within Svalbard and the characterisation of Longyearbyen as a "Norwegian town" and Barentsburg as a "Russian town" based on the companies and residents' nationalities, he hints that Norway might encounter challenges in using Longyearbyen's existence as unequivocal proof of its absolute sovereignty over Svalbard (Grydehøy, 2019).

All in all, the tension between Svalbard's unique territorial status (originally designed for economic purposes and open to all) and Norway's aspiration to establish a typical Norwegian community, solidifying Norwegian presence on the archipelago make the essential duality of Svalbard hard to disentangle, insofar as the Svalbard Treaty's framework clashes with the Norwegian state's goal of creating a standard Norwegian town, given its current interpretation.

The official narrative<sup>228</sup> projected for the new Svalbard White Paper<sup>229</sup>, however, reflects a discrepancy between theory and practice, as it aims at involving the local community:

“The government has decided that a parliamentary report on Svalbard will be presented in 2024. Comprehensive reports to the *Storting* about Svalbard have previously been presented at roughly ten-year intervals. The previous report was presented in 2016. There is now a need to carry out a comprehensive review of the Svalbard policy and set the course for Svalbard going forward. Through the work on a new Svalbard report, we will lay the foundations for a stable and predictable management of Svalbard in line with the overall goals of the Svalbard policy, says Minister of Justice and Emergency Preparedness Emilie Enger Mehl (Sp). Developments in recent years with climate change, increased activity and a new security situation in Europe have brought new challenges for Svalbard. National control is important throughout the country, also on Svalbard, and the Government has therefore recently introduced person control and control of goods transported to and from Svalbard. The local community in Longyearbyen has also undergone major changes, and appears today with a greater variety of businesses and an adapted service offer. The work on a new report to the *Storting* on Svalbard will lay the foundations and guidelines for activity and management on the archipelago in the future, and the comprehensive reviews will contribute to a balanced development within the objectives of the Svalbard policy. Arrangements must be made for dialogue and the involvement of local actors in the work on the report.”

From the mid-1980s onwards, the Norwegian government has consistently articulated comprehensive goals for its Svalbard policy. These objectives prioritise the unwavering assertion of sovereignty, adherence to the Svalbard Treaty, the implementation of control mechanisms to guarantee treaty compliance, the promotion of peace and stability in the region, the preservation of the unique natural wilderness, and the support of Norwegian communities within the archipelago (Vold Hansen, 2024, p. 2), as exemplified by the 2015-16 Svalbard White Paper:

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“As the number of employees in the coal mining company Store Norske has decreased, it is important to the Government that Longyearbyen also in the future remain a viable local community that is attractive to families. In this white paper the Government signals a continued focus on research and higher education, tourism, and other varied economic activities. At the same time, the Government will support the development of a more diverse economy within the the framework of the Svalbard policy objectives”

[...]

The overriding objectives of the Svalbard policy are:

- Consistent and firm enforcement of sovereignty
- Proper observance to the Svalbard Treaty and control to ensure compliance with the Treaty
- Maintenance of peace and stability in the area

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<sup>228</sup> The narrative of national control also in the form of transportation of goods to and from Svalbard may be interpreted as an indirect mention to the control on Russia's provisioning of goods to Barentsburg, which Norway has blocked on certain occasions, and, as retaliation, Russia ventured into cyber attacks against Norway.

<sup>229</sup> See: <https://www.highnorthnews.com/nb/svalbardmeldingen-nokkelen-ligger-pa-nasjonalt-niva>

- Preservation of the area's distinctive natural wilderness
- Maintenance of Norwegian communities in the archipelago"

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The Norwegian state's transition of Longyearbyen from a company town to a local democracy aimed at fostering a more normal Norwegian community paradoxically leads to increased internationalisation, contrary to its intended direction. At the same time, the removal of voting rights for non-Norwegians suggests a desire to return to a more centrally controlled structure akin to a company or "state town" (Brode-Roger, 2023). Housing reorganisation under a state-owned entity and considerations for state-led nature protection around the town raise concerns about potential limitations on access for residents and local businesses (Brode-Roger, 2023).

Grydehøy (2019), in turn, contends that the presence of settlements on Svalbard is a result of the shortcomings in the Svalbard Treaty. Both Norway and Russia perceive deficiencies in the treaty, which have been crucial in the formation and maintenance of permanent settlements, leading to the establishment of towns in the archipelago. The current community life on Svalbard can be traced back to the treaty's failure to grant clear and lasting sovereignty over the islands to Norway.

When pitting Brode-Roger's (2023) argument against that of Grydehøy (2019), one can posit that, while the inconsistencies of the Svalbard Treaty motivated both Norway's and Russia's drive to ascertain their foothold by establishing settlements, the ensuing loopholes that the same treaty allows in view of the challenge entailed by non-discrimination jeopardise the development of a democracy in full swing.

The White Paper on Svalbard (2023-2024) underscores Norway's performative sovereignty over the archipelago by focusing on reinforcing the Norwegian demographic presence. Amidst heightened geopolitical tensions, the government's emphasis on the need for consistent enforcement of sovereignty includes strict controls over individuals and movements introduced since 2022 to enhance national security.

Highlighting the declining average stay of Norwegian residents in Longyearbyen, which dropped to 3.4 years by January 2024, a decrease of over 20% since the previous report, the document attributes this to the downsizing of the mining industry and increased living costs. In contrast, other nationalities, particularly Thais,

have an average residence time exceeding ten years. To counter this trend, the government aims to attract more Norwegians, especially families with children, through various incentives. Despite the demographic diversification, with foreign nationals now constituting approximately 36% of the inhabitants from over 50 countries due to varied employment sectors like research, teaching, and tourism, the policy reaffirms Longyearbyen's non-permanent residency rule and limits community growth. By prioritizing Norwegian settlement and managing the demographic composition, the government seeks to strengthen Norway's sovereign control over Svalbard, ensuring the archipelago remains predominantly Norwegian in character and governance.

The Norwegian government and the local population of Svalbard have conflicting interests regarding the development and regulation of the archipelago. The introduction, by the government, of a series of regulations aimed at ensuring a strong Norwegian presence and protecting the environment has been perceived as heavy-handed and disconnected from local needs, resulting in significant dissatisfaction among the inhabitants. Local business leaders and residents feel that their input has been largely ignored, leading to a series of challenges, including housing shortages, economic instability, and overly stringent environmental regulations that complicate daily life and business operations<sup>230</sup>.

The local population, represented by community leaders and business associations, is frustrated by what they see as the government's top-down approach. They argue that the new regulations, introduced without sufficient local consultation, undermine the community's sustainability and viability. Issues such as the closure of the last coal mine, restrictive voting rights for non-Norwegian residents, and the imposition of environmental rules that are seen as impractical, exacerbate the sense of neglect. There is a strong call for more transparent and inclusive policy-making that balances environmental protection with the economic needs of the community. The

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<sup>230</sup> <https://www.highnorthnews.com/en/call-help-longyearbyen-government-decide-what-you-want-svalbard>



residents believe that without addressing these fundamental issues, the long-term goal of maintaining a vibrant and resilient Norwegian settlement on Svalbard is at risk<sup>231</sup>.

Power in practice is inherently relational, not existing in isolation but always within a network of interactions and negotiations. This relational aspect challenges the simplistic view of sovereignty as merely a state's assertion of power over territory. Instead, it acknowledges that sovereignty involves reciprocal dynamics where territories like Svalbard also exert influence and agency by metaphorically "returning the gaze" towards state powers like Norway.

In the context of Svalbard, this reciprocal dynamic is evident in how the local population responds to Norwegian governance. The frustrations expressed by community leaders and business associations illustrate a perceived imbalance in power relations. They critique the government's top-down approach to policymaking, highlighting issues such as insufficient local consultation, the closure of the coal mine, voting restrictions for non-Norwegian residents, and impractical environmental regulations. These grievances underscore a sense of neglect and alienation from decision-making processes that directly impact their livelihoods and community sustainability.

The call for more transparent and inclusive policy-making reflects a desire for greater recognition of local perspectives and needs. It emphasises the importance of balancing environmental conservation with economic imperatives to ensure the long-term viability of the Norwegian settlement on Svalbard. This local response challenges Norway's unilateral exercise of sovereignty, suggesting that sustainable governance requires meaningful engagement with and responsiveness to local stakeholders.

Therefore, while Norway asserts its sovereignty over Svalbard through regulatory measures and environmental policies, the local population's resistance and demands for inclusivity demonstrate Svalbard's 'returning gaze'. It even more

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<sup>231</sup> See: <https://www.highnorthnews.com/en/call-help-longyearbyen-government-decide-what-you-want-svalbard>

profoundly depicts not only the relational aspect of performativity of sovereignty but also how this sovereignty cannot be simply applied into the vacuum or into a point-blank territorial surface. That said, without accountability or responsiveness, sovereignty can lose its efficacy. This dialectical relationship underscores the complexity of sovereignty as a performative and negotiated process, shaped by interactions between state powers and the territories they govern.

These developments underscore the complexities in Norway's performativity of sovereignty on Svalbard, where attempts to align the community with Norwegian norms may inadvertently clash with the open and international character intended by the Svalbard Treaty, on the one hand, whereas the failed attempt to render it a functional democracy draws a paradox as compared with Norway's othering of Russian as non-democratic, on the other hand.

## **5.7. A myriad of tools for Performativity of Sovereignty: Law, Language, Environment, Research, Military Posturing**

### **5.7.1. Performative Law**

Norway's performativity of sovereignty over Svalbard may equally be perceived through the lenses of an epistemology of performative law. The Svalbard Treaty and UNCLOS are addressed by Norway by means of a performative sovereignty that reiterates Norway's political stances over ambiguities that law itself cannot technically disentangle. Drawing on the assumption that law functions not merely as a normative discourse but as a performative one, continually generating its distinct normative substance through repetitive practices, Norway's performativity of sovereignty over Svalbard and its surrounding waters trespasses the normative dimension of these legal instruments insofar as it is materialized thanks to performative iterations, where performativity generates and presents the materiality of law's norms.

This performative framework underpins and defines two dimensions of politics deemed pivotal for authors such as Awol Kassim Allo (2013): the establishment of a legal order and the formation of legal identity. At the core of the author's exploration

lies the concept that challenges conventional beliefs in juridic-philosophical circles by positing that law operates as a performative discourse, consistently producing and presenting its unique normative substance through repetitive practices. The normative portrayal of law serves as a means for law to conceal, repress, and prohibit its historical context, in order to ultimately maintain legitimacy and authority. Consequently, a performative epistemology of law challenges the closure, by normativity, of sovereignty, politics, and subjectivity. It posits that if there is a normative dimension to law, it is a result of performative iterations that shape law's normative materiality. By drawing on Derridean and Butlerian accounts of performativity, the chapter questions law's temporal, material, and spatial indifference to its normative claims.

Relating this discussion to Norway's performative interpretation of alleged inconsistencies resulted from the combination between UNCLOS/ CLCS and the Svalbard Treaty, the performative epistemology of law becomes a crucial tool for generating strategic knowledge about law's power and its dissemination (Allo, 2013). It offers a theoretically and empirically intelligible alternative to abstract and inaccessible juridical notions of law. By applying a performative logic to key moments in law, this approach illuminates the normative specificity and reality of these moments within the context of the Svalbard Treaty and UNCLOS.

In a similar vein, Øystein Jensen and Svein Vigeland Rottem (2010) hold that the Svalbard matter is not solely a legal or foreign policy matter; it encompasses both legal and political aspects. In this sense, performativity comes to the fore in terms of not only acknowledging *whether* Norway has jurisdiction but rather *how* Norway exercises this jurisdiction. The intricate and extensive ecosystem of states with intersecting though diverging interests pose challenges for Norway to navigate the complex patchwork of alliances that not rarely make Norway seem more isolated on certain issues and that require more intricate assessments than solving each dispute (Jensen & Rottem, 2010, p. 81).

### 5.7.2. Norwegianisation: From Spitsbergen to Svalbard

One subtle, nuanced way of exercising this sovereignty is by means of language and reconceptualisation, as illustrates the adoption of the name “Svalbard” in detriment of “Spitsbergen”. As Roald Berg (2013, p. 154-155) describes, the historical evolution of Spitsbergen into Norwegian territory, now known as Svalbard, embodies the concept of Norwegianisation, showcasing the intricate connection between Norwegian polar expansionism and internal colonialism and aimed at exercising control over the diverse population in the northernmost regions, adjacent to Russia and Finland. Since Spitsbergen is spatially situated beyond Norway’s state borders, Norwegianisation also entailed a transition of Spitsbergen into a Norwegian-centric entity.

The transformation of the Spitsbergen islands into Svalbard, marked by the replacement of their Dutch name inspired by the jagged mountains (Berg, 2013), exemplifies Norway’s performativity of sovereignty through Norwegianisation. This strategic renaming, as part of the Spitsbergen Treaty and the establishment of Norwegian rule, concluded over three decades of diplomatic efforts to bring these islands under Norway’s control. The choice of the name Svalbard symbolically linked the territory to Norway’s medieval North Atlantic Ocean empire, reinforcing historical ties to Greenland, Iceland, the Faroe, and Orkney Islands (Berg, 2013, p. 155).

In accordance with Berg (2013, p. 155-170), the act of renaming served as a political and linguistic manifestation of Norwegianisation, aligning with the broader policy of integrating all parts of the Norwegian realm into its cultural framework. This approach mirrored the integration policy applied to the northernmost provinces within Norway’s borders, emphasizing a consistent strategy regardless of geographical location. Norwegianisation, historically applied in politics, economics, and culture, aimed to address security concerns in regions characterized by wilderness, ethnic diversity, and limited integration with the kingdom, particularly in response to potential threats from neighbouring Russia and later Finland.

In essence, Norwegianisation, both within the national borders and in the Arctic, reflects Norway’s deep-seated national sentiments, akin to European

imperialism, driving the desire to conquer and re-establish the historical Norse Norway over the land and beyond its oceans. This performativity of sovereignty underscores Norway's deliberate efforts to assert control, reshape territories, and evoke historical connections in its pursuit of national identity and influence.

However, the manifestation of Norwegian "Arctic imperialism" in the diplomacy surrounding Norwegian Spitsbergen from the 1890s to 1920, and during the construction of Norway's sense of a claim to the islands, demonstrates a form of imperialism intricately linked to the performativity of sovereignty. This imperialism was fundamentally about the "maintenance and increase of state prestige" rather than being primarily driven by economic or other tangible interests. The foundational ideology of this imperialistic pursuit rested on historical myths (Berg, 2013, p. 170).

In the context of Norway's performativity of sovereignty, the Arctic imperialism becomes a strategic effort to reinforce and project national prestige, highlighting the performative aspects of statehood. The emphasis on historical myths further aligns with the narrative construction integral to performativity, illustrating how Norway's pursuit of the Arctic was shaped by symbolic and identity-driven considerations more than immediate economic gains. This perspective underscores the nuanced and performative nature of Norway's imperialistic endeavours in the Arctic, emphasising the role of state prestige and historical narratives in shaping its sovereignty over Spitsbergen. The drive to the Arctic ultimately aligns with Norway's *grandeur* as a self-entitled ocean nation, as explored previously. In essence, Norwegianisation serves as a performativity of Norway's sovereignty over Svalbard, driven by a quest for global influence and acknowledgment.

The Norwegianisation in the Arctic also entailed the naming of the Norwegian Sea. The inaugural oceanographic expedition to the North Ocean in 1876 left a lasting political imprint on the polar basin via the notable step of renaming the North Ocean as the Norwegian Sea (Berg, 2013), offering a distinctive perspective on Norway's performativity of sovereignty. This decision found its way onto official Norwegian maps, signifying a linguistic and cartographical act of Norwegianisation—an echo of the philological and political maneuvers of 1814. According to Berg (2013), this renaming constituted a "linguistic coup", showcasing how oceanographers, akin to the

politicians in 1814, harboured nationalistic aspirations in their mapping of the North Ocean. This connection between scientific exploration, map encoding, and national identity underscores the intricate interplay between geography, language, and sovereignty, revealing the performative nature of Norway's assertion of control over its maritime domains.

Linguist performances of ownership and possession exist to the present date, as recently illustrated in the case of snow crab. As explored in Chapter 4, in 2017, the European Union (EU) made the decision to grant licenses for snow crab fishing in the maritime zones around Svalbard in the Barents Sea. Despite Norwegian fishers having a minimal impact on this resource, a dispute emerged with the EU, with Norway claiming that the EU lacked both the jurisdiction and authority to issue licenses in those waters (Østhagen & Raspotnik, 2019). The staging of performances from sides were eloquently expressed regarding the case. The Norwegian Minister of Fisheries, Per Sandberg, vehemently declared his commitment to never “give away a single crab”<sup>232</sup>. In response, a Member of the European Parliament (MEP) characterised the Norwegians as “pirates” in the Arctic.

Examples of the Arctic States' performance of ownership abound, as illustrates the televised spectacle of planting a titanium Russian flag at the bottom of the Arctic Ocean in August 2007, a gesture described by Klaus Dodds (2010) as both “stagecraft” and “statecraft”. Throughout much of the twentieth century, the Arctic, and similarly the Antarctic, have been venues for various practices and representations aiming to execute what Patricia Seed termed ‘ceremonies of possession’ (Dodds, 2010).

The Russian flag-planting in the Arctic, initially seen by many as a media stunt sparking global media reports speculating about Russia staking claims to the North Pole and the central Arctic Ocean<sup>233</sup>, was later framed by Russian officials as a symbolic affirmation of the country's historical presence in the region. Russia strategically used the act, following UNCLOS provisions, to claim seabed rights beyond the 200 nautical mile limit. This move aimed to extend Russia's landmass

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<sup>232</sup> See: <https://www.vg.no/nyheter/innenriks/i/zmz59/norge-i-krabbekrig-med-eu-en-baat-arrestert-fiske-sandberg-vi-gir-ikke-bort-en-krabbe>

<sup>233</sup> <http://news.bbc.co.uk/2/hi/europe/6927395.stm>

beneath the Arctic Ocean. Instead of framing their actions in the context of climate change, Russia emphasised a natural and timeless connection between its territory and the Arctic seabed (Gerhardt *et al*, 2010 p. 10-12). The flag-planting symbolically upheld the static nature of state sovereignty amid changing environmental dynamics. While Russia presented the Arctic seabed as an extension of its soil, officials offered varying perspectives, ranging from a claimable land to unclaimable water or a unique space for state authority extension. A noteworthy comment came from then-Canadian Foreign Minister Peter Mackay, who, as previously mentioned, rebutted, “This isn’t the fifteenth century. You can’t go around the world and just plant flags and say ‘we’re claiming this territory’. There is no threat to Canadian sovereignty in the Arctic... we’re not at all concerned about this mission – basically, it is just a show by Russia” (Dodds, 2010). Dodds (2010) notices that, while Mackay used the term ‘show’ pejoratively, the concept is significant in a region that has often witnessed sovereignty performances for the benefit of both domestic and international audiences.

The Canadian response, dismissing the Russian action, asserted unequivocal sovereignty over the Arctic, considering it Canadian property and water, with Foreign Minister MacKay announcing, “The question of sovereignty of the Arctic is not a question. It’s clear. It’s our country. It’s our property. It’s our water ... The Arctic is Canadian” (Gerhardt *et al*, 2010 p.12). The episode highlights the performative nature of ownership assertions in the Arctic region.

The worldwide audience, witnessing the flag-planting on television, prompted responses from other coastal states in the Arctic besides Canada, namely from Denmark/Greenland, Norway, and the United States, albeit in modest ways. The event itself was strategically positioned, observed, and referenced (Dodds, 2010, p. 773). Most importantly, the episode evidenced how legal scholarship focusing on shelf delineation in the Arctic predominantly takes a positivist approach, primarily concerned with the implications of specific interpretations for state parties (Dodds, 2010). This body of literature acknowledges the influence of non-legal factors on treaty interpretation, particularly scientific evidence, but mainly in terms of how technical data can be used by states to demonstrate compliance with treaty provisions (Dodds, 2010, p. 773).

### **5.7.3. The Norwegian language as a tool to control and ascertain presence**

Going beyond the formal acknowledgment of Norway's sovereignty over Svalbard, the establishment of the legitimacy of political control relies on the performative dynamics of power through language. The use and limitation of the Norwegian language can also be deemed as form of performativity of sovereignty. Brode-Roger (2023) describes how the Norwegian language emerges as a significant barrier, with the lack of Norwegian classes seen as a practical and social problem and perceived as a means of control, limiting the ability of non-Norwegians to learn the language and integrate into the dominant Norwegian community. This perspective is noted to be inconsistent with the expectations of a "normal Norwegian community", creating a mismatch between the perceived role of Longyearbyen as a family-oriented community and the reality of what is offered. The exclusionary practices related to housing, language, and job opportunities are not framed as direct conflicts with the Svalbard Treaty but reveal a tension between local practices and expectations of inclusivity in a Norwegian community (2023).

This form of control is at odds with the practice of imposition of a dominant language, particularly in the context of the colonisation, where, in most cases, the colonisers' attempt at exterminating the indigenous and original languages was part of the conquest. In the case at stake, Norwegianisation would mean integration to a Norwegian community that shares a same space and, consciously or not, excludes non-Norwegians from a dominant and exclusive mode of society.

The utilisation of space as a tool for foreign access in Longyearbyen is intricately linked to the performativity of sovereignty in the sense of demarcating a Norwegian-dominated preponderance. Despite the structural limits implemented to restrict non-Norwegians, the town's foundation in Svalbard's special territorial status prevents absolute control over entry. However, by leveraging the legacy of the company town and maintaining majority ownership of real estate, the state gains *de facto* control over who resides in Longyearbyen, influencing its degree of



“Norwegianness” (Brode-Roger, 2023). This approach contradicts the ideals of local democracy and equal resident access. The conflict arises as Norway invests in preserving Longyearbyen and desires it to remain distinctly Norwegian, leading to a selective focus on matters aligned with the interests of the Norwegian community (Brode-Roger, 2023, p. 22).

Brode-Roger (2023) argues that the emphasis on the super Norwegian identity might stem from the peculiar status of the island. If it were simply part of mainland Norway, there would be a sense of ease as everyone would recognise it as a familiar territory. However, due to its classification as an unincorporated territory within the Kingdom, operating under distinct rules, the author points a heightened need for additional effort to constantly reaffirm the unique situation – a place that is technically foreign to everyone, including Norwegians, yet paradoxically not entirely so (Brode-Roger, 2023, p. 22).

This lived ambiguity surrounding Svalbard’s status also underscores the imperative for Norway to assert its sovereignty over the territory. Living in Longyearbyen is described as perplexing due to the distinct rules that differ from those on the mainland, creating a need for Norway to actively manage and control a space embedded in the paradox that even Norwegians go through passport control to enter Svalbard (from Norway’s international gates), and permanent residency is prohibited for everyone. Despite the perceived commitment of Norway to retain control over Svalbard, speculations on future contestations of Norway’s authority, especially in light of climate change impacts potentially unlocking valuable resources, coupled with the uncertainty surrounding Svalbard’s status potentialise the confusion about Longyearbyen’s identity as Norwegian (Brode-Roger, 2023, p. 23). This emphasises the complex interplay of sovereignty, identity, and potential challenges for Norway in maintaining control over Svalbard.

Based on Norway’s history as a Keynesian informed welfare state, the entrepreneurship of Svalbard is also aligned with a performativity of corporate statehood, wherein the state monopolises control and, through patronage and a Keynesian foundation, keeps the governed place at bay from competing forms of statehood (Ihlen, 2007). Just as government officials used to support the maxim “What

is good for the oil industry is good for Norway”, the Norwegian state has traditionally supported and connected its businesses worldwide. This policy of patronage and ownership is translated into a performativity of sovereignty that carries this corporate statehood. The subdued expressions of statehood on Svalbard find compensation in decentralised modes of influence from mainland Norway, evident in measures such as restricting voting rights to Norwegian citizens and overseeing mining activities. These subtle displays of control reinforce overt manifestations of statehood, collectively working to diminish the perception of Norway’s statehood as limited or conditional<sup>234</sup>.

#### **5.7.4. The portrayal of an environmentally responsible stewardship**

As per the Svalbard Treaty, Norway bears a distinctive responsibility for safeguarding the natural environment of the archipelago, enabling the marking of its national presence through historical practices like settlement and mining, as well as environmental management. In essence, Norway can assert its presence through human absence, with the protection of nature in seemingly peripheral areas creating centre-versus-periphery dynamics (Ødegaard, 2022). In global frontiers, preserving nature contributes to portraying political centres as cosmopolitan, in contrast to “local people”, and with governance models deemed suitable for peripheral places or areas perceived as the “frontiers of civilization” (Ødegaard, 2022).

The environmental regulations on Svalbard serve as a strategic tool for Norway to assert control and perform its sovereignty by, among other means, keeping foreigners at bay, which may entail both political motives and a genuine desire to safeguard the environment. The closure of the Svea mine is interpreted by some as a symbolic green gesture for Norway on the global stage or a politically motivated move benefiting involved politicians and depicted as a form of “green-washing”, suggesting that coal, considered less crucial than oil, is sacrificed to enhance Norway’s environmental image (Brode-Roger, 2023). At the same time, the advocacy to transition to alternative energy sources due to global environmental concerns may also be perceived as legitimate. Overall, environmental regulations are perceived as a “convenient tool” for Norway,

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<sup>234</sup> See: <https://www.rcinet.ca/eye-on-the-arctic/category/blog/>

enabling control over access and limiting the presence of other states (Brode-Roger, 2023).

In contrast to bodies like the Arctic Council with limited authority, the Svalbard Treaty's explicit grant of "full and absolute sovereignty" empowers the Norwegian parliament to enact specific legislation, exemplified by the 2001 Svalbard Environmental Protection Act. This statutory framework, shaped within the legal confines of the treaty, is recognised and adhered to by foreign governments involved in economic activities on the archipelago (Grydehøy, 2013).

This perspective underscores the idea that controlling access to nature serves as a mechanism to restrict other nations' entry into potential resource-rich areas, particularly in mining and extractive industries. Barentsburg, the only other settlement with an active mine, represents the last tangible embodiment of the purpose of the treaty, which initially aimed to ensure, rather than nullify, access to resources (Grydehøy, 2013). This highlights the intricate interplay between environmental stewardship, resource management, and the strategic exercise of authority in Svalbard. While Russians' stronghold of Barentsburg translates a contemporary form of *uti possidetis*<sup>235</sup>, the performativity of presence is necessary and, in turn, it has depended on the extractive entrepreneurship of coal, which ultimately informed the need to set regulations by incepting the Svalbard Treaty.

As Ødegaard (2022) contends, the closure of mining activities in Svea on Svalbard is embedded in the environmental narrative, portraying Norway's commitment to responsible environmental practices in the region. This narrative,

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*Uti possidetis juris* (UPJ) is a principle of customary international law originally established to preserve the boundaries of colonies emerging as States. The purpose of *uti possidetis* was to temporarily grant a favorable position in ownership disputes to the individual currently in possession of the property. First applied in Latin America to stabilise borders following decolonisation, it has since been applied globally, particularly in Africa and Asia. The International Court of Justice had articulated in the Frontier Dispute (Burkina Faso/Mali) Case, that UPJ aimed to prevent instability and conflict over borders post-independence by maintaining pre-existing colonial boundaries. This principle, derived from Roman law, ensures that territory and property remain with the entity in possession at the end of a conflict unless altered by treaty. Despite its intention to provide stability, UPJ has often led to disputes and conflicts due to the arbitrary nature of colonial borders, impacting self-determination and national identities. It was nonetheless prized by states emerging from decolonisation for its role in guaranteeing territorial integrity and has been adapted to modern contexts, including the breakup of states such as Yugoslavia (International Court of Justice; Oxford Bibliographies; Merriam-Webster Dictionary; Oxford Public International Law).

highlighting the environmentally friendly cessation of mining, contrasts with Norway's historical industrial endeavours, including the controversial "oil adventure", the Alta controversy<sup>236</sup>, ongoing debates surrounding wind power projects, Norway's authorisation of oil and gas explorations in the Barents Sea and, more recently, seabed mining.

The revisiting of the concept of nature is noteworthy in putting the wilderness of Svalbard under the spotlight again. Svalbard, envisioned as an extension of Norway, is being rebranded as an environmental showcase, with the closure of mining in Svea adding a new dimension to Norway's coal mining history. Ødegaard (2022) pinpoints that, beyond its immediate context, this shift may signify a transformative moment in the Norwegian conception of nature, reflecting a broader narrative of the archipelago as a "nature's sacred place" and echoing global trends of redefining nature's entities and their significance in alignment with post-progress ideologies that emphasise the sacred and juridical aspects of natural entities. In essence, Norway's performativity of sovereignty on Svalbard incorporates environmental responsibility, reshaping the narrative around nature and its role in the country's self-understanding and presentation.

The phasing out of coal mining, in this regard, also means that the initial drive for the need to establish a treaty is no longer actual. The Svalbard Treaty remains, however, a referential setting to regulate the flourishing of new activities, including those related to energy transition. The need to devise new energy solutions, then, actualises the importance of the framework enacted by the Svalbard Treaty. Apart from being one of the most ancient treaties to date, the Svalbard Treaty is strategically omitted or neglected by Norway in addresses regarding discussions of the continental shelf. In this sense, Norway also performates its sovereignty over Svalbard by avoiding and denying any attempt at revisiting the treaty.

By the same token, silence is also an expression of performativity. If, on the one hand, the geopolitical tensions may be a harbinger for outright violation of Norwegian sovereignty over Svalbard in the medium to long-term, the underpinnings

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<sup>236</sup> Extensive protests during the 1970s–1980s against the establishment of a hydroelectric power plant in the Alta River, a project that would result in the submergence of Sami villages.

of which are still under-examined (McVicar, 2021), the discussion regarding Svalbard's vulnerability is treated as a confidential matter. Norwegian officials, when approached by the author, refrained from commenting on the issue, with security assessments by the Norwegian Intelligence Service often not touching upon the topic of Svalbard (Wither, 2018). In this regard, silence is not only strategic but equally a means of performativity.

A reticent posturing of Norway in face of Russia is also part of this performativity. When demystifying a commonly held misconception of a harbinger of war in the Arctic, Iver Neumann<sup>237</sup> posits it is of Russia's interest to heed the world's attention and to gain military control. He advises caution on giving the first, and, through NATO, avoid giving them the second.

A most recent example of Norway's performativity of sovereignty through environmental control is illustrated in the tightening of environmental regulations to protect "one of the largest wilderness areas left in Europe"<sup>238</sup>. Norway has reinforced Effective January 1, 2025, the amendments to the Svalbard Environmental Protection Act include restricting tourist landings to 43 designated sites, capping ship passengers in protected areas, and banning drones in protected areas. Snowmobiles and tracked vehicles are prohibited on sea ice in selected fjords, with exceptions for cabin access. There is also a general ban on breaking fast ice, except for essential access to key settlements and Coast Guard operations. Additionally, more camping activities now require permits, and proposed changes to the Svalbard Environmental Protection Act will enhance polar bear protection by enforcing distance and drone restrictions. These regulations underscore Norway's commitment to environmental stewardship and its authoritative control over Svalbard amidst growing climate and human pressures. Environmental performativity, then, serves to enforce Norway's sovereignty and keep intimidations at bay.

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<sup>237</sup> <https://www.forskning.no/arktis-fridtjof-nansens-institutt-klime/blir-det-krig-i-arktis-forskere-avliver-tre-myter-om-nordomradene-1/2308549>

<sup>238</sup> <https://www.regjeringen.no/en/aktuelt/endringer-i-miljoregelverket-pa-svalbard/id3024960/>

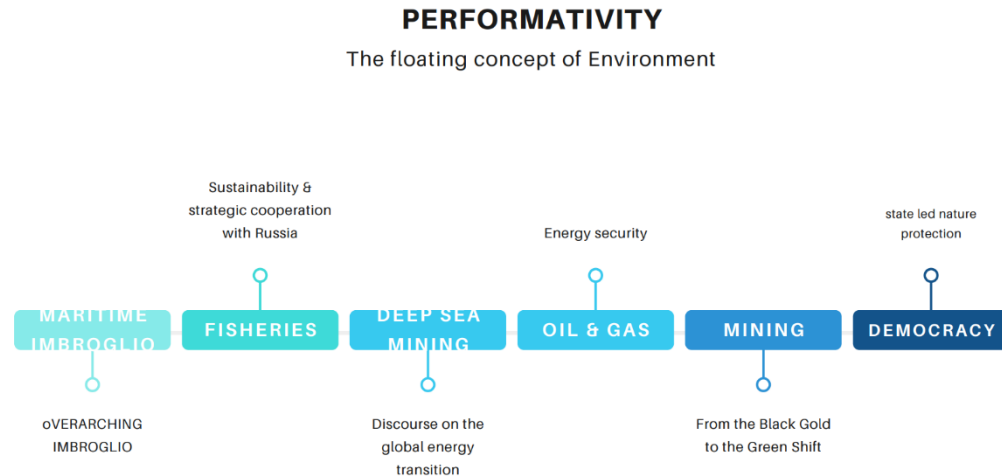


Image 27: Mental Map on the Performativity of Environment as a Floating Concept

Source: Natalia Neubern

### 5.7.5. Research as politics of control

Despite Longyearbyen being historically perceived as a tool of Norwegian sovereignty, particularly in relation to Russia, how has Norway managed its diminishing *de facto* control over this settlement? The answer reveals a captivating instance of informal diplomacy in international relations. Norway, through strategic legislative and diplomatic measures, navigates the evolving dynamics of sovereignty in Longyearbyen by reinforcing its influence and relationships within the framework of the Spitsbergen Treaty. In face of Longyearbyen's liberalisation, Norway has chosen to prioritise scientific research (Grydehøy, 2013), a policy that, as will be explored further, is a double-edged sword. If, on the one hand, Norway diversifies its economy away from coal mining towards energy transition, tourism, and research, on the other hand, such move fosters a more international setting, as previously discussed (Pedersen, 2021). The perception of foreign missions representing state actors rather than individual researchers translates a national posturing through the naming of research facilities and the use of national symbols, suggesting a strategic foothold for political influence in the Arctic region (Pedersen, 2021).

As the sovereign authority, Norway regulates all activities in the archipelago, while citizens and companies from various countries operate there, with criticism intensified over time against alleged treaty breaches. The Soviet Union and later Russia has expressed concerns about restrictions on Russian companies, limitations on helicopter use beyond mining activities, increased environmental regulations, the establishment of national parks, and Russia even got particularly suspicions regarding alleged military use of Svalbard's satellite station (Østhagen *et al*, 2023). Additionally, China has shown interest in Svalbard, particularly regarding Norwegian efforts to coordinate research in Ny-Ålesund. China raises concerns about whether Norway is circumventing its treaty obligations to foreign entities. As China becomes more involved in Arctic politics, it increasingly emphasizes its “rights” and “interests” on Svalbard, referencing the Svalbard Treaty in its 2018 Arctic policy to legitimise certain Chinese claims in the broader Arctic region (Østhagen *et al*, 2023). These challenges underscore the complex dynamics of Norway's performativity of sovereignty over Svalbard.

Navigating politics on Svalbard presents a unique challenge, as much as making political research on the archipelago. Norway's performativity of sovereignty is evident in its strategic control over research activities in Svalbard, particularly in Ny-Ålesund. The government, through the Department's 2018 Strategy for Research and Higher Education in Svalbard, outlined a framework for research initiatives in Ny-Ålesund<sup>239</sup>, which reflects Norway's commitment to developing Svalbard as a Norwegian platform for international research, higher education, and environmental monitoring. The new guidelines were introduced in Norwegian, stipulating that all research carried out on the islands should be restricted to the natural sciences and published in English<sup>240</sup>. This directive not only serves as a measure to safeguard the region's distinctive environment but is also strategically motivated.

The argument of the government that grounded the decision is that international attention on the Arctic has increased, and Norway's research, mapping, and activity in

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<sup>239</sup> Research is conducted on Svalbard mainly by China, the UK, Italy, Germany, and France.

<sup>240</sup> See: <https://www.rcinet.ca/eye-on-the-arctic/2023/08/03/blog-svalbards-travails-in-a-changing-arctic/>

the high north aim to safeguard Norwegian interests<sup>241</sup>. The government, represented by Fisheries and Seafood Minister Bjørnar Skjæran, will allocate 10.6 million Norwegian kroner to the GoNorth polar research program. GoNorth is a collaborative research initiative that brings together leading polar researchers from various Norwegian universities and knowledge institutions. The programme's objective is to explore the Arctic Ocean and position Norway at the forefront of polar research. The government emphasises Norway's leadership role in Arctic exploration, building on the nation's proud tradition in marine research<sup>242</sup>.

The government emphasises the need for better coordination of resource utilisation, clearer priorities, and enhanced research quality<sup>243</sup>. Stronger research leadership is also a priority. The Polar Institute plays a crucial role in implementing this strategy, with official visits to Ny-Ålesund planned in collaboration with the institute. The strategy recognizes the vulnerability of Ny-Ålesund's environment, advocating for restrictions on research activities to preserve the pristine nature of the area. The government's involvement in decision-making about research projects is underscored, with the Polar Institute tasked with executing the new strategy. While the emphasis remains on natural science research in Ny-Ålesund, the institute may intervene if there is a desire for social science research or projects not requiring a presence at the station. To assert Norway's sovereignty, the government renames Ny-Ålesund's entire location as Ny-Ålesund Research Station. This move is aimed at clearly indicating the Norwegian ownership of Svalbard amid increased international interest in research. The government seeks a balance between fostering an international research environment and adhering to Norwegian research policies, promoting

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<sup>241</sup> See: Regjeringa vil plante eit norsk flagg i Polhavet - regjeringen.no

<sup>242</sup> So far, the government has allocated a total of 30 million kroner from the state budget to GoNorth, along with additional support for project operations and development. GoNorth also receives funding from participating institutions, Research Council, private contributions, and collaborates with international polar research communities, including the German Alfred Wegener Institute. The consortium, comprising research groups from Norwegian universities and institutions, aims to explore the Arctic from the seabed to sea ice through multidisciplinary research expeditions. The program involves institutions such as UiB, UiO, UiT, NTNU, UNIS, Akvaplan-Niva, NGU, NORCE, NORSAR, Norwegian Polar Institute, NUPI, Nansen Center in Bergen, and Sintef. GoNorth's collaborative efforts include three expeditions, with the first completed in the fall of 2022, a second in the summer, and a planned final expedition in 2024. The project complements ongoing marine research programs such as "Legacy of Nansen" and "MAREANO".

<sup>243</sup> See: <https://www.universitetsavisa.no/forskning/vil-markere-at-svalbard-er-norsk/136490>



collaboration while managing potential challenges arising from diverse national interests and perceptions among the participating countries.

In response to the proposed research strategy for Ny-Ålesund, several stakeholders have submitted feedback, expressing concerns about limitations on teaching activities in the area. NTNU, in particular, criticises the strategy, deeming it unclear or defensive regarding the utilisation of Ny-Ålesund for educational purposes. The government, however, maintains that teaching should not constitute a significant portion of activities in Ny-Ålesund, aligning with the 2018 strategy<sup>244</sup>.

In summary, Norway's performativity of sovereignty in Svalbard involves not only strategic control over research activities but also a clear assertion of national ownership, reflected in the renaming of Ny-Ålesund and the emphasis on aligning research initiatives with Norwegian policies. The challenge lies in managing international collaboration while safeguarding Norwegian interests and the fragile Arctic environment.

Likewise, the Svalbard Global Seed Vault, established near Longyearbyen in 2008, presents a means for Norway to showcase global acknowledgment of its sovereignty. In this regard, both Norway and other states utilise science and research to articulate narratives of belonging in Svalbard and the broader Arctic context (Grydehøj, 2019).

#### **5.7.6. Military Posturing as Performance**

In face of the noteworthy geostrategic positioning of Svalbard in relation to the headquarters of Russia's Northern Fleet on the Kola Peninsula, which sparks concerns that the archipelago could become a target, Norway's performativity of sovereignty lies in striking a delicate balance ensuring the safeguarding of its interests and the assertion of sovereignty, all the while keeping tensions in the region at a minimum (Østhagen *et al*, 2023).

As an example, The Norwegian navy consistently dispatches a frigate to Svalbard as a demonstrative measure, emphasising both Norwegian sovereignty and

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<sup>244</sup> See: <https://www.universitetsavisa.no/forskning/vil-markere-at-svalbard-er-norsk/136490>

the country's capability to assert control in the region, which prompts Russian objections. Russia has raised concerns about Norway's use of Svalbard for military purposes, alleging a breach of Article 9 of the Svalbard Treaty, which prohibits the establishment of naval bases and construction of fortifications on the archipelago for warlike purposes. Russia's reservations extend to Norway's satellite station on Svalbard, raising questions about potential military use of the data collected (Østhagen *et al*, 2023).

While individual complaints from nations like Russia or China may not directly undermine Norwegian sovereignty, their cumulative impact poses a potential challenge to Norway's adherence to the Svalbard Treaty. The aggregation of such grievances could collectively challenge Norway's commitment to the treaty. Furthermore, Russia, with a desire for plausible deniability, could exploit these complaints to escalate a conflict and undermine Norwegian sovereignty (Østhagen *et al*, 2023). The authors depict an episode of Russian staging carried with symbolism, which was the recent military-style parade led by the Russian Consul General in Barentsburg, exemplifying the heightened tensions on Svalbard, even though it was primarily a publicity stunt (Østhagen *et al*, 2023).

The latest Victory Day celebrations in Barentsburg, commemorating the Soviet Union's triumph over Nazi Germany, differed from its traditionally civilian and cultural character. Unlike previous years, this event featured a notable shift towards a military-style parade. The festivities included an array of vehicles such as cars, snowmobiles, and even a helicopter, all adorned with numerous Russian symbols, including those of a military nature, which highlights a deliberate staging of military posturing during the celebration<sup>245</sup>, introducing a new dimension to the performance associated with Victory Day in Barentsburg.

Russia's statements consistently convey a strategic uncertainty, questioning Norwegian regulations on Svalbard and emphasising its own legal standing in the maritime zones surrounding the archipelago. This situation underscores the intricate

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<sup>245</sup> See: <https://www.spitsbergen-svalbard.com/2023/05/10/victory-day-celebrated-in-barentsburg-with-large-military-style-parade.html>

dynamics of Norway's performativity of sovereignty in the face of geopolitical challenges (Østhagen *et al*, 2023).

The revealed connection of Russian Consul Andrei Chemerilo in Barentsburg to the military intelligence service GRU (Main Intelligence Agency of the General Staff of the Armed Forces of the Russian Federation) raises concerns about a potential military agenda, challenging the treaty's peaceful terms. This unsettling revelation points to a growing and suspicious Russian presence, emphasising the deteriorating situation in Svalbard. After the Norwegian broadcast service NRK having unveiled 38 Russian intelligence agents linked to the embassies in the Nordic region, 15 Russian diplomats in Norway were declared "persona non grata" by the Ministry of Foreign Affairs.

A coverage by NRK conveys the transformation of Barentsburg from Soviet-style architecture in the 1950s to more colorful details, aiming to combat depression during the dark half of the year. The external changes contrast with the relatively unchanged interior, likening the city to "Little Russia" in Norway. The mention of a Russian consul linked to GRU adds a layer of complexity. The interview with a young woman reflects a positive perspective on living in Barentsburg, emphasising the sense of community and diverse activities. However, when asked about the city's status as a Russian town in Norway, she deflects the question, possibly indicating sensitivity or reluctance to discuss political matters. The request to skip a specific question and the subsequent inquiry about media guidelines underscore a certain level of caution or control in expressing opinions. The reference to potential surveillance and stricter controls in Barentsburg, especially after the Ukraine war, adds a geopolitical dimension. The overall narrative suggests a blend of external cosmetic changes for public perception, internal resistance to transformation, and geopolitical tensions influencing the dynamics of Barentsburg.

Telenor's recent recommendation to avoid bringing phones and PCs to the Russian city indicates a potential concern for surveillance or security issues, possibly related to the reported extensive Russian signal intelligence capabilities in Norway. The mention of increased strictness and control in Barentsburg over the past year aligns with a broader narrative of heightened tensions after the war in Ukraine. This may

reflect a response to geopolitical developments and a desire to assert control over the region.

The characterisation of the relationship between Barentsburg and Svalbard as becoming more strained not only due to various restrictions but also among the people underscores the impact of political events on local dynamics. The political tension may be seeping into the social fabric of the community, contributing to a sense of unease or division<sup>246</sup>. The advice on restricting electronic devices, increased control, and the military buildup all contribute to a narrative of heightened sensitivity and strategic maneuvering in the area as much as a complex interplay between sovereignty, military posturing, and geopolitical tensions in the Arctic region.

The Russian Arctic threat post the invasion of Ukraine highlights an apparent escalation in Russia's use of hybrid tactics in the region (Østhagen *et al*, 2023). Notably, concerns are underscored by the deliberate severing of a crucial subsea information technology (IT) cable serving Svalbard, coinciding with extensive operations by Russian fishing vessels in the vicinity.

Norwegian authorities have responded to these concerns by taking measures such as arresting Russian nationals engaged in illegal photography across the country and monitoring unannounced drone sightings over Svalbard. The perceived vulnerability, particularly following the sabotage of Nord Stream 1 and 2 pipelines, has prompted Norway to assertively deploy its Home Guard in fall 2022. This deployment aims to protect critical maritime infrastructure, emphasising Norway's strategic importance as Europe's primary pipeline gas supplier (Østhagen *et al*, 2023).

The move has garnered support from NATO, which has initiated ship patrols in the North Sea to reinforce Norway's efforts. Western stakeholders, recognising the potential ramifications of such incidents, are keen on addressing the security risks in the Arctic region. The U.S. National Strategy for the Arctic Region underscores Washington's commitment to making targeted investments for strategically enhancing security infrastructure. This approach aims not only to meet current security objectives but also to bolster the resilience of critical infrastructure against the dual threats of

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<sup>246</sup> See: <https://www.spitsbergen-svalbard.com/2023/05/10/victory-day-celebrated-in-barentsburg-with-large-military-style-parade.html>

climate change and cyberattacks (Østhagen *et al*, 2023). The collective response reflects a performative military posturing by Norway<sup>247</sup> and its allies to counteract the evolving challenges posed by Russia in the Arctic.



Image 28: Norwegian soldiers participating in a military exercise in March. Photograph: Yves Herman/Reuters

Source: <https://www.theguardian.com/world/2022/oct/31/norway-military-raised-alert-level-russia-ukraine-war>

A bureaucratic reorganisation is also comprised by Norway's performativity of sovereignty. The official narrative of focusing the Arctic as a critical strategic area coupled with changing security dynamics and heightened geopolitical tensions has recently prompted the Norwegian government to enhance both domestic and foreign policy efforts in Arctic politics through a new collaborative model between the Ministry of Foreign Affairs (UD) and the Ministry of Local Government and Modernisation (KDD)<sup>248</sup>. The Ministry of Local Government and Modernization will oversee the domestic policy coordination for Arctic politics, while the Ministry of Foreign Affairs will handle the international aspects of the policy. As part of this initiative, the Ministry of Foreign Affairs has appointed a representative in Tromsø responsible for overseeing Arctic policy and Norway's leadership in the Arctic Council.

<sup>247</sup> See: <https://www.theguardian.com/world/2022/oct/31/norway-military-raised-alert-level-russia-ukraine-war> and <https://www.spglobal.com/commodityinsights/en/market-insights/latest-news/oil/100322-norway-deploys-military-to-protect-north-sea-oil-and-gas-assets>

<sup>248</sup> See: <https://www.regjeringen.no/no/aktuelt/styrking-av-nordomradepolitikken-til-regjeringa/id2998078/>

According to the government, the developments in the Arctic necessitate effective coordination between domestic and foreign policies. Given the significant climate and environmental changes and a deteriorating security situation following Russia's full-scale invasion of Ukraine, which also impact the Arctic, a broader and more coordinated effort in Arctic policy is thus deemed essential. This entails reinforcing efforts in both the Ministry of Local Government and Modernisation and the Ministry of Foreign Affairs, acknowledging the interconnectedness of domestic and international dimensions in Arctic governance<sup>249</sup>.

Another aspect of performativity of Norway's sovereignty over Svalbard in relation with Russia emerges in this context of heightened tensions, which is the audience of such performances. The Norwegian government has shown the duty of accountability towards the Norwegian population in terms of justifying the existing collaboration with Russia, even after February 24, 2022, in key areas, namely fisheries, resource management, border issues, and emergency preparedness, considered fundamental bilateral cooperation areas. As a recent report<sup>250</sup> launched by *Fridtjof Nansens Institutt* portrays, the Norwegian government justifies this continued collaboration through various arguments. Firstly, it emphasises security concerns, asserting that maintaining these cooperation areas is crucial for geopolitical stability and predictability in the Norwegian-Russian proximity. The collaboration is seen as fundamental to preventing misunderstandings and unintentional escalations between the two countries, safeguarding lasting stability in the north<sup>251</sup>.

Additionally, the government cites area-specific utility arguments, underscoring the benefits of each cooperation area. The decision to continue these areas is based on the assessment that the potential negative consequences of discontinuation outweigh the advantages of maintaining them. The government argues that the collaboration areas have mutual benefits for both Norway and Russia, contributing to the overall stability of the region. Legal arguments are also employed, pointing to

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<sup>249</sup> See: <https://www.regjeringen.no/no/aktuelt/styrking-av-nordomradepolitikken-til-regjeringa/id2998078/>

<sup>250</sup> See: <https://www.fni.no/getfile.php/1318211-1702387823/Filer/Publikasjoner/FNI%20Report%208%202023.pdf>

<sup>251</sup> See: <https://www.fni.no/getfile.php/1318211-1702387823/Filer/Publikasjoner/FNI%20Report%208%202023.pdf>

binding commitments in bilateral and multilateral agreements that dictate the continuation of these collaboration areas<sup>252</sup>.

This approach aligns with Norway's overarching foreign policy strategy of balancing between deterrence and reassurance in its relationship with Russia. The government's emphasis on dialogue and collaboration with Russia as a foundation for stability and predictability in the north corresponds with broader foreign policy principles.

The legal arguments, emphasising the binding nature of agreements, make it challenging for the Norwegian government to discontinue these collaboration areas, given the absence of substantial breaches by Russia. This aligns with international legal norms, as terminating agreements requires substantial violations beyond the foundational prohibition of the use of force under Article 2(4) of the UN Charter. In summary, Norway's decision to sustain collaboration with Russia in specific areas is justified through a combination of security, utility, and legal arguments. This strategic approach reflects Norway's commitment to maintaining stability and cooperation in the Arctic region while navigating the complexities of its relationship with Russia. In sum, Norway's performativity of sovereignty in face of the population and not least Russian counterparts is enacted by the government's continued emphasis on dialogue and collaboration in alignment with historical foreign policy principles and aiming to strike a balance between reassurance and deterrence.

Not least important, it is worth pointing to the striking difference of the institutional facades of Longyearbyen as compared with those in mainland Norway. Norway's visually low-key presence on Svalbard, as depicted on the discretion of the administration's logos, which do not convey the crowned lion, and the unconventional lack of Norwegian flags on Svalbard, is also a performativity of sovereignty insofar as it is compatible with a policy of non-confrontation. As much as it is out of question that Svalbard is Norwegian territory (Jensen, 2020), it is of Norway's interest to keep peace and stability when strategically dictating the rationale of its foreign policy for Svalbard.

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<sup>252</sup> See: <https://www.fni.no/getfile.php/1318211-1702387823/Filer/Publikasjoner/FNI%20Report%208%202023.pdf>







Images 29-34: Svalbard's logos on locally administrated units: the cultural centre, the Community Council, a gymnasium, and a firehouse.

Source: Natalia Neubern, Svalbard, 2022.

This low-profile stance is part of an instrument for exercising Norwegian sovereignty, which is land ownership, insofar as the Norwegian government owns 98.75% of the land, including all of Longyearbyen. Since 2020, the Ministry of Trade and Fisheries has managed the state-owned land on Svalbard directly, including the areas within the Longyearbyen spatial planning area, via the Ministry of Trade and Fisheries' Svalbard Office. Trust Arktikugol and AS Kulspids own 0.4% and 0.1% of the land, respectively. The state also owns 0.75% of the land through its ownership in Kings Bay AS and Bjørnøen AS. Besides land ownership, other forms of Norway's performativity of sovereignty are instantiated via demographic control and incentives, and regulations on tourism<sup>253</sup>.

The 2024-2025 White Paper on Svalbard underscores the instrumentality of ascertaining presence and control as a means to bolster Norway's sovereignty over the archipelago in a context of shifting geopolitical scenarios: “‘We want to strengthen national control and support Norway's presence in the archipelago’ says Norway's Minister of Justice and Public Security, Emilie Enger Mehl (Centre Party)”<sup>254</sup>.

The policy, released on May 31, 2024, delineates Norway's performative sovereignty over the archipelago by detailing comprehensive governance, infrastructure, and economic shifts. The 92-page document by the Norwegian Ministry of Justice and Public Security emphasises Norway's exclusive authority to govern Svalbard, explicitly disallowing any foreign public power on the territory to reinforce national security and control movement and residency. Highlighting increased geopolitical tensions, the paper asserts the necessity of strong measures to safeguard sovereignty, including continued control initiatives introduced in 2022. Climate change and environmental concerns are prominently addressed, with policies aiming to mitigate local activities' impacts on the fragile Arctic ecosystem. An action plan against invasive species and the Governor of Svalbard's role in implementing these

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<sup>253</sup> See: <https://www.highbnorthnews.com/en/sovereignty-governance-and-infrastructure-analysis-svalbards-white-paper-2023-2024>

<sup>254</sup> See: <https://www.regjeringen.no/en/aktuelt/the-government-wants-to-reinforce-national-control-to-strengthen-the-norwegian-community-of-families-on-svalbard/id3041401/>

measures signify Norway's commitment to preserving Svalbard's unique environment<sup>255</sup>.

Economically, Svalbard has seen a significant shift from its traditional coal mining industry, which is set to end with the closure of the last mine by 2025. The economy has pivoted towards tourism, real estate, and public administration. Tourism strategies now prioritise value creation and sustainability over mere growth in visitor numbers, as outlined in the 2022 "Masterplan Svalbard" by Visit Svalbard. This strategy emphasises providing high-quality experiences, promoting sustainability, and ensuring benefits for the community, aligning with both economic and environmental goals. Demographically, Longyearbyen has experienced population growth, particularly among foreign nationals, who now constitute 36% of inhabitants. However, the average stay of Norwegian residents has decreased, prompting policies aimed at attracting Norwegian families to the area<sup>256</sup>, despite limited public services and infrastructure that have not expanded since landslides in 2015 and 2017. The transition from coal to diesel generators in Longyearbyen marks a significant infrastructural shift, with a focus on integrating renewable energy to reduce environmental impact and costs. Additionally, research activities on Svalbard are tightly regulated to ensure compliance with local legislation and minimise environmental disruption, reflecting Norway's commitment to controlled and sustainable development on the archipelago<sup>257</sup>.

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<sup>255</sup> See: <https://www.highnorthnews.com/en/sovereignty-governance-and-infrastructure-analysis-svalbards-white-paper-2023-2024>

<sup>256</sup> The government has assessed registration criteria in the population register for Svalbard, focusing on documented residence in approved housing to attract Norwegian workers and families.

<sup>257</sup> See: <https://www.highnorthnews.com/en/sovereignty-governance-and-infrastructure-analysis-svalbards-white-paper-2023-2024>

## A MYRIAD OF TOOLS FOR PERFORMATIVITY OF SOVEREIGNTY

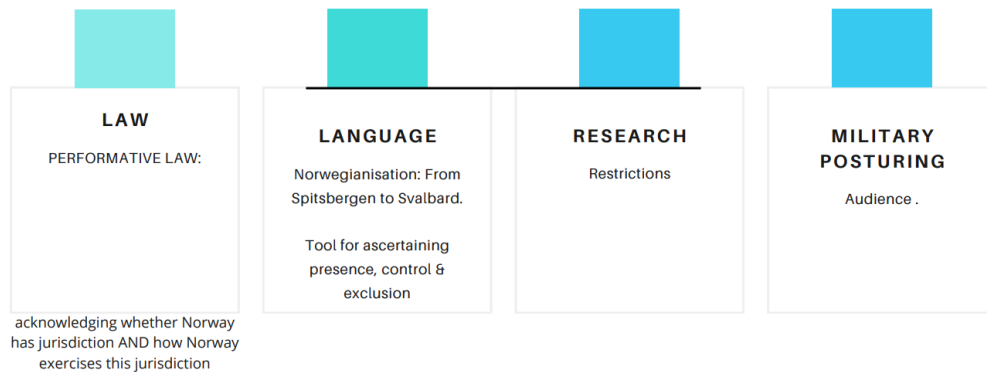


Image 35: Tools for Norway to performate sovereignty over and around Svalbard  
Source: Natalia Neubern

Norway's tools to performate sovereignty through law, language, research, military posturing, but also demographic control and tourism regulations ultimately relate with a spatial creation of that sovereignty, insofar as it grants this authority with territorial legibility. In emphasising documented residence in approved housing, for instance, the Norwegian government aims to achieve administrative legibility (by enhancing the government's ability to track and manage the population on Svalbard); economic and social control (by cultural cohesion to bolster Norway's presence and influence in the region); sovereignty assertion (by regulating who resides on the archipelago, thereby reinforcing its authority over the territory), and policy influence (by shaping the demographic and socioeconomic dynamics of Svalbard, signaling Norway's intent to maintain control and influence over the territory's development).

## Final Considerations

This thesis has adopted a non-traditional approach to investigate sovereignty, conceptualising it as a dynamic and fluid concept that transcends conventional territorial boundaries. It challenges established viewpoints by highlighting sovereignty's performative nature, where claims of authority are continuously enacted and upheld through discursive practices and representations, rather than solely through physical control of space.

While traditional discussions of sovereignty often focus on space, this thesis delves deeper into how place and territory serve as arenas where sovereignty is both performed and contested. Drawing on post-structuralist frameworks, particularly Butler's notion of performativity, it argues that sovereignty is actively constructed through discourses, representations, and the interpretations assigned to them, rather than being passively inscribed onto geographical surfaces. The thesis navigates complexities by illuminating paradoxes and structural challenges that complicate Norway's assertion of sovereign authority over Svalbard. It challenges the notion of Norway's undisputed sovereignty and underscores the performative aspects of sovereignty, where visibility and legibility are pivotal. This perspective suggests that sovereignty is not just projected outward but is also shaped by global scrutiny and discursive practices.

In examining the spatial-temporal conditions conducive to environmentally sustainable states, the thesis offers insights into how nations like Norway negotiate sovereignty within the realm of environmental governance. By exploring how environmental sustainability is articulated within state territories such as Svalbard, it sheds light on how states reconcile national priorities with global environmental expectations and local realities. This analysis reveals tensions between national interests, international norms, and environmental imperatives.

Overall, the thesis presents a nuanced perspective on sovereignty as performative and context-dependent, emphasising the interplay among discursive practices, spatial representation, and environmental sustainability. It prompts a critical examination of how states navigate these dynamics to assert authority while addressing

global environmental challenges. The inquiry probes whether conceiving governance beyond state authority to encompass legitimacy from diverse social and political arrangements could challenge traditional geographical framings of politics. This perspective opens avenues for conceptualising global governance that could disrupt prevailing representational and discursive political economies.

Despite the concrete limitations of this research, primarily due to the pandemic and the necessity for remote work, it successfully confirmed the hypothesis that Norway's unique possession of Svalbard highlights the constant need for the country to performate sovereignty over and around the archipelago. This ongoing threat compels Norway to reinforce its presence through legal, economic, and international cooperation, particularly as Russia challenges Norway's jurisdiction over the archipelago (Grydehøj *et al.*, 2012, p. 100). Consequently, Norway's "full sovereignty" over Svalbard remains absolute only as long as it is not contested, nor does Norway seek to revisit controversies such as relative to the Svalbard Treaty (Grydehøj *et al.*, 2012, p. 111).

In addressing the research questions, the study explored how Norway can sustain its sovereignty over Svalbard amid challenges in the relationship with Russia; overlapping continental shelf claims and interstices in the interpretation of maritime delimitations; the growing demands for local autonomy and ownership by the local population; NATO's influence in the region in view of it becoming a geopolitical flashpoint; and moves towards energy transition. It also examined how Norway can harmonise its dual identity as an oil and gas supplier and an environmental advocate. Furthermore, it investigated how the interplay among identity, discourse, and foreign policy can establish a performative sovereignty that is both absolute and functional. The research delved into the narratives, discursive practices, and representations that shape Norway's foreign policy, emphasising the ever more integrated duality of Norway as both a major power in oil and gas and a vocal environmental advocate.

Specifically, the research question hitherto proposed addresses the implications of de-territorialisation as posited by post-foundational theories. This notion challenges fixed territorial boundaries and suggests that power and statehood are performed and contested in dynamic spatial contexts. The major risk or opportunity stemmed from

this fluidity and non-essentiality, termed re-territorialisation, involves the manifestation of presence through acts of power and state authority in specific spatial configurations.

By considering these ideas, such query invites exploration into the potential risks and opportunities inherent in redefining governance and sovereignty. It prompts reflection on how alternative forms of legitimacy and authority might destabilise established political subjectivities and geographical norms, while also offering new frameworks for understanding global governance beyond conventional state-centric models. In sum, this impermanence encourages a critical examination of how post-foundational theories can reshape our understanding of governance and sovereignty, emphasising their performative nature in spatial contexts and the implications for political discourse and representation.

One significant contribution to International Relations theory thus concerns the evolution of sovereignty, states, societies, and space. The study suggests that polycentric governance, particularly in the context of climate change, can serve as a theoretical framework to understand the shift from government to governance in other areas, such as security (Krahmann, 2003). This synergy positions climate change policies at the forefront of the complex interplay between environmental issues, security, and governance in the Arctic, with significant global repercussions.

Norway's strategic role in global stewardship efforts should be highlighted, contributing to its sovereignty narrative through responsible environmental management of Svalbard and its surrounding waters. Emphasising Norway's accountability as a custodian of the area and its sustainable management practices for climate regulation will bolster its justification for sovereign stewardship over Svalbard's extraterritorial waters. The Arctic region, particularly Svalbard, serves as a crucial barometer for global climate and security, and Norway's leadership in this domain is vital.

Petra Gúmplová's (2015) perspective on sovereignty as a dynamic interplay between law and politics serves as a foundation for understanding the importance of Norway's performativity of sovereignty over Svalbard. Sovereignty, in this context, represents the embodiment of both the power that enacts law and the law that regulates

power, reflecting the modern concept of autonomy, self-determination, and legitimacy. As Gumplová (2015) describes, the debate on sovereignty in legal and political theory has mainly centred on whether legal or political sovereignty takes precedence. This discussion leads to a deadlock, as sovereignty is either constituted by law and is not truly autonomous, or it is above the law and therefore unlimited. To resolve this, one approach is to consider that sovereignty embodies both the power that enacts law and the law that regulates power. In this perspective, political power is presupposed by law and established through a legal code with basic rights. This dynamic process of mutual constitution and containment of law and politics defines modern sovereignty.

For the case of Norway's sovereignty over Svalbard, there are caveats on both predicaments, that of law and power. The enactment of power by law is reflected by the Svalbard Treaty granting "full and absolute" sovereignty for Norway. This very power is already restricted by law itself when the same treaty imposes limitations on that sovereignty. Norway, as a sovereign, is indeed not truly autonomous. Conversely, the enactment of law by power equates to the power that Norway must enact laws as prescribed by the Svalbard Treaty (*i.e.*, the Environment Act, the Mining Code) as well as all regulations by Norway which aim at reinforcing that same power. In this sense, too, Norway's sovereignty is limited.

Norway's performativity of sovereignty over Svalbard – be it through environmental, tourism or research regulations – and to tackle conundrums related to maritime disputes, mining issues, and the (lack of) democracy paradox is staged as reality and virtuality within the extremes of a controlled yet boundless sovereignty.

The analysis of Norway's performativity of sovereignty over Svalbard by the government has unveiled a depiction of Norway's sovereignty over Svalbard as crucial within the contemporary framework of Russia's invasion of Ukraine vilifying the fundamental principles of sovereign statehood that shape and uphold the modern political order. In this sense, not only has the invasion of Ukraine prompted the recrudescence of Othering Russia, but also the Norwegian official discourse and deeds conform to the assertion of territorial and jurisdictional rights by states, such as Norway, contributing to the stability and functionality of the global system, which thereby provides a framework for political authority both domestically and



internationally. Recognising and respecting this sovereignty is an argument aimed at performing this sovereignty as essential for preserving global political stability and understanding the historical developments and state-society interactions that shape our contemporary world. It allows Norway to engage with others, shaping global policies and contributing to the evolution of state-society relationships worldwide.

The official narrative of Norway's sovereignty over Svalbard is thus invariably focused on the integrity of territory and self-determination. The exercise of sovereignty over Svalbard in principle and in practice allows Norway to effectively govern its people, manage resources in the region, and ensure the protection of its inhabitants by enforcing appropriate regulations. This control over territories actively strengthens international cooperation and understanding, highlighting Norway's responsibility as a modern state to engage with other sovereign nations in shaping global policies and agreements. Moreover, Norway enacts this sovereignty by means of a performativity of an environmentally responsible steward, which, again, is both the means and end for augmented sovereignty.

Norway's performativity of sovereignty lies on an official narrative that reiterates the ordering principles of the international system of states. As such, the state defends that Norway's sovereignty over Svalbard is not merely a legal or political exercise; it is a strategic and necessary component that aligns with the principles of modern political order, emphasising jurisdiction, resource management, security, and international cooperation<sup>258</sup>. In other words, Norway's sovereignty over Svalbard is a necessary component in maintaining the modern political order, as sovereign statehood represents the very foundation upon which our understanding of territorial organisation, jurisdiction, and global relations are built. By asserting its sovereignty over Svalbard, Norway plays a pivotal role in upholding the principles of political authority that govern both domestic and international domains. According to this narrative, this territorial claim influences our perception of power dynamics at play in the region, as well as our experience with the coercion inherent in modern political structures. In this light, Norwegian sovereignty over Svalbard not only contributes to

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<sup>258</sup> See: <https://www.regjeringen.no/contentassets/379f96b0ed574503b47765f0a15622ce/en-gb/pdfs/stm201520160032000engpdfs.pdf>

our comprehension of historical developments but also offers valuable insights into the constantly evolving relationship between states and societies within this global framework. Norway's sovereignty over Svalbard is hence portrayed as necessary because it ensures the embodiment of essential principles of modern political order. By maintaining sovereignty over Svalbard, Norway exercises its territorial jurisdiction, which underlines the fundamental nature of contemporary states. This territorial claim plays a crucial role in the international realm, as it allows Norway to assert its political authority and uphold international laws that govern such territories.

At the same time, the rationalities of the sustenance of the global order must not be dialectical to that of the Arctic as a shared space. However, the framing of the "Arctic exceptionalism", of de-bordering, of climate change and its relation to the preservation of global riches, among other calls for strengthened governance, make sovereignties conditional and open to debate and contingency by different actors, forces, and institutions such as those comprising the oil industry, the military, the environmentalists, and the local communities.

The appeal to a global functioning order is thus prevalent in many governmental narratives depicting the concept of sovereignty as a demonstration of the intricate balance of power and the basis for the modern social order. Moreover, the concept of sovereignty, a cornerstone in modern social order, intricately balances power dynamics and forms the basis for our understanding of the geopolitical landscape, characterised by the division into independent sovereign states. As such, the state advocates that acknowledging and respecting Norway's sovereignty over Svalbard becomes crucial in contributing to global political stability and fostering peaceful relations among nations, being this value strictly aligned with Norway's self-identity representation of peace. This recognition plays an integral role in comprehending historical developments and unraveling the dynamics of state-society interactions over time, ultimately reinforcing Norway's performativity of sovereignty on the international stage.

For Norway, this performativity is fundamental because Svalbard is at once connected to Norwegian society and ever more international. The pole has been brought to ever larger constituencies not only due to the war in Ukraine, but also

because there are many approaches to the global Arctic, which equally require interdisciplinary assessments. Furthermore, it is worth mentioning the importance of performing sovereignty in the sense of officials maintaining control and stability by strategically treating and deciding on disclosing or keeping at secrecy scenario forecasts of potential conflicts. The underpinnings of any such performance must be assessed with due care and responsibility in order not to entice a public hysteria as it recently happened in Sweden<sup>259</sup>. Michel Callon's (1998) examination of the performativity of economics sheds light on the crucial influence exerted by economic theories and models in shaping real economic conditions. As such, the study of performativity in times of geopolitical escalation is a significant resource for policy. Likewise, the performativity of public announcements, such as the forecast of escalatory events, ultimately contributes to shape and boost this escalation.

With regard to Svalbard, Østhagen (CSIS, 2023) advises that it is crucial not to overstate Russia's capabilities, especially given its forces in the south. Unlike Ukraine, Russia would be cautious about interfering with a NATO country, as it would then be directly engaging with the entire NATO alliance. Russia tends to maintain strategic ambiguity and highlights potential vulnerabilities in Norway, especially concerning Svalbard. However, the current *status quo* should be preserved for the time being.

Julie Wilhelmsen and Kristian Lundby Gjerde (2018) heed attention to the neglect, in the current debate, of the role of interpretations in action-reaction dynamics, wherein the deterioration of a pattern of interaction due to (mis)perceptions and (mis)representations leads to military build-up and to conflict escalation. In this sense, they depict "brewing suspicions" between Norway and Russia even before the Crimean crisis in 2014, when, in 2012, Russia denounced Norway's involvement in the "US militarisation" and in NATO's increasing presence in the Arctic, and, in turn, Oslo depicted Russia as a threat to liberal values. Their policy brief states that:

"Security-oriented actors on each side seem to be playing to the other's agenda, fueling perceptions of mutual threat while marginalizing less security-oriented actors and agendas. Moreover, the principle of maintaining "one voice" on issues of foreign policy—particularly when this voice, as our study of texts reveals, calls for united strength to withstand the outer threat—leaves few openings for compromise and flexibility to the

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<sup>259</sup> <https://economictimes.indiatimes.com/news/defence/swedes-spooked-as-government-military-say-to-prepare-for-war/articleshow/106806996.cms?from=mdr>

opposing party. This poses a real dilemma if the intention on both sides is actually to de-escalate. (...) With the (re)turn of Russian images of Norway as NATO in the North, and Norwegian images of Russia as a power willing and able to use force, combined with a surging wave of practical defense measures that seem to confirm these mutual subjective understandings, this region now looks less like a collaborative space for the coming years”.

The relevance of Norway’s performativity of sovereignty over Svalbard in the current geopolitical scenario of potentially becoming a flashpoint cannot be justified on the grounds of status and prestige but rather on its survival. Performativity of Norway’s sovereignty over Svalbard entails resilience not only in terms of territorial integrity and effective control but ultimately of Norway’s discourse and self-identity representation based on Western values such as self-determination, freedom, democracy, and even sustainability.

In countless narratives, Norway presents the awareness of having paradoxes, adeptly balancing inherent contradictions while demonstrating itself as a diligent and accountable steward of its pristine habitats. As exemplified by its management of the Fisheries Protection Zone, Norway navigates the complex notion of sovereignty, grappling with exceptions within the idea of “full and absolute sovereignty”. This paradox prompts an exploration into how Norway’s discourse shapes and transforms sovereignty norms, particularly evident in its approach to Svalbard.

Existing post-structuralist literature often overlooks Norway’s performativity of functional sovereignty, which seeks to rewrite or reify its constitutive sovereignty by asserting responsible stewardship over Svalbard and its surroundings. This reinstatement of constitutive sovereignty through functional sovereignty underscores Norway’s role as a custodian of the preservation of various global riches, including satellite imagery, oceans, forest diversity, and cultural heritage. This multifaceted performativity of sovereignty positions Norway as a key actor in global stewardship efforts by overseeing critical initiatives like sustainable fisheries management, energy transition solutions, the Global Seed Vault, and the preservation of cultural heritage archives.

In a nutshell, the harnessing of a discourse that highlights Norway’s responsible custodianship of a treasury essential for the survival of the planet summarises Norway’s performativity to reify the constitutive sovereignty over Svalbard with a

functional sovereignty also around Svalbard. This narrative buttresses Norway as a credible steward of an ocean that is, in turn, steward of global climate change regulations. The management of resources and environmental conservation are key to Norway's approach, aiming to maintain Svalbard as one of the world's best-managed wilderness areas. Moreover, Norway's enforcement of sovereignty on accounts of the treaty equally encompasses a foreseeable management of resources and the Environment. In this sense, Norway has continuously upheld environmental conservation by keeping Svalbard's condition as "one of the world's best-managed wilderness areas" (Jensen, 2020).

This strategy reflects Norway's commitment to ascertain its stronghold via responsible stewardship of the region, ensuring its sustainability while avoiding unnecessary tensions in the geopolitically significant yet remote location of Svalbard.

Norway's stance as a sovereign steward extends beyond its borders, as it takes on the role of an "international relations entrepreneur in the Arctic". By convening diverse actors and bridging diplomatic gaps, Norway endeavours to elevate its global status and foster cooperation in Arctic affairs. This nuanced approach reflects Norway's aspirations to be recognised as a leading country, particularly in areas such as fisheries, oil and gas, and energy transition, where it holds significant influence. As it assumes this role on the world stage, Norway's discourse and actions in the Arctic set a precedent for redefining sovereignty and shaping international relations discourse on the global initiatives for the sustainable management of critical resources. Since the oceans play a crucial role in the intertwinement of the global agendas concerning climate, energy, and the environment, Norway shall harness credibility as an accountable steward of the Svalbard waters by performing the conciliation of the conundrums intrinsic to the entanglement of these agendas. The enactment, via performativity, of the integration of these agendas with coherence is ever more relevant when assuming not only that the oceans are one global and integrated unity but with plural characteristics, but also once put onto the backdrop of the relevance of the Svalbard waters as a thermometer of global warming and regulator of global climate change.

James Scott's (1998) concept of "Seeing Like a State" provides a framework for understanding how states seek to administratively order nature and society through high-modernist ideologies. These ideologies are characterised by a strong belief in scientific progress and the use of authoritarian power to implement large-scale interventions, often encountering resistance from civil society, which may be weakened or unable to effectively counter such top-down approaches.

This study engaged in this debate, particularly in the context of managing crises like climate change, the securitisation of the environment, and the performative nature of sovereignty. It attempted to shed light on how states, exemplified by Norway's governance of Svalbard, employ these high-modernist techniques to assert control and address environmental challenges. However, it also highlights the friction and resistance these approaches generate within local communities. It explores how Norway's sovereignty over Svalbard is enacted through environmental regulations and administrative measures, emphasising the performative aspect of sovereignty. This underscores the state's attempts to project authority and manage ecological crises, aligning with Scott's observations about the state's reliance on scientific and technological solutions. Additionally, the research delves into the concept of ontological insecurity, reflecting the anxieties and uncertainties states face in maintaining sovereignty amid global challenges like climate change. This insecurity drives states to adopt more rigid and authoritative measures, often leading to tensions with local populations, who feel marginalised by these top-down policies.

By framing sovereignty as performative, this illustrates how state power is not merely a static assertion over territory but a dynamic process involving continuous enactment and reinforcement. This perspective aligns with Scott's idea of states "seeing" and intervening in ways that shape and sometimes disrupt societal and environmental landscapes. The case of Svalbard highlights the limitations of high-modernist state interventions, where local frustrations with Norway's governance practices, such as restrictive regulations and lack of consultation, exemplify the resistance civil society can mount against state-imposed order. This resistance is a crucial aspect of the performative dynamics of sovereignty, revealing how local actors "return the gaze" and challenge state authority.

The work stresses the need for a more inclusive approach to policymaking that balances environmental protection with the economic realities of local communities. This balance is essential for sustainable governance and underscores the importance of local voices in shaping effective and legitimate state policies. The insights may extend beyond the specific case of Svalbard, offering broader implications for global environmental governance. It suggests that the successful management of global crises requires recognising and incorporating the relational aspects of sovereignty and the performative nature of state power. This approach advocates for more participatory and responsive governance frameworks that acknowledge the agency of local communities and the complex interactions between global and local actors.

In summary, this study aimed to contribute to the debate on state power, environmental governance, and sovereignty by critically examining the performative and relational dimensions of these concepts. It challenges traditional notions of top-down governance and highlights the importance of inclusivity and local engagement in addressing global environmental crises.

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## Appendix

### Norway's Performativity of Sovereignty: an Empirical Assessment

In line with Foucault's argument according to which equating power with sovereignty constrains perspectives of power to dominating views whereas the exercise of domination permeates society in various forms, this last section will focus on a set of practices on Svalbard rather than on a single subject of power to illustrate this conceptual epistemological shift towards an emphasis put on the *loci* where the effects of power occur. This section comprises notes taken during my stay on Svalbard, assuming that sovereignty, manifested as a performative act, is enacted within 'specific temporal and spatial contexts and sets of relationships' (Roszco, 2015).

In a nutshell, my lived experiences in Northern Norway in Autumn 2022 (Bodø – for High North Dialogue –, Hammerfest, Honningsvåg, Tromsø – dubbed 'the capital of the Arctic', and Kirkenes) and later on Svalbard in Summer 2022, evidenced the scarcity of scholarly approaches to Norway's politics for Svalbard and social sciences in general as compared with natural science. In a conversation with Andreas Raspotnik, from FNI, in Bodø, I recall his mention that few people dare to speak about Norway's sovereignty over Svalbard. I tend to agree with Andreas Østhagen, according to whom the far and between studies on the matter are more often than not misconceived. The argument draws on the fixed narrative that this sovereignty is uncontested and, as such, the problematisation of this sovereignty is misleading as these debates cloud a broader picture of more complex geopolitical imbroglios, such as the maritime one. This scenario gets even trickier for me in view of my place of speech. While I do not pursue this research on behalf of the Ministry of Foreign Affairs of Norway, the government's understanding is that its employees represent the government in all domains of their lives. When I was enquired on the details of my object of study by the Prime Minister's delegation in the context of an official visit to Brazil, and during many occasions of my professional and personal dimensions, I have treated all information and addresses with due regard to the delicacy of the matter.

Apart from having worked for Norway and studied Norwegian Foreign Policy for nearly nine years now and besides all my deep connections with this country that

chose the roots of my wandering soul, speaking of this politics may be perceived as biased, as I am a Brazilian national based in the tropics. However, as much as the strategic avoidance of speaking on the politics of it is decidedly political, my politics to speak on the politics of it is ultimately political as a means to build on these narratives and contribute to performate a sovereignty that must not be taken for granted.

My fieldwork in Northern Norway and on Svalbard was partly compromised by the Covid-19 pandemic and the ushering of the war in Ukraine. As an example of due compliance with security guidelines<sup>260</sup>, both my crossing to Murmansk from Kirkenes and an intended day trip to Barentsburg were aborted. Exactly on the same day of my failed attempt to go to the Russian settlement due to security assessments and in view of my devices, which belong to the Norwegian Ministry of Foreign Affairs, Russia retaliated Norway's blockade of Russian air supply to Barentsburg by making a cyber-attack<sup>261</sup>, which I happened to know as a phone call interrupted my interview with the lokastyre Council.

*Notes on energy taken from UNIS, mining tour and talks with residents, June 2022:*

*Svalbard, a strategic and historically significant region, holds a wealth of high-quality coal. Some sites are abundant with coal, capable of sustaining production for up to 40 years. The coal extracted here is of such good quality that it is used in the production of luxury cars like Mercedes. The region also houses an international satellite station and is involved in oil and gas exploration, further contributing to its energy portfolio.*

*Coal mining is a significant industry, with coal being exported to various destinations, including the Silicon Valley and other parts of Norway. Despite the rising costs associated with coal, it remains a valuable resource, and the likelihood of deactivation is considered low, particularly due to strategic considerations in the context of potential conflicts.*

*The complex energy landscape involves debates within Norwegian politics, particularly regarding decisions on energy solutions. The government advocates for a*

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<sup>260</sup> Visit Svalbard and Hurtigruten Svalbard have warned their employees against private trips to Barentsburg or Pyramiden, referring to morality, propaganda and data security. At the same time, Telenor encourages people to watch their cell phones. See: <https://www.theguardian.com/world/2023/oct/10/barentsburg-the-norwegian-town-feeling-the-chill-of-the-ukraine-war>

<sup>261</sup> See: [https://www.lemonde.fr/en/international/article/2022/07/02/war-in-ukraine-moscow-and-oslo-tussle-over-arctic-archipelago-of-svalbard\\_5988787\\_4.html](https://www.lemonde.fr/en/international/article/2022/07/02/war-in-ukraine-moscow-and-oslo-tussle-over-arctic-archipelago-of-svalbard_5988787_4.html)

*shift away from coal production towards alternative sources like solar and wind power, driven by high diesel prices and environmental concerns. However, the approval of any developments in Svalbard must be sanctioned by the mainland government, emphasising the region's strategic importance.*

*Discussions between local authorities (Lokalstyre) and Store Norske revolve around the ownership and future of the power plant. Notably, Anton<sup>262</sup>'s lecture highlights the region's dependence on diesel, challenges in energy transition, and ongoing field trials with solar power plants as part of efforts to showcase a shift "From coal to zero".*

*The linguistic and political dimensions add another layer of complexity, with concerns raised about corruption, foreign involvement, and the delicate balance between local and mainland Norwegian decision-making. The coal mines, particularly Mine Number 7, are vital not only for economic reasons but also for preserving Norway's presence in the region as dictated by the Svalbard Treaty.*

*The history of Svalbard, from its exploration by Longyear in the early 1900s to the discovery of ancient panthodic fossils, adds a layer of significance to the region. The extraction of high-quality coal has played a role in multinational car manufacturing, with BMW and Mercedes using coal from Svalbard.*

*As decisions regarding the future of the power plants and resource extraction need to be made, the region faces a critical juncture that will shape its trajectory in terms of energy, politics, and environmental conservation. The delicate balance among economic interests, international partnerships, and ecological preservation creates a dramatic backdrop for the unfolding developments in the last wilderness, Svalbard.*

*Note on my journal:*

*It has only been one day I am on Svalbard, and I already find it one of the most fascinating places on Earth.*

*I am still trying to conciliate the borders and boundaries of what renders Svalbard a 'full and absolute' Norwegian territory while its space has many international layers that make that sheer sovereignty a grey zone enmeshed in a tax-free space, the access to which is via an international gate at the airport.*

*When I was flying to Oslo, I inquired Norwegian airlines staff if I would be in time and how I should proceed to continue towards Svalbard. They said I would have to go to gate D, the domestic zone. This sounded contradictory to what I have read about having*

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<sup>262</sup> Lecture: Energy in the Arctic in a sustainable perspective. Lecturer: Anton G. Kjelaas (NVP). UNIS, June 2022.

*to cross out of the Schengen security area and passing through passport control, a requirement even for Norwegians. When leaving the plane, I found out that indeed it was not gate D, but rather gate F, the one leading to Svalbard, non-EU countries, Russia, and elsewhere. I tried to shop at the duty free before and after passing through the international gate. In the first time, I was not allowed to do so not because I had not crossed the gate to go out of the Schengen space, but because I showed my destination boarding pass, to Svalbard. The woman at the counter bluntly shouted at me very out loud – already a surprise coming from Norwegians - : 'you can't shop in tax free because you're taking a domestic flight, Svalbard is part of Norwegian territory, IT IS NORWAY!' I lost all reaction I could have had and just felt like disappearing with the whole audience staring at the scene. When crossing gate F and after facing a huge passport control queue – also full of Norwegian nationals – I once again tried to shop at the free shop with my destination boarding pass and faced the same refusal. At that moment, I decided to state that I was not coming from inside Norway but rather from Italy, so I showed the boarding pass of my arrival from Naples, and this worked out. I thought there would be some security control to bar liquids for those flights to Svalbard, but there was none. And, to my happiness as to compensate those wine bottles I had to leave behind on the first counter – I found out that Svalbard is itself a tax-free zone. So how come is the boarding to Svalbard – a flight deemed domestic – via an international gate? How come one cannot shop in a tax free going to Svalbard if Svalbard is itself tax free?'. The answer to this is not yet clear so I welcome all input.*

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*Another puzzling experience I have lived on Svalbard was when I got acquainted to a Norwegian that had moved from mainland Norway and lost his Norwegian citizenship after having no relatives or fixed residence on the continent and thus not being a tax contributor on the mainland. His case was groundbreaking in Norwegian law, after which it became illegal to make a Norwegian citizen stateless on the grounds of losing connections with mainland Norway.*

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## **Lecture: Will the new 'Mediterranean' need a new governance regime – The Politics of Geographical Definitions in the Arctic; Internal and External Challenges?**

**Lecturer: Andreas Østhagen (FNI)**

*The Arctic region, from 2005 onward, experienced a surge in political prominence known as Arctic euphoria, fuelled by factors such as melting ice and the prospect of untapped resources. However, this simple cause-and-effect narrative shifted in 2014, marked by the Russian invasion of Ukraine and a drastic drop in oil prices. The fervour*

*for Arctic dominance waned, leading to a period of reflection termed “nachspiel”, as articulated by Iver Neumann.*

*In 2018, the Arctic reemerged as a geopolitical hotspot, witnessing power rivalries involving major players such as China, the US, and global actors. On a national level, Norway adopted a strategy of deterrence and reassurance, recognising the need for shared interests and region-building to maintain stability in the Arctic.*

*Despite the heightened geopolitical tension, there seems to be no compelling reason for armed conflict in the Arctic. The absence of significant maritime boundaries, except for disputes like the “whiskey dispute” over Hans Island, underscores the cooperative nature of Arctic relations. Notably, continental shelf disputes are acknowledged, with the understanding that the continental shelf is not considered sovereign territory.*

*The concept of “Arctic exceptionalism” is debated, but the Arctic stands out as a formal example of geopolitical dynamics. The resurgence of military power showcased in 2006 and the strategic competition between NATO and Russia played a role in shaping Arctic policies. Norway, alarmed by Russia’s increased military presence, sought to draw attention to the issue, leading to NATO’s decision to enhance its presence in the region.*

*The Arctic’s evolving landscape includes a steady increase in military exercises, notably becoming more aggressive post-2014. The UK was the first to declare itself a near-Arctic country, and Chinese presence, initially viewed as benign before 2017-18, prompted a shift in US rhetoric on the Arctic.*

*Crucially, Norwegian security concerns are closely tied to its relations with Russia in the Arctic. The 2005 Arctic policy emerged in response to Russian investments in the region but also aimed at fostering increased cooperation. Despite geopolitical tensions, there exists a lesser-known aspect of cooperation between Norway and Russia in critical areas like fisheries management, search and rescue, nuclear safety, and water management, which has persisted even during the Russian invasion of Ukraine. This intricate interdependence highlights the nuanced nature of Arctic geopolitics and the multifaceted relations between nations in the region.*

## **Hearing at the Lokalstyre, Longyarbyen, June 2022**

*The local coal mining board recently convened a meeting, responding to a directive from the Norwegian Ministry of Foreign Affairs (UD), instructing them to develop an entirely new energy plan. While the deadline for the plan's completion is set for December, there is certainty that it won't be finalized by then. The implications of operating an energy plant on diesel are being considered due to the upcoming increase*

*in coal prices in September, posing not just economic challenges but also invoking security policy concerns.*

*The discussion extends beyond mere cost concerns, touching on broader security implications. Recognizing the need for a comprehensive understanding of the situation, the local board has been tasked with drafting a technical briefing before November. The rising prices are causing heightened anxiety, with a collective concern for security, both economically and in terms of overall safety.*

*Research on security aspects is also being prioritized during this period. Recognizing the complexity of the matter, the stakeholders acknowledge the necessity of allocating time to address various facets of the issue.*

*Interestingly, there is a unanimous agreement among the members, particularly the Left-leaning faction, to extend the current approach for another three years. This decision underscores the collective belief that a thorough understanding of the conditions and prerequisites is crucial before making any definitive choices. The emphasis on cost considerations and the need for a comprehensive overview shapes the current deliberations on the future of the local coal mining operations.*

*Annika on Arctic Resilience: The surge in energy price due to the war in Ukraine is what triggered locals on Svalbard to search for transformation, not climate change...*

## **Public/open lecture at UNIS: The Svalbard Treaty. From *Terra Nullius* to Norwegian Sovereignty.**

**Lecturer: Thor Bjørn Arlov (NTNU and UNIS)**

*In the dynamic context of Svalbard, change is a constant, with economic and environmental shifts serving as pivotal drivers for policy decisions. However, the Norwegian language lacks a precise term for “policy”, and the development of policies in Svalbard has historically been oriented towards legitimizing presence and asserting sovereignty.*

*During the action phase of 1965-75, environmental regulations took centre stage, notably impacting the construction of the Longyearbyen Airport. Russia has criticized Norway for implementing stringent environmental regulations, claiming they hinder Russian activities. Nevertheless, a positive turn occurred when a cruise ship, Maxim*

*Gorkij, faced an accident, fostering improved political relations as Norwegian rescuers were commended.*

*The era saw a significant focus on satellite data, raising concerns among treaty members about potential breaches of the non-militarization principle. Arctic policies in 2008, 2013, and 2020 have shaped the region's landscape, revealing overlapping interests in continental shelves among Canada, Greenland, and Russia. The Fisheries Protection Zone faces challenges from the EU, particularly regarding crab quotas and, more recently, Brexit.*

*Voting issues, population shifts, and questions about residency requirements for voting rights have emerged. Svalbard, seen as a test case and laboratory for various experiments, including future energy supplies in the Arctic, has become a focal point for the Norwegian government's rapid changes.*

*Operating outside the Schengen Agreement, the Norwegian government indirectly manages the region through employment and voting, maintaining its influence controversially. The risk landscape, as outlined by the risk pentagon, involves value, vulnerability, likelihood, severity, and exposure, with the remoteness of the Arctic presenting both blessings and challenges, particularly in the context of diseases like Covid-19.*

*The industrial population in the Arctic faces health risks primarily stemming from lifestyle-related diseases. Risk communication has evolved, becoming more direct and transparent, acknowledging potential mistakes to build trust and reliability. Scholars advocate for Arctic-specific Sustainable Development Goals (SDGs) to better address the region's unique challenges and indigenize the SDGs.*

*Specific agreements, such as the one on polar bears, reveal entangled relations between Oslo and local governments. Discussions on environmental concerns, including the cleanup of toxic waste, submarines, and Russia's nuclear activities amid the Ukrainian war, highlight the complexities surrounding Svalbard's governance.*

*The transition from Kompanis town to local governance and the Snow Crab incident with Lithuania in 2008 further underscore the intricacies and legal nuances surrounding sedentary species and continental platform/exclusive economic zones. In this ever-evolving landscape, Svalbard remains a fascinating and multifaceted arena where geopolitical, environmental, and societal factors intersect.*

### **Visit to KSAT on Svalbard, June 2022**

*KSAT (Kongsberg Satellite Services) plays a significant role in commercial satellite operations, while SvalSat operates with a unique ownership structure – 50% privately owned and 50% owned by the Norwegian Ministry of Fisheries. The data acquired adheres to both Norwegian national regulations and reflects European Union regulations.*

*Notably, the data collected is classified and directly transmitted to the customer by KSAT without being downloaded. However, there is a possibility that this information may later become open source and be repurposed for military applications. Kongsberg, a major ownership group, has ties with the Norwegian government, which holds some shares. The distinctive symbol/logo of Kongsberg features a royal crown.*

*The Norwegian government engages in classified agreements with Kongsberg for data collection, with Russia contesting these arrangements. Despite challenges, Kongsberg appears knowledgeable and adept at collecting data for industrial, environmental, and economic development purposes.*

*The reference to the “Open Skies” agreement hints at the cooperative approach among nations in satellite operations, highlighting the complexities of data sharing and security in this domain. Overall, the collaboration between the private sector, represented by Kongsberg, and the Norwegian government showcases the intricate dynamics involved in satellite operations for both commercial and strategic purposes.*