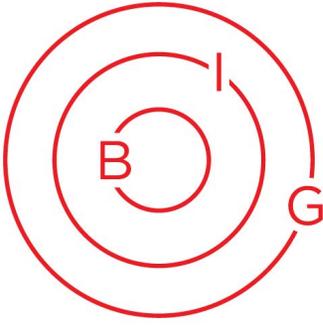




BORDERS IN GLOBALIZATION





Borders in Globalization Research Project 17

Marine Management and Governance of the Beaufort Sea: Lessons from the Barents Region

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Governance

Date

The Beaufort Sea situated off the coast of Alaska and the Yukon presents a unique opportunity for cross-border and regional maritime cooperation, however, due to national differences, a lack of cross border and marine infrastructure as well as complex jurisdictional issues, this has not been possible. A comparative analysis of other regional and international/ bilateral models provides a concrete foundation in determining the best path of governance in the Beaufort Region: The Barents Region shares enough similarities to the Beaufort Region that comparative analyses of its governance structure and cross border dynamics are invaluable. Policy and decision makers from both in the Yukon and Alaska would benefit from pushing for further comparative studies and longer-term research projects of the models presented in this paper.

Background

The melting ice and dramatically changing climate in the Arctic will soon give way to increased maritime traffic in the area including the Beaufort Sea and the North West Passage (NWP). As a result several organizations have established maritime policies in the Arctic such as the International Maritime Organization's (IMO) Polar Code, a set of international reaching regulations for maritime activities in the Arctic. However, there still remains a lack of maritime infrastructure such as deep-water ports and ice breakers as well as poor coordination in marine management relating to issues such as fiscal support and multi-jurisdictional issues (Higginbotham & Grosu, 2014). Although the Beaufort Sea is unique, governance models and policy recommendations should most definitely take into consideration the development of the Arctic region as a whole due to its fragile socioeconomic and environmental status. Decision makers should not only examine the current marine management programs in the Beaufort region but also other arctic marine management programs and governance models, consistent with the Beaufort's role as a sub-region of the wider Arctic area. Drawing on the concepts of territory, legitimacy and cross border governance, the following paper outlines several governance challenges that exist within the Beaufort region following with a comparative analysis of the Barents region. Subsequently several policy recommendations will be made.

Sovereignty and Security

There currently remains a disputed territory of 6, 250 square nautical miles between the US and Canada called the Beaufort Triangle (Baker, 2009). Canada is also in contention with other Arctic states concerning the classification and use of the NWP, a water way connecting the northern Pacific Oceans to the Arctic Ocean. The nation has yet to actively demonstrate it's desire for Arctic sovereignty and prosperity due to a lack of maritime and socio-economic development in the area. Canada's presence in the arctic is falling behind countries such as the United States, Sweden, Finland and Russia that have been exercising large national efforts in developing their ice breaker fleets and marine infrastructure. Russia has 18 deep water ports, while Canada is currently without even single one.

Indigenous communities

The most prominent step forward in regards to indigenous governance in Canada's North was the establishment of Inuvialuit Final Agreement (IFA) in 1984. Several co-management and multi-level governance initiatives were established under this agreement such as the Fisheries Joint Management Committee (FMC), The Environmental Impact Review Board and others. These initiatives have helped increase the degree of influence indigenous peoples have in decision making in the area. The Beaufort Sea is situated within the Inuvialuit Settlement Region (ISR), a 90,600 sq km expanse of land, where the Inuvialuit possess certain rights such as "wildlife harvesting rights" established under the IFA. Although these along with similar developments in Canada suggest an improvement in indigenous peoples decision making power in the North, implementation has been problematic due to underlying issues with finance models, language and legislative support

(Fidler & Nobel, 2013). Although committees established under the IFA play an advisory role to ministries, and several cross border sub-national indigenous initiatives exist such as the Porcupine Caribou Commission (IPCC), a caribou conservation initiative, environmental and social effects concerning the Beaufort region are not isolated to even just the US and Canada. The Beaufort Region's close proximity to the US border, paired with the environmental, economic and geopolitical strategic position it holds, suggests that effective governance in the Beaufort Sea would improve with an "overarching governance" structure and an increase cross border initiatives.

Maritime infrastructure

As mentioned on United Nations Radio in a 2014 broadcast, in 2010 there were only 46 Arctic vessels which traversed Arctic waters, while in 2013 it grew to 71. Numbers are increasing in regards to vessels traversing the North West Passage as well. House of Commons Standing Committee on International Affairs stated in February of 2012, that there were 31 transits of the NWP in 2012, which is an increase of 29.2 percent over 24 transits in the previous year (2011).

Challenges

There are several challenges that arise when considering the development of maritime infrastructure in the Arctic and more specifically in the Beaufort Sea. Maritime delimitation of the Beaufort triangle presents the foremost challenge, however there are several others. Indigenous communities have demonstrated they have a place in Arctic matters through organizations such as the Inuit Circumpolar Council (ICC) and other previously mentioned cross border initiatives, however, it was discovered during a study of stakeholder

perceptions by Fidler and Noble (2012) that lack of higher-level to lower-level information sharing and incorporation of indigenous input within existing marine management programs in the area are prominent barriers to strategic planning in the area. Programs such as the Beaufort Regional Environmental Assessment (BREA) and the Integrated Ocean Management Plan (IOMP) have been scrutinized by stakeholders for lacking enforcement and lacking in practical implementation and legislative backing (Fidler & Noble, 2013, p. 183). Indigenous populations limited status as permanent participant in the Arctic Council has also led to their exclusion of certain declarations such as the Ilulissat Declaration of 2008 (Fenge, 2013). Despite several self-government agreements and land claims, populations in Canada's North are still highly dependent on federal fiscal support and are consistently in discussions with the federal government concerning devolution agreements (Higginbotham & Grosu, 2014). In addition to these societal challenges, there are also environmental and governmental challenges as well, such as lowering water levels in the Mackenzie River that are impeding on resupply and resource development infrastructure, budget constraints and fragmented national responsibility within federal departments (Higginbotham & Grosu, 2014). It is clear that these current unpredictable and risky conditions make Arctic development and policy making extremely challenging.

Legitimacy and Arctic Governance

Governance challenges are emerging in an age where territory as a legitimate measure of government is fading behind forces of globalization, devolution and decentralization. Disagreements concerning maritime delimitation, offshore development and environmental sensitivity could be seen as a reaction to such pressures on nation-state sovereignty as an assertion of power and influence. However, are these claims even legitimate when they are

based on such territorial based claims, as Canada and the US fight over boundary lines, and the Federal government asserts its power and sovereignty over offshore resources? What would a governance model in the Beaufort Region, largely based on today's world, where climate, trade, and cultures surpass territorial markers look like?

Actions taken in the arctic today affect a myriad of actors, which includes public interest beyond it's immediate vicinity and calls into question the legitimacy of government actions in the area.

Who are the appropriate legitimizing parties in the Beaufort Region which is characterized by cross border flows and multijurisdictional issues? Moreover, who is accountable to whom and for what? There is a need for Arctic policy makers and analysts to identify where political communities are forming and on what basis (Berstein, 2008). These political communities could range from scientific and technical networks, industry and markets, local and global civil society, indigenous groups, environmental groups etc.

Although it is impossible for the government to adhere to every criteria of legitimacy amongst different political communities, authorities need to be aware of the consequences in adhering to one criteria (territory) and the resulting affects this may have for other political communities such as indigenous and environmental groups. For example, the amendments made to the Canadian Environmental Assessment Act have reduced the time and scope allotted for federal assessments, while the standards of marine management programs remain the same. This dynamic puts an undue amount of pressure on co-management initiatives, and federal departments such as the DFO and AAND and increases the margin of error. Such ammendments have fast tracked tendering processes and could have largely played a role. Basing an arctic governance model on a functionalist framework

where environmental groups and indigenous communities' desires are more visible and aid in mitigating such risks.

The Barents Region

The Barents region or “sub-region” as Stokke terms it, is alike the Beaufort region for numerous reasons. Both the Barents Region and the Beaufort Region possess sub-state territories that seek or have sought political distinction from other provinces/territories in their respective homelands (Stokke, 1999). These sub-state territories consist of indigenous populations, cross-border communities and other arctic coastal communities. The remoteness of these areas, the harsh climate and the volatile nature of natural resources on which these communities depend, have resulted in tax relief initiatives, educational loan repayments and other government fiscal support in both regions. Indigenous populations in these two regions also possess sanctioned yet limited self-government rights and political representation (IFA, 2013; Shadian, 2010).

The Barents Regional Council (BRC) was formed based on similar geopolitically strategic actions as the Barents Euro Arctic Council (BEAC), however, is distinct in its make-up of sub-state members. The Barents Regional Council's non-territorial governance model spans across 13 different nation states between which interregional issues and agreements are made on an array of policy issues. These institutions were not formed through a treaty process or based on international law (Hasanat, 2012, p.21). Instead, the BRC and the BEAC were created through a process of regional cooperation following the cold war and operate largely on a “political willingness” rather than a formal legislative process and

characterize what Hasanat (2012) terms as a “hybrid soft law mechanism” (Hasanat, 2012, p.67).

Although the Beaufort Region is not characterized by the same geopolitically “strategic” and regional identity as the Barents Region, the Beaufort Sea is becoming an increasingly important area. If the Beaufort Region were to form a similar regional mechanism of which to rest bilateral relations not only would this foster greater cooperation between the US and Canada but would also assist in implementation processes. Legitimacy in such a soft law institution would be achieved through its functional accountability and multi-lateral governance structure by establishing working groups and regional intergovernmental agreements. Governance of the Beaufort Region could then embody it’s identity as a region, embracing the regional cross border flows of environmental, cultural, economics and political nature.

A Comparative Cross Border Analysis

Brunet-Jailly (2011) has outlined in his work, four particular analytical lenses useful for cross border studies. The four analytical lenses include: Local cross border culture, multilevel policy networks, cross border political clout, market forces and trade flows. Brunet-Jailly asserts that “If each analytical lens enhances or complements one another, what emerges is a borderland region that is culturally emerging and is integrating” (2005, p.645). This section aims at presenting a broad comparison of regional models and trans-boundary activities along the Barents Sea in Scandinavia and North Western Russia and the Alaskan/Yukon borderland off the Beaufort Sea.

Local Cross Border Culture

Culture is very diverse in the Barents region, which stretches across 4 nation-states (Beaufort Regional Council, 2015). However, despite the variances, it has been declared that the people in the Barents Region, more specifically Northern Scandinavia and North Western Russia share a natural region (Honneland, 1998). This has been deemed a main component in the formation of the “identity region” Honneland (1998) claims, was needed for the formation of the Barents Euro Arctic Council (p.279) and the Barents Regional Council. State and sub state members share a homogenous geographical status in their similar harsh and vulnerable climates, far from national centres and sparsely populated (Honneland, 1998). Counties along borders such as the Norway-Russia borderland region, share a somewhat distinct culture compared to the wider Barents region resulting from intimate cross border relations, such as shared language (bilingual signs in the Norwegian borderland), cross border trade (Fishing) and history (relationship dating back to 500 years). Inhabitants of the borderland claim to possess a shared set of values and genetic history (BBC News).

As Brunet-Jailly suggests (2008) there is still work to be done on establishing to what degree Canadian and Americans share a particular culture or values system. When it comes to borders in the North (with the exception of the Beaufort Triangle) however, it is well known that the U.S and Canada share certain values and interests in the environmental, social and economic development of the region (PNWER, 2014). The PNWER is one institution that has aided in integrating Canadian and U.S values in the area. The area consists of indigenous groups whose practices, languages, ethnicity, spirituality, and indigenous knowledge transcend the border between the two countries. The Inuit of the

Beaufort Sea area also share a cross border culture in their experiences of cultural assimilation and oppression through the teaching of English, growth from subsistence living (hunting) to capitalism, focus on individuality over community, introduction of consumer goods, religious diversification and exposure to southern mainstream media (Stenbaek, 1987).

The entire population of the Alaska and Yukon share a similar cross border culture to the Barents Sea counties in climate, geographical location, socioeconomic status, infrastructure, jobs, and emergency health care services (Higginbotham & Grosu, 2014; PNWER white paper; Honneland, 1998).

Not only do both regions (Barents and Beaufort) share similar cultures, and trans-boundary dynamics, they are both part of a “natural region” (Honneland, 1998). Brunet-Jailly states that such characteristics are a part of the growth of a “region that is culturally emerging and is integrating”, an important aspect for regional policy formation (Honneland, 1998; Brunet-Jailly, 2005).

Cross Border Political Clout

The indigenous populations of the Barents Region and the Barents Euro Arctic Region hold strong political clout through their influence within the Working Group of Indigenous Peoples, the ICC, and even subnational initiatives aimed at conserving the right to herd reindeer across national borders (Barents Regional Council, 2015).

Indigenous groups spanning the border of Canada’s north and Alaska have demonstrated that they possess significant political clout. In Canada and Alaska this is confirmed through the establishment of Canada’s Northern Vision in 2007 focused on the socio-

economic development of northern peoples and Canadian indigenous presence in the ICC. In addition several indigenous groups such as the Inuit Tapiriit Kanatami (ITK) have had success in land claim and land use agreements (Everette, 2015). Cross border indigenous populations such as the Gwich'in, the Inuvialuit and the Inupiat of the Yukon and Alaska have also demonstrated their political presence both nationally and internationally through the formation of several international and trans-boundary conservation initiatives.

Although the indigenous Saami, Nenets and Veps indigenous groups of the Barents Region have varying degrees of self-determination, their advisory role in the Barents Regional Council and the Barents Euro Arctic Region is an example of how strengthening and unifying indigenous peoples voices across territories increases the legitimacy of such institutions. A similar regional body in the Beaufort Region could significantly increase the visibility and decision making power of the indigenous communities that span across the US and Canadian Border such as the G'wichin, the Inuvialuit, the Inupiat among others. A Beaufort Regional Body (Council) would aid in creating a cohesive network of regional indigenous needs and provide the stage for discussions that have arisen in the past and continue to arise. Such issues consists or conservation efforts, environmental regulations, maritime infrastructure development and offshore resource development. A similar working group for indigenous groups with a similar advisory role could be created under the auspices of a Beaufort Regional Council.

Market Forces and Trade Flows

Canada and the US have a history of good trade relations, and are currently each other's number one trading partner (Brunet-Jailly, 2008). Trade relations between the two countries evolved into a regional relationship with the inclusion of Mexico, resulting in NAFTA.

Alaska, Yukon and NWT were brought together through a similar, sub-national regional body, the PNWER. The formation of the PNWER is one example of the growing number of "integrated cross-border economic regions" between the two countries (Brunet-Jailly, 2008, p.110).

The Barents Region has been regionally connected through cross border market and trade flows dating back decades (BBC, 2014). Industries throughout the region bear similarities to the Beaufort Region, including, tourism, oil and gas, and fishing (Barents Regional Council, 2015). Norway and Russia have shared an important economic relationship, dating back decades with Russia being the biggest importer of Norwegian fish in the region (BBC, 2014). This relationship however, has recently been complicated by unrest in Ukraine, resulting in sanctions imposed on Russia by Norway. Russia responded by ceasing to import Norwegian fish, leaving Norway with severe economic problems, especially in the north along the Barents Sea (BBC, 2014)

Due to the interdependency that characterizes Canadian-U.S trade, it is unlikely that if such a regional body was to exist in the Beaufort Sea, that such political problems would be encountered (Brunet-Jailly, 2008). It is true however, that security concerns from the United States have influenced trade flows in the past through poorly thought out border policies, however, not nearly to the extent (Sparke, 2006). The interdependent, "low-key"

and “functional” relationship between the U.S and Canada, is advantageous for regional integration in the Beaufort Sea, and allows for equitable bilateral relations, without the fear of power politics getting in the way (Brunet-Jailly, 2008).

This comparative analysis provides evidence that the Beaufort Region possesses significant similar characteristics to that of the Barents Region suggesting that the Barents

Multi-Level Policy Activities

Multi-level governance and regional policy networks are obviously much more sophisticated in Europe, given the establishment of the EU and border policy programmes such as the Schengen Agreement. The Barents Regional Council and the Barents Euro Arctic Council are products of both intergovernmental and regional cross border integration, especially in regards to fishing, maritime delimitation and border policies between Norway and Russia. The bilateral marine resource management of the Barents Sea, between Norway and Russia has been deemed as a potentially useful framework for governance in the Arctic (Glubokov et al, 2014). The Barents Regional and the Barents Euro Arctic Council are made up of indigenous self-government institutions such as the Saami Parliament and the Saami Council through which programmes such as Indigee, work in uniting young entrepreneurs the from Saami Association of Sweden (SSR), the International Barents Secretariat (IBS), the Norwegian Saami Association (NSR) and the Saami Association of Finland (SSG).

The PNWER and the Beaufort Sea Partnership are examples of multilateral governance in Canada’s North. There are currently trans-boundary agreements existing such as the International Porcupine Caribou Commission, as mentioned earlier, inspired sub-nationally

by the Gwich'in people of Yukon and Alaska. Other sub-national cross-border initiatives focus on the management of polar bears and beluga whales. The US and Canada are presently cooperating on certain Arctic Council initiatives such as search and rescue, coast guards and defence. Canada is also working closely with indigenous peoples of the north through co-management of resources under the Inuvialuit Final Agreement (IFA) and the Fisheries Joint Management Committee (FJMC) (Berkes et al, 2005). The Beaufort Region is what Clarke would term an “interest-specific” community and is already headed towards integrating their regulatory policies (Clarke, 2000). Multi-level governance is also growing with the increasing resolution of land claim agreements of indigenous territory in the North.

Challenges

Potential challenges in operationalizing such a regional model in the Beaufort Sea have been put forth by authors such as Fidler & Noble (2012). The authors summarize arguments stating that strategies and planning in ocean management, specifically, are not advanced enough and lack adequate approaches to implementation. In a general sense, it is argued that regional implementation of a maritime/ocean management model would need overly complex “restructuring of current management institutions” with the potential of incurring great costs (Fidler & Noble, 2012). Several other arguments raised throughout the article are: fear of creating yet another layer to the bureaucratic decision making process, lack of attention to ecological and human factors, and a lack of articulation on behalf of Arctic nations such as Canada, in ocean management goals (Fidler & noble, 2012; Arkema et al, 2006).

Way Forward

Although the Arctic waters of the Beaufort Sea has unique governance challenges, this paper demonstrates that the Barents Regional model offers important lessons for the future of the Canadian Arctic waters, however there is a need for deeper analyses (Baker, 2009; Higginbotham & Grosu, 2014). The literature has left a gap for comparative studies of the two areas in maritime finance models, marine management models, indigenous and environmental governance among other areas.

Recommendations

Restructuring is inevitable in going forward with a regional initiative. For the Barents region, it was the geopolitical environment of the time, which forced a restructuring of institutions. Given current political circumstances in some Arctic member states such as Russia, it is not certain that Canada and the U.S will not also yield to similar forces. One could also argue that due to the speedy deterioration of arctic landscapes/ice, that increased interest in off shore development and the opening up of transportation corridors such as the North West Passage, that there exists significant geopolitical dimensions.

As demonstrated through governance bodies like the Barents Regional Council and the International Joint commission, territorial and centralized governance is no longer viable in regions, where their functions by its very nature are not geographically bounded.

Missen (2007) suggests that reforms should start on a small scale due to the lack of bureaucratic and institutional capabilities. Regional developments and reforms will be hindered by lack of capacity and effects of isolation on local communities.

I suggest small scale initiatives can be achieved through:

- Effectiveness evaluation of processes of self-governance in aboriginal communities
- Investment in maritime infrastructure
- Improved telecommunications and broad band access
- Skills training
- Binational partnerships in institutions of higher education in Yukon and Alaska.
- Long-term comparative analysis project as a supplement to current research, where the IJC and the BRC/BEAC be examined more closely, as well as their trans-boundary and cross border multilateral relationships, both historical and current. Potential funding may be sourced from the Arctic Council through programs such as the Arctic Marine Shipping Assessment (AMSA) and the Protection of the Arctic Marine Environment Working Group (PAME). The project could also be taken on by secondary institutions

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