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Sovereignty: International Legal and Political Perspectives

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The following presentation was given by Rosemarie Kuptana at the workshop [“Sovereignty or Security? Canada’s Arctic Strategies in Changing Political and Geostategic Contexts”](#):

I want to thank Trent University for inviting me to speak to you today, and I thank all the participants who have made time to attend this important conference.

I have spent a fair amount of my life thinking about the issues bound up in the title of this panel. The reason is quite straightforward: the many policies and laws imposed by the Canadian State on Inuit have had some very real and very negative impacts. My own life since childhood and the experiences of my family, my home community and all Inuit are testament to that. We have suffered negative impacts from assertions of sovereignty through law, policy and practice that constitute serious violations of our collective right to exist and to live free as human beings. Mine was the first Inuit generation to catch the attention of the Canadian State. The policies and laws of that time were nothing short of colonial and inhumane. And supposed “good intentions” do not legitimize human rights violations (and I’ll speak a little bit more on that later).

For example, my early memories include my family suffering a critical shortage of food when my father’s geese cache was seized by Canadian authorities – mainly the RCMP – and having only broth to eat for days at time. My mother suffered a miscarriage. All because Canadian, and sometimes international authorities, decided to impose on us their views of when and where we could hunt for food. Such experiences fed my passion in the early 1990’s to work with Canada to successfully negotiate amendments to the federal [Migratory Birds Act](#), for one example. There are so many other examples of how even basic food



security was threatened by actions such as killing Inuit sled dogs, forced resettlement schemes, IRS policy whose aim was to annihilate, and denigrate, our culture, way of life, and our language.

I also remember our family being taken out of our community at Sachs Harbour to support Canadian Arctic sovereignty and security. My parents were required to work for free building Ministry of Transport buildings and RCMP buildings and making government people Arctic clothing so that they won't freeze out on the land. And of course, I was seized and taken to an Indian Residential School at a very tender age where my language was slapped out of me. That experience was a fire in my belly to protect and revitalize Inuktitut as President of the [Inuit Broadcasting Corporation](#) in the 1980s and much of my work as President of [[Inuit Tapiriit Kanatami](#)] ITK throughout the 1990s. These are some examples of how the impacts of colonialism and the actions of colonial successor states have negatively impacted Inuit society and security — human security, environmental security and our right to safety and security of the person at the most basic levels. This includes threats flowing from militarization and failure to respect Inuit decision-making regarding economic development options.

Even basic notions of human security have been bent to serve Canada's claims to state sovereignty, while violating Inuit security. For example, the forced resettlement policies such as the forced relocation of Inuit from Nunavik (that part of Inuit Nunangat in Northern Quebec) to Grise Fiord, under the guise of addressing the threat of starvation at the time (and people didn't know how to hunt these new animals, so people starved anyways). I also share with you how much progress Inuit have made over the past 40 or so years achieving progress to roll back Eurocentric values in Canadian law and policy. And behind every Inuit policy and political position, are well developed legal reasoning. And underlying it all, are the hard, hard facts of our struggle against those who dismissed our entire culture and history as primitive.

The perspectives and positions of Inuit on these issues are not academic exercises — they represent our continued fight for survival, and our right to thrive as a people in our homelands. I have spent a lot of time working on these issues as a political leader and public speaker (and I would also like to note that this is going to be my last public panel). My work has focused on the connection between the fundamental principle of the universality of human rights (which includes the collective right of peoples to self-determination) and the Inuit experience with assertions of sovereignty by European nations and colonial successor states like Canada.

In my experience, there are various power dynamics wrapped up in notions of sovereignty and security issues as they impact Inuit:

1. The longstanding European will to empire, embedded in so much of European history and political thought. We can still see evidence of it today; and its impacts have a very long reach.
2. Talking about colonialism in Inuit Nunangat is not political rhetoric. Colonialism is a violation of our inherent human rights under international law. A key characteristic of colonialism is its endemic racism. Discriminatory legal standards are used to rationalize “sovereignty” over Indigenous peoples and our lands, water, and resources.
3. Self-determination is accepted as the antidote for peoples who have experienced the crushing impacts of racism and colonialism at the collective and individual level. Our right to self-determination includes not only our collective right to exist, but to thrive in our homelands.
4. Although the United Nations and its member States have formally abandoned efforts to legitimize colonialism through international law, the very concept of States, and the reality of state-dominated international relations, has baked into its residual aspects of colonialism and its inherent racism.
5. Many states today remain pretty comfortable asserting claims to State sovereignty grounded in colonial enterprise and racist colonial legal theory. That is slowly beginning to change. I will speak to that shortly in a Canadian

context.

6. So to be helpful in this area in a way that aligns with international human rights norms, governments and courts in Canada must abandon the self-serving “legal” principles that are developed to rationalize colonialism such as the racist doctrine of discovery. Now if we want to really work on these issues that are all interrelated and interconnected, the various parties must work together and coexist as peoples and government must work together with Inuit to assert and bolster our sovereignty

My final point is it will take a long time to remove colonialisms effect and influence in judge made law and statute law and executive decision-making. But we are determined to do that.

Of course there have been significant developments in international and Canadian law since the end of the World War II, including some flowing from very effective advocacy of Indigenous peoples to grapple with this legacy. My point is, that work has barely begun in Canada. The road from the early battles over the right to self-determination in the 1970's to decades of negotiating “land claims” agreements in each region of Inuit Nunagat to the adoption of the [UN Declaration on the Rights of Indigenous Peoples](#), and federal legislation embracing it has taken most of my adult working life. My point here is, **there is an obvious tension between state sovereignty and Canada's unqualified embrace of the right to self-determination as a pre-existing and inherent right under international law.**

Some current observations about the tension between Canada's assertions of sovereignty and our existence and rights as a people:

1. Even the phrase “Aboriginal“land claims” reflects the backwards world of racist assumptions flowing from the doctrine of discovery.
2. Many policies and laws imposed on Inuit through the Crown's asserted sovereignty -- do not align with our right to self-determination. Here, the standard of free, prior, and informed consent as an aspect of the right to self-determination is very relevant and very important.
3. Contemporary notions of State sovereignty are still very Eurocentric in origin and content; and have little to no regard for Inuit knowledge traditions, law, and our presence for millennia in our vast Arctic homeland.
4. I ask you also to reflect on the inherent Eurocentrism of the concept of “pre-history.” Our oral traditions value accuracy. It would be good to see our knowledge more frequently credited in a way that does not apply some kind of western European academic or intellectual discount when “examined” or “discussed” in non-Indigenous academic literature. For example, my grandmother starting talking to me about the impact of climate change that was going to be coming. She started talking to me about this in the 1970s and we tried to inform the Canadian government that this was going to happen back then, and also the muskox would take over if they were not culled. They ignored us on both counts, and now we're overrun by muskoxen and our fresh water lakes are running into the sea.
5. Inuit have achieved much in our struggle in the modern era to roll back some of the impacts of colonial law. But we don't take any of our hard-won fights for granted. We know how easy it is for governments to slip back into old colonial ways of thinking. We have no choice but to constantly monitor them and press forward with our advocacy and diplomacy in Canada and outside it. Whether it is the regulation of oil and gas development or decisions respecting conservation areas and protecting ecological integrity, Inuit insist that there be collaborative decision-making that acknowledges and respects Inuit decision-making. We have made progress in the relationship in various areas of law and policy but almost always because we are vigilant and call Canada to account.

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Inuit of course have our own politics. And we have plenty of experience building bridges among diverse Inuit communities in Canada, the circumpolar north and other peoples in the North and globally. An aspect of our relationship to the concept of Canadian sovereignty is that many of us proudly welcome Canadian citizenship alongside our distinct identity as a people, as Inuit. Inuit are also insistent that our governments and our businesses be a part of security decisions and related business opportunities in northern Canada. Our relationship to the land and marine environment is captured by the important phrase “since time immemorial.” Consequently, our governance traditions over the land, waters and sea ice are a huge qualifier to Canada's sovereignty claims. We are prepared to support Canada so long as our rights are respected and Canada is obligated under international law as well as the Constitution to respect those rights.

Inuit are a maritime people who have rights in all aspects of the northern environment — sea ice, the marine life and the ecology of the north, the seabed, and its natural resources to name a few. And when I talk about Arctic sovereignty, I've heard officials say “well, Inuit are not born on the seabed so therefore they don't have sovereignty over it.” Well, I'm here to tell you that Inuit do use the seabed. In the winter they go and collect crustaceans and they get out before the tide comes back in. So Inuit do use the seabed and I was born in the Northwest Passage – well, some years ago I guess. Inuit will continue to advance our place using all the hard won tools of our “claims” agreements, constitutional protections, and international law — whether in discussions about [the [United Nations Convention on the Law of the Sea](#)] UNCLOS, or in any other decision-making process where our rights and inherent jurisdiction may be implicated.

I will highlight two hugely significant developments in international law since World War II that are relevant to our fundamental rights, as Inuit, to exist and to thrive in our homeland in accordance with our own priorities and governance systems as those exist now and may evolve in the future. The first is the negative protection of our collective right to be free of genocide. International law respecting collective rights as human rights began to be elaborated with the 1948 [UN International Convention on the Prevention and Punishment of the Crime of Genocide](#). The Genocide Convention brought **the collective right to exist** into international criminal law.

Another collective right of peoples is expressed in a positive form and similarly has been **affirmed** (not granted) by international human rights law and that is the right to self-determination. That inherent and inalienable right impacts and qualifies Canada's claims to sovereignty. It is important to note that government policy supposedly motivated by “good intentions” does not necessarily determine whether a human rights violation has occurred. There are **many** court decisions making clear that discriminatory impacts flowing from culturally bound assumptions and unconscious bias are part of the whole menu of discrimination — explicit and systemic — to which Indigenous peoples have been subjected. Take a look at how many graves we have – mass burials – of Indigenous children. The challenges of concepts of sovereignty and security for Inuit, and for Canada, require dismantling discriminatory assumptions embedded in policy, law and in non-Indigenous knowledge traditions.