

# Guardians Without Sovereignty: Indigenous Rights and the State-Centric Governance of the Arctic

SUBMITTED BY  
ELIZABETH SIM  
THEME A FOR FALL 2025/WINTER 2025



PHOTOGRAPH BY GALYA MORRELL/THE ARCTIC INSTITUTE

## **Guardians Without Sovereignty: Indigenous Rights and the State-Centric Governance of the Arctic**

Mining, oil, natural gas, and infrastructure investments are projected to [reach](#) US\$1 trillion in the Arctic by 2030, per the World Economic Forum (WEF). Such investments not only jeopardize the health of Arctic ecosystems but also lead to severe environmental, cultural, and spiritual [consequences](#) for the approximately [500,000](#) Indigenous people who have called the Arctic home for thousands of years.

Arctic governance is shared largely through intergovernmental institutions that formally include Indigenous voices while simultaneously limiting their decision-making power. In the [Arctic Council](#), the primary forum for Arctic-related state policymaking, the six Indigenous representative organizations [lack](#) voting rights and may issue only recommendations for the Arctic states (Canada, Denmark, Finland, Iceland, Norway, Russia, Sweden, and the United States).

Through pollution and neocolonialism, the eight Arctic states repeatedly violate the United Nations Declaration on the Rights of Indigenous Peoples ([UNDRIP](#)). Although Article 26 [proclaims](#) that states should “respect [the] land tenure systems of Indigenous peoples,” states have failed to preserve this right, with Russia’s projects causing 17,000 [leaks](#) in the Arctic in 2019 alone.

Although existing Indigenous rights frameworks help mitigate harm, they cannot resolve the structural power imbalances between states and Indigenous communities. Combining a “human rights–pluralist approach” with legal recognition of Indigenous peoples as guardians of their land will enable Indigenous peoples to gain greater parity on the international stage and engage in multinational collaboration.

## International Law: A System Made for Colonialist Powers

Despite playing an important role in defending Indigenous communities' cultures and territories, international Indigenous rights instruments remain structurally constrained by the state-centric nature of the international legal order. This limitation is not accidental; as Patrick Macklem, an [expert](#) in Indigenous rights and constitutional law, [explains](#), international law itself was originally created to support state sovereignty while systematically denying Indigenous peoples sovereign authority, and colonization “lies at the heart of the international legal order.” To justify Indigenous people's exclusion from the distribution of sovereignty, European colonizing powers [established](#) the legal doctrine of *terra nullius*, which falsely claimed that Indigenous land was unpopulated. Although this doctrine was formally [repudiated](#), it continues to shape the foundations of international legal doctrine.

International Indigenous rights law [inherits](#) and reproduces this exclusionary design. Even UNDRIP, which strongly [emphasizes](#) self-determination, does not declare that Indigenous peoples have the right to sovereignty. Instead, it [stipulates](#) that the Declaration should not be interpreted as validating endeavors that “dismember or impair... the territorial integrity or political unity of sovereign and independent States.” In doing so, international law protects Indigenous peoples only insofar as such protections do not disrupt state power, leaving the state-dominated international legal order fundamentally intact.

The limited nature of the protections is evident in various cases of states' abuse inflicted upon Arctic Indigenous lands. For example, in 2020, the largest oil spill in Arctic history occurred when Russian mining company Norinickel's power plant in Norilsk [spilled](#) 21,000 tons of oil into the Ambarnaya River. As a result, many families of nearby Indigenous communities who sustained themselves with the affected rivers will [continue](#) to experience starvation for at least another half century, according to Global Voices, a nonprofit organization. Furthermore, for decades, Norway's largest wind farm severely [inhibited](#) Sámi reindeer herding, a practice crucial for food security; only in 2024 did the Sámi people [reach](#) a settlement with Norway, after which they were granted additional grazing land. Both cases of territorial harm reflect how the state-centric structure of international law has enabled states to exploit Arctic Indigenous land.

## The Human Rights–Pluralist Approach and Indigenous Consultation Rights

Indigenous rights law, as Macklem [argues](#), functions less as a corrective to colonialism than as a mechanism to “mitigate some of the adverse consequences” of an international order built on imperial domination. Within this limited space, states and companies are legally [obligated](#) by the [ILO Convention 169](#) and UNDRIP to consult Indigenous peoples regarding issues that may impact Indigenous human rights. In practice, however, consultation has become an empty procedural requirement, interpreted inconsistently by stakeholders and reduced to a site of debate and confusion.

The “human rights–pluralist approach,” advanced by Professors James Anaya and Sergio Puig, [offers](#) the most compelling interpretation of Arctic Indigenous consultation rights available within international law. The approach [reframes](#) consultation as a substantive human rights obligation rather than a procedural formality, while still accommodating international law’s deference to state sovereignty. The Arctic Council illustrates both the necessity and the absence of this approach. Although Indigenous Permanent Participants (PPs) are formally [consulted](#) throughout negotiations, safeguarding human rights is not the main goal of the Council, and Indigenous people [lack](#) voting rights and remain peripheral to the Council’s core constituencies. Applying the human rights–pluralist approach would not eliminate state authority, but it would force the Council to treat Indigenous human rights as a substantive constraint rather than a procedural formality, while requiring meaningful compensation where violations persist.

Even this strengthened interpretation, however, confronts a significant obstacle: corporate power. As human rights scholar Sarah Joseph and tort law professor Joanna Kyriakakis [observe](#), “political power is inherently linked to economic power.” Indeed, despite state [legislations](#) that mandate companies to conduct due diligence during consultations, extractive industries continue to bypass Indigenous consent and impose disproportionate harm on Indigenous communities through mining and extraction projects, such as Russian oil company Novatek’s liquefied natural gas (LNG) megaprojects that have [disrupted](#) the nomadic Nenet people’s reindeer herding and [caused](#) Nenet herder Sergei Hudi to fear that, if gas expansion continued and people could no longer subsist on reindeer, “[the Nenet] people may just disappear altogether.” A

“check-the-box” mindset [pervades](#) corporations regarding consultations with Indigenous peoples, reducing consultation to a performative exercise.

### **Indigenous Peoples as Guardians Who Legally Represent Their Land**

To overcome the limits of consultation alone, Indigenous peoples must be equipped with legal authority that does not depend on state or corporate goodwill. Indigenous rights scholars Jessika Eichler and Fanny Verónica Mora Navarro [provide](#) such a mechanism by drawing on principles from international children’s rights law. Eichler and Navarro argue that Indigenous peoples should be legally recognized as guardians of their territories, with legal standing to defend land that is inseparable from their identity. Because Indigenous peoples [maintain](#) “deep spiritual, cultural, social, and economic connections with their lands,” they are uniquely positioned to articulate the “voices” and harms of exploited lands.

This model has already gained judicial precedent. In 2024, after oil from the state-owned oil company Petroperú [contaminated](#) the Indigenous Marañón River, the Superior Court of Justice of Loreto, Peru [ruled](#) that the river was a living being with legal rights, including the [right](#) to representation, and [designated](#) the Indigenous Kukama people its guardians. Extending this framework to the Arctic would allow Indigenous peoples to defend themselves against corporate harm directly, without relying on states to oversee the companies’ behavior during consultations that apply the human rights–pluralist method.

Together, the human rights–pluralist approach and the legal recognition of Indigenous guardianship can transform Indigenous peoples from nominal consultees into rights-bearing individuals. This strategy not only promotes Indigenous human rights but also contributes to the achievement of a power equilibrium between Arctic natives and sovereign countries, moving international governance closer to the inclusive vision articulated in [Goal 10.2](#) of the Sustainable Development Goals: “empower[ing] and promot[ing] the social, economic, and political inclusion of all.” Only through such structural recalibration can the Arctic become a true home for its Indigenous peoples.

## **Authorship Declaration**

I, Elizabeth Sim, affirm that this article was written entirely by me and is my own original work. No part of this article has been plagiarized, copied, or substantively adapted from any published, broadcast, or online source. Any ideas referenced are expressed in my own original language and structure.

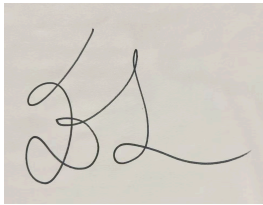
I certify that this statement is true and accurate.

Name: Elizabeth Sim

Event: Harvard International Review Academic Writing Contest, Fall/Winter Cycle 2025

Date: January 2, 2026

Signature:

A handwritten signature in black ink, appearing to be 'ES', on a light-colored background.