Responsibility of and for Structural (In)Justice in Arctic Governance

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Introduction

The Arctic is a political landscape in development, and it is subject to multiple and often competing claims of sovereignty. Although situated at the margins of territorial governance of the Arctic states until recent decades, the region has experienced rapid transformations, not least in its governance arrangements. The region continues to be perceived as a zone for economic development, and meanwhile it has been identified as ground zero for global climate change. In this, the Arctic is defined as a material landscape and frameworks of sovereign property rights smooth its integration into the global economy. Its political landscape is coupled with the material landscape and the exercise of authority over decision making for the region through its governance structure is notable for power asymmetries. Focusing on core features of rules, interests and agents from the International Relations theory of Social Constructivism, this chapter interrogates the asymmetric relationship between states, Indigenous groups and non–Arctic states in the context of governance via claims to sovereignty through Iris Marion Young's (IMY) four features of social–structural processes and the five faces of oppression: exploitation, marginalization, powerlessness, cultural imperialism and violence (1990). It will also discuss the responsibility for structural justice within the structure of Arctic governance, with specific reference to the Arctic Council.

Notions of structural justice first emerge in John Rawls's veil of ignorance and the premise of fair relations needed for social cooperation in the social contract between citizen and state for an ideal structural justice to exist (Rawls, 1971). This perspective is common across conversations of structural

(in)justice where the impacts and differences of relative social position result in consequential and often negative effects as a result of membership in a particular social group (Powers and Faden, 2019; McKeown, 2021). While relative positions and even the structures themselves can change or evolve, legacies of the differentials of power and advantage have an enduring impact on social capabilities (Nussbaum, 2013). This has been frequently discussed in domestic analyses of structural injustice, but it is IMY that first analysed structural injustice as a product of global and transboundary impacts resulting from unjust structural arrangements (Powers and Faden, 2019; McKeown, 2021). Structural injustice is found within the governance structures which are shaped by the repetition of processes established through accepted norms and the co-constituted rules that elevate the interests and preferences of agents with power.

Structural injustice exists when 'processes enable others to dominate or to have a wide range of capabilities available to [them]' (Young, 2011, p 52). It is caused by social processes that put groups of people 'under systemic threat of domination or deprivation of the means to develop and exercise their capabilities' (Young, 2011, p 52) and is directly 'attributable to the specific actions and policies of states or other powerful institutions'. (Young, 2011, p 45). It largely takes place 'within the limits of accepted rules and norms' and simply 'as a consequence of many individuals and institutions acting to pursue their particular goals and interests' rather than as a consequence of purposeful, targeted harm (Young, 2011, p 52). The evidence for structural injustice can be found in relational inequality 'where the more powerful agents, in following their preferences, discount the weight of legitimate claims of the less powerful agents' (Heilinger, 2021, p 187). The results of structural injustice are 'the disempowerment of members of particular social groups' by 'systematically thwart[ing] their access to resources, opportunities, offices and social positions normally available to other groups' (Ypi, 2017, p 9).

Constructing the structure of injustice

The first feature of IMY's taxonomy of structural injustice posits that social–structural processes are experienced objectively and can be both enabling and constraining within macro-social spaces (Young, 2011). This is manifest through a variety of features including 'legal rules, social norms and the material world' (McKeown, 2021, p 3) where agents behave as though the structure is real. International Arctic governance institutions, though demonstrating some innovation, follow the norm of the international system that places the sovereign state at the apex of power hierarchies and seeks to legitimize their authority as decision makers for determining who can benefit from the privileges and opportunities within this geographical space. Structures of governance are inherently established to maintain rules

and norms, are based on normative positions reflecting the interests of those creating the structure, and, ultimately, determine who participates and has influence in decision-making processes.

In framing a discussion of structural injustice for Arctic governance, it is important to take one step back to look at the rules, norms and processes that have influenced the superstructure of the international system in which the meso-level of Arctic governance is situated. This structure has been described as a 'culture' with the structure 'organised by the shared understandings governing organized violence' (Wendt, 1999, p 313). Its structure is something that 'exists, has effects, and evolves only because of agents in their practices' (Wendt, 1999, p 185). The primary agent of the superstructure is the sovereign state, which maintains a monopoly on authority, power and violence to ensure its survival. This survival is also dependent on international recognition to establish the legitimacy of that monopoly. Critical to understanding structures within International Relations, for both the superstructure and meso-level governance, is in realizing their intersubjectivity – where actions are based on meaning and meaning results from interactions (Zehfuss, 2002).

Contemporary Arctic governance has developed in the post-Cold War phase of the international system. This system features a plethora of layered rules, both tacit and codified, that guide the expected behaviour between states as they engage in international relationships. Yet these rules have an older history and are deeply embedded in the establishment of the international system, first through norms of imperialism and colonization causing the dispossession and oppression of peoples and territories around the world, including the Arctic. The 20th century saw a shift away from classical imperialism and the rise of local self-determination; however, this resulted in neoliberal imperialism that, although more subtle, continued to repeat patterns of domination, including asymmetric power and economic relationships (Wood–Donnelly, 2014), socio-processes also described in IMY's global connection model, and responsibility for justice.

An essential understanding of the structure of the international system is the rule of sovereignty, which has both internal and external characteristics. In the internal realms and over its citizens and specific territories, 'the sovereign state monopolizes the violent power' (Biersteker and Weber, 1996, p 190), creating order that makes up the glue of the social contract. In its external realm, where relations exist between states, sovereignty is the recognition of that monopoly of power by other states. In this recognition 'states extend to one another the system of mutual recognition that creates a society of states, reflecting and embodying state supremacy' (Biersteker and Weber, 1996, p 190). Sovereignty is a rule that is 'negotiated out of interactions with intersubjectively identifiable communities' (Biersteker and Weber, 1996, p 11); it is the trump card of international relations.

Embedding social inequality within the structure

The second aspect of IMY's taxonomy suggests asymmetries in a relative social position within a structure create societies which place limitations on agents' actions, causing inequalities to 'thicken' and be reinforced over time. This has the effect of 'positioning people prior to their interactions and condition the expectations and possibilities of interaction' (Young, 2011, p 57). The Arctic Council is structured with a tripartite hierarchy: Members, Permanent Participants and Observers. While international Arctic governance is itself a meta intersubjective community, membership within this community reinforces inequality within the relative social positions of the participating agents, through acceptance and repetition of community norms. This hierarchy can be identified as 1) Members, 2) Permanent Participants and 3) Observers of the Arctic Council, embedding inequality as a normative operator within the governance of the region.

The Arctic Council, the foremost international Arctic governance structure, is unusual in that states are not treated equally within the hierarchy of participation by situating Indigenous groups with a higher status than non-Arctic states. Despite this elevated position, the Arctic states have in actuality reinforced the rule of structural hierarchy that posits states as the dominant agents within international relations. This inclusion of Indigenous groups within the decision-making processes of regional governance has been lauded as a great step forward for the international system; however, it is arguable that the participation of Indigenous groups within Arctic governance structures does not restore Indigenous equality nor recognize their sovereignty, but is merely a method of imperialism whereby states can legitimize their authority over the Arctic through this social cooperation. The inclusion of Indigenous groups within international governance structures does not challenge the hierarchy of agents within the international system nor does it equalize participation in decision-making processes.

Governance in the Arctic has steadily developed into a cohesive structure for managing the emerging issues of the Arctic, solidified with the establishment of the standing Secretariat for the Arctic Council in 2012. The Secretariat is intended 'to strengthen the capacity of the Arctic Council to respond to the challenges and opportunities facing the Arctic' (Arctic Council, 2011), giving the structures of Arctic governance greater formality and consistency. In the space of fewer than thirty years, governance in the region has blossomed into a mature structure where Members can collaborate to address the issues specific to the region: environmental changes, changes to the human dimensions (including effects on traditional Indigenous lifestyles), and the impacts of resource exploitation. Yet this structure elevates the interests of one group over the interests, and perhaps needs of other agents.

Legitimizing the structure through repetition

The third feature of IMY's taxonomy is about the construction and cementing of the structures, norms and processes through agents' actions, where the 'structures are co-constituted as they are created and produced through the repetition of norms and the through actions of actors'. This symbolic interactionism suggests that 'the social world is constructed through mundane acts of everyday social interaction' where through repetition 'social groups constitute symbolic and shared meanings' (Del Casin and Thien, 2020, p 177). In this reiterative process, the 'rules and resources that define structures exist only insofar as the individuals in the society have knowledge of them, see them as creating possibilities for themselves, and mobilize them in their interactions with others' (Young, 2011, p 60).

Rules, which may be codified or merely social norms, are intersubjective understandings 'that tells people *what* we *should* do' (Onuf, 1998, p 59) and act as a limiter to the options and potentials of interaction. They are established to 'shape normative and ideological frameworks that constitute stable patterns of interaction' (Burch, 2000, p 187) and, once introduced, are legitimized through repetition and amplification across a social network. Transformation in a system occurs because of the introduction of a new rule, or a new shared understanding, which influences the normative behaviour of the agents operating within that system where 'meaningful action is created by placing an action within an intersubjectively understood context' (Kratochwil, 1989, p 24).

In the Arctic, the norm of sovereignty is a powerful motivator for the actions of specific members of this society. As Kratochwil explains (1989, p 251), the concept of sovereignty was used to legitimize internal structures of hierarchy within the state, and, from this concept, the notion of legal equality between sovereign states. In systems of international governance, this norm is repeated by actors, reinforcing and legitimizing the monopoly of power of the state, both in internal and extra-territorial affairs. As participating agents repeat the relationships provided in governance structures and as non–Arctic actors clamour to be accepted as Observers, they normalize this inequality through these performances, causing the rule to 'thicken' and become more stable.

Within the structure of Arctic governance, extra-territorial space is absorbed into the sovereign control of the dominant agents, those agents are the Arctic states. Anyone who is not an 'Arctic state', operate under a different regime, which as IMY describes, 'what differentiates social positions is that different rules apply to different people in different positions' (Young, 2011, p 60). Within the international society of Arctic governance, institutions have been created in a particular context and introduced into 'a "regulatory" space already occupied by a set of problem definitions and policy strategies'

(Hanf and Underdal, 1998, p 161). The result is a continuous layering of institutions, regimes and other normative expectations, which together construct an international system understood through 'shared knowledge, material resources, and practices' (Wendt, 1995, p 73).

Processes and consequences of structural injustice

The fourth feature of IMY's typology of injustice positions that the processes that create structures have consequences, often unintended for actors within the structure based on their power to influence the shape of the structure leading to 'vulnerability to deprivation and oppression for the least advantaged agents in the structure' (McKeown, 2021, p 3). The Arctic as a region in need of political organization has been accepted by the states with national interests in the Arctic region, who as a result are cooperating to protect and expand on these interests, ranging from the sovereignty of territory to exploitation of transboundary resources.

The international system in which Arctic governance is constructed is not a tangible structure. Rather, it is a product of shared understandings between agents who accept that the structure does exist. Like all systems, the international system is ordered by certain rules, principles and procedures but it is a 'social structure that exists only in process' (Wendt, 1995, p 74). However, this particular result for the least-advantaged agents is not novel to the international system, rather it is the perpetuation of historical injustices created in an older iteration of the international structure. This refers to an international system ruled by imperial practices of territorial land grabs and the disenfranchisement of Indigenous people from their traditional homelands, resources and self-governance.

This system, as a product of social and political development, is subject to change as new forces act upon it and as new rules are introduced to the system. The development of international Arctic governance arose out of the need for states to counteract the condition of anarchy in the international system so that issues common to states in this geographic space, such as environmental protection, could be addressed. This governance emerged as a counterbalance to international anarchy where existing international law mechanisms fail to fully address the interests of states in the region. However, by focusing on the states as the dominant agents for decision making, the process of creating this governance system nearly excluded representation of and from peoples living in the Arctic.

Indigenous peoples ultimately gained participation in Arctic governance as Permanent Participants in the Arctic Council. This emerged first in the Arctic Environmental Protection Strategy (AEPS) through the insistence and courage of the Inuit Circumpolar Council President, Mary Simon (Yefimenko, 2021). Yet, when the AEPS transformed into the Arctic

Council, this participation was not guaranteed as the new rule. In fact, in the late-stage negotiations for the creation of the Arctic Council, the role and status of Indigenous peoples were nearly downgraded to that of mere observers (Brøndbo, 2016). So, while the desire of the Indigenous citizens of the Arctic to participate in the discussions around issues of the region might be included in their interests, it is not yet in states' interest to elevate Indigenous peoples to the hierarchical level of states, which has consequences for their autonomy, self-determination and prosperity.

Representing the wider international community, Observers to the Council are another disadvantaged group within the structure of Arctic governance, albeit with different stakes in the game. Their membership is conditional, requiring their affirmation of the sovereignty of the Arctic states over the region, and by this admission, position themselves as having no legitimacy in decision making for the region. This is despite the interconnectedness of the Arctic to transnational and global challenges, such as climate change, ocean acidification and pollution; it remains to be seen if this poses consequences for the governance of these transboundary issues. While the international system may be premised on the sovereign equality of states, Arctic governance relegates this status in this context and confirms is it normatively possible for some states to be less equal than others. In time this may influence the underlying rule of sovereign equality of states elsewhere in the system.

Responsibility for injustice

Responsibility for justice is dependent upon the form of injustice and culpability for causing or perpetuating that injustice. IMY positions that structural justice comes in several forms: pure or avoidable and that 'structural processes operate across the boundaries of many nation-state jurisdictions' (Young, 2011, p 142). Pure structural injustice has no identifiable perpetrator, and the resulting injustice is the 'sum of multiple agents' nonblameworthy actions' (McKeown, 2021, p 4). This type of injustice can only be remedied through collective action to reverse the effects of multi-scalar agents operating through structural hierarchies of power because it is caused 'wholly in virtue of the features of social structure, and so irrespective of culpability' (Estlund, 2020, p 6).

The second form, avoidable structural injustice, occurs when 'powerful agents with the capacity to change unjust social structures' (McKeown, 2021, p 5) fail to make the necessary societal changes to eliminate injustices. This capacity relates to a combination of power, resources and opportunities to remove injustice. Finally, deliberative structure injustice occurs where 'agents are deliberately perpetuating unjust background conditions' (McKeown, 2021, p 5). This is ordinarily for their gain and

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when agents have the power to change these conditions but do not to avoid less satisfactory outcomes.

Responsibility for injustice can be seen within three different modalities, with differing degrees of obligation to remediate: instrumental causality, culpability in the production and reproduction through performances of injustice, and obligation to facilitate remediation (Estlund, 2020). In the instrumental causality for injustice, both the agents and the rule governing the agents' behaviour resulting in the flaws of the structure must be examined for perpetuating the injustice, although the injustice may be a product of historical actions. Culpability for injustice emerges through the production, reproduction and repetition of norms and rules that result in unjust conditions. When justice is revealed through normative evolution, actors become both obliged and responsible for facilitating change that remediates or removes injustice.

Structural injustice is the result of the tyranny of agents with the power to introduce, develop and normalize the rules and norms that exhibit inequality through disabling constraints, domination and oppression beyond the mere 'exercise of tyranny by the ruling group' (Young, 1990, p 39). IMY describes this oppression as having 'five faces', including exploitation, marginalization, cultural imperialism, powerlessness and violence, meanwhile describing justice as including 'the institutional conditions necessary for the development of individual capacities and collective communication and cooperation' (Young, 1990, p 39). There are several examples where these five faces emerge in Arctic governance.

Resource development is an ever-present undercurrent in Arctic governance, leading to the exploitation as the first face of oppression. This is understood to be the 'steady process of the transfer of the results of the labor of one social group to benefit another' (Young 1990, p 49). In the context of resource development, labour exploitation began when trading companies eroded the food security of Arctic peoples by incorporating their key traditional resources into the market economy and making them reliant on imported goods. This accelerated large-scale natural resource exploitation which frequently uses imported labour and accumulates profits outside of the Arctic – creating competition for already scarce resources such as housing and food. Meanwhile, these operations can degrade environmental conditions, reducing the capacity of traditional economies vulnerable to compromised ecosystems (Duhaime and Caron, 2006). This exploitation includes not only labour, but critically compromising capabilities through the material deprivation of communities and the broader dynamics of resource exploitation.

The results of this exploitation contribute to the marginalization, the second face of oppression where 'a whole category of people is expelled from useful participation' (Young, 1990, p 53), and for Indigenous peoples,

this is 'politically, economically and epistemologically' (Comberti et al, 2019, p 15). Material deprivation sometimes means that Permanent Participants may not have adequate resources to enable participation in governance processes, including attending meetings. Although allowed participation by the Council charter, when Permanent Participants are in attendance, they are not fully included as decision makers in governance processes. Instead, they must rely on 'the states within which they reside [to] speak on their behalf, yet the history of marginalization and discrimination by these same states undermines the legitimacy of their representation' (Comberti et al, 2016). This marginalization is promoted by the normative expectations that the sovereignty of states, and especially of Arctic states, generates decision-making legitimacy.

Powerlessness, IMY's third face of oppression, is a relational understanding of power where 'only states have the institutional capacities to adjust patterns of advantage and the politically legitimate authority to regulate relations' (Powers and Faden, 2019, p 147), resulting in 'a pattern of unequal consequences' (Onuf, 2013, p 283). In a structure with embedded hierarchies and limited capacity to change these inequalities, both Permanent Participants and Observers of the decision-making process of Arctic governance are subjected to the consequences and effects of policies and even the agenda-setting of those holding the power. For the wider global community, this prompts questions of cosmopolitan justice emerging from the distribution of harms from resource exploitation, transboundary environmental damage and, indeed, climate change, related to IMY's social connection model of responsibility.

Cultural imperialism marks IMY's fourth face of oppression, where the culture of decision makers is installed as the normative order through the 'universalization of a dominant group's experience and culture', which promotes 'the experience, values, goals and achievement of these groups' (Young, 1990, p 193). This emerges not only in Arctic governance reaffirming the primacy of states from the culture of an international system founded on classical imperialism, but also in that it is the interests and frequently the national interests and needs of those with power which are the most widely communicated and actioned issues. This also includes subsuming the interests of environmental protection to the culture of capital accumulation and economic development and deprioritizing climate governance over resource exploitation (McCauley et al, 2022; Wood-Donnelly and Bartels, 2022).

Violence, IMY's final face of oppression, is a social practice that includes 'not only direct victimization' but also group knowledge 'shared by all members of oppressed groups that they are liable to violation' (Young, 1990, p 62). While violence is often viewed as physical, such as in acts of war, dispossession of resources or removal of children from their communities, it extends beyond this. It can also include subjugation of

groups through exclusion from equal roles, or even the recognition of legitimate participation in decision making, and especially the diminishing or silencing of voices in agenda-setting areas of focus. While it is easier to reflect backwards on violence and causality for injustice in the Arctic today, it remains to be seen how these 'new' injustices will be perceived in generations to come.

Discussion

International governance is a mechanism providing a means to manage the conditions created by shared understandings in the international system addressing the problem of anarchy, which results in two deficiencies in international relations. First is that under anarchy there is a lack of an overarching global authority to order the behaviour between states. Second, is that the international system is comprised of several hundred discrete political units, each with control over a finite territorial space. Without the ordering power of political authority, the spaces beyond the sovereign borders of the state retain all the insecurity and competition that arises from a lack of political ordering. Thus, international governance provides a mechanism whereby states can overcome the anarchy in international spaces by creating authority over these extraterritorial spaces.

The development of governance in the international realm has created conditions where states can coordinate mutual pursuit of interests through cooperation in extraterritorial areas. Current Arctic structures of governance are constructed in an international system understood through 'shared knowledge, material resources, and practices' (Wendt, 1995, p 73). Governance of the region is a system that has been pieced together, sometimes described as a 'web' (Hansen-Magnusson, 2019; Exner-Pirot, 2016). It addresses the needs of the Arctic states, closely mirroring the norms and structure of the international system, formed from a layering of institutions, regimes and other normative expectations. This governance seeks not only to address the wills and interests of the Arctic states but, in addition, by banding together in the Arctic Council has strengthened their capacity to legitimize Arctic decision making.

When including Indigenous Participants within the Arctic Council, potential existed to create meaningful stage-change in the norms and expectations of international governance, especially with regards to Indigenous peoples around the world. This was identified by Oran Young, who said: 'The Council has accepted a number of indigenous peoples' organizations as Permanent Participants in its activities, a notable precedent with implications extending far beyond the Arctic' (2009, p 428). While this transformation is in itself a step forward, it does not raise Indigenous peoples to be equivalent agents of power within Arctic governance, or beyond. Using

the conceptual framework of IMY, the resulting inequality could merely be perceived as a new injustice.

States, as the dominant agents of political organization in the international system for centuries, have created rules that have positioned themselves advantageously. Some of the rules that have made states the dominant agents of international relations include those giving states a monopoly on war, sovereignty over territory and jurisdiction over their citizens, among others. These rules have been tacit, demonstrated in the behaviour of states, and sometimes explicit, such as in the instances of ceremonies of possession, which made imperial power the new overlords of distant lands, and in the creation of codified international law. States can create rules in the international system. Individuals, and even groups of individuals, do not have this ability.

Rules of territorial acquisition previously justified the annexation of the territory of Indigenous peoples of the Arctic into the sovereign domains of the circumpolar states. Although the international system now incorporates principles such as the rights to self-determination of peoples, or the innocence of non-combatants in wartime, the introduction of Indigenous representatives into the governance mechanisms does remove all inequality. The state remains the primary agent in the international system and is not yet ready for the introduction of the rule of 'Indigenous groups are equal with states', as it would upset the relative hierarchy and order of this system. Thus, it can be determined that the inclusion of Indigenous groups into Arctic governance does not create conditions for structural justice and opens up additional questions related to procedural, distributional and recognitional justice.

Conclusion

The Arctic Council, along with other elements of Arctic governance, together form an umbrella mechanism where the Arctic states can cooperate on overlapping issue areas affecting the region. This cooperation between Arctic states began through environmental protection strategies but has advanced to address Arctic-specific issues from search and rescue to scientific cooperation. Arctic governance is an intersubjective structure that has been created by the interaction of authority and social practices through mutual state recognition of the legitimacy of the monopoly of power and extension of popular sovereignty over Arctic peoples and territories. This cooperation and recognition of sovereignty within Arctic governance is an arrangement that has made it possible for the Arctic region to remain a dream space for economic development. Yet, within this structure and the rules, agents and interests it serves exists a critical flaw: this flaw is injustice.

Arctic governance, and in particular the Arctic Council, is the most progressive structure of international governance in existence today. The Council is the first international arena to recognize Indigenous groups as Permanent Participants in the discussions that underpin governance processes. However, despite this step forward, this new framework for governance both replicates old injustices and creates new injustices by elevating national injustices to the international level and by not creating conditions for full participation. Moreover, this leap forward was the result of Indigenous leaders fighting for recognition of their right to have a voice in Arctic decision making by their long-standing domicile in the Arctic region and not at the initiation of the Arctic states. Additionally, through the establishment of Arctic governance and patterns of accepted practice in the Arctic, inequality is being solidified, which guarantees that only Arctic states will ultimately make the decisions. Non–Arctic states are also excluded – even though many issues the Arctic Council addresses are transnational and transboundary problems.

Arctic governance has been developed not to address historical injustices, but to create a mechanism for Arctic states to extend their influence over issues outside of their sovereign borders in the name of their national interests. While the legal agreement of the Arctic Council facilitates norms for issues and areas external to sovereign borders, the working groups of the Council provide for transnational information sharing on common, and often transboundary, issues. With the creation of a new institution of governance that perpetuates old injustices, it may be considered that states that interact with the social processes of this structure are culpable and liable for the resulting marginalization and oppression.

The responsibility for structural injustice rests with all actors in Arctic governance. It rests with those who are culpable for causing or perpetuating the injustice. It rests with those who have the power to change the injustice but are not doing so. It also rests with those willing to perform and reinforce these unjust conditions. Those watching, observing and participating in Arctic governance should perhaps remain uneasy so long as the rules and norms of this structure perpetuate inequalities that exploit, marginalize and dominate the plethora of voices that should be heard and actioned in just and meaningful ways.

Study questions

1. What is the ideal structure of Arctic governance that would enable structural justice?
2. Who is responsible for injustices in Arctic structures and how should they be removed?

3. What does IMY's concept of structural justice, five faces of oppression and responsibility for justice contribute to International Relations theory?

Acknowledgements

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