

# Foreword

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In H.P. Lovecraft's 1936 science fiction novella about a catastrophic expedition to Antarctica, the main protagonist asserts 'in spite of all the prevailing horrors, we were left with enough sheer scientific zeal and adventurousness to wonder about the unknown realm beyond those mysterious mountains'.<sup>1</sup> Scientific zeal and adventure have characterised humankind's interaction with the Polar Regions for over 200 years. As well as inspiring the literature of H.P. Lovecraft (and others), science and collaborative adventure has shaped the law and politics of the Arctic and the Antarctic to create exceptional and inspirational regimes. The 1920 Spitzbergen Treaty was the first modern arrangement to experiment with traditional notions of sovereignty, and devised a regime for territory and resources (including marine resources) based on principles of non-exclusive sovereign control. The 1959 Antarctic Treaty adopted a grand vision of collaborative management of more than 10 per cent of the Earth's surface through a regime based on principles of peace and the importance of scientific research. Throughout the Cold War, the Antarctic Treaty operated as a forum for positive cooperative interaction between opposing parties, and provided inspiration for other regimes such as the 1968 Treaty on the Non-Proliferation of Nuclear Weapons and the 1979 Moon Treaty. The Arctic was deliberately used to build trust between the United States and Russia in the 1980s, leading to the creation of the Arctic Council in 1996; a body that uniquely includes six indigenous peoples' groups as full members.

Today, rapid environmental and political change characterises humankind's interaction with the Poles as much as science and adventure. The Arctic and, to a lesser extent, the Antarctic are warming at a rate of around twice that of the rest of the planet. The loss of ice as a consequence of rapid warming is fundamentally altering the environment, economy and culture of the Arctic in particular, in both positive and negative ways. While the Cold War may be over, bipolar politics has been replaced with a more complex set of multipolar relationships with States such as China

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<sup>1</sup> H.P. Lovecraft, *At the Mountains of Madness* (1936) reproduced in H.P. Lovecraft, *Tales* (New York: The Library of America) 518.

and international organisations including the EU challenging the status quo and advocating different visions of Polar futures.

But new challenges also create new opportunities and potential for innovation. In the Antarctic, States are leading the vanguard in establishing marine protected areas (MPAs) beyond the limits of national jurisdiction. The Ross Sea MPA, which was designated by the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) in 2016 (CCAMLR Conservation Measure 91-05 (2016)), and is the largest MPA established to date on the high seas, represents a hard-won battle of scientific zeal over self-interested politics. At both Poles, the threat of climate change in particular has led to the adoption of some unusually precautionary and robust conservation measures. In 2017, the Arctic States adopted the Agreement to Prevent Unregulated High Seas Fisheries in the Central Arctic Ocean (CAO Fisheries Agreement), which establishes a precautionary moratorium on fishing in areas becoming accessible owing to the reduction in sea ice coverage in the Arctic. In the Antarctic, also in 2017, CCAMLR Members adopted Conservation Measure 24-04 (2017), designed to protect newly exposed marine areas following ice-shelf retreat or collapse through the designation of time-limited Special Areas for Scientific Study, and placing limits on fishing taking place therein.

However, these innovative measures also illustrate the tensions and challenges that underpin Polar politics. Contested Antarctic sovereignty exercised a none too subtle influence on negotiations seeking to establish the Ross Sea MPA, and continues to undermine ongoing MPA processes in the Southern Ocean. The inclusion of the 35-year 'sunset clause', which requires the Ross Sea MPA to be positively extended after 35 years, sets an unfortunate precedent for other fora such as the United Nations. Similarly, the CAO Fisheries Agreement is initially limited to a period of 16 years in duration, although it may be extended by successive five-year periods subject to the objection of any party (Article 13(2)). The implementation of 'cautious precaution' at the Poles demonstrates the tensions between science, sovereignty, conservation and exploitation; tensions that have been in play for almost one hundred years.

Related to these tensions is the relationship between the Arctic and Antarctic as 'regions' and the Arctic and Antarctic as 'global'. The Antarctic in particular, is typically characterised as being managed on behalf of humankind rather than merely for the benefit of those States with territorial or sovereign interests in the region. Although the Arctic is clearly a region in the more traditional sense of having identifiable littoral States, its importance as a future trade route clearly has global resonance. Navigating and balancing local, regional and global interests at the Poles is a peculiar regional challenge as scientific zeal, adventure

and, more recently, environmental and ecological connection, characterise the Antarctic and, to a lesser extent, the Arctic, as ‘global’ or, at the very least, more than ‘regional’. An imminent test of global interest in the Poles will likely play out during the negotiations for a legally binding instrument under the 1982 United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biodiversity of areas beyond national jurisdiction, which were initiated by the United Nations in 2017 (UNGA Res. 72/249 (24 December 2017)).

These themes and more are explored by the authors in this edited collection. The editors have identified three scenarios through which authors examine both threats and opportunities for Polar regime resilience: technological development; climate change; and rising powers. Through nuanced analysis, the authors reveal that the three scenarios resist characterisation as wholly negative or wholly positive, but create as many opportunities for Polar governance as they do challenges. The question is whether and to what extent Polar regimes and institutions have both the capacity and the initiative to exploit the opportunities and manage the challenges. It is likely, however, that the success of the Arctic and Antarctic regimes will depend, at least in part, upon both scientific zeal and adventure – even if the latter is confined to a bold and fearless approach to political and regime design.

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