Self Determination for Small Island Territories in the 21st Century

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April 2013 (updated 2016)
Terminology

- Territories?
- Possessions?
- Countries?
- Offshore areas?
- Dependencies?
- Entities?
- Insular areas?
- Outlying areas?
Major Administering Powers

- Formally recognized by the UN

- France
- New Zealand

- United Kingdom
- United States
Countries with Autonomous Arrangements

- New Zealand
  - Cook Islands, Niue
- Denmark
  - Greenland, Faroes
- Netherlands
  - Curacao, St. Maarten, Aruba
- Norway
  - Aland Islands
Countries with Integrated Arrangements

- U.S.  
  Hawaii, Alaska

- France  
  Guadeloupe, Martinique, Fr. Guiana, Reunion, Mayotte

- China  
  Hong Kong, Macau
<table>
<thead>
<tr>
<th>Country</th>
<th>Locations</th>
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<tbody>
<tr>
<td>Chile</td>
<td>Rapa Nui/Easter Is.</td>
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<tr>
<td>Columbia</td>
<td>San Andres, Providencia &amp; Santa Catalina</td>
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</tbody>
</table>
Caribbean Non Self-Governing Territories (UN listed)

- Anguilla  UK
- Bermuda  UK
- British Virgin Islands  UK
- Cayman Islands  UK
- Montserrat  UK
- Turks & Caicos Islands  UK
- US Virgin Islands  US
Pacific Non Self-Governing Territories (UN listed)

- American Samoa        US
- Guahan (Guam)         US
- Kanaky (New Caledonia) France
- Ma'ohi Nui (Fr. Polynesia) France
- Tokelau               New Zealand
- Pitcairn             UK
Self-Governing Autonomous Countries: Atlantic/Caribbean

- Aruba
- Curacao
- Sint Maarten
- Puerto Rico *

Netherlands
Netherlands
Netherlands
United States
Autonomous/Semi autonomous Countries: Pacific

- Niue
- Cook Islands
- Northern Marianas
- Fed. States/Micronesia
- Marshall Islands
- Belau (Palau)

New Zealand
New Zealand
United States
United States
United States
United States
Other Non-Independent Jurisdictions

- Greenland – autonomous w/ Denmark
- Faroe Islands autonomous w/ Denmark
- Wallis & Futuna – collectivity status w/ France
- St. Martin – autonomous (collectivity) of France
- St. Barts – autonomous (collectivity) of France
### Non Ind. Caribbean/Atlantic/Other

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<td>St. Barts *</td>
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Peripheral Dependencies

Caribbean

- Curacao
- Sint Maarten
  - Saba
- Bonaire
- St. Eustatius
- Puerto Rico
Periphery dependencies

Pacific

- Northern Mariana Islands
- West Papua
- Rapa Nui (?)
- Wallis and Futuna
International Legal Mandate

- League of Nations
- Atlantic Charter
- United Nations Charter
- Decolonization Declaration (General Assembly 1514 (XV))
- Options of Political Equality UNGA Res. 1541 XV
League of Nations

The League of Nations at opening session in Geneva
The eighth clause of the Atlantic Charter states, “All nations of the world, for realistic as well as spiritual reasons, must come to the abandonment of the use of force.”
The Heart of the UN: the General Assembly
International Legal Mandate

- Human Rights Instruments:
  - International Covenant on Civil & Political Rights
  - International Covenant on Economic, Social & Cultural Rights

  "All peoples have the right to self-determination. By virtue of that right, they freely determine their political status and freely pursue their economic, social and cultural development."
International Legal Mandate

- Vienna Convention – Article 53:

  Recognises self-determination as a preemptory norm of general international law.

  Also recognized by International Court of Justice in various rulings.
International Legal Mandate

- Self-determination is further elaborated upon in the proceedings of:
  - The Human Rights Committee
  - The Human Rights Council
  - The Committee on the Elimination of Racial Discrimination
Political Mandate

- Millennium Declaration 2000
- World Summit Outcome 2005
- UN Declaration on the Rights of Indigenous Peoples
- UN General Assembly resolutions
Self-Determination Process

- Self-determination is recognized as a norm of customary international law governing the right of a people with a common identity...as a collective people who maintain a link to a defined territorial integrity...and who can form a defined political entity.” (Sterio, 2009, 3-4).
UN Resolutions

- **66-1 (1946)** - Established the list of NSGTs (72 territories were originally listed)

- **222 (1948)** - Information on NSGTs to UN

- **567 (1952)** – identified that a full measure of self-government is attained through independence, internal self-government or integration
742 (1953) – established the principle that self-government could be achieved by association with another State or group of States if this is done freely and on the basis of absolute political equality.

Puerto Rico          Neth. Antilles
Greenland            Suriname

(removed from UN list by UN resolution on the basis of the strength of Res. 742)
Decolonization Declaration

1514 (XV) of 1960

Right to self-determination

- Legitimate political options further defined
- Transfer of powers without condition or reservation in advance of self-determination
- Fully applicable to Caribbean NSGTs
- Dependency impedes world peace
Standards for Self-Government
1541 (XV) of 1960

- Further refined the principle of absolute political equality.
- Defined the three options of political equality as *independence*, *free association* and *integration*.
- Established the minimum standards for full self-government with political equality.
- Remains the basis for full self-government.
Minimum Standards for Political Equality

- **Autonomy:**
  - “Free association shall be the result of a free and voluntary choice by the peoples of the territory concerned expressed through informed and democratic processes.”
  - Free association should permit the right to determine the internal constitution without outside interference.
  - *Do the autonomous countries meet this criteria today?*
Minimum Standards for Political Equality

Integration:

- Should be on the basis of complete equality between the people of the former territory and the country into which it is integrating.

- Equal status and rights of citizenship.

- Equal representation and effective participation in the political system.
Further Legislative Authority

- Res. 2625 (XXV) – Recognized that "equal rights and self-determination of peoples constitutes a significant contribution to contemporary international law."

- Recognized the emergence of differing and flexible political models with the understanding that the minimum standards still applied.

- Res. 2625 was not intended to legitimize political dependency models which were not fully self-governing.
UN resolutions between 1970 – 2012 continue to reaffirm applicability of decolonization standards of Res. 1541.


- International Decade(s) on Decolonization 1991-2000, 2001-2010, 2011-2020
Dependency Accommodation

- Attempts to legitimize dependency:
  - Protectorate status
  - Sustained autonomy
  - Partial integration
  - Deficient “autonomous” status
United Kingdom Territories

- White Papers of 1999 and 2012 confirming present dependency status as only option other than immediate independence.

- Dismisses autonomy as option
U.S. Dependencies

Guahan (Guam)

Law authorizing referendum on 3 options
Commission on Decolonization
Lawsuit on voter eligibility
Referendum (2018?)
U.S. Dependencies

American Samoa

*Political status study on options ‘07

*Ref. on const. amendments (2010):
  - policy on Samoan communal lands
  - Territorial control over natural resources
  - limitation of Interior authority-legislation
  - Creation of political status comm. (2016)
U.S. Dependencies

U.S. Virgin Islands

Political status referendum in 1993

5th Constitutional Convention (2010)

draft constitution adopted

Congressional objections

Draft approved but no referendum

UVI capacity building project (2016)
U.S. Dependencies

Puerto Rico

- Referenda on options inconclusive
  2012 referendum results
- PROMESA (2016)
U.S. dependencies

Northern Mariana Islands
Commonwealth Covenant providing for high degree of autonomy.
Reversal of control over labor laws & immigration
Law adopted to review options in midst of reversal of autonomy
French Caribbean Jurisdictions:

French West Indies
French Caribbean

- Three integrated departments

- Decentralization of two former communes: St. Barts, Saint Martin
French Pacific Jurisdictions

- New Caledonia
  - Matignon Accord followed by the Noumea Accord
  - Multi-year year transition to referendum on self-determination between 2014-2018
  - Capacity building requirements insufficient
French Pacific Jurisdictions

Ma’ohi Nui French Polynesia

5 Autonomy statutes since 1977, most recently in 2004 delegating limited powers but subject to reversal.

UN re-inscription in 2013
Dutch Autonomous Countries
Dutch autonomous countries

- Aruba, Curacao and Sint Maarten

- Peripheral dependency based on independent assessment of self-government sufficiency

Applicability of Dutch Consensus Laws removed previously held autonomy
Danish autonomous Countries

Greenland

Self-Government Act provides extensive ‘devolved’ powers, rather than reversible ‘delegated’ powers
Self-governance Indicators
U.N. listed territories

Awareness of political options
Level of unilateral authority
Evolution of governance capacity
Ownership of natural resources
Economic dependence on cosmopole
Extent and nature of military presence
Level of commitment of cosmopole
Level of UN engagement in process
Level of participation in international system
Autonomous Countries

- Extent of mutual consent
- Unilateral applicability of laws, treaties
- Ownership of natural (marine) resources
- Freedom to modify constitution
- Economic dependency and military activities
Integrated Jurisdictions

Degree of political equality
Extent of equal participation and represent.
Degree of economic/monetary integration
Degree of regional economic autonomy
Right to self-determination (?)
Geo-strategic considerations
Geo-economic considerations

- Claims by cosmopole of exclusive economic zones of dependencies which include access to fisheries, strategic minerals, energy reserves.
Conclusion

- The process of self-determination has not ended but has taken on increasingly complex dimensions.
- Many of the present dependency arrangements do not meet international standards of full self-governance.
Self-governance assessments have proven useful to determining the democratic deficits in the existing political arrangements to move the territories to full self-government.
Thank you!