

Self Determination for Small Island Territories in the 21st Century

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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

Countries with Integrated Arrangements

Chile Rapa Nui/Easter Is.

Columbia San Andres,
 Providencia &
 Santa Catalina

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 | Netherlands |
| ■ Curacao | Netherlands |
| ■ Sint Maarten | Netherlands |
| ■ Puerto Rico * | United States |

Autonomous/Semi autonomous Countries: Pacific

- | | |
|--------------------------|---------------|
| ■ Niue | New Zealand |
| ■ Cook Islands | New Zealand |
| ■ Northern Marianas | United States |
| ■ Fed. States/Micronesia | United States |
| ■ Marshall Islands | United States |
| ■ Belau (Palau) | 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

Non-Self Governing (as listed by the U.N.)

Anguilla
Bermuda
British Virgin Islands

Cayman Islands
Montserrat
Turks & Caicos Islands
U.S. Virgin Islands
St. Helena (South Atlantic)

Autonomous (not listed by the U.N.)

Aruba *
Puerto Rico *
Greenland
Faroe Islands
Curacao *
Sint Maarten *
St. Martin *
St. Barts *

Former Territories now integrated

Guadeloupe
Martinique
French Guiana

Bonaire *
Saba *
St. Eustatius (Statia) *
San Andres *

Non Independent Asia/Pacific

Non-Self Governing (as listed by the U.N.)

American Samoa

Guam

New Caledonia

Tokelau

Pitcairn

Maohi Nui

(Fr. Polynesia)

Autonomous (not listed by the U.N.)

Niue

N. Mariana Islands *

Cook Islands

Micronesia (Fed. States)*

Marshall Islands*

Belau (Palau) *

Former Territories now integrated

Hawaii *

Alaska

Hong Kong

Macau

Rapa Nui *

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

Atlantic Charter



#24471

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.”



#24469

British Prime Minister Sir Winston Churchill and U.S. President Roosevelt at the Atlantic Charter

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
Greenland

Neth. Antilles
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.

- ICJ ruling on W. Sahara confirmed applicability of self-determination (1975).
- 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

- White House reports 2005, 2007, 2011 confirming commonwealth status remains under territorial clause of U.S. Constitution
- 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 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!

