GREENLAND AND THE RIGHT TO SELF-DETERMINATION

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There may be uncertainty and difference of opinion about the extent and scope of the right to self-determination in international law, but I believe there is general agreement that at least overseas colonial and territorial entities are entitled to exercise this right. The name of the rule of law may be either external self-determination or decolonization, but the results are the same: that peoples in colonial countries have the right to decide on their own constitutional future and international status. It is in this context that I will discuss the question of whether the 1953 integration of Greenland into Denmark excludes the future application of this right by the Greenlanders.

Greenland was for centuries a colony of Norway and later Denmark. Despite voices which have denied that Greenland ever was a colony in the traditional meaning of the word, I consider this conclusion of colonial status nevertheless beyond doubt. This is evidenced by the Danish administrative system for Greenland and by the legal, political and economic relationship of Greenland to the Danish State. This was in fact officially recognized by Denmark in 1946 when she listed Greenland as a non-self-governing territory under Chapter XI of the United Nations Charter. And Danish constitutional lawyers, e.g. Max Sörensen, refer to Greenland's legal status during this period as colonial.

This colonial past allows the putting aside of earlier events and developments which can be deemed of historical value only and irrelevant to Greenland's current legal standing, thus eliminating a few arguments traditionally considered in favour of Danish sovereignty. This is true for such things as discovery, effective occupation and the 1933 judgment of the Permanent Court of International Justice. Greenland had already been inhabited by Inuit when Norsemen supposedly discovered it 1000 years ago. Effective occupation in later centuries cannot change the fact that it was a foreign colonial rule over native inhabitants. And the decision of the Permanent Court in the Danish-Norwegian dispute over portions of East-Greenland related only to rival claims of two States, with the conclusion that Denmark's rights were superior to those of Norway. The Court did neither receive nor consider arguments of the native population.

This brings us to the crucial date of 5 June 1953 when Greenland became an integral part of the Danish realm. This was brought about by an amendment to the Danish Constitution. Greenland became a province represented by two members in Parliament and the Greenlanders acquired the same rights and duties as other Danish citizens. This development is crucial because of the question it raises: Did the Greenlanders, in the process leading to integration, exercise their right to self-determination? Danish Professor Ole Espersen, in a memorandum to the Home Rule Commission, has contended that they did.
I disagree. My objections are the following:

1. *Lack of options*

The choice available to the Greenlanders was only between *status quo* or integration. There was no mentioning of independence and there were no negotiations between the parties about other forms of ties linking Greenland to Denmark. This factor and others mentioned below were not in conformity with emerging UN guidelines about how a non-self-governing territory could reach a full measure of self-government. General Assembly Resolution 849(IX) of 1954, approving of integration and terminating Greenland's status as a non-self-governing territory, did not deprive the Greenlanders of any international rights. In a political decision, influenced by a diplomatic effort by Danish officials and in times of uncertainty about the General Assembly's competence in the field, it merely allowed Denmark to cease reporting about Greenland under Art. 73e of the Charter. The GA is neither a legislative nor a judicial body.

2. *Time and expertise*

The concrete proposals for integration were worked out by a special Constitutional Commission in the summer of 1952, submitted to the Greenlandic Provincial Council in August and decided upon by this Council in September of that same year, i.e. within a month of receiving the proposed text. The Constitutional Commission was composed of Danes only, the expertise was Danish and, to the best of my knowledge, Greenlandic authorities had no expert advice on the implications, e.g. the finality, of the enactment of the proposals. It also appears that the initiative for integration was Danish. In an essay (*Grønlandstagen i FN 1946–54*, Odense Universitetsforlag 1975) by historian Finn Petersen, who had access to public and private archives concerning the case, it was disclosed that suggestions to this effect were made by Danish officials as early as the late forties for the very purpose of avoiding unfortunate UN influence.

3. *Local political institutions*

Art. 73e of the UN Charter states that it is the obligation of administering powers "to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their political institutions . . ." Was the Provincial Council, which unanimously approved of integration, such a free political institution? My reply is in the negative. Its composition and functions were regulated by a Danish statute of 1950. Danes as well as Greenlanders were eligible and had the right to vote if they had lived on the island for at least six months. The chairman of the Council was *ex officio* the Danish Governor. Its powers as laid down by the 1950 statute were largely advisory on Danish statutes and administrative decrees which were of special interest for Greenlandic affairs. It is therefore almost paradoxical when this Council, to which the Danish authorities had delegated only minor functions, was given the immense task of deciding permanently on the constitutional future of Greenland.

4. *Opinion of the population*

No referendum was held in Greenland about integration. Elections were, however,