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Birth Pangs: Greenland's Struggle For Independence

MINA SAID*

I. INTRODUCTION

In the realm of international law, states reign. Consequently, the possible birth of a new state or the division of an existing one is a cataclysmic event that, for international law, is akin to the birth or death of a star in the cosmos. Both engender consequences, both in space and time, far broader than the creation or division of the entity itself. The importance of the subject necessitates, therefore, clarity to temper the chaos, instability, and uncertainty inherent in international relations. Yet, despite this immediate need, uncertainty continues to permeate the rules governing the creation of new states. This uncertainty is exacerbated by the fact that the International Court of Justice (ICJ), the judicial arm of the United Nations, declines to provide an authoritative answer even when called upon to do so.¹ But now, the question lingers before the eye of the law once again. Greenland's current struggle for independence from the Kingdom of Denmark brings the concepts of statehood, sovereignty, self-determination, and secession forward. The international legal community should therefore seize this opportunity to crystallize the jurisprudence controlling unilateral secession, self-determination, and the creation of states. This discussion takes a step towards that goal.

The journey begins with Greenland's emergence as a Danish colony and its subsequent decolonization and integration within the Kingdom of Denmark. Greenland's colonial era began, for all intents

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1. *See* Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo, Advisory Opinion, 2010 I.C.J. 403 (July 22) [hereinafter ICJ Advisory Opinion re: Kosovar Independence].

and purposes, in 1721 in an attempt to root out paganism and introduce Lutheran Christianity.² Since then, Danish control over the Greenlandic territory and its people took a variety of forms.³ Beginning in 1970, however, the “road to home rule” began as Denmark steadily conceded power to Greenlandic authorities over a number of decades.⁴ This has culminated into the Act on Greenland Self-Government, which came into force on June 21, 2009.⁵ Specific provisions of the Act are discussed in more detail in subsequent sections of this discussion. For now, it suffices to note that immediately beginning with the preamble, the Act invokes international law. From the outset, the preamble recognizes the people of Greenland as “a people pursuant to international law with the right of self-determination.”⁶ The Act also declares Greenlandic to be the official language in Greenland.⁷ The purpose of the Act, according to Greenland’s Statsministeriet, “has been to facilitate the transfer of additional authority and thus responsibility to Greenlandic authorities”⁸

The most significant part of the Act, entitled “Greenland’s Access to Independence,” emerges from these specific provisions.⁹ Although this section expresses Denmark’s current willingness to release its hold upon Greenland, the agreement has no value in terms of international law. Regardless of how hopeful the prospects may seem for Greenland, the Act remains merely an agreement between a sovereign state and its constituent—essentially, a domestic agreement. The Act confers no internationally enforceable obligation on Denmark to grant independence to Greenland; therefore, the principal mission lies in determining what, if any, rights the people of Greenland have under international law to exercise self-determination through a unilateral declaration of independence from Denmark.

This note stands for the proposition that under public international law, Greenland remains without an absolute right to exercise self-determination through a unilateral declaration of independence from Denmark for three reasons. First, a state’s right to unilaterally declare independence has, in the past, arisen only after the international community acknowledged the presence of both (1) a deprivation of the right to internal self-determination, and (2) systematic violations of

2. AXEL KJAER SØRENSEN, DENMARK-GREENLAND IN THE TWENTIETH CENTURY 11 (2006).

3. *See generally id.* at 11-141.

4. *Id.* at 142.

5. Act on Greenland Self-Government, Act no. 473 of June 12, 2009 (Den.), *available at* http://www.stm.dk/multimedia/GR_Self-Government_UK.doc [hereinafter Self-Government Act no. 473].

6. *Id.* at Preamble.

7. *Id.* ¶ 20; “Statsministeriet” is the Danish word for Prime Minister’s Office.

8. The Greenland Self-Government Arrangement, STATSMINISTERIET, http://www.stm.dk/_p_13090.html (last visited July 10, 2014).

9. Self-Government Act no. 473, *supra* note 5, ¶ 21.

human rights. Second, Denmark has neither deprived Greenland's indigenous population of its right to internal self-determination, and nor has it committed any systematic violations of human rights. Lastly, these requirements are necessary to preserve international law's preoccupation with stability and predictability.

Accordingly, the discussion below will proceed in the following manner: the first section discusses the Greenlandic population's status as "a people" pursuant to international law, Greenland's colonial relationship under Denmark, and Greenland's steady accumulation of autonomy up to its current self-government status; the second section explores the legal issues that would surround a unilateral declaration of independence by Greenland and discusses significant incidents in history where similar legal concepts applied; the third section applies the relevant legal concepts, in conjunction with their application to previous independence movements, to Greenland's current predicament in order to ascertain whether or not international law would recognize a right in Greenland to unilaterally declare independence and explores, from a policy perspective, the justifications proffered in favor of Greenlandic independence and will conclude with a refutation thereof; lastly, the article concludes with a discussion surveying other legal problems that might arise were Greenland to achieve independence through an agreement with Denmark.

II. THE PEOPLE OF GREENLAND

Any discussion about self-determination, secession, or independence must begin by identifying its principal object, its main beneficiary, and its main character—a people. The reason for this lies in the fact that the right to self-determination, which will be discussed at length below, does not belong to states, international organizations, or governments; it belongs to the people.¹⁰ The definition of a people is relatively specific. A people, under international law, is

[A] group of persons living in a given country or locality, having a race, religion, language and traditions of their own and united by this identity of race, religion, language and traditions in a sentiment of solidarity, with a view to preserving their traditions, maintaining their form of worship, ensuring the instruction and upbringing of their children in accordance with the spirit and traditions of their race and rendering mutual assistance to each other.¹¹

In other words, "a people" is a group of persons united by a common nationality or ethnicity, religion, and language who value the

10. International Covenant on Civil and Political Rights, G.A. Res. 2200A (XXI), ¶ 1, U.N. Doc. A/RES/2200A(XXI) (Dec.16, 1966).

11. Johan D. Van Der Vyver, *Self-Determination of the Peoples of Quebec Under International Law*, 10 J. TRANSNAT'L L. & POL'Y 1, 18 (2000).

preservation of that which unifies them.¹²

There is little doubt that Greenland's population bears the marks of a people. The present-day indigenous Inuit population traces its presence in Greenland as far back as 4000-5000 years,¹³ and more directly, to the last Eskimo migration of the Thule culture in the year 800 A.D.¹⁴ Greenland's current population is about 89% indigenous Inuit.¹⁵ The population has in recent times even more resolutely asserted its identity as Inuit.¹⁶ For example, locations and streets that once bore Danish titles in Greenland now bear Inuit names.¹⁷ "Inuit languages are [also] being promoted, and there is renewed focus on Inuit culture and traditions."¹⁸ Greenlandic, a "polysynthetic language [that] belongs to the Eskimo-Aleutic languages," is currently Greenland's primary official language.¹⁹ The people of Greenland are united as well in religious confession as Protestant Christians.²⁰

With all this evidencing that the people of Greenland are united by a common nationality and ethnicity, religion, and language, there is little room to dispute their status as a people pursuant to international law. As a people, Greenland's population has the right to self-determination; the scope of this right and the extent to which a people may exercise it to break away from an oppressive state, however, is limited to the direst of circumstances.

III. HISTORICAL BACKGROUND

Identifying a group as a people is only the first step in determining its right to exercise external self-determination. Whether a people is entitled to unilaterally secede from a mother state is largely a question of fact. The answer hinges upon the extent to which the group had been historically deprived, in a systematic way, of its right to internal self-determination and its right to exist as itself in all its uniqueness, richness of culture, and cohesiveness. Understanding Greenland's desire for independence therefore demands an overview of Greenland's relationship with its parent state, Denmark.

12. *Id.*

13. *Greenland's Culture and History*, GREENLANDHOLIDAY.COM, <http://www.greenlandexplored.com/AboutGreenland/InuitCulture> (last visited July 10, 2014).

14. *Facts on Greenland*, GREENLAND REPRESENTATION TO THE EU, BRUSSELS, <http://eu.nanoq.gl/Emner/About%20Greenland/Facts%20on%20Greenland.aspx> (last visited July 10, 2013).

15. *The World Factbook: Greenland*, CENTRAL INTELLIGENCE AGENCY, https://www.cia.gov/library/publications/the-world-factbook/geos/print/country/countrypdf_gl.pdf (last visited Aug. 5, 2014).

16. Andy Rugg, *Decline of Norse a lesson for modern Greenland*, COPENHAGEN POST (Dec. 3, 2011) <http://cphpost.dk/news/decline-of-norse-a-lesson-for-modern-greenland.178.html>.

17. *Id.*

18. *Id.*

19. *Facts on Greenland*, *supra* note 14.

20. *Id.*

A. *Greenland as a Danish Colony—The Eviction of the Thule Tribe*

Fighters for Greenlandic independence cite the forced eviction of the Thule tribe from its home as proof of Denmark's historic dominance over, and denial of the right of internal self-determination to, the indigenous people of Greenland. Therefore, it is necessary to investigate this specific incident. The story of Greenland's colonial history began in 1721²¹ when Danish settlers landed near present-day Nuuk.²² From that time until the middle of the nineteenth century, the people of Greenland governed themselves only in a limited capacity; the responsibility of governing lay almost entirely in the hands of Denmark.²³ The Thule tribe, an Inuit people that lived in northwest Greenland from about 2000 B.C., depended solely on hunting and fishing for their subsistence and lived completely isolated until 1818.²⁴ In 1909, a Danish polar researcher established a commercial trading station in Greenland and began to colonize the area, calling it the Thule District.²⁵

During World War II, Denmark agreed to permit the United States to establish military bases and meteorological stations on Greenland. In 1946, the United States built a weather station in the Thule District; after the war in 1951, the United States and Denmark then concluded a treaty on the defense of Greenland.²⁶ Denmark had allowed the United States to establish an air base "amidst the applicants' [Inuit] hunting areas and in the vicinity of the [Inuit's] native village site, Uummannaq (then called Thule)."²⁷ The European Court of Human Rights (ECHR) acknowledges as common knowledge that the installation of the air base and the activities conducted thereon increasingly restricted the Thule tribe's access to hunting and fishing, which had "a detrimental effect on the wildlife in the area."²⁸

In the spring of 1953, Denmark further permitted the United States to establish an anti-aircraft artillery unit and expand the base to cover the entire land of the Thule tribe.²⁹ As a result, the Thule tribe was evicted on May 25, 1953 albeit having "received more cash than they

21. United Nations, Econ. & Soc. Council, Permanent Forum on Indigenous Issues, Information received from Governments Denmark and Greenland, U.N. Doc. E/C.19/2009/4/Add.4, ¶ 2 (May 2009) [hereinafter U.N. Econ. & Soc. Greenland-Danish Self-Government Commission].

22. *Timeline: Greenland*, BBC NEWS, <http://news.bbc.co.uk/2/hi/europe/1023448.stm> (last updated Jan. 10, 2012).

23. U.N. Econ. & Soc. Greenland-Danish Self-Government Commission, *supra* note 21, ¶ 2.

24. *Hingitaq 53 v. Denmark*, App. No. 18584/04, Eur. Ct. H.R. 2 (2006), available at <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-72219> (pagination refers to PDF file accessible on the cited webpage).

25. *Id.*

26. *Id.*

27. *Id.*

28. *Id.*

29. *Id.* at 3.

had ever before seen in their lives.”³⁰ Within a few days, the twenty-six Inuit families “left Ummannaq, leaving behind their houses, a hospital, a school, a radio station, warehouses, a church and a graveyard (the family houses were later burned down and the church was moved to another village on the west coast).”³¹ After taking its case to the ECHR in 2004,³² the Thule tribe’s appeal was ultimately rejected.³³

B. Greenland’s Expanding Autonomy

In contrast to the picture painted by the Thule tribe’s eviction, in the middle of the nineteenth century, Denmark began steadily allowing the Greenlandic population to administer local matters through elected councils.³⁴ Nevertheless, Greenland remained a non-self governing territory under Chapter XI of the UN Charter.³⁵ Thus, from 1945-1954, Denmark was required to periodically submit reports about Greenland’s status to the decolonization bodies of the UN.³⁶ By 1953, “Greenland was annexed as a Danish county,” and its colonial status was formally abolished.³⁷

As discussed below, Greenland’s integration with Denmark carries a significant implication. Colonies are generally entitled to exercise their right to external self-determination;³⁸ if they so choose, they may break off from the colonial power that exercised dominion over them. The fact that the international community, through the UN General Assembly, recognized Greenland as an integral part of Denmark, however, disqualifies the people of Greenland from appealing to their former colonial status as the sole basis upon which it may assert a right to secede.

Nevertheless, at this point, a significant wrinkle enters the story. Although Denmark held a referendum on the annexation of Greenland for its own people, no referendum took place in Greenland.³⁹ The absence of the voice of the people of Greenland complicates the defining of Greenland’s current colonial status. If it is a colony, it is entitled to exercise its right to external self-determination through any means it desires. If it is no longer a colony, external self-determination

30. Jonathan D. Greenberg, *The Arctic in World Environmental History*, 42 VAND. J. TRANSNAT’L L. 1307, 1369 (2009).

31. Hingitaq 53, Eur. Ct. H.R., *supra* note 24, at 3.

32. Stephen Frottrell, *Inuit survival battle against US base*, BBC NEWS (May 27, 2004), available at <http://news.bbc.co.uk/2/hi/europe/3753677.stm>.

33. Hingitaq 53, Eur. Ct. H.R., *supra* note 24, at 20.

34. U.N. Econ. & Soc. Greenland-Danish Self-Government Commission, *supra* note 21, ¶¶ 2-3.

35. *Id.* ¶ 4.

36. *Id.*

37. Naja Dyrendom Graugaard, *National Identity in Greenland in the Age of Self-Government* 13 (Ctr. for the Critical Study of Global Power and Politics, Working Paper No. CSGP 09/5, 2008).

38. *See infra* § IV(B).

39. Graugaard, *supra* note 37, at 13.

is available only through agreement with Denmark. This concern is addressed below, but its ability to influence the outcome of the present discussion necessitates bringing it forward here. It is sufficient at this point in the story to remark that by 1954, Denmark was no longer required to submit these reports because the UN General Assembly recognized "Greenland's integration into the Kingdom of Denmark."⁴⁰

Contrary to the aims of decolonization, this period of integration was, as far as the Greenlandic population was concerned, marred by a period of "Danization" characterized by "assimilation policy, birth-place criteria, undermining of the Greenlandic language, [and] the growing Danish physical presence in leading positions."⁴¹ Ironically, this "led to a growing Greenlandic consciousness of belonging to a distinct ethnic group" and precipitated the rise of nationalist movements and a revival of Inuit political awareness during the 1960s and 1970s.⁴²

Eventually, in 1973, a Home Rule Committee was set up internally "for the purpose of considering the possibility of establishing a Home Rule Arrangement within the framework of the unity of the Realm."⁴³ On May 1, 1979, the Greenland Home Rule Arrangement (Home Rule) came into force after being adopted, first by the Danish Parliament, and then by the people of Greenland.⁴⁴ One author characterized this period of Home Rule as a process of "Greenlandizing"⁴⁵ in reaction to the "Danization" of the 1950s up until the establishment of the Home Rule.⁴⁶ Thus, the policies of the Home Rule government focused on, *inter alia*, "expanding the use of the Greenlandic language, extending support to the Greenlandic cultural life, [and] replacing Danish workers with Greenlanders."⁴⁷

After Home Rule had been in effect for 20 years, the Home Rule government had assumed a great deal of legislative and executive power and was responsible for "Greenland's internal administration, direct and indirect taxes, the established church, fishing in the territory, hunting, agriculture and reindeer breeding, social welfare, labour market affairs, education and cultural affairs, vocational education, other matters relating to trade, health services, the housing area and protection of the environment."⁴⁸

Because Greenland had assumed all the power it could assume under the 1979 Home Rule Arrangement, the Greenland government recognized "a need for revising Greenland's position within the unity of

40. U.N. Econ. & Soc. Greenland-Danish Self-Government Commission, *supra* note 21, ¶ 4.

41. Graugaard, *supra* note 37, at 14.

42. *Id.* at 14-15.

43. U.N. Econ. & Soc. Greenland-Danish Self-Government Commission, *supra* note 21, ¶ 6 (emphasis added).

44. *Id.*

45. Graugaard, *supra* note 37, at 15-16.

46. *Id.*

47. *Id.*

48. U.N. Econ. & Soc. Greenland-Danish Self-Government Commission, *supra* note 21, ¶ 7.

the Realm.”⁴⁹ Thereafter, the Greenlandic government set up another Home Rule Commission, which recommended that Greenland’s parliament set up a joint Greenland-Danish commission.⁵⁰

On June 21, 2004, the Danish Prime Minister and the Greenlandic Premier signed the terms necessary to establish the Greenland-Danish Self-Government Commission.⁵¹ The Commission’s purpose was to “submit draft legislation regarding a self-government arrangement for Greenland.”⁵² This commission, however, did not have free reign in accomplishing its purpose. Its agreements were to remain within specific parameters. These parameters required the new self-government arrangement “to be placed ‘within the framework of the existing unity of the Realm’ and take its ‘point of departure in Greenland’s present constitutional position,’ namely the existing Danish Constitution.”⁵³ In other words, whatever responsibilities the new self-government authorities would be permitted to assume, they would not include any assumption of power over “the Constitution, foreign affairs, defence and security policy, the Supreme Court, nationality, and exchange rate and monetary policy” of Denmark.⁵⁴ The Danish Constitution was to remain the supreme law of the land and its Supreme Court would supersede any Greenlandic local courts.⁵⁵ Additionally, the Danish government was to have sole authority over Greenland’s foreign affairs, defense, and security policy.⁵⁶ It is important to make apparent, however, that even though Denmark officially reigned over Greenland’s foreign affairs, the Home Rule Government of Greenland actively participated in international agreements even prior to the Act on Greenland Self-Government.⁵⁷ Therefore, the new self-government arrangement, in essence, would already have wide latitude in arranging Greenland’s domestic affairs despite power remaining to the Kingdom of Denmark.

49. *Id.* ¶ 8.

50. *Id.* ¶ 9.

51. *The Greenland-Danish Self-Government Commission’s Report on Self-Government in Greenland: Executive Summary*, ARCTIC GOVERNANCE PROJECT, 2008, at 3, <http://www.arcticgovernance.org/getfile.php/953432.1529.dwfvfyfwtyy/Report+on+Self-Government+in+Greenland++Executive+Summary.pdf>.

52. U.N. Econ. & Soc. Greenland-Danish Self-Government Commission, *supra* note 21, ¶ 15.

53. *Id.* ¶ 16.

54. *Id.* ¶ 7.

55. *Id.* ¶ 24.

56. *Id.*

57. *International legal framework*, MINISTRY OF FOREIGN AFFAIRS, <http://www.regjeringen.no/en/dep/ud/documents/propositions-and-reports/reports-to-the-starting/2011-2012/meld-st-7-20112012-2/5.html?id=697752> (“In 2006 an agreement was concluded between Norway and Denmark *together with the Home Rule Government of Greenland* on the delimitation of the continental shelf and the fisheries zones in the area between Greenland and Svalbard”) (emphasis added).

C. *The Act on Greenland Self-Government*

The work of the commission ultimately culminated in The Act on Greenland Self-Government, which came into force on June 21, 2009.⁵⁸ This agreement between Greenland and Denmark contains four provisions that are relevant here. First, it recognizes the people of Greenland as indeed a people under international law entitled to self-determination.⁵⁹ Second, it officially establishes Greenlandic as Greenland's official language.⁶⁰ Third, it provides Greenland with a greater degree of responsibility in a number of new fields such as: "administration of justice, including the establishment of courts of law; the prison and probation service; the police; the field relating to company law, accounting and auditing; mineral resource activities; aviation; law of legal capacity, family law and succession law; aliens and border controls; the working environment; as well as financial regulation and supervision."⁶¹ Lastly, it offers the possibility of Greenlandic independence subject to agreement with Denmark.⁶² Indeed, because the principal purpose of the Self-Government Act was "to facilitate the transfer of additional authority and thus responsibility to Greenlandic authorities,"⁶³ the Self-Government Act nevertheless represents a significant step towards full Greenlandic self-governance.

IV. LEGAL CONCEPTS: STATEHOOD, SOVEREIGNTY, SELF-DETERMINATION, AND SECESSION

Greenland's quest for independence means that it desires statehood. This desire, however, stands directly at odds with Denmark's identity as a sovereign state. Intuitively speaking, if a particular state is truly sovereign—in the literal sense of the word—over its people and its land, then it follows that only that state can decide whether or not to give up a portion of that over which it is sovereign.⁶⁴ But, in International Law, two conflicting yet necessary concepts exist. On the one hand, the concept of a state and its sovereignty serves to preserve the integrity and stability of the international community because states are the actors in international law.⁶⁵ On the other hand, human rights,

58. Self-Government Act no. 473, *supra* note 5.

59. *Id.* at Preamble.

60. *Id.* ¶ 20.

61. *The Greenland Self-Government Arrangement*, *supra* note 8.

62. Self-Government Act no. 473, *supra* note 5, ¶ 21.

63. *The Greenland Self-Government Arrangement*, *supra* note 8.

64. Sovereignty literally means "supreme dominion, authority, or rule." BLACK'S LAW DICTIONARY (9th ed. 2009), available at Westlaw BLACKS: Sovereignty; see also Taiaiake Alfred, *From Sovereignty to Freedom: Towards an Indigenous Political Discourse*, INDIGENOUS AFFAIRS 22 (2001) (defining sovereignty as "supreme political authority, independent and unlimited by any other power.").

65. See U.N. Secretary-General, *Delivering justice: programme of action to strengthen the rule of law at the national and international levels*, Summary, U.N. Doc. A/66/749 (Mar. 16, 2012) [hereinafter *Delivering justice*] ("[R]espect for the rule of law at the international and

consisting in a separate body of law entirely, presumably serve to protect persons, peoples, and their dignity.

A. Statehood and Sovereignty

In order to better understand Greenland's goal, it is necessary to understand what it means to be a state and why statehood is so coveted around the world. Article 1 of the Montevideo Convention on the Rights and Duties of States defines a state as "a person of international law [that possesses] a) a permanent population; b) a defined territory; c) government; and d) [the] capacity to enter into relations with the other states."⁶⁶ Once a state satisfies this definition, it acquires a defining characteristic, namely, sovereignty—the ever-coveted perk of becoming a state. Although a precise definition of sovereignty is difficult to come by, general consensus recognizes that it at least describes a state's possession of "supreme power and authority relating to a body politic that is territorially determined or determinable."⁶⁷ The concept of sovereignty also means that "the territorial integrity and political independence of the State are inviolable" and that "[e]very state has an inalienable right to choose its political, economic, social and cultural systems, without interference in any form by another State."⁶⁸

Practically speaking, this means that a sovereign state has control over its people, its territory, its manner of government, and is an equal participant in the international arena—equal even to those states wielding the most "subjective" power.⁶⁹ Attaining statehood is, therefore, an alluring proposition. Within the framework of an already existing state however, a people's desire for independence stands directly against the supreme and inviolable dominion of the state from which it seeks independence. However, because self-determination is also considered a human right, it is therefore necessary to carve out the right balance between the interests of a people and the interests of a sovereign state.

national levels is central to ensuring the predictability and legitimacy of international relations, and for delivering just outcomes in the daily life of all individuals.").

66. Montevideo Convention on the Rights and Duties of States art. 1, Dec. 26, 1933, 49 Stat. 3097, U.N.T.S. 881 [hereinafter Montevideo Convention]; see also Jianming Shen, *Sovereignty, Statehood, Self-Determination, and the Issue of Taiwan*, 15 AM. U. INT'L L. REV. 1101, 1126 (2000) (explaining that these requirements cannot be considered individually and in a vacuum. Instead, "they relate to and find definition in one another [such that] a putative state must possess a government that, itself, governs a population within a specified territory and that, itself, has the capacity to enter into foreign relations") (internal quotation marks omitted).

67. Winston P. Nagan & Aitza M. Haddad, *Sovereignty in Theory and Practice*, 13 SAN DIEGO INT'L L.J. 429, 436-37 (2012).

68. G.A. Res. 2625 (XXV), U.N. Doc. A/RES/25/2625 (Oct. 24, 1970), available at <http://www.unhcr.org/refworld/docid/3dda1f104.html>.

69. See generally UN General Assembly, *Functions and Powers of the General Assembly*, available at <http://www.un.org/en/ga/about/background.shtml> (last visited Feb. 28, 2013) [hereinafter *Functions and Powers of the General Assembly*].

B. Self-determination

The right to self-determination, as expressed by modern secessionist movements, appears on its face to be antithetical to the principles of statehood and sovereignty; this therefore warrants reconciliation of the two. Hundreds of secessionist movements are active in various communities around the world,⁷⁰ and these secessionist movements “almost invariably claim legitimacy for their cause on the basis of the international law principle proclaiming the right to self-determination of peoples.”⁷¹ The UN Declaration on Friendly Relations defines the right of self-determination in the following way:

By virtue of the principle of equal rights and self-determination of peoples enshrined in the Charter of the United Nations, all peoples have the right freely to determine, without external interference, their political status and to pursue their economic, social and cultural development, and every State has the duty to respect this right in accordance with the provisions of the Charter.⁷²

One of the ways in which a people may implement its right to self-determination is through “the establishment of a sovereign and independent State, the free association or integration with an independent State or the emergence into any other political status.”⁷³ However, The Declaration of Friendly Relations, after discussing the obligations of states to preserve and promote the right of self-determination of its peoples, provides an important qualification to that right:

Nothing in the foregoing paragraphs shall be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples as described above and thus possessed of a government representing the whole people belonging to the territory without distinction as to race, creed or colour.⁷⁴

These provisions reveal three important characteristics of self-determination. First, every state must respect its peoples' right to determine their own political, economic, and cultural development. Second, a people may implement its right to self-determination through independence, secession, or integration. Third, if a state complies with its obligations to respect the right of self-determination of its peoples,

70. Van Der Vyver, *supra* note 11, at 1.

71. *Id.*

72. G.A. Res. 2625 (XXV), *supra* note 68.

73. *Id.*

74. *Id.*

then a people may not take any action antagonistic to the territorial integrity or political unity of the sovereign state in which it exists.

From the juxtaposition of the second and third characteristics, it necessarily follows that a people's ability to implement its right to self-determination through secession is limited. Therefore, the question becomes: if all peoples have an inherent right to self-determination, what is the scope of that right? The resolution rests in recognizing two sub-types of self-determination: (1) the right to internal self-determination, and (2) the right to external self-determination.⁷⁵

Understanding and distinguishing these two sides of self-determination is key to a reasoned analysis with respect to Greenland's capacity to seek unilateral secession. Internal self-determination consists of "a people's pursuit of its political, economic, social and cultural development within the framework of an existing state."⁷⁶ It is the most common vehicle through which peoples fulfill their right to self-determination.⁷⁷

On the other hand, external self-determination consists in either "the establishment of a sovereign and independent State, the free association or integration with an independent State or the emergence into any other political status."⁷⁸ With respect to the Greenlandic people, external self-determination would arise as a claim to the right to unilateral secession. Theoretically, the external exercise of self-determination arises from the fact that a "state that gravely violates its obligations towards a distinct people or community within its boundaries loses the legitimacy to rule over that people."⁷⁹ Thus, the external right "arises in only the most extreme of cases and, even then, under carefully defined circumstances."⁸⁰ According to the UN Declaration on Friendly Relations, these circumstances include subjecting people to "alien subjugation, domination and exploitation" as well as a parent state denying a people their "fundamental human rights."⁸¹ Additionally, the external right may arise upon a "direct or indirect violation of the right of internal self-determination, exhaustion of effective judicial remedies; and realistic political arrangements for the realization of internal self-determination."⁸²

In short, external self-determination is meant as a last resort. The situation on the ground must be as dire as the denial of fundamental human rights. Not only that, but even in the face of such oppression, the oppressed population must exhaust every possible judicial and political

75. Reference re Secession of Quebec, [1998] 2 S.C.R. 217, 282 (Can.) (emphasis added).

76. *Id.*

77. *Id.*

78. G.A. Res. 2625 (XXV), *supra* note 68, at 9.

79. John B. Henriksen, *Implementation of the Right of Self-Determination of Indigenous Peoples*, INDIGENOUS AFFAIRS 6, 9-10 (2001).

80. Reference re Secession of Quebec, *supra* note 75, at 282.

81. G.A. Res. 2625 (XXV), *supra* note 68.

82. Joshua Castellino, *Book Review*, 16 EUR. J. INT'L L. 791, 794 (2005).

solution to secure its right to internal self-determination within the framework of the existing state. On their face, these requirements express international law's bias toward state sovereignty even at the expense of the rights of a people. As discussed below, however, this bias is necessary in order to maintain a stable system of international law in which states are the principal actors.

C. Remedial Secession

Because secession is one expression of external self-determination, the extremely limited circumstances under which peoples may invoke that right implies that there is no universal right of peoples to secede from a state.⁸³ Secession is by no means illegal,⁸⁴ but because it is in the interest of a state and its sovereignty not to create precedent with respect to the subject, international law has not yet solidified the proper conditions under which a people may secede.⁸⁵ Also, if a people had a universal right to secede, "the ensuing mass fragmentation could undermine peace and security . . . creat[ing] 5,000 countries."⁸⁶ This result would be unfavorable, and more importantly, antithetical to the main principle of international law as the basis for worldwide peace and stability.⁸⁷

One author even opines that even if secession is an option based upon the oppressive circumstances that allows a people to invoke its right to external self-determination,

[T]he right to secession may be unwarranted if the state stops the discrimination and institutes legal remedies. In absence of concrete evidence showing human rights violations, and denial of participation in government rising to the point of calling into question the state's territorial integrity, alternate modes of self-determination compatible with territorial integrity should be exercised. They may include enhanced local self-government in a demographic area, or union with confirmation of territorial unity.⁸⁸

Therefore, although "self-determination is universal, its remedial aspect applies in limited instances."⁸⁹ Discerning which instances those are requires applying the discussion on external self-determination, above, to the discussion of historical precedents, below.

83. See generally Wojciech Kornacki, *When Minority Groups Become "People" Under International Law*, 25 N.Y. INT'L L. REV. 59 (2012).

84. See generally *id.* at 9.

85. See generally *id.* at 8.

86. See generally *id.* at 9.

87. *International Law*, SWITZ. FED. DEP'T OF FOREIGN AFFAIRS, available at <http://www.eda.admin.ch/eda/en/home/topics/intla.html> (last updated Mar. 11, 2014).

88. Kornacki, *supra* note 83, at 89.

89. *Id.* at 83.

V. HISTORICAL PRECEDENTS

A concrete definition of the limited instances in which a people may invoke its right to remedial secession requires harmonizing the ways in which the international community has applied this right in different circumstances. Since each circumstance is emphatically unique, the international community has had difficulty articulating a consistent and coherent rule upon which future secessionist movements and their antagonists may rely upon. By comparing and contrasting the following movements, a coherent rule should emerge.

A. *Kosovo*

One of the most significant secessionist movements in recent history was Kosovo's unilateral declaration of independence. When the ICJ attempted to examine the legality of this declaration, it asked whether "the unilateral declaration of independence by the Provisional Institutions of Self-Government of Kosovo [is] in accordance with international law?"⁹⁰ At first glance, it would appear that the ICJ was finally going to articulate a standard defining the inner and outer boundaries of the right to a unilateral declaration of independence. This, unfortunately, was not the case.

Limiting the scope of its decision, the ICJ emphasized that the answer turned not on whether "international law conferred a positive entitlement on Kosovo unilaterally to declare its independence" or "whether international law generally confers an entitlement on entities situated within a State unilaterally to break away from it."⁹¹ Instead, the ICJ chose only to decide, "whether or not the applicable international law prohibited the declaration of independence."⁹² By deciding this way, the ICJ did not officially address the extent to which international law confers a right on a people within a state to unilaterally secede.

Of particular importance is the ICJ's analysis of "general international law." The ICJ observed that state practice during the eighteenth, nineteenth, and early twentieth centuries clearly pointed "to the conclusion that international law contained no prohibition of declarations of independence."⁹³ Therefore, its final conclusion was no more than recognition that general international law did not *prohibit* declarations of independence. The ICJ did not discuss whether or not an affirmative right to declare independence vis-à-vis a right to self-determination exists.

On its face, it appears that the narrowness of this decision renders it insignificant when applied to broader contexts. This may have even

90. Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo, Power of General Assembly to Request Advisory Opinion, 2010 I.C.J. 403.

91. *Id.* at 426.

92. *Id.* at 425.

93. *Id.* at 436.

been the court's intention, given that a decision either finding or denying an affirmative right to declare independence would have provoked far-reaching consequences.⁹⁴ Nevertheless, when examined within the context in which it arose, the decision remains instructive as a weighty data point in the present discussion's attempt to identify a common trend among various secessionist movements. This assertion is only bolstered by the fact that separatist movements around the world have relied and continued to rely on this decision for inspiration for their own cause.⁹⁵

Kosovo's unilateral declaration of independence from Serbia emerged out of a "tumultuous history."⁹⁶ Concurrently with the "Albanianisation of Kosovo," the Yugoslav constitution explicitly recognized Kosovo as an autonomous province, consequently launching a Kosovar campaign for recognition as a republic.⁹⁷ This progress towards independence, however, was short-lived; in 1989, the vehemently nationalistic Serbian-led regime of the Yugoslav Federation "began to abolish Kosovo's autonomy" after vilifying the Albanians as a people.⁹⁸ Despite seeking a peaceful solution to achieve self-determination, the Albanians faced systematic oppression, murder, unlawful imprisonment, torture, and mass expulsion from jobs at the hands of the Serbian regime.⁹⁹ Chaos ensued. Serbian oppression of the Albanians escalated to bona fide "ethnic cleansing" against Albanian civilians "under the pretext of hunting" down members of the emerging guerilla warfare-based Kosovo Liberation Army.¹⁰⁰ The situation was so dire that NATO "bombed targets in Yugoslavia" in a seventy-eight day campaign justified as "necessary to avert a humanitarian catastrophe."¹⁰¹

Immediately after Kosovo declared independence, "the USA, France, Costa Rica, Turkey, Afghanistan, Albania and the United

94. See Bart M. J. Szweczyk, *Lawfulness of Kosovo's Declaration of Independence*, AM. SOC. INT'L L. INSIGHTS (Aug. 17, 2010), <http://www.asil.org/insights/volume/14/issue/27/lawfulness-kosovos-declaration-independence> ("the Court's opinion potentially could unsettle a stable political situation and lead to adverse consequences."); Richard Caplan, *The ICJ's Advisory Opinion on Kosovo*, 55 U.S. INST. OF PEACE BRIEF 1, 2 (Sept. 17, 2010), available at <http://www.usip.org/files/resources/PB55%20The%20ICJs%20Advisory%20Opinion%20on%20Kosovo.pdf> ("the narrowness of the Court's response meant that the Court did not weigh in on larger questions ... [T]hat might have had some bearing on ... other [independence] contests.").

95. Caplan, *supra* note 94.

96. Daniel Fierstein, *Kosovo's Declaration of Independence: an Incident Analysis of Legality, Policy, and Future Implications*, 26 B.U. INT'L L.J. 419 (2008).

97. See James Summers, *Kosovo: From Yugoslav Province to Disputed Independence*, in KOSOVO: A PRECEDENT? THE DECLARATION OF INDEPENDENCE, THE ADVISORY OPINION AND IMPLICATIONS FOR STATEHOOD, SELF-DETERMINATION AND MINORITY RIGHTS 5-8 (James Summers ed., 2011).

98. Besfort Rrecaj, *The Kosovo Conundrum*, in KOSOVO: A PRECEDENT? THE DECLARATION OF INDEPENDENCE, THE ADVISORY OPINION AND IMPLICATIONS FOR STATEHOOD, SELF-DETERMINATION AND MINORITY RIGHTS 115-16 (James Summers ed., 2011).

99. *Id.* at 116.

100. *Id.* at 121.

101. Summers, *supra* note 97, at 18.

Kingdom,” states that had formally recognized the Republic of Kosovo “recognized it for more than what was actually declared: an independent and fully sovereign State”—a sentiment now shared by 109 UN Member States.¹⁰² The immediate, widespread, and continuing recognition of the legitimacy of Kosovo’s unilateral declaration of independence, even before the ICJ decision, strongly suggests an emerging customary international law supported by the requisite state practice in conjunction with *opinio juris*.¹⁰³

The purpose of going through the details of Kosovo’s violent history leading up to its unilateral secession is to demonstrate that Greenland’s quest for independence is in many ways distinguishable from that of Kosovo. First, as its history reveals, Kosovo declared independence in an environment characterized by tumult, disharmony, hatred, ethnic cleansing, violence, extreme discrimination, and war. The Albanians of Kosovo were not a people whose culture was respected, humanity was honored, or identity as a people was celebrated. On the contrary, they were persecuted as a people. As one author puts it, “Serbian atrocities directed exclusively at Albanians showed a clear intention to eliminate them from Kosovo” and satisfied “the definition of genocide in Article 2 of the Convention on the Prevention and Punishment of the Crime of Genocide.”¹⁰⁴ Therefore, even if the ICJ declined to consider whether the people of Kosovo had a right to unilaterally secede, an almost universal recognition of its independent status allows Kosovo to be the quintessential icon of a people possessed of the right to unilaterally secede.

Greenland’s history, in contrast, contains no analogous episodes of ethnic cleansing, violence, or even the slightest military involvement.¹⁰⁵

102. Rrecaj, *supra* note 98, at 129; *Who Recognized Kosova as an Independent State? KOSOVO THANKS YOU*, <http://www.kosovothanksyou.com> (last visited Aug. 6, 2014).

103. See Rebecca Crootof, *Constitutional Convergence and Customary International Law*, 54 HARV. INT’L L.J. ONLINE 195, 197 (2013) (“Under the classic or ‘traditional’ theory of customary international law, a norm attains binding status if the general and consistent practice of states demonstrates that the norm is accepted as law by the world community. State practice provides evidence of custom, while *opinio juris*—the conviction that a norm is legally binding—states the ‘attitudinal requirement.’”).

104. Besfort Rrecaj, Paper, *The Right to Self-Determination and Statehood: The Case of Kosovo*, BEPRESS LEGAL SERIES 66 (2006); PREVENTING GENOCIDE, OFFICE OF THE SPECIAL ADVISER ON THE PREVENTION OF GENOCIDE, *available at* http://www.un.org/en/preventgenocide/adviser/genocide_prevention.shtml (last accessed July 10, 2014) (defining genocide as “any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, including: Killing members of the group; Causing serious bodily or mental harm to members of the group; Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; Imposing measures intended to prevent births within the group; Forcibly transferring children of the group to another group.”) (internal quotation marks omitted).

105. See Robert Petersen, *Colonialism as Seen from a Former Colonized Area*, ARCTIC CIRCLE (Oct. 25, 1992), <http://arcticcircle.uconn.edu/HistoryCulture/petersen.html> (explaining that “[i]n Greenland colonial history, we have no real history of oppression by force, as known for example in Latin America and many other places. Many of the latter examples are

This is not to discount or reduce the significance or infamy of Denmark's expulsion of the Thule tribe from its home or even the Danization imposed upon it as it integrated into the Danish realm, but even those regrettable episodes of history pale in comparison to the violence that colored Kosovo's birth as an independent state. Even when this violence and ethnic cleansing amounted to genocide, the ICJ remained hesitant to declare an affirmative right in an oppressed people to declare independence. This indicates that the recognition of a right to unilaterally secede must at least arise from an environment that, by virtue of how dire it is, necessitates the creation of a new state to prevent further chaos, loss of life, and abuses of human rights. Without such caution, chaos would ensue on the backs of sectarians unsatisfied with their governments in every corner of the world trying to achieve independence. Such a result is antithetical to both existing state sovereignty and the overarching legal principles of international law consisting in stability and predictability.

B. Quebec

The following question remains: must a people's right to unilaterally secede always arise from an environment equally tumultuous and disastrous as that of Kosovo? In contrast to the Albanians of Kosovo, the people of Quebec have been, throughout recent history, unsuccessful in seeking independence from Canada. In fact, the question even reached the Supreme Court of Canada, which found no right to external self-determination in the people of Quebec. Its decision essentially centered around the lack of exceptional circumstances under which a people would be entitled to unilaterally secede from a parent state, namely, "where a people is oppressed, as for example under foreign military occupation; or where a definable group is denied meaningful access to government to pursue their political, economic, social and cultural development."¹⁰⁶

Some may dismiss the Canadian high court's decision as merely a self-interested declaration made by the high court of a country whose interest stands in opposition to Quebec's. Its decision and underlying rationale, however, bears independent legal merit. Quebec's quest for independence stands in sharp contrast to Kosovo's. Insofar as Quebec encompasses a people with the right to self-determination, there exists no dispute. In fact, one author described Quebec as the quintessential "nation"—"if the term "nation" has any meaning."¹⁰⁷ Quebec's

characterized as internal colonialism, but military power was never used against Greenlanders, not even in the beginning.") (internal citations omitted).

106. *Secession of Quebec*, *supra* note 75, at 287; *see also supra* Sections IV(B) and (C) (explaining in further detail the limited circumstances under which a people's right to external self-determination activates).

107. Elaine Bernard, *Quebec Sovereignty: Devolution the Solution*, PEACE & DEMOCRACY 35, 36 (1995).

inhabitants share a common language, culture, heritage, territorial integrity, legal system, and political structure separate and distinct from the rest of Canada.¹⁰⁸ All the puzzle pieces seem to be in place: the people of Quebec are indeed a people and self-determination is a right that all peoples possess.

Despite the presence of a people, however, the people of Quebec are actively and comfortably able to exercise their right to self-determination internally and within the framework of an existing state.¹⁰⁹ This stands in contrast to the Albanians of Kosovo, who were actively denied the right to exercise self-determination internally and within the framework of their existing state. It was only then, in this oppressed condition, did the right to exercise external self-determination activate in the people of Kosovo. This distinction is what is really at the heart of striking the correct balance between the very foundation of international law, state sovereignty, and the human right of self-determination.

VI. THE ABSENCE OF A RIGHT OF UNILATERAL SECESSION IN GREENLAND

The discrepancy between Kosovo's relationship to Serbia, on the one hand, and Quebec's relationship to Canada, on the other, paints a relatively perspicuous picture of the extent to which a people's right to internal self-determination must be denied in order to justify violating the sovereignty of a parent state through unilateral secession. If conceptualized as a spectrum, peoples in a situation closer to the Kosovar Albanians are more entitled to unilateral secession than are those in the more "comfortable" position of the Quebecoise. Having considered the relationship of both peoples to their respective parent states, it is not difficult to apprehend that Greenland's relationship to Denmark mirrors Quebec's relationship to Canada in a much more substantial way than Kosovo's relationship to Serbia.

Nevertheless, from a practical standpoint, apart from the constraints of international law, Greenland lies on the brink of independence.¹¹⁰ Several factors support this assertion. First, Denmark has already expressed its willingness to negotiate the possibility of full independence for Greenland.¹¹¹ Second, Greenland itself is already contemplating potential relations with other states—an activity that is

108. See *Canada Profile*, BBC NEWS: US & CANADA, <http://www.bbc.co.uk/news/world-us-canada-16841111> (last updated Apr. 23, 2014).

109. See Bernard, *supra* note 107, at 36 (although Bernard argues that Quebec's identity as a nation entitles it to secede, ironically, it is this peaceful existence as the "quintessential nation" that forecloses any possibility of unilateral secession).

110. David A. Gabel, *Mineral Rush in Greenland; Independence May be Around the Corner*, ENVIRONMENTAL NEWS NETWORK (July 27, 2012), http://www.enn.com/enn_original_news/article/44723.

111. Self-Government Act no. 473, *supra* note 5.

part and parcel of being an independent, sovereign state.¹¹² Furthermore, Greenland's premier has declared unequivocally, that, "Greenland will be 'one of three independent states' in the North Atlantic."¹¹³ This is not an outlandish remark, given that Greenland's independence is now dependent almost entirely on achieving financial autonomy.¹¹⁴ Evidence suggests that it will not have a difficult time achieving such autonomy because countries such as the United States are "highly interested in investing in the resource base of the country and in tapping the vast expected hydrocarbons off the Greenlandic coast."¹¹⁵

Do these factors, though, somehow entitle the Greenlandic people to unilaterally secede without Denmark's consent? No—mere practicality does not translate to "legal right." The fact remains that Greenland's nearness to achieving independence comes only at the pleasure of Denmark, its sovereign. As indicated above, Quebec can potentially function as its own state, practically speaking; yet it has no legal right to unilaterally secede from Canada because the right of its people to exist as itself has not been denied. Thus, after comparing Greenland's position to that of Kosovo and Quebec, it is clear that the systematic denial of its people's right to internal self-determination required to activate its right to external self-determination and justify violating Denmark's inviolable sovereignty is simply not present.

Nevertheless, several arguments exist in favor of Greenland having a right to unilaterally declare independence. The most convincing of these arguments is the proposition that Greenland, a former colony of Denmark, has not yet exercised, or is not permitted to exercise at all, its

112. See Xinhua News, *Greenland warm to China's involvement in Arctic*, COPENHAGEN POST (Nov. 5, 2011), <http://cphpost.dk/news/greenland-warm-to-chinas-involvement-in-arctic.70.html>; see also *Spotlight on the Arctic at Brussel's Cine-ONU*, UNRIC (Jan. 17, 2013), <http://www.unric.org/en/latest-un-buzz/28146-spotlight-on-the-arctic-at-brusselas-cine-ONU> (indicating that "Greenland's Prime Minister Kuupik Kleist has met such luminaries as the President of South-Korea, the US Secretary of State, Hillary Clinton and EU Commission President José Manuel Barroso. Last, but not least, the Arctic and Greenland are understood to have been high on the agenda in the state visit of Chinese President Hu Jintao to Denmark in 2012.").

113. *Greenland's premier presents vision for 2050*, NUNATSIQ ONLINE (Oct. 11, 2011), http://www.nunatsiaqonline.ca/stories/article/65674greenlands_premier_presents_his_vision_for_greenland_in_2050/; see also Kuupik Kleist, Speech at the Seminar on Greenland and the Arctic, Greenland's approach to EU's Arctic Communication, GREENLAND REPRESENTATION TO THE EU, BRUSSELS (Oct. 29, 2009), available at <http://eu.nanoq.gl/Emner/EuGI/~media/CF10597313C04F94920CD8ACE17EDEB3.ashx> (where Greenland's premier boasts "we ... have a landmass which can almost cover the entire European continent and a location which is now increasingly becoming a geostrategic centre of the world's attention. If Europe is ready to listen to our concerns Greenland could become your Arctic window.").

114. Kathrin Keil, *U.S. Interests in Greenland – On a Path Towards Full Independence?*, THE ARCTIC INST. CTR. FOR CIRCUMPOLAR SEC. STUD. (June 21, 2011), available at <http://www.thearcticinstitute.org/2011/08/us-interest-will-us-help-greenland-to.html>.

115. *Id.*

right to external self-determination.¹¹⁶ Understanding this argument requires a little bit of background. In the context of colonized peoples, the UN defines “self-determination” as the right of a colonized people or a dependent territory to “decide about the future status of [its] homeland.”¹¹⁷ After the UN recognized self-determination as a human right, some formerly colonized territories exercised that right by becoming independent while others “chose free association, or integration with an independent State.”¹¹⁸ The process by which these territories exercised their right to self-determination is known as decolonization.¹¹⁹

Currently, Greenland is neither a colony nor a non-self-governing territory. On June 5, 1953, Greenland was fully integrated into the Danish realm.¹²⁰ An amendment to the Danish constitution made Greenland “a province represented by two members in Parliament.”¹²¹ In this way, the people of Greenland “acquired the same rights and duties as other Danish citizens.”¹²² Greenland has therefore already undergone the process of decolonization.

The question, though, is whether, through the process of decolonization, Greenland actually exercised its right to self-determination. Answering this question is both central and determinative for the following reasons. If the people of Greenland have indeed exercised, and are exercising their right to self-determination through the process of decolonization and in its current mode of existence, then independence from Denmark is no longer an option outside of Denmark’s free consent or in the face of a denial of internal self-determination and human rights abuses by the sovereign. If, on the other hand, the people of Greenland have not yet exercised their right to self-determination in spite of the process of decolonization, then the people of Greenland have an absolute right to choose for themselves whether they want to secede from Denmark and become a sovereign state.

One scholar contends that the people of Greenland did not exercise their right to self-determination when Greenland was integrated as a part of Denmark in 1953 and therefore remains entitled to unilaterally secede pursuant to their former colonial status.¹²³ In support of his

116. Gudmundur S. Alfredsson, *Greenland and the Right to Self-Determination*, 51 NORDISK TIDSSKRIFT INT’L RET 39 (1982).

117. *Questions and Answers on Decolonization*, THE UNITED NATIONS, http://www.un.org/en/decolonization/questions_answers.shtml (last visited Oct. 1, 2012); see also *Questions and Answers on Decolonization*, SELF DETERMINATION INSTITUTE OF SOUTHERN AFRICA, <http://sedisa.wordpress.com/2013/05/21/questions-and-answers-on-decolonization/> (last visited Aug. 6, 2014).

118. *Id.*

119. *Id.*

120. Alfredsson, *supra* note 116, at 39.

121. *Id.*

122. *Id.*

123. *See id.*

assertion, six factors are cited, five of which are particularly relevant to the present discussion. First, he claims that Greenlanders did not have an opportunity to make a real choice as to their fate; they only had the choice between the status quo or integration.¹²⁴ Second, he contends that the Greenlandic Provincial Council neither possessed sufficient time nor was given access to competent expertise before approving the proposal for integration created by an all-Danish Constitutional Commission.¹²⁵ Third, the author doubts the effectiveness of the Danish-created Provincial Council and maintains that it was not competent to take on the “immense task of deciding permanently on the constitutional future of Greenland” because the Danish government gave it only minimal power.¹²⁶ Fourth, the author indicates that the people of Greenland did not participate in a referendum about whether to integrate or to seek independence.¹²⁷ Lastly, the author indicates that East and North Greenland had no representatives.¹²⁸

Furthermore, the same argument identifies eight aspects in which Greenland is so distinct from Denmark as to constitute a separate political entity: geographically, ethnically, culturally, historically, judicially, politically, administratively, and economically.¹²⁹ He argues that the existence of these factors makes it so that Greenland remains a colony still entitled to exercise the right to external self-determination.¹³⁰ This argument depends primarily on General Assembly Resolution 1541(XV), which provides guidelines that help determine whether or not a former colony has been decolonized through integration with its parent state, self-governance, or other permissible mechanism.¹³¹

The author, however, misapplies and mischaracterizes Resolution 1541 in a few critical ways. First, the aforementioned eight aspects do not necessitate or imply that the Greenlandic people are entitled to external self-determination. Rather, they are merely factors that may require the sovereign to transmit information to the UN regarding the progress of decolonization. This is only true where those factors place the territory in a position of subordination. To this effect, Principle V of Resolution 1541 characterizes a territory as a colony only where the elements “affect the relationship between the metropolitan State and the territory concerned in a manner which arbitrarily places the latter in a

124. *Id.* at 40-41.

125. *Id.* at 40.

126. *Id.*

127. *Id.*

128. *Id.* at 41.

129. *Id.* at 42-43.

130. *Id.* at 43.

131. G.A. Res. 1541(XV), U.N. GAOR, 15th Sess., at 29 (Dec. 15, 1960), available at <http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/153/15/IMG/NR015315.pdf?OpenElement>.

position or status of subordination.”¹³²

Moreover, the extent to which Greenland retains a unique character within the framework of another independent state does not mean that it is repressed in its attempt to exercise self-determination—quite the contrary; this actually demonstrates that Denmark is doing what it should be doing—respecting the Greenlandic people’s right to internal self-determination. Greenland is only “subordinate” insofar as it exists within the framework of another sovereign state. This is not the sort of arbitrary subordination contemplated by Resolution 1541. In fact, several factors all point to Greenland’s status as an equal partner with Denmark and not a subordinate: (1) the Self-Government Act agreed upon by Greenland and Denmark; (2) its affirmation of Greenlandic as the official language; (3) its broad grant of power to Greenlandic authorities; (4) the supermajority of native Inuit; and, most powerfully, (5) Greenland’s participation in international dialogue concerning its own natural resources and the fact that it has already concluded agreements¹³³ with other states. Thus, even if Greenland was once in a position of subordination—for instance, during the period of “Danization” or the forced relocation of the Thule tribe—Denmark has taken steps to remedy all, if any, denials of self-determination. Under these circumstances, in addition to the fact that Greenland’s relationship to Denmark is nowhere near that of Kosovo to Serbia, the Greenlandic people do not have a right to unilateral, remedial secession.

VI. INTERNATIONAL POLICY DOES NOT SUPPORT A RIGHT TO UNILATERAL SECESSION IN GREENLAND

Limiting the right of the people of Greenland to unilaterally secede from Denmark by the standards outlined above produces a curious and ironic result. The Greenlandic Inuit, no matter how linguistically and culturally distinct from the Danish, have no right to legally actualize their uniqueness through unilateral secession unless they somehow suffer under the hypothetical heavy hand of Denmark. Moreover, recognizing that Greenland does not have a right to unilateral secession is necessary to maintain international law’s preoccupation with stability and predictability. Understanding why requires weighing the right to self-determination against the concept of state sovereignty—the backbone of international law.

Within each of a number of different sovereign states throughout the world, there exist multiple separatist movements, each asserting its

132. *Id.*

133. See *Agreement between the Government of Greenland and the Government of the Republic of Guatemala Concerning the Exchange of Information Relating to Tax Matters*, available at <http://www.oecd.org/ctp/exchange-of-tax-information/50353568.pdf> [hereinafter *The Agreement*].

right as a people to self-determination.¹³⁴ Intuitively speaking, chaos would ensue if Greenland had a right to unilaterally declare independence. Consider the following: if a right to unilateral secession existed in the Greenlandic people, the threshold would be at its lowest ebb. It would thus be relatively easy for any separatist movement that is politically, socially, religiously, and culturally distinct from the sovereign state in which it exists to “violate” the sovereignty of that state. That result, especially given the number of separatist movements currently in existence, would destroy the meaning and value of sovereignty and reduce it to a mere nullity.

Additionally, it is impractical, at least at this point in time, for Greenland, in its current position of total and complete economic dependence on Denmark, to seek total independence instead of continuing to pursue self-determination within the framework of the Realm. Despite all of the potential wealth with which Greenland may be privy to from its vast mineral deposits and natural resources, independence by any mode is still only a mere potentiality. Moreover, the chairman of the Commission on Self-Government himself opined that

“[a] country like Greenland, with its geographical location and with such a small population base, will always be dependent on other countries I believe that Greenland can preserve its greatest possible relative independence as long as the country is in a community of the realm with a small, militarily weak nation like Denmark.”¹³⁵

In other words, existing within the framework of Denmark may actually afford the Greenlandic people a greater opportunity to exercise self-determination than would the economic sacrifice that independence would demand.¹³⁶

VII. CONCLUSION

Having scrutinized, through the prism of international law, the possibility of a unilateral declaration of independence by the people of Greenland, it is apparent that an international tribunal's support of a right to unilateral secession in Greenland is both unlikely and would be imprudent. It is unlikely because the relationship between the people of Greenland and the sovereign Denmark is not marred by the degree of human rights violations or even a denial of internal self-determination

134. See *Separatist Movements: Should Nations Have a Right to Self-Determination?* 2 CQ GLOBAL RESEARCHER 86, 88-90 (2008), available at <http://www.cqpress.com/docs/AffiliationsPDFs/separatists.pdf> (last accessed July 10, 2014).

135. Jens Dahl, *Self-Government in Greenland*, INDIGENOUS AFFAIRS 36, 39 (2001).

136. *Independence: A Huge Task, but Not Hopeless*, THE NIRAS REPORT, 8 (Oct. 19, 2012), available at <http://www.ga.gl/LinkClick.aspx?fileticket=BvkaP0u0API%3d&tabid=1264&language=da> [hereinafter *Independence*].

that approaches the severity of the historical cases wherein unilateral secession has come to fruition. It is imprudent because doing so would threaten the very foundation of global stability. One need only imagine a situation where any group of people existing within the framework of an existing state could unilaterally declare itself an independent state capable of having relations with other states. The result would pervert any meaningful concept of statehood. Because states are the principal actors in the international arena, their individual sovereignty must be affirmed and protected by the boundaries that international law draws around the concept of external self-determination.

This does not mean that Greenland has been dealt an underhanded blow. By remaining a constituent part of the kingdom of Denmark, the people of Greenland do not thereby forego or abandon their right to exercise self-determination. The result is quite the opposite. The new self-government framework actually “extends Greenland’s possibilities for greater self-determination.”¹³⁷ And while it is limited and entirely dependent upon Greenland’s economic growth, it makes possible a greater actualization of Greenlandic identity in a cooperative, rather than an antagonistic, relationship with the Danish government. And in light of the fact that Greenland is likely to achieve economic independence,¹³⁸ it seems much more prudent for its people to work with Denmark at arms length, retaining the latter as a strategic economic partner, rather than by attempting to tear away at the foundation of international stability—state sovereignty.

137. Graugaard, *supra* note 37, at 49.

138. *See id.*