Research | Forskning - peer review > Article | Artikel

The impact of international law on natural resource governance in Greenland

The paper demonstrates how the evolution of international law on colonial and indigenous peoples, in particular evolving rights to sovereignty over natural resources, shaped the changing relationship between Greenland and the rest of the Danish Realm. Greenland today is in a unique position in international law, enjoying an extremely high degree of self-government. This paper explores the history, current status and future of Greenland through the lens of international law, to show how international obligations both colour its relationship with the Kingdom of Denmark and influence its approaches to resource development internally. It considers the invisibility of the Inuit population in the 1933 Eastern Greenland case that secured Danish sovereignty over the entire territory. It then turns to Denmark's registration of Greenland as a non-self-governing territory (colony) in 1946 before Greenland's-purported decolonisation in 1953 and the deficiencies of that process. In the second part of the 20th century, Denmark began to recognise the Greenland Inuit as an indigenous people before a gradual shift towards recognition of the Greenlanders as a people in international law, entitled to self-determination, including the right to permanent sovereignty over their natural resources. This peaked with the Self-Government Act of 2009. The paper will then go on to assess competing interpretations of the Self-Government Act of 2009 according to which the Greenland self-government is the relevant decision-making body for an increasing number of fields of competence including, since 1 January 2010, the governance of extractive industries. Some, including members of the Greenland self-government, argue that the Self-Government Act constitutes full implementation of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP 2007), but this view is not universally shared. The paper also considers the status and rights of two Greenland minorities: the North Greenlanders (Inughuit) and the East Greenlanders, each of whom has distinct histories, experiences of colonisation, dialects (or languages) and cultural traditions. While the Kingdom of Denmark accepts the existence of only one indigenous people, namely, the Inuit of Greenland, this view is increasingly being challenged in international fora, including the UN human rights treaty bodies, as the two minorities are in some cases considered distinct indigenous peoples. Their current position in Greenland as well as in a future fully independent Greenland is examined, and the rights that they hold against the Greenland self-government as well as the Kingdom of Denmark explored. Greenland's domestic regime for governance of non-renewable natural resources (principally mining and hydrocarbons) is briefly analysed and compared with international standards, with a particular emphasis on public participation. The paper assesses the extent to which it complies with the standards in key international instruments.

Forfatter: Rachael Lorna Johnstone **Type:** Article | Artikel **Årstal:** 2020 **Emner:** Greenland; Natural resources; International law; Decolonization; Indigenous peoples **Titel på tidsskrift:** Polar Record **Udgiver:** Cambridge University Press

Åben publikation

Research | Forskning - peer review > Contribution to book/anthology | Bidrag til bog/antologi

Non-living resources and the Poles

Colonization of the Poles was driven, as in most of the rest of the world, by the promise of resources. Living resources have long been exploited at both Poles,1 but only in the North have law, politics and economics aligned to permit exploitation of non-living resources. Diversity amongst the Arctic states in climate, terrain, resource potential, population density, infrastructure and political economy means that no single pattern could describe accurately the entire region. This Chapter will provide only a cursory summary before focusing on the freedoms and constraints of international law on governance of non-renewable, non-living natural resources. It will then explain the history, current status and potential challenges to the sui generis regime in the Antarctic, according to which extractive industries are entirely prohibited. Although non-living resources is a broad term that could cover renewable energy and ice-harvesting, this Chapter concentrates on traditional extractive industries: mining and hydrocarbons.

Forfatter: Rachael Lorna Johnstone; Scott Joblin **Editor:** Karen Scott ; David VanderZwaag **Type:**

Contribution to book/anthology | Bidrag til bog/antologi **Årstal:** 2020 **Emner:** Polar law; International law ; Indigenous peoples; Natural resources **Udgivelsessted:** Cheltenham **Udgivelsesland:** United Kingdom **Værtpublikationens hoved- & undertitel:** Research Handbook of Polar Law **Udgave:** 1 **Forlag:** Edward Elgar **ISBN nummer:** 978 1 78811 958 0

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Research | Forskning - peer review > Article | Artikel

From the Indian Ocean to the Arctic: What the Chagos Archipelago Advisory Opinion Tells Us about Greenland

On February 25, 2019, the International Court of Justice issued its advisory opinion on Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965. The judges held by a majority of 13:1 that the process of decolonisation of Mauritius is incomplete, owing to the separation of the Chagos Archipelago shortly before Mauritian independence, that the United Kingdom should end its administration of the Chagos Archipelago as rapidly as possible, and that all Member States of the United Nations should cooperate to complete the decolonisation of Mauritius.

The (partial) decolonisation of Mauritius in 1968 and the treatment of the Chagos islanders (Chagossians) have important parallels with the purported decolonisation of Greenland in 1952–54. In both cases, the consultative body of the colonised people was neither fully independent nor representative of all the people concerned. No real choice was given to either body; rather the colonial power offered only the continuation of the status quo or professed self-determination on terms defined by the colonial power itself. Furthermore, the process of decolonisation was inherently linked to the forcible transfer of people in order to make way for a United States military facility.

Nevertheless, there are some relevant differences. First of all, Greenland was purportedly decolonised in 1953, some seven years before the UN General Assembly Declaration on the Granting of Independence to Colonial Countries and Peoples (UNGA Res. 1514(XV) 1960). Second, the UN General Assembly accepted the Danish government's representations regarding the full decolonisation of Greenland (UNGA Res. 849 (1954), in contrast to their position regarding Mauritius that decolonisation was and remains incomplete, owing to the separation of the Chagos Archipelago (UNGA Res(XX) 1965). Third, though the Chagossians have been recognised as indigenous at the UN, the British government has continually denied this status and (mis)characterises them as a transient people, while Denmark has accepted the status of the Greenlanders as both an indigenous people and a colonial people, entitled to self-determination.

This article examines the implications for the judgment for the Greenland case as well as broader questions of self-determination of peoples. It concludes that the colonial boundaries continue to govern in decolonisation cases, with the consequence that the Greenlanders are likely to be held to be a single people; that the erga omnes character of the right to self-determination means that all States must cooperate to facilitate Greenlanders' choices for their future; and that there remain significant procedural hurdles that prevent colonial and indigenous peoples having their voices heard, even in the matters that concern them most of all.

Forfatter: Rachael Lorna Johnstone **Editor:** Julia Jabour **Type:** Article | Artikel **Årstal:** 2020 **Emner:** International law; Decolonisation; Indigenous peoples; Greenland; Chagos Archipelago **Titel på tidsskrift:** Yearbook of Polar Law **Volume på tidsskrift:** 12 **Udgiver:** Brill **Udgivelsessted:** Leiden **Udgivelsesland:** Netherlands **ISSN nummer:** 2211-6427 **DOI nummer:** https://doi.org/10.1163/22116427_012010019

Åben publikation

Research | Forskning > Book | Bog

Arctic Governance in a Changing World

This comprehensive text explains the relationship between the Arctic and the wider world through the lenses of international relations, international law, and political economy. It is an essential resource for any student or scholar seeking a clear and succinct account of a region of ever-growing importance to the international community. Highlights include:

Broad coverage of national and human security, Arctic economies, international political economy, human rights, the rights of indigenous people, the law of the sea, navigation, and environmental governance.

A clear review of current climate-related change.

Emphasis on the sources of cooperation in the Arctic through international relations theory and law.

Examination of the Arctic in the broader global context, illustrating its inextricable links to global processes.

Forfatter: Mary Durfee ; Rachael Lorna Johnstone **Type:** Book | Bog **Årstal:** 2019 **Emner:** Arctic; Governance; International relations; International law; Indigenous peoples; Law of the sea; Environment; Human rights; Security **Udgivelsessted:** Lanham, MD **Udgivelsesland:** USA **Udgave:** 1 **Forlag:** Rowman and Littlefield, inc **ISBN nummer:** 978-1-4422-3562-5

Åben publikation

Research | Forskning - peer review > Contribution to book/anthology | Bidrag til bog/antologi

Indigenous Rights in the Marine Arctic

Forfatter: Rachael Lorna Johnstone **Type:** Contribution to book/anthology | Bidrag til bog/antologi **Årstal:** 2018 **Emner:** International law; Oil and gas; Arctic studies; Indigenous rights **Udgivelsessted:** Oxford **Udgivelsesland:** United Kingdom **Værtpublikationens hoved- & undertitel:** Governance of Arctic Offshore Oil and Gas **Forlag:** Routledge

Åben publikation

Research | Forskning - peer review > Contribution to book/anthology | Bidrag til bog/antologi

The Principle of "Full Reparation" for Environmental Damage and Very Small States

Greenland's independence to some extent pivots on the exploitation of natural resources, including offshore hydrocarbon resources. The exploitation of oil and gas is inherently hazardous and offshore activities and marine oil transports bring a risk of a serious pollution incident affecting the interests of other States. The long-established principle of full reparation for injuries indicates that should a major accident occur under an independent Greenland's watch, Greenland would bear a potentially unlimited liability to compensate affected parties. However, for a post-colonial State of under 60,000 souls, an overwhelming compensation claim could be disastrous: indeed, it could be sufficiently overwhelming as to compromise the rights of the Greenlandic people to self-determination and permanent sovereignty over their own resources, as well as a number of fundamental human rights found in international customary and conventional law. This chapter examines how such a conflict between the principle of full reparation and the rights of peoples to self-determination might be resolved in practice in light of the ILC Articles on State Responsibility, international customary law and ius cogens, international human rights treaties and the few pertinent, though limited and distinguishable, cases that have been decided to date. The chapter concludes by finding that the principle of self-determination has a peremptory status and thus in the event of conflict with the principle of full reparation, the latter must be considered subservient. However, there may be scope for greater flexibility in the mode and timescale of reparation than in its quantum.

Forfatter: Rachael Lorna Johnstone **Editor:** Vibe Ulfbeck ; Anders Møllmann ; Bent Ole Gram Mortensen

Type: Contribution to book/anthology | Bidrag til bog/antologi **Årstal:** 2016 **Emner:** State responsibility; Hydrocarbons; Hazardous activities; International law **Værtpublikationens hoved- & undertitel:** Responsibilities and Liabilities for Commercial Activity in the Arctic: The Example of Greenland **Forlag:** Routledge