

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.

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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.

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