

January 10, 2026

Report of the Greenlandic Constitutional Commission (2023): Unofficial English Translation from the Danish Version

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“Greenland is based on collective rights and the principle that common ownership of all our land, sea and resources is inalienable.”

Commission Report (2023)

Greenland is the main driver of the Kingdom of Denmark’s Arctic policy and a key partner for Canada. Almost 90% of Greenland’s population is Inuit. Under the 2009 *Act on Greenland Self-Government*, which acknowledges Greenlanders as a people under international law with the right to self-determination, the Kingdom of Denmark retains jurisdiction over constitutional affairs, the Supreme Court, citizenship, monetary policy, defence and security policy, and foreign policy (although the Greenlandic government is consulted and may act in international affairs in relation to Greenland pursuant to frameworks in Chapter 4 of the 2019 Arctic).² Greenland has jurisdiction over almost all other areas, including natural resource development.

The long history of Greenland’s transition from colonial rule to self-government has been told elsewhere,³ but is also charted in the following unofficial English translation of the Constitutional Commission report

¹ Thanks to Grace Chapnik for assistance with the original translation of the Danish content of the report using DeepL.com. We also recognize the support of Canada Research Chair program funding to facilitate our translation.

² Uffe Jakobsen and Henrik Larsen, “The development of Greenland’s self-government and independence in the shadow of the unitary state,” *The Polar Journal* 14, no.1 (2024): 9–27, <https://doi.org/10.1080/2154896X.2024.2342117>.

³ See, for example, Hans Christian Gulløv, “Home rule in Greenland,” *Études/inuit/studies* (1979): 131-142; Jens Dahl, “Greenland: political structure of self-government,” *Arctic Anthropology* (1986): 315-324; Mark Nuttall,

that follows in this *Policy Primer*. The Government of Greenland (the Naalakkersuisut), with the support of the Greenlandic Parliament (Inatsisartut), appointed the Greenland Constitutional Commission in April 2017. It originally consisted of seven members drawn from all of the political parties represented in the Inatsisartut, although its restructure was revised the following year to permit members from outside of the national assembly to provide broader expertise to its deliberations. The primary task was to prepare a draft for Greenland's first constitution as part of the country's aspirational journey toward independence from Denmark. As such, this process was intended to be a foundational step in nation-building, conducted in close cooperation with the Greenlandic people to reflect their specific cultural and legal paradigms, with the commission's mandate intending for the document to reflect Inuit values.

Danish journalist Martin Breum provided a succinct overview of the rather tumultuous history of the Greenlandic Constitutional Commission, noting that the draft followed six years of work marred by budget disputes, frequent member shifts, and the Naalakkersuisut's eventual dissolution of the commission in late 2022 due to lack of progress:

Critics, including Greenland's liberal party Atassut, have deemed the drafting of a constitution unnecessarily expensive and not needed. Atassut would like for the current power-sharing arrangement with Denmark to continue and withdrew from the drafting commission in 2021.

Pele Broberg, who is chairman of the Naleraq party, is an outspoken advocate for secession. On the day of its entry into the public domain, Broberg dubbed the draft constitution "stillborn". He explained that he would have liked better a draft constitution written by experts and not by elected politicians. In Broberg's view, many Greenlandic politicians are far too willing to postpone secession from Denmark.

"Self-rule in Greenland-towards the world's first independent Inuit state," *Indigenous Affairs* 8, no. 3-4 (2008): 64-70; Mininnguaq Kleist, "Greenland's self-government," in *Polar Law Textbook*, ed. Natalia Loukacheva (Copenhagen: Nordic Council of Ministers, 2010): 171-198; Frede P. Jensen and Jens Elo Rytter, *Phasing Out the Colonial Status of Greenland, 1945-54: A Historical Study* (Copenhagen: Museum Tusulanum Press, 2010); Jens Harting Danielsen, "Self-Government and the Constitution: Greenland within the Danish State," *European Public Law* 19, no.4 (2013): 619-642; Ulrik Pram Gad, "Greenland: A post-Danish sovereign nation state in the making," *Cooperation and Conflict* 49, no.1 (2014): 98-118; Rauna Kuokkanen, "'To see what state we are in': First years of the Greenland self-government act and the pursuit of Inuit sovereignty," *Ethnopolitics* 16, no. 2 (2017): 179-195; Søren Rud, *Colonialism in Greenland: Tradition, Governance and Legacy* (Cham: Springer, 2017); Adam Grydehøj, "Government, policies, and priorities in Kalaallit Nunaat (Greenland): Roads to independence," in *The Palgrave Handbook of Arctic Policy and Politics*, ed. Ken Coates and Carin Holroyd (Cham: Springer International, 2019): 217-231; Maria Ackrén, "Referendums in Greenland-From Home Rule to Self-Government," *Fédéralisme Régionalisme* (2019); Adam Kočí and Vladimír Baar, "Greenland and the Faroe Islands: Denmark's autonomous territories from postcolonial perspectives," *Norsk Geografisk Tidsskrift-Norwegian Journal of Geography* 75, no. 4 (2021): 189-202; and Maria Ackrén and Uffe Jakobsen, "The Capacity of self-government in Greenland," in *Governing Partially Independent Nation-Territories: Evidence from Northern Europe*, ed. Jan Sundberg and Stefan Sjöblom, 135-176 (Cham: Springer International, 2024).

In the course of its work, the constitutional commission, which has now been dissolved, was marred by frequent shifts of members, politicizing, and petty controversies. None of the seven initial members crossed the finish line. In 2022, after only four months at the helm, Kuupik Kleist, a former Premier of Greenland, resigned as chairman citing frustration over the lack of progress. Meanwhile, Naalakkersuisut — Greenland’s government — initiated a probe into the commission’s financial management, which has drawn much media attention.

In late 2022, the head of Naalakkersuisut, Muté B. Egede, called a halt to the drafting process altogether. The constitutional commission was asked to finalize its work and its budget was not renewed for 2023. In the draft, a shortage of time is cited as an explanation for why the commission’s deliberations on a future judicial system were never completed.⁴

In April 2023, Greenland’s Constitutional Commission presented its final draft constitution to the Inatsisartut (Greenlandic Parliament) in Kalaallisut (Greenlandic) and Danish. Intended as the basis for discussions at public meetings throughout the country,⁵ the document emphasizes Greenland’s desire to become a sovereign state that is rooted in Inuit principles and paradigms. Critically, the constitution also articulates a framework for free association, allowing a future independent Greenland to delegate specific powers—such as defence, currency, or foreign affairs—to another state as it transitions toward full economic self-sufficiency. In addition to the draft constitution, the report furnishes a detailed overview of the various phases of Greenland’s transition from colonial rule to self-government, the commission itself, a glossary of constitutional terms, and detailed annexes in which diverse external experts provide advice on political, legal, and geostrategic considerations.

Academic and journalistic responses were mixed, characterizing the draft constitutional proposal as a pivotal yet cautious "prelude" to independence that navigates the tension between Westphalian statehood and Inuit legal paradigms but omits specific details about institutions. Furthermore, researchers have highlighted potential conflicts between traditional Inuit stewardship (recognized in the preamble) and the draft's provisions granting rights to natural resource extraction, leaving lingering questions about how to reconcile Indigenous sovereignty over land with the economic imperatives that a nascent sovereign state would face. "Greenland’s first crack at a constitution suggests that its lawmakers do not envision a future that is vastly different from its present [status] as a democratic, Inuit-run country that must rely on a larger power if it is to get by," Copenhagen-based American freelance journalist Kevin McGwin wrote in *Polar Journal* in May 2023:

The proposal was never meant to be all things to all Greenlanders, and indeed, for some, it does not go far enough, fast enough, while others worry that it would create too much distance between Greenland and Denmark, to the detriment of its identity and its economy.

For those favouring quick independence the focus now will be on moving the proposal from draft to done deal, warts and all. Polls, though, have shown that most in Greenland believe that


⁴ Martin Breum, "Greenland drafts constitution for its ultimate independence," *ArcticToday*, 17 May 2023, <https://www.arctictoday.com/greenland-drafts-constitution-for-its-ultimate-independence/>.

⁵ Jakobsen and Larsen, "The development of Greenland’s self-government," 24.

political independence should follow economic independence, and, by all measures, that is quite far off: tourism and exploitation of natural resources could realistically add significantly to an economy that today is almost exclusively reliant on fishing, but it will take many decades before Copenhagen’s annual 4 billion kroner (€540 million) subsidy — amounting to 20% of the value of Greenland’s economy — is no longer necessary. Until then, a constitution will be a document whose time has yet to come.⁶

This *Policy Primer* provides an unofficial English translation of the Constitutional Commission’s 2023 report, offered in the hope that it will inform current discussions about Greenland’s future — discussions that too often lack rigorous examination of what Greenlanders themselves want. As external interest in Greenland’s strategic importance intensifies, misinterpretations of Greenlandic political aspirations have become increasingly apparent in international commentary. US President Donald Trump’s relentless statements indicating his intention to annex Greenland by whatever means necessary — and with no attentiveness to or respect for the will of Greenlanders as a self-determining people — make even a rough translation of this landmark report useful to facilitate deeper understanding of Greenlanders’ values, views on history, and governance preferences amongst English-language audiences.

⁶ Kevin McGwin, “Draft Constitution Provides Prelude to Independent Greenland,” *Polar Journal*, 8 May 2023, <https://polarjournal.net/draft-constitution-provides-prelude-to-independent-greenland/>.

An artistic illustration of an Arctic seascape. The sky is filled with soft, white clouds. The sea is a deep blue, dotted with numerous white ice floes of various sizes. In the foreground, a small boat is partially visible, containing two figures whose faces are rendered in a stylized, somewhat abstract manner. The overall style is painterly and evocative of a cold, northern environment.

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2023



The Constitutional Commission's Report 2023

Inatsit Tunngaviusussaq pillugu isumalioqatigiissitat isumaliutissiissutaat

Greenland Constitutional Commission, *Draft Constitution for Greenland: Final Report and Recommendations* (Nuuk: Government of Greenland, 2023).

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Naqinneqaqqaarpoq april 2023

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FOREWORD

The constitution must ensure democracy.

A lot has happened in the last 100 years. The Greenlandic people, and as a country, have worked for independence. We have achieved self-government, and we are in the process of working to achieve our country's sovereignty.

The Constitutional Commission was established after several Inatsisartut members proposed and requested that Naalakkersuisut establish a commission to draft a constitution. The first commission was established in 2017 and is composed of the politically established representatives of Inatsisartut. They will draft a constitution for an independent Greenlandic state.

Naalakkersuisut shapes the work of the commission, which also approves and appoints the chairship, and which is responsible for the entire work process together with an established secretariat. Both Naalakkersuisut and the commission were able to appoint deputies and select experts as well as subject matter experts to obtain relevant and legal expertise.

Until 2022, the commission could involve citizens, after which Naalakkersuisut decided to take on that part of the work. During the process, the commission had been challenged by the coronavirus, legal linguistic and conceptual efforts, and the appointment of new members was also a long time coming. All the work has resulted in a draft in both Greenlandic and Danish versions.

Nuuk. March 30, 2023

Ineqi Kielsen
Isumalioqatigiissitat siulittaasuat

Chapter I

General information about the Constitutional Commission

1.1 History of constitutional law

When we talk about constitutional law here, it should be seen in a broader sense than just Greenland's formal constitution and constitutional conditions. Greenland does not yet have its own first free constitution, as Denmark, for example, did with the Constitution of the Kingdom of Denmark in 1849.

Constitutional law refers to a country's basic legal framework in the Western legal sense. Although Greenland does not have its own constitution or constitution, since the beginnings of the Danish-Norwegian colonization of Greenland in 1721 in Denmark, some basic legal frameworks have been decided over the years on how social conditions should be regulated in Greenland.

From 1721 to the present, there have been six periods of constitutional law, each with its own legal framework for how a state power should act in Greenland. These six periods will be briefly described here. It would be going too far to delve into all the conditions that have characterized each of the six periods. Therefore, only a few particularly important factors will be highlighted.

The *first period of constitutional law* begins in 1721, when the missionary Hans Egede settled on the Island of Hope on 3 July and began colonizing Greenland. During this first period, there is no formal regulation of the early adaptations to Western social structures in this country. You could call it the period of **initial colonialism**.

The second constitutional law period began on April 19, 1782, with the signing in Copenhagen of a so-called instruction, which bears the following title: "*Instrux, according to which the merchants or those who either manage the trade or maintain the whaling facilities in Greenland in particular, as well as all those who are in the service of the trade in general, have to comply and relate in the future*".

The Instruction prescribes a form of minimal cohabitation or separation between the outside Europeans and the local Inuit. The Instruction's social principles of separation between the population groups were in practice in force for about 50 years. This first part of the second constitutional period can be called a period of **parasitic colonialism**.

In the early 1830s, there were some major changes in the Danish understanding of the Danish presence in Greenland. This ushered in the second part of the second constitutional law period. This second part was in practice valid until 1908 and can be called the period of **classical colonialism**.

The changes in the 1830s came in the wake of Captain Graah's return to Denmark in 1831 from his three-year expedition up the east coast of Greenland. Graah concluded that there were no descendants of the Norse left in Greenland. Although no new constitutional principle was decided

in Denmark at the time for the actions of state power in Greenland, Graah's conclusion created a fundamental change in the Danish handling of and presence in Greenland.

The new Danish approach to being in Greenland meant that the colonial government moved away from the principle of separation. The new principle was to involve the local Inuit population to a greater extent and initiate a more targeted assimilation strategy. The school system was expanded and new subjects such as geography were introduced. In 1847, Ilinnarfissuaq was established in Nuuk (then Godthaab) and in 1848, Ajoqersuivissuaq was established in Ilulissat (then Jakobshavn). *Atuagadagdluutit* began publication in January 1861. Unlike Iceland and the Faroe Islands, Greenland was not included in the first free Danish constitution in 1849.

From 1782 until the late 1850s, the only formal state organization was two inspectorates: one for South Greenland, and one for North Greenland. In the years 1857-1861, local boards of trustees were established at the individual colonies. Naturally, this was not a democratic political institution as we know it today. Only self-supporting hunters had the right to vote. Other citizens only later gained access to the same democratic rights. It was the first time that the Greenlandic population was given access to participate in a form of democratic political process along European lines.

After 1782, that Denmark did not adopt a new basic legal framework for how the Danish state should act in Greenland until 1908. This happened on May 27, 1908 with the Danish Parliament's adoption of the "*Act on the Management of the Colonies in Greenland etc.*" (*Act no. 139-1908*). With the adoption of this law, the third constitutional period for Greenland began. This period can be called the period of **intensive colonialism**.

On a democratic level, the period was characterized by the replacement of the councils of trustees in 1911 by two regional national councils, the South Greenland National Council and the North Greenland National Council, which were located in Nuuk (Godthaab) and Qeqertarsuaq (Godhavn) respectively. On an economic level, the colonial administration initiated an economic restructuring by intensifying fishing and launching an industrial fishing industry.

This in many respects – from a Danish perspective – well-functioning colonial structure was disrupted when Denmark was invaded by Germany on April 9, 1940. After the war, it was a different world for the colonial powers. The UN was established on 24 October 1945, and it was immediately clear that this new global organization did not want an unchanged continuation of the colonial rule of European countries.

Initially, Denmark tried to deny that Greenland was a colony, but of course it was made clear that Greenland was to be considered a Danish colony. Next, Denmark managed to completely control the process by reorganizing the relationship between Denmark and Greenland. The Danish strategy of incorporating Greenland into the Kingdom of Denmark became a reality with the adoption in Denmark and the Faroe Islands of the "*Constitution of the Kingdom of Denmark*", which came into force on June 5, 1953. The Greenlandic population did not have the right to vote in the referendum on the new constitution, and the incorporation process was characterized by major democratic shortcomings.

This created an entirely new legal framework for Greenland and marked the start of the fourth *constitutional period*. Formally, Greenland and the Greenlandic population were now an equal part of the Kingdom of Denmark. The UN responded by passing a resolution on September 9, 1954, removing Denmark from the list of colonial powers.

Democratically, Greenland gained two members of parliament in 1953, and the two national councils were merged in 1951 to form the Greenland National Council. In reality, much of the colonial structure and logic remained intact. The actual decision-making authority for the overall framework for the governance of Greenland remained with the Danish authorities in Copenhagen, and examples of legal discrimination between Danes and Greenlanders could still be found.

Following the UN's acceptance of the incorporation of Greenland, Denmark had to make extensive economic investments in Greenland. These became known as the G-50 and G-60 plans. One of the most striking expressions of the continued unequal relationship between Greenland and Denmark was the introduction of the so-called domicile criterion in 1958 and the so-called place of birth criterion in 1964, both of which legitimized differences in pay between people born in Greenland and people not born in Greenland. Against this background, this fourth constitutional period can best be described as the period of **covert colonialism**.

It was not until the 1960s and 1970s that all parts of Greenland's population were included in the administrative measures implemented. For example, the *Thule Act* introduced by Knud Rasmussen on June 7, 1929, was in force until January 1, 1963. It was not until 1967 that Denmark's highest official in Greenland, the governor, was no longer born chairman of the Greenland Council.

The continued remote rule from Copenhagen, which Greenland experienced after joining the Kingdom of Denmark, prompted several younger Greenlanders in the early 1960s to make requests and demands for changes to the relationship between Denmark and Greenland. The pressure from Greenland became so great that Denmark agreed to set up a home rule committee in January 1973. The committee was replaced in October 1975 by the Danish-Greenlandic Home Rule Commission.

The result of the Home Rule Commission's work and recommendations was that on November 19, 1978, the Danish Parliament passed the "*Act on Home Rule in Greenland*," followed by a referendum in Greenland on January 17, 1979, where a large majority of the people voted for the introduction of Home Rule. Home Rule became a reality on May 1, 1979, but it was not until January 1, 1980, that the Greenland Home Rule began to take over administrative tasks from the Danish state. This was the beginning of the *fifth constitutional period*, which can be called the period of **early decolonization**.

The Greenland Council was replaced by the Greenland Parliament. The first election to the Parliament took place on April 4, 1979. Throughout the 1980s and 1990s, Greenland's Home Rule was gradually expanded. It was not until 1998 that a true parliamentary system was introduced in the Parliament by separating the responsibilities of the chairman of the Government and the Parliament as two separate functions in the democratic government.

Around the turn of the millennium, several elected politicians wanted to expand the current home rule system. At the turn of the year 1999-2000, the Government of Greenland therefore decided to

set up a self-government commission. The commission submitted its report on April 11, 2003. The following year, on June 21, 2004, the chairman of the Greenlandic government and the Danish prime minister signed a mandate for a joint Greenlandic-Danish self-government commission.

The Commission's report was completed on April 17, 2008. A referendum on November 5, 2008, showed that there was a clear majority of the population in favor of introducing self-government in Greenland. On February 5, 2009, the Danish government submitted a proposal for a law on Greenland Self-Government. The Act was passed by the Danish Parliament on May 19, 2009. On June 12, 2009, Her Majesty the Queen and the Prime Minister signed the "*Act on Greenland Self-Government*", and Greenland Self-Government came into force on June 21, 2009. This marked the beginning of the sixth constitutional period, which can be called the period of **mature decolonization**.

One of the key milestones under the Greenland Self-Government has been the adoption on December 7, 2009 of the "*Act on Mineral Resources and Activities of Importance*". This meant that on January 1, 2010, the Greenland Self-Government took over responsibility for Greenland's subsoil.

Another milestone is that work towards a draft of the first free Greenlandic constitution has been initiated. This can be said to be rooted in the lack of Greenlandic involvement in the creation of the "Constitution of the Kingdom of Denmark", as well as the explanation in the Self-Government Act's explanatory notes on the Greenlandic right to begin constitutional preparatory work.

1.2 The creation of the Constitutional Commission

By unanimous decision at the 2011 fall session, the Inatsisartut instructed the Government of Greenland to submit a report to the Inatsisartut, which would form the basis for an Inatsisartut decision on the establishment of a constitutional commission for Greenland. The work was initiated under the then Naalakkersuisut and was continued by the new Naalakkersuisut after the 2013 election. However, the work was not completed before elections to Inatsisartut were called again in 2014. Work on the report was then suspended.

During the autumn session 2015, Inatsisartut instructed Naalakkersuisut "*to present a report on the establishment of a Greenlandic constitutional commission to Inatsisartut in 2016, so that the Greenland Self-Government on a subsequent informed basis can decide on a possible establishment of a constitutional commission for Greenland*".

During Inatsisartut's autumn session in 2016, the then Naalakkersuisoq for Environment, Nature and Independence Suka K. Frederiksen presented a draft resolution with the wording: "*Proposal for Inatsisartut decision that Inatsisartut authorizes Naalakkersuisut to establish a constitutional commission in order to draft a proposal for a Greenlandic constitution*".

A report on the establishment of a Greenlandic constitutional commission was attached to the resolution. The report thus represented a total of about three years of preparatory work towards establishing a constitutional commission.

Naalakkersuisoq for Environment, Nature and Independence emphasized in his presentation note that the basis for the Constitutional Commission's work would be the terms of reference that Inatsisartut had to determine. "*Report on the establishment of a Greenlandic Constitutional Commission*" outlines what the terms of reference could look like, but it was up to Inatsisartut to adjust, approve and establish the final terms of reference.

Inatsisartut considered the proposal as the last item on the agenda before the end of the fall session, and the debate was at times loud, especially from the only party, Demokraatit, who opposed the proposal. Siumut, Inuit Ataatigiit, Partii Naleraq and Atassut voted in favor of the proposal.

The parties' draft resolutions offered a wide variety of views and demands to the commission.

The Siumut rapporteur's contribution included, among other ideas: *We must emphasize that the commission's work is based on our official language, namely the Greenlandic language, as it is important that the work on the draft of the country's constitution is done using the Greenlandic language.*

The Inuit Ataatigiit rapporteur's contribution was that: *firstly, we consider the involvement and participation of the population to be extremely important. Because it is a law for all of us in society. The work must be carried out in full public view, and the population must have good opportunities to express their views and participate in debating the topic.*

The Partii Naleraq rapporteur's contribution was as follows: *It is anticipated that the work process for the report will take up to three years. However, we would like to point out that this time limit may be exceeded due to the process that the Self-Government Commission went through. If experience is gained in terms of elections and other challenges in the process, it must also be expected, as the report points out, that the deadline may be exceeded.*

The Atassut rapporteur's contribution was: *For Atassut, it is important that the work on the Constitution as a starting point takes into account the societal, identity, our values and our national uniqueness in a global context.*

The Demokraatit rapporteur's contribution was the only one that was highly critical of the proposal: *Demokraatit finds it very difficult to understand why it is so urgent to set up a constitutional commission. We need a constitution once we decide that we want to be an independent nation. That is not going to happen in the next many years.*

The rapporteur contributions from the parties that voted in favor had almost identical messages. These included that our language, culture and way of life must be taken into account. Citizen involvement was also an important factor in the constitutional work, and all parties demanded transparency and citizen involvement from day one. The composition of the commission was also a major topic of debate, with all parties agreeing that professionalism, language and knowledge of society should be given high priority in the selection of members.

After a lengthy debate, the proposal was sent to the Law Committee for committee work.

A majority of the Law Committee presented a report with an amendment, which was adopted by a majority in Inatsisartut. The amendment read: *Proposal for Inatsisartut resolution that Inatsisartut authorizes Naalakkersuisut to establish a Constitutional Commission in order to prepare a proposal for a Greenlandic Constitution. Inatsisartut shall establish an ad-hoc committee (the “Committee on the Constitutional Commission”) consisting of the Law Committee supplemented by one assigned representative for each party or non-attached member not represented in the Law Committee. Substitutes participate in the work of the committee without the right to vote. Naalakkersuisut shall keep the Committee informed of the Commission’s terms of reference, composition and establishment and of the work of the Commission.*

Demokraatit made a minority statement, which among other things read: *We therefore believe that since independence is not just around the corner, and therefore there is no great urgency to set up this commission, the only correct course would have been to set up an ad-hoc committee to propose a proposal for terms of reference and provide a framework for the appointment of the commission’s members. Then the entire Inatsisartut could take up the issue for consideration. This would ensure the openness in the process that all parties have requested.*

Both during the 1st and 2nd reading of the item, it was mentioned that the proposal represented a day of joy, that it is a celebration of democracy and that it gives hope for the country’s future. Several people were moved to tears and the country’s deceased fighters for the country’s independence were remembered, and during the 2nd reading, a minute of silence was held in their honor.

Chapter II

Terms of Reference

Changing coalitions of Naalakkersuisut have decided upon four terms of reference in the six years that the Constitutional Commission has existed. All of the terms of reference and addendums can be found in Annex 1.

From the outset, it was emphasized that the constitution should be based on and provide a framework for the culture, language and identity of the Greenlandic people.

Terms of reference 1 (2017)

Naalakkersuisut approved the first terms of reference for the Constitutional Commission, which came into force on April 27, 2017.

The terms of reference state that the commission must prepare a draft constitution for Greenland in two stages. The commission must involve the Ministry of Justice in Denmark. Considerations of free association or similar must be included. The Constitutional Commission must be responsible for citizen involvement. The report is to be submitted “within a time frame of two to three years from its establishment.”

Terms of reference 2 (2019)

At its meeting on March 22, 2019, Naalakkersuisut approved the new terms of reference for the Constitutional Commission. The terms of reference were published and entered into force on March 29, 2019.

The terms of reference state that the commission must prepare a draft constitution for Greenland. Considerations of free association or similar must be included. The Constitutional Commission must be responsible for citizen involvement. The submission of the report was set for June 21, 2021.

Addendum to the terms of reference (2019)

An addendum to the terms of reference of March 29, 2019, came into force on May 31, 2019. The addendum clarifies parts of what is contained in the terms of reference.

Terms of reference 3 (2020)

At its meeting on May 29, 2020, the Committee on the Constitutional Commission took note of the Government of Greenland's amended terms of reference for the Constitutional Commission. The terms of reference entered into force on May 29, 2020.

The terms of reference state that the commission must prepare a draft constitution for Greenland. Considerations of free association or similar must be included. The Constitutional Commission must be responsible for citizen involvement. The submission of the report was set for December 31, 2021.

Addendum to the Terms of Reference (2020)

An addendum to the Terms of Reference of May 29, 2020, entered into force on November 17, 2020. The 2020 addendum is identical to the 2019 addendum.

Terms of reference 4 (2021)

Naalakkersuisut adopted the amended terms of reference on September 3, 2021.

The terms of reference state that the commission must prepare a draft constitution for Greenland. Considerations of free association or similar must be included. Responsibility for citizen involvement is transferred to the Greenland Self-Government. Submission of the report was set for December 31, 2022.

Chapter III

Composition of the Constitutional Commission

3.1 Members

The terms of reference for the Constitutional Commission contain guidelines for how members of the commission should be appointed. All parties represented in Inatsisartut at the most recent election have been able to nominate members to the commission.

All terms of reference stipulate that it is the Government of Greenland that finally appoints the members of the Constitutional Commission after recommendation from the parties and after consultation with the Greenland Parliament's Committee on the Constitutional Commission.

As of the terms of reference in 2019, each party represented in Inatsisartut has had to nominate two candidates, one of each gender, for Naalakkersuisut to choose from.

The terms of reference stipulate that the chairman of the commission must be from the party that received the most votes in the last election to Inatsisartut. The vice-chairman must be from the party that received the second most votes in the last election to Inatsisartut.

Under the first terms of reference, there were seven members in the Constitutional Commission. By the 2014 election, five parties had gained representation in Inatsisartut. Thus, there was one member from each party, and in addition, there was a chairman from Siumut and a deputy chairman from Inuit Ataqatigiit. This meant that the two largest parties each had two members in the commission.

This was changed with the 2019 Terms of Reference, which set the number of members to remain at seven. In the 2018 election, seven parties were represented in Inatsisartut. This meant that from the 2019 terms of reference, the parties represented in Inatsisartut in the last election all had one member in the Constitutional Commission. In the 2021 terms of reference, the number of members was changed to five, which was the number of parties represented in Inatsisartut in the 2021 election.

As elections to Inatsisartut have had a direct impact on the appointment and number of members of the Constitutional Commission, it has been of significant importance to the Commission's work that two elections to Inatsisartut have been held during the period in which the Commission has been active. These were held on April 24, 2018 and April 6, 2021.

The list below of members of the Constitutional Commission is divided into five terms according to the five chairmen who have served on the Constitutional Commission.

Period 1

April 27, 2017- May 28, 2019

		<i>Membership period</i>	
Chairman of the Board	Vivian Motzfeldt	April 27, 2017	April 5, 2018
Vice Chairman	Ane Hansen	April 27, 2017	January 10, 2018
Vice Chairman	Mimi Karlsen	January 11, 2018	April 5, 2018
Member	Jess Svane	April 27, 2017	January 12, 2018
Member	Mimi Karlsen	April 27, 2017	January 11, 2018
Member	Debora Kleist	January 23, 2018	April 2018
Member	Per Rosing Petersen	April 27, 2017	July 2020
Member	Mala Høy Kúko	April 27, 2017	September 2017
Member	Bentiarq Ottosen	April 2019	June 2019
Member	Nivi Olsen	April 27, 2017	December 11, 2020

Work was suspended due to a lack of members from November 5, 2017, to January 10, 2018.

Due to Inatsisartut elections, work was suspended from March 13, 2018, when elections were called. The election was held on April 24, 2018.

The Commission's work was also suspended for the rest of 2018 and early 2019 until a new chairman was appointed.



From left: Leif Fontain, Per Rosing Petersen, Jess Svane, Vivian Motzfeldt, Karla Jessen Williamson, Debora Kleist, Nivi Olsen, Mimi Kleist

Period 2

May 28, 2019 – December 30, 2021

		<i>Membership period</i>	
Chairman of the Board	Doris J. Jensen	May 28, 2019	November 25, 2019
Chairman of the Board	Ineqi Kielsen	February 6, 2020	December 30, 2021
Vice Chairman	Kuupik V. Kleist	May 28, 2019	December 30, 2021
Member	Jens Erik Kirkegaard	December 11, 2020	March 31, 2023
Member	Paninnguaq M. Kruse	June 2019	June 12, 2020
Member	Anita Hoffer	May 28, 2019	November 20, 2019
Member	Per Rosing Petersen	April 27, 2017	July 2020
Member	Bentiaraq Ottosen	April 2019	June 2019
Member	Nivi Olsen	April 27, 2017	December 11, 2020
Member	Aleqa Hammond	September 2019	April 6, 2021
Member	Pele Borberg	September 2020	April 23, 2021

For part of 2020 and 2021, work has been put on hold due to the COVID-19 lockdown.

During part of the period, there have been vacant seats on the commission.

Inatsisartut elections were called on February 16, 2021. The elections were held on April 6, 2021.

The commission's work was suspended for the rest of 2021, as it was awaiting the appointment of new members in Naalakkersuisut.

[Image not reproduced] From left: Nivi Olsen, Anita Hoffer, Kuupik V. Kleist, Aleqa Hammond Bentiaraq Ottosen, Doris J. Jensen, Per Rosing Petersen



From left: Nivi Olsen, Daniel Thorleifsen, Aleqa Hammond, Ineqi Kielsen, Sara Olsvig, Kuupik V. Kleist, Rosannguaq Rossen, Pele Broberg

Period 3

December 30, 2021 – March 31, 2023

		<i>Membership period</i>	
Chairman of the Board	Kuupik V. Kleist	December 30, 2021	April 11, 2022
Chairman of the Board	Ineqi Kielsen	December 28, 2022	March 31, 2023
Vice Chairman	Ineqi Kielsen	December 30, 2021	December 28, 2022
Vice Chairman	Inuttalerneqanngilaq	December 28, 2022	March 31, 2023
Member	Jens Erik Kirkegaard	December 11, 2020	March 31, 2023
Member	Mari Kleist	December 30, 2021	March 31, 2023

3.2 Deputies

It has been possible to appoint assistants. The purpose of assigning assistants to the work of the Constitutional Commission has been to provide the commission members with party-politically neutral advice at a high professional level.

Naalakkersuisut and the Constitutional Commission have each been able to appoint two to four deputies. The deputies were not replaced in elections to Inatsisartut. At the commission's meetings, the deputies could not, as a rule, participate in the commission's final decisions on the content of the draft constitution. In periods with fewer members of the commission, the commission members have been open to the participation of the deputies in decision-making processes.

*Assigned during the period**February 2018 - December 31, 2022**Appointed by Naalakkersuisut and the Constitutional Commission*

	<i>Membership Period</i>	
Karl Jessen Williamson	February 2018	April 2018
Leif Fontain	February 2018	April 2018
Mininnguaq Kleist	February 2018	December 2022
Daniel Thorleifsen	September 2019	February 2022
Rosannguaq Rossen	September 2019	April 2022
Lida Skifte Lennert	September 2019	December 2022
Skuli Magnusson	September 2019	December 2022
Inuuteq Holm Olsen	September 2020	December 2022
Sara Olsvig	September 2020	December 2022
Sara P. Lundblad	December 2021	April 2022

3.3 Working groups

In 2017, it was planned that the commission would set up 2-3 working groups, but the decision was postponed when two members chose to resign from the commission.

In January 2018, the commission decided to set up two working groups consisting of commission members and associates:

- Constitutional Law, Public International Law and Finance
- Human and civil rights and culture.

The working groups did not get off to a good start as elections were called in March 2018 and all constitutional work was put on hold.

At the end of 2019, a new Constitutional Commission was set up, and at the end of August 2019, the three working groups were established. They functioned until the commission decided in February 2022 to merge the work into the unified commission from mid-May 2022.

The Working Group on Forms of Government

The working group was tasked with discussing different forms of government, including parliamentary or presidential systems, heads of state, citizenship, court systems, etc.

The most recent members before the working groups were disbanded were: Kuupik V. Kleist, Ineqi Kielsen and Skúli Magnússon.

The Rights and Responsibilities Working Group

The working group was tasked with discussing what rights and duties citizens should have. This included looking at universal human rights, indigenous peoples' rights, freedom of religion, freedom of expression and, not least, which protection options are ensured for citizens.

The most recent members before the working group was disbanded were: Jens Erik Kirkegaard, Kuupik V. Kleist, Nivi Olsen, Mininnguaq Kleist, Rosannguaq Rossen, Sara Olsvig.

Working Group on Foreign and Security Policy Issues

The working group was tasked with discussing sovereignty issues including territories, militarization, demilitarization, international agreements, emergency law, states of emergency, etc.

The most recent members before the working group was disbanded were: Ineqi Kielsen, Mari Kleist, Lida Lennert, Inuuteq Holm.

Chapter IV

Allattoqarfik

[Secretariat and its functioning]

4.1 Establishment of the secretariat and tasks

The Secretariat of the Constitutional Commission was established at the same time as the Constitutional Commission was established. The secretariat has been tasked with serving the commission and its work. The primary task of the secretariat was to prepare the draft constitution in cooperation with the commission members.

The secretariat's work has also included a number of administrative tasks relating to case management, communication, website, bookkeeping, accounting, IT operations and security, building conditions, meetings, travel, etc:

- Meeting preparations; such as booking rooms, ensuring catering and equipment for the meeting.
- Preparation of minutes from both ordinary meetings, chairmanship meetings and meetings in the 3 working groups.
- Research in relation to the tasks or questions posed by the commission.
- Dialogue and meetings with various experts and correspondence in relation to notes/responses.
- Maintenance and updating of website and Facebook page.
- Press management and external communication.
- Ongoing preparation of progress and annual reports and internal newsletters. Accounting and payment of remuneration to commission members, deputies and committees.
- Office management; budget follow-up, various reconciliations and procurement.
- Recruitment processes; advertisements, recruitment, interviews, etc.
- Preparation of the draft law and its report.

In the final phase of the commission, the secretariat serviced the Committee for Language and Concepts. In November 2022, this committee was tasked with fine-tuning and correcting the draft constitution in both the Greenlandic and Danish versions. The committee has facilitated the work of the commission by examining whether the correct terms are used in Greenlandic and Danish. This is an issue that has dominated the commission meetings. In addition, the committee has ensured that the draft constitution is consistent between the Greenlandic and Danish versions.

The secretariat has followed the guidelines and instructions given by the commission members. The Commission has drawn up rules of procedure, which employees in the secretariat have followed. The chairmanship has continuously discussed and coordinated with the secretariat which tasks the secretariat has had to focus on in the constitutional drafting process.

4.2 Staffing of the secretariat

The secretariat has been headed by a head of secretariat, who has had overall responsibility for staffing and the execution of the commission's decisions in cooperation with the head of department. The Constitutional Commission's secretariat has employed the following heads of secretariat:

May 26, 2017 - June 26, 2020	Johan Lund Olsen
June 1, 2020 - January 4, 2022	Karen Kiær Jakobsen, lawyer
May 1, 2022 - March 31, 2023	Sara Paninnguaq Lundblad, lawyer

When the secretariat was established in 2017, the staff consisted of a head of secretariat, a head of department, an information officer, an AC administrator and an office administrator.

In the early days, the Constitutional Commission received administrative assistance from the Ministry of Independence, Foreign Affairs and Agriculture. First, a head of secretariat was hired and then the recruitment of the secretariat's other staff began.

Over the years, the job titles in the secretariat have varied depending on how the recruitment processes have been conducted. In addition, the secretariat has continuously had student assistants who have helped to serve the commission.

The secretariat has been challenged in relation to the preparation of the draft constitution within the set timeframes. This is due to the fact that for several periods over the years, the secretariat has lacked employees with constitutional law competence to service the commission, while at the same time there has been a high turnover of staff, which has resulted in a loss of institutional memory.

Since the establishment of the secretariat, it has been difficult to retain staff, which is why staff turnover has been high. Since its establishment, the secretariat has had three heads of secretariat, with the last head of secretariat starting on May 1, 2022. At that time, the handover deadline was scheduled for December 31, 2022.

Throughout the years, it has been particularly difficult to recruit Greenlandic legal staff with insight into constitutional law, which is why it has also been a challenge to write a first draft that the commission has been able to discuss.

4.3 COVID-19 and appointment of new members

One of the major challenges in ensuring optimal servicing of the commission and operation of the secretariat has been the many periods when the commission's work has been put on hold.

The periods during which the commission's work has been suspended or put on hold have meant that the secretariat has not been able to ensure the necessary progress in the commission's work for long periods of time. This has particularly challenged the work of writing the report.

For example, elections were called in March 2018. This was less than a year after the Constitutional Commission had been established. The secretariat has also had to wait several times for the

selection of new members for the commission. The changes meant that 2019 was a new year of establishment for both the commission and the secretariat, where the work started anew with new members and new terms of reference.

Just as work was getting off to a good start, the corona epidemic struck. This put a new brake on the work. At the same time, a new head of secretariat was appointed in the summer of 2020 and an optimization of the secretariat began. By the end of December 2020, the staff in the secretariat had largely been replaced, which is why there has been a loss of knowledge that has also challenged the daily work.

In 2021, elections were called again in February and the work of the commission was again put on hold. The secretariat and members of the commission had to wait 10 months before a new chairman and new commission members were appointed on December 30th. The new chairman stepped down in April 2022 after just three months. This meant another wait for the appointment of a new chairman.

In addition, the head of secretariat left at a day's notice, leaving the secretariat without legal expertise or a head of secretariat until the current head of secretariat started on May 1, 2022.

The secretariat then underwent a major clean-up in order to get an overview of the cases and tasks that had been carried out over the years. The goal was to minimize knowledge loss as much as possible.

Uncertainty about when the Constitutional Commission and the secretariat would cease to exist has also challenged staff retention. In early 2022, the Constitutional Commission asked the Chairman of the Government of Greenland for an extension. It was not until the adoption of the Finance Act 2023 in November 2022, which no longer included the Constitutional Commission, that it became clear that the request for extension had not been granted. This meant, among other things, that several of the secretariat's staff chose to seek new employment.

In December 2022, an official announcement was made by the Chairman of Naalakkersuisut that the commission was granted an extension until April 1, 2023 to complete its work before the Inatsisartut's spring session started.

In 2023, the secretariat had three employees.

4.4 Journaling

As an independent unit but an integrated part of the administrative system under the Government of Greenland, the secretariat has had to use F2 for its correspondence and journaling. Not least due to the frequent replacement of staff in the secretariat throughout its operation, access to files and possibly also case numbers has been lost.

This meant that when the commission's work was consolidated in 2022 and 2023, it proved very difficult to undertake a comprehensive overview of what has been logged in the secretariat throughout the secretariat's work.

A considerable amount of time and resources has been invested in ensuring the best possible registration of all relevant files and case numbers in order to compile the material for the report.

However, the secretariat is aware that there may be relevant material that may have escaped attention when compiling documents for the report.

4.5 Legal assistance

In the “Report on the establishment of a Greenlandic constitutional commission” from 2016 attention was drawn to the fact that it could be challenging with only a few experienced, Greenlandic-speaking lawyers. Among other things, it states: “*The Greenlandic people do not yet have many lawyers with expertise in constitutional law or lawyers with years of experience in political work and the organization of the public system (and who also speak Greenlandic, which should not be underestimated here)*” (page 13).

This is a reality that the secretariat has felt throughout its work. The secretariat would have liked to have been able to use more lawyers with the above-mentioned backgrounds. The Commission might have saved time if more of the lawyers listed could have participated in the preparation of the draft.

In the work on the draft constitution, it is important to emphasize the legal assistance that the Constitutional Commission has drawn on both through employees in the secretariat as well as from external consultants and experts.

It has been difficult for the secretariat to attract qualified lawyers. It wasn't until 2020 that the secretariat hired its first lawyer, and later it succeeded in hiring heads of secretariat who are legally trained, Greenlandic and speak the Greenlandic language.

The following lawyers have been employed:

- Katrin Fríða Jógvansdóttir - employed as a legal administrator in the period January 2020 - September 2020.
- Karen Kiær Jakobsen - qualified lawyer, employed as Head of Secretariat in the period June 2020 - January 2022.
- Sara Paninnguaq Lundblad - trained lawyer, employed as Head of Secretariat from May 2022 until the completion of the preparation of the draft constitution and report. Sara was in the period from December 2021 to April 2022 subordinate to the Constitutional Commission.

The Constitutional Commission has been assisted by the following lawyers:

- Lida Skifte
- Lennert Skúli Magnússon

Over the years, the Constitutional Commission has invited various legal experts to give presentations and requested expert opinions in different areas. Among others, the following have contributed to the constitutional work:

- Lise Dalsgaard
- Kirsten Thomassen
- Finn Meinel
- Bjørn T. Bay
- Kent Fridberg
- Gudmundur Alfredson
- Jogvan Svabo Samuelson

Chapter V

Language

The Constitutional Commission's work on a draft constitution has led to many long discussions about words, concepts and terms in Greenlandic.

5.1 The Greenlandic language provides increased legal certainty

'As you can read in 'Report on the establishment of a Greenlandic constitutional commission', it has been anticipated that the Greenlandic language will play a major role in the work on a Greenlandic constitution:

The language of the commission will most likely be Greenlandic. Greenlandic is the official language of Greenland. There is a strong likelihood that the constitutional work and the preparation of the draft constitution will be conducted in Greenlandic. There will be translations into Danish, but much of the work and discussions in the commission will be text-oriented and focus on specific linguistic formulations, which is why this will place Greenlandic language requirements on the officials directly involved in writing the text. This does not mean that you have to be able to speak Greenlandic to be involved in the commission at all, but there will be obvious limitations on how much you can get involved in the text-specific Greenlandic discussions if you cannot.

It has also been seen in previous working groups and commissions, when Inatsisartut has debated during their meetings and not least among the population, that the issue of language is very important.

At the Inatsisartut's autumn session in 2018, it was decided that the Greenlandic Language Board should prioritize the development of legal terms in Greenlandic, precisely to ensure greater legal certainty for citizens and not least to ensure higher quality in the legislative work.

5.2 The Constitutional Commission's work with language

Since Naalakkersuisut established the Constitutional Commission in 2017, language has been a regular subject at both the regular meetings and the working groups. It has often been difficult to agree on which concepts and terms should be used, which words are dialects and which are

officially approved words, concepts or terms, and whether there should be loanwords such as ‘prime ministry’ or ‘municipal council.’

In 2019, the Constitutional Commission’s secretariat entered into a cooperation agreement with the Language Secretariat to compile a constitutional glossary. The head of the secretariat at the time wrote in his preface to the glossary:

Language is an important part of the commission’s work, and we have now gathered words and expressions related to constitutional work and a constitutional preparation process, which we believe will be the most comprehensive terminological framework for the commission’s multifaceted work.

Although several measures were put in place to facilitate the commission’s work on the constitution, the process has been slow. There are many aspects to this, with the calling of elections, appointment of new members and changing staff being the predominant reasons for this. But it must also be recognized that the lack of a framework for the Greenlandic language has challenged the commission’s work.

5.3 The Committee on Language and Concepts

In the late summer of 2022, the then members of the Constitutional Commission decided to establish a committee on language and concepts. This came about because at one of the meetings, language was once again being debated rather than the actual content of the provisions of the constitution. With the establishment of a committee, the idea was that when the commission could not move forward due to disagreement or uncertainty about a word, concept or term, a clarification could be left to the committee, which could then make a recommendation on how the sentence in a provision should be. In addition, the committee was tasked with quality assuring all provisions so that they would be both understandable and identical in Greenlandic and Danish.

Two members were appointed to the Committee for Languages and Concepts:

- Lisathe Møller
- Ole Heinrich

At the end of December 2022, the Language and Concepts Committee held its first meeting with the secretariat. The initial time was spent finding a suitable template for the language work itself and a routine that suited the committee. The committee was clearly told that the purpose of their work is to ensure that the provisions are as linguistically correct as possible without changing the meaning of the provisions themselves.

The collaboration between the committee and the secretariat has been crucial to the committee’s progress. By sitting together and reviewing each provision, the committee and the secretariat have saved each other money. The secretariat has been able to provide in-depth explanations of the provisions, what the commission has discussed, which words they have disagreed on and the like, and the committee has provided technical sparring so that the wording of the provisions makes as much sense as possible.

The committee has managed to review all the provisions once. The committee continued its work until the final delivery.

CHAPTER XI

Inatsit Tunngaviusussamut siunnersuut

[Proposal for a Future Constitution]

PREAMBLE

We, the Greenlandic people, exercise our sovereign rights in our country, Greenland, and we hereby establish this constitution as the constitution of the sovereign state of the Greenlandic people, Greenland.

The Greenlandic people are and must always be self-determining. Our forefathers and foremothers have exercised their right to self-determination, and it must be passed on to our descendants for all time to come.

Inuit are the indigenous people of our country. From here comes our unique cultural distinctiveness, our history, our heritage and our strength. This must never be forgotten and must be honored, respected and protected at all times. It is our wealth, it is our responsibility.

Greenlandic society is also a diverse democracy where the inherent rights, dignity and security of each individual are protected. We recognize all Greenlandic citizens as equal under this constitution. Our cultural heritage is our strength, and in the state of Greenland, cultural diversity must flourish.

We will create a just society where all people, regardless of gender and origin, are free and equal. We will be a society built on fundamental human rights principles, characterized by respect for minority rights, equality and equal opportunities for all.

We will create a just society where all people, regardless of gender and origin, are free and equal. We will be a society built on fundamental human rights principles, characterized by respect for minority rights, equality and equal opportunities for all.

The Greenlandic people are part of nature. We must protect nature, its ecosystems, biodiversity and all its life. We live from and with nature, and this is an indispensable principle to ensure a sustainable society for all time. We live from nature and we live with nature. Therefore, we must respect nature.

Greenland is based on collective rights, and the principle of popular common ownership of all our land, sea and resources is inalienable. This constitution protects and applies to the entire territory of Greenland - land, sea and air.

With the adoption of this constitution, Greenland is included as an equal and independent constitutional state in the global community. With respect for all peoples, nations and states, we will participate in international cooperation for a just and peaceful world community based on international law.

Based on the will of the people, any public power is put into effect.

The Constitution of Greenland

Chapter I

§ 1. Greenland is a state with sovereignty.

Imm. 2. The basis of the state's form of government is the separation of powers. The legislative power is with Inatsisartut. The executive power is with Naalakkersuisut. The judicial power is with the courts.

Territory of Greenland

§ 2. The territory of Greenland cannot be divided.

Imm. 2. *The integrity and sovereignty of the State is inviolable.*

Imm. 3. The territorial boundaries of the country, determined in accordance with international agreements shall be determined by law.

Citizenship

§ 3. Anyone whose parents have Greenlandic citizenship is entitled to Greenlandic citizenship.

Imm. 2. A citizen with citizenship of another country may by law acquire citizenship of Greenland.

Imm. 3. The acquisition, loss and recovery of citizenship shall be determined by law.

§ 4. Anyone with citizenship in Greenland must comply with this Constitution, as well as the laws, obligations and rights arising from this Constitution.

Imm. 2. Naalakkersuisut shall ensure that everyone is given the rights and duties set out in this Constitution.

National languages and symbols

§ 5. The Greenlandic language is the official language of Greenland.

Imm. 2. National symbols, their forms, objectives and use shall be determined by law.

Chapter II

Rights and obligations of citizens

§ 6. Everyone has the right to personal freedom, regardless of gender, sexual orientation, faith, place of birth, skin color, conviction, wealth or other personal circumstances.

Imm. 2. Deprivation of liberty may only take place on the basis of law.

Imm. 3. In the event of deprivation of liberty, it is a right to be informed immediately of the reasons for such deprivation. If the arrested person cannot be released immediately, the judge shall, by an order issued within three days, decide whether he or she shall be imprisoned and, if he or she can be released on bail, determine the nature and amount of the bail.

Imm. 4. Anyone who is deprived of liberty shall be brought before a judge within 24 hours of the deprivation of liberty.

Imm. 5. The order issued by the judge may immediately be appealed separately to a higher court.

Imm. 6. No one may be subjected to custody for an offense that can only result in a fine or imprisonment.

Imm. 7. If a person is deprived of his or her liberty outside the criminal justice system, the person concerned or the person acting on his or her behalf may submit this to the ordinary courts for review.

Imm. 8. Anyone whose personal freedom has been restricted without legal basis has the right to compensation.

Imm. 9. No one may be deprived of his liberty or property without a fair trial.

§ 7. Everyone has the right to express himself through any medium, however, under the responsibility of the courts.

Imm. 2. Censorship and other similar obstacles to freedom of expression may never be introduced by law.

Imm. 3. Everyone has the right to seek, receive and impart information.

§ 8. Everyone has the right to communicate without surveillance and interception and must be protected against these.

Imm. 2. If the right cf. subsection 1 is to be changed, this must be done through the courts.

§ 9. Everyone has the right to respect for their private and family life, home and communications.

Imm. 2. House searches and examination of communication may only take place after a court order.

§ 10. Every child shall be respected as an individual.

Imm. 2. Every child has the right to be heard in matters concerning themselves, and their opinion shall be given weight according to age and maturity.

Imm. 3. The best interests of the child shall be a fundamental consideration in actions and decisions concerning the child.

Imm. 4. Every child has the right to protection of his or her integrity. The state is obliged to provide conditions that support the child's development, including economic, social and health security, preferably in the child's own family.

§ 11. Everyone's right to education shall be guaranteed by law.

Imm. 2. All children of compulsory school age have the right to free education.

Imm. 3. If the parents themselves assume responsibility for the children's education, the quality of this must be in accordance with what is offered by the public sector.

Imm. 4. The state must ensure that children have opportunities for further education after primary school and that there are equal opportunities for further education according to ability.

§ 12. The right of ownership is inviolable.

Imm. 2. No one may be ordered to surrender his property or right without public interest requires it. This can only be done by law and against full compensation.

Imm. 3. When a bill concerning expropriation of property has been adopted, one third of the members of the Inatsisartut may, within a period of three working days from the final adoption of the bill, demand that it is not recommended for confirmation until new elections to the Inatsisartut have taken place and the bill has again been adopted by the Inatsisartut then convening.

Imm. 4. Any question concerning the legality of the expropriation act and the amount of compensation may be brought before the courts.

§ 13. Everyone has the right to his or her own religious or other convictions. Everyone has the right to change his or her beliefs.

Imm. 2. Everyone has the right to practice their faith, alone or with others, in private and public spaces. Everyone has the right to express their religious beliefs.

Imm. 3. Everyone has the right to form and join a religious association. Everyone has the right not to join a religious association.

§ 14. Everyone has the right to work. Everyone has the right to seek employment of his own choice and to engage in business and trade.

Imm. 2. Everyone who is able to do so has a social duty to be useful through work as far as possible.

§ 15. Everyone has the right not to be discriminated against on the grounds of gender, skin color, faith, age, disability and sexual orientation.

Imm. 2. Everyone is equal regardless of gender.

§ 16. Everyone has the right to assemble unarmed without prior permission.

Imm. 2. The police have the right to attend public assemblies. Assemblies may be prohibited if there are fears for safety, law and order.

Imm. 3. In the event of a riot, the armed forces, when not under attack, may only intervene after the crowd has been called upon three times in vain to disperse in the name of the law.

§ 17. Everyone has the right to form and be a member of an association with a lawful purpose, including trade unions and political associations. No one can be forced to be a member of an association.

Imm. 2. Associations can only be dissolved by judgment. An association may be provisionally prohibited, but the matter must be brought before a court immediately.

Imm. 3. Cases concerning the dissolution of political associations shall be brought before the supreme court of the state without special authorization.

§ 18. Everyone has the right to a life of honor.

Imm. 2. Everyone has the right to equal access to social security from the state if they

cannot provide for himself or herself or his or her dependants. Social security due to unemployment, maternity, old age, poverty, disability, illness or similar.

§ 19. The Greenlandic people are a people who have the right to utilize the resources of the Greenlandic environment and nature and to harvest these.

Imm. 2. As a people, we consider sustainable utilization to be that we taking care of nature, economy, social and cultural sustainability.

Imm. 3. Anyone with Greenlandic citizenship has the right to hunt for your own livelihood.

Imm. 4. Frameworks and requirements for hunting shall be determined by law.

Imm. 5. The preservation of hunting animals and other fauna shall be ensured by law.

§ 20. Everyone has the right to live in a clean and healthy environment that is protected on a sustainable basis.

Imm. 2. Everyone has the right to work to ensure that development takes place on a sustainable basis and that there is no damage to fauna and the environment.

§ 21. The death penalty must never be introduced.

Imm. 2. No one shall be tortured or otherwise subjected to inhuman or or degrading treatment or punishment.

Imm. 3. No one shall be subjected to slave or forced labor.

§ 22. The work and organization of the judiciary shall be laid down by law.

Imm. 2. The exercise of the judicial power shall be determined by law. Special courts with judicial authority may not be established.

Imm. 3. The court has the right to decide on the authority of the public authority if its limits are called into question. The person raising the question must comply with the order of the public authority until a decision is made.

Chapter III

Inatsisartut

§ 23. Inatsisartut is a popularly elected legislative assembly.

Imm. 2. The members of Inatsisartut are elected for 4 years by direct and secret elections.

Imm. 3. Inatsisartut is inviolable.

Imm. 4. The members of Inatsisartut shall be bound by their convictions alone.

Imm. 5. Every new member shall, immediately after the approval of the election, make a solemn promise that he or she will abide by the Constitution.

Imm. 6. The Inatsisartut has a quorum when at least half of its members are present and participate in the vote.

Imm. 7. The meetings of Inatsisartut shall be open to the public unless there are extraordinary reasons to the contrary.

Imm. 8. Inatsisartut shall determine its own rules of procedure.

§ 24. No member of Inatsisartut may, without the consent of Inatsisartut, be held liable outside Inatsisartut for his or her statements in Inatsisartut.

Imm. 2. No member of Inatsisartut may, without the consent of Inatsisartut, be prosecuted or subjected to deprivation of liberty of any kind, unless the member has been caught in the act.

Election and eligibility to Inatsisartut

§ 25. Any person with Greenlandic citizenship who has reached the age of 18 years and who is not incapacitated shall be entitled to stand for election to Inatsisartut.

Imm. 2. Anyone who complies with § 25(1) is eligible for election to Inatsisartut.

Imm. 3. Inatsisartut shall itself determine the validity of its members' elections and the question of whether a member has lost his or her eligibility to stand for election.

Imm. 4. If a member requests to resign from Inatsisartut or to be granted leave of absence, Inatsisartut shall decide whether the request can be granted.

Committee work

§ 26. Inatsisartut shall constitute itself into statutory and standing committees.

Imm. 2. Inatsisartut shall have a Finance Committee which shall deal with matters for prior approval outside the session of Inatsisartut.

Imm. 3. Inatsisartut shall have a Foreign Policy Committee for foreign affairs, where mutual consultation with Naalakkersuisut shall take place.

Imm. 4. Inatsisartut shall have a Law Committee established by law.

Legislative process

§ 27. Any member of Inatsisartut or Naalakkersuisut may submit bills and motions.

Imm. 2. Inatsisartut law may not be contrary to the Constitution.

Imm. 3. Bills and the like must be made available to the public when the bill is introduced.

Imm. 4. Bills must go through 3 readings before final adoption.

Imm. 5. If a bill has met the requirements of section 27(4), it must be enacted by the Chairman of Naalakkersuisut within 4 weeks of final adoption. If the bill is not enacted, it shall be finally adopted again in Inatsisartut and then enacted by the President of Inatsisartut.

Imm. 6. Announcement of a new Act shall be laid down by law.

Imm. 7. The Finance Bill for the coming financial year shall be submitted to Inatsisartut no later than four months before the beginning of the financial year.

Imm. 8. If the consideration of the Finance Bill for the coming financial year cannot be expected to be completed before the beginning of the financial year, a proposal for a temporary appropriation act shall be submitted to Inatsisartut.

Ombudsman

§ 28. Inatsisartut shall appoint an Ombudsman to assess the administration of the State and the municipalities.

Imm. 2. In his administration, the Ombudsman is independent of Inatsisartut and Naalakkersuisut.

Imm. 3. If the Ombudsman no longer enjoys the confidence of Inatsisartut, Inatsisartut may dismiss the Ombudsman.

Chapter IV
Naalakkersuisut

Authority and responsibility

§ 29. Naalakkersuisut is the executive authority in the enforcement of legislation.

Imm. 2. The chairman of Naalakkersuisut is the head of state.

Imm. 3. The work of Naalakkersuisut is based on the confidence of the Inatsisartut.

Imm. 4. Naalakkersuisut is responsible for the administration of Naalakkersuisut. Accountability shall be specified by law.

Imm. 5. Naalakkersuisut may not use funds without the consent of Inatsisartut.

Imm. 6. The Chairman of Naalakkersuisut may announce elections to Inatsisartut.

Formation of Naalakkersuisut

§ 30. The Chairman of Naalakkersuisut shall be elected from among the members of Inatsisartut.

Imm. 2. The members of Naalakkersuisut are elected by Inatsisartut.

Imm. 3. The Chairman of Naalakkersuisut determines the number of Naalakkersuisut and the division of powers between them.

Imm. 4. Every Naalakkersuisoq must at an inauguration ceremony promise to abide by the Constitution.

Imm. 5. Inatsisartut shall determine the validity of the election of members of the Naalakkersuisut and whether a member has lost his or her eligibility.

Bringing Naalakkersuisut to court

§ 31. The members of Naalakkersuisut are legally responsible for the administration of their own areas of responsibility. Rules for this responsibility shall be laid down by law.

Imm. 2. Inatsisartut may indict members of Naalakkersuisut for their administration of their office.

Imm. 3. In the event that a Naalakkersuisoq is accused on the basis of their administration of their office, the case must be brought before the court.

Vote of no confidence

§ 32. No member of Naalakkersuisut may remain in office after Inatsisartut has expressed its vote of no confidence in the person concerned.

Chapter V
Local self-government

§ 33. Municipal self-government is based on democracy.

Imm. 2. The municipal council is an elected body which is the supreme authority in the municipality and shall administer the affairs of the municipality in accordance with the Act on Local Government.

Imm. 3. Municipalities may levy municipal tax.

§ 34. The members of the municipal council shall be elected by ordinary direct and secret ballot for a 4-year term of office.

Imm. 2. Seats are distributed in proportion to the number of voters.

Right to vote and eligibility in municipal elections

§ 35. Anyone who has Greenlandic citizenship, is resident or is liable to pay tax in Greenland has the right to vote if the person concerned is not incapacitated.

Imm. 2. No one may be nominated as a candidate for election without his or her own consent.

Imm. 3. Eligibility for election to the municipal council is determined by law.

Chapter VI

Eqqartuussiviit and the administration of justice

The judiciary

§ 36. The courts in Greenland are the Supreme Court and the lower courts, as well as international courts recognized by the state.

Imm. 2. Inatsisartut may not establish other courts. Special courts with judicial power cannot be established.

Imm. 3. The organization of the courts shall be determined by law.

Judicial review

§ 37. Courts hear criminal, civil and administrative cases.

Imm. 2. The Supreme Court has the right to review the limits of the executive authority, including the question whether a law or part of a law is compatible with this Constitution.

Imm. 3. Judges are bound only to follow the law.

Exercise by law

§ 38. The exercise of the judicial power can only be regulated by law.

Actors of the courts

§ 39. Judges adjudicate in cases submitted to the court.

Imm. 2. A medical practitioner shall participate in criminal proceedings. There shall be laid down by law which cases and under which forms this participation shall take place, including in which cases jurors shall participate.

Imm. 3. Only the public prosecutor, the chief of police and lawyers may bring charges.

Judicial Appointment Council

§ 40. An independent Judicial Appointments Council shall be established to make recommendations for the appointment of judges.

Imm. 2. A judge may not be a member of Inatsisartut, Naalakkersuisut or a municipal council.

Imm. 3. Judges may not be removed from office except by judgment. Judges may not be transferred against their will, except in the event of a reorganization of the courts. However, a judge who has reached the age of 70 may be dismissed.

The public prosecutor

§ 41. The Public Prosecutor takes care of the country's legal proceedings and advises the country's institutions.

Imm. 2. The Chairman of Naalakkersuisut shall submit a proposal for a candidate for Public Prosecutor to Inatsisartut for approval before the Chairman of Naalakkersuisut appoints him/her.

Administration of justice

§ 42. The administration of justice shall be determined by law.

Chapter VII

Foreign policy and international affairs

§ 43. Naalakkersuisut is responsible for Greenland's foreign policy and international relations. Naalakkersuisut acts on behalf of Greenland and enters into agreements and negotiations with other states and/or international organizations on binding intergovernmental cooperation.

Imm. 2. International actions and agreements that are significant must be approved by Inatsisartut.

Imm. 3. International agreements that include legislation must be adopted as law by Inatsisartut before they can enter into force. Intergovernmental agreements require the consent of Inatsisartut.

People-to-people affairs

§ 44. Naalakkersuisut may, with the consent of Inatsisartut, enter into a treaty on sovereignty derogation.

Imm. 2. In the event that Naalakkersuisut intends to transfer powers or competences to other states or intergovernmental organizations, Inatsisartut must adopt this as a law with a 3/4 majority. After this, the people must decide on the agreement in a referendum within 1 year by a simple majority. More than half of those entitled to vote must have cast a vote.

Imm. 3. Inatsisartut shall set up a sovereignty board consisting of Supreme Court judges to deal with matters relating to section 44(2). The board shall be established by law.

Imm. 4. Withdrawal from a treaty on surrender of sovereignty follows the same procedure as in Section 44(2).

Imm. 5. Powers and competence under subsection (2) and treaties on surrender of sovereignty may not infringe the rights of the people.

Imm. 6. Withdrawal from a treaty on powers under subsection (2) follows the same procedure as in section 44(2).

Foreign Policy Board

§ 45. Inatsisartut shall establish a Foreign Policy Board with which Naalakkersuisut shall consult in matters concerning foreign, international and security policy decisions of major importance.

Imm. 2. The members of the Foreign Policy Board are subject to professional secrecy.

Imm. 3. Further rules on the Foreign Policy Board shall be laid down by law.

Imm. 4. The Government of Greenland shall keep the Foreign Policy Board informed on an ongoing basis.

Chapter VIII

Security and Defence

§ 46. Greenland's territory is indivisible.

Imm. 2. Naalakkersuisut is responsible for Greenland's security and defence.

Imm. 3. The sovereignty and defence of Greenland must be ensured.

Imm. 4. Defence and security matters can be ensured through cooperation with other states and/or intergovernmental organizations.

Chapter IX

Emergency law

§ 47. Naalakkersuisut may, with the consent of Inatsisartut, declare a state of emergency in the country.

Imm. 2. In the event that a state of emergency is declared, Naalakkersuisut will be granted enhanced powers, but there are certain rights that will be mandatory.

Imm. 3. Detailed conditions for a state of emergency will be adopted by law.

Imm. 4. The Supreme Court will assess whether the conditions and procedures for declaring a state of emergency are met in an emergency situation.

Chapter X

Amendments to the Constitution

How to make changes

§ 48. If Inatsisartut adopts a bill for amendments or additions to this Constitution, Inatsisartut shall immediately resign and new elections to Inatsisartut shall be held.

Imm. 2. If the bill is adopted without amendments to the text by the newly elected Inatsisartut, a referendum shall be held no later than 3 months after the adoption of the bill.

Imm. 3. If at least 3/4 of the voters support the bill in the referendum, the President of Naalakkersuisut shall adopt the bill.

Chapter XI

Entry into force and transitional provisions

§ 49. This Constitution shall enter into force by proclamation.

Imm. 2. More detailed provisions necessary for the implementation of the Constitution shall be laid down by law.

Imm. 3. Existing laws and other principles of legislation that conflict with amendments to the Constitution remain in force until provisions are made in accordance with this Constitution.

CHAPTER XII

Explanations of the draft constitutional provisions

The explanations of the draft constitutional provisions describe some of the considerations underlying the provisions of the draft.

Most of the discussions and considerations underlying the drafting of the provisions took place in the three working groups to which the commission's work was assigned from August 2019 to May 2022. The explanations have therefore been prepared by a member of each working group.

Explanations of provisions that have been dealt with in the Working Group on Forms of Government have been prepared by Ineqi Kielsen.

Explanations for provisions that have been dealt with in the Working Group on Foreign Policy and Security have been prepared by Mari Kleist.

For provisions that have been dealt with in the Working Group on Human Rights and Obligations, only a limited number of explanations have been prepared.

Due to time constraints in relation to the submission of the report, it has not been possible to ensure translation from Greenlandic to Danish of most of the explanations.

[See original for content in Greenlandic about Chapter 1-3]

Chapter VI

The courts and the administration of justice

§§ 36-42

Neither the working group on forms of government nor the commission as a whole reached a final decision on the chapter on the court system in the draft constitution. At the end of 2022, the secretariat was tasked with obtaining a memorandum on a proposal for some considerations for provisions regarding a Greenlandic court system.

The secretariat initiated a meeting with National Judge Kirsten Thomassen, National Defender Finn Meinel and Police Commissioner Bjørn T. Bay - all three agreed to contribute with their knowledge in their area in relation to court provisions for a draft constitution.

The task was:

- How the legal system in Greenland is structured today
- Background knowledge of the layman system, including advantages and disadvantages
- Whether it is necessary to establish a special court (rigsrett) in Greenland
- What could be future objectives for the courts in Greenland

In early February 2023, the secretariat received two memos; one from National Judge Kirsten Thomassen, which National Defender Finn Meinel agrees with, and one from Police Director Bjørn T. Bay. These memos are attached as annexes 9 and 10, respectively, and can be found and read in their entirety in the annex overview (*page 38*).

The provisions in the chapter on the judicial system should therefore not be seen as a complete constitutional commission's statement, but rather as part of the wider debate on the entire draft constitution.

Chapter VII

Foreign policy and international relations

To § 43

The term “International Relations” is used instead of the term “Foreign Policy”. “International relations” is a broader term that can include other elements than just foreign policy, which the term also includes. It may concern international management cooperation on specific fish stocks, international health cooperation, climate policy, research cooperation, educational cooperation, cultural cooperation, transport policy and the like, all of which can be part of a foreign policy, but which are not limited to it. The respective responsible members of the Naalakkersuisut will each have the basic responsibility in the individual areas of responsibility when it comes to international government cooperation.

Naalakkersuisut may enter into bilateral agreements with other states, organizations and the like, and multilaterally when it is a collection of states either in an international organization or a group of states formed for the occasion.

§ Section 43 does not include interest organizations and the like that enter into international agreements with other countries' interest organizations. However, such organizations will still have to comply with the country's laws and international obligations.

To paragraph 2

There is a basic materiality criterion that must be observed when Naalakkersuisut enters into international negotiations and agreements. This is in a bilateral or multilateral context, whereby

consent must be obtained from Inatsisartut to initiate negotiations and enter into agreements if the agreements are significant. This does not refer to declarations of intent and the like, but to agreements that have the character of legislation, will have greater economic significance, and/or will lead to changes in fundamental policies.

Consent can be obtained from an Inatsisartut committee or similar body.

To paragraph 3

All concluded international agreements that include legislation can only enter into force with the consent of the Parliament of Greenland. Regardless of whether the international agreement itself is to be ratified, or whether changes are to be made to existing legislation or entirely new legislation is to be enacted, Inatsisartut must give its consent. Inatsisartut's consent is given through a vote in Inatsisartut.

To § 44

Naalakkersuisut may initiate negotiations to transfer powers to other states or intergovernmental organizations.

If Naalakkersuisut intends to enter into a treaty with another state or intergovernmental organization where the transfer of powers to that state or intergovernmental organization is at issue, consent from Inatsisartut to Naalakkersuisut must be given prior to the commencement of negotiations by a consent given as a resolution in Inatsisartut.

An example could be a so-called Free Association relationship, as described in United Nations Resolution 1541 from the 948th General Assembly of the United Nations in 1960. Plenary Assembly in 1960 - with cases of free association in the Pacific in particular. In such free association cases, powers are more or less transferred to another state in areas of jurisdiction where the freely associated state lacks capacity and/or resources. There may be economic transactions between the parties in such relationships.

Another example could be when a state enters into an intergovernmental union with other cooperation with other states as in the European Union. In such a case, powers are entrusted to bodies established by the intergovernmental cooperation - for example, the European Council, the Council, the European Commission and the European Parliament.

The above examples are not exhaustive. Regardless of the circumstances entered into under the provisions of section 44, the fundamental right of the Greenlandic people to exercise their sovereignty cannot be lost.

To paragraph 2

If Naalakkersuisut intends to transfer powers to another state or intergovernmental organization, Inatsisartut must adopt this with a qualified majority. A simple majority is not considered sufficient in a matter of transferring powers to another state or intergovernmental organization. A 3/4

majority of the full membership of the Inatsisartut is considered an appropriate qualified majority decision. The majority proportion reflects the seriousness of the matter of ceding powers from the directly democratically elected representatives in Greenland to another state or intergovernmental organization.

Naalakkersuisut must never cede powers to another state or intergovernmental organization without still having the opportunity to influence decisions affecting Greenland and the Greenlandic people in the areas where powers are ceded.

To § 45

Inatsisartut must at all times have a permanent standing foreign policy committee that Naalakkersuisut can consult in matters of major foreign, international and security policy decisions that are relevant and where Naalakkersuisut needs to ensure that there is political support for a specific Greenlandic position on a matter, a starting point in a negotiation or a specific decision.

To paragraph 2

In cases of major foreign, international and security policy decisions, there may be sensitive matters and information related to relations with other countries and organizations and the like, and there may be issues related to national and international security and peace, which require a forum where information is kept secure and confidential, and that considerations and discussions can flow freely so that advice for decisions can be made on the best possible basis.

Therefore, there is a requirement of confidentiality for the members of the Foreign Policy Committee. If the duty of confidentiality is not respected, the member may be sanctioned. Inatsisartut must ensure that rooms and any communication lines are secure and suitable for confidential consultation. In the event that the responsible Naalakkersuisoq cannot be physically present, Naalakkersuisut must ensure that the Naalakkersuisoq communicates via secure communication lines.

To paragraph 3

More detailed rules for the Foreign Policy Board are determined by relevant legislation for the workflow between Inatsisartut and Naalakkersuisut, and are elaborated in the Rules of Procedure for Inatsisartut. Consultation must be able to take place without the same written requirements as in other committees, as the Government of Greenland's need for consultation in relevant cases can occur at very short notice. Cases may be submitted with material exclusively in the language in which the Government of Greenland has received the material. However, the material must be comprehensible and meaningful in a language that the members of the board should reasonably be able to understand. All parties in Inatsisartut must be represented in the foreign policy committee.

To paragraph 4

The Government of Greenland's general briefing of the Foreign Policy Committee must be meaningful, take place at least every other month, not necessarily during the main holiday periods, and may include more than just advice on cases.

To § 46

Greenland's territory is indivisible. Greenland's territory consists of land, sea and air. Greenland may, for example, in relation to diplomatic and similar matters, enter into agreements with other countries on special rules and laws for a specified area in Greenland.

To paragraph 2

Naalakkersuisut will always have the fundamental responsibility for the management and coordination of Greenland's security and defence.

To paragraph 3

The sovereignty and defence of Greenland must be ensured in such a way that Greenland's territorial integrity is not violated and that society's democracy is maintained and citizens can lead safe and meaningful lives.

To paragraph 4

Defence and security matters may be ensured through cooperation with other states and/or intergovernmental organizations, especially to the extent that Greenland does not have the capacity and resources to maintain an adequate level of defence and security for the territory, society and its citizens. To the extent that Greenland has the resources and capacity for parts of the defence and maintenance of security of territory, society and citizens, Greenland shall assume this responsibility itself. Cooperation with other states and/or intergovernmental organizations in the field of security and defence must never infringe on Greenlandic citizens and any delegation of competence must always be withdrawn. The Government of Greenland must always have the opportunity to participate in decisions made in relation to the defence and security of Greenland.

To § 47-49

No explanations.

ANNEXES

Annex Overview

1. Terms of reference for the Constitutional Commission.
2. Oqaatsinut allattorsimaffik nunap naalakkersuinikkut aaqqissuusaaneranut tunngasut. Qallunaatuumiit kalaallisuumut/Constitution glossary. From Danish to Greenlandic, March 2023, Inatsit Tunngaviusussaq pillugu Isumalioqatigiissitat.
3. Mike Sfraga and Jack Durkee (eds.), External insight and analysis by the polar Institute of the Wilson Center for Consideration by the Greenlandic Constitutional Commission. Greenland's Geopolitical Position and Strategic Importance, April 21, 2021, Wilson Center's Polar Institute.
4. Dalee Sambo Dorough, Indigenous Peoples' Rights in relation to the Future of Kalaallit Nunaat, September 8, 2021.
5. Claire Charters (Ngāti Whakaue, Tūwharetoa, Tainui, Nga Puhī) and Erin Matariki Carr (Tūhoe and Ngāti Awa), Perspectives from the Pacific on Constitutional Transformation: Realizing Indigenous Peoples' Sovereignty and Indigenous Law, Thursday 28 October [Greenland] Friday 29 October [New Zealand] 2021, University of Auckland.
6. Kent Fridberg, Memorandum regarding confirmation processes for laws, October 10, 2022, Bureau for Inatsisartut.
7. Elisa Skytte, Memorandum regarding the description of the confirmation process of laws, September 20, 2022, Department of the President.
8. Klaus Georg Hansen, Memorandum to the Constitutional Commission regarding three selected constitutional republics, September 5, 2022.
9. Bjørn Tegner Bay, Memorandum to the Constitutional Commission on draft provisions on Greenland's court system, freedoms etc., January 17, 2023, Kalaallit Nunaanni Politiit.
10. Kirsten Thomassen, Memorandum on Greenland's Courts, January 31, 2023, Kalaallit Nunaanni Eqqartuussiviit.

ANNEX 1

Terms of Reference for the Constitutional Commission

COMMITTEES

Committee 1	April 27, 2017
Committee 2	March 29, 2019
Addendum to Committee 2	May 31, 2019
Committee 3	May 29, 2020
Addendum to Committee 3	November 17, 2020
Committee 4	September 3, 2021

COMMITTEE 1

April 27, 2017

Namminiilivinnermut, Nunanat Allanut Nunalerinermullu Naalakkersuisoqarfik
 Ministry of Independence, Foreign Affairs and Agriculture NAALAKKERSUISUT
 GOVERNMENT OF GREENLAND

Terms of reference for the Constitutional Commission

Since Inatsisartut and Naalakkersuisut have decided that a constitution must be drawn up, a constitutional commission was established. The constitutional commission must prepare a proposal for a constitution, which must be presented in its entirety once the commission has completed its work.

The constitutional commission is composed with a desire for political representation of all parties in the commission. Professional expertise and qualified knowledge of our country must also be included in the work of writing the draft constitution.

The Danish Government and the Greenland Self-Government agree that it is up to the Greenlandic people to decide whether Greenland wants independence.

The work of the Constitutional Commission

The Constitutional Commission must prepare a proposal for Greenland's constitution in two stages, where one part of the constitution must be able to enter into force under self-government and supplement the Danish Kingdom's constitution as far as Greenland is concerned, within the framework of the Danish Kingdom. The second part of the constitution will only come into force when Greenland withdraws from the constitution and the Danish realm, and the Greenlandic people form their own independent state.

It is up to the Constitutional Commission to assess and decide whether alternative provisions should be prepared for the same area of legislation in the draft constitution. So that for the same area in the constitution, there are provisions that apply during the period in the Danish realm, and

new provisions that are ready to take their place when independence occurs. Or, for example, that for each area of the constitution only one provision is made. Some provisions will come into force during the period in the Danish realm, and the remaining provisions will come into force when independence in Greenland occurs.

The Constitutional Commission must involve the Ministry of Justice in the Greenlandic constitutional work to ensure that the Ministry of Justice can regularly assess draft provisions of the constitution to be drafted under the Self-Government. This ensures that this part of the content of the draft constitution can be accommodated within the framework of the Constitution. The Commission decides how the Ministry of Justice should be involved.

The Constitutional Commission must also draft provisions that enable our country's entry into intergovernmental cooperation, such as the conclusion of a free association agreement with another state once Greenland's independence has been established.

The Constitutional Commission organizes its own work, including the possibility of setting up working groups. The Commission may obtain expertise and information from the central administration, from civil society and from sources outside the country for its work - both on a permanent and ad hoc basis.

The Constitutional Commission may have a legitimate need to hold confidential meetings where discussions can be held and questions can be asked freely. However, considerations of public and Inatsisartut involvement must also weigh heavily in order to provide greater co-ownership of the final draft constitution.

Composition of the Constitutional Commission

The Constitutional Commission shall consist of seven members, and the Commission shall be composed so that all parties that have been elected to Inatsisartut are represented. The parties are represented proportionally according to the size of the parties in Inatsisartut after the most recent Inatsisartut election. This means that changes in the composition of Inatsisartut between elections will not result in changes in the composition of the Constitutional Commission.

The parties nominate their own members of Inatsisartut to the Constitutional Commission. Members of Naalakkersuisut cannot be nominated to the Constitutional Commission. The members of the commission must be approved by Naalakkersuisut after consultation with the Inatsisartut's ad hoc committee "Committee on the Constitutional Commission".

Among the nominated members, the party that received the most votes in the last Inatsisartut election appoints the chairman of the Constitutional Commission, and the vice-chairman of the Commission is appointed by the second largest party in Inatsisartut.

If a member of the Constitutional Commission does not stand for re-election or is not re-elected to Inatsisartut in an Inatsisartut election, the member must resign from the Commission and a new member must be appointed. However, if special considerations warrant it, a party may choose to re-nominate a non-re-elected Inatsisartut member to the Commission. The member can continue

in the commission if this is approved by the chairmanship of the commission and Naalakkersuisut. If the chairmanship of the commission resigns from Inatsisartut, it will only be Naalakkersuisut that will have to approve that they (chairman and vice-chairman of the commission) can continue.

Commission members do not receive any remuneration other than the Inatsisartut remuneration. Commission members who do not receive Inatsisartut remuneration (or any subsequent remuneration) will also not receive remuneration for the commission work.

Members of the Constitutional Commission must work independently of external interests.

Appointees to the Constitutional Commission

Naalakkersuisut can appoint two to four permanent appointees to the Constitutional Commission.

The Constitutional Commission may appoint two to four permanent deputies to the Constitutional Commission, after which the chairmanship of the Commission shall inform the Government of Greenland. The opposition is given the opportunity to nominate one of these appointees.

Efforts should be made to ensure that the assigned persons collectively possess a wide range of relevant competencies, including (but not limited to) legal expertise.

Other experts, be it representatives/experts from public bodies, interest groups, local elected representatives or other resource persons, may participate on an ad hoc basis in the work of the Commission at the invitation of the Presidency.

Commissioners must contribute their professional knowledge and experience to the work of the commission, but cannot participate in the final decision-making on the content of the draft constitution.

As a rule, deputies are not replaced after an election to Inatsisartut.

Citizen engagement

During its work, the Constitutional Commission shall reach out to all parts of the country both physically and electronically. The Commission must ensure that it meets the population, present preliminary considerations and get immediate reactions to some of the factual and fundamental issues and value considerations that the Commission deals with.

The Commission may decide to organize a conference in order to obtain knowledge and inspiration from outside, but also to discuss basic relevant constitutional law topics, principles and values and help to better introduce the considerations around these to the public.

All citizens, including children, youth and adults, have the right to submit proposals to the Constitutional Commission. Members of the Commission, the Presidency and deputies may decide to take up such a proposal in the Commission if the proposal is suitable for further consideration by the Commission.

The Commission must create a website where the public can read, among other things, all the suggestions submitted by citizens.

Secretariat for the Constitutional Commission

The Constitutional Commission shall establish a dedicated secretariat of appropriate size to serve the Commission in its work. The Constitutional Commission shall appoint the head of the secretariat after consultation with Naalakkersuisut.

It is up to the Constitutional Commission to organize its work, including deciding where the Constitutional Commission's secretariat should be located.

Time frame

The Constitutional Commission is expected to complete its work and submit its report containing a proposal for a constitution within a time frame of two to three years from its establishment. There is a possibility that the commission may have its work period, if this becomes necessary. An extension must be approved by Naalakkersuisut.

Financing

The Constitutional Commission, including the secretariat of the commission, is financed through its own main account in the Finance Act (main account 73.03.01). The establishment of the commission's secretariat and the financing of the commission's work, including secretarial assistance and travel, are paid within this framework.

COMMITTEE 2

March 29, 2019

Aningaasaqarnermut Naalakkersuisoqarfik
Department of Finance

NAALAKKERSUISUT
GOVERNMENT OF GREENLAND

Terms of reference for the Greenland Constitutional Commission

As Inatsisartut and Naalakkersuisut want a constitution to be drawn up for a future independent Greenland, a constitutional commission is established. The constitutional commission must prepare a proposal for a constitution, which must be presented in its entirety in Inatsisartut when the commission has completed its work.

The constitution must be based on and provide a framework for the culture, language and identity of the Greenlandic people.

Historically, the starting point for the inclusion of culture, language and identity will be Greenlandic, meaning the original Greenlandic people. But the constitution must take full account of the fact that in today's Greenland there are many citizens with other backgrounds.

The Constitutional Commission is composed with a desire for a politically broadly represented commission. Professional expertise and qualified knowledge about Greenland, the Greenlandic people, its history and culture must also be included in the work of writing the proposal for a constitution.

The draft constitution must be drawn up with a view to the constitution becoming the basic law for Greenland when Greenland becomes an independent state.

The work of the Constitutional Commission

The Constitutional Commission drafts a constitution for Greenland, which will come into force on the day Greenland becomes an independent state. The purpose of the constitution is to become the democratically adopted legal basis for an independent sovereign Greenlandic state. The draft is accompanied by a preamble that specifies the provisions of the constitution.

The Constitutional Commission has on a semi-annual basis reporting obligation to Naalakkersuisut on the progress of the preparation of a draft constitution for Greenland.

The Constitutional Commission organizes its own work, including the possibility of setting up working groups. The Commission may obtain expertise and knowledge from Naalakkersuisut, from Greenlandic civil society and from sources outside Greenland for use in its work. This can be done both on a permanent and ad-hoc basis.

In its work, the Commission must explain its use of definitions of the country, the people, rights, duties, governance and administration.

It is also expected that the above legislative preparatory work will include consideration of an arrangement in the form of a “free association” or another form of intergovernmental cooperation with another state.

Composition of the Constitutional Commission

The Constitutional Commission consists of seven members appointed by Naalakkersuisut on the recommendation of the parties represented in the last Inatsisartut election.

Members of Naalakkersuisut cannot be nominated to the Constitutional Commission.

The members of the commission must be appointed by Naalakkersuisut.

At the same time, gender equality is desired in the commission, according to the guidelines that follow from § 6 of the Greenland Parliament Act no. 3 of November 29, 2013 on equality of men and women, which states that “... *public committees, councils, commissions and the like, which are established by the Government of Greenland to prepare the establishment of rules or planning of social importance, shall be composed so that there is no more than one member of one gender than of the other.*”..

Naalakkersuisut then appoints, and after consultation with the Committee on the Constitutional Commission, a commission that is so composed that there is a maximum of one more member from each party, and so that the commission consists of one representative from each party in Inatsisartut. This means that the seven parties in Inatsisartut must nominate two persons each, but each party only gets one (1) member. The person who is not nominated as a member will act as a deputy.

The presidency consists of a chairman, vice-chairman and one member.

It is only the election results from the last Inatsisartut election that determines which parties appoint members of the commission.

Among the nominated members, the party that received the most votes in the last Inatsisartut election appoints the chairman of the Constitutional Commission. The vice-chairman of the Commission is appointed by the next largest party in Inatsisartut. The chairmanship consists of the chairman, vice-chairman and a third member elected from among the members of the Constitutional Commission. The election takes place in connection with the first constituent meeting of the Constitutional Commission.

Necessary replacement in connection with legal absence must, upon recommendation from the commission, be approved by the Government of Greenland on the basis of a new recommendation from the party that originally nominated the resigning member. In the event that a member is forced to resign from the commission early, the person who was nominated to the commission by the same party as the resigning member at the time of the commission's establishment will act as deputy until a new commission member is formally appointed. The appointment of the new member will follow the procedure described above.

Commission members who are members of Inatsisartut do not receive remuneration. Commission members who are civil servants in the central administration or municipalities are not paid separately for their work under the auspices of the commission, but receive the usual salary from their employer. The chairmanship of the Constitutional Commission will not receive separate remuneration.

Civil servants in central administration or municipalities must, prior to participation in the commission's work, obtain permission from their employer if the participation in the work takes place during working hours.

Permanent staff and selection of experts on an ad hoc basis

Subordinate members may be attached to the Constitutional Commission in order to provide the Commission with high-level, party-politically neutral advice.

Naalakkersuisut may appoint two to four permanent members to the Constitutional Commission, at least one of whom is an expert in constitutional law. The remaining appointees are expected to individually or collectively possess expert-level knowledge of international law or nation building.

The Constitutional Commission may appoint two to four permanent deputies to the Constitutional Commission.

The political parties represented in Inatsisartut at the time of the establishment of the Commission, which are not part of Naalakkersuisut, may appoint one permanent delegate to the Constitutional Commission.

As a rule, deputies are not replaced after an election to Inatsisartut.

The Constitutional Commission informs Naalakkersuisut via the Ministry of Justice about the appointment of permanent delegates.

It was assumed that the appointees together possess a wide range of relevant competencies, including (but not limited to) legal expertise. The remuneration of the co-opted members is paid in accordance with § 18(1) of Parliamentary Act no. 22 of December 18, 2003, as last amended by Parliamentary Act no. 42 of November 23, 2017, regarding remuneration to non-parliamentary members.

Other experts that the commission deems relevant may participate on an ad hoc basis in the commission's work at the invitation of the chairmanship and, where necessary, be remunerated in accordance with § 18(1) of Parliament Act no. 22 of December 18, 2003, as last amended by Parliament Act no. 42 of November 23, 2017, regarding remuneration to non-parliamentary members.

If such experts are employed in either the central administration, the municipalities or government, permission must be obtained from their employer.

Associates and experts contribute their professional knowledge and experience to the work of the commission, but cannot participate in the final decision-making on the content of the draft proposal.

Citizen Engagement

During its work, the Constitutional Commission shall seek to reach out to all towns and settlements. The Commission shall take care to meet the population, present preliminary considerations and get immediate reactions to factual, principled and value-related considerations that the Commission is currently dealing with. The Commission may use regular meetings, conferences, modern media and platforms, etc. in this work.

All citizens, including children, young people and adults, have the right to submit proposals to the Constitutional Commission. Members of the Commission, the Presidency and deputies may, at their discretion, decide to take up such a proposal in the Commission if the proposal is deemed suitable for further consideration.

The Commission shall set up a website to provide information on the progress of the Commission's work.

Secretariat for the Constitutional Commission

The Constitutional Commission shall establish a secretariat of appropriate size to serve the Commission in its work. The Constitutional Commission shall appoint the head of the secretariat after consultation with Naalakkersuisut.

It is up to the Constitutional Commission itself to organize its work, including deciding where the Constitutional Commission's secretariat should be located.

Timeframe

The Constitutional Commission shall organize its work with a view to submitting its draft for a Greenlandic constitution to Naalakkersuisut no later than 21 June 2021, so that Naalakkersuisut can present it to Inatsisartut during the autumn session 2021. To the extent that the Commission may consider it necessary to extend the working period, this must be approved by Naalakkersuisut.

In connection with the constitutional proposal, the commission prepares and submits a report specifying the provisions of the constitution.

Financing

The Constitutional Commission, including its secretariat, is financed through the Finance Act. The Constitutional Commission is free to apply for external funding.

ADDENDUM TO TERMS OF REFERENCE 2 May 31, 2019

Aningaasaqarnermut Naalakkersuisoqarfik
Department of Finance

NAALAKKERSUISUT
GOVERNMENT OF GREENLAND

Assumptions for the framework in the terms of reference for the work of the Constitutional Commission

Following the adoption in Inatsisartut on November 21, 2016, that a draft constitution for Greenland is to be prepared, the assumptions for the terms of reference are hereby outlined. These are the basis for the expectations for the commission's work, which, after preparation, must be submitted to the Inatsisartut's committee on the Constitutional Commission.

As this is the first time that the Greenlandic people are to decide on an independent constitution, this process should also be used to raise fundamental constitutional debates in the public sphere and to educate the people. The process presupposes that the Greenlandic people have been involved in the drafting process and feel ownership of the constitution.

The identity, culture and language of the Greenlandic people will of course be the starting point for the constitutional work, however, the constitutional work must take into account that in today's Greenland, society is made up of different peoples and these influences form part of the basis for today's social structure.

In this context, it is important that the debate takes into account all parts of the population of Groningen and the rights and traditions that should be protected in relation to the various minorities in the country. Consideration must be given to how Greenlanders living outside Greenland should be involved.

The Constitutional Commission's solution of the task thus presupposes that a position is taken in Greenland on fundamental concepts in a constitutional context, such as the country, the people, the language, rights, duties, administration and form of government.

Constitutional Commission's anchoring

The draft terms of reference operate with a number of concepts that need to be clarified in order to establish a constitution. The decisive factor in this context is a clear delimitation of the country itself and its citizens.

The delimitation of the nation of Greenland is provided for in the Self-Government Act's recognition of the Greenlandic people under international law and the reference that the sovereignty of the land follows the sovereign state.

But the concept of "the Greenlandic people" has never been defined in relation to a future citizenship, which will be the task of the commission.

The Greenlandic people can be defined in different ways. Therefore, a discussion about the Greenlandic people is desired, both from a legal and an identity-creating angle, with the involvement of all the people living in Greenland.

In the Constitutional Commission's citizen involvement and dialog with the population, special attention must be paid to the fact that the Commission hears the citizens of the Qaanaaq region and the citizens of Ostgronland about the Commission's work.

Similarly, attention must be paid to the ethnic, religious, gender and other minorities in the country, so that they are constitutionally protected against discrimination and guaranteed the same rights and duties as everyone else. Linguistic dialects may also be considered protected in this context.

The identity-building approach is understood as the attempt to reflect on who the Greenlandic people are and what the nation of Greenland is. The purpose of discussion, debate and reflection is to seek to make it possible for all residents of Greenland to identify with and create a community around a unified idea of the nation of Greenland.

The Constitutional Commission works with a perspective that is in principle open-ended.

This means that the constitution will have to create a framework for future decisions that no living person will experience or be able to foresee. The work assumes that Greenland is an independent state.

In this context, there is no need to defend or define oneself in relation to a colonial past.

In connection with the terms of reference, the Commission must prepare a reflection in which the background for the Commission's position on a number of fundamental issues is expected to be uncovered. These are issues such as (but not limited to):

- The delimitation of the borders of the State of Greenland
- Who are the future citizens of Greenland?
- How are citizens' freedoms guaranteed?
- How are the rights of minorities guaranteed?
- What duties can the state impose on citizens?
- How should the political system be organized and based on which values?
- How should the position of language in society be defined?

Working groups

It is described in the terms of reference that working groups can be set up consisting of members and deputies, where other experts can also be brought in on an ad hoc basis. The purpose of this is to ensure that the commission has as broad and objective a knowledge base as possible.

It is recommended that officials from Naalakkersuisut or Inatsisartut and organizations participate in the working groups on an ad hoc basis, and that these persons must have approval from their employer to use some of their working hours to perform work for the Constitutional Commission. It must be ensured that there is no confusion of interests in relation to the individual administrative areas and the long-term goals of the commission.

The purpose of the access to external experts is to ensure that more in-depth analysis of the various issues can be carried out and statements can be prepared to the members of the Commission. Possible topics for the work of the working groups and experts could be:

- The rights of the people in relation to the state of Greenland
 - State religion and freedom of religion
 - How far does freedom of speech go?
 - Who owns the natural resources?
 - How far do individual rights extend in relation to the interests of society?
- Working group on governance
 - Positive vs. negative parliamentarism and electoral rights and representativeness
 - Which forms are most appropriate for the future Greenland.
- Advantages and disadvantages of participation in international governmental cooperation and what requirements this places on a future form of government.
- Possible forms for the future relationship between Greenland and Denmark, including Free Association, federal state structures or similar.
- Financial and economic organizations in relation to an independent status.

Proposal for a constitution

Proposals for a constitution must be submitted as a draft law to which comments on the proposal and the individual provisions of the proposal have been prepared. This can be included in the Constitutional Commission's consideration, together with reports etc. prepared by the working groups.

It is described in the terms of reference that the Forfaming Commission has a duty to report on a regular basis. This is to encourage progress and quality during the preparation phase of a draft constitution for Greenland. The deadline for submission of the periodic reports is the first Monday in March and the first Monday in September. The document must be submitted to the Naalakkersuisoq responsible for the resort, who will inform the Naalakkersuisut and the Committee on the Constitutional Commission.

Composition of the Constitutional Commission

To ensure a coherent work of the commission, members are appointed for the lifetime of the commission.

At the same time, gender equality in the commission is desired in accordance with the guidelines set out in the Gender Equality Act.

Naalakkersuisut then appoints, after consultation with the Committee on the Constitutional Commission, a commission composed in such a way that there is a maximum of one more member from one party, and so that the commission consists of one representative from each party in Inatsisartut.

The terms of reference further explain the rules for the appointment of members and deputies and the procedure in the event that a member resigns from the commission prematurely.

Only the election result from the last Inatsisartut election determines which parties appoint members of the commission

Assignees

Those selected as appointees must be experts who can advise and guide the members of the commission. The expertise of the appointees can be academic, based on work and life experience or other. Thus, it is only those who appoint the appointees who judge the qualifications of the desired appointees. The possibility of inviting experts on an ad hoc basis should be utilized as far as possible for specific questions of principle.

Citizen engagement

It is important that citizens are involved in the process, and the Constitutional Commission or its representatives are expected, as far as possible, to hold public meetings in as many of the country's

towns and settlements as is practically possible. It is the Constitutional Commission itself that decides the form and content of such public meetings.

The Commission could also usefully seek to involve citizens through modern electronic platforms.

Time frame

The proposed deadline in the terms of reference is based on the current situation. This can be changed by political decision in Naalakkersuisut.

However, with experience from Iceland and the Faroe Islands, as well as recommendations in the report on the establishment of a constitutional commission in Greenland, short deadlines are recommended.

Functional description of the work of the Constitutional Commission and Naalakkersuisut

The main task of the Constitutional Commission and the secretariat is, in accordance with the terms of reference, to draft a proposal for a constitution for Greenland that will enter into force on the day Greenland becomes an independent state.

It is desired that the Constitutional Commission is governed according to the arm's length principle, so that the Naalakkersuisut, which is in office at any given time, does not exert any direct influence on the commission's work.

The secretariat of the Constitutional Commission is responsible:

- To process the Constitutional Commission's living proposals for the content of the constitution
- To prepare the biannual reports
- To create a debate and information work about the constitution that ensures that all citizens can provide input.
- To collect knowledge and formulate reports, statements, memos and the like for use in the report
- To act as secretariat for the individual working groups that were set up.
- To coordinate and plan all moderators in the working groups and the commission.

The Constitutional Secretariat serves only the Constitutional Commission and shall provide secretarial assistance to the Constitutional Commission. This includes, among other things, assistance in the preparation of the draft constitution itself, semi-annual reports, advice and servicing of the commission and its sub-groups' mode preparation and follow-ups as well as dissemination tasks.

The Constitutional Secretariat serves only the Constitutional Commission and shall provide secretarial assistance to the Constitutional Commission. This includes, among other things, assistance in the preparation of the draft constitution itself, semi-annual reports, advice and service

to the Commission and its subgroups' meeting preparation and follow-up, as well as communication tasks.

COMMITTEE 3

May 20, 2020

Aningaasaqarnermut Naalakkersuisoqarfik
Department of Finance

NAALAKKERSUISUT
GOVERNMENT OF GREENLAND

Terms of reference for the Constitutional Commission of Greenland

As Inatsisartut and Naalakkersuisut want a constitution to be drawn up for a future independent Greenland, a constitutional commission was established. The constitutional commission will prepare a proposal for a constitution, which will be presented in its entirety in Inatsisartut when the commission has completed its work.

The constitution must be based on and provide a framework for the culture, language and identity of the Greenlandic people.

Historically, the starting point for the inclusion of culture, language and identity will be Greenlandic, meaning the original Greenlandic people. But the constitution must take full account of the fact that in today's Greenland there are many citizens with other backgrounds.

The Constitutional Commission is composed with a desire for a politically broadly represented commission. Professional expertise and qualified knowledge about Greenland, the Greenlandic people, its history and culture must also be included in the work of writing the proposal for a constitution.

The draft constitution must be drawn up with a view to the constitution becoming the basic law for Greenland when Greenland becomes an independent state.

The work of the Constitutional Commission

The Constitutional Commission drafts a constitution for Greenland, which will come into force on the day Greenland becomes an independent state. The purpose of the constitution is to become the democratically adopted legal basis for an independent sovereign Greenlandic state. The draft is accompanied by a preamble that specifies the provisions of the constitution.

The Constitutional Commission has on a semi-annual basis reporting obligation to Naalakkersuisut on the progress of the preparation of a draft constitution for Greenland.

The Constitutional Commission organizes its own work, including the possibility of setting up working groups. The Commission may obtain expertise and knowledge from Naalakkersuisut, from Greenlandic civil society and from sources outside Greenland for use in its work. This can be done both on a permanent and ad-hoc basis.

In its work, the Commission must explain its use of definitions of the country, the people, rights, duties, governance and administration.

It is also expected that the above legislative preparatory work will include consideration of an arrangement in the form of a “free association” or another form of intergovernmental cooperation with another state.

Composition of the Constitutional Commission

The Constitutional Commission consists of seven members appointed by Naalakkersuisut on the recommendation of the parties represented in the last Inatsisartut election.

Members of Naalakkersuisut cannot be nominated to the Constitutional Commission.

The members of the commission must be appointed by Naalakkersuisut.

At the same time, gender equality is desired in the commission, according to the guidelines that follow from § 6 of the Greenland Parliament Act no. 3 of November 29, 2013 on equality of men and women, which states that “... *public committees, councils, commissions and the like, which are established by the Government of Greenland to prepare the establishment of rules or planning of social importance, shall be composed so that there is no more than one member of one gender than of the other.*”..

Naalakkersuisut then appoints, and after consultation with the Committee on the Constitutional Commission, a commission that is so composed that there is a maximum of one more member from each party, and so that the commission consists of one representative from each party in Inatsisartut. This means that the seven parties in Inatsisartut must nominate two persons each, but each party may only nominate (1) member. The person who is not nominated as a member will act as a deputy.

The presidency consists of a chairman, vice-chairman and one member.

It is only the election results from the last Inatsisartut election that determines which parties appoint members of the commission.

Among the nominated members, the party that received the most votes in the last Inatsisartut election appoints the chairman of the Constitutional Commission. The vice-chairman of the Commission is appointed by the next largest party in Inatsisartut. The chairmanship consists of the chairman, vice-chairman and a third member elected from among the members of the Constitutional Commission. The election takes place in connection with the first constituent session of the Constitutional Commission.

Necessary replacement in connection with legal absence must, upon recommendation from the commission, be approved by the Government of Greenland on the basis of a new recommendation from the party that originally nominated the resigning member. In the event that a member is forced to resign from the commission early, the person who was nominated to the commission by the

same party as the resigning member at the time of the commission's establishment will act as deputy until a new commission member is formally appointed. The appointment of the new member will follow the procedure described above.

Commission members who are members of Inatsisartut do not receive separate remuneration.

Commission members who are civil servants in the central administration or municipalities are not paid separately for their work under the auspices of the commission, but receive their usual salary from their employer.

Civil servants in central administration or municipalities must, prior to participation in the commission's work, obtain permission from their employer if the participation in the work takes place during working hours.

Permanent staff and selection of experts on an ad hoc basis

Temporary members may be assigned to the Constitutional Commission in order to provide the Commission with high-level, party-politically neutral advice.

Naalakkersuisut may appoint two to four permanent members to the Constitutional Commission, at least one of whom is an expert in constitutional law. The other appointees are expected to individually or collectively possess expert-level knowledge of international law or nation building.

The Constitutional Commission may appoint two to four permanent deputies to the Constitutional Commission.

The political parties represented in Inatsisartut at the time of the establishment of the Commission, which are not part of Naalakkersuisut, may appoint one permanent delegate to the Constitutional Commission.

As a rule, deputies are not replaced after an election to Inatsisartut.

The Constitutional Commission informs Naalakkersuisut via the resort ministry about the appointment of permanent delegates.

It is assumed that the appointees together possess a wide range of relevant competencies, including (but not limited to) legal expertise. Co-chairs are remunerated in accordance with § 18(1)-(2) of Parliamentary Act no. 22 of December 18, 2003, most recently amended by Parliamentary Act no. 42 of November 23, 2017, regarding remuneration to non-parliamentary members.

If such experts are employed by either the central administration, municipalities or the government, permission must be obtained from their employer.

Commissioners and experts contribute their professional knowledge and experience to the work of the commission, but cannot participate in the final decision-making on the content of the draft constitution.

Citizen Engagement

During its work, the Constitutional Commission shall seek to reach out to all towns and settlements. The Commission shall ensure that the population is encouraged, present preliminary considerations and get immediate reactions to factual, principled and value-related considerations that the Commission is currently dealing with. The commission can use regular meetings, conferences as well as modern media and platforms etc. in this work.

All citizens, including children, young people and adults, have the right to submit proposals to the Constitutional Commission. Members of the Commission, the Chairperson and deputies may, at their discretion, decide to take up such a proposal in the Commission if the proposal is deemed suitable for further consideration.

The Commission shall set up a website to provide information on the progress of the Commission's work.

Secretariat for the Constitutional Commission

The Constitutional Commission shall establish a secretariat of appropriate size to serve the Commission in its work. The Constitutional Commission shall appoint the head of the secretariat after consultation with Naalakkersuisut.

It is up to the Constitutional Commission itself to organize its work, including deciding where the Constitutional Commission's secretariat should be located.

Timeframe

The Constitutional Commission must organize its work with a view to submitting its draft for a Greenlandic constitution to Naalakkersuisut no later than 31 December 2021, so that Naalakkersuisut can present it to Inatsisartut during the 2022 parliamentary session. To the extent that the commission would deem it necessary to extend the working period, this must be approved by Naalakkersuisut.

In connection with the constitutional proposal, the commission prepares and submits a report specifying the provisions of the constitution.

Financing

The Constitutional Commission, including its secretariat, is financed through the Finance Act. The Constitutional Commission is free to apply for external funding.

ADDENDUM TO TERMS OF REFERENCE 3
November 17, 2020

Aningaasaqarnermut Naalakkersuisoqarfik
Department of Finance

NAALAKKERSUISUT
GOVERNMENT OF GREENLAND

Assumptions for the framework in the terms of reference for the work of the Constitutional Commission

Following the adoption in Inatsisartut on November 21, 2016 that a draft constitution for Greenland is to be prepared, the assumptions for the terms of reference are hereby outlined. These are the basis for the expectations for the commission's work, which, after preparation, must be submitted to the Inatsisartut's Committee on the Constitutional Commission.

As this is the first time that the Greenlandic people will have to decide on an independent constitution, this process should also be used to raise fundamental debates in the public sphere and to educate the people. The process presupposes that the Greenlandic people have been involved in the drafting process and feel ownership of the constitution.

The identity, culture and language of the Greenlandic people will naturally be the starting point for the constitutional work, however, the constitutional work must take into account that in today's Greenland, society is made up of different peoples and these influences form part of the basis for today's social structure.

In this context, it is important that the debate takes into account all parts of the Greenlandic population and the rights and traditions that should be protected in relation to the various minorities in the country. Consideration must be given to how Greenlanders living outside Greenland should be involved.

The Constitutional Commission's solution of the task thus presupposes that a position is taken in Greenland on fundamental concepts in a constitutional context, such as the country, the people, the language, rights, duties, administration and form of government.

The Constitutional Commission's report

The draft terms of reference deal with a number of concepts that need to be clarified in order to establish a constitution. What is crucial in this context is a clear delineation of the country itself and its citizens.

The delimitation of the nation of Greenland is provided for in the Self-Government Act's recognition of the Greenlandic people under international law and the reference to the sovereignty of the land being vested in the sovereign state.

However, the concept of "the Greenlandic people" has never been defined in relation to a future citizenship, which will be the task of the commission.

The Greenlandic people can be defined in different ways. Therefore, a discussion about the Greenlandic people is desired, both from a legal and an identity-creating angle, with the involvement of all the people living in Greenland.

In the Constitutional Commission's citizen involvement and dialog with the population, special attention must be paid to the fact that the Commission consults the citizens of the Qaanaaq region and the citizens of East Greenland about the commission's work.

Similarly, attention must be paid to the ethnic, religious, gender and other minorities present in the country, so that through the constitution they are protected from discrimination and ensured the same rights and obligations as everyone else. In this context, linguistic dialects can also be considered for protection.

The identity-building approach is understood as an attempt to reflect on who the Greenlandic people are and what the nation of Greenland should be. The discussions, debates and reflections aim to enable all residents of Greenland to identify with and create a community around a unified idea of the nation of Greenland.

The Constitutional Commission works with a perspective that is in principle open-ended.

This means that the constitution will have to create a framework for future decisions that no living person will recognize or be able to foresee. The work presupposes that Greenland is an independent state.

In this context, there is no need to defend or define yourself in relation to a colonial past.

In connection with the terms of reference, the Commission must prepare a reflection in which the background for the Commission's position on a number of fundamental issues is expected to be outlined. These are issues such as (but not limited to):

- The demarcation of the borders of the State of Greenland
- Who are the future citizens of Greenland?
- How are citizens' freedoms guaranteed?
- How are minority rights guaranteed?
- What duties can the state impose on its citizens?
- How should the political system be organized and based on what values?
- How should the position of language in society be defined?

Working groups

It is described in the terms of reference that working groups consisting of members and deputies can be set up, where other experts can also be brought in on an ad hoc basis. The purpose of this is to ensure that the commission has as broad and objective a knowledge base as possible.

It is recommended that officials from Naalakkersuisut or Inatsisartut and organizations participate in the working groups on an ad hoc basis, and that these persons must have approval from their

employer to use some of their working hours to perform work for the Constitutional Commission. It must be ensured that there is no confusion of interests in relation to the individual areas of administration and the long-term goals of the commission.

The purpose of having access to external experts is to ensure that more in-depth analysis of the various issues can be carried out and reports prepared for the members of the commission. Possible topics for the work of the working groups and experts could be:

- The rights of the people in relation to the state of Greenland
 - State religion and freedom of religion
 - How far does freedom of speech go?
 - Who owns the natural resources?
 - How far do individual rights extend in relation to the interests of society?
- Working group on governance
 - Positive vs. negative parliamentarism and electoral rights and representativeness - which forms are most appropriate for the future Greenland.
 - Advantages and disadvantages of participation in international governmental cooperation and what requirements this places on a future form of government.
- Possible forms for the future relationship between Greenland and Denmark, including Free Association, federal state structures or similar.
- Financial and economic organizations in relation to an independent status.

Proposal for a constitution

Proposals for a constitution must be submitted as a draft bill to which comments on the proposal and the individual provisions of the proposal have been prepared. This can be included in the Constitutional Commission's consideration, together with reports etc. prepared by the working groups.

It is described in the terms of reference that the Constitutional Commission has a duty to report on a regular basis. This is to encourage progress and quality during the preparation phase of a draft constitution for Greenland. The deadline for submission of the periodic reports is the first Monday in March and the first Monday in September. The document must be submitted to the Naalakkersuisoq responsible for the resort, who will inform the Naalakkersuisut and the Committee on the Constitutional Commission.

Composition of the Constitutional Commission

To ensure a coherent work of the commission, members are appointed for the lifetime of the commission.

At the same time, gender equality is desired in the commission, according to the guidelines that follow from the Gender Equality Act.

Naalakkersuisut shall then, after consultation with the Committee on the Constitutional Commission, appoint a commission composed in such a way that there is a maximum of one more member of one gender, and so that the commission consists of one representative of each party in Inatsisartut.

The terms of reference further explain the rules for the appointment of members and deputies and the procedure in the event that a member resigns from the commission prematurely.

Only the election result from the last Inatsisartut election determines which parties appoint members of the commission

Assignees

Those selected as appointees must be experts who can advise and guide the members of the commission. The expertise of the appointees can be academic, based on work and life experience or other. Thus, it is only the appointers who assess the qualifications of the desired appointees. The possibility of inviting experts on an ad hoc basis should be utilized as far as possible for specific questions of principle.

Citizen engagement

It is important that citizens are involved in the process, and the Constitutional Commission or its representatives are expected, as far as possible, to hold town meetings in as many of the country's towns and settlements as is practically possible. It is the Constitutional Commission itself that decides the form and content of such public meetings.

The Commission could also usefully seek to involve citizens through modern electronic platforms.

Time frame

The proposed deadline in the terms of reference is based on the current situation. This can be changed by political decision in Naalakkersuisut.

However, with experience from Iceland and the Faroe Islands, as well as recommendations in the report on the establishment of a Greenlandic constitutional commission, short deadlines are recommended.

Functional description of the work of the Constitutional Commission and Naalakkersuisut

The main task of the Constitutional Commission and the Secretariat is, in accordance with the terms of reference, to draft a proposal for a Greenlandic constitution, which will come into force on the day Greenland becomes an independent state.

It is desired that the Constitutional Commission is governed according to the arm's length principle, so that the Naalakkersuisut, which is in office at any given time, does not exert any direct influence on the commission's work.

The secretariat of the Constitutional Commission is responsible:

- To process the Constitutional Commission's preliminary proposals for the content of the report
- To prepare semi-annual reports
- To create a debate and information work about the constitution that ensures that all citizens can provide input.
- Gathering knowledge and formulating reports, statements, memos and the like for use in the report
- To act as secretariat for the individual working groups that were set up.
- To coordinate and plan all meetings in the working groups and the commission.

The Constitutional Secretariat serves only the Constitutional Commission and shall provide secretarial assistance to the Constitutional Commission. This includes, among other things, assistance in the preparation of the draft constitution itself, semi-annual reports, advice and service to the Commission and its subgroups' preparation and follow-up as well as communication tasks.

COMMITTEE 4

September 3, 2021

Naalakkersuisut adopted the new terms of reference on September 3, 2021:

Terms of reference for the Constitutional Commission of Greenland

As Inatsisartut and Naalakkersuisut want a constitution to be drawn up for a future independent Greenland, a constitutional commission is established. The Constitutional Commission will prepare a proposal for a constitution, which will be presented in its entirety to Inatsisartut when the Commission has completed its work.

The constitution must be based on and provide a framework for the culture, language and identity of the Greenlandic people.

Historically, the starting point for the inclusion of culture, language and identity will be Greenlandic, meaning the original Greenlandic people. But the constitution must take full account of the fact that in today's Greenland there are many citizens with other backgrounds.

The Constitutional Commission is composed with a desire for a politically broadly represented commission. Professional expertise and qualified knowledge about Greenland, the Greenlandic people, its history and culture must also be included in the work of writing the proposal for a constitution.

The draft constitution must be drawn up with a view to the constitution becoming the basic law for Greenland when Greenland becomes an independent state.

The work of the Constitutional Commission

The Constitutional Commission drafts a constitution for Greenland, which will come into force on the day Greenland becomes an independent state. The purpose of the constitution is to become the democratically adopted legal basis for an independent sovereign Greenlandic state. The draft is accompanied by a preamble that specifies the provisions of the constitution.

The Constitutional Commission has a six-monthly reporting obligation to Naalakkersuisut on the progress of the preparation of a draft constitution for Greenland.

The Constitutional Commission organizes its own work, including the possibility of setting up working groups. The Commission may obtain expertise and knowledge from Naalakkersuisut, from the Greenlandic civil society and from sources outside Greenland for use in its work. This can be done both on a permanent and ad-hoc basis.

In the course of its work, the Commission must give a detailed account of its use of definitions of the country, the people, rights, duties, governance and administration.

It is also expected that the above legislative preparatory work will include consideration of an arrangement in the form of a “free association” or another form of intergovernmental cooperation with another state.

Composition of the Constitutional Commission

The Constitutional Commission consists of five members appointed by Naalakkersuisut on the recommendation of the parties represented in the last Inatsisartut election.

Members of Naalakkersuisut cannot be nominated to the Constitutional Commission.

The members of the commission must be appointed by Naalakkersuisut after nomination by the parties.

At the same time, gender equality is desired in the commission, in accordance with the guidelines that follow from § 6 of the Greenland Parliament Act no. 3 of November 29, 2013 on equality of men and women, which states that “... public committees, councils, commissions and the like established by Naalakkersuisut to prepare the establishment of rules or planning of social importance shall be composed in such a way that there is at most one member more of one group than the other.”

Naalakkersuisut then appoints, after consultation with the Committee on the Constitutional Commission, a commission composed so that there is a maximum of one more member of one gender, and so that the commission consists of one representative from each party in Inatsisartut. This means that the five parties in Inatsisartut must nominate two persons each, but each party only gets to appoint one (1) member. The person who is not appointed as a member will act as a deputy.

The presidency consists of a chairman, vice-chairman and one member.

It is only the election result from the last Inatsisartut election that determines which parties appoint members of the commission.

Among the nominated members, the party that received the most votes in the last Inatsisartut election appoints the chairman of the Constitutional Commission. The vice-chairman of the Commission is appointed by the second largest party in Inatsisartut. The chairmanship consists of the chairman, vice-chairman and a third member elected from among the members of the Constitutional Commission. The election takes place in connection with the first constituent meeting of the Constitutional Commission.

Necessary replacement in connection with legal incapacity must, after recommendation from the commission, be approved by the Government of Greenland on the basis of a new recommendation from the party that originally nominated the resigning member. In the event that a member is forced to resign from the commission prematurely, the person who was nominated to the commission by the same party as the resigning member will act as deputy until a new commission member is formally appointed. The appointment of the new member will follow the procedure described above.

Commission members who are members of Inatsisartut do not receive separate remuneration

Commission members who are civil servants in the central administration or municipalities shall not be paid separately for work under the auspices of the commission, but shall receive their usual salary from their employer. Civil servants in the central administration or municipalities must, prior to participation in the commission's work, obtain permission from their employer if the participation in the work takes place during working hours.

Permanent staff and selection of experts on an ad hoc basis

Temporary members may be assigned to the Constitutional Commission in order to provide the Commission with high-level, party-politically neutral advice.

Naalakkersuisut may appoint two to four permanent appointees to the Constitutional Commission, at least one of whom is an expert in constitutional law. The other appointees are expected to individually or collectively possess expert-level knowledge of international law or nation building.

The Constitutional Commission may appoint two to four permanent deputies to the Constitutional Commission.

The political parties represented in Inatsisartut at the time of the establishment of the Commission, which are not part of Naalakkersuisut, may appoint one permanent delegate to the Constitutional Commission.

As a rule, deputies are not replaced after an election to Inatsisartut.

The Constitutional Commission informs Naalakkersuisut via the resort ministry about the appointment of permanent delegates.

It is assumed that the appointees together possess a wide range of relevant competencies, including (but not limited to) legal expertise. Assigned members are remunerated in accordance with § 18(1)-(2) of Parliamentary Act no. 22 of December 18, 2003, most recently amended by Parliamentary Act no. 42 of November 23, 2017, regarding remuneration to non-parliamentary members.

Other experts that the commission deems relevant may participate on an ad hoc basis in the work of the commission at the invitation of the chairmanship and, where deemed necessary, be remunerated in accordance with § 18(1)-(2) of Parliament Act no. 22 of December 18, 2003, most recently amended by Parliament Act no. 42 of November 23, 2017, regarding remuneration to non-parliamentary members.

If such experts are employed by either the central administration, municipalities or the government, permission must be obtained from their employer.

Commissioners and experts contribute their professional knowledge and experience to the work of the commission, but cannot participate in the final decision-making on the content of the draft constitution.

Citizen Engagement

All citizens, including children, youth and adults, have the right to submit proposals to the Constitutional Commission. Members of the Commission, the Chairperson and deputies may, at their discretion, decide to take up such a proposal in the Commission if the proposal is deemed suitable for further consideration.

The Commission shall set up a website to provide information on the progress of the Commission's work.

When the draft constitution has been prepared, the Government of Greenland must seek to reach all towns and settlements with the draft. The Government of Greenland must make sure to meet the population, present the draft and get immediate reactions to factual, principled and value-related considerations that the commission is currently dealing with. The self-government can use ordinary meetings, conferences as well as modern media and platforms, etc. in this work.

Secretariat for the Constitutional Commission

The Constitutional Commission shall establish a secretariat of appropriate size to service the work of the Commission.

The Constitutional Commission shall appoint the head of the secretariat after consultation with Naalakkersuisut.

It is up to the Constitutional Commission itself to organize its work, including deciding where the Constitutional Commission's secretariat should be located.

Timeframe

The Constitutional Commission must organize its work in order to submit its draft for a Greenlandic constitution to Naalakkersuisut no later than 31 December 2022, so that Naalakkersuisut can present it to Inatsisartut during the spring session of 2023. Immediately after the completion of the constitutional proposal, i.e. from 1 January 2023, tasks will then be transferred to the Department of Constitution at the Greenland Self-Government.

To the extent that the commission deems it necessary to request an extension of the work period, this must be approved by the Government of Greenland.

In connection with the constitutional proposal, the commission prepares and submits a report specifying the provisions of the constitution.

Financing

The Constitutional Commission, including its secretariat, is financed through the Finance Act. The Constitutional Commission is free to apply for external funding.

ANNEX 2

Oqaatsinut allattorsimaffik nunap naalakkersuinikkut aaqqissuussaananut tunngasut. Qallunaatuumiit kalaallisuumut -

Constitutional glossary

From Danish to Greenlandic March 2023

Foreword

The work on language in the drafting of the draft constitution has taken up a lot of time. This is because many of the terms within the subjects included in the draft constitution have not had a fixed lexicalization. It has therefore been necessary for the commission to define some of the key terms included in the draft constitution.

A previous version of the constitution glossary was created in 2019. This version builds on the work from 2019. Lisathe Møller and Ole Heinrich have revised and quality assured the current constitutional glossary.

absolute majority amerlanerussuteqavinneq

absolute majority of votes taasinerit amerlanerussutegavissut

abuse of office atorfimmik atornerluneq

abuse of power pissaanermik atornerluineq

accountability akisussaassuseqarneq

acting Naalakkersuisut Naalakkersuisuugallartut

acting parliament inatsisartuugallartut

ad hoc committees ataatsimiititaliaagallartoq

additional provision ilassutitut aalajangersagaq

administration ingerlatsivik; ingerlatsineq

administrative authorities ingerlatsinermi oqartussaasut

administrative law ingerlatsineq pillugu inatsiseqartitsineq

administrative provision allaffissornikkut aalajangersagaq

Advice siunnersuisoqatigit

advisory bodies siunnersuisututut ingerlataqartut

amendment procedures allanngortitsinissamut periaatsit; allanngortitsinissamut suleriaatsit

arbitration court isumaqatigiissitsiniarikkut eqqartuussivik

assigned member immikkut ilaasortaataitaq

association pegatigit

associations of states naalagaaffittut kattuteqqasut

attorney general naalagaaffiup eqqartuussissuserisua

authorities oqartussat; oqartussaataitat

autonomy namminiilivinnissaq

Bar Association Eqqartuussissuserisogatigit

basic human rights inuttut pisinnaatitaaffiit tunngaviusut

bodies oqartussaasut; oqartussaataitat

border control killegar finni nakkutilliineq

breach of constitution inatsimmik tunngaviusumik unioqqutitsineq

bribery akililluni peqquserlutsitsineq; akilersilluni peqquserlunneq

capability suliamut akuusinnaaneq; suliamut attuumassuteganninneq

central bank qitiusumik aningaaserivissuaq

chairman of age sivisunerpaamik ilaasortaasimasoq

children's rights institution meeqqat pisinnaatitaaffiit sullissivik

children's rights meeqqat pisinnaatitaaffii, meeqqap pisinnaatitaaffia

children's spokesperson Meeqqanik illersuisoq

church constitution ilagit pillugit inatsisit tunngaviusut

church governance ilaginni siulersomegarnikkut pissusiusut

Church in Greenland Kalaallit Nunaanni Ilagit church ilagit; ilagiissoqatigit

citizen inuiaqat; nunaqqat

citizen naalagaaffimmi innuttaasooq

citizen proposal innuttaasut siunnersuutaat

citizenship innuttaaqataaneq

citizenship innuttaassuseq; naalagaaffimmi innuttaasututut pisinnaatitaaneq

citizenship innuttaassuseqarneq; [naalagaaffimmi] innuttaaneq

civic duty innuttaasup pisussaaffia

civil right innuttaasup pisinnaatitaaffia

civil society inuiaqatigiinni inuinnaq

civil society organization innuttaasut soqutigisaqaqatigiiffii

coat of arms naalagaaffiup ilisamaataa; naalagaaffiup vabenia

collective agreement isumaqatigiissut

collective property rights ataatsimoorluni piginnittussaaneq

collective rights ataatsimoorullugit pisinnaatitaaffiit

colonialism nunasiaanerup nalaa

colonialism nunasiaqartuuneq; nunasiaateqareq

colonization nunasiaateqalerneq

colony nunasiaq

commander-in-chief sakkutuut qullersaat

commission isumalioqatigiissitat

commitment pisusssaaffik

Committee for Election Sampling Qinigaanerup Misilinneqarnissaanut Ataatsimiititaliaq

common good inooqatigit ataatsimut iluaqutissaataat, tamanut iluaqutissaasut; tamat iluaqusemegarnarnissaat

common ownership ataatsimoorullugit pigisat

common ownership of land nunamik ataatsimut piginnittussaaneq

common provisions aalajangersakkat tamanut atuuttut

common provisions ataatsimut aalajangersakkat

common reputation inuit isiginninnerat; nalinginnaasumik isigineqarneq

community citizen inuiaqataasoq

community of states naalagaa ffit peqatigiissut

community service inuiaqatigiinnik kiffartuussineq; inuiaqatiginnik sullissineq; inuiaqatigiinni sulisitaaneq

competence building piginnaasanik annertusaaneq

competence pisinnaatitaaneq; piginnaaneq

compulsory education atuartitaasussaataaneq; atuartusaaanermut pisusaafeqarneq

conciliation committee isumaqatigiissitsiniartartut

confederation (confederation) naalagaaffeqatigit kattusimasut [ataatsimoorullugit naalakkersuisoqanngitsut]

confirmation atuuttussanngortitsineq

conflict mediation akerleriinnik isumaqatigiissitsiniartarneq

congregational representations ilagit sinniisaat

conscription sakkutuujusussaataaneq

consent akuersineq; akuersaaneq

constituency qinersivik

constituent assembly Inatsisartut inissitsiterlutik ataatsimiinnerat

constitution day inatsisitaarfik

constitution inatsit tunngaviusoq

constitution naalagaaffiup aqunneqarneranut aaqqissuussaananerannillu malittarisassat tunngaviusut; inatsit tunngaviusoq; inatsisit tunngaviusut

constitution of committees ataatsimiititaliat inissitsiternerat

Constitution of Greenland Kalaallit Nunaannut Inatsit Tunngaviusoq

constitutional building inatsisinik tunngaviusussanik garmaaneq

constitutional commission inatsisit tunngaviusut pillugit isumalioqatigiissitat

constitutional commission inatsisit tunngaviusut pillugit isumalioqatigiissitat

constitutional conference inatsisit tunngaviusut pillugit ataatsimeersuarneq

constitutional council inatsisit tunngaviusut pillugit siunnersuisoqatigit

constitutional democracy inatsisit tunngaviusut naapertorlugit tamat oqartussaaqataanerat; inatsisitigut tunngaviusutigut tamat oqartussaaqataanerat

constitutional development inatsisinik tunngaviusunik piorsaaneq

constitutional draft inatsisinut tunngaviusunut missiliuut

constitutional history inatsisit tunngaviusut oqaluttuassartaat

constitutional inatsisit tunngaviusut naapertorlugit; inatsisitigut tunngaviusutigut

constitutional inatsisit tunngaviusut naapertorlugit; inatsisitigut tunngaviusutigut

constitutional law inatsisinut tunngaviusunut inatsit

constitutional law inatsisit tunngaviusut pillugit inatsiseqartitsineq

constitutional movement inatsisinik tunngaviusunik sulissuteqartut

constitutional reform inatsisinik tunngaviusunik aaqqissuusseqqinneq grundlovssikret inatsisini tunngaviusuni illersugaasoq; inatsisitigut tunngaviusutigut illersugaasoq

constitutional rights inatsisit tunngaviusut naapertorlugit pisinnaatitaaffit; inatsisitigut tunngaviusutigut pisinnaatitaaffit

constitutional text inatsisit tunngaviusut oqaasertaat

constitutionality of laws inatsisit inatsisinut tunngaviusunut naapertuuttuussusiat

consultations siunersioqatiginnerit

convention (treaty) naalagaaffit isumaqatigiissutaat

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Naalliutsitsisamneq allatullu peqqaringaartumik, inuppalaanngitsumik imaluunmit nikanarsaataasumik pinnittarneq imaluunnit pillaasarneq akioriarlugit naalagaaffit isumaqatigiissutaat

Convention concerning Indigenous and Tribal Peoples in Independent States (ILO 169) Nunat inoqqaavi inuiaallu nagguegatigit naalagaaffinni namminersortuniittut pillugit isumaqatigiissut (ILO 169)

conviction nalunngeqatiginnissuseq

cooperation group suleqatigiissitat

corruption peqquserlulluni iluanaarniarneq

Council for the Judiciary of Greenland Kalaallit Nunaanni Eggartuussivegarneq pillugu Siunnersuisoqatigit

Council of Europe Framework Convention for the Protection of National Minorities Europarådip sinaakkutaasumik isumaqatigiissutaa naalagaaffinni ikinnerussuteqartut illersugaanissaat pillugu

country's resources nunap pisuussutai

County Council Inatsisartut

court order eqqartuussivimmi misilineq; eqqartuussivimmi misilisitsineq

crimes against public order and peace inuit torersumik eqqissisisimasumillu inooqatiginnerannut pinerluttuliornerit

crimes against the independence and security of the realm naalagaaffiup namminersorneranut isumannaatsuuneranullu pinerluutit

cultural identity kulturikkut kinaassuseq

cultural rights kulturikkut pisinnaatitaaffiit

Danish Institute for Human Rights inuit pisinnaatitaaffiit instituti integrationsprovet innuttaasunngoriap misilitsinnera

Danish law Danmarkimi inatsiseqartitsineq

Danish national law Danmarkimi innuttaassusegarneq

decision-making competence aalajangiisinnaatitaaneq; aalajangiinissamut piginnaanegarneq

Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations Naalagaaffiit Peqatigit angerfigeqatigiissutaat naapertorlugu naalagaaffit akunnerminni akaareqatigiinnissaat suleqatigiinnissaallu pillugit nunat tamalaat inatsisaanni tunngavissat pillugit nalunaarut

Decolonization nunasiaajunnaarsitsineq; nunasiaammik namminersortunngortitsineq

defamatory statements ataqqinassusermik innarliisumik oqaaseqaateqarnerit

defence alliance illersoqatigiit; iligit

delegation, delegation isumagisassanngortitsineq

democracy tamat oqartussaaqataanerit

democratic decision-making bodies tamat oqartussaaqataanerit aallaavigalugu aalajangiisartuutit

democratic society inuiaqatigit tamanit oqartussaaqataaffiusut

democratic system tamat oqartussaaqataanerit aallaavigalugu aqqissuussineq

deprivation of liberty kiffaanngissusiiaaneq; kiffaanngissusiigaaneq

different (mixed) provisions aalajangersakkat assigiinngitsut

dignity ataqqinassuseq

direct democracy toqqaannartumik tamat oqartussaaqataanerit

direct election toqqaannartumik qinersineq

disability advocate inuit innarluutillit illersuisuat

disability rights inuit innarluutillit pisinnaatitaaffil

Discrimination assiginngisitsineq

discrimination, discrimination assigiinngisitsineq

dispute akkerliissut; isumaqatiginngissut

dispute resolution sagitsaannermi aaqqiineq

disqualification pisinnaatitaaffinnik annaasaqarneq

disqualification suliamut akuusinnaannginneq; suliamut attuumassutegarpallaarneq

diversity (diversity, difference) assiginngisitaarneq

division of power oqartussaaffit pingasunut immikkoortiternerat

draft constitution inatsisinut tunngaviusunut missiliuut

draft Constitution of Greenland Kalaallit Nunaata Inatsisaanut Tunngaviusunut missingersuusuaq

dual citizenship marlunnik innuttaassuseqarneq

duty pisussaassuseq

economic and social rights aningaasarsiomikkut aamma inuttut atukkatigut pisinnaatitaaffiit

editorial committee aaqqissuisut (missiliuusiortut)

elderly rights utoqqaat pisinnaatitaaffii

elected assembly ataatsimittartuutitat inuit qinigaat

election period qinigaaffik; piffissaq qinigaaffik

election qinersineq

election test qinigaanerup misilinneqarnera

eligibility to vote qinigaasinnaaneq

eligible to vote taasisinnaatitaasoq; qinersisinnaasoq

emancipation aniguisitaaneq; kiffaajunnaarneq

enforcement atortitsineq

entry into force provision atuutilersitsinermut aalajangersagaq; atortuulersitsissutitut aalajangersagaq

equal rights naligititaneq; naligiimmik pisinnaatitaaneq

equal treatment naligiissitsineq

equal treatment of women and men arnat angutillu naligimmik pineqarissaat

equality assigiimmik pisinnaatitaaneq

equality before the law inatsisinut naligiissuseq

equality naligissitaaneq

equality of men and women angutit amallu naligiissitaanissaat

equality of votes taasinerit amerlaqatiginnerat; taasinerit naligiinnerat taasisussaataaneq

espionage kilitsissiatut sulineq

ethical guidelines ileqqorissaarnermut najoqqutassat

ethnic discrimination immikkut inuiaassuseq patsisigalugu assiginngisitsineq

ethnic, religious or linguistic minorities immikkut inuiaassutsikkut, upperisarsiornikkut oqaatsitigulluunniit ikinnerussuteqartut

ethnicity immikkut inuiaassuseq, immikkut inuiaassusegarneq

European Charter for Regional or Minority Languages nunat immikkoortuini oqaatsit imaluunniit ikinnerussuteqartut oqaasii pillugit Europamiut isumaqatigiissutaat

European Convention on Citizenship innuttaassuseqarsinnaatitaanermut Europamiut isumaqatigrissututaat

European Convention on Human Rights inuit pisinnaatitaaffii pillugit Europamiut isumaqatigiissutaat

European Union (EU) Europamiut Pegatigiinnerat (EU)

Evangelical Lutheran Church (Kalaallit Nunaanni Ilagiit) ilagit Lutherikkuusut (Kalaallit Nunaanni Ilagit) oqaluffiat; ilagit naaggaartut (Lutherikkut)

executive power inatsisinik atuutsitsiisut (naalakkersuisut)

exemption of Naalakkersuisut Naalakkersuisunik atuukkunnaarsitsineq

expatriation nunami allamiu; takomartaq

expert assessment sulianik ilisimasallit nalilinerat

expert committee immikkut ilisimasalittut ataatsimiititaliaq

expertise immikkut ilisimasagameq

expropriation pigisanik aalaakkaasunik arsaarinnissutegartareq (pinngitsaaliissummik taarsiissutitalimmik arsaarinnittareq)

federal state (federation) naalagaaffeqatigiissortaausut kattusimasut [ataatsimut qitiusumik naalakkersuisoqartut]

final provision aalajangersagag naggasiusag

final provisions aalajangersakkat inaarutaasut

finance bill aningaasanut inatsit

finance committee Aningaasaqarnermut Ataatsimiititaliaq

Flag of Greenland Kalaallit Nunaata erfalasua; Er falasorput

folk education inunnik qaammarsaaneq

Foreign Affairs Committee Nunanut Allanut Ataatsimititaliaq

foreign affairs nunanut allanut tunngasut

foreign and security policy affairs nunanut allanut sillimaniamermullu tunngasut

foreign intelligence naalagaaffiit allat isertortumik paasiniaasartui

form of government aqutseriaaseq

form of government naalagaaffiusaaseq; naalagaaffioriaaseq

form of government naalakkersueriaaseq

free association (voluntary association (dependent states) naalagaaffiit peqatigikkumasut (naalagaaffiit imminnut pisariaqartittut))

free press tusagassiuutit naqisimaneqanngitsut

free process nammineg aningaasartuutiginnisamik eqqartuussisulersuussineq

free, prior and informed consent kiffaangissusegartumik, sioqqutsisumik paasinnillunilu akuersineq

freedom of information and expression naqisimaneqanngitsumik paasissutissiisinnaatitaaneq oqaaseqarsinnaatitaanerlu

freedom of religion upperisarsiornikkut kiffaangissusegarneq

freedom of speech killiliiffigineqarani isummersinnaatitaaneq (isummersinnaanermik

freedom of thought anersaakkut kiffaangissuseqarneq

freedoms kiffaangissuseqarsinnaatitaanerit

fulfillment naammassinninneq; piviusunngortitsineq

fundamental freedoms tunngaviusumik kiffaangissuseqarfiit

fundamental freedoms tunngaviusumik kiffaangissuseqarissamut pisinnaatitaaffiit

fundamental right tunngaviusumik pisinnaatitaaffik

gender discrimination, gender discrimination suiassuseg patsisigalugu assiginngisitsineq

Gender Equality Council Naligiissitaanermut Siunnersuisoqatigiit

gender suaassuseq

general civic duty innuttaasut nalinginnaasumik pisussaaffiat

general duty nalinginnaasumik pisussaaffik

general election nalinginnaasumik qinersineq

general guidelines pingaarnerusutigut tunaartarisassat

general provisions aalajangersakkat nalinginnaasut

general provisions aalajangersakkat nalinginnaasut

general remarks nassuiaatit nalinginnaasut

global nunarsuarmut tamarmut siaruarsimasoq

good administrative practice ingerlatsinermi ileqqorissaarnissaq; ileqqorissaarneq naapertorlugu ingerlatsineq

good citizenship innuttaaqataalluarneq

good governance pitsaasumik naalakkersuineq

good legal practice eqqartuussissuserisut ileqqorissaartussaanerat

good legislative practice inatsisilioriaaseq pitsaasoq

government formation naalakkersuisunik atuutilersitsisarneq

government naalakkersuisut

government transformation naalakkersuisut allanngortiternerat naalakkersuisut naalakkersuisut najugaat

granting of citizenship innuttaasunngortitsineq

Greenland Council for Human Rights Inuit Pisinnaatitaaffiit pillugit Siunnersuisoqatigit

Greenland Self-Government Namminersorlutik Oqartussat

Greenland's Courts Kalaallit Nunaata Eqqartuussivii

Greenland's National Day Nunatta Ullua

Greenland's territorial waters Imartat Kalaallit Nunaata oqartussaaffigisai

Greenlandic airspace Kalaallit Nunaata silaannakkut killeqarfiata ilua

Greenlandic law Kalaallit Nunaanni inatsiseqartitsineq

Greenlandic right of entry Kalaallit Nunaanni innuttaassuseqarneq

group rights inuit ataatsimoortut pisinnaatitaaffii

head of government naalakkersuisuni pisortaq

head of government naalakkersusunut pisortaq

head of state naalagaaffimmi pisortaq

head of state naalagaaffiup qullersaa; naalagaaffimmi qullersaasoq

high treason nunamik ajunaartitsineg

history of colonization nunasiagarnerup oqaluttuassartaa

home country nunagisaq; nuna angerlarsimaffigisaq

homeland nuna inunngorfik; nunavigisaq

how to proceed periaaseq; periuseq; suleriaaseq

human dignity inuup ataqqinassusia

human rights inuttut pisinnaatitaaffiit; inuit pisinnaatitaaffii

humane treatment of citizens innuttaasut inuppalaartumik pinegarissaat

ideals nuannaartorisat; maligassat

ILO Convention 105 Abolition of Forced Labor Pinngitsaaliilluni sulisitsisarnerup atorunnaarsinneqarissaanut ILO-p isumaqatigiissutaa 105

ILO Convention 87 on Freedom of Association and the Right to Organize
Kiffaangissuseqartumik peqatigiiffiliorsinnaanermut kattuffiliorsinnaanermullu
pisinnaatitaaffimmut ILO-p isumaqatigiissutaa 87

immigrant nunasisoq

immunity unnerluutiginegarsinnaannginneq

impartial illumnaasiunngitsog, kinaassusersiunngitsog

impartiality arlaannaannilluunniit illersuisuunnginneq

Inatsisartut Ombudsman Inatsisartut Ombudsmandiat

independence of the courts eqqartuussiviit akuliuffiginegartussaannginnerat

Indigenous People nunat inuii

indigenous rights nunat inoqqaavisa pisinnaatitaaffii

intangible rights atortussiaanngitsutigut pisinnaatitaaffiit

interest organizations soqutigisaqaqatigiit

intergovernmental authorities naalagaaffiit assigniingitsut pisortaataat

intergovernmental organization naalagaaffiit akomanni suliniaqatigiiffik

interim report isumaliutissiissutip ilaa

international affairs inuiaat assiginngitsut akornanni pissutsit

international agreement inuiannut allanut isumaqatigiissut

international agreement nunat tamalaat isumaqatigiissutaat

international agreement nunat tamalaat isumaqatigrissutaat

international cooperation nunat tamalaat suleqatiginnerat

International Covenant on Civil and Political Rights Innuttaasututut politikikkullu pisinnaatitaaffit pillugit nunat tamalaat isumaqatigiissutaat

International Covenant on Economic, Social and Cultural Rights Aningaasarsiornikkut, innuttaaqataanikkut piorsarsimassutsikkullu pisinnaatitaaffit pillugit nunat tamalaat isumaqatigrissutaat

international custom nunat tamalaat akoranni ileqquusut

international law inatsisit inuiaqatigit namminersortut akornanni atuuttut

international obligations nunat tamalaat akornanni pisussaaffit; naalagaaffit assigiinngitsut pisussaaffii

international organization nunat tamalaat akornanni suliniaqatigiiffik; nunat tamalaat akomanni kattuffik

international relations nunat tamalaat akoranni pissutsit

international treaty nunat tamalaat akoranni isumaqatigrissut

island state naalagaaffik qeqertaasoq

job atuuffik

joint decision-making power ataatsimut aalajangiisinnaassusegarneq

judicial authority eqqartuussisinnaatitaasut

Judicial Council Eqqartuussisut Siunnersuisoqatigit

Judicial power eqqartuussisut (eqqartuussiviit)

knowledge building ilisimasanik annertusaaneq

land ownership rights nunamik piginnittussaataaneq

land-damaging activities nunagisamik ajoqusiiniarneq

language rights oqaatsitigut pisinnaatitaaffiit

law and justice inatsiseqarnikkut eqqartuussiveqarnikkullu aaqqissuussaaneq

law inatsisilerineq

lawyer inatsisileritooq

legal basis inatsisitigut tunngavik

legal expert inatsisinik ilisimasalik

legal requirements inatsisitigut tunngavissagarnissamik piunasaqaat

legal rights and obligations inatsisitigut pisinnaatitaaffit pisussaaffuillu

legal security inatsisitigut isumannaatsuunissag

legal steps inatsisit tunngavigalugit tullerriaarneq

legislation inatsisitigut aalajangersagaaneq

legislative assembly inatsisiliortut; inatsisartut

legislative competence inatsisiliortussaataaneq

legislative power inatsisiliortut (inatsisartut)

legislative process inatsisilioreq

license aningaasaliissutit

lineage nagguik

living resources pisuussutit uumassusillit

local democracy qanimut tamat oqartussaaqataanerat

lower instance oqartussaasoq alliunerusoq

magistrate oqartussaasut; pisortat

magistrate pisortaq

majority government naalakkersuisut amerlanerussuteqartut

mediation (mediation) isumaqatigiissitsiniareq

minister ministries; naalakkersuisoq

ministerial responsibility law ministerit akisussaanerat pillugu inatsit

ministry of business Naalakkersuisuugallartut

minorities (minorities) ikinnerussuteqartut

minority government naalakkersuisut ikinnerussuteqartut

minority protection ikinnerussuteqartunik illersuineq

minority rights ikinnerussuteqartut pisinnaatitaaffii

misconduct in office atorfimmik suliassanik ingerlatsineq; atorfimmik ingerlatsineq

monarchy (kingdom) kunngeqar fik; kunngegarneq

Montevideo Convention on the Rights and Duties of States naalagaaffiit pisinnaatitaaffii
pisussaaffiilu pillugit Montevideomi isumaqatigiissut

motion of no confidence tatiginninnginnermik nalunaaruteqarnissamut siunnersuut

municipal government kommunit aqutsinerat

municipal law kommuninik inatsiseqartitsineq

municipal self-government kommunit namminersortuunerat; kommunit
nammineersinnaatitaanerat

nation building inuiannik qarmaaneq

nation inuiaat; inuiaqatigiit; nuna

national authorities naalagaaffimmi oqartussat

national authorities nunami namminermi oqartussaasut; naalagaaffimmi oqartussaasut

national bank anaalagaaffiup aningaaserivissuaq

national church ilagiit (ilagit naalagaaffimmut atasut)

national feeling inuiaqatigiussutsimik misigineq; inuiaqatigiussutsimik pingaartitsineq

national language naalagaaffimmi oqaatsit [atorneqartut]

national minorities naalagaaffimmi ikinnerussuteqartut

National Ombudsman Naalagaaffiup Sinniisua

National ownership of the constitution inatsisinut tunngaviusunut inuiaat piginnittuunissaat

national rallying point naalagaaffimmi ataatsimoortunermik ersiut

national rallying point naalagaaffimmi ataatsimut nalunaaqut

national symbols inuiaat ilisarnaataataataat national values inuiattut pingaartitat

national symbols naalagaaffiup ilisarnaatai

nationalism inuiaqatigiussutsimik pingaartitsivallaarneq

natural economy (subsistence economy) pissarsiat tunngavigalugit inuuniuteqareq

natural resources pinngortitap pisuussutai

natural resources pisuussutit pinngortitameersut

natural rights pinngortitap pisinnaatitaaffri

naturalization innuttanngortitsineq; innuttanngortitaaneq

negative parliamentarism inatsisartoqarnermi ikinnerussuteqartunik naalakkersuisogarneq

nepotism ganitanik ganigisanillu salliutitsineq

neutrality arlaannaannulluunnit attuumassutegannginneq; arlaannaannulluunniit atannginneq

new election nutaamik qinersineq

no-confidence agenda tatiginninnginnermik nalunaaruteqarluni oqaluuserisassatut siunnersuut

non-discrimination assigiinngisitsinnginnginnissaq

non-discrimination assigiinngisitsinnginnissaq

non-living resources pisuussutit uumaatsut

Nordic Convention on Social Security Isumaginninnikkut qulakkeerinninnissamik Nunat Avannarlit isumaqatigiissutaat

Nordic Convention Social Assistance and Social Services Isumaginninnikkut ikiorsiisarnermut aamma sullissisamermet Nunat Avannarlit isumaqatigiissutaat

oats immani pisinnaatitaaffiit

office atorfik

official business suliat ingerlasut

official language pisortatigoortumik oqaatsit

official symbols pisortatigoortumik ilisamaatit

old customs ileqqutoqgat

opening debate ammaanersiorluni oqallinneq

opening speech ammaanersiorluni ogalugiaat

openness in public administration pisortat ingerlatsineranni ammasuunissag

orality oqaatsitigut saqqummiussisussaataaneq

ordeal misilineq; misissuineq

organization soqutigisaagatigit; suliniaqatigiiffik; kattuffik

origin pilerfik; kingoqqivik

origination clause atorunnaarsitsinermi aalajangersagaq

pardon saammaassaaneq; saammaassineq

parliament inatsisiliortut (inatsisartut)

parliamentary democracy inatsisartutigoortumik tamat oqartussaaqataanerat

parliamentary immunity inatsisiliortunik tunngaveqartussaataaneq

parliamentary immunity inatsisiliortut unnerluutigineqarsinnaannginnerat

participation sunniuteqaqataaneg

participatory democracy innuttaasunik peqataatitsinikkut tamat oqartussaaqataanerat

partnership peqatiginneq

patriotism (love of country) nunagisamik asanninneq

people inuiaat

people's right to self-determination inuiaat nammineq aalajangersaasinnaanerat

people's rule inuinnaat naalakkersueqataanerat

perjured peqquserlulluni uppersaaneq

pisinnaatitaaffik)

popular sovereignty inuinnaat imminut oqartussaafiginerat

positive parliamentarism inatsisartogamermi amerlanerussuteqartunik naalakkersuisogameg

power of attorney piginnaatitaaneq; pisinnaatitaaneq

preamble aallaqqaasiut

precautionary principle mianersortussaannermut najoqqutassiaq; mianersornissamik tunngavissat

preliminary hearing inatsisit tunngaviusut naapertorlugit killisiuineq

preliminary provisions aalajangersagaagallartut

preliminary provisions aalajangersakkat aallariutaasut

President of the Supreme Court eqqartuussiviit qullersaaata præsidentia

president præsidenti

prime minister ministeriuneq

principle of equality naligiimmik pinnittarnermik tunngavik

principle of equality naligimmik pinnittarneq

principles tunngaviit

privileges immikkut pisinnaatitaaffiit

procedure periaaseq; suleriaaseq

property rights piginnittuunermik pisinnaatitaaffiit

proportional representation qanoq amerlassusegarneq najoqqutaralugu qinersineq; qanoq amerlassusegarneq tunngavigalugu qinersineq

proposal for adoption aalajangiiffigisassatut siunnersuut

proposals of fundamental importance siunnersuutit tunngaviusumik isigisariallit

provision aalajangersagaq

proxy sinniisussag

public administration pisortat ingerlatsinerat pillugu paasitinneqarsinnaatitaaneq

public administration pisortat ingerlatsinerat; pisortatigut ingerlatsineq

public authority pisortat oqartussaataat

public bodies pisortat suliassaqarfii

public institutions pisortat suliffeqarfiutaat

public law pisortanut oqartussaasunut inatsiseqartitsineq

public matter pisortat suliassaqarfiat; pisortat suliassaataat; pisortat susassarisaat

public prosecutor unnerluussisussaataasut

public will inuit nalinginnaat piumasaat

publicity tamanut ammasuunissag

qualified majority piumasaqaatitalimmik amerlanerussuteqarneq

quorum aalajangiisinnaassuseqarneq

racial discrimination, racial discrimination ammip qalipipaataa patsisigalugu assigiinngisitsineq

ratification / Ratification atuuttussanngortitsineq; atortussanngortitsineq

rebellion pikitsitsineq

recognized religious communities uppeqatigiit akuersaamegarsimasut (naalagaaffimmut atanngitsut); upperisarsioqatigiit akuerisaasut (naalagaaffimmut atanngitsut)

recommendation inassutegaat

recommendations innersuussutit

Reconciliation Commission Saammaateqatigiinnissamut Isumalioqatigiissitaq

redistribution nutaamik agguaaneq

re-election qinerseqqinneq

referendum inunnik taasisitsineq

regent kunngi; naalagaaffimmi qullersaasoq

regulations malittarisassat; malitassiat

religious communities uppeqatigiit

report isumaliutississut

report on principles tunngaviusumik isumaliutissiissut

representative democracy sinnisuutitagarneq aqqutigalugu tamat oqartussaaqataanerat

representatives sinniisuutitat

republic kunngiitsuuffik

Republic of Greenland Kunngiitsuuffik Kalaallit Nunaat

resident aliens / foreigners takomartat / nunani allamiut najugaqavissut

responsum immikkut ilisimasalittut oqaaseqaat

right of citizenship [naalagaaffimmi] innuttaasututut pisinnaatitaaneq

right of co-determination aalajangeeqataasinnaaneq

right of ownership piginnittussaaneq; piginnittussaatitaaneq

right of self-determination nammineq aalajangersaasinnaaneq; nammineq aalajangiinissamut pisinnaatitaaneq

right of self-determination of nations inuiaat nammineq aalajangersaasinnaatitaanerit

right of use atuisinnaatitaanermut pisinnaatitaaffik

right to vote qinersisinnaatitaaneq

rights and obligations pisinnaatitaaffiit pisussaaffillu

royal union (personal union) kunngi peatigiissutigalugu naalagaaffeqatigiinneq

rule of law inuiaqatigit inatsiseqartitsinermik tunngaveqarlutik ingerlanneqartut

secession anineq; avissaarneq

secret ballot isertortumik qinersineq

self-determination nammineq aalajangersaaneq

Self-governed Namminersorlutik Oqartussanut inatsiseqartitsineq

self-government (autonomy) namminersoreq

Self-government commission Namminersorneq pillugu Isumalioqatigiissitat

separation of church and state naalagaaffiup ilageeqarnerullu avissaartitaanerit (naalagaaffimmi sulinerup ilageeqamermilu sulinerup avissaartitaanerit)

separation of powers pissaanermik avissaartitsineq

sexism suaassutsikkut immikkoortitsineq

sexuality kinguaassiuutinut tunngasutigut pissuseq

simple majority [nalinginnaasumik] amerlanerussutegarneq

skin colour ammip qalipaataa

small state (microstate) naalagaaffeeraq [millionit ataatsit inorlugit inulik]

social and economic rights inuttut atukkatigut aningaasarsiornikkullu pisinnaatitaaffiit

social law isumaginninneq pillugu inatsiseqartitsineq

solemn assurance of unbreakable commitment to uphold the constitution inatsisit tunngaviusut unioqqutinngisaannarumallugit ilumoorluinnartumik neriorsuineq

sovereign namminersortoq; kisermaassisog

sovereignty (sovereignty, territorial sovereignty) imminut naalagaaffittut oqartussaaffigineq

sovereignty enforcement imminut naalagaaffittut oqartussaaffiginermik atortitsineq

special provisions aalajangersakkat immikkut ittut

standing committee ataatsimiititaliat ataavartut

state authorities naalagaaffimmi oqartussaasut

state authorities naalagaaffimmi oqartussaasut; naalagaaffimmi oqartussaaitat

state building naalagaaffissamik garmaaneq

state church naalagaaffiup ilagiissortai

state coat of arms (national coat of arms) naalagaaffiup ilisarnaataa

state constitution naalagaa ffiup inatsisai tunngaviusut

state custom naalagaaffimmi ileqqusoq

state formation naalagaaffimmik qarmaaneq

state law naalagaaffik pillugu inatsiseqartitsineq

state naalagaaffik

state of emergency sukannersumik inatsisliorneq atornagu| naalakkersuineq

state society naalagaaffiit suleqatigiissut

state succession nunap naalagaaffimmit ataatsimiit allamut ikaarsaarera

subcommittee immikkut ataatsimiititaliaaraq

supervision nakkutillineq

supervisory authority nakkutillisuutit; nakkutilliisututut oqartussat

supplementary appropriation ilassutitut aningaasaliissutit

supplementary report ilassutitut isumaliutissiissut

supranational naalagaaffiup akisussaaffiata qulaaniittog

supranational organizations naalagaaffit akornanni qulliusumik suliniaqatigiiffit

Supreme Court eqqartuussiviit qullersaat

supreme state authorities (parliament, government, courts) naalagaaffimmi oqartussaasut qullersaat (inatsisartut, naalakkersuisut, eqqartuussiviit)

surrender of sovereignty imminut naalagaaffittut oqartussaaffiginerup ilaanik tunniussineq

surveillance nakkutillineq; alapernaarsuineq

symbol ilisarnaat sadvaner ileqqut; ileqquliutit

temporary (preliminary, provisional) constitution inatsisit tunngaviusuugallartut

temporary committees ataatsimiititaliaagallartut

terminology taaguusersuutit

terms of reference suliakkiisummut najoqqutassiaq; suliassarititat

territorial boundary nunap/naalagaaffiup oqartussaaffigisap killeqarfia

territorial waters nunap/naalagaaffiup imartaa ogartussaaffigisaq

territory nunap/naalagaaffiup oqartussaaffia

terrorism peqqarnisaarneq; peqqarniisaamiameg; pinerliiniarneq

the common good innuttaasut amerlanersaasa iluaqtissaat

the common opinion amerlanerusut isumaat

The Constitution of the Kingdom of Denmark Denmarkip naalagaaffiata inatsisai tunngaviusut

The Court of Greenland Kalaallit Nunaanni Eqqartuussivik

the courts eqqartuussiviit

the custom of law inatsiseqartitsinikkut ileqqusoq

The Greenlandic Crime Prevention Council Kalaallit Nunaanni Piner luttaalisitsiniarneq pillugu Isumalioqatigiissitat

The Greenlandic Judicial Commission Kalaallit Nunaanni Eqqartuussivegarneq pillugu Ataatsimiititaliarsuaq

The High Court of Greenland Nunatta Eqqartuussisuuneqarfia

the interests of the realm naalagaaffiup iluaqutissaa

the knowledge of the law inatsisip tamanut ilisimatinneqarnera

The National Ombudsman in Greenland Naalagaa fiup Kalaallit Nunaanni Sinniisogarfia -

The Nordic Language Convention Nunat Avannarlit oqaatsit pillugit isumaqatigüissutaat

the people inuinnaat

the public innuttaasut

the public pisortat

the right of reading atuukkunnaarsitsisinnaaneq

the rules of democracy tamat oqartussaaqataaneranni malittarisassat; tamat oqartussaaqataaneranni suleriaasissat

the silent majority qisuariartanngitsut

the united kingdom naalagaaffeqatigiinneq

the will of the people inunaat piumasaat

the world community nunarsuarmiogatigit; silarsuarmiogatigiit

timetable inger lanissamut pilersaarut

tolerance akaarinninneq

trade union rights sulisartut pegatigiiffiisa pisinnaatitaaffil

traditional hunting and trapping rights piniamermut aallaaniamermullu qangaaniilli pisinnaatitaaffiit

transitional arrangement ikaarsaariarnermi aaqqissuussineq

transitional period piffissaq ikaarsaariarfiusoq

transitional provisions ikaarsaariamermi aalajangersakkat

transsexuality suaassutsimik allannguerusunneq

treason killuussineq

treason nunagisamik killuussineq

tribal people inuiaat naggueqatigiit

tribal peoples naggueqatigit

tripartite division of power ogartussaaffit pingasunut immikkoortitererat

UN Convention on the Elimination of All Forms of Discrimination against Women isumaqatigiissut arnanik immikkoortitsisamerit suulluunniit nungusarissaat pillugu

UN Convention on the Elimination of All Forms of Racial Discrimination amqip qalipaataa tunngavigalugu assiginngisitsisarnerit tamarmik atorunnaarsinneqarnissaannut FN-imi isumaqatigiissut

UN Convention on the Right of Married Women to Citizenship Arat katissimasut innuttaassuseqarsinnaatitaanerannut FN-ip isumaqatigiissutaa

UN Convention on the Rights of Persons with Disabilities Inuit innarluutillit pisinnaatitaaffii pillugit Naalagaaffit Peqatigit isumaqatigiissutaat

UN Convention on the Rights of the Child Naalagaaffit Peqatigiit meeqqat pisinnaatitaaffi pillugit isumaqatigissutaat

UN Guiding Principles on Business and Human Rights Naalagaaffit Pegatigit inuussutissarsioermut inuillu pisinnaatitaaffi inut najoqqutassiaat

UN resolution on the admission of independence of colonial territories and peoples nunat inuiaallu nunasiaasut namminersortunngortinneqarissaannik Naalagaaffit Peqatigit nalunaarutaat

UNESCO Naalagaaffit Pegatigit Ilinniartitaanermut, Ilisimatusamerimut, Kulturimut, Attaveqatigiinnermut Paasissutissiuismarmullu Suliniaqatigiiffiat

union (association) naalagaaffit peatigiissut; naalagaaffit pegatigiinnerat

union council naalagaaffit peqatigiissut siunnersuisoqatigriffiat

United Nations Charter Naalagaaffit Pegatigiit Angerfigeqatigiissutaat

United Nations Declaration on the Rights of Indigenous Peoples nunat inoqqaavisa
pisinnaatitaaffii pillugit Naalagaaffiit Peqatigiit nalunaarutaat

United Nations Naalagaaffiit Peqatigiit

Universal Declaration of Human Rights inuttut pisinnaatitaaffiit pillugit silarsuarmioqatigiinnut
nalunaarut

universal rights pisinnaatitaaffit tamanut atuuttut

unrelated arlaannaannulluunniit attuumassuteqanngitsoq; nammineersoq

untimely elections maanaannakkut qinersineq

use of force pissaanermik atuineq

value standards naleqartitat tunngavigisat

values pingaartitat

veto itigartitsisinnaatitaaneq

violence nakuuserneg; persuttaaneq

vote (voting) taasineq

vote of no confidence tatiginninnginnermik nalunaaruteqarneq

voting age qinersisinnaatitaasut ukiuisa killingat

voting majority amerlanerusut isumaat; taasisut amerlanerusut isumaat

voting right taasisinnaatitaaneq

way of life inooriaaseq

welfare society inuiaqatigiit atugarissaartut

welfare state naalagaaffik atugarissaarfiusoq

women's rights arnat pisinnaatitaaffii

work obligation sulisusaatitaaneq

workers' rights sulisup pisinnaatitaaffia

working group sulegatigiissitaq

world heritage nunarsuarmit eriasassa

written constitution inatsisit tunngaviusut allagannguussimasut

written declaration on oath eqquutsitsitsinissamik uppernarsaalluni atsiomeq

“A constitution is a ‘nation’s birth certificate’” “Inatsisit tunngaviusut tassaapput ‘inuaat inunngornermut allagartaat’”

“A new constitution must be easy to understand and read” “Inatsisit tunngaviusut nutaat paas issaalluurtuullutillu atuaruminartuususaassapput”

“A person shall be convicted of discrimination who, in public or with intent to disseminate to a wider circle, makes a statement or other communication by which a group of persons is threatened, intimidated or degraded because of their race, skin color, national or ethnic origin, belief or sexual orientation” “Kinaassusersersiorlutut eqqartuunneqassaaq kinaluunnit tamanut imaluunnit inunnut amerlasuunut siuararterinissaq siunertaralugu ogaasegartoq imaluunnit allatut iliorluni nalunaarutqartqg, taamatut iliornermigut inuit eqimattat sioorasaarneqartillugit, asissornegartillugit nikanarsarnegartillugilluunniit nagguiat, amisa qalipaataataat, inuiannik naggueqatiginnilluunniit kingoqqisuunerat, upperisaat imaluunniit kinguaassiuutinut tunngasutigut sumut samminerat pissutigalugu”

“A society must be known by how it treats its weakest” “Inuiaqatigiit sannginnerpaartaminnut ganog iliornermik ilisarnaatigissavaat”

“All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience, and they are called upon to act towards one another in a spirit of brotherhood” “Inuit tamarmik inunngorput nammineersinnaassusegarlutik assigiimmillu ataqqinassusegarlutillu pisinnaatitaaffegarlutik. Silaqassusermik tarnillu nalunngissusianik pilersugaapput imminnullu iliorfigegegatigittariagaraluarput qatanngutigittut pegatiginnerup anersaavani”

“Because of race, gender, religion, ethnicity, nationality, political beliefs or sexual orientation” “Ammip galipaataanik, arnaanermik/angutaanermik, upperisamik, sumit nagguegarnermik, nunamit suminngaanneerneramik, politikikkut isummamik angutegammilluunniit/arnagammilluunniit atogateqartartuunermik pissutegartumik”

“Inatsisartut is uncrowned” “Inatsisartut innimiginarlunnartussaapput”

“It is prohibited to subject a woman or a man to direct or indirect discrimination on the grounds of gender” “Arnat angutilluunniit suaassusaat pissutigalugu toqqaannartumik toqqaannannangitsumillu assigiinngisinnegarnissaat inertequtaavoq”

“No minister can remain in office after the parliament has expressed its no confidence in him”
“Inatsisartut tatiginani ilisimatippanni ministeri kinaluunniit atorfimminit tunuartariarpog”

“No punishment without the rule of law” “Inatsisinik maleruagassagartinnagu pillaasoqassanngilag”

“Permanent attachment to the Greenlandic community” “Inuiaqatiginnut kalaallinut aalajangersimasumik attuumassutegartut”

“Personal freedom is inviolable” “Inuup kiffaanngissusia ajortumiitsaaliugassaalluinnassaaq”

“Poverty is a violation of human rights” “Piitsuussususeg tassaavoq inuttut pisinnaatitaaffegegannginneq”

“Power emanates from the people” “pissaaneg inunnit aallaavegarpog”

“Recognizing that the people of Greenland are a people under international law with the right to self-determination” “Nunat tamat akornanni inatsisit malillugugit inuiaat kalaallit namminneq aalajangiisinnaassusegarlutik inuiaanerak akueralugu”

“The ‘Greenlandic element’ in the administration of justice” “Egartuussisaatsip ‘kalaalerpalaarutaa”

“The Danish Parliament is inviolable” “Inatsisartut innimiginarluinnartussaapput”

“The Greenlandic people are sovereign in Greenland” “Inuiaat kalaallit tassaapput Kalaallit Nunaannut kisimillutik aalajangisussaasut”

“The home is inviolable” “Inigisaq ajortumiitsaaliugassaalluinnassaaq”

“The individual right to use one’s own language can never be questioned” “Kinaluunnit apeggusernegartussaannngitsumik ogaatsiminik atuisinnaassaaq”

“The King cannot without the consent of the Parliament be regent in other countries” “kunngi inatsisartunit akuerinegarani naalagaaffinni allani naalakkersuisuusinnaanngilag”

“The legal language is Greenlandic and Danish” “Ogaatsit eqgartuussinermi atornegartussat tassaapput kalaallisut danskisullu oqaatsit”

“The legislative power is vested in the king and the parliament jointly. The executive power is with the king. The judicial power is with the courts.” “Kunngi inatsisartullu suleqatigillutik inatsisiliortartartussaapput. Kunngi aalajangisussani qullersaasussaassaaq. Eggartuussisarnek eqgartuussisut qullersaaffigisassaraat”

“The right of ownership is inviolable” “Piginnittuussuseq ajortumiitsaaliugassaalluinnassaaq”

“With law, land will be built” “inuiaat inatsisinik garmarnegassapput”

“With power must come responsibility” “pissaanegartitaaneg akisussaatitaanermik malitsegartariagarpog”

“You must fulfill your obligations” “Pisussaaffitit naammassississavatit”

ANNEX 3

Mike Sfraga and Jack Durkee (eds.), external insight and analysis by the polar Institute of the Wilson Center for Consideration by the Greenlandic Constitutional Commission. Greenland's Geopolitical Position and Strategic Importance, 21 April 2021, Wilson Center's Polar Institute

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External Insights and Analysis by the Polar Institute of the Wilson Center for Consideration by the Greenlandic Constitutional Commission

Greenland's Geopolitical Position and Strategic Importance

April 21, 2021

Introduction

The Wilson Center's Polar Institute was asked by the Greenland Constitutional Commission to address various issues related to foreign and security policies, as they relate to the development of Greenland's future constitution. The Government's Working Group on Foreign and Security Policy outlined four main areas of particular interest in this consultation: the issue of neutrality and alliances; the concept of militarization and demilitarized zones; the Arctic and Antarctica, and; other defence and security policy issues. Within these four main areas, the Working Group provided the following as context for the Wilson Center's analysis.

Task 1: Neutrality and Alliances

1. Conditions for membership (including whether membership countries concerned must have their own military and defence preparedness).
2. The benefits and consequences of participating in such alliances, and of maintaining neutrality
3. What invoking neutrality in peacetime, and in conflict, entails.

Task 2: Demilitarized Zones

1. A brief description of demilitarized zones.
2. Which areas are typically demilitarized, and why they are demilitarized.

Task 3: Arctic and Antarctica

1. Whether parts of the Antarctica Treaty are relevant to the Arctic.
2. What possible grounds exist for creating a similar treaty or comprehensive agreement for the Arctic.
3. Comment on the Treaty of Svalbard, its creation, aim, and application.

Task 4: Other Defence and Security Issues

1. What issues and threats should be addressed by Greenland in foreign and security terms, in addition to aspects including geography, air, sea, epidemics, resources, cyber, and food security.

We trust these insights and analysis will inform the Commission's discussions and deliberations and welcome the opportunity to further explore these matters in further detail if such engagement is helpful. On behalf of the Polar Institute, respectfully submitted to Greenland's Constitutional Commission.

Dr. Mike Sfraga
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Task 1: Neutrality and Alliances

Dr. Stacy Closson, Global Fellow, Kennan Institute, Wilson Center; Director of Russia and Eurasia Studies, National Intelligence University

Summary: A newly independent Greenland in the Arctic has several strategic options: join NATO, join the European Union, create a partnership with individual countries, or remain neutral. Of these, NATO provides the best security guarantee by means of a larger more fortified presence in the Arctic with allies such as Canada, Denmark, Iceland, and the United States. The costs of NATO membership are tailored to a country's individual capabilities and the benefits build on Denmark/Greenland's membership. Joining the European Union also enhances Greenland's security, but it encompasses broader economic, social, and legal frameworks. Greenland could also

choose bilateral security guarantees with individual states, such as Denmark or the United States, but this may not be adequate in future years. Finally, Greenland can attempt to remain neutral, but it may leave Greenland vulnerable to competing interests among the Great Powers.

NATO membership is a sliding scale. It can be as bureaucratic or expedient as necessary. Each NATO member brings its own unique security challenges and capabilities to the Alliance. This may be an opportune time to explore membership in NATO, as Greenland has support from likeminded nations. Part of the negotiation towards membership includes discussions on finances and facilities. While there is a NATO-stated goal of spending 2% of a country's GDP on defence, only half of the current membership reach this goal and accommodations are made for countries with smaller economies or defence assets. Albania, North Macedonia, Belgium and Luxembourg, for example, fall below 2%, the lowest being about .6% GDP. Iceland does not have an air force or army, but does offer strategic basing and facilities for allied forces, and maintains a coast guard.

Those countries who have joined NATO since 1999 have gone through a process known as the Membership Action Plan (MAP). It is unclear if Greenland would have to formally apply for accession to NATO with a MAP. The MAP does not commit an aspirant or NATO to membership, but rather serves as an ongoing dialogue and practical advice and support in preparing for membership. Typically, a timetable of completion of necessary reforms is submitted to NATO by the aspirant, which may be completed before or after NATO membership. Ultimately, membership is based on consensus of all NATO members.

The benefits of NATO membership vary by country, but for all includes an alliance with a cohort of nations providing a mutual security guarantee in case of an attack. NATO also provides a forum for political military consultations with neighbors, as well as intelligence information. Other benefits could include technology and technical assistance; enhanced communication, wireless capacity and connectivity; and support for science and technology. NATO assets could assist Greenland in augmenting coastal defence and maritime patrolling, and in securing a crucial trans-Atlantic air corridor. NATO has particular expertise in securing cyber infrastructure from attack and countering the spread of disinformation.

The costs of NATO membership depend on a country's need and capabilities. The cost-sharing and burden-sharing should benefit Greenland. Offsetting the cost of funding defence would allow Greenland more choice in its economic future, and less dependence on natural resource extraction.

There may be social costs, such as the level of support the Greenlanders give to NATO membership based on whether they feel it reflects their values and supports their livelihoods. There is also the cost of joining an alliance that is increasingly at odds with Russia and China.

The most opportune time to discuss NATO membership may be now. Greenland has an advantageous negotiating position. First, during a pre-independence timeframe, while Greenland participates in NATO by way of Denmark, the Greenlandic government may begin exploratory talks with individual NATO allies on an informal basis. This option would require consultation and coordination with the [Kingdom of] Denmark. Second, NATO must secure the North Atlantic and Greenland offers important force projection capabilities. Therefore, Greenland could maximize the benefits of membership and minimize the costs.

Iceland is a relevant case study for Greenland. Despite not having a standing army since 1869, Iceland under NATO maintains a military expeditionary peacekeeping force, an air defence system, a militarized coast guard, a police service, and a tactical police force. Iceland had a defence agreement with the United States from 1951 to 2006 for a military base, Naval Air Station Keflavik. The United States continues to provide for Iceland's defence and has returned some military assets to Iceland in recent years. Iceland also has agreements regarding military and other security operations with Norway, Denmark, and other NATO countries.

Membership in the European Union (EU) may offer Greenland security assistance to address internal challenges, as well as collective defence guarantees against external threats. In the Arctic, Sweden and Finland are members of the European Union, which has an increasingly active Common Security and Defence Policy and consultative process with NATO. However, membership entails a far broader political, social, economic, and legal framework than NATO. Membership in the EU might also complicate efforts that Greenland might wish to pursue in building closer economic and security ties with Canada and the United States.

Neutrality is another option. Neutrality in some respects can have a positive connotation. It is used as a tool to stay out of wars. Neutrality can also be seen as putting human security first; issues of food, health, and the environment take precedence. Forces are dedicated to support peacekeeping.

However, Greenland's strategic location, the history of being part of a trans-Atlantic security alliance, and close relations with FVEY (the United States, the United Kingdom, Canada, Australia and New Zealand) in commercial sectors may cause other states to question the extent of Greenland's neutrality.

Several European states originally declared their neutrality, including Austria, Finland, Ireland, Malta, Sweden and Switzerland. While neutrality initially meant refraining from membership in alliances and/or fighting in wars, circumstances have changed.

First, war between states is on the decline and war as an event that begins and ends is less relevant. Russia views itself as being in a constant state of conflict and uses tools of cyber intrusion and disinformation to undermine democracies. Second, the framework in which neutrality worked after the Second World War is less realistic today. While European countries may still proclaim neutrality in their constitutions, after joining the European Union, their requirements for collective defence have led to a re-examination of the meaning of neutrality. Additionally, several European states who have declared neutrality participate in NATO activities as members of the Partnership for Peace program.

Neutrality may offer countries some leverage over more powerful countries who have strategic interests in their countries. These countries receive benefits from enhanced cooperation with NATO, bolstered by bilateral defence agreements. However, sometimes the middle road of being neither an ally nor completely neutral invites competition by greater powers for influence leading to conflict.

International Relations theories offer strategic approaches. The first is balancing. Greenland could develop military capabilities to constrain the most powerful and rising states from being a threat. This can involve joining an alliance to balance and gain more leverage over a dominant or rising power. An alternative to hard power is when a weaker state uses skillful economic and diplomatic tools to constrain more powerful states, leading to frustration and increasing the cost for the stronger state to take action. The second is bandwagoning. Greenland could choose to ally with a more powerful state or group of states to secure bilateral security guarantees with individual states, such as Canada, Denmark, Iceland or the United States. The third is hedging. Greenland could opt to engage in a mix of cooperative and confrontational stances towards other states, somewhere between balancing and bandwagoning. Smaller states can hedge in their relations by agreeing to arrangements with other stronger states or alliances, but only when the option to joint decision-making exists and a state can leave. The fourth is wedging. This is less a tool available to Greenland, and more a potential result of Great Power Politics. As the Great Powers attempt to prevent alliances from forming or to disperse those that have formed, Greenland could become a target. Russia has attempted to wedge between Europe and the United States in an effort to weaken the trans-Atlantic alliance.

Task 2: Demilitarized Zones

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Demilitarized Regions in the 21st Century

Whereas neutrality refers to a state's commitment to not participate in military conflicts, demilitarization refers to the removal of military forces. This can have several practical meanings and implications. One main distinction is that demilitarization does not imply complete disarmament; a demilitarized state or region could legitimately maintain constabulary or defensive assets, for example (see Table 1).

Table 1: Definitions of Concepts

Disarmament	To reduce or withdraw weapons and military forces.
Demilitarization	To remove military forces from an area; to transition to non-military means to provide for security.
Denuclearisation	To remove or ban nuclear weapons from an area.
Neutralization	To remove an area from existing and future military conflict.
Arms Control	To mutually agree, usually with and adversary, on efforts to limit, reduce and/or control the development, production, stockpiling, proliferation, and usage of weapons.
Confidence building	To conduct activities which prevent conflict, reduce tension and build trust with an antagonist.
Remilitarization	To reintroduce or increase military forces to an area that had previously experienced a reduction.

‘Demilitarization’ has two primary meanings in current international affairs. The first is to describe a proscribed zone as demilitarized, usually following the cessation of military conflict. In these cases, military activities and personnel are prohibited and the region itself may be neutral and lack clear sovereignty. Notable examples include the demilitarized zones between North and South Korea; between Iraq and Kuwait; between Serbia and Kosovo; between Moldova and Ukraine; between Sudan and South Sudan; and between north and south Cyprus.

Svalbard, Antarctica and Outer Space are also formalized as demilitarized areas through international treaties. The Svalbard Treaty, further discussed below, prohibits military fortifications or installations for warlike purposes in the Svalbard archipelago. The Antarctic Treaty specifies that the region shall be used for peaceful purposes only, and prohibits any measures of a military nature. The Outer Space Treaty prohibits nuclear weapons or other weapons of mass destruction from being placed in orbit, on celestial bodies, or stationed in outer space in any other manner; and also commits parties to using the Moon and other celestial bodies exclusively for peaceful purposes.

Demilitarized zones or demilitarization treaties are models that would likely be inappropriate and contrary to the interests of an independent, sovereign Greenland, as they would restrict the nation’s security and defence options unduly. However, an alternative disarmament model exists, and that is to forego armed forces. Thirty-one states have elected this model, including Costa Rica (the first modern state to abolish its armed forces, in 1949), Panama, Japan, and Iceland. The majority of the other countries without armed forces include the south Pacific micro-states and small European states such as Andorra, Liechtenstein, Monaco and Vatican City.

The Icelandic Model

One logical model for a security framework for an independent Greenland can be found in Iceland: it similarly has a small population and tax base which is insufficient to maintain expensive military assets; sits in a geographically strategic location between the north Atlantic Ocean and the Arctic Ocean; and has significant defence ties to the United States and economic ties to Europe.

Iceland first hosted U.S. forces in 1941. The United States built Keflavik Airport as a refueling point for aircraft deliveries and cargo flights to Europe during World War Two (WWII). An agreement between Iceland and the United States in 1946 permitted their continued presence. As the Cold War with the Soviet Union heated up, Iceland became a founding member of the NATO in 1949. Its membership required neither the establishment of Icelandic armed forces nor the stationing of foreign troops in the country during peacetime. Yet Iceland sought a bilateral defence agreement with the United States in 1951, which re-established the Keflavik Naval Air Station (NAS), as well as initiated the Icelandic Defence Force. In light of evolving geopolitical priorities, the United States ceased operations in Keflavik in 2006.

As Iceland does not have its own military, its security and defence is based on the following: (1) a bilateral defence agreement with the United States, and bilateral cooperation agreements with the United Kingdom, Denmark, Norway and Canada; (2) membership in NATO; (3) participation in the Nordic Defence Cooperation (NORDEFCO); and (4) maintenance of its own Icelandic Coast Guard.

Unlike Sweden and Finland, who have maintained forms of neutrality, Iceland is an active member of NATO. However, its membership in NATO has been contentious domestically at times. Iceland formally emphasizes NATO's role in disarmament, arms control and non-proliferation, including nuclear issues; the common values of the Alliance (respect for democracy, rule of law and human rights); and collective defence and the importance of solidarity, the transatlantic link and the indivisibility of security, as its rationale for ongoing membership.

Demilitarization and Denuclearization in the Arctic

The concept of demilitarization is not a new one for the Arctic region. In 1964 two scientists, one American and one Soviet (Alexander Rich and Alexandr Vinogradov), jointly proposed an Arctic nuclear-free zone in the *Bulletin of Atomic Scientists*. It was revived in 1980 by Canadian academic Hanna Newcombe in the journal *Peace Research* and later by the Pugwash Group in August 2007, and the InterAction Council in 2011. There were similar proposals for nuclear-free zones in the Nordic region, most recently by the Icelandic parliament in 2012, as a response to the US withdrawal from Keflavik.

The Nordic states made recurrent efforts to disarm northern Europe across the 20th century. The first serious effort at denuclearization was from Finnish President Urho Kekkonen in May 1963, based on the desire to keep the region, in this case Denmark, Sweden, Norway and Finland, free from speculation as to its nuclear status. The Soviet Union agreed to guarantee it would not use nuclear weapons against those states as a *quid pro quo*, but Denmark and Norway, members of NATO, were dissatisfied with this arrangement and asked instead that the Soviet Union agree to include the Kola Peninsula in the NWFZ, which they declined.

The famous Murmansk speech by Mikhail Gorbachev in 1987, calling for the Arctic to become a "Zone of Peace", called for a "radical lowering of the level of military confrontation in the region" including the establishment of a nuclear-free zone in northern Europe. In response, many advocates conceived of what eventually became the Arctic Council as a forum for disarmament. Due to opposition from the United States it ultimately came to focus instead on environmental protection and sustainable development, and the Ottawa Declaration establishing the Council explicitly excluded military security from its mandate.

As long as the United States and Russia maintain nuclear arsenals, geography will ensure that at least some of their forces and counterforces will be deployed in the Arctic. Russia's main sea-based nuclear-weapons arsenal is based in the Arctic on the Kola Peninsula. While the United States does not base nuclear weapons in the Arctic and does not currently conduct Arctic patrols with nuclear-armed submarines, it concentrates its strategic ballistic missile interception efforts there. This means that the Thule Air Base will remain a strategic priority for the United States, and for NATO-making a complete withdrawal of military forces from Greenland politically difficult.

Options for Greenland

Greenland is in a particularly strategic geopolitical location. The air base in Pituffik (Thule) is critical to U.S. and NATO nuclear deterrence strategy, as it operates mainly as a missile warning system and space and satellite surveillance.

As Greenland explores a security framework that would be compatible with independence, a number of options, along the spectrum of complete disarmament to traditional militarization, are open to it. The most likely option is probably one in the middle some combination of defence cooperation with NATO, the United States and/or Denmark, alongside a civilian coast guard, not unlike what Iceland has pursued. Its strategic location grants it some leverage in negotiating favorable defence agreements.

Denuclearization, neutralization, and a constabulary rather than military security force are all possible. However, a newly independent Greenland will need to maintain close economic ties to Denmark and the European Union and to enhance economic ties to Canada and the United States. For this reason, it may choose to maintain most, if not all, of its current defence relationships – including the Thule Air Base – to avoid any negative impact on its international relations at a time when new types of cooperation would be critical.

Task 3: Arctic and Antarctica

Ambassador (ret.) David Balton, Senior Fellow, Polar Institute, Wilson Center Mr. Evan Bloom, Senior Fellow, Polar Institute, Wilson Center

The Arctic

Summary

If Greenland becomes effectively independent from the Kingdom of Denmark, and if other Arctic States recognized Greenland's new independent status, Greenland would have the ability to join, in its own name and right, existing and future international bodies that have been created for the Arctic. Greenland would also be eligible to become a party to a growing number of international agreements relating to the region.

The political and symbolic significance of such developments would be momentous for Greenland, and would require the other Arctic States to adjust to the new political realities of having an independent Greenland as a partner in the Arctic. That said, the practical consequences of this realignment may actually turn out to be less consequential, given that Greenland already participates in virtually all parts of the international Arctic regime as part of the Kingdom of Denmark. The increased influence that an independent Greenland would have in this regime, and the increased material benefits that Greenland might derive from participating in this regime, may be modest.

Indeed, it would be the other parts of the Kingdom of Denmark that would likely experience greater consequences. If the Kingdom of Denmark no longer included Greenland, the Kingdom would no longer be considered an Arctic State. This change would presumably lead to the loss of its membership in the Arctic Council and other Arctic bodies, and would raise questions about its eligibility to remain a party to international agreements concerning the Arctic.

Arctic Council

The 1996 Ottawa Declaration, which created the Arctic Council, lists “Denmark” as one of the eight Arctic States and as one of the eight Members of the Council. In other words, the Declaration limits membership in the Council to Arctic States. If the other Arctic States recognized Greenland as an Arctic State that was no longer part of the Kingdom of Denmark, Greenland would be entitled to become an Arctic Council Member, in effect replacing Denmark.

The Members of the Council might choose to amend the Ottawa Declaration to take account of the changed circumstances. Given that the Declaration is not a binding instrument, the process to make such an amendment would be reasonably simple. Alternatively, the Council might simply issue a separate statement indicating the Greenland has replaced Denmark as a Member. Greenland would have all the rights Denmark now enjoys as a Member, but also the obligation to contribute to Arctic Council work (and its share of the costs of the Arctic Council Secretariat).

Today, the Arctic Council has developed a practice in which the Kingdom of Denmark generally has three representatives in its meetings, allowing for the participation of representatives from the Danish mainland, from the Faroe Islands, and from Greenland. If Greenland replaced Denmark as an Arctic Council Member, it is likely that this practice would end. Greenland, like all seven other Arctic Council Members, would have one representative.

Other Arctic Bodies

In the Arctic, a range of other international bodies of varying levels of formality have come into being in recent years, including the Arctic Coast Guard Forum, the Arctic Economic Council, and the Arctic Offshore Regulators Forum. Membership in each of these is also limited to Arctic States; Greenland currently participates in each of these as part of the Kingdom of Denmark.

As with the Arctic Council, Greenland would be eligible to replace Denmark as a member in each body if it were recognized as an Arctic State. As a member, Greenland would periodically have the opportunity to lead each of these bodies (chairmanship of these bodies generally tracks the cycle of two-year Arctic Council chairmanships).

International Agreements Relating to the Arctic

Recent years have also witnessed a series of binding international agreements relating to the Arctic region. Three of those agreements, the *Agreement on Cooperation on Aeronautical and Maritime Search and Rescue in the Arctic* (2011), the *Agreement on Cooperation on Marine Oil Pollution Preparation and Response in the Arctic* (2013), and the *Agreement on Enhancing International Scientific Cooperation in the Arctic* (2017), were negotiated within Task Forces created by the Arctic Council. Greenland, as part of the Kingdom and Denmark, is already bound to all three instruments.

In 2017, Members of the International Maritime Organization brought into force the *Polar Code* to strengthen the regulation of Arctic (and Antarctic) shipping. Once again, Greenland is bound to this instrument as part of the Kingdom of Denmark. Finally, nine States and the European Union

have signed the *Agreement to Prevent Unregulated High Seas Fisheries in the Central Arctic Ocean* in 2018. Upon its entry into force, expected soon, that treaty will be binding on Denmark as a Member of the European Union and separately on Greenland and the Faroe Islands as parts of the Kingdom that are outside the EU Common Fisheries Policy.

If Greenland becomes independent from the Kingdom of Denmark, some complicated questions will like arise in relation to these international agreements. In the case of the three agreements negotiated under Arctic Council auspices, it is possible that the parties would agree to have Greenland replace Denmark as a party and figure out the legal adjustments necessary to make that change effective. It is also conceivable that the parties would instead agree to add Greenland as a ninth party to one or more of those agreements.

Before considering whether to become party to the Polar Code, an independent Greenland might first wish to consider whether to join the International Maritime Organization in its own name and right and, if so, which of the many of the IMO's instruments to join. The Polar Code, because it relates specifically to shipping in the Arctic, would presumably be at or near the top of list, but would hardly be the only one desirable for adherence.

Once the Central Arctic Ocean Fisheries Agreement enters into force, Greenland and the Faroe Islands will be bound to it without having to take further action.

Finally, Greenland could consider becoming party to the 1920 Svalbard Treaty, also known as the Treaty of Spitzbergen. The Kingdom of Denmark is already bound to this Treaty, which recognizes Norwegian sovereignty over the Spitzbergen archipelago, subject to certain stipulations.

Consequences for the Remainder of the Kingdom of Denmark

Today, the Kingdom of Denmark is an Arctic State only because Greenland is part of the Kingdom. The Faroe Islands, at roughly 62 degrees N. Latitude, is some 500 kilometers south of the Arctic Circle and the remainder of the Kingdom lies well south of that. In short, the Kingdom would no longer have any territory north of the Arctic Circle if Greenland becomes independent from the Kingdom.

As a non-Arctic State, the Kingdom of Denmark would no longer be entitled to be an Arctic Council Member. The Kingdom, including the Faroe Islands, could seek Observer Status in the Council. In all likelihood, the same substitution of Greenland for the Kingdom of Denmark would take place in relation to the other Arctic bodies whose membership is limited to Arctic States, such as the Arctic Coast Guard Forum, the Arctic Economic Council, and the Arctic Offshore Regulators Forum.

More complicated questions would arise in respect of the international agreements to which the Kingdom of Denmark is now a party, as noted above. In some cases, parties to those agreements may insist that Greenland should replace Denmark as the party. In other cases, it is possible that both Denmark and an independent Greenland could be party to one or more of those treaties.

The Antarctic

Summary

An independent Greenland may wish to consider becoming a party to the Antarctic Treaty and to its Protocol on Environmental Protection. The Treaty promotes science and environmental protection in large areas significantly covered by ice. The science conducted in Antarctica, including major ice core studies, have a parallel with activities in Greenland, and participation would promote cooperation with other key countries active in polar science.

Upon attaining independence, Greenland as a sovereign state would have the opportunity to participate in aspects of Antarctic diplomacy. It could do so by joining key elements of the elements of the Antarctic Treaty System¹, in particular those related to the Antarctic Treaty and to the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR).

The Antarctic Treaty

Countries active in Antarctic diplomacy do so via the Antarctic Treaty, which was signed in 1959 and entered into force in 1960. There are 54 parties to the Treaty, including 29 with consultative status that allows participation in decision-making. Essentially all countries with a significant interest in Antarctica, defined as the area south of 60 degrees south latitude (thus including marine areas and not just land) are parties. The Treaty reserves Antarctica as a region used for peace and devoted to science, bans military activities, and freezes territorial claims. A particular Greenlandic interest in Antarctica may be ice-related science that occurs in both polar regions.

All Nordic countries are parties to the Antarctic Treaty. Norway, which maintains a territorial claim in Antarctica, is one of the original signatories and among the most active States in Antarctic diplomacy. Denmark, Finland, Sweden and Iceland are acceding States. Iceland became a party recently, in 2015; Denmark in 1965. Norway, Finland and Sweden have consultative status. Denmark has generally not been active in any aspect of Antarctic diplomacy.

The Antarctic Treaty meets annually at Antarctic Treaty Consultative Meetings (ATCM). The next ATCM is scheduled to be hosted by France in Paris in June 2021, although given the pandemic an in-person meeting may not occur. At ATCMs, parties discuss issues such as operation of research stations, environmental impacts of human activities, Antarctic science, impacts of climate change, tourism and bioprospecting.

Under the Treaty, any country that is a member of the United Nations can join the Treaty by giving notice to the United States as the depository government.² The 12 original signatories plus those states that demonstrate their “interest in Antarctica by conducting substantial research activity there” are deemed Consultative Parties. Decision-making at ATCMs is taken by consensus of the Consultative Parties. Greenland as a non-Consultative Party can attend ATCMs, but should it

¹ The “Antarctic Treaty system” is a defined term under the Environmental Protocol to the Antarctic Treaty and includes the Treaty itself, “the measures in effect under that Treaty, its associated separate international instruments in force and the measures in effect under those instruments.” (Art. 1(e)). The associated instruments are the Environmental Protocol, the CAMLR Convention and the 1972 Convention for the Conservation of Antarctic Seals.

² A State that is not a member of the United Nations can become a party if approved by all Consultative Parties.

aspire to a larger role as a Consultative Party, that would normally involve a substantial diplomatic effort to obtain the required support from all the current Consultative Parties. Such efforts include demonstrating significant scientific activity in Antarctica, although the decision by the Consultative Parties seems to be taken primarily on a political basis rather than an assessment of scientific capabilities. Turkey, for example, is currently conducting an active campaign to become a Consultative Party.

Environmental Protocol

The Antarctic Treaty is a Cold War-era instrument that didn't focus on the environment. The Treaty parties remedied that via the Protocol on Environmental Protection to the Antarctic Treaty, which was signed in Madrid in 1991 and entered into force 1998. The Protocol, to which all Consultative and many non-Consultative Parties are party, inter alia contains a ban on mineral-related activities (in effect prohibiting mining and oil and gas exploration), requires environmental impact assessments, regulates waste and provides for protecting designated areas. An annex on liability has yet to enter into force.

Given the current prominence of environmental issues, Greenland may wish to consider becoming a party to the Protocol if it wishes to conduct activities in Antarctica or play an active role in Antarctic diplomacy. Norway and Sweden are parties, but Denmark and Iceland are not. Some countries have delayed joining the Protocol because significant domestic legislation was needed for them to be able to implement its provisions.

Convention for the Conservation of Antarctic Marine Living Resources

The other major element of the Antarctic Treaty System is the Convention for the Conservation of Antarctic Marine Living Resources. It was negotiated among the parties to the Antarctic Treaty and signed in 1982 in response to increasing commercial interests in Antarctic krill resources.

Parties to the Convention make decisions through a Commission that currently has 26 Members (25 States plus the EU). Ten additional States are parties to the Convention and adhere to its rules, but do not participate in decision-making (which, as with the ATCM Consultative Parties, occurs on the basis of consensus). The CAMLR Convention is somewhat larger than the Antarctic Treaty Area in order to cover some areas north of 60 degrees up to the Antarctic convergence.

Although CCAMLR has a broad mandate for conservation, its primary work relates to establishing fishing quotas. It has also been focused in recent years in particular on establishment of large-scale marine protected areas. In 2016, it established the world's largest MPA, in the Ross Sea region.

Most countries that are parties to this Convention have fisheries interests in the region, or in relation to imports from Southern Ocean fisheries. United States vessels, for example, do not currently fish in the Southern Ocean, but the United States is an active Member of the Commission.

Norway does fish in Antarctic waters and is a Member. Sweden is a Member of the Commission but does not fish. Denmark and Iceland are not parties.

The Convention is open for accession to any State interested in research or harvesting activities in relation to Antarctic marine living resources. Similarly, to the ATCM, attaining full membership in the Commission requires consensus agreement of the existing Commission Members.

Although participation in CCAMIR would give Greenland insight into the operations of an important part of Antarctic diplomacy and ocean-related conservation, if Greenland does not intend to license vessels to fish in the Southern Ocean joining CCAMLR might not be considered a high priority.

The 1972 Convention for the Conservation of Antarctic Seals, although formally part of the Antarctic Treaty System, has fallen into disuse given the lack of sealing activities in current times. As a result, becoming a party is not necessary.

With Regard to Applicability of Existing Treaty Frameworks

(a) whether parts of the Antarctica Treaty are relevant to the Arctic.

The Antarctic Treaty and the other elements of the Antarctic Treaty System do not apply to the Arctic. Although some analysts have suggested that certain aspects of the Antarctic Treaty System could serve as a model to strengthen governance of the Arctic region, or at least as inspiration in that regard, the reality is that the political, economic and security-related circumstances of the two polar regions are very different from each other. Even as the regime for governing the Arctic continues to evolve, it is unlikely that international governance in the Arctic will mirror the Antarctic Treaty System in any significant way.

(b) what possible grounds exist for creating a similar treaty or comprehensive agreement for the Arctic.

In the Ilulissat Declaration, five Arctic States (including the Kingdom of Denmark) stated that they saw “no need to develop a comprehensive international legal regime to govern the Arctic Ocean.” In lieu of such a comprehensive agreement, a series of agreements on specific topics (discussed above) has emerged, along with a number of new international bodies for the Arctic (such as the Arctic Economic Council and the Arctic Coast Guard Forum).

The resulting patchwork of international agreements and bodies has led to calls to make this regime more coherent, to reduce overlapping responsibilities, and to create a more rational regime for Arctic governance. That said, the Arctic States do not seem particularly interested in overhauling the current governance arrangements at this time, which would entail a major effort. More limited measures to strengthen Arctic governance seem more likely in the coming years, including the possible creation of an international marine science organization for the Central Arctic Ocean.

Task 4: Other Defence and Security Issues

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In addition to the topics identified by the Commission, it is worth highlighting for additional consideration several areas of considerable importance. An independent Greenland would face a variety of critical choices in managing the development of its natural resources, in confronting a variety of significant challenges, and in building relationships with other nations and international bodies. The Commission is also aware of a number of key geostrategic drivers (beyond those noted in this document and listed below), that should be considered at the local, regional, and international levels as they will play important roles in shaping Greenland's future. These drivers are:

1. Increasing global demand for, and the geopolitical realities of, strategic and rare earth minerals;
2. The prospects for developing offshore hydrocarbon resources;
3. The need to manage living marine resources sustainably, including with international partners (in the case of shared stocks);
4. Access to affordable, reliable, and redundant broadband connectivity;
5. Engaging successfully in the international trade and financing system, including through the WTO, the World Bank and the IMF;
6. Providing for health security, including current and future pandemics;
7. Handling immigration and naturalization issues for those wishing to move to Greenland;
8. Possible increases in tourism, as part of economic development of the Arctic region, leading to increase need for search and rescue capacity.

ANNEX 4

Dalee Sambo Dorough, The Rights of the Future of Kalaallit Nunaat, September 8, 2021

The Rights of Indigenous Peoples in Relation to the Future of Kalaallit Nunaat

DRAFT PRESENTATION
Greenland Government
Constitutional Commission

September 8, 2021

Dalee Sambo Dorough, PhD
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I. Historical antecedents in the context of Indigenous peoples

Amongst members of the international legal academy, there is general consensus that international law is universal. I understand this to mean that international law is a body of law that applies to all peoples regardless of race, culture, values, beliefs, religion, or political institutions. International law is not confined to States and state actors.³ It may be that the emergence of international law in the 19th century as a body of law confined to relations amongst and between states was the prevailing view. However, more recently in the area of international human rights law and in particular questions relating to the right of self-determination, it is peoples that are of concern, and not merely states.⁴ The forces of colonization and the “age of empire”⁵ attempted to limit the universal reach of international law, yet Indigenous peoples effectively countered and curbed such views and ultimately contributed to generate a more genuine understanding of the universal nature of international law. The term universal in relation to international law signifies that it must be common to all yet still adaptable to particular and distinct cultural contexts and differences. In this way, international law should not be hierarchical but rather applicable to all peoples. This is also similar to the universality of human rights, they apply to all peoples. Yet, at the same time, there are doctrines, such as territorial integrity, which is confined to relations amongst and between states, which I will address further.

³ Though international law generally has been confined to a system for the regulation of affairs between states, by virtue of the fact that individuals and peoples collectively were involved, international law has always been infused with political and human ideals.

⁴ Jay Crawford, “The Right of Self-Determination in International Law: Its Future and Development”, P. Alston, ed., *Peoples Rights* (Oxford: Oxford University Press, 2001) at 64.

⁵ See E. Hobsbawm, the *Age of Empire: 1865-1914* (1987) at 8. This historian asserts that imperial expansion for economic and political expansion was the primary force behind the universalization of international law.

The early treating between nations did include those of Indigenous peoples. The early treaties and international relations between the Iroquois Confederacy and Great Britain, France, and other Indigenous nations are one example.⁶

II. Colonial corruption of this understanding

Due to a colonial corruption of the universal nature of international law, for the Iroquois Confederacy and others, such as the Maori in the context of the Treaty of Waitangi, Indigenous peoples have sought international recognition or acceptance of their unique place in world society, especially with the formalization of a new family of nations through the establishment of the League of Nations. Deskaheh, a chief of Iroquois Confederacy visited Geneva in 1922, to seek out justice and to bring forward the views of his nation concerning future relations between his peoples and the newcomers. Though Deskaheh did not gain access to the League of Nations as a representative of a sovereign Indigenous peoples, his journey has had a lasting impact. Indigenous peoples have continued to embark on similar journeys as that of Deskaheh, compelled by many of the same problems, the persistent abrogation and non-fulfillment of treaties, non-recognition of the distinct status and lack of respect for their fundamental human rights and values. In dramatic contrast in the early blatant acts of genocide perpetrated against Indigenous peoples and later imposition of domestic law status over Indigenous peoples, generally speaking advances have taken place on domestic and international fronts. In addition, international action was prompted due to severe violations of Indigenous human rights. In many places across the globe, full accommodation of Indigenous peoples' human rights remains elusive. Domestically, remnants of the same colonial approaches have been applied with nuance and subtlety and therefore have become difficult to specify or identify despite encouraging advances. One significant result is the trilogy of Indigenous specific international human rights instruments, namely ILO C169, the *UN Declaration on the Rights of Indigenous Peoples*, and the American Declaration on the Rights of Indigenous Peoples.

The construction of these norms and mechanisms through the international hearing of Indigenous voices, languages, and worldviews. This in turn is opening up more effective domestic and international recourse for the violations of Indigenous human rights and ultimately expanding the range of international human rights law. Yet, Mary Ellen Turpel's assertion about the "interpretive monopoly"⁷ of the dominant society is one of the compelling reasons for Indigenous peoples to dismantle or deconstruct that monopoly in order to ensure that cultural difference is recognized

Hence, the diversity of "the people of the earth" is finally gaining some acceptance or currency within the international community throughout the course of international Indigenous human rights

⁶ See generally Akwesasne Mohawk Counselor Organization, Deskaheh: Iroquois Statesman and Patriot (1984); D. Sanders, "Remembering Deskaheh: Indigenous Peoples and International Law", I. Cotler and F.P. Eliadis, eds., *International Human Rights Law[.] Theory and Practice* (Montreal: Canadian Human Rights Foundation, 1992) at 485; and D. Sanders, "The Legacy of Deskaheh: Indigenous Peoples as International Actors", C. Price Cohen, ed., *Human Rights of Indigenous Peoples* (New York: transnational Publishers, 1998) at 73.

⁷ M.E. Turpel, "Aboriginal Peoples and the Canadian Charter: Interpretive Monopolies, Cultural Differences, R. Devlin, ed., *Canadian Perspectives on Legal Theory*, (Toronto: Emond Montgomery Publications, Ltd., 1991) at 505.

standard setting processes.⁸ In this regard, Indigenous peoples, including the Inuit of Greenland, have been consciously contributing to the development of such norms as well as Indigenous legal theory and legal perspectives by sharing our distinct worldviews.

III. The Nature of Human Rights

To understand the relevant human rights instruments, it is important to be clear about the nature of human rights. Human rights are

interrelated – each component interrelates with all the others
interdependent – dependent upon one another
interconnected – mutually joined or connected between elements
indivisible – cannot be divided.

Therefore, the denial or violation of one human right will have an adverse impact upon all other human rights and a community's ability to exercise and enjoy all other human rights. As the International Law Association has affirmed "it would be inappropriate to deal with these areas separately, for the reason that – in light of the holistic vision of life of Indigenous peoples" because the rights are all "strictly interrelated...." (ILA 2010, 43)

The characteristics of human rights are important to keep in mind in the context of Indigenous peoples, many of whom hold the same all-inclusive perspective about their way of life and their relationship to all within their territories – everything is interrelated, interdependent, interconnected and indivisible. We hold a holistic worldview. Human rights are universal, applying equally to all human beings. Fortunately, the current human rights regime of the United Nations, the Organization of American States, the International Labor Organization, and a growing number of other intergovernmental organizations, have begun to turn the corner, moving away from a Western European understanding of human rights of Indigenous peoples to ensure the distinct cultural context of Indigenous peoples.

In terms of the distinct cultural context of Indigenous peoples, it is imperative to recognize that the right of self-determination is a collective, pre-existing right that attaches to the distinct legal status of Indigenous peoples. Another crucial example is the collective nature of the rights of Indigenous peoples to their lands, territories, and resources, which has many dimensions that are not reflected in the notion of individual property rights of others. Additional examples exist. However, the point here is to recognize the significant contribution that Indigenous peoples have made to understanding the collective nature of their human rights in other areas, such as language and culture, education, and a host of other communal dimensions of the day to day lives of Indigenous peoples.

Importantly, human rights cannot be destroyed - it is a different matter to deny or violate human rights, but such rights cannot be destroyed or alienated. In this regard, past "extinguishment" policies have been thoroughly denounced and challenges to the so-called plenary power of

⁸ *Supra*.

governments have been and continue to be made. And, human rights are the key rationale or compelling force to counter such challenges and outdated, racially discriminatory policies.

IV. Debate at UN and attachment to Indigenous peoples, nations, and communities

As many may know, the right of self-determination was a heated debate at the United Nations in the context of the Declaration on the Rights of Indigenous Peoples, the focus was centered on article 3.

Throughout the drafting of the *UN Declaration* a number of states proposed wording that would dramatically alter the scope and content of the right of self-determination thereby limiting qualifying or modifying this right in the context of Indigenous peoples. Indigenous peoples asserted that any state proposals to qualify, limit, or modify the right of Indigenous peoples to self-determination would be racially discriminatory. If article 3 of the *UN Declaration* were to have been altered, even to include the same or similar notions as might currently exist under international law, it would invite interpretations to be applied to Indigenous peoples' right of self-determination that are different from those of other peoples. It would have also had the effect of wrongfully freezing the interpretation of this collective Indigenous human right in such a manner as to prevent or otherwise stifle its natural evolution under international law. The right of peoples to self-determination is considered by numerous international authorities to be *jus cogens* or a peremptory norm. Similarly, the prohibition of racial discrimination is considered by numerous authorities to be a peremptory norm. Therefore, the introduction of discriminatory double standards in connection to Indigenous peoples and their fundamental right of self-determination would have resulted in a failure of the human rights framework of the UN. The UN system and nation states themselves would have contributed to the serious erosion of the very concepts of equality, democracy, human rights, and the rule of law.

The end result of this debate, pivoting upon equality and non-discrimination resulted in the affirmation of the right of self-determination of all peoples, including Indigenous peoples. More significantly, the right of self-determination as articulated in article 3 and the numerous other balancing provisions of the UN Declaration on the Rights of Indigenous Peoples is exactly the same right of self-determination that applies to all peoples, universally. It is important to note challenges of many nation states concerning the legal status of the *UN Declaration* and then even more specifically to the understanding of the right of self-determination in relation to articles 4 and 46. I raise this matter because it has significance to important characteristics of Kalaallit Nunaat.

V. Legal status of the UN Declaration

To my knowledge, the UN Declaration is the longest discussed and negotiated human rights instrument in UN history. It also was the first time that the subjects of the instrument – in this case, Indigenous peoples — participated extensively along with States in its formulation. This process set an important benchmark for Indigenous peoples' democratic participation in UN standard-setting.

Though the vote in the UNGA was 144 in favour, 4 against, and 11 abstentions, the four opposing States — Canada, Australia, New Zealand, and United States - have all since reversed their positions. On December 16, 2010, the last objecting State - the United States - reversed its position.⁹ Thus, the *UN Declaration* is now a consensus international human rights instrument. And the *UN Declaration* continues to grow in significance. Regional¹⁰ and domestic courts¹¹ and commissions are increasingly relying on the *Declaration*.

Though the *UN Declaration* carries the title “declaration”, as UN Special Rapporteur, S. James Anaya, has articulated It has long been widely understood that standard-setting resolutions of the General Assembly can and usually do have legal implications, especially if called “declarations”, a denomination usually reserved for standard-setting resolutions of profound significance.

The UN Special Rapporteur on the Rights of Indigenous Peoples further sought to clarify the legal status of the UNDRIP in relation to domestic law and policy:

[E]ven though the Declaration itself is not legally binding in the same way that a treaty is, the Declaration reflects legal commitments that are related to the Charter, other treaty commitments and customary international law. The Declaration builds upon the general human rights obligations of States under the Charter and is grounded in fundamental human rights principles such as non-discrimination, self-determination and cultural integrity that are incorporated into widely ratified human rights treaties, as evident in the work of United Nations treaty bodies. In addition, core principles of the Declaration can be seen to be generally accepted within international and State

⁹ United States (Barack Obama), “Remarks by the President at the White House Tribal Nations Conference”, The White House, Office of the Press Secretary, Washington, D.C., 16 December 2010, online: <http://www.whitehouse.gov/the-press-office/2010/12/16/remarks-president-white-house-tribal-nations-conference>: “in April, we announced that we were reviewing our position on the U.N. Declaration on the Rights of Indigenous Peoples. And today I can announce that the United States is lending its support to this declaration.”

¹⁰ In the Inter-American human rights system, see, e.g., *Case of the Kaliña and Lokono Peoples v. Suriname Merits, Reparations and Costs*, I/A Court H.R., Series C No. 309 (Judgment) November 25, 2015, para. 122; *Case of the Community Garifuna Triunfo de la Cruz & its members v. Honduras (Merits, Reparations and Costs)*, I/A Court H.R., Series C No. 305 (Judgment) 8 October 2015, para. 51; *Case of the Kuna Indigenous People of Madungandi and the Emberá Indigenous People of Bayano and their Members v. Panama*, I/A Court H.R. Series C No. 284, Preliminary objections, merits, reparations and costs (Judgment) 14 October 2014, para. 118. In Africa, see, e.g., *African Commission on Human and Peoples’ Rights v. Republic of Kenya*, Application No. 006/2012, African Court on Human and Peoples; Rights, Judgment, 26 May 2017, paras. 131, 181, n. 53, and 209; *Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v Kenya*, African Commission on Human and Peoples’ Rights, Communication No. 276/2003, Twenty-Seventh Activity Report, 2009, Annex 5, para. 204.

¹¹ In Belize, see *Cal et al. v. Attorney General of Belize and Minister of Natural Resources and Environment*, Claim No. 171, and *Coy et al. v. Attorney General of Belize and Minister of Natural Resources and Environment*, Claim No. 172, Consolidated Claims, Supreme Court of Belize, judgment rendered on 18 October 2007 by the Hon. Abdulai Conteh, Chief Justice. Affirmed on appeal in *Attorney-General of Belize et al. v. Maya Leaders Alliance et al.*, Belize Court of Appeal, Civil Appeal No. 27 of 2010, judgment rendered on 25 July 2013. See also *Sarstoon Temash Institute for Indigenous Management [SATIM] v. Attorney General of Belize*, Claim No. 394 of 2013, Supreme Court of Belize, decision rendered by the Hon. Michelle Arana, 3 April 2014. In New Zealand, see *Paki and other v. Attorney-General*, [2014] NZSC 118; *Takamore v. Clarke*, [2011] NZCA 587, per Glazebrook and Wild JJ, (appeal denied [2012]NZSC 116), para. 250, n. 259. In Australia, see *Aurukun Shire Council & Anor v. CEO Office of Liquor Gaming and Racing in the Department of Treasury*, [2010] QCA 37, Supreme Ct. Queensland, paras. 33-35.

practice, and hence to that extent the Declaration reflects customary international law.¹²

To more specifically define his intent with regard to customary international law, the Special Rapporteur wrote that

A norm of customary international law arises when a preponderance of States (and other actors with international personality) converge on a common understanding of the norm's content and generally expect compliance with, and share a sense of obligation to, the norm. It cannot be much disputed that at least some of the core provisions of the Declaration, with their grounding in well-established human rights principles, possess these characteristics and thus reflect customary international law.

Legal scholars have affirmed that though the whole of the instrument is not legally binding, there are a range of important provisions that create member state obligations due to their status as norms of a customary international law nature.¹³ According to the International Law Association (ILA) Committee on Rights of Indigenous Peoples (ILA Committee) and its expert commentary on the UN Declaration, “the relevant areas of Indigenous peoples’ rights with respect to which the discourse on customary international law arises are self-determination; autonomy or self-government; cultural rights and identity; land rights as well as reparation, redress and remedies.”¹⁴

However, like the interrelated, interdependent, and indivisible nature of human rights, the ILA Committee recognized that “it would be inappropriate to deal with these areas separately...the rights just listed are all strictly interrelated...to the extent that the change of one of its elements affects the whole.”¹⁵ Therefore, the rights affirmed in the *UN Declaration* must be read as a whole. Furthermore, the UN General Assembly has expressed its support for the *UN Declaration* on no less than eight different occasions.¹⁶

¹² General Assembly, *Situation of human rights and fundamental freedoms of Indigenous people: Note by the Secretary-General*, Interim report of the Special Rapporteur on the situation of human rights and fundamental freedoms of Indigenous people, UN Doc. A/65/264 (9 August 2010), para. 82.

¹³ Note by the Secretary-General, Interim report of the Special Rapporteur on the situation of human rights and fundamental freedoms of Indigenous people, UN Doc. A/65/264 (9 August 2010), para. 62: “even though the Declaration itself is not legally binding in the same way that a treaty is, the Declaration reflects legal commitments that are related to the [United Nations] Charter, other treaty commitments and customary international law. The Declaration ... is grounded in fundamental human rights principles such as non-discrimination, self-determination and cultural integrity ...”

¹⁴ International Law Association, The Hague Conference (2010), Interim Report of the Committee on Rights of Indigenous Peoples, p. 43. Available at <http://www.ila-hq.org/en/committees/index.cfm/cid/>. See also James Crawford, *Brownlie’s Principles of Public International Law*, 8th ed. (Oxford: Oxford University Press, 2012), at 42: “Even when resolutions are framed as general principles, they can provide a basis for the progressive development of the law ... Examples of important ‘law-making’ resolutions include ... the UN Declaration on the Rights of Indigenous Peoples....”

¹⁵ Ibid.

¹⁶ The UN General Assembly has reaffirmed the *UN Declaration* eight times by consensus, including General Assembly, *Rights of Indigenous peoples*, UN Doc. A/RES/71/178 (19 December 2016) (without a vote), preamble: “Reaffirming the United Nations Declaration on the Rights of Indigenous Peoples, which addresses their individual and collective rights”. See also General Assembly, *Rights of Indigenous peoples*, UN Doc. A/RES/70/232 (23

A. United Nations Charter, 1945

With the adoption of the *United Nations Charter*, June 1945, article 1 outlines the Purposes and Principles of the UN on behalf of the world community:

To maintain international peace and security...

To develop friendly relations among nations based on *respect for the principle of equal rights and self-determination of peoples*, and to take other appropriate measures to strengthen universal peace;

To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in *promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion*; and

To be a centre for harmonizing ...

To believe in the maintenance of international peace and security, to achieve international cooperation, there must be acceptance of equal rights and self-determination of all, without discrimination. These concepts are essential elements of harmonization among diverse peoples and cultures – these words provide an important context for interpretation of the whole of the instrument – and to arriving at a place that truly reflects a family of nations.

For a people, the prerequisite of self-determination, and to ensure the exercise and enjoyment of all other human rights pivots on the “self”. In the context of Indigenous peoples, the self is determined by the distinct status of the peoples concerned. Those who are different. Our history of being different was strictly and barbarically used to perpetuate racial discrimination, diminish rights and to destroy what is different about us. Today, it must be understood that we have the “right to be different and to be respected as such” and to be free of discrimination in every political and legal environment. It must be remembered that the scourge of racial superiority was formally denounced by the international community.

B. International Convention on the Elimination of All Forms of Racial Discrimination and the International Covenants, 1966

Some twenty years following the adoption of the UN Charter, the *International Convention on the Elimination of All Forms of Racial Discrimination* emerged. In contrast to many international human rights instruments, this Convention has one unique feature - it defines its subject matter, which is explicitly provided for in Part I, Article 1.

In this Convention, the term “racial discrimination” shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

December 2015) (without a vote), preamble; and General Assembly, *Outcome document of the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples*.

As stated, this language applies to every field of public life and it has extraordinary meaning when one considers the collective nature of those of a different race, color, descent, national or ethnic origin. The wording of “the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise” of human rights is extensive and captures policies that may not appear to but eventually may impair the exercise of a right.

Less than a year later, to further codify the rights enunciated in the 1948 Universal Declaration of Human Rights in the form of a legally binding human rights instrument, the international community and specifically, UN member state representatives adopted the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 1966. Unsuccessful in adopting a single treaty, civil and political rights favored by the West were purportedly segregated from economic, social and cultural rights favored in the East in response to then and to a large extent continuing entrenched views of Communist regimes and democratic states such as the U.S.

The two Covenants were adopted by the United Nations and contain exactly the same language in common Article 1 of the two treaties

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.
3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

Clearly, both Covenants are relevant to Indigenous peoples and in particular, the language affirming the *equal* application of the *right* of self-determination to all peoples. Significantly, article 27 of the ICCPR refers to “minorities” and in this regard it must be understood that for a majority of Indigenous peoples across the globe they may be numerical “minorities” but they are dramatically distinct members of society.

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.

C. Declaration Concerning Friendly Relations, 1970

Beginning in 1961, a small number of UN member states introduced a proposal in the context of “the codification and progressive development of international law” (A/C.6/L.492, 1961) to focus on the elaboration of key principles to promote the “friendly relations and co-operation” of states

(GA 1686 (XVI), 1961). This exercise was a careful analysis of key principles related to self-determination and was adopted on the 25th anniversary of the United Nations, resulting in the *Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations* in 1970 (GA 2625 (XXXV), 1970).

Central to the Friendly Relations Declaration and Indigenous peoples are the provisions that address the fact that every state is committed to the progressive development of international law, including within the legal order of human rights. The Friendly Relations Declaration is significant in order to

...constitute a landmark in the *development of international law* and of relations among States, in promoting the rule of law among nations and particularly the *universal application of the principles embodied in the Charter*

The Declaration goes on to emphasize

...the importance of maintaining and strengthening international peace founded upon *freedom, equality, justice and respect for fundamental human rights* and of developing friendly relations among nations irrespective of their political, economic and social systems or the levels of their development,

UN member states affirm that they are

Convinced that the subjection of peoples to alien subjugation, domination and exploitation constitutes a major obstacle to the promotion of international peace and security,

Convinced that the *principle of equal rights and self-determination of peoples* constitutes a significant contribution to contemporary international law, and that its effective application is of paramount importance for the promotion of friendly relations among States, based on respect for the principle of sovereign equality,

They further affirm that

Every State has the duty to refrain from any forcible action which deprives peoples referred to in the elaboration of the principle of equal rights and self-determination of *their right to self-determination* and freedom and independence.

A crucial imperative in the elaboration of the right of self-determination the Friendly Relations Declaration the fact that

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.*

Furthermore, “Every State has the duty to promote, through joint and separate action, realization of the principle of equal rights and self-determination of peoples” and “To bring a speedy end to colonialism, having due regard to the freely expressed will of the peoples concerned.”

A key provision of this Declaration, which must be read in the context of the full instrument, is the requirement or the obligation that States must conduct themselves in a manner consistent with these principles if they themselves want to maintain their own “territorial integrity”, including the fact that “compliance” includes that they are “possessed of a government representing the whole of the people belonging to the territory.” The full language of this pivotal paragraph states

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.

Indigenous peoples were not party to the dialogue, negotiation, and adoption of the Friendly Relations Declarations. However, to be sure, it attaches to us as distinct peoples including the requirement of compliance with its many provisions to ensure the exercise of self-determination and to promote friendly relations.

VI. *UN Declaration on the Rights of Indigenous Peoples, 2007*

These extraordinary developments have come as a result of the persistence and advocacy of Indigenous peoples from across the globe. It is clear that much progress has been made but more must be done for Indigenous peoples to actually exercise and enjoy the norms that we have gained. Implementation is lacking and few “good practices” can be identified by Indigenous peoples worldwide. However, to keep on this path remains crucial for our survival and our overall cultural integrity. Because the right to self-determination is a pre-requisite for the exercise and enjoyment of all other rights, it is useful to reiterate how key preambular paragraphs and operative provisions of the *UN Declaration* are interrelated.

The Preamble of the *UN Declaration* acknowledges that historical injustices have had damaging and devastating impacts upon Indigenous peoples and as such human rights standards should guide UN member state behavior toward Indigenous individuals and Indigenous peoples collectively. Essential, contextual paragraphs instruct the interpretation of the whole *UN Declaration* and in relation to self-determination. These provisions reflect the intentions of UN member states by

Affirming that *Indigenous peoples are equal to all other peoples*, while recognizing the right of all peoples to be different, to consider themselves different, and to be respected as such,

Acknowledging that the Charter of the United Nations, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, as well as the Vienna Declaration and Programme of Action, *affirm*

the fundamental importance of the right to self-determination of all peoples, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development,

Bearing in mind that nothing in this Declaration may be used to deny any peoples their right to self-determination, exercised in conformity with international law...

When understood as a whole, the operative paragraphs make it clear the *UN Declaration* is consistent with the understanding of the right of self-determination in international law as well as its equal application to Indigenous peoples.

Article 2

Indigenous peoples and individuals are *free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination*, in the exercise of their rights, in particular that based on their Indigenous origin or identity.

The explicit recognition of the right of self-determination and its attachment to Indigenous peoples mirrors the language affirmed in common Article 1 of both the ICCPR and ICESCR discussed above:

Article 3

Indigenous 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.

In consideration of the inherent right of self-determination of Indigenous peoples in the context of their traditional forms of governance and in relation to the rights and responsibilities of their distinct membership, collectively, the *UN Declaration* affirms self-government and all of its multiple, diverse forms of expressions, institutions, relationships, and protocols:

Article 4

Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.

There are some that have argued that because of the concluding provisions of the *UN Declaration* and the insistence of States to include a reference to *territorial integrity* within article 46 that this somehow diminishes the right of self-determination of Indigenous peoples. It must be made clear that the language found in article 46(2) must be read to understand that the principle of territorial integrity already exists and is clearly articulated in international law. And, more importantly, there is no way that this understanding can be validly expanded upon by the *UN Declaration*. Furthermore, the other elements of this specific article provide some very well-founded doctrines that must guide the application of the whole of the *UN Declaration*, including the right of self-determination. Specifically, article 46(3) affirms that

The provisions set forth in this Declaration shall be interpreted in accordance with the principles of justice, democracy, respect for human rights, equality, non-discrimination, good governance and good faith.

Finally, all of the elements affirming the right of self-determination cannot mean that Indigenous self-determination can only be exercised within the parameters of article 4. Such a conclusion is illogical. It must be recognized that article 3 is neither synonymous with, nor limited to autonomy or self-government. A more thorough analysis of each interrelated paragraph may be done but for purposes of this discussion, it is not necessary to do so.

VII. International Law Association

From 2011 to 2014, the International Law Association Committee on the Rights of Indigenous Peoples undertook and prepared an Expert Commentary on the *UN Declaration* wherein they confirmed a number of important features about its legal status and the effects of its comprehensive provisions. The ILA Committee concluded that the *UN Declaration* has diverse legal effects and in particular, a number of its provisions fall into the category of customary international law, thereby creating significant legal effects and UN member state obligations. Regarding the ILA 2010 Committee Report delivered at The Hague, the Committee affirmed that

The relevant areas of Indigenous peoples' rights with respect to which the discourse on customary international law arises are self-determination, *autonomy or self-government*, cultural rights and identity, land rights as well as reparation, redress and remedies (ILA 2010, 43). (Emphasis added)

The right of self-determination has important foundational elements. As stated above, the right to self-determination is a prerequisite to the exercise and enjoyment of all other individual and collective human rights of Indigenous nations, peoples, and communities. It is also one whole right, including the important elements of self-government and autonomy but also the important features manifested in the expression of the right in relation to those outside of respective Indigenous peoples and nations, including UN member states. Again, the right of self-determination is inherent or pre-existing.

And, when one considers the essential doctrine of the equal application of the rule of law to protect against racial discrimination - a peremptory norm of international law -- a fundamental principle of international law that is accepted by the international community of states as a norm from which no derogation is permitted, it is clear that the right of self-determination of Indigenous peoples is the same right that applies to all other peoples and it is consistent with international law.

In the ILA Committee Report in Sofia, 2012, where members delivered their final conclusions and recommendations, the Committee restated their collective view that

States must comply with the obligation - consistent with customary and, where applicable, conventional international law - to recognize, respect, protect, fulfil and promote the right of Indigenous peoples to self-determination, conceived as the right to decide their political status and to determine what their future will be, in compliance

with relevant rules of international law and the principle of equality and non-discrimination (ILA 2012, 35).

Furthermore, specific to autonomy and self-government, the Committee stated that

States must also comply - according to customary and, where applicable, conventional international law - with the obligation to recognize and promote the right of Indigenous peoples to autonomy or self-government, which translates into a number of prerogatives necessary in order to secure the preservation and transmission to future generations of their cultural identity and distinctiveness; these prerogatives include, inter alia, the right to participate in national decision-making with respect to decisions that may affect them, the right to be consulted with respect to any project that may affect them and the related right that projects suitable to significantly impact their rights and ways of life are not carried out without their prior, free and informed consent, as well as the right to regulate autonomously their internal affairs according to their customary law and to establish, maintain and develop their own legal and political institutions (ILA 2012, 35).

Additional foundational rights that are sourced in the right of self-determination is the right to free, prior, and informed consent (FPIC). FPIC is the principle that a community has the right to give or withhold its consent to proposed projects that may affect the lands they customarily own, occupy or otherwise use. UN member states attempted to advance an intellectually dishonest argument about FPIC by erroneously suggesting that that the right to free, prior and informed consent is a “veto”. This term was solely being used by regressive governments to incite fear among other governments. However, these states did not succeed with this distortion of FPIC. FPIC is now a key right of Indigenous peoples in international law and jurisprudence. All Indigenous peoples have the right to say yes, no, or yes with conditions.

Informed, non-coercive negotiations between investors, companies or governments and Indigenous peoples prior to development or other enterprises on their lands, territories and involving their resources is an essential pathway consistent with the right of self-determination. Those who wish to advance their interests must enter into dialogue and negotiations with the Indigenous peoples concerned, recognizing their interrelated, inherent rights. Again, the Indigenous peoples concerned have the right to decide whether they will agree to the project or not once they have a full and accurate understanding of the implications of the project on them and their lands, territories and resources.

It is substantial that one of the operative paragraphs of the *UN Declaration*, article 26, refers to a genuine measure of “control” and is directly related to the right of self-determination.

1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.
2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.

3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the Indigenous peoples concerned. [emphasis added]

As noted above, there are few, but a growing number of positive examples where Indigenous peoples have achieved the exercise of self-determination that is closely aligned with what they held prior to contact. The comprehensive land claims agreement in favor of the Inuit in Labrador, Canada affirms the Nunatsiavut right of self-determination and management of their lands, territories and resources, including the offshore “territorial sea” consistent with the definition under the UN Convention on the Law of the Sea.

Significantly, the present dialogue by yourselves, Inuit of Greenland and your present extensive autonomy over affairs within and outside of Greenland and your carefully researched and adopted agenda for the political enterprise toward full independence from the colonial state of Denmark is an extraordinary example. Each of these efforts have been consistent with international law and the international understanding of the right of self-determination of peoples, including Indigenous peoples.

VIII. Right of Self-Determination

As noted in the previous frame, the right of self-determination within the *UN Declaration* is the same right as understood in international law and as applied to all peoples, including Indigenous peoples. Article 3 of the *UN Declaration* affirms the right to self-determination and article 4 affirms the right to self-government. The right to self-determination is regarded as a prerequisite to the exercise and enjoyment of all other human rights. The collective political right of Indigenous peoples to self-determination and self-government are inherent.¹⁷ The various provisions that balance the constant tension that is an undercurrent of self-determination for all peoples, including Indigenous peoples, are complex yet straightforward and consistent with the international understanding of the right. As the UN Special Rapporteur has stated in relation to the challenge of the implementation of the *UN Declaration*

To be sure, the right to self-determination, like other rights, gives rise to different prescriptions in different contexts, but at its core, it is the same fundamental human right for all peoples.¹⁸

The International Law Association has also affirmed that though there may be “added prerogative” attached to an understanding of the exercise of self-determination within a nation-state, such an understanding should be interpreted to ensure that

It therefore does not preclude Indigenous peoples from being beneficiaries of the general right to self-determination as granted to *all* peoples by general international

¹⁷ Preambular para 7, UN Declaration.

¹⁸ Note by the Secretary-General, Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of Indigenous people, UN Doc. A/68/317 (14 August 2013), para. 75.

law and common Article 1 of the U.N. human rights Covenants of 1966, to be operationalized through the provisions of UNDRIP.¹⁹

Above, I invoked Mary Ellen Turpel's reference to an "interpretive monopoly". Such a notion persists in relation to article 46(1) of the *UN Declaration*, which was amended at the eleventh hour of the entire negotiating process

Nothing in this Declaration may be interpreted as implying for any State, people, group or person any right to engage in any activity or to perform any act contrary to the Charter of the United Nations or 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.

States have characterized the language of article 46 to have bound Indigenous peoples to their interpretation of article 3 and their attempts to maintain the status quo. Under current international law, the principle of territorial integrity is only applied to balance the right of self-determination under certain conditions. Because the language of article 46(1) is ambiguous, it suggests that States are altering the principle in international law. However, the 1970 *Declaration on Principles of International Law concerning Friendly Relations* makes clear the conditions by which a State can invoke the principle of territorial integrity, which are also affirmed in the 1993 *Vienna Declaration*

In accordance with the Declaration on Principles of International Law concerning Friendly Relations and Cooperation Among States in accordance with the Charter of the United Nations, this [right of self-determination] shall not 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 and thus possessed of a Government representing the whole people belonging to the territory without distinction of any kind.** [emphasis added]

Here again, if States are interpreting this particular principle in the context of Indigenous peoples, they would be creating a distinction between Indigenous peoples and all others, or more specifically a discriminatory double-standard.

The interrelated nature of human rights as well as the fact that the *UN Declaration* must be read as a whole, also brings into play the important counter-balancing provisions of the principle of territorial integrity.

Preambular paragraphs 1, 2, 4, 5, 16, 17, and 19 invoke the UN Charter, the 1970 Declaration on Friendly Relations, the International Covenants, CERD, and the Vienna Declaration in very important ways. Furthermore, articles 1, 2, 3, 45, and 46 all substantively reinforce the argument that any discriminatory interpretation of article 46, paragraph 1 would be incompatible with the purposes and principles of the *UN Charter*, including the principle of equal rights and self-

¹⁹ International Law Association, The Hague Conference (2010), Interim Report of the Committee on Rights of Indigenous Peoples, p 11. Available at <http://www.ila-hq.org/en/committees/index.cfm/cid/>.

determination of peoples. And, it would violate the peremptory norm that prohibits racial discrimination.

It is also important to affirm that the right of self-determination is one whole right, especially in the context of article 4 of the *UN Declaration*. States have also worked to cultivate the notion that self-government and autonomy are the forms by which Indigenous peoples can exercise the right of self-determination. As Greenland Government and many other Indigenous peoples have shown, they have significant capacity to exercise the right of self-determination within their territories as well as internationally at a host of fora.

This discussion on the right of self-determination as understood in international law in relation to Indigenous peoples has also revealed the necessary exercise of the right consistent with international standards elaborated by the *UN Charter* and the *1970 Declaration Concerning Friendly Relations*. It is important to emphasize that it is not an unchecked right of nation-states.

Constant nature of human rights

Human rights are ever present, they saturate every issue and every action. Like gravity, they are constant. In relation to the right of self-determination of a peoples, it is important to note the tension between the exercise of right of self-determination of government and the rights of the peoples.

IX. People and Peoples

To a layperson the term people or peoples would likely be understood in their common or popular usage generally referring to persons who share a common culture language or inherited condition of life and with little or no emphasis upon the notion of political units or the international legal usage of the term. Without an in-depth analysis of the views of those state representatives involved in the early drafting of international legal instruments most people would understand the term consistent with its popular usage.

Despite the use of both terms in numerous international instruments²⁰ including the Declaration on the Granting of Independence to Colonial Countries and Peoples of 1960 and the International Covenants, there is presently no accepted definition of the term “people” or “peoples”. As stated by Rodolfo Stavenhagen in 1990

There is no legal definition of a people. There is not even an accepted sociological or political definition of a people. The United Nations carefully avoided to define people even as it has conceded all peoples have the right of self-determination.

Though the 1970 Declaration on Friendly Relations, which is aimed at affirming noninterference and safeguarding territorial integrity, refers to the “whole people” of a state nowhere in the text does it define the term. The same is true for early regional constitutive instruments such as the Charters of the OAS and the Organization of African Unity, which both

²⁰ Charter of the United Nations, Universal Declaration of Human Rights, International Covenants, and many others.

include the term. Even those international instruments that affirm rights which attach to distinct groups or minorities are absent a definition.²¹ In order to clarify various issues as they have arisen a number of scholars have focused upon the usage of the terms people and peoples at the United Nations and have concluded that the term “people” and “nation” are synonymous. In particular, H. Johnson writes

In the discussions in the United Nations concerning the definition of the terms people and nation there was a tendency to equate the two when a distinction was made it was to indicate that people was broader in scope the significance of the use of this term centered on the desire to be certain that a narrow application of the termination would not prevent the extension of self-determination to dependent peoples who might not qualify as nations.²²

Furthermore, A Cassese notes in regard to the ICCPR that

Special references were made to peoples of federated republics and of multinational states generally.... In the latter stages of the drafting, moreover, the Soviet representative, stressed that he had voted for the Article “because it had been clear from the debate that the word ‘peoples’ included nations and ethnic groups.”²³

Clearly, there are a range of economic, social, cultural, and political implications that could emerge in the event that the United Nations defined the terms. Therefore, the international community has avoided the matter.

In regard to the term “Indigenous peoples” there is no hard and fast definition, but the UN has adopted a working definition in order to address the distinct cultural context of Indigenous peoples, including elements such as their inherent or pre-existing rights. The Martinez Cobo study offered the important characteristics of Indigenous peoples and these elements have now been accepted as a working definition. It has been viewed as more of a set of guidelines but has never been adopted or formalized in any fashion despite the comprehensive nature of this early working definition.

In my view, this is instructive for the conditions within Kalaallit Nunaat, where Indigenous peoples are a majority, and over the years, now a small number of minorities with increasing diversity. In this regard, it is crucial to underscore the statement that I made earlier about the constant nature of human rights. Though the people of Greenland have not had, to my knowledge, a thorough going or robust dialogue on self-identification, which is a key element of the right of self-determination, it is important to stress that respect for and recognition of human rights remains central.

²¹ In particular, the Declaration on the Rights of Persons Belonging to National or Ethnic, religious and Linguistic Minorities, adopted by the UN General Assembly, December 18, 1992, GA Res. 47/13 (Annex), UNGAOR 45th Session, Supp. No. 49, at 210, UN Doc A/RE/47/235 (1992).

²² H. Johnson, *Self-Determination Within the Community of Nations* (Leydon: A.W. Sijthoff, 1967) at 55. See also discussion of “nations” and “peoples” in J. Duursma, *Fragmentation and the International Relations of Micro-States[:] Self-Determination and Statehood* (Cambridge: Cambridge University Press, 1996) at 14.

²³ A. Cassese, “The Self-Determination of Peoples” in L. Henkin (ed.), *The International Bill of Rights [:] The Covenant on Civil and Political Rights* (New York: Columbia University Press, 1981) 92 at 94-95.

X. Rights and Duties - the construction of a constitution

As I stated at the outset [verbal context for my presentation], my socialization has instilled a bias. I am an Inuk. My first visit to Nuuk was in 1980, a year after the adoption of the Home Rule Act. Even at a young age, I was trained in law. I saw the potential - an island, with a majority, of my own relatives.

However, like all of the arguments and intellectually honest rationale that Indigenous peoples brought to the debate about the equal application of the right of self-determination in our context, those same arguments and rationale are important in determining the rights and duties of the future constitution and Government of Greenland.

Essentially, the **same obligations and principles, as understood in international law**, apply to the future government of Kalaallit Nunaat and should be taken into account when preparing the constitution. This is certainly true for the **principle of territorial integrity**, which binds States to behave in a manner consistent with the purposes and principles of the UN Charter. It also binds the State to the important principles of equality, non-discrimination, respect for human rights, democracy, and the rule of law.

Unlike statements that I have heard from a range of different people, in different walks of life, from hunters to educator to political leaders, that once the full exercise of self-determination is achieved that the concerns related to the rights of Indigenous peoples may no longer be relevant. **Even if the people of Greenland self-identify as Indigenous, respect for and recognition of Indigenous human rights remains relevant**, both the individual and collective human rights of the peoples concerned. This is true at all scales, from individual communities to municipalities to the whole of the nation. A constitution and a charter or bill of rights must be informed by these basic democratic principles.

To be more specific, it is useful to consider the intent and nature of a constitution, the most significant organic document of any nation and in particular, a young nation. The underlying principles will infuse the whole of the instrument, they will provide the interpretive framework needed for all to understand their status, role, and rights. They also have the potential for creating the enthusiasm and participation in the political life of the state that must be nurtured and maintained and durable. The principles of democracy, the rule of law, and respect for minorities should be common virtues of all. In this way, the constitution can have a profound impact.

Again, the **constant presence of human rights** is critical, and the Constitution can ensure not only rights but also obligations as well as way to reconcile the constant presence of human rights. The negotiation of these elements will also impact the trust that must be at the core of a society.

The Constitution creates a legal framework for political decision making and cannot be used to **stifle, control, or trump political forces** that operate within that framework. Again, there is a constant tension between all human rights, there are no absolute rights.

Like human rights, the elements and provisions of the Constitution cannot be interpreted individually or taken out of context. **All of the provisions are interrelated, interconnected, interdependent, and indivisible.**

Another critical element is ongoing political development, in the same way that we have seen extraordinary political development across Inuit Nunaat. Observance of and respect for ongoing development is essential. In Canada, the “living tree”²⁴ doctrine has helped to ensure that the Constitution and other elements of the political life of the State are dynamic, and that the Constitution is seen as a living document.

The municipal governments across Greenland and how they are accommodated and treated in the negotiation process toward a constitution is also important. They are structures that should be taken into account as the succession toward independence incrementally moves forward. What order of government will they play?

The Constitution or charter or bill of rights must also address the collective goals of cultural and linguistic minorities –

individual rights, and minority rights
free and democratic society
respect for the inherent dignity of the human person,
commitment to social justice and equality,
accommodation of a wide variety of beliefs, respect for cultural and group identity, and
faith in social and political institutions which enhance the participation of individuals and
groups in society
consent of the governed
a continuous process of discussion.
added safeguard for fundamental human rights and individual freedoms
fundamental balances of political power
Indigenous human rights

²⁴ Edwards v. Attorney-General for Canada, [1930] A.C. 124 (P.C.), at p. 136

APPENDIX 5

Claire Charters (Ngāti Whakaue, Tuwharetoa, Tainui, Nga Puhi) and Erin Matariki Carr (Tuhoe and Ngāti Awa),

Perspectives from the Pacific on Constitutional Transformation: Realising Indigenous Peoples' Sovereignty and Indigenous Law

**Presentation to the Greenlandic Constitutional Commission
Thursday 28 October [Greenland] | Friday 29 October [NZ] 2021**

Claire Charters (Ngāti Whakaue, Twharetoa, Tainui, Nga Puhi) and Erin Matariki Carr (Tūhoe and Ngāti Awa), University of Auckland

1. Introduction

Our focus is on movements from the Pacific - especially NZ - and Australia towards transformation of Indigenous/state constitutions to better realise Indigenous peoples' sovereignty, the authority of Indigenous law and institute constitutional pluralism.

We hope there might be insights from our part of the world for yours.

Similarities - where we might be able to learn from one another:

- Moment of constitutional change to better realise Indigenous peoples' self-determination and sovereignty here - Aotearoa - and in places in the Pacific + Australia - and there, in Greenland (and also in other places around the globe including, for example, in Chile and Canada as well as relatively recent constitutional change in Bolivia and other states in Latin America).
- In many Pacific Island states, Indigenous peoples are the majority population and remain in a process of decolonisation, even if their independence has been recognised for decades e.g., Samoa and Vanuatu.
- Some of the questions Pacific nations need to address are similar to questions being addressed by the Greenlandic Constitutional Commission:
 - How to decolonise so to have a uniquely "Samoan" or "Vanuatu" constitution?
 - How to include Island culture, language and identity in a (hopefully) post-colonial island impacted by the experiences of colonisation?
 - How to consider the rights, especially to land, of non-Islanders?
 - What are the most appropriate forms of Parliament, citizenship, government?
 - How to include "human rights" in an Indigenous constitution?
- Iwi Māori| Māori tribes are in a process of reinvigorating our own sovereignty and, as part of that, how our institutions might be best designed to realise the aspirations of our peoples, including

to ensure the priorities of smaller Māori roopu e.g., whanau are respected and represented in the larger tribal governance structure and aspirations [Tuhoe/Ngai Tahu].

There are also similarities in historical experience as Indigenous peoples:

- Colonisation
- Intermarriage between incoming settler communities and Indigenous communities
- Māori made up of many peoples - iwi, hapū - with distinct tribal boundaries and differences [important that individual authority of iwi respected - fiercely protected]

Differences:

- Māori are a minority in Aotearoa, around 16%.
- Little scope of independent Māori sovereignty and are not a “non-self-governing territory” permitted “decolonisation” under relevant international law/UN Charter, which Prof Anaya will address.

2. International legal context

- Sovereignty of Māori recognised by British in early days of contact and interaction.
- British sought a treaty of cession with Māori. However, it did not amount to Māori consent to British sovereignty. At best, it reflected a pluralist arrangement with Māori retaining sovereignty over our own peoples and the territories of Aotearoa and the British authority over settlers. Includes Māori rights to our taonga, including our lands, territories and resources.
- Because the Treaty did not effect a cession of sovereignty, from an international legal perspective, then, this means Aotearoa was either:
 - considered “discovered” territory i.e., terra nullius/empty despite prior recognition of Māori sovereignty and Māori inhabitants compared to Australia, which seems unlikely; or
 - there was no “legal” transfer of sovereignty as a matter of international law, which seems more likely.
- From an *English legal perspective*, once sovereignty was asserted by the Crown, it was “legal” as a matter of British law i.e., no legal limitations on Crown assertions of sovereignty - courts will enforce - but doesn’t respect international law governing relationships with non-European territories.
- Under international law of 1950s and 60s, Māori/Aotearoa were not eligible for decolonisation because not deemed a non-self-governing territory [see Anaya slides] because the colonial government located inside our territories i.e., colonial government not separated by salt-water from the territories

- But Māori active in seeking sovereignty and recognition as nation at the international level since the 1920s: Ratana to the League of Nations.
- Māori very active in asserting claims to self-determination in the UN Declaration on the Rights of Indigenous Peoples, as well as to lands, territories and resources.

3. Aotearoa

Current constitutional structure

- Background: no written constitution.
- No human rights “higher law”; in fact, our bill of rights act is *expressly subordinate* to all other legislation etc.
- Courts cannot overturn legislation. Parliament is supreme.
- Te Tiriti - no legal force unless incorporated, with some legislation referencing the principles of the Treaty of Waitangi
- Tikanga in the law: not unless recognised and included in state law. Historically there was next to no recognition of tikanga Māori. There is an increasing number of cases in which tikanga Māori is referenced i.e., we are experiencing a bit of a renaissance in that respect. Notably, though, any recognition of Indigenous law remains subject to the authority and control of New Zealand state law.
- Māori have guaranteed seats in Parliament - 7/120. This permits some participation in democratic governance and currently 21 Māori MPs, including in some important ministerial posts such as the Minister of Foreign Affairs.
- Minority representation in Parliament can be problematic i.e., where majority interests clash with Māori rights, for example, in the case of the foreshore and seabed claims.

Calls for constitutional transformation

- Māori have asserted sovereignty since the first days of contact with the British including, for example, in the Kingitanga and Kotahitanga movements of the 1800s.
- Current strong calls for constitutional transformation, including Iwi Chairs’ Forums (one of a few national bodies of tribal leaders): Matike Mai Report.
- Current mahi on a national plan of action to realise the Declaration on the Rights of Indigenous Peoples. Earlier advice to government recommended constitutional pluralism to realise spaces and places of Māori self-government/sovereignty, joint governance over other matters and State governance over others, albeit with Māori participation.

- Māori/tribes simply exercising authority e.g., borders to protect from COVID.
- [other recent initiatives]

State approaches to constitutional change:

- Incremental change, not transformational change [yet]
 - Constitutional conversation - 2013?
 - Māori health authority?
 - Criminal justice - rangatahi courts, greater Māori involvement
 - Regional councils
 - Maunga authority in Auckland
 - Treaty settlement examples e.g., Tuhoe, Whanganui and Waikato River.

4. Treaty settlements

- Since 1990s, to provide redress. Some financial settlement and some return of lands, territories and resources. Usually includes an apology.
- Resulting tribal structures can reflect some level of tribal authority, such as shared authority in Ngai Tahu with various regional entities appointing representatives to a larger tribal authority: papatipu runaka - more localised authority cf central TRONT authority
- Tūhoe: Structure designed to enable governance to flow from families to hap (sub-tribes, wider family units), to four ‘tribals’ which represent land areas who then appoint representatives to the tribal structure board

5. Co-governance but not REAL co-governance/sovereignty subject to parliamentary sovereignty?

Te Urewera/Tūhoe example

- Tūhoe: Example of Te Urewera legal personhood - a western legal fiction that has created space for Tūhoe kawa (laws) to operate over the land.
- Te Urewera has all the rights, powers and liabilities of a legal person. Management plan is called Te Kawa o Te Urewera, a constitutional document, begins with values: Nature is our mother (not our property), we are her children. We have responsibilities to care for her, not rights over her – “human management for the benefit of the land”
- Act: Allows for Tūhoetanga and to protect the connection between Tūhoe and Te Urewera – only Tūhoe can determine what this means.
- Te Urewera Board – 6 Tūhoe, 3 Crown – aim for unanimous decision making.

Collective v individual rights

- There is tension between the Crown established entity which received all the resources and relationships from Treaty Settlement and the hapū/natural family groupings.
- Difficult to analyse from outside the group. Points to the reality that decolonisation is an emotional process, we are talking about people, lives, families, trauma and powerlessness. This manifests in lateral violence - whether gossiping, undermining or bullying each other - to real violence.
- First steps of self-governance need to be trauma informed and look to seek healing, nurturing as well as practical systemic governance.

6. Oil and gas/resources [ERIN]

- Under state law but changes underfoot.
- Increasing relevance of tikanga Māori.

E.g. *Trans Tasman Resources Limited* case (Supreme Court, 30 September 2021):

- Recognises tikanga as law:

• “For the purposes of the EEZ Act, tikanga Māori has the same meaning as in s 2(1) of the RMA, that is, “**Māori customary values and practices**” That definition is not to be read as excluding tikanga as law, still less as suggesting that tikanga is not law. Rather, tikanga is a body of Māori customs and practices, part of which is properly described as **custom law**. Thus, tikanga as law is a subset of the customary values and practices referred to in the Act. It follows that any aspects of this subset of tikanga will be “applicable law” in s 59(2)(1) where its recognition and application is appropriate to the particular circumstances of the consent application at hand.”

• The iwi parties adopt the following definition of **kaitiakitanga**: “the obligation to care for one’s own”, citing Joseph Williams “Lex Aotearoa: An Heroic Attempt to Map the Māori Dimension in Modern New Zealand Law” (2013) 21 Waikato L Rev 1 at 3. The author also emphasises the importance of **whanaungatanga** to kaitiakitanga (and other core values), as “the glue that ... holds the system together” and “the fundamental law of the maintenance of properly tended relationships”

• See also Waitangi Tribunal Ko Aotearoa Tenei: A Report into Claims Concerning New Zealand Law and Policy Affecting Māori Culture and Identity (Wai 262, 2011) vol 1 at 13, where the Tribunal describes how Kupe’s people brought with them Hawaikian culture which “enabled human exploitation of the environment, but through the **kinship** value (known in te ao Māori as whanaungatanga) it also emphasised human responsibility to nurture and care for it (known in te ao Māori as kaitiakitanga)”.

- Creates an environmental bottom line: If the environment cannot be protected from “material harm”, through regulation, then the discharge or dumping activity must be prohibited.

- “Material harm” is defined by looking at qualitative, temporal, quantitative and spatial factors to be balanced.
- These factors are relevant to the ecosystem AND to those who depend upon the ecosystem.
- Protection, of the environment from material harm is NOT balanced against economic benefit.
- However, there is room between protection from all harm, and protection from material harm for the factors such as economic benefit”
- Court held: “However, the bottom line in s 10(1)(b) does not mean applicants for discharge consents are limited to showing there is no material harm. Rather, they may also accept conditions that avoid material harm, mitigate the effects of pollution so that harm will not be material, or remedy it so that, taking into account the whole period of harm, overall the harm is not material. To meet the bottom line, remediation will have to occur within a reasonable time in the circumstances of the case and, in particular, in light of the nature of the harm to the environment, the length of time that harm subsists (that is, the total duration of projected harm until remediation occurs), existing interests and human health. All else being equal, economic benefit considerations to New Zealand may also have the potential to affect the decision-maker’s approach to remediation timeframes, but only at the margins.”

- Petrobras example: Brazilian oil company awarded licence to explore the Raukumara basin for deep sea oil drilling. Local iwi Te Whānau a Apanui, Ngāti Porou and Greenpeace sent several flotillas in protest, sought to go to UN. After 2½ years of protests and difficulties for Petrobras, they suffered losses and decided to pull out of 5 year licence (2011 - 2012).

7. Pacific

“Political developments in the 1960s and 1970s saw the majority of South Pacific countries emerge as sovereign states. The preambles to the independence constitutions generally reflected a desire for laws encapsulating local values and objectives to be respected.”

Vanuatu [ERIN]

- **Population:** 292,680 people

Languages: Bislama, French, English

Colonial history: 2000BC Indigenous Nivan, 1605 Portugal, 18th Century - Anglo-French Condominium on New Hebrides.

- **Journey to Independence:**

1960s: Nivan began pushing for self governance and independence. Full sovereignty was finally granted by both European nations on July 30, 1980. It joined the UN in 1981, and the Non-Aligned Movement in 1983.

- **Land:** Vanuatu is an archipelago of 83 islands, of which two - Matthew and Hunter - are also claimed by the French overseas department of New Caledonia. Of all the 83 islands, 14 have surface areas of more than 100 square kilometres. Most of the islands are mountainous and of volcanic origin, and have a tropical or sub-tropical climate.
- **Economy:** The economy is based primarily on subsistence or small-scale agriculture, which provides a living for 65% of the population. Fishing, offshore financial services, and tourism (with about 60,000 visitors in 2005), are other mainstays of the economy. Mineral deposits are negligible; the country has no known petroleum deposits. A small light industry sector caters to the local market. Tax revenues come mainly from import duties and a 12.5 percent Value Added Tax (VAT) on goods and services.
- **Republic of Vanuatu:** Sovereign democratic state. Sovereignty is vested in the people of Vanuatu and exercised through Parliament.
- Unicameral Parliament, 52 members, elected every 4 years. Members elect Prime Minister. Six provinces elect President.
- **Constitution:** The Constitution enumerates certain fundamental rights and freedoms of the individual, establishes a basic citizenship law, and establishes and regulates the country's major political, judicial, and cultural institutions.
- Amongst the latter are the President; unicameral Parliament; an advisory National Council of Chiefs; the Prime Minister directly elected by Parliament; the Supreme Court; and the Court of Appeal.
 - Constitution 1980, art 47(1): "If there is no rule of law applicable to a matter before it, a court shall determine the matter according to substantial justice and whenever possible in conformity with custom."
 - Article 93(3): "Customary law shall continue to have effect as a part of the law of the Republic."
- **Council of Chiefs:** Malvatumauri Council of Chiefs. **Custom chief** means a person who is recognized by a community as entitled under the custom of that community to hold the position of a chief.
- **Citizenship:** On or after the day of Independence. **Automatic citizens-** (a) a person who has or had four grandparents who belong to a tribe or community indigenous to Vanuatu; and (b) a person of ni-Vanuatu ancestry who has no citizenship, nationality or the status of an optant. **Entitlement to citizenship** Every person who on the Day of Independence is a person of ni-Vanuatu ancestry and has the nationality or citizenship of a foreign state or the status of an optant shall become a citizen of Vanuatu if he makes an application, or an application is made on his behalf by his parent or lawful guardian. **Naturalisation:** may apply to be naturalised as a citizen of Vanuatu if he has lived continuously in Vanuatu for at least 10 years immediately before the date of the application and Parliament may prescribe other rules

Pacific custom:

- It is apparent that the vast majority of disputes in many Pacific countries, especially in Melanesia, are resolved by customary means. Daily life in small island territories like Tokelau and Wallis and Futuna is almost entirely governed by custom and custom law processes. State-made law barely exists in remote parts of Melanesia, and custom is the only operative system of control if, as in Bougainville during the armed conflict there, state-made law breaks down.
- Many states depend on custom to maintain local peace and order and have not the wherewithal to replace it with state institutions. Even where state institutions do exist at the local level, they coexist with customary processes.
- Pacific people also see custom as “law”. That perception was readily apparent in our discussions with Pacific people, in which various indigenous terms for custom law were used (e.g. tikanga in NZ).
- However, custom and state-made law are also seen as complementary rather than competing: the one serves traditional communities, while the other manages national interests. They also have different strengths. Courts have specialist expertise in fact-finding to determine responsibility for wrong-doing. Community justice bodies are noted for dispute resolution techniques to maintain local harmony.

Samoa [CLAIRE]

- German colony and then from 1918 a New Zealand colony (under League of Nations and then UN trusteeship system).
- Independent since 1962 (first in the Pacific).
- Mainly Samoan with a very small Chinese and NZ population.
- 200k in Samoa, 182k in NZ (mostly in Auckland).
- Constitution blends NZ and Samoan legal traditions.
- Constitution defines ‘law’ to include ‘any custom or usage which has acquired the force of law’.
- Land and chiefly titles are given special protection as areas governed by custom. Eighty percent of land in Samoa is customary land and its alienation is prohibited.
- In practice, custom governs much of people’s daily lives. Village fono (councils), comprising the chiefly heads of the families of the village, make and enforce decisions about land, titles and other matters in their communities.
- Concern that there was too much reliance on outside law and not enough on Indigenous law. Cause of some recent amendments to specific laws to recognise greater Fa’a Samoa/Samoan law within the Constitution leading to and constitutional upheaval and the ousting of the long time leader.

- Disputes on customary matters are referred to the Land and Titles Court, composed mainly of lay judges and experts in custom. Proceedings are inquisitorial, conducted in Samoan, and follow customary protocols.
- Under recent amendments, the Supreme Court, the superior court of record with original constitutional jurisdiction, can NO LONGER review decisions of the Land and Titles Court and village *fono* and matai.
- Membership of national legislative electoral assembly: historically 47 for matai and 2 for Samoans descended from non-Samoans (then replaced by 2 “urban constituencies” in 2016).
- 2020 elections: 51 MPs, have to be matai, from 51 electoral constituencies (no special provision made for “Samoans descended from non-Samoans”).
- Only 10% of seats required to be for women.
- Issue of who is Samoan and who has whakapapa also from Chinese contentious.
- Part II includes many human rights including the right to freedom from discrimination, enforceable by the Samoan Supreme Court [against the lands courts?].
- Matai lead the local government structures.

8. Australia: state and federal level developments for constitutional reform

- Processes for constitutional recognition of Aboriginal peoples occurring at the Federal Level (mainly around a “voice to Parliament” but ideas are varied and include specific constitutional protection).
- And, “treaty-making” processes at the state level e.g., Victorian Treaty making process. Much remains contested and is unique from state to state e.g., recognition of self-determination? Human rights? Governance?
- The UN Declaration on the Rights of Indigenous Peoples is used as a lobbying tool for fundamental change in Australia.

9. Insights/Tentative ideas of comparisons relevant to the Greenlandic Constitutional Commission

- Democratic participation:
 - In Aotearoa, guaranteed Māori seats are inadequate to realise tino rangatiratanga and rights bc minority.
 - In Samoa, only matai can be elected to the legislative assembly.
 - Vanuatu: plebiscite + chiefs’ council.
- Self-identification:

- Tribes/hapū= sovereign bodies, not Māori as a whole.
 - In Aotearoa, blood quantum is irrelevant...only need whakapapa | genealogy.
 - Samoa: non-issue?
- Impact of colonial/state law continues e.g., drafted by colonisers?
 - NZ state legal system still very much dominant in fact, with some exceptions.
 - Samoa: Constitution was co-drafted with “colonial” drafters from NZ and reflects NZ law as much as Fa’a Samoa.
 - Regulation by Indigenous law, not “state” law, in some circumstances:
 - Aotearoa: not formally as a matter of state law (Tuhoe exception, but always subject to state override), only informally e.g., COVID borders example.
 - Samoa: Fa’a Samoa in Constitution and law regulating lands and territories remains largely Samoan law.
 - Tensions between human rights and Indigenous laws:
 - Indigenous laws often have their own “human rights” norms: there are tikanga Māori norms to look after one another as individuals albeit are unique to liberal, Western systems.
 - NZ: unclear how these tensions might be resolved but because tikanga Māori is barely recognised by state law, few cases where issues arise in state legal sphere. Do arise internally [Cathey Dewes example].
 - Samoa: women’s rights questions, including representation in matai-centric situations.
 - Collective governance/bureaucracy (established by/with the state) v individual rights
 - Example: employment disputes.
 - Internal tensions between centralised tribal authority and local-level tribal authority [larger collective v smaller collective: Moving from fight mode to nurturing mode: Tuhoe?].
 - Need our own conflict resolution processes, keep things out of the state courts but also provide appropriate resolution [mending room between individuals and need for other space/places when tribal authority abuses power].
 - Issue with capacity = affects our capacity to realise self-governance - impact of continuing colonisation.

Pluralism [Jennifer Corrin Care]

Legal pluralism is usually taken to refer to a situation in which two or more legal orders coexist in the same social field.

- Might be useful/apply re: iwi to iwi | tribe to tribe shared governance over spaces.
- Might apply where state law [still?] has some authority in Greenland and Aotearoa NZ?

ANNEX 6

Kent Fridberg

Memorandum regarding confirmation processes for laws

October 10, 2022

Inatsisartut Allattoqarfiat

Note on the confirmation process for laws

On September 6, 2022, the Constitutional Commission has requested the Bureau of Inatsisartut for a memorandum describing the process of enactment of laws.

The Constitutional Commission has requested a description of:

1. When the President of Naalakkersuisut has started signing/authorizing adopted laws.
2. Whether the President of Inatsisartut can confirm the laws instead of the President of Naalakkersuisut.

Should the Constitutional Commission find a need for elaboration or supplementation of the information and assessments included in the memorandum, I am of course available to the Commission.

Introduction - Constitutional rules on ratification

A bill passed by the Danish Parliament only becomes law when the bill is confirmed by the government (and the Queen) within 30 days. This follows from § 22 of the Danish Constitution. Furthermore, the law must then be promulgated in order to be effective in relation to the citizens.

The ratification can be seen as the government's acceptance, and this acceptance is a prerequisite for the adopted bill to gain "force of law", i.e. move from being a bill to becoming a law.

The Government is free to decide whether to confirm a bill passed by the Danish Parliament.²⁵ However, if the government does not wish to confirm an adopted bill, it is assumed to have a duty to inform the Parliament, which gives the Parliament the opportunity to react, in the extreme case by removing the government through a vote of no confidence.

The fact that a bill passed by the Danish Parliament only becomes law if the government accepts it (in the form of ratification within 30 days) must be seen in light of the fact that, according to §

²⁵ The Queen does not have any independent decision-making authority and cannot refuse to confirm a bill that the Danish Parliament has passed and that the Government wishes to confirm.

3 of the Constitution, the legislative power lies jointly with the government and the Danish Parliament.

The Constitution's provisions on the legislative process only apply to the Danish Parliament and the Danish Government - not to the Greenland Self-Government. The Greenland Self-Government has its own rules on the legislative process, including on ratification, and these rules differ in some respects from the Constitution.

Adoption as part of the legislative process in the Government of Greenland:

For the Greenland Self-Government, rules on confirmation are found in section 30 of the Inatsisartut Act on Inatsisartut and Naalakkersuisut²⁶:

§ 30. In order to enter into force, a bill adopted by Inatsisartut must be ratified by the Chairman of Naalakkersuisut no later than four weeks after its final adoption.

Paragraph 2. Naalakkersuisut may, within a period of eight days after the final adoption of the bill, decide that confirmation shall be postponed until the bill has been adopted by Inatsisartut in the following session. If the bill is not adopted and passed in this session, it shall lapse.

Paragraph 3. The Government of Greenland may not postpone the enactment of a temporary appropriation act or an act on the calling of new elections.

The starting point here is that the Chairman of Naalakkersuisut is obliged to confirm bills passed by Inatsisartut and that this must be done within a period of 4 weeks. However, Naalakkersuisut may, within 8 days after final adoption of a bill, decide to postpone the confirmation until the bill is again adopted by Inatsisartut at the following session. However, the Naalakkersuisut does not have the option of postponing the ratification of a temporary appropriation act or an act on the calling of new elections.

It must be assumed that (in accordance with the Greenland Parliament Act on the accountability of members of the Greenland Parliament²⁷) the Greenland Parliament has a duty to inform the Greenland Parliament if the Greenland Parliament decides to postpone the adoption of an adopted bill.

It is not clear from the provision or the legislative history whether the bill in the adopted form is automatically placed on the agenda for the following session if the Government of Greenland has postponed the ratification. Or alternatively, whether the adopted bill lapses if it is not reintroduced by the proposer or others.

In the absence of evidence to the contrary, an adopted bill, whose ratification has been postponed by the Government of Greenland, must be assumed to have to undergo 3 readings in Inatsisartut

²⁶ Greenland Parliament Act no. 26 of November 18, 2010, as amended.

²⁷ Parliamentary Act no. 6 of May 13, 1993 on the accountability of members of the Provincial Government, as amended.

in order to be adopted and ratified. In other words, a single (re-)reading can hardly be assumed to be sufficient.

If the proposal is adopted again, the Chairman of the Government of Greenland is *obliged* to confirm it. However, this only applies if the proposal is adopted in amended form. If the proposal is adopted in another form, it is deemed to have lapsed.²⁸

Unlike the Danish government, Naalakkersuisut does not have a “veto right” over bills passed by parliament. Naalakkersuisut may postpone the confirmation, but if Inatsisartut during the following session again adopts the bill in a changed form, it is incumbent on the Chairman of Naalakkersuisut to confirm - which must be assumed to take place within a period of 4 weeks after the final adoption of the re-examined bill.²⁹

The confirmation provisions in § 30 of the Inatsisartut Act on Inatsisartut and Naalakkersuisut are supplemented by a provision (§ 31(3)) in the Rules of Procedure for Inatsisartut, which stipulates that bills, after final adoption, are signed by the Speaker of Inatsisartut and the Secretary General (now: the Director) of Inatsisartut, after which they are forwarded to the Speaker of Naalakkersuisut (for confirmation and announcement).

The bill is signed in the finally adopted form. This means that the Inatsisartut’s administration (Bureau for Inatsisartut) makes a compilation of the bill in the submitted form with the amendments that Inatsisartut may have adopted during the readings.

Despite the fact that the provision by its wording covers any bill that is passed, there is an established parliamentary practice that draft finance bills and supplementary appropriation bills are not signed and submitted.³⁰ The exception is justified by practical considerations.

Historical background

The Home Rule Act³¹ already contained (in § 6) provisions that more or less correspond to the rules that apply today for confirmation:³²

²⁸ The provision that the bill lapses if it is not adopted in amended form must, in the absence of evidence to the contrary, presumably mean that the bill’s entry into force provision cannot be amended either. As a consequence, the bill, if passed again, could have retroactive effect. This is unfortunate if the bill contains onerous provisions and is contrary to Article 7 of the European Convention on Human Rights with regard to penal provisions.

²⁹ See the general rule in § 30(1).

³⁰ The exemption does not include proposals for temporary finance laws.

³¹ Act no. 577 of November 29, 1978 on the Home Rule of Greenland.

³² The Home Rule Commission’s draft explanatory notes to the provision state the following:

“In accordance with the principle in § 22 of the Constitution, it is proposed in subsection (1) that adopted bills for Parliamentary Acts and Parliamentary Regulations shall, in order to be valid, be ratified by the Chairman of the Provincial Government and be published in accordance with provisions laid down by the Home Office. The chairman of the Parliament is obliged to confirm the proposals within the time limit set by the Parliament for confirmation. As there may in exceptional cases be a need for a proposal to be renegotiated in the Parliament before it enters into force, for example if the proposal has been adopted on an inadequate basis, it is proposed in subsection (2) that the Government may within a period of 8 days decide that the ratification shall be postponed until the proposal has been adopted and approved by the Parliament in the following session.”

§ 6. In order to be valid, adopted proposals for parliamentary acts and parliamentary regulations shall be confirmed by the chairman of the Government of Greenland and promulgated in accordance with provisions laid down by parliamentary act.

Subclause 2. The Greenland Government may within a period of 8 days decide that the ratification shall be postponed until the proposal has been adopted by the Parliament in the following session. If the bill is not adopted unchanged in this session, it shall lapse.

The requirement for the signature of the chairman of the county council was supplemented by a requirement that the responsible county council member (or the relevant head of administration) must also sign. The requirement for the signature of both the chairman of the regional government and the responsible member of the regional government was continued in later regional government acts on county councils and the regional government.

However, Inatsisartut Act no. 26 of November 18, 2010 on Inatsisartut and Naalakkersuisut introduced 2 changes to the previously applicable provisions on confirmation:

Firstly, the requirement for the co-signature of the responsible minister (or the head of administration) was removed. Adopted bills are now only ratified by the signature of the Chairman of the Government of Greenland.

Secondly, a deadline was introduced for when confirmation must take place. Confirmation must now take place no later than 4 weeks after the final adoption of the bill (unless Naalakkersuisut within 8 days of adoption decides to postpone the confirmation until the bill is again adopted by Inatsisartut at the following session).³³

These rules still apply.

"It is noteworthy that the commission states that the proposed provision is *"in accordance with the principle of § 22 of the Constitution"* - despite the fact that the provision (unlike the Constitution) actually obliges the Government of Greenland to ratify bills passed by Inatsisartut.

The chosen structure should probably be seen in the light of the fact that the commission did not propose that the Government of Greenland should have any actual governmental competence, cf. the following excerpt from the commission's report:

"It has been considered whether the National Government should have an independent competence in relation to the County Council, similar to the relationship between the Government and the Parliament. However, it has been agreed that the actual authority should lie with the county council, so that the county government - at least for the time being - acts on behalf of the county council."

³³ The following information on the background for the introduction of the 4-week deadline is provided in the explanatory notes: *"So far, no deadline has been set for when confirmation must take place at the latest. However, it appears from the previous section 24(2), which is proposed to be continued as section 24(2), that if the chairman of the Greenland Government wishes to postpone a confirmation, a decision must be made within eight days from the final adoption of the proposal. This provision may raise doubts as to whether Naalakkersuisut is neglecting its official duties if, after the expiry of the eight-day deadline, neither confirmation nor a decision to postpone the proposal has been made. In the absence of a final deadline for confirmation, this certainty about the continued fate of a proposal can in principle last indefinitely, which is hardly satisfactory for the sake of legal clarity."*

The Home Rule Act's rules on confirmation have not been continued: The Self-Government Act does not contain provisions on confirmation or on the legislative process in general.

Could the power of confirmation instead be vested in the Speaker of Inatsisartut?

As mentioned, the power of confirmation has so far been vested in the Chairman of Naalakkersuisut. I understand the Constitutional Commission's question to mean that the Commission is considering transferring this competence to the President of Inatsisartut.

I see nothing in principle to prevent this. In fact, such a transfer of competence could be said to be more in line with the variant of the three-way division of power we have in this country, where the legislative power lies solely with the parliament (i.e. not with the government and parliament together, as is the case in Denmark according to § 3 of the constitution).

Assigning the competence to the Speaker of Inatsisartut will - formally speaking - imply a shift in the balance of power between Inatsisartut and Naalakkersuisut, as Naalakkersuisut thereby loses the possibility (if only temporarily - i.e. until the following session) to block laws that Inatsisartut adopts and that Naalakkersuisut has wanted to reject or adopt with a different content.

In reality, however, the change can hardly be expected to have any significant impact: As far as I know, Naalakkersuisut has never made use of the possibility of waiving confirmation; I am certainly not aware of any case in the past 23 years when I myself have been employed under Inatsisartut.

If the Constitutional Commission wishes to transfer the power of confirmation to the Speaker of the Parliament, a decision will also have to be made as to whether the existing possibility of postponing confirmation should be maintained.

Here, it should be noted that the President of Inatsisartut represents Inatsisartut (which adopts the bills) and that the President of Inatsisartut (unlike the President of Naalakkersuisut) also has a function that is not (party) political. Seen as a "blocking tool" in a conflict with a majority in Inatsisartut, the right to postpone confirmation will therefore no longer make sense if the power of confirmation is transferred to the President of Inatsisartut.

However, the right to postpone ratification can also serve other purposes than as a "blocking tool" in a conflict with a majority in Inatsisartut.

On the Danish government's right to refrain from confirmation, the following is stated in Danish Constitutional Law:³⁴

"Normally, a government will confirm all adopted bills, but if a majority in Parliament should regret an adopted bill (e.g. because of errors or because the actual circumstances have changed drastically), failure to confirm is a practical way to have the bill annulled, as the bill automatically lapses if it is not ratified within 30 days. Only with confirmation does a passed bill become bill

³⁴ Jens Peter Christensen, Jorgen Albæk Jensen and Michael Hansen Jensen, 2nd edition 2016, page 135.

into an Act. After enactment, the law can only be amended or repealed through the enactment of a new law.”

If the power of confirmation is transferred to the Speaker of Inatsisartut, one could therefore consider whether the Speaker of Inatsisartut should be obliged to confirm the bills adopted by Inatsisartut, or whether the Speaker of Inatsisartut should be given the opportunity to refrain from confirmation in situations where, after adoption, Inatsisartut has become aware of errors or inappropriateness in the bill.

Bills are often enacted shortly after they are passed, and the likelihood of “drastic changes in the facts” occurring in the intervening period does not seem likely, but it cannot be completely ruled out. The likelihood of overlooked errors or inappropriateness coming to light in the intervening period is probably a little more likely. However, as mentioned earlier, the previous right to postpone the ratification of adopted proposals has not been used for more than 20 years - not even for the purpose of “canceling” flawed but adopted proposals.

If the Constitutional Commission finds it desirable to transfer the power of confirmation to the Speaker of Inatsisartut, and at the same time give the Speaker of Inatsisartut the possibility to waive confirmation, it could be considered whether the power to waive confirmation should be exercised on the recommendation of, for example, the Presidency, so that it is ensured or at least made probable that a majority in Inatsisartut wants the adopted bill to lapse. Furthermore, it could be considered whether it should be specified in the explanatory notes to the provision that the right not to confirm is only intended to be used in situations where, after the adoption of a bill, Inatsisartut becomes aware of errors or inappropriateness in the bill or where the actual circumstances have changed significantly.

September 22, 2022

Kent Fridberg
Head of Law, Office for Inatsisartut

ANNEX 7

Elisa Skytte

Memorandum regarding the description of the confirmation process of laws

September 20, 2022

Naalakkersuisut Siulittaasuata Naalakkersuisoqarfia

Department of the President

GOVERNMENT OF GREENLAND

Memo

To: Constitutional Commission

21-09-2022

Note regarding the description of the confirmation process of laws

On September 6, 2022, the Constitutional Commission has requested a memorandum regarding the description of the process of confirmation of laws. On the basis of this The Law Department can inform the following:

Question 1

When did the Chairman of Naalakkersuisut start signing/authorizing adopted laws?

The chairman of Naalakkersuisut - formerly known as the chairman of the Government of Greenland - initiated the enactment of adopted laws at the introduction of home rule in Greenland.

It appears from section 6 of the Greenland Home Rule Act of November 29, 1978, that: *“Adopted proposals for parliamentary acts and parliamentary regulations shall, in order to be valid, be ratified by the chairman of the Greenland Home Rule and published in accordance with provisions laid down by parliamentary law.”*

The above provision has not been carried over to the Act on the Self-Government of Greenland of June 12, 2009, which only states in § 1 that the legislative power is with the Inatsisartut, the executive power is with the Naalakkersuisut, and the judicial power is with the courts.

The logical and executive power, on the other hand, is elaborated in the Greenland Parliament Act on the Greenland Parliament and Naalakkersuisut, which states in § 30(1) that: *“A bill adopted by the Greenland Parliament must be ratified by the chairman of the Naalakkersuisut no later than 4 weeks after its final adoption in order to enter into force.”*

Question 2

Why can the President of Inatsisartut confirm the laws instead of the President of Naalakkersuisut?

It is stipulated in section 1 of the Self-Government Act that: *“The Self-Government of Greenland has the legislative and executive power within the areas of law taken over. Courts established by the Self-Government have the judicial power in Greenland in all areas of law. Accordingly, the legislative power is with the Inatsisartut, the executive power with the Naalakkersuisut and the judicial power with the courts.”*

Power must be divided into three: the legislative power, the executive power and the judicial power. This division of power should prevent abuse of power.

The parliamentary system in Greenland is based on a division of responsibility and power between Inatsisartut and Naalakkersuisut. This is reflected in the fact that the Inatsisartut’s task is to legislate, while the Naalakkersuisut’s task is to implement the laws. Proposals for Inatsisartut laws must undergo three readings in Inatsisartut, after which Inatsisartut adopts the proposal (§ 14 of the Inatsisartut Act on Inatsisartut and Naalakkersuisut). In order for the adopted proposal to become a law, the proposal must be confirmed by the President of the Government of Greenland (§ 30 of the Greenland Parliament Act on the Greenland Parliament and the Government of Greenland), and finally, the law must be promulgated to become legally binding on the citizens in society.

If the President of Inatsisartut is to ratify the laws instead of the President of Naalakkersuisut, this may create an imbalance in the division of power, as it may mean that Naalakkersuisut does not get the opportunity to decide on the bill before it becomes a law in force in society.

The division of power between Inatsisartut and Naalakkersuisut is also seen in the fact that the Chairman of Naalakkersuisut is elected by Inatsisartut. Similarly, Inatsisartut must approve the government that the chairman of Naalakkersuisut puts together. If Inatsisartut is not satisfied with the government or individual members thereof, Inatsisartut may dismiss the government or the member in question. The chairman of Naalakkersuisut can then call an election and thereby dissolve Inatsisartut.

With kind regards
Elisa Skytte

ANNEX 8

*Klaus Georg Hansen, Memorandum to the Constitutional Commission on three
selected constitutional republics,
September 5, 2022*

Memo to the Constitutional Commission concerning three selected constitutional republics

Prepared by
Klaus Georg Hansen

September 5, 2022

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Foreword

On August 12, 2022, I received a request from the acting chairman of the Constitutional Commission Ineqi Kielsen to prepare a memorandum on three forms of government for the Constitutional Commission. The final form of the extended terms of reference was decided on August 19 with an agreed delivery date of September 5, 2022.

Due to the short timeframe for the preparation of the memorandum, it has not been possible to exchange drafts of the memorandum with the Constitutional Commission in order to obtain indicative comments. The memorandum submitted here has thus been prepared solely on the basis of the wording of the terms of reference and a few additional comments.

Against this background, I would like to request an evaluation from the secretariat of the Constitutional Commission on the extent to which the Constitutional Commission considers the task set to have been adequately answered. Should it be the assessment of the Constitutional Commission that the task set has only been partially answered, I request a detailed description of what is considered to be missing.

In several places, the text in the memo is based on what something is called in Danish. In addition, a number of terms are used that - as far as I know - are not lexicalized in Greenlandic. As the Constitutional Commission naturally works primarily in Greenlandic, this presents special challenges in relation to translating the text from Danish to Greenlandic. In my work, I have been aware of this challenge, and I have done what I could to design the text appropriately for the translation and, as far as possible, taken it into account in my formulations. Nevertheless, there will still be parts of the text that may seem a little awkward in Greenlandic because the starting point was Danish.

Klaus Georg Hansen
September 5, 2022

1.0 Terms of reference

A memo must be prepared according to the following guidelines:

Title

Memorandum to the Constitutional Commission regarding three selected constitutional republics.

Contents

Descriptions of the following three forms of government:

3. presidential republics (e.g. USA, Mexico)
4. semi-presidential republics (e.g. France, Russia)
5. parliamentary republics (such as Iceland, Germany, Finland)

Scope

- A. An overview of the three forms of government must be prepared with an indication of characteristics, differences and similarities.
- B. An assessment must be made of each form of government in relation to Greenlandic culture, history and population size. This should include a description of what is structurally comparable in the political system, particularly with regard to decision-making competencies and the separation of powers.
- C. It must be assessed what the Greenlandic people can roughly recognize about each of the three forms of government. This includes looking at the existing Greenlandic system compared to the presidential systems. It must also be shown how the structural structure of the distribution of decision-making powers and decision-making processes may look in a

Greenlandic context. In this context, the smaller population, fewer resources and egalitarian thinking must be taken into account.

- D. Highlight the advantages and disadvantages of the three forms of government. Briefly highlight the adapted three forms of government.

2.0 Concepts

It is important to clarify the concepts used in the paper. Here I will discuss the form of government, constitution and constitutional regulation, as well as the form of state, republic and monarchy

2.1 Governance

The Great Danish Dictionary defines governance as follows:

“A state’s form of government is based on certain norms and principles that may be more or less explicitly formulated, for example in the form of a constitution that determines the basic guidelines for the political system” (Svensson 2017).

A shorter version can be read in the *Danish Dictionary*, where it says about the form of government:

“the way a country is governed, determined by the norms, rules and laws that determine how political decisions are made” (DDO 2018).

In the two descriptions given here, the word governance refers to “the political system” and “the political decisions” of a state. In the above descriptions, reference is made to the fact that there must be some form of legislation that regulates the political system of the state in question.

In most of the states we compare ourselves to, the provisions on the form of government are contained in the law known as a constitution. However, there are states that do not have an actual constitution as we know it. The most famous example is the United Kingdom, which has never had an actual constitution, but large parts of the British constitution can be found in parliamentary legislation, court decisions and treaties. So the UK has the equivalent of a constitution.

A constitution provides a state’s constitutional regulation. It is also referred to as a state’s constitutional (or constitutional) regulation. When a state has a constitution, that state has a constitutional regulation of the political system.

The opposite of a constitutional regulation of the political system is seen in states that are governed without a constitution or similar as a framework for governance. This is seen, for example, in states that are governed - often temporarily - by the military, often after a military coup. This type of state, which does not have a constitutional regulation, is not discussed in this paper.

One of the things that is regulated in a constitution is how the political power of the state is regulated. This is the form of government. Political power can be regulated in many ways. The form of regulation of political power prescribed by the constitutions in the Nordic countries is called democratic. Other forms of government that can be regulated in a constitution can be

aristocracy, despotism, dictatorship, meritocracy, oligarchy, technocracy, theocracy, tyranny and more.

As you can see, democracy is just one form of government among many different forms of government. This paper does not deal directly with the many different forms of government mentioned here. However, it does touch on the subject of forms of government in the context of looking at which form of government may be best suited to Greenland.

2.2 Form of government

Another issue that is regulated in a constitution is whether the head of state of the state in question should be a president or a monarch. The determination of whether the head of state is a president or a monarch is called the form of government of the country in question.

If the head of state is a president, then the form of government is a republic. If the head of state is a monarch (a king or queen or equivalent), then the form of state is a monarchy. As a form of government, a republic and a monarchy are therefore opposites.

The form of government and the form of state are two interdependent parts of a constitution. In the case of a monarchy as a form of government, the form of government can in principle be any of the above-mentioned forms of government (democracy, dictatorship, theocracy, etc.). Similarly, in the case of a republic as a form of government, the form of government can in principle be any of the forms of government listed above (democracy, dictatorship, theocracy, etc.).

The paper does not directly address which form of government the three selected constitutional republics can or should adopt. This is not part of the assignment for the report, and such an analysis would require a more comprehensive investigation.

Form of government Covers provisions for the regulation of political power	Form of state Covers head of state provision
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Figure 1. Illustration of the concepts 'form of government' and 'form of state'.

The form of government known as a republic usually has a head of state called a president. A republic differs from a monarchy in that the position of head of state is not hereditary. Instead, the position of head of state is held by a person who is elected or appointed for a more or less well-defined period of time.

In constitutional republics, the head of state is elected according to the rules of the constitution and the powers of the head of state are regulated by the constitution.

Today, most states in the world are republics, and the term republic is not necessarily a positive term, as republics can be democracies, military regimes, one-party states and other authoritarian forms of government. The fact that a country is a republic does not say anything about how its constitution regulates the political system.

2.3 The separation of powers

One of the pillars of Western democracies, which we in Greenland lean on, is that the power of the state is divided into three entities. It's called the separation of powers.

The principle of the separation of powers stipulates that the legislative power, which can pass laws, must be separate from the executive power, which can apply the provisions of the laws specifically to citizens, and which must be separate from the judicial power, which can decide on the interpretation of the laws and impose punishment.

The principle of the separation of powers is not an old one. The idea was created during the Enlightenment by French philosopher Charles-Louis de Montesquieu (1689-1755). In his life's work, published in 1770-1771, Montesquieu formulated the principle of the separation of powers. Today, this principle is a fundamental part of most Western countries' constitutions.

The United States Constitution of 1787 was the first state constitution based on Montesquieu's principle of separation of powers. In Greenland, it was not until more than 200 years later that we got a form of government that is fully based on the separation of powers. It was not until 1998 that the separation of powers was introduced in the Greenland Home Rule. For the first 20 years of home rule - from 1979 to 1998 - there was no separation between the Parliament (the legislative power) and the Government (the executive power). The Prime Minister was both the President of Parliament and the President of the Government. In a true parliamentary system, the two positions cannot be held by the same person.

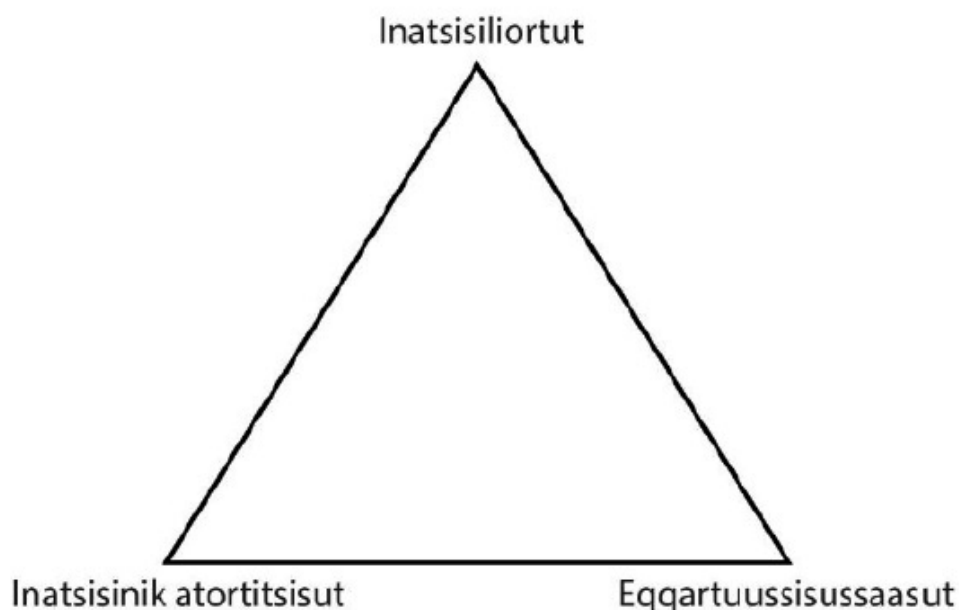


Figure 2. The tripartite division of power. The three powers are separated from each other to avoid a concentration of power, which historically has proven not to be beneficial to the population. [Translator's note: upper point labeled "The executive branch", the left point labeled "The legislative branch", and the right point labeled "The judiciary".]

Although the constitutions of many countries are based on the common principle of the separation of powers, there are different concrete forms of how power can be separated. This is one of the key differences between the three constitutional republics described.

In another context, I have illustrated how the separation of powers looks in Greenland. Here we still have the very special situation that the Danish rulers have a significant share of the power in the division of power in Greenland. This is shown in figure 3. It is, among other things, this mix of two different rulers in the tripartite division of power in Greenland that shows that Greenland is still - technically speaking - a colony.

Otherwise, this issue will not be discussed further here, as it is a prerequisite for the description of the three committees as constitutional republics that they are not under the influence of foreign rulers within the separation of powers.

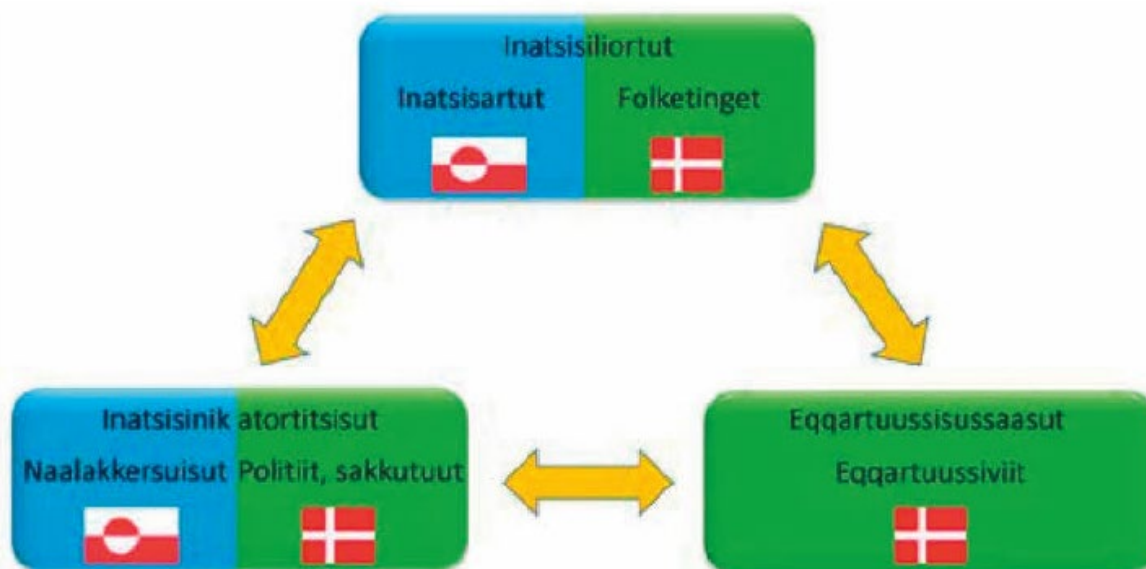


Figure 3. Illustration of the tripartite division of power in Greenland involving two different power holders. These are the Greenlandic power (marked in blue) and the Danish power (marked in green) (Hansen 2017, 36). [Translator's note: upper point labeled "The legislative branch – Inatsisartut (Greenlandic flag)/Parliament (Danish flag)," the left point labeled "The executive branch – Naalakkersuisut (Greenlandic flag)/Police, military (Danish flag)," and the right point labeled "The judiciary – the courts (Danish flag)".]

3.0 Comparison between forms of government

The terms of reference state that three constitutional republics are to be examined. These are presidential republics, semi-presidential republics and parliamentary republics. Figure 4 provides an overview of the differences and similarities between the three forms of government (see next page).

As can be seen, a presidential republic and a parliamentary republic are opposites of each other, while a semi-presidential republic is a mixture of the two and therefore lies between the two opposites.

The key difference between a presidential republic and a parliamentary republic is the degree of separation between the legislative and executive branches. In a presidential republic, there is complete independence between the two, while in a parliamentary republic there is only partial independence because the legislature can dismiss the executive. In this sense, the current system with Inatsisartut and Naalakkersuisut is designed in the same way as a parliamentary republic. The difference between the two forms of government will be discussed in more detail in a later section.

Monarchies can basically be divided into three similar categories. The main difference between republics and monarchies is that a monarch inherits the office of head of state, whereas a president is elected for a term. Monarchies will not be discussed further here.

Presidential republic	Semi-presidential republic	Parliamentary republic
There is a president as head of state.	There is a president as head of state.	There is a president as head of state.
This is a strong presidential form of government.	It is a mixed stretch and weak presidential form of government.	This is a weak presidential form of government.
The head of state can be elected by direct election or by indirect election.	The head of state can be elected by direct election or by indirect election.	The head of state can be elected by direct election or by indirect election.
The president is both the head of state and the head of government, and thus the president has the executive power.	The president is the head of state and executive power is shared between the president and the head of government. This power sharing can be done in different ways.	The president is only the head of state, while another person is the head of government, and thus the head of government has the executive power.
Legislative power is exercised by a parliament.	Legislative power is exercised by a parliament.	Legislative power is exercised by a parliament.
Members of parliament are elected by direct election.	Members of parliament are elected by direct election.	Members of parliament are elected by direct election.
The executive power is exercised by the president and his ministers.	Executive power is shared between the president and the head of government. This power sharing can be done in different ways.	The executive power is exercised by the head of government and his or her ministers.
The executive is independent of the legislature because the legislature cannot remove the executive by ordinary dissent.	The executive branch is independent of the legislative branch in the case of the president and dependent on the legislative branch in the case of the head of government.	The executive is dependent on the legislature because the legislature can remove the executive in the event of a general disagreement.

Presidential republic	Semi-presidential republic	Parliamentary republic
A president and his ministers can be removed from office by the legislature in rare cases, for example by impeachment.	A mix of a presidential and parliamentary republic	A head of government and his ministers must trade back if there is no majority for the government in parliament (positive parliamentarism) or if there is a majority against the government in parliament (negative parliamentarism).
The president and his ministers cannot be held politically accountable by parliament.	A mix of a presidential and parliamentary republic	The head of government and his or her ministers can be held politically accountable by parliament.
Examples of states: USA, Mexico	Examples of states: France, Russia	Examples of states: Iceland, Finland

Figure 4. Comparison between three selected constitutional republics, presidential republic, semi-presidential republic and parliamentary republic.

4.0 Assessment of suitability for Greenland

This section contains some considerations on how the three selected parliamentary republics (presidential republic, semi-presidential republic and parliamentary republic) can be said to be suitable for the conditions in Greenland. It is important to make it clear that there is no objective checklist for the relevant considerations. There are priorities and weightings of various factors that can be discussed. Both prioritization and weighting could be done in other ways than those described here. The factors described here have been selected based on the knowledge I have built up, and I have, to the best of my ability, knowledge-based my considerations.

4.1 Culture, history and population size

There are many cultural, historical and societal factors that can play a role when assessing the suitability of the three selected constitutional republics for Greenland.

Here are some topics that have been deemed relevant for the assessment.

Organization

For the Inuit, the dominant social organization in pre-European times was the immediate family and the actual settlers. With this as a starting point, there has been a dynamic adaptation throughout the colonial period.

Today, the group of social allies is a web of different social relations. The family is still a very important social network, as are, for example, roommates and classmates. In addition, associations and political groupings, among others, are important social frames of reference that create cohesion. Overall, society has a strong system of socially valid networks.

Some of these social networks have been called clan systems. Clan systems are known as very strong social networks in all parts of the world. The clan system practiced here is not expressed in

a formal clan structure as seen in some other cultures. Nevertheless, it is based on the same basic principles.

You can use your social networks and you can expect some protection in your social networks. Often, but not always, there is an informal or formal leader of the various clan structure-like networks.

The groups to which one is connected can be called a person's in-groups or allies. When affiliation structures are strong, there is - as a natural consequence - also a clear awareness that there are other groups to which one is not affiliated. An individual's non-in-group and non-allies are often perceived as competitors to their own groups.

The cultural and social organization of our diverse and rich social structures has an impact on how the form of government imported from abroad, called democracy, is organized in our country.

Democracy

We have only had a truly democratic parliamentary system since the introduction of home rule in 1979. Although elections have been held according to the rules in force at the time since the establishment of the Board of Trustees in the late 1850s, it was not until the introduction of home rule that elections to an actual legislative assembly were held, and thus it was not until then that we got a democratic parliamentary system. Our democracy is therefore still young. In fact, as already mentioned, it was not until 1998 that true parliamentarianism was established in this country.

One of the things that has characterized the development of the democratic form of government is that the historically rooted social organization in the form of cronyism seems to dominate. This is expressed, among other things, by the fact that the principles of competitive democracy seem to dominate. This is seen in many parts of the world, so there's nothing unusual about it. Competitive democracy is a form of democracy that contrasts with the principles of consensus democracy. This form of democracy is also widespread.

Competitive democracy as a form of cooperation is often at play in Inatsisartut. This is reflected in the fact that a number of key political discussions and decisions have been made on the basis of a majority, and sometimes a slim majority. This is as it should be when you look at the democratic rules of the game. The point here is that the breaking principle is that it is politically considered sufficient to have a majority rather than to ensure consensus, where all or almost all political parties agree on an outcome.

It is important to note that not all agreements in Inatsisartut are due to the fact that we have a clan system. Of course, there are also issues where there are politically different attitudes and views. It should also be noted that much of what is passed in Inatsisartut is supported by all political parties.

Consensus democracy seeks - as the word suggests - to ensure consensus, i.e. agreement, on whatever is decided. Consensus democracy is also familiar to us here in Denmark.

This is the kind of democratic practice that applies, for example, in the modern Political Coordination Group.

Overall, however, it is the principle of competitive democracy that is the most commonly used form of democracy in our country when it really counts.

Form of government

Historically, we have grown up with the Danish form of parliamentary democracy. Since 1953, with the Folketing as the only parliament for the entire Kingdom of Denmark, Denmark has had a unicameral parliamentary democratic system.

The parliaments in Faroe Islands and Greenland, Parliament and Inatsisartut, are not given the same status as the Folketing in the constitution. However, in practice, both the Faroe Islands and Greenland have had a political system that is like a parliamentary democracy since the start of home rule.

Our parliaments are directly elected. Seats in all three parliaments are distributed according to a method called the proportional representation method. For all three parliaments, the existence of the respective governments is subject to what is known as negative parliamentarism. This means that there must be a realized majority behind, for example, a vote of no confidence before the government must resign. This means that we can have minority governments.

When our form of government is seen in a broader context, including the design of the central administration, it is even more evident that we have a young democracy. Figure 5 provides an illustration of the many different principles of governance that, to a greater or lesser extent, influence the way we exercise our democracy.

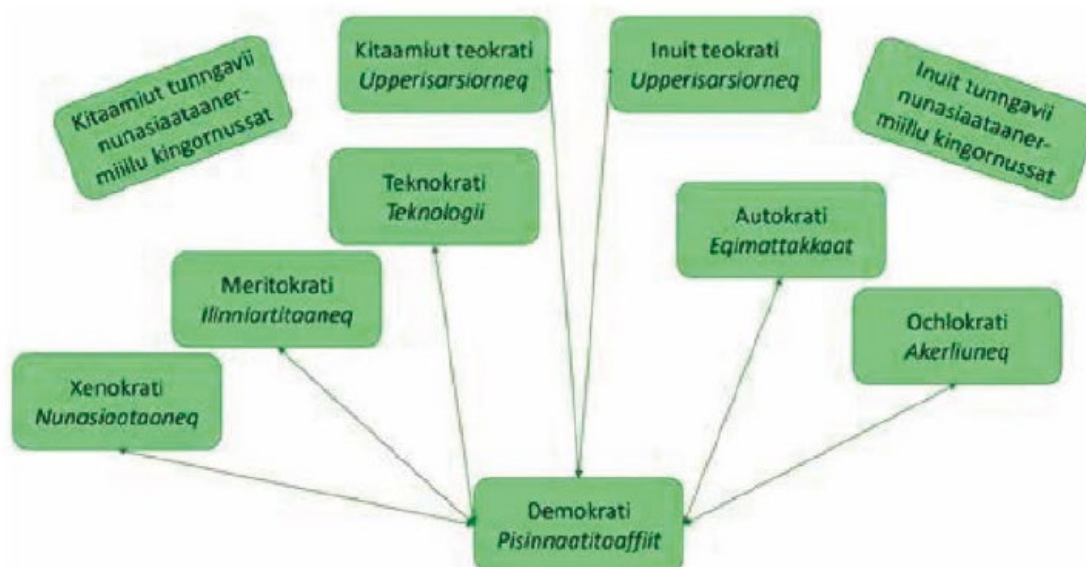


Figure 5. Model for different influences on democracy in contemporary Greenland (Hansen 2017,111). [Translator's note: Top row, left to right: "Western discourses and colonial legacy", "Western theocracy religion", "Inuit theocracy religion", "Inuit discourses and colonial heritage". Middle row, left to right: "Xenocracy colony", "Meritocracy Education", "Technocracy Technology", "Autocracy Clan", "Ochlocracy Protest". Bottom row: "Democracy Rights".]

The elements included in the model in figure 5 will not be explained in detail here. That is not the purpose of this paper. The point is simply to show how we currently practice a hybrid democratic system. My assessment is that this is unlikely to change significantly over the next 10 years. It may be that the power relations between the different principles of governance will shift in different ways, but overall, there will still be influences for several different principles of governance in our design of democracy. Above, I have described how I believe that autocracy in the form of cronyism plays a significant role at the political level in our form of government.

Head of State

During the period when Greenland has been covered by the Danish constitution, i.e. from 1953, there have only been two monarchs. These are King Frederik the 9th (1947-1972) and Queen Margrethe the 2nd (1972-). To the extent that Greenland has been directly exposed to a head of state in the modern sense, it has therefore so far only been with these two.

The relationship between Greenland and the head of state is characterized by the fact that we have a constitutional monarchy, where the regent has no real influence on the exercise of power. Section 3 of the Constitution states: “The legislative power shall be vested in the King and the Folketing jointly. The executive power is with the King. The judicial power is with the courts.” So, formally speaking, the regent is responsible for both the legislative and executive power when it comes to Denmark, but in practice, the Danish regent is not a real power.

The constitution provides no guidelines in relation to the parliaments of Greenland and the Faroe Islands. So for Greenland and the Faroe Islands, there is no formal relationship with the monarch. In a way, this means that in the daily political system in Greenland, we live in a kind of vacuum when it comes to actually having a head of state.

On the other hand, the regent and the royal family are generally well-liked by the population. This may be partly due to the fact that there are no formal power relations between Greenland and the royal family.

4.2 The political system, decision-making powers and the separation of powers

Our political system is strongly based on the Nordic model of parliamentary democracy. In the Nordic region, we have three monarchies (Norway, Sweden and Denmark) and two republics (Iceland and Finland).

Due to the colonial heritage and special influence from Denmark, our political system has the most similarities with the political system in Denmark. There seems to be an ongoing trend that both the legislature and the executive are slowly looking more freely to the Nordic countries and the rest of the world for inspiration in shaping the political system. This has been going on for many years, but there now seems to be a more conscious and explicit attitude towards looking outside the Kingdom of Denmark. This is inherently a slow process if there is to be no sudden constitutional breakdown.

In Greenland’s 300-year colonial history, five constitutional breaches can be identified. This was with the Instruction of 1782, the Act on the Governance of the Colonies in Greenland in 1908, the constitutional amendment in 1953, the introduction of home rule in 1979 and most recently the transition to self-government in 2009 (Hansen 2017). This means that in this country, we have

already experienced several times that significant changes in the political system can occur in the event of actual ruptures.

In our political system, the decision-making powers of the legislature and the executive are clear and easy to identify. The decision-making power of the legislative branch requires a simple majority in the Parliament. There is no other body that must subsequently give further approval. The decision-making power of the executive branch simply requires a consensus in the Naalakkersuisut. These are the general rules. There may be exceptions that are not relevant to highlight here.

Over the past 10 years, proposals have been discussed in the Inatsisartut that could in fact restrict the executive's independence from the legislature. The proposals have so far not been implemented, but the fact that such ideas have been put forward shows that the model of the separation of powers cannot simply be taken for granted in our young democracy.

4.3 Comparison and assessment

This section compares the three selected constitutional republics with the situation in Denmark. The assessment is based on the assumption that the aim is to have as recognizable a form of government as possible.

Head of State

All three selected constitutional republics (presidential republic, semi-presidential republic and parliamentary republic) require our head of state to be a president. This means that Greenland must go from being a monarchy to a republic.

This change in itself could create a lively debate. It is to be expected that because the royal house is currently relatively popular, there will be some who will still emotionally prefer to have the Danish monarch as head of state. This emotional attachment to the Danish royal family is a separate issue.

Something else that is important to consider is what kind of president can be said to be best suited to the existing conditions. As described, the Danish monarch is more of a distant figurehead for Greenland. There are no provisions in the constitution for formal relations between Greenland and the monarch.

If the transition from monarch to republic is to be as bloodless as possible, it will - all other things being equal - mean that the president should have as vague a role as possible. If this is a criterion that is to be held up as a model for the head of state, it would suggest that a parliamentary republic as a form of government is best suited to Greenland, whereas a presidential republic and a semi-presidential republic differ significantly more from the current system, because in these two forms of government the president is given more real power.

The political system

In our current political system, there is no head of state involved in the decision-making process that is followed when the legislature passes laws. It must therefore be carefully considered to what

extent a president should be involved in the decision-making process and thus what decision-making powers a president should have.

A president's decision-making powers can range from a president having to separately approve laws passed in Inatsisartut before they can enter into force (with the option of not approving), to a president having to sign laws passed in Inatsisartut before they can enter into force (without the option of not approving), to a president not being involved in the process.

Of the three degrees of presidential decision-making power, the one that most resembles our current practice is the model where a president is not involved. If this is the desired model for the political system, it would suggest that the form of government should be a parliamentary republic. In a presidential republic and semi-presidential republic, a president would need to have a more active role in the process of passing laws.

The separation of powers

When looking at the separation of powers, the key question is what power a president should have. Should the president be both head of state and head of government, or should the president only be head of state, with someone else being head of government?

As described earlier, in republics that exist today, there are many different variants of intermediate forms in relation to the two extreme poles. It would require a separate study to describe the most important of the many possible variants of intermediate forms of power that a president can have in a semi-presidential republic.

The model for the separation of powers that most closely resembles the current situation is the model where the president is only the head of state and another person is the head of government. If this model of separation of powers is chosen, it would indicate that the form of government should be a parliamentary republic.

Form of government

In any case, it will be an advantage for Greenland to have its own head of state, partly that we can elect ourselves, partly that almost no matter what will have a visible position in the power structure. The role of the president will be visible in a number of areas. It is not yet possible to say where this will have a concrete impact. It depends on a number of specific decisions that are not included in the material for the terms of reference for the memorandum.

Based on the fact that the logic of the clan system and the logic of competitive democracy have a significant influence on how people and the political system act, it makes sense that in social life and political discussions there is often a tendency to establish clear differences of opinion and clear groups of allies and clear groups of non-allies.

All things being equal, this will probably mean that attitudes towards the Greenlandic head of state may become more divided among the population than the attitude we see today in relation to the Danish royal family.

If a potentially more polarized attitude towards a president as head of state for Greenland is to create as little polarization as possible in society and in the population, then this suggests that the

president should not be given too much power. The fact that we are, after all, a fairly small population also plays a significant role here. This again points to the fact that a parliamentary republic as a form of government is best suited for Greenland.

5.0 Wrap-up

Here is a brief summary of the main considerations of the three selected constitutional republics. First, we look at the advantages and disadvantages of the three forms of government. Next, there are some considerations for possible further work.

5.1 Highlighting the pros and cons

A. Recognizability

The terms of reference emphasize the possibility of being able to recognize the structures and processes of a republic. It must be considered a very great advantage that in a process of transformation from the current system to Greenland as a republic, there is a constant focus on the population being able to recognize elements of the new system and see themselves in the new system. Therefore, ensuring recognizability must be a priority goal.

B. Monarchy or republic

When Greenland is established as an independent state, it is necessary to choose a form of government. The entire terms of reference are based on the aim of Greenland being established as a republic. It must be considered an advantage for the process that the aim is a republic. There are no existing structures in our society that could support Greenland being established as a monarchy. So while a monarchy may be the most recognizable to the population, there is nothing else to suggest that a royal family should be created in Greenland.

C. Form of state and form of government

A constitution includes the framework for a state's form of government and the framework for a state's form of state. The framework for the form of government and the form of state can and should be discussed independently of each other. It will be a decisive advantage for the further process if these two parts of a constitution are thoroughly discussed separately. At first glance, it seems obvious that the form of government should be a republic, but the question of the concrete design of the role and power of a president involves many different considerations. Furthermore, it also seems obvious that the form of government should be a democracy, but similarly, the question of the concrete design of the details of a democracy involves many different considerations.

D. The three selected republics

It is not possible here to provide a comprehensive overview of the advantages and disadvantages of the three selected republics - a presidential republic, a semi-presidential republic and a

parliamentary republic. The present paper is far too imprecise in its framework to write anything comprehensive about the advantages and disadvantages of the three republics

That said, the memorandum makes the assumption in several places that a form of government is desired that is most recognizable in relation to the current system. If there is broad agreement on this assumption, it would be a clear advantage for Greenland to aim for a parliamentary republic as a form of government.

Once this decision in principle has been made, the advantages and disadvantages of the concrete design of the various elements that make up a parliamentary republic as a form of government can be identified within this framework.

5.2 Considerations for further work

As has already been pointed out several times, there are still too many unknown factors at play for it to make sense to outline a concrete Greenlandic model for a republic. As it has been shown, it may make sense to point out which of the three selected constitutional republics most resembles the current situation and which of the three can be said to best fit the current social framework. But it must first be determined whether these are the parameters that should be decisive for the choice of state form before these considerations can actually be included in a description.

There are many different nuances in the form of government of the three selected constitutional republics described here that are not included in this overview. The point is that there is no one set of fixed forms of the three described forms of government. The existing republics around the world all have their own specific form. We need to set up a general framework for our republic because we can benefit from analyzing other republics, because it is only when we have our own general framework that we can select the existing republics that may be most relevant for us to look at.

A possible approach for the Constitutional Commission could be to first make a decision in principle on which type of state form to prioritize. Then a much more concrete model can be created for what that form of government could look like for Greenland.

In the same way, a parallel approach from here for the Constitutional Commission could be to make a decision in principle on which type of governance to prioritize. Then a much more concrete model can be created for what that form of government could look like for Greenland.

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ANNEX 9

Bjørn Tegner Bay, Memorandum to the Constitutional Commission on draft provisions on Greenland's court system, freedoms etc. Kalaallit Nunaanni Politit

GREENLAND'S POLICE

Director General of Police
PO Box 1006
3900 Nuuk

J.nr.: 55PM-10164-00014-22

Date: January 17, 2023

Inatsit tunngaviusussaq pillugu Isumalioqatigiissitat
The Constitutional Commission

Send by email: sapl@nanog.gl

Memorandum to the Constitutional Commission on draft provisions on Greenland's judicial system, freedoms, etc.

In a letter dated December 22, 2022, the Constitutional Commission has requested a memorandum on the court system in Greenland from the perspective of the police. Furthermore, an assessment of the enclosed draft provisions on the court system is requested.

By e-mail of December 23rd to the Constitutional Commission, I have informed them that I would very much like to contribute with a memo regarding my police and prosecutorial assessments, whereas I cannot offer to provide assessments outside the police and prosecutorial area.

By e-mail of December 27, the Constitutional Commission has expressed its understanding of the above-mentioned limitations in relation to my answer. In the same connection, the Commission's request of December 22 was elaborated on. I was also asked to make a number of assessments regarding provisions on, among other things, personal freedom, freedom of assembly and the prohibition of the death penalty.

By e-mail of January 2, 2023, the Constitutional Commission has at my request forwarded drafts of §§ 6, 8, 14 and 21 on personal freedom, privacy, prohibition of discrimination and prohibition of the death penalty, torture, etc. In the same connection, the Commission has asked me to quality assure the provisions and requested an assessment of whether the provisions are suitable for Greenland from a police perspective.

I have not received the draft's provision on freedom of assembly, so this will not be discussed further in this note.

The draft's provisions on the courts and the administration of justice:

Regarding the court system in general - including the fact that not all the professional actors have a law degree - I would firstly like to suggest that the Constitutional Commission includes the minutes from the latest meeting of the Council for Greenland's Judiciary, where, among others, Inatsisartut and Naalakkersuisut are represented.

Regarding the Commission's more specific questions, I can state the following:

Police assessment of the circuit courts where the actors have no legal background:

As a matter of principle, I should note that I am of the opinion that all the professional actors in the circuit courts have some form of legal background in the form of circuit judge training, defence counsel training or police training. However, as a general rule, the actors do not have a law degree. However, several individuals with a Master of Laws degree (including lawyers) often appear as defence counsel.

It is my professional assessment from a police and prosecution perspective that the circuit courts, as a general rule, do a thorough and professional job in most cases.

At the same time, it is my assessment that the quality of the work in the circuit courts could be significantly improved for all parties involved if the prosecutors as a rule had a law degree. Among other things, it is my opinion that it would be possible to avoid unnecessary "backtracking" in the legal process, where cases are postponed in order to clarify legal disagreements that are based on misunderstandings or a misunderstanding of the law by one or more of the actors.

Should we have circuit courts in Greenland in the longer term:

It is my fundamental opinion from a legal certainty point of view that the principle of three instances of courts should be maintained in Greenland.

Whether the courts of first instance should be a number of judicial districts spread geographically around the country (like the district courts today) or just one court - possibly with a number of biting locations - where Greenland is a single judicial district (like the Court of Greenland today) is, in my opinion, primarily a political question.

Whether the name of the courts is "circuit courts", "the Court of Greenland", "town courts" or something completely different is, in my opinion, not important. However, in my opinion, it is very important to strive for a court system where the professional actors in the long term are all legal graduates. In this connection, I can refer to the above.

What are the pros and cons of the legal system now:

I have understood the question to be about the advantages and disadvantages of the Greenlandic legal system in relation to the areas where the Greenlandic legal system differs significantly from

the other Nordic legal systems. In my opinion, this is primarily that the actors in the first instance generally do not have a law degree.

The downside of this is that the process and decisions are not as legally correct and efficient as if the actors were legal candidates, cf. above.

The advantage is that you can fill the positions in the legal system, even if it is difficult to recruit a sufficient number of qualified applicants with law degrees for parts of the legal sector.

Another aspect that can be considered is the division of Greenland into several judicial districts of first instance that is used today. In my opinion, the division of the country into several judicial districts may have the advantage of ensuring a high degree of local knowledge among the court's actors. At the same time, it may have the disadvantage of not achieving the same professional environment as would be the case in a single large judicial district. A unified court district may also make recruitment for the positions of judge easier. This could also make it easier to work towards a court system where the professional actors are legal candidates. However, this could mean that the local knowledge in specific cases could be reduced. It is my clear opinion that the increased legal quality clearly outweighs any loss of local knowledge - especially in a modern society where, among other things, legal certainty and predictability must be assumed to weigh heavily, but the question is essentially a political balancing act.

The necessity of establishing a special court (rigsrett) in Greenland:

In addition to the above topics, the Constitutional Commission has in its letter of December 22 requested my assessment of the necessity of establishing a court in Greenland similar to the Danish National Court.

Based on a police and prosecutorial assessment, it is my clear opinion that this is not necessary. At the same time, I must emphasize that there may be many other considerations than police and prosecutorial ones to establish an impeachment court - including, in particular, political considerations.

Assessment of draft concrete provisions on the judicial system:

In the letter of December 22, I am also asked to provide my assessment of an enclosed draft of specific provisions on the court system.

In my opinion, it is beyond my competence to provide a broad assessment of the draft as requested. In this connection, I have in particular emphasized that such an assessment, in my opinion, must necessarily include a position on constitutional law topics. Allow me to suggest that the Constitutional Commission asks the Ministry of Justice to provide such an assessment. Alternatively, I can suggest that legal experts in constitutional law at universities be contacted.

Quality assurance and assessment of §§ 6, 8, 14 and 21:

In general, I must note that I cannot undertake to carry out a general quality assurance and assessment of the provisions of the draft. In this connection, I have particularly emphasized that, in my opinion, such a review should be carried out by experts in constitutional law and persons with expertise in technical legal review. I would suggest that the Ministry of Justice may be contacted with a request for the Ministry's contribution to quality assurance and assessment.

Below I have provided my police and prosecutorial comments.

Specific comments on the provision on personal freedom (§ 6 of the draft):

At first glance, it seems that the draft does not clearly formulate whether the provision covers all forms of deprivation of liberty or whether it is exclusively within the criminal justice system.

§ 6(4) of the draft provides for a time limit of 24 hours before a person deprived of liberty must be brought before a judge. In a commentary note, the Constitutional Commission has asked me how the police experience this deadline.

According to the wording of the draft, the deadline is unconditional, in contrast to the provisions of the Danish Constitution on presentation in a constitutional hearing, which in § 71(3) in fine provides that an exception may be made by law for Greenland. This possibility is utilized in § 357(3) of the Administration of Justice Act, which at the same time lays down some specific conditions that must be met. I would suggest that it should be strongly considered to retain this possibility of making an exception to the 24-hour deadline, as especially the infrastructure and weather conditions may make it impossible to meet the deadline.

§ 6(6) of the draft uses the term "imprisonment". I would suggest that this should be reconsidered if this is an expression of a desire to introduce (yet another) custodial sanction in addition to institutionalization or imprisonment (depending on which terminology one wishes to use).

Specific comments on the provision on privacy etc. (§ 8 of the draft):

In a commentary note, the Constitutional Commission has asked me whether the provision should refer to, for example, the Danish Administration of Justice Act.

Whether a constitution should refer to specific laws is, in my opinion, a political question. However, I should note that the Constitution does not contain references to specific laws in Chapter VIII on freedoms. In a commentary note, the Constitutional Commission has asked me whether the provision should refer to, for example, the Administration of Justice Act.

In addition, I should note that the wording of the draft § 8(2) on house searches, etc. does not take into account situations where the eye could be lost if a court order must be obtained prior to a house search or an interference with the secrecy of communications. From a police and prosecution professional point of view, I consider this to be very appropriate, as important evidence in some situations could risk being lost if the requirement for prior obtaining a court order is mandatory.

In the same connection, it is my assessment that the wording of the draft - in contrast to what applies today - does not allow for the possibility of laying down provisions in other legislation on house searches without a court order outside the criminal justice system.

Specific comments on the provision on non-discrimination (§14 of the draft):

In a commentary note, the Constitutional Commission has asked me how the provision is to be applied and how it differs from § 6.

As I have not received material explaining the underlying considerations regarding § 14 of the draft - including whether there are police and prosecutorial aspects in the considerations - I do not find that I can comment further on the provision.

Specific comments on the provision on the prohibition of the death penalty, torture and slavery etc. (§ 21 of the draft):

The provision does not give me any reason to make any police or prosecutorial comments.

Sincerely yours
Bjørn Tegner Bay
Chief of Police

ANNEX 10

Kirsten Thomassen

Memorandum on Greenland's Courts Kalaallit Nunaanni Eqqartuussiviit

Overall description of the Greenlandic Courts

The ordinary courts in Greenland are named in § 1 of the Administration of Justice Act and consist of:



[Translator's note: five boxes, from top to bottom and left to right, labeled "Court of Appeal XXXXX (XX)", "The process authorization board", "High Court of Greenland XXX ••• or XXX or • X • or X", "4 Circuit courts Y or • Y •", and "The Court of Greenland X or • X • X •".]

• Judges who must contribute to the ordinary citizen's perception of how cases should be judged, cf. § 36 of the Danish Administration of Justice Act

Y Circuit judges, cf. § 12 of the Danish Administration of Justice Act

X Appointed judges with a master's degree in law, cf. § 13 and 14 of the Danish Administration of Justice Act or assistant judges, cf. Section 15 of the Danish Administration of Justice Act

X Supreme Court judges, cf. the Danish Administration of Justice Act § 42

Distribution of cases between courts

First instance

The circuit courts handle most cases in the first instance, cf. § 55 of the Danish Administration of Justice Act.

The Court of Greenland handles cases that are legally complicated and business-related. These are cases that:

- by law are referred to the Court of Greenland in the first instance, cf. e.g. § 57 of the Administration of Justice Act, cases concerning insolvency (bankruptcy, etc.), cases concerning violation of occupational health and safety legislation, violation of fisheries legislation by large ships, etc.
- are referred from the circuit courts because they are matters of principle, severely intrusive or legally or factually complicated, cf. section 56 of the Danish Respite Act

In criminal cases where a stricter measure than a fine is requested, 2 judges are involved. The task of the judges is to represent the general attitudes in Greenlandic society

Second instance

The High Court of Greenland is the Greenlandic court of appeal and hears all appeals from the district courts and the Court of Greenland. If a judgment is made by the Court of Greenland in the first instance, there must be three appointed judges to decide the case in the High Court, cf. § 7(2) of the Administration of Justice Act.

If the case has been heard by the district court in the first instance, the appeal is heard by a judge.

A judge is involved in the High Court if a judge has been involved in deciding the case in the first instance. There must be 3 judges in the High Court if the case has been decided by the Court of Greenland in the first instance and 2 judges if it is a judgment from a district court that has been appealed, cf. § 45(1) of the Administration of Justice Act.

The High Court's decisions are generally final. Matters of principle may be brought before the Supreme Court, if authorized by the Court of Appeal, cf. §§ 515, 526, 564 and 577 of the Danish Administration of Justice Act.

Administrative matters

The Danish National Court of Justice is responsible for the courts' appropriations and for the administrative affairs of the courts. These tasks shall be performed by the Danish National Courts Administration for all courts in the Danish realm, cf. the Act on the Danish National Courts Administration, which has been put into force for Greenland by decree number 482 of June 18, 1999.

According to § 2 of the Danish Administration of Justice Act, the Danish National Court of Justice is an independent state institution headed by a board of directors and a director. The chairman of the Board of Directors is a Supreme Court judge. The other board members are representatives of the public, lawyers and employees of the courts.

The tasks that fall under the Danish National Courts Agency's area include various HR tasks, including the employment of legal staff and circuit judges, IT, education, communication, buildings and financial matters, including grants, etc.

About the circuit judge education and the background of the unique Greenlandic judiciary

The role and tasks of the judge and the principle of subsidiarity

Well-functioning courts are based on the public's trust in the country's judges to handle cases within a reasonable timeframe, following a fair process and with a correct decision.

In order to advance the case and avoid unnecessary dead periods, it is important that the judge exercises judicial management by, among other things, quickly and correctly deciding on various issues regarding the conduct of hearings, the taking of evidence, etc. and smoothly handling all situations that do not go as planned.

The judge must guarantee legal certainty and, among other things, ensure that the defendant can prepare his defence and be offered the assistance of a qualified defence counsel when the defendant is entitled to it. The judge must do his or her best to conduct hearings in a manner that gives the parties the best possible opportunity to be heard and to present their views and relevant evidence in an equal manner. The judge must be able to communicate orally and in writing with the parties in a language and form that the parties understand. The judge must make every effort to ensure that the decisions he or she makes are based on a neutral and correct understanding of the relevant rules and evidence.

In order to fulfill these tasks, judges must be well grounded in law and have experience in evaluating evidence. Judges must be skilled at expressing themselves clearly both orally and in writing. Furthermore, judges must be good moderators and have good interpersonal skills.

Duration and content of the training

The circuit judge training takes place over two years and three months. The purpose of the program is to qualify the candidates to be able to function independently as circuit judges and perform the tasks assigned to the circuit courts under the Greenland Administration of Justice Act.

Circuit judge candidates are trained as skilled legal practitioners who possess the necessary competencies to perform the role of judge and carry out the judge's tasks in practice. The training is therefore structured around case management and has a practical approach to the substantive and procedural rules that apply to the types of cases heard in the circuit courts. Furthermore, circuit

judge candidates are familiarized with the overall principles that govern the work of the courts, and they learn to work on the basis of the legal method.

During the program, candidates complete five modules where they are taught the legislation that applies to the cases handled in the circuit courts and where, in addition to theoretical instruction, they gain practical experience in case management.

There is no option to opt in or out of courses or modules on the circuit judge program, and the teaching is carried out by practitioners with a much greater focus on criminal and family law than a university law program would typically have. Whereas a university law degree is a generalized education at a scientific level that qualifies students to subsequently specialize in a legal subject, the circuit judge education is a practical caseworker education tailored to the work as a circuit judge.

The core principles of courts under the rule of law

For a more thorough review of the tasks and importance of the courts in a well-functioning constitutional state, I must refer to the legal literature on constitutional law. Furthermore, a number of studies have been conducted that illustrate how important it is for a society to have independent courts that give citizens confidence that power is exercised within the framework of the law.

In this section of the paper, I will briefly describe the most central and fundamental of the principles that now form the foundation of the courts in Greenland.

Distribution of power

Section 3 of the Danish constitution describes a distribution of power that is probably common in states that describe themselves as democratic. The provision states (my emphasis): “The legislative power is vested in the King and the parliament jointly. The executive power is vested in the King. The judicial power is with the courts.

The provision’s very general description of the three forms of power has roots far back in European legal history. What exactly is meant by legislative, executive and judicial power has evolved as the tasks of states have changed.

The tasks of the courts can be broadly described as having a judicial and a supervisory function. The courts must:

- 1) impose measures and settle disputes between citizens; and
- 2) verify that the executive power and the administration comply with the applicable rules, and
- 3) verify that the laws passed by the legislature are within the framework of the constitution and international obligations.

Although the legislative and judicial powers must be separated, the legislative power can to a large extent decide how the court system should be organized. Rules on the organization of the courts and their handling of court cases are laid down in the Administration of Justice Act.

As stated in § 61 of the Constitution, the exercise of judicial power can only be regulated by law, and special courts with judicial authority cannot be established.

Thus, it cannot be left to a minister to lay down rules about the courts, nor can a special court be set up to decide a particular case at the whim of politicians. The rules governing the courts must be general and they must be made by the legislature.

Independent courts and judges

The main purpose of dividing power between three bodies is to protect citizens from arbitrary or random exercise of power - what we might also call the rule of law. If a citizen is to have confidence in the country's authorities, they must be able to predict whether they will violate the country's laws and what the consequences of a violation will be.

Therefore, it is important that judges decide legal cases based on a neutral assessment of whether the course of action described in the case is a violation of the applicable legal sources and, if so, how such violations are sanctioned according to case law.

It must never affect the decision of a case if there could be an advantage for the judge himself or for other persons or authorities that the judge could benefit from the judge's favor.

Therefore, it is laid down in the Danish constitution § 64 that: "The judges have in their vocation only to abide by the law. They cannot be dismissed without a judgment, nor transferred against their will, except in cases where a reorganization of the courts takes place.

However, a judge who has reached the age of 65 may be dismissed, but without loss of income, until the date on which he would have been dismissed on grounds of age."

The purpose of the provision is to ensure that judges work within a framework that protects them from personal consequences - both positive and negative - arising from their decisions.

In addition to protecting a judge from undue interference in the judge's decisions, the provision also emphasizes that the judge must have a thorough knowledge of the country's legal sources, otherwise the judge cannot perform his or her duties.

The same basic principles are stated in Article 6 of the European Convention on Human Rights, which states that criminal cases must be decided by independent and impartial competent courts.

At least two instances

Several provisions in the Danish constitution require that decisions can be reviewed at least once by a higher court.

For example, § 71 of the Danish constitution states that

“Paragraph 1. Personal freedom is inviolable. No Danish citizen may be subjected to any form of deprivation of liberty on account of his or her political or religious beliefs or descent.

Paragraph 3. Anyone who is arrested shall be brought before a judge within 24 hours. If the arrested person cannot be set free immediately, the judge shall, by an order accompanied by reasons, which shall be made as soon as possible and no later than within three days, decide whether he shall be imprisoned and, if he can be released on bail, determine the nature and amount of the bail. This provision may, as far as Greenland is concerned, be derogated from by law to the extent that this may be considered necessary under local conditions.

Paragraph 4. The order made by the judge may immediately be appealed separately to a higher court.”

I am not aware of any jurisdictions where there is no possibility to have a court decision reviewed at all.

This does not mean, however, that all decisions must be provable in multiple instances, and it does not mean that a state governed by the rule of law must necessarily have three instances.

According to the Danish or Greenlandic Administration of Justice Act, all decisions can be appealed to a higher court. In Denmark, the financial value of the case may, among other things, influence the possibility of appeal. In both Greenland and Denmark, there are some decisions that cannot be appealed because the case processing could be dragged out for an unreasonably long time, and all decisions should be reviewed in several instances before a judgment is made in the first instance.

Iceland had two courts until January 1, 2018, when the High Court was established as an intermediate court.

Societal control and influence, including publicity and orality

It is an essential principle in the Greenlandic administration of justice that the population must be able to control whether the courts follow the legislation and case law when deciding cases. Therefore, the vast majority of the cases heard by the courts in Greenland are open to the public, and the cases are largely heard orally so that the audience can follow what happens at the hearing, including what evidence etc. is included in the case.

The principles of publicity and orality are described in chapter 10 of the Danish Administration of Justice Act and in § 65(1) of the Danish Constitution.

Ordinary citizens can also influence court decisions by acting as judges. It is stated in the Danish constitution § 65, paragraph 2, that there must be judges involved in deciding criminal cases.

The detailed rules for who can be elected as a judge and which cases they must participate in are regulated in the Administration of Justice Act § 35 - 48.

Challenges and development opportunities

The legal professional level

In the current legal system, several functions (judges, prosecutors and defence counsel) are performed by people who do not have a university degree in law. The reason for this unique system is that until now, very few people with a Greenlandic background have completed a law degree. This situation has begun to change following the establishment of a law program at Ilisimatusarfik.

Legal positions in the judiciary are traditionally held by lawyers with a master's degree in law, as a bachelor's degree is not considered to provide a sufficiently solid legal foundation to work independently with the socially critical tasks that the judiciary must handle at a high professional level.

At present, it is only possible to take a bachelor's degree in law at Ilisimatusarfik. If a law student wishes to take an education at master's level, the superstructure must be taken at a university outside Greenland, and this part of the education will therefore not be organized with a view to working as a lawyer in Greenland.

A law degree at master's level will also currently require a Greenlandic student to master a language other than Greenlandic at a high level, to be able to travel to another country for one or more extended periods, and to be able to familiarize themselves with the social conditions and legal tradition in the country in which they are studying. Furthermore, the ability to express oneself professionally and correctly in Greenlandic will not be developed in the Master's programme, which typically specializes in the legal areas of particular interest.

In recent years, it has been difficult to attract applicants with adequate qualifications for the specialized legal training courses in the judiciary. In the most recent circuit judge training program, only 2 out of 4 training places were filled. From the beginning, candidates were hired for all training places, but several candidates dropped out after they were hired. In the previous circuit judge training programs, there has also been a significant dropout rate during the programs.

It must be assumed that in the future it will be even more difficult to recruit the best candidates for specialized legal education, which alone qualifies the student for a specific job in the judiciary. Graduates who have the skills to fill the professionally demanding positions in the judiciary are likely to apply for a law degree instead, which can provide them with more career opportunities after graduation.

There is a broad consensus among all actors in the judiciary, including circuit judges and authorized public defenders, that all positions in the judiciary should eventually be held by persons with a Master of Laws degree. However, the questions are when we can achieve this goal and how to manage the transition period. This topic was discussed at the latest meeting of the Council of Greenland's Judiciary, and it was agreed at the meeting that a working group will be set up to work

further on the issue. We are currently waiting for the Ministry of Justice to formulate terms of reference for the working group.

The future of law in Greenland

Training requirements

When we reach the goal of all actors in the Greenlandic legal system having successfully completed a high-level legal university education, it must be assumed that there will be a higher turnover, as prosecutors have more career opportunities and as future generations cannot be expected to have the same loyalty to their jobs as in the past. Therefore, there will be a need for a steady supply of skilled law graduates who want to work in the justice system. However, the need for legal graduates for the judiciary will for the time being be limited by the fact that the number of positions to be filled is not very large. With sufficiently attractive terms of employment, it will therefore probably not be affordable to fill the positions in the judiciary with qualified legal candidates who have knowledge of the Greenlandic language and culture.

Subsidiarity principle - courts outside Nuuk

It is already difficult to get graduated circuit judges to apply for vacant circuit judge positions outside Nuuk. This is probably due to both the fact that there are more fellow judges to rely on in Nuuk and that the candidate also has to consider his or her family. When a district judge candidate has completed the education necessary to independently hold a judgeship, the candidate's children and spouses may have become so strongly attached to Nuuk that they do not want to move to the coast. A law graduate with good grades must also be assumed to be able to easily get a good job in Nuuk, and it may therefore in the future, it may be difficult to fill the 7 circuit judge positions that are currently on the coast.

On the other hand, courts will become less physically accessible if they are centralized. If circuit courts are confined to physical locations, the need for virtual accessibility increases. Better opportunities for virtual case processing in the courts will also make it possible to hire the best employees, regardless of where in Greenland they may live. Traditionally, the courts have maintained that serious criminal cases should be heard with the physical participation of the key players. This is because it provides a more complete assessment of the credibility of witnesses and defendants when the court can observe the reactions, body language and facial expressions of defendants and witnesses.

Administrative matters

It is not realistic to imagine that several smaller circuit courts should each have their own administration. Such an arrangement would not be the most efficient solution, nor would it support recognized values such as uniformity and highest quality.

It is therefore important that an administrative unit is established that has in-depth knowledge of the conditions in Greenland and is willing to prioritize the Greenlandic legal system. It is also

important that this administrative unit has representatives from all the courts and that it is fully neutral, so that it is not subject to the legislative or executive power.

It is also important that only the judges' personal and professional qualifications are relevant to their appointment as judges, and that they cannot be transferred, sanctioned or dismissed for reasons other than lack of competence and gross misconduct. Today, these considerations are taken care of by an independent council with representatives from the courts and the public who recommend judges for appointment or impose sanctions. In Greenland, judges' secondary qualifications are approved by the same council that recommends them for employment, etc.

The transition period and the possibilities for further development of the existing legal system

First instance

Circuit judge candidates are appointed by the Greenland Council of Judges, cf. section 10 of the Administration of Justice Act. Assistant judges are appointed by the Danish National Board of Justice in cooperation with the management of the Court of Greenland and the Chief Justice. Circuit judges are appointed by the Danish National Court of Justice on the recommendation of the Greenland Council of Judges, cf. § 10 of the Administration of Justice Act. The judges of the Court of Greenland and the Chief Justice are appointed by the Queen on the recommendation of the Greenlandic adaptation of the Judicial Appointments Council, cf. § 13 of the Administration of Justice Act.

The positions at the Court of Greenland are similar to those at a Danish municipal court. Some of the major differences between working at a Danish district court and at the Court of Greenland are that the Court of Greenland handles very few criminal cases and family law cases, just as the Court of Greenland handles a number of cases that in Denmark are handled by the district court's bailiff court or probate court. Appointed judges in Denmark spend a significant part of their working hours dealing with criminal cases (called criminal cases in the Greenlandic courts), and appointed judges do not usually deal with bailiff or probate cases, which in Denmark are handled by assistant judges. The judge at the Court of Greenland spends most of his or her working hours dealing with civil cases.

The administrative judge at the Court of Greenland spends the vast majority of his working hours on administrative tasks which, as far as the Danish courts are concerned, are solved by the Danish National Board of Justice. This applies in particular to IT and training.

Historically, it has been difficult to fill the judgeships at the Court of Greenland with people who would be appointed to similar positions at a Danish court, and exceptionally, the positions have been filled with people who would not have been appointed to a similar position in Denmark.

There have not been the same challenges in filling the clerk positions at the Court of Greenland. However, the positions were mainly filled with very young law graduates who are at the beginning of their career and who have only been in Greenland for a few years. Authorized judges hired by the Court of Greenland are hired with the intention that they will also be able to work as authorized

judges in the rest of the kingdom. They must therefore live up to the same high standards as proxies hired for the courts in Denmark. There have been very few assistant judges with a Greenlandic background, and none of these are employed by the courts anymore.

It is a political decision whether the future legal system in Greenland should be based on filling the positions at the Court of Greenland with Greenlandic lawyers or whether the positions at the district courts should be filled with Greenlandic lawyers in the future.

Given the challenges that have been faced in recruiting Greenlandic lawyers - or in general lawyers with the right qualifications - for positions at the Court of Greenland, it must be assumed that it will take a number of years before the positions at the Court of Greenland can be fully filled with lawyers with a Greenlandic background.

Another option is to strengthen the circuit courts so that in the future they will not be dependent on guidance and support from lawyers at the Court of Greenland. This would require that circuit judge candidates in the future have a master's degree in law.

A future Greenlandic first instance system based on the current circuit courts, but with university-educated judges, will also require the establishment of an administrative unit that can handle the administrative tasks that are currently handled partly by the Court of Greenland and partly by the Danish National Board of Justice.

There are several ways to manage the transition period. One way is to offer current circuit judges the opportunity to take a legal university education during their working hours. The circuit judges already have in-depth knowledge of Greenlandic legislation and practical experience of working with this legislation. Several of the circuit judges would therefore probably be able to successfully complete a master's degree in law at university level.

However, not all circuit judges can be expected to complete a university degree in law, partly because several of the circuit judges are around or over 60 years old. It must therefore be clarified how circuit judges who do not complete a university degree in law should be handled in the judiciary system. In this connection, it should be remembered that judges have tenure and thus cannot be dismissed unless they become seriously ill or commit a serious offense that makes them no longer fit to hold judicial office. There are possibilities for transfer, etc. but this is a subject that would be too extensive to describe in detail in this note.

Regardless of how you choose to handle the transition period, it must be assumed that to a greater or lesser extent there will be a need to supplement with judicial resources from Denmark until all judicial positions in Greenland can be filled permanently with skilled law graduates who have knowledge of Greenlandic language and culture.

During the transition period, there will also be a need for a specially adapted training of qualified judges or candidates for circuit judges. This is due, among other things, to the fact that the tasks of the courts in Greenland are not fully comparable with the tasks of the courts in Denmark. Furthermore, the professional environment is different in Greenland than in Denmark, partly because, for natural reasons, there are far fewer judges in Greenland than in Denmark.

Overarching bodies

Regardless of whether there is one or more appeal bodies in Greenland, strengthening the courts of first instance will lead to a need to strengthen the second instance as well.

Already under the current conditions, it should be carefully considered whether it provides sufficient legal certainty that there is only one permanent judge at the High Court of Greenland. A High Court with a single appointed permanent judge is vulnerable both in terms of impartiality and practical matters.

When all judges at the courts of first instance have a master's degree in law from a university, there should be more than one national judge to decide the case in the second instance, as it is now when a case is appealed from the Court of Greenland to the High Court of Greenland. If there are only to be two instances in Greenland, it should also be considered whether there should be more than three regional judges to decide cases of a fundamental nature.