

The Trust Territory of the Pacific Islands: Some Perspectives

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Source: *The American Journal of International Law*, November 1973, Vol. 67, No. 5 (November 1973), pp. 17-21

Published by: Cambridge University Press

Stable URL: <https://www.jstor.org/stable/25660471>

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it attains independence. Self-determination is a continuous exercise of power. It is contradictory to argue that nations can self-determine themselves out of self-determination. This is what colonialists try to sustain.

Self-determination has been delayed in respect to Puerto Rico because of the direct interference of the most powerful empire of all times. But the profound liberation forces that have developed in Puerto Rico, in the United States, and in international spheres during the past decades will, in the outcome, crystallize within the Puerto Rican society and we shall have freedom.

### THE TRUST TERRITORY OF THE PACIFIC ISLANDS: SOME PERSPECTIVES

*by Roger Clark\**

I shall examine the Trust Territory from four overlapping perspectives: as part of the Pacific; in light of the concept of self-determination; in light of American "security interests"; and a final one I shall call epistemology. This last has to do with what the people want and how we know.

(1.) *The Trust Territory as part of the Pacific:* The colonial powers that have dominated the Pacific (and the inhabitants of the Trust Territory have now lived under four of them—Spain, Germany, Japan, and the United States) showed great ingenuity in the constitutional arrangements they devised for governing scattered, sparsely populated islands that are on the whole economically poor for all except a moderate subsistence existence. There have been colonies and protectorates, a condominium, mandates, and trust territories. The process of decolonization has demonstrated similar ingenuity; the emergence, for example, of the Independent Republic of Western Samoa (pop. 130,000); the Republic of Nauru (6,000); the Kingdom of Tonga (90,000); and the Cook Islands (21,000), a self-governing state in free association with New Zealand; Fiji (500,000), which like its big Commonwealth brothers Australia and New Zealand shares the Queen of Great Britain; Hawaii, a full-fledged state of the union; and Guam, an unincorporated territory, its inhabitants apparently proud of their American citizenship and looking forward to even closer ties. The Trust Territory is not unique in most of its problems. Of the two most likely courses for the Territory, the Cook Islands provides the free association model; Nauru and Western Samoa are models on the independence side. The Gilbert and Ellice Islands to the South, feeling some of the same disintegrating forces as the Trust Territory, are following fairly well-worn British paths to complete self-government and probable independence. Occasional suggestions for a great Pacific federation founder rapidly on insularity and coral reefs

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but the South Pacific Commission is promoting some common interests and a sense of identity.

Most of the islands I have mentioned are undercapitalized and lacking in natural resources. In the short, and perhaps even the long run, if they are to have a 20th century economy, they will need capital and perhaps subsidies from the former governing power or from other international sources. A subsidy of some sort may be necessary even to maintain the functions of government.

(2.) *Self-determination*: The negotiators in the Future Status Commission are at this point eager to keep open the option of independence as one form of self-determination. The provisions of Article 82 of the Charter relating to the notion of a strategic trust were tailor-made to fit the former Japanese mandated territories which had been used in such manner as part of the Japanese war effort. Nevertheless, security interests as interpreted in Washington were not contemplated as eternally paramount by the founding fathers at San Francisco. Even a strategic trust is subject to the "basic objectives" of the system set out in Article 76 of the Charter which include the promotion of "the political, economic, social, and educational advancement of the inhabitants of the trust territories, and their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples and the freely expressed wishes of the peoples concerned." (The draft Trusteeship Agreement as presented by the United States to the United Nations omitted the key words "or independence" but in response to prodding by the Soviet Union they appeared in the final version.) Another basic objective of the system is "to further international peace and security" but it is hardly overriding in a clash with the principle of self-determination. The United Nations is unlikely to take the position that a people's freely expressed wish for independence should give way to a U.S. claim that it is holding on in the interests of peace and security as it sees it.

Independence, in terms of the Charter and the Trust Agreement (to say nothing of the customary norm crystallized by, or at least developed under the aegis of, the 1960 Declaration on the Granting of Independence to Colonial Countries and Peoples) is clearly an option which is lawfully open to the people or peoples of the area. On reading the UN documentation on the Territory, especially the Reports of the Trusteeship Council and its Visiting Missions, I found interesting the extent to which the option of free association is also regarded as perfectly valid. There was of course a certain skepticism in the General Assembly about the genuineness of the desire of the Cook Islanders to remain associated with New Zealand and even more in the case of the British Associated States in the Caribbean. But the documents make no serious criticism of the possibility of free association for the Trust Territory, so long as it really is free. Statements to this effect are underscored in the Trusteeship Council by regular references to the often ignored General Assembly Resolution 1541(XV) of December 15, 1960 with its list of moderate principles which should guide members in determining whether or not

an obligation exists to transmit information under Article 73(e) of the Charter. No doubt this has occurred in part because of the composition of the Trusteeship Council where the moderating hands of Britain, Australia, and France have penned most of the Reports, in contrast to the General Assembly and its Committee of 24. (The Visiting Mission which has recently returned from the Territory is in fact the first to contain a Soviet representative.) Whether the same plain sailing would occur should the issue of terminating the Trusteeship on terms short of independence come before the Security Council is another matter.

A discussion of self-determination must inevitably raise the question of which "self." Does the Territory constitute one people by definition, or do we bow to the reality of nine language groups and a diversity of cultures and take the Territory apart? Should the 1,000 Polynesians in the Southern Carolines be allowed to go it alone? In UN practice it is considered taboo to consider dismembering a dependency or former dependency despite its crazy-quilt colonial boundaries. After all, self-determination is aimed at removing the colonial powers, not at Balkanization. Viewed from this perspective it is easy to see the United States talks with the Marianas (whose population in 1971 constituted 13,000 of the total of 107,000 in the Trust Territory) as just another divide and rule ploy by the colonial masters. The 1970 UN Visiting Mission recorded its view that "like its predecessors, [it] naturally considers that there could be no question of the Mariana Islands being separated from the rest of the Trust Territory while the Trusteeship Agreement is still in force." Even so, the Mission conceded that there was some force to local demands for treating the Marianas separately. The hope expressed in last year's Trusteeship Council Report "that a course of separation would not be considered until all possibilities for partnership had been explored" seems doomed at this point in time.

Another facet of the independence option is what has been called the "mini-state dilemma." The thought of a large influx of tiny states into the UN, each with its one vote, must be a reason to pause but in itself it should not be a reason for denying legitimate aspirations to go it alone. Membership in the international community is not necessarily the same as being entitled to UN membership. Small Pacific states have already solved the size problem creatively. Western Samoa did not apply for UN membership but entered into a Treaty of Friendship with New Zealand after independence under which New Zealand's diplomatic advice and services are available to the Republic. Nauru has obtained a type of associate membership in the British Commonwealth. Fiji has carefully limited its diplomatic outposts. Independence, even in the post-colonial era, is a relative concept and dignified arrangements can be worked out with common sense and good will.

The same comments seem applicable to the question of the Territory's lack of economic viability. The time is long past when independence can be denied on this ground. Indeed one can perhaps see developing (under the umbrella of the human rights principles contained in the Charter) a norm that small ex-dependencies are *entitled* to continued

assistance from the former metropolitan power or from the international community.

(3.) *American security interests:* It is hard to escape the feeling that one option the United States does not contemplate with equanimity is that of complete independence without guarantees for American military installations. Fears of Japanese military resurgence underlay the inauguration of the trust. Doubts about the adequacy of Guam as a last bastion against other potential attackers and the need for some place not too close to home to test fancy hardware underlie the wish to stay. In the course of the fifth round of status talks last April, Ambassador Williams restated the American position that defense authority was required in three categories:

- (a) The responsibility for the defense of Micronesia.
- (b) The ability to prevent third parties from using Micronesia for military-related purposes; and
- (c) The right to use U.S. military bases which might be established in Micronesia to support U.S. security responsibilities in the Pacific Ocean area.

In his review of what that means in detail, the Ambassador said that the United States did not need any land for military use in the districts of Yap, Ponape, or Truk. There was a continuing need for missile research facilities in the Marshalls and, in the near future, a need for military-use land in the Marianas, particularly in Tinian. In Palau the United States seeks only options to lease land and "arrangements that assure future maneuver rights."

There have been few public statements of outright opposition to the American military presence. But in November last and again in December the traditional elected leaders in Palau unanimously made just such a statement. The preambular paragraphs contain the thought that the presence of U.S. installations would make them a prime target in the event of conflict. They prefer the target to be somewhere else. This interesting thought has engendered some similar public sentiment in Australia and New Zealand, the Territory's more sophisticated neighbors to the south.

I have already expressed my opinion that the Charter and the Trust Agreement do not give the American military rights in perpetuity over the area. The time is at hand when the inhabitants are entitled to a free choice on whether they want the presence to continue.

(4.) *Epistemology:* At some stage, as in other Trust Territories, there will probably be a UN-supervised plebiscite. How will we know if the people of the Territory have expressed their views freely and genuinely? Chairman Ed. Pangelinan, at the opening of the Marianas Status Talks last December, stated that: "More than any nation with which we have had contact, the United States has brought to our people the values which we cherish and the economic goals which we desire. Continued affiliation with the United States offers the promise of the preservation of these values and the implementation of these goals." I fear that for "economic goals" you must read "canned fish" and the

other goodies of industrialism. Are these Marcusean false needs? Is this statement something of an epitaph for a society whose true values have been destroyed by its putative trustees? It seems to me that, deliberately or by accident, the wants of the people of the Territory have been manipulated in the direction of American capitalist values. If the Micronesians become sufficiently dependent upon the U.S. economy, they may be unable to opt out. This could well be what has been happening in the Marianas. But the situation in the rest of the territory is more complex. The setting up of the Congress of Micronesia has apparently added another force pulling in the opposite direction, as its members and their electors take their powers seriously. Self-determination amounting to independence—the grasp backwards to hold tight to what remains of old values, or even an attempt to have it all ways—may yet carry the day.

### THE APPLICABILITY OF THE PRINCIPLE OF SELF-DETERMINATION TO THE TRUST TERRITORY OF THE PACIFIC ISLANDS

*by James M. Wilson, Jr.\**

There can be no doubt that the principle of self-determination is applicable to the Trust Territory of the Pacific Islands.<sup>1</sup> The UN Charter applies it. The United States as administering authority under its 1947 trusteeship agreement with the Security Council has explicitly and repeatedly recognized its applicability. The real question is precisely what elements of the principle are applicable, how they are to be applied, and within what framework.

Given the history of debates in this learned society on the topic of "Self-Determination," it would be clearly presumptuous on my part to enter into an academic argument about how that term is to be defined. I doubt, however, if we need to go quite as far as Professor Emerson in pointing out that "self-determination has from time to time been referred to as the right of a winner in a Darwinian conflict for survival."<sup>2</sup>

Matters have by no means reached that state in Micronesia. For the sake of brevity let me confine myself to the easy definition of Harold Johnson, who says simply that "self-determination is the process by which a people determine their own sovereign status."<sup>3</sup> That is really what our current discussion with the Micronesians regarding their future

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<sup>1</sup> Throughout this presentation the terms "Trust Territory of the Pacific Islands" and "Micronesia" will be used interchangeably, although it is recognized that the latter term is sometimes considered broader in scope and lacks the precision of the former.

<sup>2</sup> R. Emerson, *Self-Determination* 65 AJIL 474 (1971).

<sup>3</sup> H. S. Johnson, *SELF-DETERMINATION WITHIN THE COMMUNITY OF NATIONS* 200 (1967).