

# Myth and Other Norms in World Society. The “Thule-case” – a Case of Sociology of World Law?<sup>1</sup>

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## 1 World Law in World Society – Searching for Adequate Concepts in a World of Change

The year of 1989 was in many ways a year of change, the most important of which will be known to most readers. A less recognized development of interest may be that the “International Institute for the Sociology of Law” was established in Oñati in the Basque Country the year before in 1988. The common disregard of the Sociology of Law as a discipline with its own identity was one of the reasons for the establishment of the institute. Nordic legal sociologists have followed the work done by the institute and also been involved in it in different ways. However, it seems that rather little has been written about ‘international’ sociology of law in the Nordic countries during the last half of the 20<sup>th</sup> Century. The ongoing expansion of the European Union has sparked off increasing interest in socio-legal changes, and globalizations and internationalization and not least the development of Human Rights regimes and the associated rising interest in international judicial institutions has generally led to massive research and writing. Environmental issues, which are of course of a global nature, have attracted considerable scholarly interest worldwide and not least in the Nordic countries.

Around the turn of the millennium I had ‘permanent’ and ‘temporary’ professorships at or associated with the University of Greenland and Copenhagen (a ‘permanent’ professorship in Greenland from 1995-1999 and a ‘temporary’ trans-Atlantic professorship based in Copenhagen from 2001 to 2006). The first was a professorship in *Jurisprudence and Sociology of Law* whereas the latter was specified to deal with ‘*Greenlandic sociology of law*’, indicating a kind of ‘area studies’ approach, which in practice required a combination of socio-legal studies with aspects of anthropological and cultural studies of a very small population of about 55.000 people living within a very large area under historically harsh conditions. Working in this area I found it rather difficult to find literature, which could provide a framework and concepts for an understanding of socio-legal processes which involved a number of both national, international, indigenous and other legal and political actors mutually involved in different both complementing and competing ways in the same territory for more than a century. One reason for these difficulties may be that Scandinavian legal realism has been built strongly on legal monism and has only very reluctantly and gradually accepted the existence and legal importance of plural regimes of (for instance indigenous) law, which exist and have existed in many places around the world. In the 1990s after the collapse of most of the strongly centralized and uniformity-oriented communist regimes, several Latin American constitutions adopted constitutions which recognized the pluri-cultural nature of the state and the existence of plural forms of legal regimes (Yrigoyen Fajardo 2000). In the 21<sup>st</sup> century Bolivia renamed itself the *Plurinational State of Bolivia* after having elected the first indigenous president in the world in 2007. The consequences of such developments for what has for a long time been called inter-national law can still only be glimpsed. Harold Berman suggested using the term “*world law*” instead of international law in a brief article from 1995. The term international

law was introduced by Jeremy Bentham in 1789, and Berman wrote that it was high time that also legal scholarship recognized that the world has entered “a new era of global interdependence”.

We are still stuck with a separation of international law from comparative law and of both of these from the customary law of communities that transcend national boundaries. (Berman 1995 p.1621-22)

The need for a more adequate terminology, which may grasp emerging realities, has been felt for decades. In 1966 the Dutch legal academic and sociologist, Bart Landheer, who was from 1952-69 director of the library of the Peace Palace in The Hague, published a book called “On the Sociology of International Law and International Society”. In this book he used the concept “*world society*”, and wrote that

The state is organized for inner coordination and outer defence while a world society will have to concern itself only with inner coordination so that it must strive for a self-regulating, self-perpetuating and therefore decentralised system. In order to visualize this clearly, we must attempt to overcome our predilection to think about world society as analogous to the state. World society is a totally different social form, as different from the state as the state from the family or the tribe. (p.18)

While it is obvious that a world society would need a complex set of rules, these rules should not be seen as analogous to the laws of the national states in the traditional sense, but more as compromise rules, ethical principles, pragmatic behavioural rules, etc. They would also require different organs and a different ritual and symbolism, in which coercive dispositions from above would play a relatively minor role. (p.60) *It is obvious that the cohesion of the smaller group must be broken before the larger group can appear.* (p.61)

If normative science has to learn from legal science in order to develop social science, as Håkan Hyden has claimed (2002, p.20) one may ask what kinds of norms play a role in an emerging world society. Is a body of world law emerging in territories and spaces, which have in practice for a long time been influenced by several actors and ruled by several legal regimes or cultures?

I think that some of the norms which may turn out to be important in world society could be *myths* of several kinds – ancient, indigenous and modern myths. The norms of world society which I will focus upon in this paper are some of these myths, which may from a normative point of view be described as a form of *narrative normativity*. Maria Aristodemou describes the societal importance of myth as follows:

... myths are not only present in a society but a society is present in its myths. Myths do more than provide a source of entertainment or describe the society in which they are found; whether in ancient Greece or in contemporary society, myths are intrinsic to the process of naturalization and normalization. Their accessibility and dissemination means that they can be more important and influential than state laws in educating, unifying, and perpetuating a society and its cultural conventions and expectations. (2000, p.29)

In an emerging world society, where we have no positivist legal statutes, myths may become part of processes of both naturalization and normalization. They may serve as guidance and may influence actions, interpretations and perceptions of actors involved in interpreting and (re)creating and transforming both their past and present.

The Arctic has turned out to be an area which is also in the first decades of the 21<sup>st</sup> century attracting ever more global and geopolitical attention – not least due to China’s growing geopolitical ambitions and economic and political presence particularly in Finland, Iceland and Greenland. The ‘Chinese Dream’ may become a new myth of importance for the Arctic.

## **2 The “Thule-case”**

The “Thule-case” which serves as an example of global normative and mythical development in this paper can perhaps be seen as an example of an incident, a conflict, and a case, which has been taking place during a process of transformation from inter-national society to world society and during a process of a transformation from national and inter-national law to world law. The case shows that ‘world law’ may be composed of ‘*customary law of communities that transcend national boundaries*’, of myths (primarily the European myth about “Ultima Thule” but perhaps also common Inuit myths of North America and Greenland), of (US American) domestic politics and norms about “domestic” and “foreign” security, of international agreements and of (changing) norms about colonial administration involving very unequal parties amongst others.

The Thule-case represents a gradual change of a legal understanding of what ‘law’ is, and it represents a development towards a broader concept of law which encompasses more norms than state norms. H. Patrick Glenn wrote in his book on “*Legal Traditions of the World. Sustainable Diversity in Law*” that the distinction between foreign and domestic or international and domestic has become difficult to draw (p.53). This was also demonstrated in the case, where both trans-national customary law, ‘inter-national’ law and ‘national’ law, were forms of law all used in a ‘national’ court case.

### **2.1 Background Information**

In 1909-10 a missionary station and a trading station had been established privately by the Danish-Greenlandic arctic explorer and later national hero, Knud Rasmussen in North Greenland. Rasmussen named the missionary station “North Star” and the trading station “Thule station”. He owned the trading station until his death in 1933. - Formally the Danish State claimed sovereignty over all of Greenland from 1921, however, in until recently hardly known legal documents.

When Denmark was occupied by German forces on April 9, 1940 the question of sovereignty over Greenland became a sensitive issue for the US. The US was not interested in German sovereignty over the vast island, but not

in British either. On April 9, 1941 precisely one year after the German occupation, the Danish ambassador Henrik Kaufmann, who understood himself as representative of the Danish king, signed a treaty with the US government in Washington giving the US the right to use Greenlandic area for purposes of defence of American interests until threats according to American evaluations were no longer pertinent. This treaty was prolonged in April 1951. American military began the establishment of a huge airbase – one of the biggest and most important outside the US itself, and in November 1952 the Americans declared the Thule base fit for operation. A few months later American state authorities secretly expressed their wish towards Danish authorities to establish anti-aircraft guns outside the defence area. The American position in April 1952 was that security control without ‘relocation of the Eskimo village would be extremely difficult’ (UfR 2004, p. 421).

In June 1953 Greenland’s legal status as a colony was changed. The Constitution of June 5, 1953 included Greenland into the Danish State. During the last days of May 1953 the population of about 130 people at the trading station in Thule were relocated on dog sledges with their belongings about 150 km north to Qaanaq, in what was described by the Danish Government, who instigated the relocation, as a voluntary move. The population of Qanaq began to express their dissatisfaction with the new location a few years after the relocation.

In 1985 two Danish researchers, Jens Brøsted and Mads Fægteborg, published a book called “*Thule – Fangerfolk og Militæranlæg*” (Thule – Hunters and Military Installments), which described the relocation as forced.

In the late 1980s the population in Thule took contact with a Danish advocate, Per Walsøe, who in 1993 became a Supreme Court judge. He represented the population until 1993 in relation to a public commission, which investigated the relocation. The Commission ended up not following the view of the population, who considered the relocation forced and had wanted the state to recognize this. On December 20, 1996 an association called “Hingitaq 53” meaning the expelled from 1953, was formed, and sued the Danish state on behalf of about 600 persons demanding collective and individual compensation for loss due to the relocation in May 1953. The High Court decided in favour of the claimants in 1999, and described the relocation as forced but gave very small compensations. The Supreme Court case was heard on November 28, 2003 after both Nine-Eleven and the Iraq war, and gained much less media attention, but basically led to the same result. The decision by the Supreme Court was published in the legal journal *Ugeskrift for Retsvæsen* in March and April 2004. The printed version is 227 pages long, and it is probably one of the longest decisions in the history of both the High Court and the Supreme Court. The length itself seems to indicate an insecurity of all the involved parties towards this long-drawn-out process of a changing understanding of both fact and law.

The end of the Cold War provided an opportunity for the population in Qaanaq to receive recognition from the Danish state that their removal in 1953 was forced and not voluntary. But perhaps the beginning of the ‘war on terror’ meant that national and local legal actors were again insecure about norms and relations in world society. The case is an example of an interplay over a

century between local, national and global society interacting under dramatic natural conditions, where the role of individuals has been of great importance. National doctrine, international law, constitutional law, post colonial legislation, customary indigenous law and home rule legislation have stayed, changed, been introduced and reinterpreted. The changing perception of the role of indigenous peoples and their legal culture and systems as well as the relation between humans and nature in global society during the last half of the 20<sup>th</sup> century has contributed to the reinterpretation of facts and their constant negotiation and renegotiation of arguments and norms, which influence the movement of the story. The changes in world politics after 1989 have played a role, as have the changes during the 20<sup>th</sup> century in security technology, politics, and military doctrines.

During 2004 I made a number of attempts at understanding the case and its historical, territorial, political and legal context. To me the case revealed considerable insecurity by all the involved political and legal actors in manoeuvring between these past, present and emerging spaces, reinterpreting concepts and terminologies, and developing norms, comprehensions, and evaluations of the concrete relocation of the population. If “anomie” is understood as norm-confusion the transition from “inter-national” law to “world law” and from “inter-national society” to “world society” clearly produces a sense of norm confusion among those involved in and touched by these transitions. Tradition and myth may perhaps serve as norms which recreate a sense of orientation and understanding.

When the Greenland Home Rule Government around New Year 1999/2000 established a Commission on Self-determination, it chose a logo relating to an Inuit and Greenlandic myth called Kaassassuk, about an orphan, who by supernatural intervention gains immense strength, which allows him to fight his former tormentors in gruesome ways. The myth is today primarily understood as an arctic variant of the David and Goliath myth, where the weak beat the strong – a myth which tells the formally strong to also respect the weak.<sup>2</sup>

## 2.2 *Mythological Space*

Pliny holds that Thule is an island in the Northern Ocean discovered by Pytheas after sailing six days from the Orcades whereas Camden considers it to be Shetland (still called *Thylensel*). Bochart tells that the Phoenician merchants named it *Gezirat Thule* (Isles of Darkness). Perhaps Thule is also connected with the Greek word *telos* (the end) and the Gothic toponym *Tiule* (the most remote land).

Thule served as an object of indefinable yearning to the Romantic Movement. Goethe picked up Thule in Seneca, associated it with the Nordic Sagas and used the concept in his poetry. (From “Strangers in the Arctic. ‘Ultima Thule’ and Modernity” edited by Marketta Seppälä, 1996, p.12)

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2 I reprinted two different versions of the myth in my book from 2006 *Retspluralisme i praksis. Grønlandske inspirationer*, and I have used it on several occasions.

The Scottish captain John Ross (1778-1856) was the first to visit the Northern part of Greenland, now called Thule, in 1818 more than 40 years after the American war and declaration of independence from the British colonial power. The American explorer Robert Peary (1856-1920) went on numerous arctic expeditions in North Greenland searching for the geographical North Pole. His view was that the North Pole and North Greenland “*ought to be and must be secured for this country*” (the US) (Fogelsson 1992, p. 33). Peary provided the local population with modern necessities such as weapons, wood and tools. It was in the area Peary had visited, Rasmussen set up his trading station.

The Greenlandic/Danish explorer Knud Rasmussen (1879-1933) was born in Greenland by a Danish father who was a priest, and a mother of mixed Danish and Greenlandic parents. He had a Greenlandic grandmother and grew up in Greenland speaking Greenlandic and trained in riding dog-sledges. From the beginning of the 20<sup>th</sup> century he took part in literary expeditions in Greenland and the Arctic, and in 1909 he raised private money which allowed him to set up a missionary station and a trading station in a place he named Thule. He literally ‘owned’ the place, and he gave the so-called Thule laws in 1927 in cooperation with a Copenhagen based advocate, and financed many of his later expeditions through income from the trading station, which was placed in an excellent hunting area. Knud Rasmussen was not the only arctic explorer, who was fascinated by the myth about Thule. The Norwegian explorer, Fridtjof Nansen (1861-1930), suggested in a book from 1911 that the Norwegian west coast might have been the country which Pytheas the Greek geographer and seafarer had called Thule (Griffiths 2002, p.43).

The attraction of the myth of uncolonized places and untouched people was a myth seemingly shared by many Europeans at the beginning of the 20<sup>th</sup> century. In 1918 a “*Thule society*” (Thule Gesellschaft) was established in Germany as a forerunner for nationalist-socialist organisations. It was established by explorers who had travelled the world. A German historian, Detlev Rose, who has studied the society, writes that

Thule was thus an expression of a spiritual longing, with which many Germans reacted upon tendencies in modernity which were perceived as confusing and intimidating. Economic liberalism, material utilitarian thinking, and positivism based on belief in science. Defeat and revolution, collapse of an old order and the value system connected to it in many cases added a practical uprootedness to a widespread spiritual loss of orientation. In the period after World War I the need for attachment and belonging was enormous. Here the Thule-myth could grasp, since it was not a utopia understood as an intellectual construction of a yearned state, but a dream of the original culture as an existential myth (Seinsmythos). Existential myths create identity and attachment. (Rose 1994, p.37 - my translation)

Knud Rasmussen, who had grown up in Jakobshavn (today Ilulissat) had heard many stories about an unknown people in the North, whom he, according to one of his many biographers, understood as a mythical people similar to the Israelites in the New Testament or the inhabitants of the sunken Atlantis. They

were ‘new human beings’ in the meaning of being brand new, unspoiled, untouched by civilisation (Wentzel 1990, p.33).

Even though Rasmussen uses the name Thule before World War I also for him the term signifies ambivalence about the modern world, although he probably saw a development towards modernity as unavoidable and ultimately a destruction of the indigenous population as an outcome.

### 2.3 *Myths of (Exclusive) Sovereignty*

In 1823 *The Monroe doctrine* was developed by American president James Monroe (1758-1831), who was president from 1816-1824. The doctrine promised that the US would stay neutral in relation to European politics and respect established colonies, but that colonization of the American continent would not be tolerated.

In 1721 the Norwegian-Danish missionary, Hans Egede, had arrived in Greenland where he set up a missionary and trading station close to the present capital of Greenland, Nuuk – then called Godthåb (Good Hope). The South-Western part of Greenland was thus colonized prior to the establishment of the Monroe doctrine, but neither East-Greenland nor North-Greenland had any local colonies. Around the end of the 20<sup>th</sup> century Greenlandic politicians and public figures would repeatedly underlined the importance of the Monroe doctrine for Greenland.

According to a letter by Knud Rasmussen quoted in the published version of the ruling of the Supreme and High Court case (UfR 2004, p.386) North Greenland was colonized privately through establishment of the missionary and trading stations due to difficulties in foreign relations where American and Scottish interests would prevent the Danish state from establishing the new colony. The Danish state acknowledged Rasmussen’s Thule laws, but never wanted to take over the administration of the area. The Monroe doctrine may have continued to play a role here, although there are authors who claim that the US had accepted Danish sovereignty over Greenland in 1917, when the Danish government sold their former colonies, the Virgin Islands to the US. The US is also reported to have shown repeated interest in buying Greenland from Denmark latest during WW II.

During the beginning of the 20<sup>th</sup> century Danish sovereignty over East Greenland was contested by Norway, which was for more than 400 years (from 1397 to 1814) part of a Dual Monarchy together with Denmark, in what Lund historian, Harald Gustafsson has called *a conglomerate state* (1998). In a peace-treaty in 1814 – after the Napoleonic wars – the Danish king of the double monarchy of Norway and Denmark was forced to surrender Norway – including inhabitants as well as all “*privileges, rights, and advantages*” to the Swedish king. The Faroe Islands, Iceland and Greenland had originally been linked to Norway as dependencies and tax-paying entities. For some reason they were however not transferred to Sweden in 1814.

In 1931 Denmark filed a case against Norway at the International Court of Justice in The Hague claiming sovereignty over East Greenland. Denmark won the case in 1933, but for decades the whole situation concerning (modern)

sovereignty was in practice unclear and contested. Knud Rasmussen, who had been giving evidence in The Hague in favour of the Danish state, died in 1933 and was given a funeral of a national hero. Not until 1937 did the Danish state buy the station from his widow and take over the administration of Thule. It did not really use any legislative power for decades, however. The Thule Laws given by Rasmussen in 1927 were in force until the 1960s.

The Agreement of April 9 1941 between Kaufmann and the US, mentioned above, formally related to the defence of Greenland. The 1951 Treaty between the US and Denmark was established pursuant to the North Atlantic Treaty (from 1949) and concerned defence of Greenland – but also other parts of the North Atlantic treaty area the two parties would agree about. – The treaties are quoted at length in the judgment by the Supreme Court. During WWII a considerable number of military installations were established all over Greenland. Generally it was the Danish state which gave compensation to those affected by these installations.

During WWII the 1941 agreement gave the US almost unlimited de facto military sovereignty over Greenland, and especially over North Greenland, which was the latest part of Greenland to be ‘colonized’. The preamble states that

Three. Defence of Greenland against attack by a non-American power is essential to the preservation of the peace and security of the American Continent and is a subject of vital concern to the United States of America and also to the Kingdom of Denmark; and

Four. Although the sovereignty of Denmark over Greenland is fully recognized, the present circumstances for the time being prevent the Government in Denmark from exercising its powers in respect of Greenland.

However Article IV states that

The Kingdom of Denmark retains sovereignty over the defence areas mentioned in the preceding articles. So long as this Agreement shall remain in force, the Government of the United States of America shall have exclusive jurisdiction over any such defence area in Greenland and over military and civilian personnel of the United States, and their families, as well as over all other persons within such areas except Danish citizens and native Greenlanders...

This wording is repeated in the 1951 agreement in article VIII.

What seems to be the socio-legal situation in terms of practical sovereignty today is a regime of shared or overlapping sovereignty, where the US continues to have de facto *military sovereignty* over specific areas notably the Thule Air Base. The Danish state (so far) has *symbolic international legal sovereignty*, which gained considerable Danish media attention in 2000, when crown prince Frederik went on a 3 month long dog sledge trip together with the Danish defence military patrol Sirius, which is the successor of the Northeast Greenland dog sledge patrol established in 1941. The patrol consists of only twelve men, whose task is to control the area and uphold Danish sovereignty. The royal dog sledge trip created strong emotional bonds between the future

Danish monarch and the population not only in Qaanaq but also in general in Greenland.<sup>3</sup>

The Greenlandic Home Rule and now Self-Rule Government had and has what could perhaps be called a *symbolic cultural-legal sovereignty* (somewhat) supported by international and national legal sources but also by representation via media events such as visits by the royal family, by heads of the EU commission and by several EU heads of state as well as by other symbolic activities – such as for instance visits by Arctic Council and the Arctic Winter Games, which last took place in 2016.

One of the important examples of this acceptance of Greenlandic symbolic cultural-legal sovereignty took place on August 6, 2004. Then US Secretary of State, Colin Powell was the first American Secretary of State to visit Greenland, where he together with then Greenlandic foreign minister Josef Motzfeldt, and then Danish foreign minister Per Stig Møller signed three sets of agreements which were changing and supplementing the 1951 defence agreement. The agreements were signed in Igaliko in South Greenland, a village where Josef Motzfeldt grew up, which is close to another international airport, Narsarssuaq, which is still in use and was established as a military base by the Americans during WWII. The agreements were not directly linked to the Thule-case, but they did concern issues about the use, and obligations concerning continued use of the base.

It is perhaps interesting to note that two of the three signatories were men, who were born before their fellow black Americans and fellow Eskimos from Greenland had achieved political voting rights in their respective countries.

On occasion of the visit Colin Powell was interviewed by journalist Jens Møller of Greenland TV (KNR) who amongst others asked:

*Mr. Moeller:* Does the Greenlandic signing of this treaty mean that, in the future, Greenland will be an equal partner with the U.S. when it comes to Greenlandic issues?

*Secretary Powell:* Well, as you know, we would do everything in our power to discuss with Greenlanders any issue that might come up in the future, and I think the updated agreement provides for a consultation so that we are partners and we would move forward together. The terms of the agreement, were worked at very, very carefully and thoroughly to make sure that all parties have their equities protected and we view this as a partnership with Greenland and with the Kingdom of Denmark, in order to make sure that we move forward as friends and partner, as we have for so many, many years....

*Mr. Moeller:* Does this treaty have any significance when it comes to United States' fight against terrorism?

*Secretary Powell:* Not directly. I think we are so pleased with the cooperation we get from Denmark and Greenland, to the extent that it can provide any

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3 When the Danish Law on Greenlandic Self Rule was enacted, it was stated in the law that the community of Denmark, Greenland and the Faroe Islands was to be called *The Kingdom of Denmark* in international relations involving all or some of these entities. Lov om Grønlands Selvstyre, nr 473 af 12/06/2009.

political assistance on the global war against terror. But this air base facility, Thule Air Base, and its facility, is really designed to make sure that we have in place the kinds of surveillance operations and activities that would be useful if these rogue nations, these nations that we know were developing long-range missiles and could carry weapons of mass destruction, actually are able to put these weapons in place.

That's not the time then to see whether or not we can locate them and protect ourselves, the time to do that is now, and that's why I think this facility is so important and why it was so important to update the agreement so that it reflects the 21<sup>st</sup> century world, a world of 2004, not the world of 1951. And I'm pleased that the Home Rule government understood the importance of this, as did Denmark, and three partners working together after a long series of discussions and negotiations were able to update this agreement and the two other side agreements that will be entered into today.<sup>4</sup>

These comments also demonstrate that in the beginning of the 21<sup>st</sup> century rhetoric of exclusive sovereignty in 'foreign' policy was sometimes replaced – or complemented – by rhetoric and terminology of 'partnership'. A terminology, which may sound illusionary in a framework of 'inter-national' politics and law, but which perhaps indicated a change towards a more 'self-regulating' and 'decentralised' world society. – In hindsight it is probably also an expression of a new global military and political landscape, where Afghanistan and the Middle East came to play a much more important and much more unsettling role. May be it was also part of a process that may turn out to represent a shift of global power from the US to Asia, and perhaps also a replacement of the American Dream with a Chinese Dream?

#### **2.4      *The Myth of Voluntary Relocation***

The overlapping or patchwork regime of practical sovereignty has in practice been in place since at least World War II. Pluralist sovereignty has not fitted well with either modern legal national or international legal theories, however. The modern legal and political world view could be one explanation for the persistent and absolute denial by the Danish Government that the very sudden relocation in May 1953 of the 130 people from Thule to Qaanaq about 150 kilometer further north was a *forced* relocation. Another explanation is of course colonial and governmental traditions of the early 20<sup>th</sup> century of not explaining to subjects why decisions were taken and not apologizing for criticized behaviour by governmental agencies.

During the whole Cold War period from 1953 it was of great importance for the Danish Government to claim that the relocation was undertaken voluntarily by the hunters and their families. The Danish state spent several million kroner to build houses in Qaanaq. How much of this was compensated by the Americans is not known.

Had the Danish Government admitted that the relocation was undertaken because the Americans wanted it, they would also have had to admit their own

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4 The links to these interviews are no longer active in 2016.

fictitious sovereignty over the area. An area, which had obtained great mythological importance, not least because of Knud Rasmussen, but also for a mini-empire, which had continued losing territory since the Napoleonic Wars.

Furthermore, the role of Greenland and Thule for the wounded collective Danish identity right after 5 years of German occupation may have been greater, than it is thought or understood today.

The general importance of the ideal of freedom – the myth of freedom understood as a normative narrative – has also played an important part in especially national law and national liberation struggles since the American and French revolutions. This normative myth clearly plays an important role for all the actors and parties involved in this act of relocation. Its importance makes it difficult to realize the actual forms and degrees of non-voluntary action at stake here.

## 2.5 *Myths of Identity and Myths of Modern Human Rights*

The court cases have had to address the privileged role of space for the creation of Greenlandic indigenous identity. When Greenland got Home Rule in 1979 the establishment of a Home Rule Government had clear priority during the first decades. However, the internal divisions in Greenland between the ‘more civilized and elevated’ Western Greenlandic part, which was re-Christianized and re-colonized already in 1721, and the Eastern and Northern Greenlandic areas, which were not colonized and Christianized until the beginning of the 20<sup>th</sup> century have not disappeared. The tensions and/or relations between the modern and the indigenous identity are to a certain extent contextual. In the international community Greenlanders have often presented themselves as indigenous. The establishment of the Inuit Circumpolar Conference in the mid-1970s underlined indigenous identity and links with Inuit and other indigenous peoples around the world especially within the UN. In the relation to the Danish Realm however, the modern identity has more been often underlined. The ‘Danish Realm’ - Rigsfællesskabet - was an informal term often used in the 1990s and the first decade of the 21st century. The renaming of the community of Denmark, Greenland and the Faroe Islands in the 2009 Act on Greenlandic Self Rule as *The Kingdom of Denmark* could however, seem to emphasize a mythical entity more than or as much as a modern identity.

The court cases against the Danish state underlined the importance of the indigenous identity in relation to the former colonial power. Many Western Greenlanders were uneasy about this conflict, and the Home Rule Government did not support the case until in the very last phases and only reluctantly.

The case concerns a small group of people whose rights were clearly neglected for half a century, and whose dignity had not been respected. It is a case which both Danish courts and Danish media had difficulties handling, both because of lack of knowledge about the background, and because of difficulties of orientation. A polarised coverage led to simplifications and a tendency to focus on conflicts and Danish relations.

The case also drew upon *racial and sexual stereotypes* which according to media researchers

are often a well-established part of an audience's knowledge. When they are, they can also be readily activated by some simple framing devices with consequences for judgment and evaluation. (Verdiani 2000)

But it was also a case prepared for the international community and appealing to the international public opinion, creating "visibility opportunities" for both local and arctic politicians and professional human rights advocates. The combination of indigenous identity, human rights and abuse of colonial force, has often made for valuable political cases in many places and respects. It seems to contribute to a conservation of myths of modern human rights, myths of the good lawyers and myths about national sovereignty.

In his book on *The Dark Sides of Virtue. Reassessing International Humanitarianism* (2004) David Kennedy discussed a number of issues which he considered problematic about the human rights approach to political, economic and social problems.

The issues are highlighted in the subheadings of the first chapter called "*The International Human Rights Movement: Part of the Problem?*"

Human Rights Occupies the Field of Emancipatory Possibility \* Human Rights Vies the Problems and the Solution too Narrowly \* Human Rights Generalizes Too Much \* Human Rights Particularizes Too Much \* Human Rights is Limited by Its Relationship to Western Liberalism \* Human Rights Promises More than It Can Deliver \* The Legal Regime of 'Human Rights,' Taken as a Whole, Does More to Produce and Excuse Violations Than to Prevent and Remedy Them \* The Human Rights Bureaucracy is Itself Part of the Problem \* The Human Rights Movement Strengthens Bad International Governance \* Human Rights Promotion Can Be Bad Politics in Particular Contexts.

The normative myth about human rights as well as the myth about indigenous identity may have to be scrutinized more closely in an emerging world society, where the view of relations between states, other communities, organisations and individuals and their forms of belonging may have to be concerned more with coordination and pragmatic behavioural rules and economically and ecologically sustainable and viable systems of inter-relation and inter-dependence than with defence of exclusivist identities – be they modern, national, ethnic or indigenous.

### **3 Epilogue**

I have revised this article more than a decade after it was originally published. It is much clearer today than it was at the time of writing that the 'mythical status' of the United States of America and the Western world in general is declining in present world society. 'Old Europe' as well as an expanded and also fragile European Union seem to be quite confused members of world society hardly able to provide the "inner coordination and outer defence", which Landheer (1966, p.18) described above as typical of the state. The "compromise rules, ethical principles [and] pragmatic behavioural rules",

which he also envisages (1966, p.61) as well as the need for “different ritual and symbolism” is not easy to identify. Perhaps German Chancellor Angela Merkel and American President Barack Obama have demonstrated some of these attitudes, principles and pragmatic behaviour in relation to the refugees from the Middle East, and the changed US relationship to Cuba, which has continued to be covered by the Monroe Doctrine.

I have been interested in China since my first visit with a self-organized group of lawyers from Dansk Retspolitisk Forening in 1979. However after a visit to the first conference on international philosophy of law in Beijing 2009 “Global Harmony and Rule of Law” I began studying developments in China more closely (Petersen 2011 and 2015).

China declared itself a ‘near-Arctic’ state in the beginning of the second decade of the 21<sup>st</sup> century. When in 2013 China won observer status in the Arctic Council, Financial Times commented in this way:

The Arctic Council, a formerly sleepy organisation, has become the centre of geopolitical intrigue as a host of Asian countries headed by China seek to have a say on the future of a region presumed to be rich in natural resources. The Asian countries are also interested in the potential for shipping through the Arctic as a way to shave weeks off journey times between Europe and Asia.

Observer status allows the countries to watch but not speak at the main ministerial meetings of the council. It also allows them to be active in the working groups held more frequently by the council, which has just established a permanent secretariat in Tromsø, Norway.

The Arctic is at the centre of both intense environmental concerns as the possibility looms of it being ice-free in the summer months and huge business opportunities from oil and gas exploration, mining and shipping.<sup>5</sup>

China’s growing dependence on global resources from all over the world also has an impact on its geopolitical interests in the Arctic, as the quote above signifies. The position of the US and China could seem to be in a process of reversal, which may mean that a “Chinese Dream” might replace the so far dominant “American Dream”, which may no longer hold the same attraction, it once held.

There is no doubt that China will have a strong position in world society both due to the size of its territory and its population as well as due to its long and strong history. Geopolitics has probably always played an important role, which seems to have increased after the end of the Cold War.

China has been nourishing an important narrative and myth about *harmony* inside its own society, which was promoted by former president Hu Jintao (2003-2012) during his reign. The present president Xi Jinping has developed the idea of the *Chinese Dream*. Both may be promoted also in world society, but perhaps the Chinese Dream may (also) be more of a dream of a restored geopolitical importance of China, than the individualized “American Dream”

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5 Richard Milne, China wins observer status in Arctic Council, Financial Times, May 15, 2013 “[www.ft.com/cms/s/0/b665723c-bd3e-11e2-890a-00144feab7de.html#axzz44O0NkhRf](http://www.ft.com/cms/s/0/b665723c-bd3e-11e2-890a-00144feab7de.html#axzz44O0NkhRf)” (last visited March 30, 2016).

and the (North) American myth of law as a civil religion. “The Chinese Dream is about Chinese prosperity, collective effort, socialism and national glory.”<sup>6</sup>

Will the gigantic and ambitious Chinese infra-structure projects which aim to link both Eurasia and Asian countries through high speed trains become some of the symbols of this emerging era of a world society consisting of very asymmetrical and diverse parts and actors?

“Existential myths create identity and attachments” writes Rose (1999, p.37) and Aristodemou underlines that “they can be more important and influential than state laws in educating, unifying and perpetuating a society and its cultural conventions” (2000, p.29).

In interviews and informal conversations I have had both with Greenlanders and with Chinese politicians, investors and researchers, they have on several occasions underlined the ethnic, genetic and racial similarities with Greenlanders, who have also originally migrated from what is now called Asia several thousand years ago.

Neither China nor Greenland (or other post-colonial states or communities) do necessarily have the “sacralized” relation to (state) law, which has probably characterized the Westphalian era of ‘independent sovereign states’. World society is probably neither a society without states, nor without plural legalities. But it may perhaps be a society unified and attached as much by (emerging or revitalized) myths – understood as existentially important narratives and understandings – as by modern law. As a Chinese saying goes “Even if a sparrow is small, it still has all organs.”

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6 Quoted from Wikipedia: Chinese Dream (last accessed March 30, 2016).

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