

Managing the last remnants of colonialism

*How effective has the UN been in achieving decolonization in the cases
of Tokelau and Puerto Rico?*



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Introduction

‘Today, renewed commitment of all involved parties and pragmatic measures are required to accelerate decolonization processes’¹. These were the opening remarks from United Nations (UN) secretary-general António Guterres at a seminar on decolonization in May 2019. Guterres hereby urged all concerned powers to end colonialism by 2020. The UN has concerned itself with decolonization since its very beginning, as the Charter created the first responsibilities with regards to colonialism. Many states have been decolonized since then, but a few remainders of colonialism still exist today. Seventeen territories are presently registered as Non-Self-Governing Territories (NSGTs) by the UN, and they are recognized as the last remnants of colonialism.

Throughout the last decades, the UN has applied various efforts in order to bring an end to colonialism, and they have done so through different approaches. The first endeavor came through the Charter, which set up the definition of NSGT and describes this as a territory ‘whose peoples have not yet attained a full measure of self-government’². In the same chapter, the UN urges the administering states to ‘develop self-government’³ in the NSGTs, thereby advocating decolonization. The emphasis on decolonization further intensified when the matter became a topic of attention within the General Assembly (GA), and the Declaration of Granting Independence to Colonial Countries and Peoples (DGICCP) was affirmed in 1960. This declaration proclaims ‘the necessity of bringing to a speedy and unconditional end colonialism’⁴. In order to implement the DGICCP, the Special Committee on Decolonization (SCD) was created. This committee, which still exists nowadays, serves as an instrument to finish the job on decolonization. Together, the Charter, GA resolutions regarding decolonization and the SCD represent the efforts undertaken by the UN to achieve decolonization of all NSGTs.

One of the territories that is currently still defined as a NSGT is Tokelau. The island group is located in the Pacific Ocean and has been administered by New Zealand since 1926.⁵ In the spirit of decolonization, two referendums have been held on Tokelau to vote on the

¹ United Nations, ‘Participants Urge Renewed Commitment to Speed Up Eradication of Colonialism by 2020, as Caribbean Regional Seminar Opens’ (2 May 2019), <https://www.un.org/press/en/2019/gacol3332.doc.htm>, retrieved on 16 December 2019.

² Oliver Turner, ‘Finishing the Job’: the UN Special Committee on Decolonization and the politics of self-governance’, *Third World Quarterly* 34 (2013) 7, 1195.

³ United Nations Charter (1945), 14.

⁴ United Nations General Assembly Resolution 1541 (15 December 1960).

⁵ Elisabeth Perham, ‘A Solution for the Third International Decade for the Eradication of Colonialism: A ‘Fourth’ Option to Obviate the Need for a Fourth Decade?’, *New Zealand Yearbook of International Law* 11 (2013) 3, 5.

future political status, in 2006 and 2007. These plebiscites were supervised by the SCD, but both failed to gain the needed two thirds majority vote for independence. Reasons for this failure are thought to be the small population, respectively 1500 people, and Tokelau's dependence on the administering state, New Zealand. After these referendums, it was agreed on that the self-determination process should be put on pause.⁶

A case that contrasts Tokelau is Puerto Rico. The Caribbean island with a population of 3.5 million inhabitants was on the original list of NSGTs, but it was removed by UN resolution 748 in 1953 after Puerto Rico voted in a referendum for the Commonwealth status.⁷ Bruce Hector describes this commonwealth status as a 'permanent union between the United States and Puerto Rico', and he notes that this union can only be dissolved with the consent of both parties, which means that both the United States (US) and Puerto Rico should give joint approval for ending the commonwealth status.⁸ Additionally, Hector argues that the status of Puerto Rico as commonwealth is unlawful, because neither of the referendum held on the island about its political status were supervised by the UN. Puerto Rico is also not fully represented in American politics, as the inhabitants of the island are not allowed to vote in presidential elections. The issue remains a sensitive and unsolved one. Altogether, this paints a picture of Puerto Rico as an example of a colony.

While the status of Puerto Rico seems to remain undecided and could be recognized as an example of a NSGT that is yearning for a change of status, Tokelau seems the opposite of the Caribbean island. The latter has been defined as a NSGT and has therefore been pushed by the UN to determine its own political status. However, both referendums that could have offered the island group its independence did not gain a majority. Godfrey Baldacchino therefore argues that harsh truth is that the 'passionate yearning for freedom in all dependent peoples in, in most cases, just not there'⁹. Tokelau and Puerto Rico thus present contrasting cases of colonialism, and they are examples of the very different outcomes of the actions of the UN and their attempts to achieve decolonization.

These two different cases with one island possessing the status of a NSGT and one island lacking the NSGT label lead to the question what the influence of the UN has been on their political status. This thesis therefore aims to answer the question: 'How effective has

⁶ UN General Assembly, 'Tokelau: working report', 14 February 2019, 5.

⁷ UN General Assembly, 'Resolution 748: Cessation of transmission of information under Article 73e of the Charter in respect to Puerto Rico', *459th plenary meeting* (27 November 1953), 26.

⁸ Bruce J. Hector, 'Puerto Rico: Colony or Commonwealth?', *New York University Journal of International Law and Politics* 115 (1973) 6, 122.

⁹ Godfrey Baldacchino, "'Upside Down Decolonization'" in *Subnational Island Jurisdictions: Questioning the "Post" in Postcolonialism*, *Space and Culture* 13 (2010) 2, 189.

United Nations been in achieving decolonization in the cases of Tokelau and Puerto Rico?'. The efforts of the UN to achieve decolonization can be split up into three pillars, namely the UN Charter, the GA and the SCD. In order to be able to answer the main question, this thesis is therefore divided into three chapters, which will each focus on the efforts made by the subsequent pillar the to achieve decolonization and their effect on the Tokelau and Puerto Rico.

Three main arguments run through this thesis. First, it argues that the UN engages in norm creation through affirming resolutions and publishing visiting reports, and that this is one of the most effective instruments in achieving decolonization in the cases of Tokelau and Puerto Rico. Second, it demonstrates that this norm creation has an effect on the international reputation on the administering states of New Zealand and the US, which affected their cooperation. Lastly, it challenges the current UN framework on decolonization and includes critique on this framework in order to apply this to the case studies and display the consequent ramifications.

Literature review

The literature discussed in this literature review will assist in accurately researching the topic, and it will settle the most important definitions. It will therefore discuss the concept of decolonization, the existing literature about NSGTs and literature discussing the power of the UN.

Decolonization

While decolonization is one of the foremost goals of the UN, the definition of the phenomenon is never settled on in official documents. Both the Charter and the DGICCP fail to give a definition of either colonialism or decolonization. This thesis will therefore establish a working definition on decolonization through the earlier work of scholars.

When comparing the phenomenon of decolonization in academic literature, two things stand out. Firstly, it is assumed that decolonization is 'over and done with'¹⁰. Decolonization has had its most popular phase in the three decades after the Second World War, and as a political process 'it has now passed into history'¹¹. Secondly, decolonization is characterized by alien subjugation, and is described to be the delegitimization of colonial power over

¹⁰ Raymond F. Betts, *Decolonization* (New York 2004) 1.

¹¹ Jan C. Jansen, *Decolonization: A Short History* (Princeton 2014) 6.

territories¹². Both characteristics contribute to the limitation of the phenomenon and place it in a historical and cultural context.

Due to these limitations, the concept has also been critiqued by authors. Oliver Turner has addressed the changing perception of colonialism, since it was recognized in mid-20th century by physical occupation while we now recognize other forms as domination as colonialism as well.¹³ This changing perception has in turn influenced the understanding of the phenomenon, whereby the withdrawal of physical alien powers does no longer have to constitute as decolonization. More important for decolonization nowadays is the transferring of constitutional and legal powers to the territory. Turner argues that the change in perception of colonialism has caused the SCD to overlook the phenomenon while it is still an active force today.¹⁴ The exclusion of Puerto Rico as a NSGT serves as an example for this, since the Commonwealth status is a result of a constructed act of self-determination and it currently upholds the colonial relationship between Puerto Rico and the US. The outdated definition of colonialism therefore influences the work of the SCD in achieving decolonization.

Moreover, it is important to recognize that decolonization should not yet be perceived as a historical phenomenon. The remaining NSGTs and cases such as Puerto Rico are a reminder of the active force of colonialism, even though these territories are often geographically miniscule. The prevailing existence of these territories signifies that while decolonization has worked out for many countries before, its success is questionable. The process has come to a halt as no NSGT has been decolonized since 2002.¹⁵ This halt is a result of the limited framework of decolonization as employed by the SCD. They attempt to apply the same model of decolonization, consisting of three options, to all NSGTs without regard to geographical location, history or population size. Jan Jansen argues that decolonization ‘may vary according to the thematic or regional focus’¹⁶, and therefore, one size does not fit all. This thesis therefore chooses to work with the following definition of decolonization: ‘irreversible delegitimization of any kind of political rule that is experienced as a relationship of subjugation to a power elite considered by a broad majority of the population as alien occupants’¹⁷. This working definition is especially applicable for this thesis because it includes the phrase ‘any kind of political rule’ which signals the various forms of colonialism

¹² Möriz Pollath, ‘Revisiting island decolonization: The pursuit of self-government in Pacific island polities under US hegemony’ *Island Studies Journal* 13 (2018) 1, 238.

¹³ Turner, ‘Finishing the Job’, 1199.

¹⁴ *Ibid.*

¹⁵ *Ibid.*, 1198.

¹⁶ Jansen, *Decolonization: A Short History*, 2-3.

¹⁷ *Ibid.*, 2.

that can exist, such as in the cases of Puerto Rico. Additionally, the focus of this definition on ‘considered’ is of importance because it centers on the experience of the ‘colonized’ population and gives them the agency to decide whether they themselves would consider their territory as a colony. This is particularly useful in the case of Tokelau, where the label of NSGT is questionable regarding the failed referendums.

Power of the UN

One of the most popular critiques on the UN is its lack of power. While the Charter can be recognized as a treaty between all member states, it fails to offer the UN capacity to react to states who violate the principles in the Charter. However, this does not mean that the organization does not have any effective instruments to influence its member states and to push its agenda to achieve decolonization. The UN provides a global forum for debate and is therefore able to formulate norms. Norms are identified as a ‘standard of appropriate behavior for actors with a given identity’¹⁸ by Martha Finnemore and Kathryn Sikkink. Two different types of norms have been identified: regulative norms and constitutive norms. The first constrains and regulates, while the latter creates new actors or interests. Both types are important in this research, since the UN has engaged in both regulative norms, such as resolution 1541, and constitutive norms, such as the creation of the definition of NSGTs in the Charter. The institutionalization of norms in UN documents, such as resolutions and the Charter, contribute to the clarification of the norm of decolonization.

Consequently, norms provoke action from the member states. Finnemore and Sikkink argue that three possible motivations exist for a country adopting a new norm, namely legitimation, conformity and esteem.¹⁹ Not complying with norms from the UN can cause damage to the legitimate status of a state, since international organizations are ‘custodians of the seals of international approval and disapproval’²⁰. Disapproval from the UN can entail loss of reputation, which damages the international status of such a state. Furthermore, states often want to conform to norms to prove that they belong. Lastly, Finnemore and Sikkink explain that esteem can be an important factor for adopting a new norm since ‘that leaders of states sometimes follow norms because they want others to think well of them’²¹. These

¹⁸ Martha Finnemore and Kathryn Sikkink, ‘International Norm Dynamics and Political Change’, *International Organizations* 52 (1998) 4, 891.

¹⁹ Finnemore and Sikkink, ‘International Norm Dynamics and Political Change’, 903.

²⁰ Ibid.

²¹ Ibid.

different motivations convey the importance of adopting norms since complying with the UN is related to the sustaining of a positive international reputation.

Norms are thus important because they are an instrument for the UN to push their agenda, and they are able to provoke a reaction by the member states. It must be noted that the member states themselves are responsible for norm creation, since together they form the parliamentary heart of the UN which engages in norm creation by drafting, affirming and voting for resolutions. With the diversification of the UN in the 1960s, when African states joined the organization, resolutions such as the DGICCP were affirmed which signaled the change of perspective on decolonization.²² This example paints a picture of the role of member states in norm creation. Members therefore fulfill two roles in the norm process, namely that of norm creators and norm adopters. Altogether, the UN can thus use norms as an instrument to fulfill their goals, such as decolonization.

NSGTs

The UN has defined NSGTs in Chapter XI of the Charter as ‘territories whose people have not yet attained a full measure of self-government’²³. The definition has not changed since it was first mentioned in the Charter in 1945. The list of NSGTs started out in 1945 with more than 80 territories, colonized states which gradually obtained self-determination. In order to support the promises made in the Charter, namely, to ensure political, cultural and economic advancement, to assist in the development of self-government and to encourage cooperation, the GA adopted resolution 1514, the DGICCP. This declaration was a significant step forward in the decolonization process because it allowed for the creation of the SCD, which held oversight over the administering states and the NSGTs.

Many of the 80 territories designated as NSGTs achieved self-determination in the 1960s and 1970s, but this gradually declined in the 1980s. Seventeen territories currently remain on the list of NSGTs. Oliver Turner argues that the SCD sees these territories as the last remnants of global colonialism.²⁴ Turner is critical of this because he reasons that the SCD relies on a shortsighted theoretical framework regarding colonization and decolonization. Even if a NSGT exercises their self-determination by obtaining full sovereignty, unequal power relations between the former NSGT and administering state can continue to exist, thus revealing a continuation of colonialist experiences.

²² David Kay, ‘The Politics of Decolonization: The New Nations and the United Nations Political Process’, *International Organization* 21 (1967) 4, 786.

²³ United Nations Charter (1945) 14.

²⁴ *Ibid.*

Whereas Turner claims that the SCD is simply working with a myopic definition of colonization, which consequently counteracts their goal of achieving global decolonization, Gerard Prinsen reasons that NSGTs themselves have simply opposed sovereignty in the last decades. He explains that earlier research has found that NSGTs ‘within the constitutional frameworks of colonial metropolises actually fare better than sovereign islands’²⁵. Prinsen therefore claims that NSGTs are finding ways to bend sovereignty and to create new ways of autonomy, thereby ‘creatively modifying the moulds of Westphalian sovereignty’²⁶.

Consequently, Turner and Prinsen both argue that the UN and the SCD are working with an outdated view of colonization, hence their definition of NSGTs is not entirely up to date anymore after 75 years. This is one of the reasons why this thesis has selected Puerto Rico as a case study for colonialism, although the island does not carry the label of NSGT. Understanding the creation of the definition NSGT and the critique on the concept will assist this thesis in accurately researching the case studies.

Methodology

This thesis focuses on the role of the UN in achieving decolonization. It does so by comparing the cases of Tokelau and Puerto Rico. This thesis therefore will make use of a between case analysis. Using two opposite cases, regarding their NSGT status, gives this thesis the opportunity to display the contrast in handling of colonialism by the UN and whether the label of NSGT makes a viable difference regarding the effectiveness of the UN in achieving decolonization. Moreover, by choosing one NSGT and one non NSGT, this thesis aspires to show the contrast between the importance of being a recognized case of modern colonialism and simply being recognized as a part of the metropole country. By selecting these two specific islands, this thesis will unravel what the status of NSGT means in the case of decolonization achieved by the UN.

Furthermore, Tokelau and Puerto Rico have been selected to serve as case studies for this thesis because they are administered by different countries, respectively New Zealand and the US. This gives this thesis the opportunity to identify the possible differences in cooperation from the administering states in regard to decolonization. Additionally, the cases have individually been studied for the topic of colonialism, which offers this thesis a general basis of secondary sources. It must be noted that this thesis has found that some time periods

²⁵ Gerard Prinsen and Séverine Blaise, ‘An emerging “Islandian” sovereignty of non-self-governing islands’, *International Journal* 72 (2017) 1, 63.

²⁶ Prinsen and Blaise, ‘An emerging “Islandian” sovereignty of non-self-governing islands’, 77.

demonstrate an absence of the UN's effect on one of the case studies. Significantly, this makes the comparison between the two case studies more effective and useful because the contrast between absence and presence of effects on decolonization demonstrates the discrepancy in UN efforts in achieving decolonization for Tokelau and Puerto Rico.

In order to be able to find a plausible answer to the research question, the between case analysis will be based on the practice of process tracing. This practice will help to discover the causal mechanisms. The process tracing will mainly exist of primary sources such as the Charter, resolutions 1514 and 1541, reports of UN visiting missions and New Zealand and US government documents. These sources have been chosen for the certain amount of objectivity that they can offer, and the insight that they will provide about the overall process of decolonization.

Furthermore, this thesis will be structured around three pillars that signify the UN efforts in achieving decolonization, namely the Charter, the GA and the SCD. This structure has been chosen to strengthen the analysis throughout this thesis. The first chapter pays attention to the Charter, because it the first UN document that officially establishes the definition of the NSGTs and it sets the first goals for decolonization. The second chapter focuses the GA and its approach on achieving decolonization through resolutions 1514 and 1541 and analyzes their effect on the case studies. The third chapter will examine the SCD. This chapter explores whether the SCD has had any tangible effects on decolonization in the cases of Tokelau and Puerto Rico.

Together, these chapters will provide the fundamental facts and analysis necessary to answer the research question: 'How effective has the UN been in achieving decolonization in the cases of Tokelau and Puerto Rico?'. The aim is to uncover the influence of the UN on decolonization in cases of colonialism, whether they are defined as a NSGT or not.

Chapter 1: The United Nations Charter

After decades of international conflict, the Charter was signed by 50 countries on 26 June in 1945. The preamble of the document expresses the purpose to ‘unite our strength to maintain international peace and security’²⁷. The Charter was officially an international treaty, but as a product of two world wars, its importance was elevated. It could therefore not only be seen as any other treaty.²⁸ Furthermore, the document centers on people as its preamble starts with ‘We the people of the United Nations’²⁹. It is therefore logical but also innovative the Charter focuses on decolonization. Chapter XI affirms the declaration regarding NSGTs. The Charter is therefore of great significance since it lays the groundwork for decolonization and at the same time it establishes its own jurisdiction over NSGTs.

This chapter argues that the inclusion of decolonization in the Charter has compelled administering states to undertake action. Chapter XI has been responsible for the designation of territories as NSGTs, which in turn designated countries such as New Zealand and US as administering states. Both them adjusted the status of their territory subsequently, and this chapter argues that this is in part due to the influence of the Charter.

Establishing the NSGTs

Chapter XI of the Charter affirms the ‘Declaration Regarding Non-Self-Governing Territories’ and acts as the guidebook for colonial administration. This chapter is recognized by some as ‘one of the most important parts of the Charter’³⁰. Most important is Article 73, which establishes responsibility for the administering states, such as the caring for the interests and well-being inhabitants of NSGTs. Additionally, article 73 specifies these responsibilities in subheads (a) to (e). Article 73b and 73e are the most significant additions of article 73, and their content and importance will be explained in the following paragraphs.

Through article 73b, the UN member states promise to assist in the development of self-government, to take the political aspirations of the inhabitants of their territories into account and to lastly assist in the development of free political institutions.³¹ Furthermore, Article 73e takes these promises and creates a tangible responsibility for the administering states. It states the obligation ‘to transmit regularly to the Secretary General for information

²⁷ United Nations Charter, 2.

²⁸ Bardo Fassbender, *The United Nations Charter as the Constitution of the International Community* (Leiden 2009) 2.

²⁹ United Nations Charter, 2.

³⁰ Josef Kunz, ‘Chapter XI of the United Nations Charter in Action’, *The American Journal of International Law* 48 (1954) 1, 104.

³¹ *Ibid.*

purposes, subject to such limitation as security and constitutional considerations may require, statistical and other information of a technical nature relating to economic, social, and educational conditions in the territories for which they are respectively responsible.’³² While this is a great step in creating UN oversight for the NSGTs, both Kunz and Goodrich and Hambro emphasize that Article 73e is not as revolutionary as it seems. The obligation for the report is restricted, and Kunz explains: ‘the transmission is only for information purposes’³³ and this information ‘is restricted to statistical and other information of a technical nature relating to economic, social and educational [but not to political] conditions’³⁴. While article 73 thus does create accountability for the administering states, this accountability is still restricted since they have no responsibility to report about the political progress of their NSGTs.

Altogether, article 73 is responsible for getting two things in motion. Firstly, it recognizes the situation of colonization and obliges its members to take responsibility for their territories. Secondly, it creates a tangible obligation for the administering states, by having them transmit information about the development within the territories.

Tokelau

The focus on decolonization in the Charter affected all territories administered by New Zealand. Whereas Tokelau received the label of NSGT, Western Samoa was designated as a trusteeship. The islands had been closely connected, due to geographical location, and due to administrative purposes. However, in order to achieve decolonization for Western Samoa, New Zealand had to undertake actions to continue its legal administration of Tokelau.

After the Second World War New Zealand assumed its new role as a South Pacific power. Ever since the UN list of NSGTs was created in 1946 by the GA, several dependencies of New Zealand, such as the Cook Islands, Niue and most importantly, Tokelau had been designated as NSGTs. Additionally, Western Samoa fell under the category of a trusteeship. New Zealand therefore had to consider its stewardship for all of these dependent islands after the affirmation of the Charter.

The political status of the island changed when the Tokelau Island Act (TIA) was passed in 1948, but this did not assist in achieving decolonization. While Tokelau had originally been part of the United Kingdom, the TIA incorporated Tokelau as a part of New

³² United Nations Charter, 14.

³³ Kunz, ‘Chapter XI of the United Nations Charter in Action’, 104.

³⁴ Ibid.

Zealand, removing it from the sovereignty of the United Kingdom, and all its inhabitants became official New Zealand citizens.³⁵ This was progress for Tokelau and its inhabitants, but it should be noted that the TIA also gives the Governor-General, a New Zealand government official, the power to ‘make all such regulations as he thinks necessary for the peace, order, and good government of Tokelau’³⁶. The TIA therefore does not give Tokelau extra sovereignty, but it mostly officializes the status of Tokelau within New Zealand. The timing of the passing of the TIA, 1948, does seem conspicuous as the Charter was signed by New Zealand in 1945. However, as argued above, the TIA does not give any reason for Tokelau to be no longer considered as a NSGT, because it only officializes the status of Tokelau as incorporated territory. Judith Huntsman and Antony Hooper shine a light on the timing of the TIA and explain that its passing was a result of a trust territory moving towards independence, namely Western Samoa. New Zealand policy helped Western Samoa to independence through a step by step program, but this resulted in a problem for New Zealand, because Tokelau had always been linked to Western Samoa ‘for administrative convenience’.³⁷ This is why the TIA had to be implemented, to officially hand over the administrative responsibilities from Western Samoa to New Zealand.

The process of Western Samoa moving towards independence, and consequently the passing of the TIA was a result of the optimism of New Zealand. As a former colony itself, New Zealand was filled with confidence after the Second World War when newly independent countries advanced well. This was a motivation for the administering country to start the decolonization process, and it started with Western Samoa since the island had already expressed desire in more involvement in their government in 1944. While the decolonization process started off with Western Samoa, New Zealand planned to apply the same process to all of their dependencies in the coming decades, including Tokelau.³⁸ New Zealand was therefore complaint, and undertook actions to fulfill the principles stated in the Charter.

New Zealand took up its place as South Pacific power after the Second World War, and this position brought responsibilities, such as the stewardship of its dependencies. The founding of the UN, and the creation of the Charter guided New Zealand in starting the

³⁵ Judith Huntsman and Antony Hooper, *Tokelau: A Historical Ethnography* (Auckland 1996) 316.

³⁶ Tokelau Island Act 1948, 7.

³⁷ Huntsman and Hooper, *Tokelau: A Historical Ethnography*, 316.

³⁸ I.G. Bertram and R.F. Watters, ‘New Zealand and its Small Island Neighbours: A Review of New Zealand Policy Toward the Cook Islands, Niue, Tokelau, Kiribati and Tuvalu’, *Institute of Policy Studies Working Paper* 84 (1984) 1, 5.

decolonization process in Western Samoa, which subsequently set the first changes in motion for Tokelau. The TIA can therefore be recognized as an indirect result of the Charter. The law moved the administrative responsibilities to New Zealand, allowing the latter to set up the decolonization process decades later.

Puerto Rico

The designation of Puerto Rico as a NSGT embarrassed the US, since it subsequently labeled them as an administering state. This contradicted their presentation of themselves as a noncolonial power and repudiated their doctrine of democracy. They therefore agreed with the set-up of a Commonwealth status for Puerto Rico, which allowed their relationship to be redefined as noncolonial while they continued to maintain constitutional control over the island.

The US acquired Puerto Rico through the treaty of Paris in 1899 after the Spanish-American War and administered Puerto Rico as a territory under the territorial clause of the constitution. This gave the US Congress substantial power over the island, because it could 'pass legislation for Puerto Rico and govern local affairs, appoint high governmental officials, and veto legislation'³⁹. This gave the UN more than enough reasons to place Puerto Rico on the list of NSGTs in 1946.

The second half of the century presented Puerto Rico slowly gaining more authority when US Congress allowed Puerto Rico to choose their own governor through popular elections with the Elective Governor Act in 1947.⁴⁰ The first democratically elected governor was Muñoz Marín in 1949. Marín played an important role in the process of renegotiating the status of Puerto Rico, as he was the one that wrote Public Law 600 (PL600). This law set up the structure which allowed for the drafting of a Puerto Rican constitution and the establishment of the status of Commonwealth.⁴¹ The establishment of this new status meant progress for Puerto Rico.

However, the new Puerto Rican constitution still needed the approval of US Congress. Why did US Congress pass PL600 and why did they approve the Puerto Rican constitution? Their motivation behind the approval is argued to be manifold. Firstly, Marín, the newly elected governor, knew 'that the U.S. government was fearful of the possibility that either the Socialist wing of the pro-statehood party or the independence movement might gain

³⁹ Hector, 'Puerto Rico: Colony or Commonwealth?', 121.

⁴⁰ David M. Helfeld, 'Congressional Intent and Attitude toward Public Law 600 and the Constitution of the Commonwealth of Puerto Rico', *Revista Juridica de la Universidad de Puerto Rico* 21 (1952) 4, 257.

⁴¹ Lisa Pierce Flores, *The History of Puerto Rico* (Santa Barbara 2010) 97.

popularity among the Puerto Rican people.⁴² Through drafting PL600, Marín offered the US government a third option wherein the US would not have to incorporate the island or have to give the island full sovereignty. The Commonwealth option can be seen as a middle way for the US. Marín anticipated this fear and used the timing to therefore renegotiate the governing relationship between the US and Puerto Rico.⁴³

However, most significant is the wish of the US government to have its new arrangement with Puerto Rico recognized and certified by the UN ‘as noncolonial’⁴⁴. The US State Department reasoned that the new legislation would allow the US to argue that Puerto Rico was not a colony, even though the US could still practice its rights over the island. The importance of the international image of the US is furthermore emphasized by various US government sources. The State Department saw the new legislation as an opportunity for the US to show the value of freedom, enjoyed by Puerto Rico. This would help to counter anti-American propaganda, which happened to mostly focus on imperialism and colonialism. Marín had also emphasized the usefulness of passing PL600 because communist groups in Latin America had made charges of colonialism. He argued that passing the bill would answer these claims.⁴⁵ Lastly, the House Committee also agreed with the importance of keeping up the positive image of the US and their report asserts: ‘The passage of this bill. . . would stand as ... evidence . . . that the United States practices as well as preaches the doctrines of democracy and self-determination.’⁴⁶ The passing of PL600 thus had positive ramifications for the US since it was thereby able to adjust its frame and present itself as noncolonial.

Consequently, the US informed the UN of the new status of Puerto Rico with a letter, in which they argued ‘in the light of a change in the constitutional position and status of Puerto Rico, the US Government considers that it is no longer necessary or appropriate for the US to continue to transmit information on Puerto Rico under Article 73 (e).’⁴⁷ The GA voted to remove Puerto Rico from its NSGT list in 1953 with resolution 748 VIII. This resolution recognizes that ‘when choosing their constitutional and international status, the people of the Commonwealth of Puerto Rico have effectively exercised their right

⁴² Flores, *The History of Puerto Rico*, 97.

⁴³ Ibid.

⁴⁴ Ayala and Bernabe, *Puerto Rico in the American Century*, 162.

⁴⁵ Helfeld, ‘Congressional Intent and Attitude toward Public Law 600 and the Constitution of the Commonwealth of Puerto Rico’, 261.

⁴⁶ Ayala and Bernabe, *Puerto Rico in the American Century*, 170.

⁴⁷ Humberto García Muñiz, ‘Puerto Rico in the United Nations, 1953: An Appraisal’, *Institute of Caribbean Studies* 16 (1976) 2, 64.

to self-determination⁴⁸. Therefore, the provisions of article 73 can no longer be applied, thereby recognizing the changes in the status of Puerto Rico and repealing the responsibilities of the US over the island. Humberto Muñiz emphasizes that passing of resolution 748 VIII was partly due to several Latin American states. In his reasoning, the US has ‘used its influence to sway several Latin American states to its side and procured General Assembly approval for its position.’⁴⁹ This signals an instance where the US had purposefully used its international power to intercept UN oversight over Puerto Rico.

The beginning of the second half of the 20th century thus posed some interesting progress for both the US and Puerto Rico. The island was designated as a NSGT as a consequence of the Charter, but Puerto Rico seized the opportunity when they were given more sovereignty through a democratically elected governor, Marín. Marín set the drafting of PL600 in motion. While the new status of Commonwealth offered Puerto Rico newly found political advancements, such as electing their own judges, it did not offer the island full sovereignty. Indonesia made a fair judgment of the status of Puerto Rico when its case was presented, saying that ‘that Puerto Rico could not be considered a territory whose people had attained a full measure of self-government for the purposes of Chapter XI of the Charter, although it had made remarkable strides’⁵⁰.

On the other hand, the casus of Puerto Rico offered the US a chance to spread an image of themselves as noncolonial and nonimperial and to heighten the relationships with Latin American states. This was however secondary to the wish of the US to get the new arrangement with Puerto Rico qualified as noncolonial by the UN. They wished to present themselves as a noncolonial power, and they had framed the referendum in Puerto Rico as an act of self-determination when they argued for the removal of Puerto Rico from the NSGT list.

Conclusion

When studying the Charter for its effects, one should keep in mind that the Charter is only a treaty, and it therefore does not change anything without steps being taken to ensure implementation. Nevertheless, Chapter XI set up an important precedent that would lead the UN in handling decolonization. The Charter must thus be recognized as an important document that signaled the first steps towards global decolonization.

⁴⁸ UN General Assembly, ‘Resolution 748: Cessation of transmission of information under Article 73e of the Charter in respect to Puerto Rico’, *459th plenary meeting* (27 November 1953), 26.

⁴⁹ Muñiz, ‘Puerto Rico in the United Nations, 1953: An Appraisal’, 91.

⁵⁰ *Ibid.*, 79.

However, this thesis also recognizes that the Charter has been the subject of academic discussions throughout the years. The Charter has not had any amendments or revisions since its creation, and it should therefore be recognized as a product of its time. Despite of these deficiencies, the Charter does set up some important active organs, such as the GA, organs which will be able to apply the purposes and principles of the Charter to cases. The importance of the Charter, even with its deficits, should thus not be overlooked. The aim of this chapter was to gain understanding about the effects of the Charter on decolonization in the case studies of Tokelau and Puerto Rico. A new norm was created by the Charter since both islands were designated as NSGTs through Chapter XI. Being designated as NSGT did not effectively change anything about their political status, but it did provoke a reaction from the administering states. This happened in both cases, with the US redesigning their relationship with Puerto Rico by implementing PL600 and with New Zealand officially incorporating Tokelau by passing the TIA. While both laws may seem very similar, the motivations and consequences are different. Through PL600 the US saw their chance to counter the framing of their country as imperial, and they redefined their relationship as noncolonial by designating Puerto Rico as a Commonwealth. The Commonwealth status did mean some political advancement for Puerto Rico, but it cannot be recognized as an act of self-determination. Nevertheless, the island was removed from the UN NSGT list.

While New Zealand did not advance the political status of Tokelau, since the TIA was only responsible for officializing the incorporation of Tokelau and handed over administrative responsibilities to New Zealand, the Charter did have effect on the attitude of New Zealand towards its dependencies. Assuming the role of South Pacific power was of significance for New Zealand, and they thus conformed with the Charter, starting the decolonization process for Western Samoa. The choice to start with Western Samoa was logical since its people had already expressed a wish for independence, and New Zealand planned to later apply the same process to Tokelau. Although they thus did not take any immediate actions to change the political status of Tokelau, the process to independence for Western Samoa signaled the effects of the Charter on New Zealand and its approach on its dependencies moving towards decolonization.

Altogether, the UN Charter is responsible for setting two things in motion for the achievement of decolonization. Firstly, Chapter XI, which established the NSGTs, designated territories around the world as NSGTs, including Puerto Rico and Tokelau. It therefore engaged in norm creation because the Charter gave these territories a name and consequently called out the administering states to change their behavior and to thus undertake action.

Secondly, the Charter, and in specific Chapter XI, compelled the US and New Zealand to undertake action. Both did so because of the new norm which set up the label of NSGT, which in turn influenced their international reputation, as either a noncolonial power or a South Pacific power. Whereas the US sought to have its relationship to Puerto Rico defined as noncolonial through PL600, New Zealand chose to start off with the decolonization process for Western Samoa. The case studies therefore show the difference in results of the Charter and demonstrate how norms were an effective instrument in provoking a reaction from the administering states in regard to achieving decolonization.

Chapter 2: The United Nations General Assembly

As the only organ within the UN which offers all member states equal representation, the GA is the parliamentary heart of the organization where all member states can debate about international conflicts and issues. The GA therefore brings together a diverse collection of voices, former colonial powers and former colonial states, each of which has the same democratic power within the GA. The GA ‘occupies a central position as the chief deliberative, policymaking and representative organ of the United Nations’⁵¹, and it is given the power through article 73 to decide ‘what territories are non-self-governing’⁵². The GA thus has considerable power in the process of achieving decolonization. The GA is therefore an interesting UN organ to research for this thesis. Additionally, it is an ideal subject because norm creation is mostly derived from the GA, where all members are represented and where resolutions and declarations are coined and affirmed. Lastly, the GA is a useful organ to study, since the most important resolutions setting up the standard for decolonization originated from them. Researching the origins of these resolutions assists in understanding the effects of the UN on achieving decolonization in the cases such as Tokelau and Puerto Rico.

This chapter will shortly pay attention to the structure of the GA, in order to understand its workings. Furthermore, it will focus on two of the most important resolutions and declarations regarding colonialism, namely the DGICCP and resolution 1541. These resolutions shaped the norm on decolonization since they laid the groundwork for recognizing and regulating colonialism and can therefore be recognized as regulative and constitutive norms. Most importantly, this chapter argues that these resolutions have been imperative in institutionalizing the role of the UN regarding decolonization, as they created a new norm which urged administering states to take action regarding their case studies. However, it also argues that this was only applicable to territories which were labelled as NSGT when these resolutions were affirmed.

DGICCP

Seventeen newly independent states became UN member states in 1960. Victor Kattan calls the fifteenth GA session a turning point in international law and in international relations⁵³, partly because of the increasing amount of member states in the GA, which now represented

⁵¹ United Nations General Assembly, ‘Functions and powers of the General Assembly’, <https://www.un.org/en/ga/about/background.shtml>, accessed on 7 November 2019.

⁵² Peterson, *The UN General Assembly*, 6.

⁵³ Victor Kattan, ‘Self-Determination during the Cold War: UN General Assembly Resolution 1514 (1960), the Prohibition of Partition, and the Establishment of the British Indian Ocean Territory (1965)’ in *Max Planck Yearbook of the United Nations Law Volume 19* (Leiden 2015), 421.

more former colonial countries. This meant the loss of the US for a majority on matters such as colonialism.⁵⁴ The other significant factor for calling this session a turning point is the delivering of a draft of the DGICCP by Soviet Union leader Khrushchev, which was later affirmed as resolution 1514. Not only the fifteenth session can be recognized as a turning point, the DGICCP is argued to be a landmark document by Summers, who calls the declaration the ‘Magna Carta of decolonisation’⁵⁵. The affirmation of the DGICCP ‘signaled a transition from the exclusions of the colonial era to a progressively more democratic era’⁵⁶. Whereas the Charter had already paid attention to the principle of self-determination and the advancement of non-self-governing-territories, the DGICCP ‘endorsed a near-equation of self-determination of peoples with existence as an independent state’⁵⁷.

Only nine countries abstained from partaking in the vote about the declaration, while the other 89 countries voted in favor. One of the countries that abstained their vote was the US, who argued that the resolution had not paid any attention to the contributions of the administering states and that the resolution weighed heavily in favor of complete independence as the only acceptable goal.⁵⁸ Furthermore, all traditional colonial powers abstained from voting for resolution 1514. Important to note is that New Zealand voted in favor of affirming the declaration, thereby supporting the advancement of self-determination and independence in its overseas territories.

The DGICCP thus laid the groundwork for recognizing and regulating colonialism, from the UN standpoint. The fact that its very first draft was introduced by the Soviet Union, and that all traditional colonial powers abstained from their vote shows that the matter of decolonization was politicized. While serving as a magna carta for decolonization, the new resolution could also be used as an instrument against the colonial powers, such as was done in the case of Puerto Rico. Nevertheless, its importance must not be underestimated since the DGICCP established the problem of colonialism and set up the first steps of creating UN norms regarding decolonization.

⁵⁴ José Trias Monge, *Puerto Rico: The trials of the Oldest Colony in the World* (London 1997) 137.

⁵⁵ Summers, *Peoples and International Law*, 205.

⁵⁶ Vrushali Patil, *Negotiating Decolonization in the United Nations: Politics of Space, Identity and International Community* (New York 2008) 113.

⁵⁷ Peterson, *The UN General Assembly*, 17.

⁵⁸ Kay, ‘The Politics of Decolonization’, 793.

Resolution 1541

Passed on the same day as the DGICCP, resolution 1541 laid out the foundation for administering states on how to successfully achieve decolonization and provided the UN members with principles which define whether a territory should be considered as a NSGT or not. Since this resolution was passed on the same day as the DGICCP, it could be argued that this resolution should be seen as the instruction guide for administering states on how to grant self-government.⁵⁹

The most important thing resolution 1541 does is that it gives three options through which NSGTs can reach a full measure of self-government. These three options are ‘(a) emergence as a sovereign independent state; (b) free association with an independent state; (c) integration with an independent state’⁶⁰. The resolution further sets out some conditions for the options of free association and integration, both should be the result of a free and voluntary choice of the people. Furthermore, with free association, the territory ‘should have the right to determine its internal constitution without outside interference’⁶¹. Bertram and Watters reason that the option of free association was ‘tailor-made for cases such as the small island territories of the Pacific’⁶² because the design allowed islands to benefit from their administering state, while at the same time being its own sovereign entity without any reciprocal obligations.

As argued before, resolution 1541 is a very practical resolution which assists in guiding the DGICCP. Principles included in the resolution were meant to ‘provide a legal and constitutional basis for any action which the General Assembly might take in the matter’⁶³. The resolution can therefore be recognized as a regulative norm since it formulates orders for the administering states. Summer argues that resolution 1541 transforms the GA into a referee, having to decide whether a territory accounts as a NSGT or not, thereby increasing the power of the GA.⁶⁴ Notably, the GA did not undertake action to rebrand Puerto Rico as NSGT, even though the island met all principles as described by resolution 1541, and additionally, the status of Commonwealth was questionable since the dismantling of that status would need the approval of the US. The case of Puerto can be regarded as the reason why the US abstained in the vote for resolution 1541.

⁵⁹ Chimene Keitner and W. Michael Reisman, ‘Free Association: The United States Experience’, *Texas International Law Journal* 39 (2003) 1, 5.

⁶⁰ United Nations General Assembly Resolution 1541 (15 December 1960).

⁶¹ *Ibid.*

⁶² Bertram and Watters, ‘New Zealand and its Small Island Neighbours’, 35.

⁶³ Summers, *Peoples and International Law*, 220.

⁶⁴ *Ibid.*

Tokelau

After the DGICCP, New Zealand was aware that it had now received the label of ‘colonial power’, while the country rather conveyed an image of ‘an enlightened nation properly discharging its remaining responsibilities as a colonial power, rapidly preparing its dependent territories for self-government or independence’⁶⁵. The process of Western Samoa offered New Zealand a chance to do so. When Western Samoa moved towards independence in 1962, senior officials were able to convince Samoan leaders to choose for full independence, rather than a ‘less definitive status’⁶⁶. Consequently, the reputation of New Zealand in the UN was enhanced, because of its handling of the whole process and assisting Western Samoa in achieving independence.

The independence of Western Samoa also had practical consequences for Tokelau. Many Tokelauans had resided or worked in Western Samoa without any restrictions, but the new status caused Tokelauans to become alienated. Many of them therefore moved to New Zealand, spurring a migration flow and enlarging the Tokelauan community on the mainland. The New Zealand Department of Island Territories reacted to this migration flow with the Tokelau Resettlement Scheme. Since depopulation was already on its way, Island Territories designed a program which sponsored private migration, ‘with the aim of moving 200 people per year over five years’⁶⁷. The idea was to manage Tokelau as a coconut plantation and the Resettlement Scheme was overall seen as a long-term solution to the problem of what to do with the island group. However, Tokelauans requested to put a stop to the Resettlement Scheme in 1971, expressing a clear wish to keep on living on the islands.⁶⁸

The Department of Island Territories was one of the key actors responsible for Tokelau. The department was mainly concerned with the official administration of New Zealand’s overseas dependencies, such as Tokelau, Niue and the Cook Islands. The other key actor was the Ministry of External Affairs, which was responsible for representing the country internationally and in the UN. After being closed out from the five great powers after the Second World War, even though they had made military contributions, the ministry was now determined ‘to have a voice in the future’.⁶⁹ The motivations of these two departments within the New Zealand governments clashed, as the Islands Department, which had direct experience with the dependencies, was dealing with day to day administration, while the

⁶⁵ Bertram and Watters, ‘New Zealand and its Small Island Neighbours’, 18.

⁶⁶ Judith Huntsman, *The Future of Tokelau: Decolonizing Agendas 1975-2006* (Auckland 2007) 19.

⁶⁷ Bertram and Watters, ‘New Zealand and its Small Island Neighbours’ 9.

⁶⁸ Ibid.

⁶⁹ Huntsman, *The Future of Tokelau: Decolonizing Agendas 1975-2006*, 18.

Department of External Affairs was idealistic and wished to oblige to UN resolutions 1514 and 1541. These resolutions were a driving factor for them to push all of the dependencies towards independence in order to improve their reputation within the UN.⁷⁰

Resolution 1541 offered limited options, namely independence, free association and or integration. While integration as option for Tokelau seemed like a reasonable option, New Zealand discouraged this path of decolonization. The Minister of Island Territories argued in 1962 that integration would mostly have negative result for the dependencies since all New Zealand laws in that case would apply to the islands. Additionally, Tokelau would lose its own legislative assembly and would only be represented in the New Zealand Parliament, but due to its population it may even have to share their representative member with Niue and the Cook Islands.⁷¹ Consequently, New Zealand was left with the options of free association or independence for each of their dependencies. They therefore successfully argued for free association for the Cook Islands, since the island group was too small and economically fragile to operate as a sovereign independent state.⁷² The Cook Islands became a sovereign state in free association with New Zealand in 1965, as a result of the DGICCP and New Zealand's wish to comply with the UN and to enhance its international reputation.

If the Cook Islands were already deemed to small and economically fragile, Tokelau surely had a long way to go. Additionally, the wish for independence was not present on the island during this decade, since its inhabitants expressed in 1964: 'It is our recommendation to the New Zealand Government that we do not wish to join Western Samoa; we do not wish to join the Cook Islands; we wish to be administered by the New Zealand Government direct from New Zealand'⁷³. This wish was later repeated when a UN mission visited Tokelau in 1977 and reported that Tokelauans 'consider that they are not yet ready to run their own affairs by themselves'⁷⁴. Remaining close ties to New Zealand was in their interest and the UN Mission reported that this view had widespread support on the islands, since it was expressed repeatedly to them in different settings. Despite the efforts from New Zealand, Tokelau did not politically move forward, as was urged by resolutions 1514 and 1541.

However, it is important to note the role of the administering state, and the effects of the resolutions on their policy regarding their dependencies. New Zealand highly valued its

⁷⁰ Huntsman, *The Future of Tokelau: Decolonizing Agendas 1975-2006*, 18.

⁷¹ Ibid, 42.

⁷² Ibid, 17.

⁷³ Ibid., 24.

⁷⁴ United Nations General Assembly, 'Report of the Special Committee on the Situation with Regard to the Implementation of the Declaration of Granting Independence to Colonial Countries and Peoples' *Volume III* (1977) 39.

international reputation, and they therefore wished to get rid of the label of ‘colonial power’. Compliance with the UN to remove this label and to enhance its status was thus very important for New Zealand. Sticking to the resolutions was one of the ways to show compliance, and this caused New Zealand to undertake actions for all of their dependencies, which is shown by Western Samoa, the Cook Islands and Niue all moving towards either independence or free association in the 1960s and 1970s. While resolutions thus had effect on the other dependencies of New Zealand, they were not capable of achieving decolonization for Tokelau. Nevertheless, the resolutions were responsible for compelling New Zealand to consider the future of Tokelau’s political status. Yet Tokelau remained the last reminder of New Zealand’s status as colonial power despite many efforts from New Zealand to virtuously accomplish the resolutions.

Puerto Rico

With a new wave of former colonies in the UN, a new wave of anti-colonialist feelings also washed over the organization, which eventually led to the affirmation of resolutions such as 1514 and 1541 and this caused difficulty for the US, which wanted to present itself as a noncolonial power. The Cold War was at its height and delegates from Cuba and the Soviet Union used the UN as an instrument to accuse the US of colonialism. They argued that the Commonwealth status of Puerto Rico was ‘a disguised form of colonialism’⁷⁵. However, since Puerto Rico had already been removed as a NSGT through resolution 748, the US insisted that the subject was an internal matter. The US representative at the UN defended the political status of Puerto Rico, arguing that ‘Puerto Ricans are citizens of the United States who have freely chosen their present Commonwealth’⁷⁶. While the US was thus successful in blocking the Puerto Rican issue in the UN, Cuba managed to draw attention to the situation in another way. Castro used the Non-Aligned-Movement to address the topic and at a conference for Latin American Communist parties in Havana an official statement came out: the parties involved offered ‘resolute support to the cause of independence for Puerto Rico’⁷⁷.

In an attempt to suppress the attention and to undermine the ongoing anti-colonialist campaign, President Kennedy asked Marín, governor of Puerto Rico, to hold a referendum on the status of Puerto Rico. This referendum, taking place in 1967, offered the three choices of statehood, independence or Commonwealth, neatly reflecting the three options of integration,

⁷⁵ Robert Pastor, ‘The International Debate on Puerto Rico: the Costs of Being an Agenda Taker’, *International Organization* 38 (1984) 3, 579.

⁷⁶ US Government, ‘The Department of State Bulletin’ *Volume XLV* (October 30, 1961) 1166, 731.

⁷⁷ Pastor, ‘The International Debate on Puerto Rico’, 581.

independence or free association as offered by resolution 1541. The option of Commonwealth won the majority of the vote⁷⁸, sending a signal that most Puerto Ricans were content with the current political situation. Important to notice is that the referendum was mostly used a political instrument to divert attention on the colonial status of the US.

After the referendum, Cuba still kept pushing to bring attention to the issue. Together with the Puerto Rican independent movement, they asked the SCD, which was responsible for the oversight of NSGTs, to re-inscribe Puerto Rico as a NSGT. Re-inscription of Puerto Rico as NSGT would not mean actual immediate change for the political situation on the ground on the island. So why did the matter of re-inscribing Puerto Rico on the list matter so much to the independence movement and Cuba? There are several implications that are significant, both for the US and Puerto Rico. Firstly, re-inscription would mean the recurrence of responsibility for the US to transmit information about Puerto Rico annually. Furthermore, it would allow the UN to invite representatives from Puerto Rico and to facilitate decolonization processes such as the organization and supervision of a referendum. It would thus be practical, but additionally it would also generate embarrassment since the US presented itself as a primary post-colonial power. While territories such as Guam and American Samoa were already included on the list, the re-inscription of Puerto Rico, an island of reasonable size with a population of three million people at the time, would be a very notable and striking addition.⁷⁹

However, since the US themselves had a seat in the SCD, the request for re-inscription of Puerto Rico as a NSGT was denied. The GA and its resolutions did therefore not have any tangible effects for Puerto Rico. Nevertheless, the resolutions did offer countries such as Cuba the chance to scrutinize the US for their colonial possession. This prompted the referendum in 1967, which offered the residents of the islands to vote about the political status of the island. The GA and the UN were thus effective instruments to mount the international pressure on the US regarding its status as colonial power.

Conclusion

The GA is regarded as one of the most powerful actors within the UN, by both its member states and by scholars. Countries from all over the world are UN members, thereby creating a world parliament that serves as a platform for discussing current topics and problems. It is therefore no surprise that the rise of newly independent countries led to the prominence of decolonization. Resolutions such as 1514 and 1541 were affirmed in the 1960s, displaying the

⁷⁸ Hector, 'Puerto Rico: Colony or Commonwealth?', 123.

⁷⁹ Harvard Law Review Editors, 'The International Place of Puerto Rico' *Harvard Law Review* (2017), 165.

stance of the UN on the topic of decolonization. While lacking legal authority, the resolutions can be viewed as part of norm creation, thereby forging a new standard.

This new standard, in which decolonization is emphasized as a mandatory process for NSGTs, prompted New Zealand to undertake action. Aware of their international reputation, and the potential damage to it, New Zealand wished to comply with the resolutions as affirmed by the GA. After Western Samoa had successfully achieved independence, New Zealand took it upon itself to subdue their remaining overseas territories to the same process. While the decolonization process in the Cook Islands was set in motion, Tokelau presented itself to be a problem. Its size and population made the option of independence most unlikely, and New Zealand opposed the option of integration. Additionally, the islanders clearly expressed their wish to be administered by New Zealand.

While New Zealand actively tried to comply with the new norms, such as created by the GA resolutions, the US did not feel the same urge since Puerto Rico was no longer recognized as a NSGT. Yet, they did allow and organize a referendum after scrutiny from other UN member states, who argued that Puerto Rico was indeed a colonial possession and the US should therefore comply with resolutions 1514 and 1541.

The true nature of the GA and its resolutions reveals itself through the cases of Tokelau and Puerto Rico. The absence of legal power of the resolutions does not mean that they are therefore ineffective. The GA is a global platform and its resolutions assist in giving topics such as decolonization an international stage. New Zealand and the US each attach importance to their international reputation, and any form of scrutiny could possibly damage their reputation. Both reacted to the new norm as set up through these resolutions, by organizing a referendum or trying to set the decolonization process in motion. They did this because they wished to preserve their international image in a positive way. The GA and its resolutions thus are capable of setting things in motion, not because it has legal authority, but through the power from its member states to use the GA as an instrument to push their own political agenda. Resolutions 1514 and 1541 are consequence of this, and their importance must not be underestimated. Like the GA, these resolutions carry no legal authority, but they are capable of setting up a new standard and are therefore essential for norm creation. Resolutions 1514 and 1541 must therefore be seen as indispensable in the process of attempting to achieve decolonization since have been imperative in compelling the administering states to undertake action, such as the proposition of a referendum or the set-up of a resettlement scheme, in order to preserve their international reputation.

Chapter 3: The Special Committee on Decolonization

The GA created a committee through resolution 1654, whose main task it would be to oversee the implementation of the DGICCP. This watchdog committee, called the SCD, existed of colonial and non-colonial powers.⁸⁰ Barber called this group one ‘of the most active groups set up by the UN General Assembly’⁸¹ in 1975, and today only 17 territories are the last remnants of colonialism. Therefore, when studying the effect of UN policy on decolonization, the SCD cannot be neglected.

This chapter will argue that while the SCD has had worthwhile effects on the cases of colonialism in the past, the committee now suffers from working with an outdated framework and is limited in its actions due to its authority to only regulate NSGTs. This chapter will therefore focus on the actions of the SCD, the critique they have received and their effect on decolonization in the cases of Tokelau and Puerto Rico. It must be noted that the SCD only focuses on the official NSGTs, a list that does not include Puerto Rico since its removal in 1953. However, since the US left their seat on the SCD in 1971, the committee has affirmed a resolution which linked Puerto Rico to resolution 1514 for the first time, in which they decided to review the matter annually.⁸²

Origins and functions of the SCD

The SCD was born with the principal reason to oversee the implementation of the DGICCP, thus acting as a watchdog committee. It concerns itself with the last remnants of colonialism, the NSGTs and it oversees their process to acceptable self-determination. Although the principal task of the committee is to oversee the implementation of the declaration, they were also entrusted with numerous other tasks such as submitting reports to the GA, making recommendations about each territory and to inform the Security Council in the case of any developments within the process of self-determination that might threaten international stability and friendly relations.⁸³ Their recommendations and reports are based on the information that administering powers have to transmit under article 73e from the Charter. Mittelman explains that this transmittal was met with defiance, and that many of the administering powers send in incomplete information and that it frequently arrives late.⁸⁴

⁸⁰ Kay, ‘The Politics of Decolonization’, 795.

⁸¹ Barber, ‘Decolonization: The Committee of Twenty-Four’, 128.

⁸² Pastor, ‘The International Debate on Puerto Rico’, 581.

⁸³ Mittelman, ‘Collective Decolonisation and the U.N. Committee of 24’, 45.

⁸⁴ *Ibid.*, 54.

The refusal and defiance of the administering powers is explained by Turner as a drift of the North-South relationship. Developed nations in the West, who also were administering powers, argued that they faced an ‘aggressive and confrontational approach towards decolonization’⁸⁵. The Afro-Asian bloc, in line with the Eastern European member states, most actively exposed and condemned Western colonialism.⁸⁶ Additionally, the framework on which the committee relies, the DGICCP, ‘is heavily tainted with assumptions about colonialism’ which leads the accusation of Western states as responsible for all colonial endeavors.⁸⁷ Although the membership at the creation of the committee was equally balanced between administering and non-administering states, this rapidly changed.⁸⁸ The withdrawal of the United Kingdom and the US left open seats in the committee, which were filled in with non-administering powers. Additionally, another difficulty that the committee faces is the viability of a NSGT as a sovereign entity. This viability depends on the size of the territory, the population, the available natural resources and possible geographical isolation. These factors can lead to differences between the committee and the administering power about the measures to be taken and the timing of the process of self-determination.⁸⁹

In order to gather all necessary information and to set the process of self-determination in motion, the committee has several techniques. They can dispatch visiting missions to territories as they are authorized to travel into any area to implement the declaration. Furthermore, they gather information about the social, economic and political development of the NSGTs.⁹⁰ However, they are not able to force a referendum upon any NSGT or set a process of political independence in motion without the cooperation of the administering state. The chief resource of the committee, as Mittelman describes, is moral suasion. He acknowledges that this is ‘rarely a sufficient technique for securing compliance in world politics’⁹¹. While the committee therefore lacks authority, it must be recognized that the committee ‘performs a standard-setting function in defining permissible and impermissible behaviour on colonial issues’⁹² and their efforts are therefore important when researching the effects of UN policy on decolonization.

⁸⁵ Turner, ‘Finishing the Job’, 1202.

⁸⁶ Mittelman, ‘Collective Decolonisation and the U.N. Committee of 24’, 48.

⁸⁷ Turner, ‘Finishing the Job’, 1206.

⁸⁸ Barber, ‘Decolonization: The Committee of Twenty-Four’, 145.

⁸⁹ Mittelman, ‘Collective Decolonisation and the U.N. Committee of 24’, 53.

⁹⁰ *Ibid.*, 50.

⁹¹ Mittelman, ‘Collective Decolonisation and the U.N. Committee of 24’, 53.

⁹² *Ibid.*, 63.

Critique on the SCD

Since decolonization has reached a virtual halt during the 1990s, the SCD has become subject to various criticisms about its functioning and its goal. One of the fundamental problems of the SCD, as identified by Turner, is the supporting framework on which it relies. The SCD was created to implement the DGICCP and to support the process of self-determination in order to bring an end to all forms of colonialism. However, the declaration never explicitly explains what it constitutes as colonialism. Turner goes on to explain that the notion of colonialism has changed throughout the decades, and that it is still a very active force today, such as the case of Puerto Rico proves. Yet, the SCD keeps to its official list and is therefore only acts on a restrictive scope.⁹³

Its restrictions on the meaning of colonialism also influence the policy on decolonization. The SCD has received broad criticism for only recognizing self-determination when one of the three options as posed by resolution 1541 is the outcome. While the three options may have offered former NSGTs a viable outcome in the past, these options seem to no longer be applicable to the remaining territories. Yusuf Hakeem and Tanzil Chowdhury reason that the committee's strict adherence to its *modus operandi* hinders the attainment of its objectives⁹⁴, namely ending colonialism. They furthermore explain that the current NSGTs have high levels of self-government, which causes a predicament for the SCD, as these territories are mostly content with this hybrid form of independence.

Lastly, the SCD has received critique on its position within the North-South theater. Most members of the committee can be placed within the global South, while all the administering powers (France, United Kingdom, US and New Zealand) are part of the global North. None of the administering powers is represented in the SCD, since both the United Kingdom and the US withdrew from the committee in 1972. As one of the most militant committees within the UN, this distribution of roles has contributed to a dichotomous structure in which the focus lies foremostly on the colonial actions of the global North.⁹⁵ Turner argues that this antagonism reveals that SCD 'has never been in the business of decolonisation principally for the benefit of colonised peoples'⁹⁶.

These criticisms help to gain understanding about why the process of decolonization has come to a virtual halt. Yusuf and Chowdhury even argue that the SCD can no longer

⁹³ Turner, 'Finishing the Job', 1198-1999.

⁹⁴ Hakeem Yusuf and Tanzil Chowdhury, 'The U.N. Committee of 24's Dogmatic Philosophy of Recognition: Toward a Sui Generis Approach to Decolonization', 444.

⁹⁵ Turner, 'Finishing the Job', 1202.

⁹⁶ *Ibid.*, 1204.

afford to maintain its current trajectory, because it counteracts on the purpose of its creation, namely decolonization. Additionally, the criticisms are significant for this thesis because they assist in comprehending the neglect of Puerto Rico by the committee. Furthermore, they help to interpret why Tokelau has not attained self-government after all of the actions of the SCD. Lastly, the critique aids in putting the cases of Puerto Rico and Tokelau into the bigger picture of the politicization of the committee and the North-South theatre.

Tokelau

Out of all the NSGTs, Tokelau has received the most visiting missions from the SCD.

Visiting missions are an effective tool for the committee to ascertain ‘the situation of peoples of the territories’⁹⁷. They give the SCD the chance to gain understanding about the living conditions in territories, and to see some of the problems that the territories may face with their own eyes. The five reports that followed the visiting missions include summaries of the conversations held with Tokelau officials. Furthermore, they paint a picture of the situation of the island group, as they describe the social, economic and constitutional developments in Tokelau. These elaborate descriptions and records provided through these reports give insight into the situation on the ground, and they illustrate how actions of the SCD might have affected Tokelau. When reading these reports, the most significant observation is the change that Tokelau goes through during the visiting missions.

In the first three reports, a few themes are recurring. The first of these is the poor economy of Tokelau. Inhabitants struggle with things such as the supply of clean water and growing food on the thin soil of the islands. The first three reports, from 1976, 1981 and 1984 mostly focus on the living conditions on the island, because this is the topic that the inhabitants of Tokelau propose to talk about. For example, they requested poison because they were handling a rat plague, which was disastrous for the coconut plantations.⁹⁸ Additionally, Tokelauans ‘requested help in obtaining boats and other fishing gear’⁹⁹. Both instances are an example of the prioritization of improving their economy and social conditions, since fishing and coconut plantations were their main source of agriculture. The large portions of the reports dedicated to the theme of agriculture signals that this theme is one of the priorities for Tokelauans.

⁹⁷ UN, ‘C-24 Visiting Missions’, <https://www.un.org/dppa/decolonization/en/c24/visiting-missions>, retrieved on 2 December 2019.

⁹⁸ UN General Assembly, ‘Report of the Special Committee on the Situation with Regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples’, 68.

⁹⁹ UN General Assembly, Report of the United Nations Visiting Mission to Tokelau, 1981’, 41.

Alongside the theme of the significance of the economy of Tokelau is the political awareness of the Tokelauans. The first three reports stress the apprehension of the Tokelauans about self-determination. They ‘wish to maintain their close ties with New Zealand’¹⁰⁰, would like to ‘continue the present link with New Zealand’ and they have stated that ‘there were a number of issues in the areas of economic and social development to which they wished to find solutions before they could consider the question of their future political status’¹⁰¹. Altogether, the first three reports from 1976, 1981 and 1986 paint a picture of apprehensiveness about a change of political status. Tokelauans emphasize the importance of the assistance of New Zealand, which leads to think that they fear impairment of the financial relationship with New Zealand if they would either choose for the option of independence or free association. They therefore keep the option of taking part in the process of self-determination at bay.

However, the visiting report of 1994 can be recognized as a turning point for Tokelau. The island went through progressive change in areas of nation building and self-determination. The General Fono, the principal institution of government in Tokelau, had taken on more responsibilities since it took over the powers of the administrator of Tokelau.¹⁰² In addition, the Ulu-o-Tokelau was installed, who functioned as the recognized leader of government. The visiting mission spoke with the Ulu and they agreed that ‘achieving greater internal self-government is a necessary step on the path to self-determination’¹⁰³. Furthermore, the report speaks of Tokelauans gaining confidence in their capabilities, which is shown by Tokelau improving the ‘effective functioning of its primary political institution’ and the initiation of setting up a national strategic plan. These are important developments, but most significantly, the people of Tokelau started to actively consider the act of self-determination in 1994. Huntsman and Kalolo reason that this consideration reflects the message of a new Tokelau, driven by the newly installed government structure.¹⁰⁴ The SCD had pressed Tokelau for the developing a greater role for themselves in conducting the affairs of Tokelau in the report of 1986, which thus followed up on by the Tokelauans. The active consideration on self-determination of the Tokelauans in 1994 can therefore be linked to the actions of the committee.

¹⁰⁰ UN General Assembly, ‘Report of the Special Committee on the Situation with Regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples’, 68.

¹⁰¹ UN General Assembly, ‘Report of the United Nations Visiting Mission to Tokelau 1986’, 8.

¹⁰² UN General Assembly, ‘Report of the United Nations Visiting Mission to Tokelau 1994’, 6.

¹⁰³ *Ibid.*, 23.

¹⁰⁴ Hooper and Kalolo, *The Future of Tokelau*, 171.

This political progress continued, together with the improvement of living conditions on Tokelau. International phoneline connections had been installed and the people of Tokelau had gotten access to 24-hour electric power. These developments assisted in economic advancement, which in turn helped Tokelauans to consider re-examining their political status. They therefore set up framework meetings with New Zealand about the decolonization process and its pace. The mission recommended setting up an education program to properly inform the population of Tokelau about the nature of self-determination, since the mission had spent considerable time ‘clarifying that self-determination does not necessarily entail a severing of links with the administering Power but that it is, rather, a process in which the Territory is meant to choose the option that it considers most appropriate to its needs and aspirations.’¹⁰⁵

The importance of education in order to make a premeditated choice in the process of self-determination was furthermore reflected in the run up for the referendums in both 2006 and 2007. Voter education was an important aspect in the success of the referendums, and voters thus received a draft constitution, draft treaty and a referendum package at home. Additionally, workshops about voter education and the voting processes were conducted at each island. Nevertheless, both referendums did not reach the two thirds majority needed for an effective change in political status. Respectively 60% of Tokelau voted for the option of free association in 2006, compared to 64.4% in 2007. The voter turnout was high, and the monitoring team deemed both referendums ‘credible and reflective of the will of the people’¹⁰⁶.

While the referendums may not have led to effective change of political status for Tokelau, the reports of the visiting missions show the major advancements that Tokelau has made during the past few decades. Tokelau has gone from a disconnected, isolated and dependent society to a territory with technological advancements, such as electrical power, which connects them to rest of the world, with an established internal governmental system.

The most important impact of the SCD on Tokelau was the installment of political awareness in Tokelauans. Although the committee is only responsible for overseeing the process of self-determination, their visiting missions have certainly contributed to the political progress of Tokelau. The visiting missions brought the topic of self-determination to the public eye on the islands, which informed Tokelauans about their options. Furthermore, the

¹⁰⁵ UN General Assembly, ‘Report of the United Nations Mission to Tokelau, 2002’, 19.

¹⁰⁶ UN General Assembly, ‘Report of the United Nations Mission to observe the October 2007 referendum on self-determination in Tokelau’, 5.

visiting missions gave recommendations through their reports, such as the support for further development of the General Fono and the installment of a broadcasting system. Many of these recommendations were carried out, as can be read in the subsequent visiting reports.

This is partly due to New Zealand and its wish to maintain its international reputation as ‘supportive and complementary administering power’¹⁰⁷. New Zealand would have been even more content to no longer be considered as an administering power, and they therefore happily agreed to a referendum about the political status of Tokelau.¹⁰⁸ If the willing administering power and the SCD both contributed to the organization of a referendum, with all necessary steps in order, such as the education of the inhabitants of Tokelau, then why did the process of self-determination fail? Baldacchino and Perham suggest multiple reasons may be the cause for this. Some of the Tokelauans simply felt that the territory lacked capacity to be a self-governing state¹⁰⁹, whereas others argued that the status of Tokelau as a colony had brought many benefits to the territory, since there was no poverty, unemployment or illiteracy.¹¹⁰ Overall this gives the impression that Tokelauans were content with their current political status, which led to the outcome of the two referendums.

While the efforts of the SCD and their visiting mission have certainly contributed to the developments in economy and living conditions on Tokelau, they did not succeed in achieving a process of self-determination. Tokelau now remains one of the seventeen remaining NSGTs. The critique of Turner, Yusuf and Chowdhury may help to understand why specifically Tokelau is one of the territories that attempted to achieve self-determination but failed. Two main problems lay at the base of the failed attempts, namely the colonial relationship between Tokelau and New Zealand and Tokelau’s population and size. As explained before, the SCD relies on a framework from fifty years ago to eradicate colonialism, while the notions of colonialism have changed through time. Whereas colonialism used to be characterized by economic exploitation and political control, this is no longer always the case. The relationship between New Zealand and Tokelau shows that the administering state does not exploit the territory, since New Zealand funds and financial assistance are the most important source of income for Tokelau¹¹¹, so one cannot speak of exploitation. Furthermore, Tokelau has developed internal self-government through the

¹⁰⁷ Judith Hooper and Kelihiano Kalolo, *The Future of Tokelau: Decolonising Agendas: 1975-2006* (Auckland 2007) 152.

¹⁰⁸ Hooper and Kalolo, *The Future of Tokelau*, 237.

¹⁰⁹ Baldacchino, “Upside Down Decolonization” in *Subnational Island Jurisdictions*, 189.

¹¹⁰ Perham, ‘A Solution for the Third International Decade for the Eradication of Colonialism’, 7.

¹¹¹ UN General Assembly, ‘Tokelau, working paper by the secretariat’, 2018, 6.

General Fono, which is an example of a hybrid form of independence, thereby partly breaking down the political control of New Zealand. Although they maintain political ties to New Zealand, Tokelauans have also expressed gratefulness about this situation since it has brought many benefits to the territory. The SCD and its efforts have contributed to important developments for Tokelau, but their efforts are no longer needed, since the two failed referendums constitute as an act of self-determination of Tokelau, with which its inhabitants say that they are content with their current hybrid form of colonial independence.

Puerto Rico

While the SCD has undertaken various visiting mission to all the corners of the world, Puerto Rico has not been subject to this, because it is not officially recognized as a NSGT anymore. However, Puerto Rico was not ignored by the committee. The withdrawal of the US in the SCD created opportunity for the committee to pay special attention to the case of Puerto Rico. In 1973, the committee adopted a resolution regarding the island in which they reaffirm ‘the inalienable right of the people of Puerto Rico to self-determination’¹¹² and they furthermore decide to keep the question of Puerto Rico under continuous review.

However, the unwillingness of the US to cooperate because they still regarded Puerto Rico as an internal matter prevented the committee to undertake action. Additionally, the US mission to the UN declared that any further action by the committee would be improper.¹¹³ Nevertheless, the appointment of Cuba as a member of the SCD intensified the focus on Puerto Rico. Cuba also campaigned outside of the UN, and with its influence and lobbying, the Non-Aligned Movement issued a declaration in 1975 wherein they asked the SCD to consider a organize a visiting mission to Puerto Rico.¹¹⁴ When the committee began to consider a resolution along these lines, the US informed members of the SCD that voting against the US on this matter would be considered as an ‘unfriendly act.’¹¹⁵ The US thus tried to influence the agenda of the committee, and they tried to use their international power to weaken the oversight of the UN over Puerto Rico.

Nevertheless, the SCD did not ignore the question of Puerto Rico. Throughout the years, multiple reports and resolutions about the matter have been affirmed by the committee, in an effort to shine a light on the situation of Puerto Rico and to compel the US to undertake action. These reports assist in painting a picture of the efforts of the SCD and give more

¹¹² UN Special Committee Resolution Concerning Puerto Rico (28 August 1973).

¹¹³ Pastor, ‘The International Debate on Puerto Rico’, 584.

¹¹⁴ Ibid., 582.

¹¹⁵ Pastor, ‘The International Debate on Puerto Rico’, 582.

information about the political status of Puerto Rico. The reports analyzed for this thesis, dating from respectively 1981, 1985, 1995, 1999 and 2019, roughly follow the same trajectory. After taking up the question of Puerto Rico again, the committee has heard representatives from the political landscape of Puerto Rico for every report. After having heard the representatives, Cuba and the Syrian Arab Republic proposed a draft resolution in 1981. This resolution reaffirmed the inalienable right of the people of Puerto Rico to self-determination, urged the US to transfer all necessary power to the people of Puerto Rico and to co-operate in organizing a fact-finding mission to the territory.¹¹⁶

This information was later repeated in the report of 1985 but the text of the resolution that accompanied the report of 1985 did change. Most important is the addition of the expression of ‘hope of the international community, that the people of Puerto Rico may exercise without hindrance its right to self-determination’¹¹⁷. The addition of this paragraph is a signal of the SCD trying to use one of its mechanisms, namely that of international pressure. By keeping the item of Puerto Rico on their agenda, the committee effectively made sure that the colonial relationship between Puerto Rico and the United State was highlighted every year.

The trajectory of hearing representatives from Puerto Rico and proposing draft resolutions was used until 1999. From then on, Puerto Rico received its own report, which means that the SCD could expand on information about the case of Puerto Rico and could therefore pay attention to political evolution and status plebiscites that have taken place. Notably, two status plebiscites took place in the 1990s. The first one was organized in 1993 and offered Puerto Ricans the options of Commonwealth, statehood or independence. None of these options gained a majority and US Congress argued that the presented expectations of the Commonwealth options were not viable.¹¹⁸ In turn, a new plebiscite was organized in 1998, which would present viable options. This plebiscite was a contested one since the Popular Democratic Party (PDP) argued that the ballot choices misrepresented the Commonwealth status, and the reasoned that the addition of free association was confusing to the voters, since it carried many similarities to the Commonwealth Status. They therefore argued that a ‘none of the above’ option should be included on the ballot, and they encouraged their supports to

¹¹⁶ UN General Assembly, ‘Report of the Special Committee on the Situation with Regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, 1981’, 32.

¹¹⁷ UN General Assembly, ‘Report of the Special Committee on the Situation with Regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, 1985’, 23.

¹¹⁸ UN General Assembly, ‘Special Committee Decision of 11 August 1998 concerning Puerto Rico’, 23.

vote for the latter.¹¹⁹ In the end, a small majority opted for the ‘none of the above’ option. Christina Duffy Burnett explains that the celebration of ‘none of the above’ was caused by the conviction of the Puerto Ricans that the ‘status problem had somehow become too complex to be resolved by a simple choice on a paper ballot’¹²⁰.

While the committee had made the pledge to keep the question of Puerto Rico under review, no reports were published between 1995 and 1999. It is therefore logical to consider that the SCD was prompted to continue its review after the ‘none of the above’ plebiscite, which was a clear sign of dissatisfaction from the Puerto Ricans. The report in 1999 did just that, and although it focused on diverse themes, it most significantly paid attention to the human rights situation, since the US was detaining 15 political prisoners on the mainland, because they had committed political crimes. 11 of those prisoners were offered clemency by President Clinton two months after the publishing of the SCD report about Puerto Rico. However, the scope of academic literature about the motivation to offer clemency is very limited, which is why it is not possible for this thesis to establish a link between the report and the release of the political prisoners.

Nevertheless, the trend of presidents taking interest in the matter and undertaking some sort of action to address the status problem of Puerto Rico continued. Clinton was the first to set up a presidential taskforce. The taskforce was created to ‘provide options for Puerto Rico’s future status and relationship with the Government of the United States of America’¹²¹. After legal analysis the taskforce concluded in 2005 that only two options were possible under the US constitution, namely statehood or independence. They therefore recommended a federally sanctioned referendum about the status of Puerto Rico, in which they can choose between statehood or a non-territorial status. If the Puerto Ricans voted for the second option, a second referendum should follow in which they can choose two non-territorial options. US Congress was recommended to assist in a process of transition towards the outcome of the plebiscite(s).¹²² Two more plebiscites about the political status of Puerto Rico were organized in 2012 and 2017. They both gained a majority for the option of statehood, but the plebiscite in 2012 contained many blank ballots, which prompted US

¹¹⁹ UN General Assembly, ‘Special Committee Decision of 11 August 1998 concerning Puerto Rico’, 23.

¹²⁰ Christina Duffy Burnett, ‘“None of the Above” Means More of the Same: Why Solving Puerto Rico’s Status Problem Matters’ in *None of the Above: Puerto Ricans in the Global Era*, edited by Frances Negrón-Muntaner (New York 2007) 74.

¹²¹ Report by the President’s Task Force on Puerto Rico’s Status (December 2005) 1.

¹²² Report by the President’s Task Force on Puerto Rico’s Status (December 2005) 1, 10.

Congress to ignore the outcome¹²³, and the plebiscite in 2017 was boycotted which in turn caused a very low voter turnout. Both plebiscites were therefore not seen as viable enough to set the process to statehood in motion.

Neither referendums were supervised by the UN, since Puerto Rico is not labeled as a NSGT. Nevertheless, the reports from the SCD did continue. The latest report, dating from 2019 focused on hearing representatives from the territory and discussed the constitutional developments such as the plebiscites. The report therefore does its job: it shines a light on the colonial relationship between the US and Puerto Rico. The reports have been the only instrument for the SCD to put pressure on the US to undertake action, since they have no legal authority to organize a visiting mission or to supervise a referendum. The committee therefore renders to be mostly ineffective in the case of Puerto Rico.

Conclusion

The aim of this chapter has been to gain understanding of the actions of the SCD and their effect on the cases of Tokelau and Puerto Rico. The label of NSGT is the first variable that appears to make a difference in the actions of the SCD. The committee is only authorized to oversee NSGTs and their process to self-determination, but Puerto Rico was removed from the list before the committee was created. This chapter therefore shows the significance of the label of NSGT in two different cases of colonialism. Another variable between the two cases is the compliance of the administering power, with New Zealand and the US both representing two sides on the spectrum of compliance. Altogether, the two very different cases present the various challenges and problems the committee ran into during their quest for decolonization.

During the visiting missions to Tokelau, a change became apparent in the reports. Political awareness was being installed in the Tokelauans through the visits by the SCD. The importance of the visiting missions must not be underestimated, since the visit of the SCD to each Tokelauan island assisted in raising attention for the political status of Tokelau within its community. The committee met with different groups of Tokelauans. These conversations aided the committee in gaining understanding about the community, but it also gave the community the chance to begin considering their opinion about the status. Going from being content with the current colonial relationship with New Zealand to organizing a referendum in

¹²³ The Hill, 'Congress expected to ignore Puerto Rico's vote for statehood' (November 8, 2012), <https://thehill.com/blogs/floor-action/house/266799-congress-expected-to-ignore-puerto-ricos-statehood-vote>, retrieved on December 6 2019.

order to exercise self-determination was a significant leap for the Tokelauans and could only have been made possible because of the newly instilled political awareness.

Contrary to this case is Puerto Rico, where political awareness has been present for a long time. The many referendums held on the island about its political status are perhaps a fitting example for this. The many reports and draft resolutions from the SCD were an instrument to amount international pressure on the US and to obligate the US to expedite the process of self-determination for Puerto Rico. However, the absence of a NSGT label for Puerto Rico and the absence of legal authority rendered the SCD useless in effectively assisting the island.

While the positive effects of the committee should not be underestimated, its power should also not be overestimated. The most powerful tool the committee enjoys is that of international pressure. This has proven to work for New Zealand, but it is not applicable to all administering states. The power and the effect of the committee is therefore susceptible on the case it has to work on. The case of Puerto Rico shows that the committee's efforts can also be idle. It can therefore be concluded that its effects have fluctuated.

The critique on the committee is therefore legitimate. Their *modus operandi* may have been successful for past cases of decolonization, since only 17 cases remain on the NSGT list. However, the case of Puerto Rico begs the question how many modern cases of colonialism are currently being overlooked by the committee. Additionally, the narrow definition of decolonization and the limited options of exercising self-determination hinder the progress of decolonization. The two failed referendums in Tokelau are an example of this. The aspects that define Tokelau, its small population, its remoteness and its small size, are also applicable to other NSGT islands. The three options as listed by resolution 1541, and as carried out by the SCD, simply do not function for these territories. Internal self-government, such as set up in Tokelau, offers a hybrid form of independence for them, while still maintaining the relationship with the administering state. The committee should thus create a new framework to work with the last cases of modern colonialism.

Conclusion

This thesis centers around the question: ‘How effective has United Nations’ policy on decolonization been in the cases of Tokelau and Puerto Rico?’ Each chapter has discussed the efforts made by the organ, such as Chapter XI in the Charter, resolutions 1514 and 1541 and the SCD reports, and analyzed the effects of these efforts on the achievement of decolonization by the UN in the case studies of Tokelau and Puerto Rico.

Through these chapters, which each established the efforts to achieve decolonization set up through different UN organs on the cases of Tokelau and Puerto Rico, three key takeaways can be formulated. The first one is that this thesis recognizes the importance of the norm creation the UN has engaged with. By setting up the definition of NSGT in the Charter, regulating colonialism through the resolutions and overseeing the process of decolonization by the SCD, the UN has laid out the ground rules for administering states and their responsibilities. The set-up of this framework has been significant since it allows for a new standard in which colonialism is no longer globally accepted.

This leads to the second key takeaway, which is the significance of the international stage which the UN offers. The member states are responsible for steering the agenda of the GA, which has allowed them to politicize topics such as decolonization. Countries therefore still bearing the title ‘colonial power’ after colonialism was no longer accepted were recipient to international scrutiny. This scrutiny and the importance of retaining a positive international reputation were motivations for New Zealand to comply to resolutions and visiting missions from the UN, and therefore had an effect on the decolonization of their dependencies, such as Tokelau. However, while the US valued its international reputation, it was not as important to them since the country was already an established global power, and additionally, Puerto Rico was no longer recognized as an NSGT.

Consequently, this introduces the last takeaway, namely the critique the UN received regarding its outdated framework, its constrictions and its strict adherence to the *modus operandi*. Firstly, Turner has argued that UN operates on a framework which was established decades ago through the Charter and the DGICCP, while the concepts of colonialism and decolonization have changed. This has resulted in the failure of the SCD to recognize the remaining colonial forces.¹²⁴ The case of Puerto Rico has established this failure, since the UN has neglected to re-admit the island as a NSGT, while Puerto Rico’s relationship to the US can definitely be defined a colonial, according to authors such as Hector.¹²⁵ On the

¹²⁴ Turner, ‘Finishing the Job’, 1193.

¹²⁵ Hector, ‘Puerto Rico: Colony or Commonwealth?’, 137.

contrary, the UN still recognizes the Tokelau as NSGT through the old definition of colonialism, which includes exploitation and political control. However, Tokelau heavily depends on financial aid from New Zealand and has developed internal self-government and would therefore no longer fit the old label of colony. The outdated framework as argued by Turner is thus demonstrated by this thesis, since both case studies show the detriments of this framework.

Secondly, the failure of the SCD to re-admit Puerto Rico as a NSGT is an example of the political and institutional constraints that limit the UN. The committee has no legal authority to intervene in situations of colonialism, and the votes of the committee can be influenced, such as the US has done in the case of re-admitting Puerto Rico as a NSGT. Furthermore, Yusuf and Chowdhury argue that the SCD is hindered because of the dichotomy between the Global South and the Global North. This divide means that the committee 'oscillates between being ignorant to colonialism cases among Global South countries and being overly sensitive to perceived aberrations in the administration of Global-North territories'¹²⁶. Tokelau and Puerto Rico are both administered by countries from the Global North and this critique could clarify the fixation of the committee on Tokelau, but it fails to explain the neglect of Puerto Rico. This critique is therefore only in part applicable to this thesis, since the case of Puerto Rico demonstrates the negligence of the committee, which in turn shows the inaccuracy of the critique of Yusuf and Chowdhury.

Lastly, the UN has been critiqued on adherence to its strict *modus operandi* when attempting to achieve decolonization. Resolution 1541 has set up three options which are recognized by the UN as acceptable outcomes for NSGT, namely independence, free association and integration. Perham reasons that the current stalemate of decolonization in the remaining NSGTs is due to this strict *modus operandi*. She therefore argues that the committee needs to be more flexible in recognizing when a NSGT has become self-governing.¹²⁷ The three options may have been effective for a large part of the NSGTs, but the current remainder of colonialism nowadays exists for a large part of islands with a moderately small population and resolution 1541 therefore no longer offers a realistic option for these case. Tokelau demonstrates this, since they have developed internal self-government, and did not vote for independence in the referendums. Their hybrid form of independence and the remaining label of NSGT for Tokelau is an example of the inability of the UN to improve itself in achieving decolonization.

¹²⁶ Yusuf and Chowdhury, 'The U.N. Committee of 24's Dogmatic Philosophy of Recognition', 442.

¹²⁷ Perham, 'A Solution for the Third International Decade for the Eradication of Colonialism', 3.

Together, Puerto Rico and Tokelau show the deficiency of the Charter, the resolutions and the SCD, and therefore the UN, which in turn assists in hindering the process of achieving decolonization. Both cases show the deficiencies of the UN policy in their attempt to achieve decolonization: Puerto Rico is no longer recognized as a NSGT while its political relationship to the US ticks all of the boxes of colonialism as formulated in resolution 1541 and Tokelau is restricted to decolonizing through one of the three designated options as offered in resolution 1541, while its current political relationship to New Zealand no longer resembles colonialism.

These takeaways, together with the analysis done throughout the three chapters, helps this thesis to conclude that UN policy on decolonization is no longer effective. While the Charter, the resolutions and the SCD have assisted in the decolonization of many other territories, they are no longer effective for the last remnants of colonialism, such as Tokelau, and they fail to include cases such as Puerto Rico. By using these two specific cases and researching the wide range of efforts to achieve decolonization set up by different organs, this thesis has filled a gap within the academic literature. It has offered a comprehensive analysis of the effectiveness of the set-up policy on decolonization by the UN and it has directly applied this to two contrasting cases, thereby creating a new research angle.

Based on these conclusions, and to better understand the effectiveness of UN policy on decolonization, future studies could address other NSGTs or cases of modern colonialism such as Puerto Rico. This thesis has been limited to only two cases, but a broader case study research could offer a contemporary policy for the UN on how to administer the last few remaining cases of colonialism.

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