

THE UNITED NATIONS AND DECOLO-
NIZATION:
THE CASE OF THE COOK ISLANDS
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1960 can be considered the watershed separating the United Nations approaches toward dependent territories. In the first 15 years of its history, the United Nations set up different organs to supervise the administration of Trust territories and other non-self-governing territories. Although the supervision of the Trusteeship Council was elaborate and specific, the discussion of the Committee on Information from non-self-governing territories was limited to generalities. While the Trusteeship Council received written communications and oral petitions from the people in the Trust territories and sent periodic visiting teams to such territories, the Committee on Information

exercised neither of these powers. Self-government or independence was proclaimed the final objective of the trusteeship system, but states administering non-self-governing territories originally went no further than to pledge themselves to develop self-government and "to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement."¹ In the composition of the Trusteeship Council and the Committee on Information, the principle of parity--the number of members administering dependent territories equals the number of non-administering members--prevailed. Hence, the decisions of these organs had to be acceptable to at least some administering powers.

In 1960, because of the changing composition of the United Nations and the changing sentiment of the members toward colonialism, the General Assembly unanimously adopted a Declaration on the Granting of Independence to Colonial Countries and Peoples (Resolution 1514)² which was applicable

to all the dependent territories: trust, non-self-governing, and other territories not yet independent. The content of the Declaration was revolutionary in the sense that it no longer permitted the indefinite continuation of colonial relationships; but, instead, sought to ban colonialism in all its manifestations. The General Assembly was no longer satisfied with piecemeal or reformist approaches to the colonial problem, but demanded the elimination of colonialism there and then, without any conditions and reservations. A year later, the Assembly by another unanimous decision set up a Special Committee of seventeen members (later increased to twenty-four members, hence called the Committee of Twenty-Four)³ to implement the previous Declaration. Unlike the Trusteeship Council and the Committee on Information, the Special Committee has been organized not on the principle of parity between the administering powers and the non-administering powers, but to reflect the balance of force in the General Assembly. The discussions within and recommendations by the Special Committee are no longer general

(i. e., concerning all non-self-governing territories) but particular (i. e., concerning a single colony or administering power) in nature. It has received written communications and heard petitioners from dependent territories. It has also sent visiting missions to the dependent territories. As the several subsidiary organs set up by the General Assembly to deal with specific dependent territories and the Committee on Information have been dissolved by the General Assembly,⁴ the Special Committee has become the only subsidiary organ of the United Nations to deal with the dependent territories as a whole. Since 1962, the United Nations, mainly through its Special Committee, has attempted to effect systematically political change in the dependent territories in accordance with the principle of self-determination. If the situation permits, the United Nations will request the inhabitants of the dependent territory be given an opportunity to decide their political future through a democratic process. It also demands to be associated closely with the acts of self-determination.

In assessing the role of the United Nations in

the decolonization process, we may hypothesize that the policy of the administering power, the internal situation of a territory, and the interest of other states are the most important variables. When the administering power decided to grant the people the right to self-determination, when the inhabitants shared a common political attitude and developed a working relationship with the administering power, when there was no significant outside interest in the territory, then it was more probable that the United Nations principles would be implemented. On the other hand, if the administering power resisted the right of self-determination, if there were significant political or ethnic differences among the inhabitants or when there was deep mistrust between the administering power and the nationalists, and if some outside powers were intimately involved in the future of the territory, then it would become very unlikely that the United Nations principles would be successfully implemented.

Among the territories considered by the Special Committee and the General Assembly, the Cook

Islands are a special case. The Special Committee considered it for less than two years (1964-1965). The case itself was relatively non-controversial. The Administering Power co-operated fully with the United Nations throughout the process of self-determination. It participated in the work of the Special Committee and its Sub-Committee II. It fully accepted the principle of self-determination and carried out some important suggestions made by the members. It invited the United Nations to supervise an act of self-determination although it was not legally obliged to do so. The Special Committee appreciated this cooperative attitude of the Administering Power and its efforts in helping the Cook Islanders to attain a self-governing status. Therefore, its reports on the Territory contained very favorable comments on the policy and achievement of the Administering Power. Another special aspect of the case was that the Cook Islanders did not choose complete independence. By their free will, they decided to attain self-government and also to maintain a close relationship with their former Administering Power. This

study will examine how the Special Committee consider the Territory before the act of self-determination was exercised, the role of the United Nations in the supervision and verification of the process of self-determination, and the position of the Special Committee and the General Assembly regarding the status chosen by the inhabitants. We will also assess the influence of the United Nations in the decolonization of the Territory.

The Cook Islands are a group of fifteen islands north of New Zealand and scattered around 850,000 square miles of ocean. The total land area is 90 square miles. Its population in the 25 September 1961 census was 17,993 indigenous and 385 Europeans. The 31 December 1964 estimate was 19,944. About 9,733 persons lived in Rarotonga, nearly 3,000 in Aitutaki, 2,000 in Manga, and 1,500 in Alice. Its economy was basically agricultural. The two clothing factories and a fruit canning factory accounted for 60% of the Territory's export. Its trade was unbalanced and its communication system primitive. Education for children aged 6-14 was free and compulsory. Secondary education was a-

vailable in the Territory, but most higher education had to be obtained in New Zealand.⁵ The local government had relied heavily on subsidies from the New Zealand government. In a ten-year period (1955-1965), about half of the public finance was from subsidies and grants from New Zealand.⁶

Political reforms had been effected in the Cook Islands during 1957-1961 because two New Zealand experts discovered a general air of apathy and lack of co-operation between the people and the administration. They recommended that more responsibility be localized the Cook Islanders be brought into the administration. It was in response to these recommendations rather than as a result of pressures from the indigenous people that the New Zealand government introduced the reforms up to 1962. A Legislative Assembly, a majority of whose membership were elected by universal adult suffrage, was established in 1958 and its power expanded in subsequent years. At the same time, an Executive Committee of an advisory nature was established.⁷

This process of constitutional development was further stimulated by the United Nations Declarations on Colonialism. Although the New Zealand government considered the concept of complete independence for the Cook Islands unrealistic, it nevertheless supported the Declaration. It therefore began to take constitutional steps to broaden the power and participation of the people. First, the membership of the Executive Committee was changed. During the period of 1957-1961, the Executive Committee was composed of the Resident Commissioner and not more than eight other members appointed by him from the elected members of the Legislative Assembly or from the Cook Islands Public Service. Hence, the inhabitants had little to say about the composition of the Committee. Anyone who was not favored by the Resident Commissioner had no chance to be appointed to the Committee. Furthermore, the power of the Executive Committee was purely advisory. The Resident Commissioner was not bound to heed the Committee's advice. In 1962 the Executive Committee was changed to be composed of the Resident Commissioner, the Se-

cretary of the Government, the Treasurer, and not more than seven other members chosen by the Legislative Assembly from among its members. For the first time, the popularly elected elements had a guaranteed membership of their choice. Also, for the first time there was an elected majority in the Executive Committee. Furthermore, the power of the Committee was no longer purely advisory in nature. It could execute any powers and functions delegated by the Resident Commissioner, and it could report and make recommendations on any matter referred to it by the Legislative Assembly. In November 1963, the Executive Committee was reconstructed into a "shadow cabinet" and a leader of government business was elected by the Legislative Assembly from among its members. The leader in turn selected four others to form the Executive Committee. Members of the New Committee were responsible for a number of departments.⁸

Thus in a relatively short period of time, the composition, power, and nature of the Executive Committee changed. Steadily, the role of the inhabitants increased, and more and more elements

of self-government had been brought into the executive department.

When the Special Committee started to consider the Territory in 1964, the New Zealand delegate, after affirming the inhabitants' right to self-determination, reviewed the progressive development of political institutions, economy, and education.⁹ He stated that in 1962 the Legislative Assembly of the Territory had considered four alternatives for the political future of the Cook Islands: independence, integration with New Zealand, federation with other South Pacific Islands, or some form of free association. The Assembly opted unanimously for full self-government, coupled with continuing association with New Zealand. A constitutional team later visited the capital of the Cook Islands and made constitutional recommendations to reflect the wishes of the Assembly. The Assembly, after making some changes, adopted these recommendations in November 1963. The New Zealand delegate reported that his government was committed to implement the considered views of the Cook Island representatives.¹⁰

The core of the proposals was to give the Cook Islanders complete legislative and executive authority in domestic affairs by May 1965. A ministerial government, chosen by the Legislative Assembly, would be set up. It would have an unquestioned paramountcy in executive matters. An executive council, composed of the ministers together with the New Zealand representative (the Resident Commissioner) would have the power to refer certain decisions back to the Cabinet, but not to amend or veto them. The Legislative Assembly would be composed of all popularly elected representatives and would have legislative autonomy. The residual responsibility of New Zealand would be limited to defense and external relations. However, New Zealand was prepared to continue its financial assistance to the Cook Islands.¹¹

The case was referred to Sub-Committee II, which in 1964 was composed of Australia, Cambodia, Chile, India, Iraq, Poland, Sierra Leone, and the United States. The New Zealand delegation participated fully in the discussion of the Sub-Committee and the full Committee. The majority of the Sub-

Committee expressed their satisfaction with the progress made and the good faith shown by the Administering Power in the Territory. While the Polish delegate asserted that the Administering Power had not implemented resolution 1514 and that the new constitution would not end the colonial status of the Cook Islands and economic exploitation by New Zealand interests,¹² the majority praised the Administering Power. The Iraqi delegate noted "with great interest" the progress made in the Territory; the Chilean delegate thought that the Territory was already "well on the way to self-determination and self-government;" and the delegate of Sierra Leone "noted with gratification the declared intention of the New Zealand Government to lead the people of the Cook Islands ... to full self-government."¹³ Although most members still favored the implementation of the Declaration on Colonialism, they appreciated the special situation faced by the Islanders and would only insist that the people be given an absolutely free choice with regard to independence, integration, or association. This was exactly what New Zealand was willing to

do. Furthermore, when the questions of a visiting mission and United Nations supervision over the act of self-determination were raised, New Zealand did not raise legal or political objections.

Nevertheless, two important questions were raised during the debate. Some members thought that the decision to remain associated with New Zealand should be made by the Cook Islanders, rather than by a legislative body--as suggested by the Administering Power--which, because of its composition and relationship with the New Zealand government, could not but reflect the thinking of that government.¹⁴ A second question concerned with the power of the Resident-Commissioner. Several members expressed concern that the Resident-Commissioner might exercise undue influence over the policy of the Cook Islands government. The Polish delegate proposed an amendment to the draft report of the Sub-Committee to state that the presence of the Resident-Commissioner on the Executive Council could severely hamper the exercise of self-government in the Cook Islands.¹⁵

After the general debate the New Zealand go-

vernment took note of some of the comments made in the Sub-Committee and changed its policy accordingly. On 8 May 1964, the New Zealand delegate announced in the Sub-Committee that

“ ... to avoid any misunderstanding and to meet the point made by one or two members of the Sub-Committee, he was now authorized to announce a modification. The Constitution, under which the Cook Islands would become a self-governing state freely associated with New Zealand, would come into force only after the next general election (to be held in April 1965) and only when the newly elected Assembly specifically requested it. The general election and subsequent decision by the Assembly would thus constitute a formal and identifiable act of self-determination in the strictest sense of the term.”¹⁶

With regard to the Resident Commissioner, the New Zealand delegate explained that it was at the request of the Cook Islanders that a New Zealand Commissioner was to serve as their titular Head of State and a member of the Executive Council.

The Legislative Assembly could remove him at any time. The Commissioner would be entitled to his views as a member of the Executive Council, but could not block legislation or override any decision taken by the cabinet or the Assembly.¹⁷ The final draft report of the Sub-Committee took note of this statement that the Commissioner "shall have no powers of either a legislative, executive or judicial nature within the Government of the Cook Islands."¹⁸

Subsequently, in order to meet the criticism of certain members, the constitutional provisions concerning the Head of State were modified and the duties he was to perform would be carried out by a Council of State consisting of a New Zealand representative and two Cook Islands representatives. Cabinet decisions would be submitted to the Council of State which could refer them back to the Cabinet. If, after a second examination, the Cabinet stood by its decision, the decision would be final and New Zealand could not override it.¹⁹

Thus, in two important respects the Administering Power made attempts to satisfy the de-

mands of the Sub-Committee and the Special Committee. Legally and politically they were of great importance. The act of self-determination would not be complete until the newly elected representatives of the people adopted the new status provided for by the constitution. The power of the New Zealand representative was made absolutely clear. He might have an influence to delay a Cabinet decision but would be unable to block it. Thus, the executive power of the Cabinet became more secure.

Since the Administering Power agreed fully with the principle of self-determination and would abide by the decisions of the inhabitants taken under United Nations supervision, the satisfaction of the Sub-Committee was expressed in its report. It noted that the constitutional advance made in the Territory with the assistance of the government of New Zealand had been "substantial" although steps were necessary to achieve the objectives of the Declaration on Colonialism. Noting certain weaknesses in economic development and manpower training, the Sub-Committee further

“Notes with satisfaction the efforts made by the New Zealand Government in carrying out its obligation as administering power and its co-operation with the Committee of Twenty-Four, and the relations that exist between the people of the Territories and the Administering Power.”²⁰

As New Zealand agreed to both a visiting mission to the Cook Islands and United Nations supervision of the process of self-determination, the Special Committee decided that a visiting mission recommended by the Sub-Committee was no longer necessary. The reason is perhaps not difficult to guess. In the view of the non-colonial and anti-colonial powers, the possession of a dependent territory by any state is suspected if not outrightly condemned. Therefore, when an administering power refuses to let the United Nations come in and search for the truth, be it for legal or practical reasons, the suspicion becomes confirmed. This was certainly the attitude of most Special Committee members towards the situation in South Arabia, Southern Rhodesia, and British Guiana. When, in

this case, the Administering Power was not opposed to a United Nations visit, the Special Committee could assume its innocence and, therefore, a visit became unnecessary, especially in view of the fact that the United Nations was going to supervise the act of self-determination shortly.

Furthermore, when the Soviet Union and Poland proposed certain amendments to downgrade the achievements of the Administering Power, the Afro-Asian states (Syria, Ethiopia, Iran) immediately came to the defense of the Administering Power and requested the Soviet Union not to press these amendments to a vote in the spirit of "compromise". Almost all the favorable findings about the Territory were retained. This is another unique aspect of the Cook Islands case.

Since the Administering Power was promoting self-government for the Territory and was willing to admit a United Nations observer to verify the process, the work of the United Nations was made much easier. There were two important points on which the United Nations wished to be satisfied: first, that all alternatives would be available to

the inhabitants; and secondly, that the inhabitants could exercise their right of self-determination in a free and democratic way. The recommendations adopted by the Special Committee stated succinctly that the people of these islands should be enabled to "express their wishes in accordance with the provisions of resolution 1514(XV) through well-established democratic processes under United Nations supervision."²¹

The general election was to be held on 20 April 1965 and the new Legislative Assembly would be convened toward the end of May to debate and decide whether the draft constitution should come into force. The permanent representative of New Zealand in a letter to the United Nations dated 2 February 1965 affirmed that:

"When the newly-elected Parliament meets, its first business will be to decide the fate of the Constitution: it can adopt the Constitution as drafted or it can reject it and work out some other status for the territory. If it adopts the present draft Constitution the Cook Islanders right of continuing self-determina-

tion will remain unimpaired. After the Constitution comes into force, they will have sole control of their future, with the right to change their status as they wish."

Recognizing that the international community "may wish to satisfy itself of the genuineness of the choice made by the Cook Islanders," New Zealand requested the Secretary-General to nominate an appropriate person or persons to be present in the Cook Islands on behalf of the United Nations for the election campaign and the election itself and, further, for the debate and decision upon the Constitution by the newly-elected Legislative Assembly.²² By resolution 2005 (XIX) of 18 February 1965, the General Assembly quickly authorized the Secretary-Generals request for the dispatch of such a team.²³

Ambassador Omar Abdel Hamid Adeel of the Sudan was appointed by the Secretary-General as United Nations Representative. His team, including six officials of the Secretariat from six different nations, arrived at Rarotonga (the capital of the Cook Islands) on 8 April 1965. The observers were stationed on the four most populous islands contain-

ing 80 per cent of the population and electing 16 of the 22 members of the Legislative Assembly. Ambassador Adeel envisaged his purpose as

“To supervise all election operations in order to assure myself that they were in accordance with the electoral regulations, that the officials concerned with the elections were impartial, that the necessary precautions were taken to safeguard the voting papers, and that a correct count of the votes and an accurate report of the results were made ... to assure myself that they, the people of the Cook Islands, were fully aware of the significance of the elections, in that the new Legislature ... would be empowered, ... to adopt the Constitution as drafted, reject it, or work out some other status for the Territory; and that they were able to exercise their rights prior to and during the polling in complete freedom.”²⁴

Therefore, the functions of the United Nations team were essentially three: first, to ensure that the electoral process was free and fair; secondly, to make sure that the voters were aware of the

importance of their choice; and thirdly, to observe whether the newly-elected legislature was free to adopt, amend, or reject the constitution. The first function was relatively easy to perform as long as the team could be satisfied on the following points: all eligible persons were allowed to vote; the elections were conducted according to electoral laws and regulations and in an orderly manner with strict impartiality and in complete freedom; and the votes were counted correctly and the returns were accurately reported. In this respect the United Nations Representative's report was very favorable to New Zealand. He praised the officials concerned with the elections as "men, second to none in their ability, experience and sense of honor."²⁵ In his opinion, except with regard to assistance to blind and illiterate voters and the method of appointing enumerators, the arrangements concerning the actual conduct of the elections were in conformity with the existing electoral legislation and the electorate's familiarity with these arrangements was reasonably adequate.²⁶

On what bases did the United Nations repre-

sentative make these observations? First, the United Nations was assured not only freedom of movement and observation in the electoral process, but also the power to expect rectification of any irregularities discovered by United Nations personnel. Before the elections, the chief electoral official issued instructions that the United Nations Observers

“have been given the right to go into all booths, and be present at the preliminary and at the official count of votes ... If a United Nations observer draws your attention to anything irregular, it is to be rectified immediately, and the Returning Officer must be informed when he visits your booth.”²⁷

Secondly, despite the widely publicized statements made by the United Nations Representative urging the people to come forward to the United Nations observers to voice any complaints they might have, there were no serious complaints. Thirdly, votes were counted in the presence of both the observers and the representatives of the candidates in at least six constituencies consisting of 86 per

cent of the registered voters and relating to the election of 16 of the 22 members. Precautions aimed at safeguarding voting papers were adequate and "foolproof."²⁸

According to the United Nations Representative, the election was not beyond criticism. In his view, the election should have been conducted by an independent commission, preferably international in its composition. He did not question the impartiality of the New Zealand officials. It was his conviction that impartiality "must not only be ensured but must also appear to have been ensured."²⁹ However, in general the New Zealand authorities conducted a free and honest election, which was so certified by the United Nations team. The presence of the United Nations team might have been a contributory factor in making it a genuinely free election. The leaders of the Cook Islands Party, which won 13 of the 22 seats of the legislative assembly, repeatedly told the United Nations representative that

"but for the United Nations supervision, their party might have had a difficult time winning

the elections. The presence of the United Nations ... dispelled whatever fears the party and its supporters might have had regarding the possibility of denying to a candidate the right to campaign, and of depriving electors of their freedom to vote for the candidate of their choice."³⁰

The second function of the United Nations Representative was to find out whether the inhabitants were aware of the meaning and significance of their choice. It was extremely difficult to make an accurate assessment. According to the United Nations Representative, such an assessment was handicapped by two factors: the late arrival of the United Nations team (only eleven days before the elections) and the primitive system of communication existing in a group of islands scattered over 850,000 square miles of ocean. The task was further complicated by the fact that "the political party system, in the strict sense of the term, was virtually unknown and the people's experience of purposeful public debate was limited to social and

economic rather than political issues."³¹

In his opinion, despite a vigorous campaign waged by the Cook Islands Party and the lively public meetings, popular awareness of the significance of the elections was strong only in Rarotonga and Atitutaki, the two most populous islands whose inhabitants constitute a little more than 60 per cent of the population of the Territory. The degree of awareness in other islands was low. The United Nations Representative thought that the New Zealand government could have done a better job in the enlightenment of the people.³²

Another purpose of the United Nations team was to see to it that the members of the Legislative Assembly could adopt, amend, or reject the constitutional draft in complete freedom. The Assembly did make certain important amendments to the constitution. All the delegates except two favored self-government. The other two favored integration with New Zealand.³³ The United Nations Representative had some criticism of the presiding officer's handling of the motions and his rather patronizing attitude. (He was a New Zealander.)

However, in his opinion, in making decisions concerning the new constitution, the members of the Legislative Assembly did not act under the dictates from any quarter extraneous to the Assembly and the people of the Cook Islands.³⁴ This view "was borne out by the quality of the debate and the tenacity with which both the majority and minority parties had sought to ensure that their will would prevail."³⁵

Thus, the United Nations Representative was able to establish three points:

1. The campaign and the electoral process were essentially free and fair;
2. The majority of the people of the Cook Islands were aware of the significance of the election, though the degree of awareness of a substantial minority was low; and the New Zealand government could have done better in the enlightenment of the people;
3. The elected representatives freely made their decision in accepting self-government.

After receiving the report of the United Nations Representative, the Special Committee con-

centrated its investigation on the three issues mentioned above: the electoral process, the awareness of the people, and the choice of the Legislative Assembly. The Soviet Union made the strongest criticisms throughout the meetings. In its view, the inhabitants had little to say in the whole process because the constitution and the electoral law were drafted by the Administering Power, who had also conducted the election. The Administering Power did not consider independence as a realistic alternative and had failed to enlighten the people on the importance of their decision. In its view, the role of the United Nations Representative was only to supervise the elections within the framework of the legislation drafted and implemented by the Administering Power. Therefore, the Soviet Union could not approve the report of the United Nations Representative.³⁶

The majority sentiment within the Special Committee was to accept the findings of the United Nations Representative: that the status of self-government was a free choice and, since the people had made this choice, it was not to be ques-

tioned by any delegations. On the other hand, the door should be open for the people and their legal representatives to become independent at a later date.³⁷

However, there was no general agreement as to the implication of these findings. Had the Cook Islanders achieved a full measure of self-government as a result of the election and the decision of the Legislative Assembly, and therefore would New Zealand no longer be obligated to transmit information to the Secretary-General in accordance with the Charter? Assuming the answer to the previous question was positive, had the political developments in the Cook Islands fulfilled the objectives of the Declaration on Colonialism?

With the exception of the Soviet bloc countries, other members of the Committee were satisfied, after hearing the explanations of the Premier of the Cook Islands, that the Territory had attained a full measure of self-government. However, paragraph 5 of the Declaration used the expression "all powers," which might create some confusion. Did that expression include the power of the peo-

ple to determine their foreign relations and defense? If it did, the Cook Islands constitution could not be said to conform to the Declaration because defense and foreign relations were powers to be exercised by the New Zealand government. Could a colonial people voluntarily limit its sovereignty? One school of thought would accept the freely expressed will of the people as paramount; but another considered that if that freely expressed will did not involve complete independence, resolution 1514 should still apply to the Territory. The Iraqi delegation was prepared to accept the first viewpoint provided that the people could decide at any time to change their status.³⁹

On the other hand, the Iranian delegate rejected the view that the Cook Islanders had fully exercised their right of self-determination because, while the people had been free to choose independence, no party or political leader had conducted an educational campaign in favor of independence; hence that alternative had not been adequately dealt with during the electoral campaign. In his opinion, the act of self-determination in the Cook

Islands case was to be achieved by a series of actions: the free election of the Legislative Assembly and the latter's decision in favor of internal self-government and a free association with New Zealand were the first and the second; the full process of self-determination would terminate when the people of the Territory decided to become an independent sovereign state. Nevertheless, he believed that the Territory had achieved a full measure of self-government.⁴⁰

Since the Cook Islanders did not choose independence, many members of the Special Committee were worried about the new status. However, in the first place, the United Nations Representative had certified that the elections were free and honest and that the representatives of the people had made a free decision with regard to the new status; secondly, the newly elected premier appeared before the Special Committee and assured the latter that the people of the Cook Islands were happy to have the opportunity of controlling their own administrative affairs; and thirdly, the people of the Cook Islands had the right to obtain in-

dependence in the future, should they so choose. These factors made it much easier for many members to accept the new relationship between the Cook Islands and New Zealand for the time being.

On the other hand, the Special Committee was reluctant to make any definite judgment. At the 381st meeting, Ethiopia introduced a 13-power draft resolution⁴¹ which expressed its satisfaction to the United Nations Representative and the Secretariat personnel for the work they did, and to the New Zealand government for the co-operation extended to the Special Committee. The draft resolution also took note of the report of the United Nations Representative and the statements made by the premier of the Cook Islands and by the representative of New Zealand with regard to the future status of the Cook Islands. As the Ethiopian delegate stated, the draft resolution was designed

“ to avoid controversy; it satisfied the wishes of the people of the Cook Islands, recognized the progress that has been made in the Territory and provided all concerned with an opportunity to judge what future action should be

taken on the question in the General Assembly.”⁴²

The Italian delegation proposed several amendments to strengthen the case of New Zealand and to express the satisfaction of the Committee with the report of the United Nations Representative, instead of merely taking note of it.⁴³ However, none of these amendments obtained majority support primarily because of the opposition of the Soviet Union. The Italian delegate lamented:

“It was the duty of the Special Committee to transmit the report to the General Assembly and to note that it contained something positive. Without the words ‘with satisfaction’, the draft resolution would signify that the Committee had merely read the report and transmitted it to the Assembly without passing any judgment on it.”⁴⁴

It is true that, on the surface, the Special Committee did not make any specific judgment on the case. However, the whole discussion indicates that a majority of members were quite satisfied with the process of self-determination in the Cook Islands, although many were not certain whether

this process had been totally completed. When the draft was put to the final vote, it was adopted by 20 votes to none with 3 abstentions. The Soviet bloc countries abstained because they had opposed the sending of the United Nations Representative in the first place.

Because the United Nations Representative had "certified" that the elections were free and honest and the Legislative Assembly had freely adopted and amended the new constitution, the Fourth Committee and the Plenary Assembly concentrated on the two remaining questions to which the Special Committee did not give any definite answer: whether the constitution adopted by the Cook Islands Legislative Assembly ensure full self-government of the Cook Islanders and, if it did, whether the objectives of the Charter and the Declaration on Colonialism had been fulfilled.

The majority of the United Nations members accepted the new relationship between the Cook Islands and New Zealand. Togo and Pakistan submitted a draft resolution,⁴⁵ which, among others, noted that the constitution of the Cook Islands came

into force on 4 August 1965, "from which date the Cook Islanders have had control of their internal-affairs." However, it wanted to retain "the responsibility of the United Nations Resolution 1514 (XV) to assist the people of the Cook Island in the eventual achievement of full independence, if they so wish, at a future date." In their view, the road to decolonization should have been flexible and statehood should not have been the only acceptable course for small islands scattered in a vast ocean. To force them to achieve independence would have made such states a prey to neo-colonialism. As long as they freely chose their future, the United Nations should respect such a decision.⁴⁶

A number of states disagreed. The Soviet Union repeated the attacks it had made in the Special Committee: the inhabitants had little say in drafting the constitution, enacting the electoral legislation, and conducting the election. Furthermore, the Administering Power had not considered independence as realistic.⁴⁷ The Ghanaian delegation admitted that the Cook Islanders had made a free choice and that the new constitution had come into

force. However, it denied that the Territory had achieved a full measure of self-government, citing the power of the Resident Commissioner and the Governor-General of New Zealand. In its view, the General Assembly had the right to pronounce on whether a full measure of self-government had been achieved. The Ghanaian delegate concluded:

“When the people of any dependent territory have made a choice, and that choice had been made in freedom, of course, it should be respected. But if that choice, made in freedom, does not satisfy the General Assembly’s own yardstick of the fundamental principles of self-determination, we should not shrink from the responsibility of drawing the necessary conclusions. I hope that no one here is suggesting that a free choice is necessarily the right choice. For example, what would be our attitude if a dependent territory should choose in freedom a colonial status pure and simple? Should we say that because it was a free choice, therefore, our task is done? Certainly not.”⁴⁸

The New Zealand representative replied im-

mediately that the Cook Islanders had requested that a New Zealander be appointed Head of State and High Commissioner of New Zealand and that the Cook Islanders could appoint one of their people to be the Head of State if they so desired. No New Zealander could be appointed High Commissioner if he was not acceptable to the Cook Islanders. Decisions of the Executive Council were by majority and the High Commissioner had only one vote. The New Zealand government and the Governor-General could make legislations and regulations for the Cook Islands only if the latter's representative organs asked them to.⁴⁹

A Ghanaian amendment to delete the reference to self-government was rejected by the Fourth Committee by 29 votes to 28 with 43 abstentions.⁵⁰ All the major caucusing groups were divided except the Communist bloc which voted for the amendment with unanimity. On the other hand, the Liberian amendment relieving New Zealand of the obligation to transmit information on the Cook Islands because the latter had attained full self-government was adopted by a vote of 49 to 19, with

34 abstentions. In the plenary Assembly, the amendment was adopted by 66 votes to 19 with 21 abstentions. The draft resolution as a whole was adopted in the Fourth Committee and the plenary Assembly without opposition although 29 countries abstained in the final vote.⁵¹

Those who abstained did so for different reasons. Some, such as the Communist countries and some Afro-Asian countries doubted that the Cook Islanders had achieved a full measure of self-government and therefore the Administering Power could be relieved of its obligation under Chapter XI of the Charter. Others, such as the United Kingdom, the United States, Australia, France, and South Africa abstained because they could not subscribe to the idea that, after the people had freely expressed their wishes and chosen their status, the United Nations should continue to be concerned with the Territory. These countries were afraid of establishing a precedent which would authorize the United Nations to intervene in their domestic affairs after their dependent territories had freely made a decision to associate with the

administering power.

Here we can see that the majority of the United Nations members took up a middle position. They recognized the free choice of the Cook Islanders and the self-governing status achieved by the Territory. They therefore decided to free New Zealand from the obligation to transmit information on the Territory. On the other hand, they insisted that the United Nations ought to be the protector of the dependent peoples. Hence, they wanted to preserve the authority of the United Nations to help the Cook Islanders to become independent if the latter so desired.

The majority position--recognizing the achievement of full self-government, relieving New Zealand's obligation under Article 73(e) of the Charter, but continuing the United Nations concern with the future of the Cook Islands under resolution 1514--indicates that the United Nations has powers relating to the dependent peoples broader than were provided for by the Charter. Here resolution 1514 becomes an additional source of authority.

The Cook Islands case is an interesting one

for the following reasons:

1. Unlike many other cases, the pressure for self-determination came mainly from outside, i.e., the United Nations, rather than from inside, i.e. the nationalists. The Special Committee had stressed the harmonious relationship between the Cook Islanders and the Administering Power. Many Cook Islanders would prefer closer ties with the metropolitan country. Here, obviously, the lack of exposure to international influence, the economic dependence on the metropolitan country, and racial harmony played an important role. Since there was no political oppression or racial discrimination, but instead there were economic and other benefits in continuing the association (such as emigrating to New Zealand), there had been no strong or even organized movements among the inhabitants to achieve a separate identity.

The process of self-determination was initiated by the Administering Power. The decision to let the inhabitants choose their future political status was taken at least in part in response to the pressures originating from the United Nations.

In October 1964 the Cook Island Constitution Bill was introduced in the New Zealand parliament. The debate on the Bill revealed the extent to which the policies of the government were inspired by the Declaration on Colonialism. Mr. J. Mathison, who had been a minister responsible for the Cook Islands, referred to Mr. Gotz, the minister responsible for the Cook Islands when the government's self-government policy was initiated. Mathison said that he had "a feeling that the resolution by the United Nations in 1960 and the setting up of the 24-man committee caused something of a panic in the mind of the Hon. Mr. Gotz." He revealed that between 1957 and 1960, when he was minister, not once was the question of complete self-government mentioned. In his opinion, Mr. Gotz was responsible for accelerating the idea among the Cook Islands that "nothing but a written constitution and complete self-government would serve them."⁵²

The view was shared by Mr. A. H. Nordmeyer, leader of the opposition. He said:

"The question arises as to what is the best

form of Government for the Cook Islands if they are to have self-government. What is the pressure for self-government? Let it be said quite frankly that it does not come spontaneously from the people themselves. They have expressed no burning desire to have self-government but largely because of the attitude adopted by the United Nations, there has been a desire on the part of Government in New Zealand to see that we were freed from any taint of colonialism."⁵³

This pressure from the international community and New Zealand's wish to be freed from the taint of colonialism were recognized by the ruling party. The government spokesman in the debate, Mr. J. R. Hanan, the then minister responsible for matters relating to the Cook Islands, recalled how the leader of the opposition had in the past "by his wise and helpful stand, saved his party (the Labor Party) from laying itself open to the charge that it was opposed to New Zealand complying with the letter and spirit of the 1960 United Nations Declaration on colonialism."⁵⁴

The most explicit reference to United Nations influence is a speech given by the Prime Minister, Mr. Keith Holyoake, during the debate:

“ Since the end of World War II many of the large Asian countries--and many of the small countries too-- have achieved independence. Virtually all the African countries have achieved independence, and with their becoming members of the United Nations, tremendous pressure has been brought to bear on the old colonial powers to grant independence to all the newly emergent countries. The Minister of Island Territories has outlined in detail the responsibilities we accepted in agreeing to the 1960 General Assembly declaration on colonialism. That declaration recognized that one of the ways in which a dependent people could emerge to independence was by free association with another country, so long as it was in accordance with the freely expressed wishes of the people of that country. That was the path chosen by Samoa, and now by the people of the Cook Islands, and these Bills set out to im-

plement the method."⁵⁵

2. Not only was the Administering Power's decision to decolonize the Territory influenced by the United Nations, the United Nations was also deeply involved in the process of self-determination. The Administering Power modified the process of self-determination and some constitutional arrangements in order to meet the criticisms of some members of the Special Committee. It also allowed a United Nations team to come to the Territory to observe the general elections and the Legislative Assembly's decision regarding the constitution. As the United Nations Representative stated: the United Nations activities regarding the Territory " would go down in history as the Organization's first association with the exercise of self-determination in a Non-Self-Governing Territory."⁵⁶ As we hypothesized earlier, the implementation of the United Nations principles of decolonization depends upon a number of factors. The most important of these factors are the attitude of the administering power, the political structure and experience of the territory, interna-

tional complications(if any), and the policy of the United Nations. In this case, the Administering Power decided voluntarily to let the inhabitants decide their future; the native political forces were not antagonistic toward the Administering Power and there were no deep ethnic or ideological differences among the inhabitants; no other powers were deeply interested in the Territory; and the Special Committee did not adopt a critical or hostile policy toward the Administering Power. All these factors contributed to the maximum influence of the United Nations in the decolonization of the Territory in accordance with its principles.

3. It is interesting to study the attitude of the United Nations towards the new status of the Cook Islands. The Cook Islanders did not choose independence or federation with other territories in the area but an association with the metropolitan country although other options were available. This choice should be acceptable to the United Nations since on 15 December 1960 the General Assembly adopted resolution 1541(XV) setting

out principles which should guide members in determining whether or not an obligation exists to transmit the information called for under Article 73(e) of the Charter. Principle VI provides that a non-self-governing territory can be said to have achieved a full measure of self-government by independence, association or integration. However, free association " should be the result of a free and voluntary choice by the peoples of the territory concerned expressed through informed and democratic processes. It should be one which respects the individuality and the cultural characteristics of the territory and its peoples, and retains for the people of the territory which is associated with an independent State the freedom to modify the status of that territory through the expression of their will by democratic means and through constitutional processes." (Principle VII)

It is clear from the new constitution of the Cook Islands, the statement of New Zealand, and the statement of the Premier of the Cook Islands that henceforth the inhabitants of the Cook Islands would have the power to initiate constitutional

and political changes to modify their political system and international status. This new status of association also ensured the Cook Islanders New Zealand citizenship. It was achieved through democratic processes based upon universal franchise and supervised by a United Nations Representative who testified to the honesty of the elections, the awareness of a majority of the voters of the issues involved, and the free decision of the Legislative Assembly to adopt the new constitution. All these elements enabled the majority of the United Nations members to accept the new status of the Cook Islands.

However, the General Assembly only approved the new status for the moment on the condition that the Cook Islanders could continue to exercise their right of self-determination in the future and that the New Zealand government would not place any obstacle in the way. Therefore, the Cook Islanders are in a preferred position since they can exercise their right to self-determination, not only once, but possibly several times until independence. On the other hand, an ethnic

group occupying a defined territory but exercising their right of self-determination within a larger entity would have no right whatsoever to make a new choice (at least this would not be sanctioned by the United Nations). Katanga and Biafra are two prominent examples.

Annex : Political Change of Cook Islands 1946-1965

	Legislative		Executive
1946	Composition	Power	The Cook Islands Act 1915 provided for the appointment by the Governor-General of a Resident Commissioner, who, subject to the control of the Minister of Island Territories, was charged with the executive government of the Cook Islands. In most cases the heads of Departments were officials seconded from New Zealand.**
	The Resident Commissioner, ten official members appointed by the Governor-General of New Zealand, ten unofficial members elected annually by the various Island councils from their members.	To make law for the peace, order, and good government of the Territory, but may not appropriate or authorize the expenditure of public revenue. The laws required the assent of the Resident Commissioner and might be disallowed in whole or in part by the Governor-General of New Zealand within one year from the date of assent.	
1954-55	Select committees were set up for taxation and agriculture.***		

* New Zealand Department of Island Territories: Report on the Cook, Niue and Tokelau Islands, 1953. (hereafter cited as Report), P. 13.

** Id., p.9.

***Report, 1955, p. 16.

Continued Legislative		Executive				
1955-56	<table border="1"> <thead> <tr> <th>Composition</th> <th>Power</th> </tr> </thead> <tbody> <tr> <td colspan="2">Five standing committees (Agriculture and co-operatives, Education, Health, Public works, and Finance) were set up to enable the unofficial members to become acquainted with Administration problems and to provide a means of contact between the principal legislative body and the administration. *</td> </tr> </tbody> </table>	Composition	Power	Five standing committees (Agriculture and co-operatives, Education, Health, Public works, and Finance) were set up to enable the unofficial members to become acquainted with Administration problems and to provide a means of contact between the principal legislative body and the administration. *		
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* Report, 1956, p. 16.

continued	Legislative		Executive
	Composition	Power	
1957	Another standing Committee-Housing and Social development-was established.*		and not more than eight other members who might be elected members of the Legislative Assembly or employees of the Cook Islands Public Service appointed by the Resident Commissioner**
1958	First election for the Legislative Assembly was held on 15 Oct. 1958.		
1962		As of April 1962, the Legislative Assembly assumed full control of expenditure of the subsidy money provided by the New Zealand Government.	The Cook Islands Amendment Act 1962 provided a new Executive Committee consisting of the Resident Commissioner, the Secretary to the Government, the Treasurer, and not more than seven members chosen by the Legislative Assembly from its elected members, The Secretary to the Gov-

* Report, 1958, pp. 13-14. The Act came fully into force in 1959. These changes were made due to the recommendations of a constitutional expert.

** Id., p. 12.

continued	Legislative		Executive
	Composition	Power	
1962			ernment and the Treasurer were added at the request of the Assembly members.* The same act provided for the Committee to execute any of the Resident Commissioner's powers and functions delegated to it, and to report and make recommendations on any matter referred to the Committee by the Legislative Assembly. It also provided that the presiding member should only be entitled to vote in the case of an equality of votes amongst the members.**
1963			Three constitutional advisors recommended a change in the Executive Committee. A leader of Government Business was elected by the Legislative Assembly from among its members. The leader in turn selected

* Report 1964, p. 11.

** Id.

continued	Legislative		Executive
1963	Composition	Power	four others to form the newly constituted Executive Committee. Whereas the previous Executive Committee was collectively responsible for all functions of government, the new Committee was allocated direct responsibility for the administration of groups of Government Departments.*
1965	<p>A new Legislative Assembly was elected in 1965 composed of 22 members elected by universal suffrage with a common roll for Maoris and Europeans. The Legislative Assembly adopted a constitution which established an association with New Zealand. From then on, the governing institution of the Cook Islanders would be responsible for its own affairs except in external affairs and defense. The new Constitution came into force on 4 Aug. 1965.</p> <p>In resolution 2064(XX) adopted on 16 Dec. 1965, the General Assembly took note of the new constitution, exempted New Zealand from the obligation to transmit information under Article 73c of the Charter and reaffirmed the responsibility of the UN to assist the people of the Cook Islands in the eventual achievement of full independence, if they so wished at a future date.</p>		

* Id., p. 12.

NOTES

1. Article 73b of the United Nations Charter.
2. For a detailed study on the adoption of the Declaration, see David A. Kay, *The New Nations in the United Nations, 1960-1967* (New York: Columbia University Press, 1970), pp. 150-172.
3. The official name of the Special Committee is the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples. It is customarily called the Committee of Twenty-Four. When it was established in 1961, the membership was 17, including 8 Afro-Asian states (Cambodia, Ethiopia, India, Madagascar, Mali, Syria, Tanganyika, Tunisia), 4 Western states (Australia, Italy, U. K., U. S.), 2 Soviet bloc countries (Poland, Soviet Union), 2 Latin American countries (Uruguay, Venezuela), and Yugoslavia. In 1962, 7 new members--Iran, Iraq, Ivory Coast, Sierra Leone, Denmark, Bulgaria, and Chile--were added to the Committee. There have been minor changes of membership afterwards. However, the three administering powers on the Committee--Australia, U. K., U. S.--withdrew in 1970-1971.

In 1964, the Special Committee decided to establish three sub-committees of 8 members each (one had only 7 members because Britain decided not to be a formal member of any such sub-committee) to deal with the small territories scattered a-

- round the world. However, the final decision rested with the full Committee.
4. These are the sub-Committee on the Situation in Angola, the United Nations Special Committee on South West Africa, and the Special Committee on the Territories under Portuguese Administration. They were discontinued in 1962. The Committee on Information was dissolved in 1963.
 5. UN Doc. A/5962, "Report of the United Nations Representative for the Supervision of the Elections in the Cook Islands" (20 Aug. 1965), paras. 20-26.
 6. New Zealand Department of Island Territories, *Report on the Cook, Niue, and Tokelau Islands, 1964-1965*, p. 24. For instance, in the year 1955-1956, the revenue obtained in the Territory was 295,021 pounds, and subsidies and grants from New Zealand were 294,243 pounds. The figures for 1964-1965 were 806,937 and 809,300 respectively.
 7. A/5962, paras. 163-168.
 8. For these developments, see annex.
 9. A/AC. 109/SR.244 (15 April 1964), pp. 4-5.
 10. Id., p. 6.
 11. Id.
 12. A/AC. 109/SC. 3/SR.2 (21 April 1964), pp. 3-5.
 13. Id., p. 9 (Iraq); A/AC. 109/SC. 3/SR.3, p.5 (Chile); id., p. 6 (Sierra Leone).
 14. Mr. Coloridge-Taylor (Sierra Leone), A/AC. 109/SC. 3/SR. 3 (21 April 1964), p. 6; Mr. Smiganowski (Poland), id., p. 12. In 1963, the Cook Islands Legislative Assembly included 14 members elected by universal adult suffrage, 7 elected by

various island councils, themselves elected bodies, 1 elected by European electors under universal suffrage, and 4 officials appointed by the New Zealand Resident Commissioner.

15. A/AC. 109/SC. 3/SR. 14 (22 June 1964), p. 6, 7.
16. A/AC. 109/SC. 3/SR. 11, p. 7.
17. A/AC. 109/SC. 3/SR. 14, p. 6.
18. A/AC. 109/L. 136, para. 39.
19. A/AC. 109/SR. 304(9Nov. 1964), p. 13.
20. A/AC. 109/L. 136, para. 44.
21. A/5800/Rev. 1, Ch. XV, para. 112.
22. A/5880.
23. The United Nations did not Speak in one voice in this case. Australia, France, Great Britain, and the United States sent similar letters to the Secretary-General expressing the opinion that their governments accepted the proposal but considered that the circumstances of this case did not constitute a precedent by which administering authorities needed to be guided in similar cases elsewhere. (A/5893, A/5907, A/5894, A/5898). On the other hand, the Soviet Union opposed the dispatch of such a Mission unless " the situation in those islands is carefully examined in the General Assembly with the participation of representatives of the indigenous population and conditions are worked out that would ensure a genuine expression of the will of the population of the Cook Islands." (A/5885, 16 Feb. 1965)
24. A/5962, para. 14.
25. Ibid., para. 108.
26. Id., para. 105.

27. Id., para. 47.
28. Id., paras. 129-136.
29. Id., para. 112.
30. Id., para. 137.
31. Id., paras. 113, 115.
32. Id., paras. 113-120, 125-126.
33. Id., para. 314.
34. Id., paras. 334-344, 357.
35. A/AC. 109/SR. 375 (23 August 1965), p. 6.
36. A/AC. 109/SR. 378 (26 Aug. 1965), pp. 5-8.
37. For instance, see the remarks of the delegates of Mali and Italy in A/AC. 109/SR. 375, 378-80.
38. This paragraph states that " immediate steps shall be taken, in trust and non-self-governing territories and all other territories which have not yet attained independence , to transfer all powers to the people of those territories ..."
39. A/AC. 109/SR. 379 (26 August 1965), p. 8.
40. A/AC. 109/SR. 382 (30 Aug. 1965), p. 5.
41. A/AC. 109/L. 246 and Add. 1 (27 Aug. 1965). Sponsored by Ethiopia, India, Iran, Iraq, Ivory Coast, Madagascar, Mali, Sierra Leone, Syria, Tunisia, Tanzania, Uruguay, and Yugoslavia.
42. A/AC. 109/SR. 381 (27 Aug. 1965), p. 3.
43. Id., p. 6.
44. A/AC. 109/SR. 382 (30 Aug. 1965), pp. 8-9.
45. A/C. 4/L. 811/Rev. 1 and Corr. 1 and Add. 1 (8 Oct. 1965). Later sponsored by Congo (Democratic Republic of), Guinea, Mauritania, Morocco, Nepal, Niger, Nigeria, Pakistan, the

Philippines, Rwanda, Togo and Zambia.

46. See the speeches made by the representatives of Ceylon, the Philippines, Iraq, India and Guinea in A/C. 4/SR. 1579 and 1580 (8 Dec. 1965).
47. A/C. 4/SR. 1561 (18 Nov. 1965), paras. 9-13.
48. Statement in the 1579th meeting of the Fourth Committee, later issued as A/C. 4/662. Emphasis added.
49. Later issued as A/C. 4/663.
50. The vote on the Ghanaian amendment (A/C. 4/L. 815) was as follows: In favor: Algeria, Bulgaria, Byelorussian SSR, Cameroon, Congo (Brazzaville), Congo (Democratic Republic of), Cuba, Cyprus, Czechoslovakia, Dahomey, Ghana, Hungary, Kenya, Mongolia, Poland, Romania, Somalia, Sudan, Syria, Tunisia, Uganda, Ukrainian SSR, USSR, UAR, Tanzania, Yemen, Yugoslavia, and Zambia.
- Against: Australia, Austria, Belgium, Canada, Ceylon, China, Denmark, Finland, France, Greece, Ireland, Italy, Jamaica, Japan, Liberia, Malaysia, Nepal, Netherlands, New Zealand, Nigeria, Norway, Pakistan, Philippines, Rwanda, South Africa, Spain, Sweden, Thailand, and Turkey.
- Abstaining: Afghanistan, Argentina, Bolivia, Brazil, Burma, Central African Republic, Chad, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Ethiopia, Guatemala, Guinea, Honduras, India, Iran, Iraq, Israel, Ivory Coast, Jordan, Kuwait, Libya, Madagascar, Malawi, Mali, Mauritania, Mexico, Morocco, Niger, Panama, Peru, Portugal, Saudi Arabia, Senegal, Sierra Leone, Togo, United Kingdom, United States, Upper Volta, Uruguay, and Venezuela. (A/C. 4/SR. 1580 (8 Dec. 1965), para. 60).

51. Those who abstained make interesting company. They are Algeria, Australia, Bulgaria, Byelorussian SSR, Congo (Brazzaville), Congo (Democratic Republic of), Cuba, Czechoslovakia, France, Ghana, Hungary, Kenya, Mongolia, Poland, Portugal, Romania, Senegal, Somalia, South Africa, Sudan, Syria, Trinidad and Tobago, Tunisia, Uganda, Ukrainian SSR, USSR, United Kingdom, United States and Yemen. (A/PV. 1398 (16 Dec. 1965), para. 107.)
52. A/5962, para. 179.
53. Ibid., para. 180.
Id., para. 181.
55. Id., para. 182.
56. A/AC. 109/SR. 375, p. 4.