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A HOUSEWARMING GIFT?

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Executive Summary

As a piece of land, Hans Island has next to no economic value. It is unpopulated and uninhabitable, and measures only 1.3km². Yet, it has become a point of contention between Canada and Denmark/Greenland, with both sides claiming sovereignty. No country relishes surrendering sovereignty over territory and resolving the dispute has been made more difficult by upsurge in popular interest in Arctic sovereignty, fueled by a changing climate and the widespread understanding that the Arctic is now more valuable and important than ever. Under the spotlight of public scrutiny, the dispute has moved beyond practical questions of national interest to becoming a litmus test for the Canadian government’s commitment to safeguarding its Arctic sovereignty.

This paper suggests a solution based on the understanding that the biggest hurdle to resolving the dispute is not the states’ desire to keep the territory, but their fear of being seen losing it. In seeking a solution to the impasse, it is therefore important to keep in mind what is really at stake – political face. To avoid such a loss, we suggest that Hans Island be given to Greenland. Such a gesture, if managed properly, would eliminate the political nuisance while buttressing Canada’s international reputation and improving the increasingly important relationship with Greenland.
HANS ISLAND: A HOUSEWARMING GIFT?

Adam Lajeunesse & Heather Exner-Pirot

Last month, Canada and the Kingdom of Denmark agreed to form a Joint Commission to resolve the sovereignty dispute over Hans Island, also known as Tartupaluk. Hans Island is a tiny rock in the middle of Nares Strait, separating Ellesmere Island from northern Greenland. It has been a legal point of contention between Canada and Denmark since 1973 but became a political one in the past 15 years, with the question of sovereignty over the small rock making more waves than its small stature could justify.

Seen as an amusing curiosity by some and a real threat to Arctic sovereignty by others, contention over the island was elevated in 2002 by Arctic expert Rob Huebert, who stirred the proverbial pot with an article in the Globe and Mail warning Canada that the Vikings were back and coming for Hans Island. In the years since that editorial triggered the public’s interest, the issue has garnered a level of attention far out of proportion to the island’s size or importance. This attention, in turn, made resolving the matter more difficult. Under the spotlight of public scrutiny, this dispute moved beyond practical questions of national interest to become a litmus test for the Canadian government’s commitment to safeguarding its Arctic sovereignty.

Does the striking of a Joint Commission signal the beginning of the end for this manufactured sovereignty crisis, the last chunk of land still unsettled in the Arctic? This brief provides an overview of what is, and isn’t, at stake with Hans Island, and suggests possible solutions to the dispute. Our recommendation is for Canada to gift Hans Island to Greenland and the Kingdom of Denmark in an act of magnanimity that would bolster its brand without any real cost.

The Origins of the Hans Island Dispute

As a piece of land, Hans Island has next to no value. It is unpopulated (and uninhabitable), measuring 1.3 square kilometres. It was only in 1973 that the Danish and Canadian governments
even realized that there was anything to dispute, when diplomats from the two nations discovered that the island sat precisely in the middle of the line then being drawn to divide the continental shelf and maritime boundary between Canada and Greenland. Its trivial importance was aptly demonstrated by negotiators’ decision to simply draw the maritime boundary up to the low-water mark on one side of Hans Island and continued from the low-water mark on the other – comfortably ignoring the island itself.²

In seeking a solution to the impasse it is therefore important to keep in mind what is really at stake – political face. Neither Canada nor Denmark is necessarily committed to ‘winning’ the dispute, since there is really very little to win; rather, what matters most is that they are not perceived to have ‘lost.’ As such, it has been extraordinarily difficult for either party to surrender, divide, or share Hans Island – since that would entail an unacceptable loss of sovereignty by one or both governments. Paradoxically, the only practical path to avoiding any such surrender might be to simply give the island away.

In recent years certain commentators have tried to portray the dispute in broader terms to vest it with an inappropriate significance. Claims that ownership of the island will affect transit, fishing, or resource rights in the surrounding waters are mistaken.³ The division of the maritime realm in 1973 settled the question of offshore resources and ownership of the island will not affect that agreement. The same holds true for transit rights. Since Nares Strait is bordered by both Canada and Greenland it cannot be claimed as internal waters similar to what Canada claims within the Arctic Archipelago. The right of innocent passage applies – a right which neither Canada nor Denmark has ever disputed.⁴ That Hans Island might somehow affect broader questions of national sovereignty in Greenland or the Canadian Arctic is likewise mistaken, given the fundamental differences between the issues of terrestrial sovereignty at stake here and the question of maritime sovereignty within the Northwest Passage or seabed rights in the Arctic Ocean.⁵

Hans Island’s value lies in the mere fact that it exists and that the two countries both claim it as part of their national territory. Surrendering sovereign territory has always been anathema to governments and is normally only something achieved through war or extreme coercion. Compromising on this point is always difficult since the idea of ceding territory engenders a confrontational attitude and limits opportunities for constructive diplomacy. For politicians, a compromise on the question of sovereignty threatens to create an image of weakness by
demonstrating a lack of resolve. And, the more public the dispute becomes, the more difficult is the resolution. The matter of Hans Island has only been made more challenging over the past decade by the upsurge in popular interest in Arctic sovereignty, fueled by a changing climate and the widespread understanding that the Arctic is now more valuable and important than ever.

To demonstrate their claims to Hans Island both Canada and Denmark have engaged in the kind of political theatre that calls to mind Russia’s 2007 flag planting at the North Pole. In 2002 and 2003 crew from the Danish warships *Vædderen* and *Triton* landed on Hans Island to raise their flag. These operations played a role in strengthening the Danish government’s nationalist credentials in the run up to their 2005 general election. Canadian behaviour followed a similar path. In 2005, under siege from the Conservative party for his failure to “stand up for Arctic sovereignty,” Liberal Prime Minister Paul Martin sent Canadian soldiers to replace the Danish flag with a Canadian one. This operation was followed shortly thereafter by a visit by the Canadian Minister of National Defence. Each time a new flag was erected and a new bottle of symbolic booze left in a cairn – akvavit from the Danes and whiskey from the Canadians.

In the summer of 2005 both countries agreed to halt these activities, which were seen as damaging relations for no apparent purpose. A joint declaration was issued in an effort to push the matter aside and calm the atmosphere, it read: “we have decided that, without prejudice to our respective legal claims, we will inform each other of activities related to Hans Island. Likewise, all contact by either side with Hans Island will be carried out in a low key and restrained manner.” Since that time the dispute has been well managed, though still intractable. In fact, a number of practical solutions have been offered without any result. Michael Byers, an Arctic legal scholar, has suggested for instance that the island could either be split down the middle, or possibly even shared as a condominium – with administrative responsibility alternating between Ottawa and Copenhagen. These ideas have failed to produce a political settlement, largely because they would still require Canada and Denmark (or both) to surrender national terrain and admit that their original claims were exaggerated.

That need to avoid paying a political price by maintaining an unyielding position on such matters is well understood. In 2012 historian Whitney Lackenbauer explained that “the political complexities of making an announcement [regarding a compromise] are, in many ways, much more complicated than settling the actual territorial dispute … Both governments publicly staked
their sovereignty claims.\textsuperscript{10} Michael Byers expressed a similar view in his 2009 book \textit{Who Owns the Arctic?}, noting that both countries are loathe to accept the domestic political backlash of losing sovereignty, either in court or through any sort of deal.\textsuperscript{11} Rob Huebert likewise agrees, pointing out that there would be a clear “political cost to stand up and say: we’ve surrendered a little bit.”\textsuperscript{12}

\textbf{Resolving Hans Island}

Of all possible outcomes to resolving the issue of sovereignty over Hans Island, three are most likely:

1. The island is divided equally, connecting the dots of the existing maritime boundary points articulated in the Nares Strait by Canada and Denmark in 1973 (see Figure 1);
2. The island is established as an International Park, held in trust by both Canada and the Kingdom of Denmark in consultation with the Inuit Circumpolar Council, and off limits to development or military activity; or
3. The island is gifted by one or the other country, with all rights ceded.

\textit{Figure 1 Hans Island Delimitation Boundary. Source: Andy Proehl, Flickr}
It is our recommendation that Canada consider gifting Hans Island to the people of Greenland, choosing an occasion that honours the island and its people. The 10th anniversary of Greenlandic Self Rule, which will be celebrated on June 12, 2019, would be suitable. Or, in the event that the Greenlandic independence movement progresses faster than expected, Canada might choose to make a house-warming present of Hans Island.

The Advantages of Giving it Away

The benefits of such an approach should be obvious. Canada would get widespread acclaim for a gregarious act. Popular memes on social media already commend Canada and Denmark for waging the “politest war” and the “cutest dispute” in the world, with exchanges of schnapps and whiskey instead of blows to claim the territory. The announcement of a gifting of the Arctic island would reinforce Canada’s image as peaceable, friendly and noble. It would also deflate narratives of the Arctic as a region of competition and conflict.

The symbolism of the gesture would also act as a sign of reconciliation. Gifting Hans Island in symbolic recognition of Greenlandic self-determination would be consistent with the Trudeau Liberals’ objective of improving its relationship with Indigenous people. It could and would need to be done alongside Inuit Tapiriit Kanatami and the Government of Nunavut, but in so doing would provide an internationally precedent-setting gesture.

On a practical level, improved Canadian-Danish/Greenlandic relations would facilitate cooperation in monitoring and managing the shipment of resources. While Greenland’s initial hopes for an offshore oil and gas bonanza, have faded since the optimistic days of the early 2010s its mining industry shows signs of long-term growth. Greenland now has two producing mines and seven projects described by the government in Nuuk as in the “advanced exploration” phase. All of these projects are on the coast, opposite Canadian territory. Likewise, the transportation of Canadian resources will be of interest to the Greenlandic government. Baffinland is already shipping iron ore from its Mary River mine on Baffin Island, through Baffin Bay along the Greenlandic coast to markets in the south. Search and Rescue, disaster response, and environmental protection would benefit from a cooperative approach and that cooperation stems


from mutual trust. This is not to say that a friendly relationship would be impossible without a transfer of Hans Island – far from it. However, it would be an excellent way to buttress that relationship, which has long been under prioritized.

**Selling the Arrangement**

Critical to understanding the benefits of such a scheme is recognizing the political differences between *giving* and *losing*. In losing sovereignty, either through negotiation or arbitration, a government can (and in this case probably would) appear weak. At the very least it would offer political opponents grounds to accuse the government of being either unable or unwilling to guard the national interest. Even if surrendering sovereignty over Hans Island was actually in the national interest, it would be very difficult to convey that interpretation effectively during an election. The optics of giving, on the other hand, can be very different, since the government could present the action as that of a strong and generous partner. On the issue of sovereignty, Canada would only reinforce its long-held position: that the island was its to begin with. After all, in order to give something away, one must first possess it.

The model for such a gift comes from Canada’s Arctic neighbours, Finland and Norway. A viral 2016 Facebook campaign called on Norway to gift Finland the 4,480-foot-high Mount Halti on the occasion of its 100th birthday in 2017, making it Finland’s highest point and moving Norway’s border back 31 meters in the process. It was a clever idea that enjoyed popular support in Norway, but ran up against the Norwegian constitution, which stipulates that the Kingdom of Norway is “indivisible and inalienable” and was shelved.14 The Canadian Constitution would not seem to preclude the gifting of Hans Island in the same way.

Selling the arrangement to the Canadian public would not be a perfectly straightforward matter; however, the reaction to giving the island away would almost certainly be more positive than any legal compromise proffered by the Joint Commission. Relations between the two Arctic states, as well as Nunavut and Greenland, would be bolstered. Both Canada and Denmark would reinforce their reputations as responsible and generous nations, and an aggravating foreign policy irritant would be dislodged from the sides of the two Foreign Ministries. Acknowledgement and respect for Inuit self-determination would be highlighted on an international stage. Most
importantly, this arrangement would avoid the loss of face which both governments clearly fear. It is an unorthodox idea, but sometimes those are the best kind.

Notes

4 Michael Byers, International Law and the Arctic, 162.
6 Michael Byers, Who Owns the Arctic? (Medeira Park: Douglas & McIntyre, 2009), 27.
8 Canada and Denmark, “Joint Statement on Hans Island” (September 25, 2005).
9 Byers, Who Owns the Arctic? 29-30.
10 Adrian Humphreys, “New Proposal would see Hans Island Split Equally between Canada and Denmark,” National Post (April 11, 2012)
11 Byers, Who Owns the Arctic? 29.
12 Humphreys, “New Proposal would see Hans Island Split Equally between Canada and Denmark.”
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