

# **Privileges, Rights and Advantages: Inuit, Danish, and European Subjects in the Making**

Hanne Petersen

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## 1 A Privileged Time

In March 1998 I bought a book in the only bookshop in Nuuk, the capital of Greenland. It was written or edited by the husband of the most famous contemporary Greenlandic artist, Aka Høegh, born in 1947, who might actually be called the national artist of Greenland.<sup>1</sup>

Her husband, Ivars Silis, is an engineer, who was born in 1940 in Riga. His parents fled from Latvia to Denmark in 1944, and he didn't see Latvia again until 1985. He grew up in Denmark and was trained as an engineer. After having worked for 3 years as a geophysicist he specialised in polar expeditions and polar photography and has since worked as a photographer, writer and TV-producer. In 1976 he married Aka Høegh, and now lives in Qaqortoq, Southern Greenland.

The book I bought was published in 1992 and was called "Letters from Latvia" consisting of about 22 letters written to Ivars Silis by a Latvian woman in the period from 1988 – 1992. Ivars Silis was presenting his books in the bookshop and signed them, and in the copy I bought, he wrote: "Hanne, we do live in a privileged time".

I remember being a bit puzzled by this dedication. In some way I agreed with this description of our time and period as "privileged", but it was also surprising and somewhat unfamiliar to me. However, after further reflections, I do think that Silis is right – both the Arctic peoples – the Inuit or human beings – and the Baltic peoples have experienced "privileged times" around the turn of the millennium. Not necessarily unproblematic times – but times of rapid and big changes over the last decades. I also think Silis' use of the concept of *privilege* indicates both continuity and change in Europe and the Arctic.

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1 Several of the thoughts on privilege and citizenship presented in this article have been developed in relation to my work with an EU research project on "*Gender Relations in Europe at the Turn of the Millennium. Women as Subjects in Marriage and Migration*". They are described in a different context in my article "*Transformations of Legal Subjectivity in Europe: From the Subjection of Women to Privileged Subjects*", in Passerini et al. (eds): *Women Migrants from East to West: Gender, mobility and belonging in contemporary Europe*. Berghahn 2007.

From 1995-1999 I was professor of law and legal sociology at Ilisimatusarfik, University of Greenland in Nuuk, where I lived. In the period from 2001-2006 I obtained a research professorship at the University of Copenhagen in *Greenlandic Sociology of Law*. This was the first professorship in territorial law within the Danish Realm ever. It was financed by a joint Danish and Greenlandic Research Committee. The sources for this article are further based on my experience and research during these periods.

## 2 The “Devolution” of the “Danish Empire” and the Situation of Greenland

Greenland was “re-christened” by the Norwegian/Danish minister and theologian Hans Egede in 1721. He went to Greenland together with a commercial company from Bergen which had been granted a legal monopoly on trade in Greenland by the absolutist Danish king.

At that time Denmark/Norway and the original dependencies of Norway: Iceland, the Faroe Islands and Greenland, together with the Duchies of Schleswig-Holstein still made up an empire. Denmark, Norway and Sweden had formed the so-called Kalmar Union under the first female ruler, Queen Margrethe the First in 1380. The Union with Sweden lasted only until 1464, whereas the Union with Norway continued until 1814.

In a peace-treaty in 1814 – after the Napoleonic wars – the king of the double monarchy of Norway, and Denmark, was forced to surrender Norway. The text of the second part of the 4<sup>th</sup> article of the treaty had the following wording:

“These bishoprics, dioceses, and provinces which make up all of the kingdom of Norway, including all its inhabitants, cities, ports, fortresses, villages and islands on all coasts of this Kingdom, as well as the dependencies belonging to it – Greenland, the Faroe Islands and Iceland not included in these – as well as all privileges, rights and advantages, should in the future belong to His Majesty the King of Sweden with full property rights and sovereignty, and form a united Kingdom together with the Swedish Kingdom.” (my translation, here quoted from Petersen, 2003 : 195.)

When the Danish absolute monarchy was substituted by a constitutional monarchy in 1849 the political rights and voting rights given to the three “dependencies” differed. Iceland was secured by a solemn royal promise that its constitutional status should not be decided upon, before its own assembly has been enquired. The Faroe Islands were secured two representatives in both chambers, and Greenland and the Virgin Islands none (Debes, 2001 : 90). After the wars in 1864 and 1866 the Duchies of Schleswig-Holstein were lost to Prussia. In 1917 the Virgin Islands were sold to the USA, and what was left as a “dependency” was Greenland. In the beginning of the 1930s a court case at the International Court of Justice in the Hague took place between Denmark and Greenland about issues of sovereignty over Eastern Greenland. The court decided in favour of Danish sovereignty in 1933.

After World War II the period of decolonization took off. Greenland had been placed on the UN list of colonies much to the dissatisfaction of Danish governments, and diplomatic energies were mobilized in order to change this status (Petersen, 1998). This happened with the partial change of the Danish constitution in 1953, when Greenland was integrated as an equal part of the Danish Realm - on par with the Faroe Islands and other “counties”.

This of course also meant that Greenlanders got Danish citizenship and voting rights. Both Greenland and the Faroe Islands were guaranteed two seats in the Parliament, where the senate had also been abandoned with the

constitutional changes of 1953. After 1953 Greenland embarked upon a process of modernization, which by Greenlanders has often been called “*Danization*”.

This development gave rise to great and accumulated dissatisfaction in Greenland, which grew even more, when in 1973 Greenland was forced to become member of the European Community, since a slight majority of the Danish Realm had voted in favour of membership. The dissatisfaction was underlined by the fact that the Faroe Islands, which had gotten Home Rule in 1948, had a special referendum, which was negative against EEC-membership, and which allowed them to stay outside.

In 1975 negotiations started in a joint Greenlandic and Danish Home Rule Committee, and Home Rule was introduced by an act by the Danish Parliament No. 577 of 29 November 1978, which came into effect on May 1, 1979, giving Greenland the status of a “distinct community within the Kingdom of Denmark”. As a very unusual thing, the act has a preamble, and this and the procedures relating to the decision on the act have been used as arguments for its special status, indicating that it may not be changed by simple majority in the Danish Folketing.

“We, Margrethe the Second, by the Grace of God Queen of Denmark make it known:

Recognizing the exceptional position which Greenland occupies within the Realm nationally, culturally and geographically, the Folketing has in conformity with the decision of the Greenland Provincial Council passed and We by Our Royal Assent conformed the following Act about the constitutional position of Greenland within the Realm”.

After Greenland finally got Home Rule, Greenlanders and the Danish Department of Foreign Affairs immediately began negotiations about Greenland’s withdrawal from the EEC, and in 1985 Greenland left as the only country ever.

Thus the Danish Realm as it is called in the Act now consists of three territories of very different size, language, living conditions and population size, as well as of different legal relations to the rest of the world. Where Denmark proper is member of the European Union – which is expanding and integrating dramatically at the turn of the millennium – the two other parts are not members.

The legal situation of the Home Rule government is described in one of the most useful publications about Greenland, Statistics Greenland 1997 in the following way:

“Home Rule is the designation of the entire scheme which has given the population of Greenland both a right and an obligation to govern its own affairs. At the same time, Greenland is still part of the Danish Realm, which comprises Denmark, Greenland and the Faeroe Islands. The Danish constitution applies both in Denmark and Greenland, and it confers on the Danish Parliament all rights to legislate. By introducing the Home Rule, the Danish Parliament waived its right to legislate for Greenland. The fundamental principle of the Home Rule is that the administration of local matters and matters of local interests are the responsibility of the Greenland authorities, while matters of more general nature are the responsibility of the central administration in Denmark.

As a consequence of the unity of the Danish Realm, the following areas cannot (yet – HP) be transferred to The Greenland Home Rule Government:

- the constitution of the State, including the supreme government authorities, rights of franchise and eligibility to the Danish Parliament, the administration of justice and the rights of freedom
- the concepts of citizenship, passports, visas, emblems of state,
- foreign policy and defence
- the finances of the Realm, Denmark's central Bank and its functions, monetary and foreign exchange policies,
- the general principles of law of capacity, family law, inheritance law and the law of property, and
- criminal justice administration, prisons service”.

Since a special legal Faroese or Greenlandic citizenship does not exist – even though in both societies Home Rule is expanding to more self-determination – Faroese and Greenlandic individuals have Danish citizenship, and as such they may enjoy the privileges of EU-citizenship if they are residents in Denmark. And because of the relationship within the Danish Realm, they are free to move both within Denmark and in the EU.

### **3 Differential Rights and Multiple Identities – Subjects in Process in the Conglomerate State of Denmark, Greenland and the Faroe Islands**

This is – or at least it seems to be - a special legal construction. Two numerically very small populations (Greenland: about 55.000; Faroe Islands: about 45.000) inhabit a territorially considerable part of the Danish Realm – especially Greenland. The populations have collective and regional territorial rights, and individuals have certain national rights as well as local, regional and trans-national rights. Greenlandic Inuit people seem to be an example of carriers of what has been called *multiple identities* and performers of *postcolonial identity politics*.

During the academic years from 1995-1999 I taught at the University of Greenland, Ilisimatusarfik in Nuuk, where I also lived. My Greenlandic students would sometimes describe themselves as world citizens, Greenlanders, Inuit, Indigenous peoples, people from Nuuk, Sisimiut, Maniitsoq or one of the other small cities along the coast line, where people celebrate local patriotism. They would legally be able to use a special Greenlandic passport, although no legal Greenlandic citizenship exists; they could also carry a Danish passport, which would provide them with the same rights as other EU-citizens when travelling in the world, and if they take up residence in Denmark they also enjoy rights as other EU-citizens if they want to live, study and work in other EU-countries. They thus have and have access to a legally differentiated citizenship, which gives privileged access to EU-countries, even though they live in a non-EU country.

You may say that in legal terms Faroese and Greenlanders enjoy special legal rights – *privileges* – which are considered legitimate special rights in a

multicultural world and society, where some differences give rise to politically and legally accepted differential treatment. This does not mean that all kinds of differential treatment are legitimate however. Differences between men and women have become very de-legitimized over the last decades in the Nordic countries. In this area, it seems that earlier gender based privileges are being dismantled.

Harald Gustafsson is a Swedish professor of history at the University of Lund – a part of Sweden, which was until 1658 part of the Danish empire. In 1998 he wrote a very interesting article "*The Conglomerate State: A Perspective on State Formation in Early Modern Europe*". According to Gustafsson the dominant type of state in early Europe may be called the conglomerate state:

"It was a state composed of territories standing in different relations to their rulers, a state where the rulers found themselves in different relations to different parts of their domains. It was a political, judicial and administrative mosaic, rather than a modern unitary state. But it was a mosaic that was kept together more tightly than its medieval forerunner" (Gustafsson 1998 :189).

Europe was characterized by a great variation of state forms, as described by another historian, Tilly, whom Gustafsson quotes:

"Empires, city-states, federations of cities, networks of landlords, churches, religious orders, leagues of pirates, warrior bands, and many other forms of governance prevailed in some parts of Europe at various times over the last thousand years." (Gustafsson, 1998:193)

Conglomerate states consisted of a number of different territories, which often were brought together by a ruling house or kingdom. The social elite of each territory had a specific relation to the ruler and had its own privileges, its own laws and its own administrative system recruited amongst the local elite and often also amongst the local estate council. Within the conglomerate state many different languages were spoken, and the state consisted of territories of very different character from highly urbanized and commercialized to more rural areas. There was not always one word for the state . (Gustafsson, 1998 :195).

Gustafsson also quotes the Irish historian, Olwen Hufton, who taught at the European University Institute in the 1990s. She writes that "the history of western European government from the Middle Ages onwards had been of a central authority seeking to eliminate, as far as possible, intermediary authorities and privileges which questioned central control. Success had been very partial" (Gustafsson, 1998 :201).

Today the term "*conglomerate state*", seems to me again to be a useful term when one wants to describe the present state formation consisting of Denmark-Greenland-Faroe Islands. Before 1849 you might call the state formation a "Danish Empire", but at that time it did still consist of entities with different legal status – a kingdom, duchies, dependencies, the Virgin Islands, which were considered a colony proper. With the introduction of a constitutional monarchy through the constitution it became or was understood as a modern *Danish* nation state. But since WW2 and especially since 1973 when Denmark joined the (then) European Economic Community, which Greenland left, and the Faroese never

joined, the legal situation of the different entities of the conglomerate state have differed. Each entity has its own parliament, government and soon also will have its own judiciary although still with a possibility of appeal to the Supreme Court in Copenhagen.

#### 4 Privilege & Subjecthood

Legally speaking the concept of *privilege* is something we have not used in modern western democracies. With the American and the French revolution legal privileges were gradually abandoned, and the ideal of “*noblesse oblige*” - that a privileged status did also entail obligations - was substituted by ideals of equality and equal rights. Privilege became almost synonymous with illegitimate preferential treatment, with inequality and with reactionary social and legal regimes, with Old Europe in a very old sense. This was the period before Empires were split into nation states and the estate society gave way to class societies and the Soviet Union.

In this Old Europe of Empires, Tsar Regimes, and absolute monarchies humans were *not citizens but subjects* of privileged rulers. They were sub-jected and sub-ordinated to absolutist tsars, kings, princes or dukes. They were “*Untertanen*” in German, “*under-såtter*” in Danish - words which perhaps more clearly indicate the sub-ordinate position than the present understanding of the Latin/English “*subject*”. Political and legal relations were organized hierarchically in societies as in marriage. Men and women were legal subjects with different duties and obligations towards superiors, rulers and each other.

*Privi-leges* were special rights as opposed to but coexisting with general rights. They might be either favourable or unfavourable (*privilegia favorabilia*, *privilegia odiosa*) and could be given to individuals, groups of people or other legal subjects by the sovereign ruler. Originally they were often given because these individuals, institutions or groups carried out specific tasks considered to be of general interest, thus the saying “*noblesse oblige*”. This system with special rights for specifically identified social groups created very complex legal situations. When the Danish jurist, Supreme Court judge and politician Anders Sandøe Ørsted in 1828 published his third volume of his handbook on Danish and Norwegian legal skills, his chapter on “*privileged persons*” took up 107 pages out of 568 pages. Other chapters dealt with citizens of market towns and with peasants (Ørsted, 1828).

#### 5 Equal Rights and Modern Citizenship

With the change in Europe from monarchies to constitutional monarchies, republics and democracies, the legal relationships between authority and subject slowly changed. Loyal subordinates gradually became formal legal citizens of the new and emerging states, and acquired rights. Differential legal treatment was, however, not promptly removed by the new bourgeois democracies. The regime of different (political) rights for men and women as well as for colonizers

and colonized has lasted until about half a century ago in many important European colonial powers such as France.

John Stuart Mill described in 1861 that “the law of the strongest” seemed to be at least partially abandoned at his time:

“We now live – that is to say, one or two of the most advanced nations of the world now live – in a state in which the law of the strongest seems to be entirely abandoned as the regulating principle of the world’s affairs: nobody professes it, and, as regards most of the relations between human beings, nobody is permitted to practice it. When anyone succeeds in doing so, it is under cover of some pretext which gives him the semblance of having some general social interest on his side.” (Mill, 1986 : 12)

This was very much a description of the situation characteristic for aristocratic and bourgeois men in Europe and North America, as the rest of the world was not considered *advanced* in the view of Mill and his contemporaries.

Inhabitants of the European colonies might have been considered subjects of the colonizing King or ruler, but not equal subjects. Their legal status differed as did the moral evaluation. Sometimes they were considered sub-human, sometimes savage, sometimes noble savages in need of civilizations and Christianization. With democratisations of the colonial states, subjects of the colonies did not become citizens of the colonial state, although varied and differentiated regimes of citizenship existed both in the colonies and within the colonial “mother country”.

Most so-called indigenous peoples including the Inuit in Greenland and Canada did not receive *citizenship* until very late – often not until after WWII. In terms of citizenship the “fate” of many European women and indigenous peoples has similarities. This legal and political development was closely related to the change of legal status of the colonial legal subjects in general. The gradual abolishment of colonization and the formal independence of former colonies took place especially after WWII, as is well known. It is less well-known that the fate of indigenous peoples was linked to the decolonisation-movement and to the human rights movement, which gave indigenous peoples special rights in what was then called first world countries.

## 6 Multiple Selves in Complex Legal Contexts

In an article by John Powell on “The Multiple Self” he writes that by rejecting the modern, unitary, stable and transparent self, postmodernism strikes at the very foundation of modern jurisprudence, the legal subject. Modern law has difficulties dealing with the intersectional self, which according to Powell can “*be construed as multiple because it is defined by the intersections of oppression*”. Within an expanding European Union a number of systems of national law coexist together with EU-law and international law as well as with local norms and customs and different legal cultures. This means that the legal context within which the multiple self operates becomes a very complex one.

There is thus complexity both in relation to the postmodern individual herself as well as within the postmodern legal environment in which she operates.

“There are a number of ways that acceptance of a fractured, multiple, and intersectional self would change the way we think about the law. The issue of agency and choice would clearly be altered by moving away from the unitary self.” (Powell, 2003 : netarticle)

When the legal situation of a Greenlander is considered, he or she may as already mentioned be considered as a Greenlander, a Danish citizen, a world citizen, an indigenous person, but s/he may also be perceived as non-white, as Protestant/Christian, or as somebody who is a subject of the Monroe-doctrine, which underlines that the United States will not accept other countries colonizing North America to which Greenland belongs in terms of geographical and military concerns.

Powell uses the concept of subordination, when he speaks about “*subordinate gender and racial status*” and when he writes that “*(If we accept that the self is relational and multiple, our efforts to address oppression must focus upon the privileged as well as the oppressed. From a pragmatic standpoint we must acknowledge that subordination affects the position of the dominant and the dominated.*” (Powell, 2003)

This form of subordination and privilege is not (necessarily) a consequence of formal and legal differences within one national legal system, but may in the cases we are dealing with be the result of intersections and overlappings of a number of different legal systems and cultures. In the EU-European context issues of “whiteness”, religion (Christianity), formal education, and qualifications, as well as economic income may be the markers of privilege.

## **7 Postmodern Privileges and the New Elites**

This presupposes a changing understanding of privilege perhaps along the lines of the development of a changing understanding of the term monopoly. Monopolies were in earlier centuries granted by sovereigns as exclusive legal rights, but today they are mainly understood to originate from contract law in the market. In the same way today’s privileges – special rights - do no longer necessarily only originate in legal rights granted by a sovereign power, be it a monarch or a national or European legislator.

Most contemporary privileges – special rights – will probably originate from combinations of legal rights and different forms of bargaining power of individuals or groups of individuals who may thus produce “negotiated law” in the form of contracts and thus become beneficiaries of market privileges – maybe even beneficiaries of privileges in marriage markets. The increasing focus upon aesthetics and beauty over the last decades indicates that beauty may have again become a stronger marker of privilege besides the other already mentioned markers.

In relation to economic privileges it is obvious that they are not enjoyed by every Greenlander. Since the establishment of Home Rule, Greenlandic society

has seen the emergence of a new economic and political elite, often male, but since the educational level of women is higher than that of men, the presence of women in the elite is also considerable. Family relations may matter more than gender (Munk Christiansen & Togeby, 2003).

## 8 Overlapping and Post-national Legal Regimes

Since Mill wrote his treatise on the subjection of women, the legal status and position of women in European countries has changed radically as has the legal status of indigenous peoples be they Inuit or Sami. However, this is also the case for the status and legal and political situation of the nation states, which less than 200 years ago formally discriminated against women and “primitive” peoples, and sub-ordinated them legally to white men.

Most European states have now become or will soon become subjects to EU law as well as to international law. What is more they have already become subjected to regional and global market regimes as well as strongly influenced by information and communication technology, and this influence is likely to grow. What are the implications of that for indigenous peoples? We probably do not know yet but the European Union seems to show greater interest in indigenous peoples now.

In this process both the human and the institutional legal subject is experiencing plural legal subjectivity. With this plural legal subjectivity an indigenous Greenlandic Inuit or Sami, who may in some cases also be a European wo/man may operate within and across a number of different jurisdictions, and try to negotiate the best legal deal for her/himself. The mobile or migrating subject becomes especially subjected to overlapping legal regimes and to a number of national legal systems. Within a regional economic, legal, and political community, national legal systems and national jurisdictions become systems of rights and duties of specifically marked groups (national citizens) - they become *de facto* *privi-leges* – specific group rights. – If you want to benefit from the special rights which for instance Danish law may offer you, you have today to sign a declaration of loyalty and allegiance, and if you become a “naturalized” Danish citizen, you will find in your passport an image of Christ taken from the Runic Stone at Jelling (a copy of which you will find in Utrecht), which is a symbol of the christening of the Vikings by King Harald Blaatand around 1000 a.d. – This symbolizes that you have become a legal subject to a Christian power. If you are not a Christian yourself, you may in certain situations have difficulties in being granted the favourable special rights of this power, or you may be subjected to disadvantageous special treatment (earlier called *privilegia odiosa*).

However, if you have a good and marketable education, a distinguished income, a strong network and access to other tangible and intangible resources, you will be in a better position to negotiate your legal and social position in relation to public administrations, employers, even spouses, which may altogether secure your social, physical and mental mobility and wellbeing. This goes for both Inuit, Muslim, and other European wo/men in Europe today.

## 9 Connecting Mobile and Privileged Inuit/humans in Stratified Societies?

In the late 1990s one could find an advertisement in the Greenlandic phonebook for mobile phones saying “*Inuit uninnganngillat*” with a Danish translation meaning “*Human beings move*”. The term *inuk* means a human being in singular, and the term *inuit* signifies human beings in plural. The photo showed a friendly looking and smiling man talking on his mobile phone probably in his small boat in a Greenlandic fjord somewhere along the coast on a beautiful summer day - and maybe talking to his little daughter wearing the national dress and talking in her own mobile phone on a small picture in the bottom of the advertisement. The text says “*Keep in close contact through your own mobile*”. The mobile phone is securing (family) contact in Greenland – and making sure that the owner does not miss important messages. Contact and relations matter for multiple selves in home ruled Greenland.

The mobile phone is also establishing contact to a sullen looking stylish, young, white, western woman described as “*instinctively stylish*” in a Nokia commercial in an exclusive looking free Danish Magazine from 2001 with the well known slogan “*connecting people*”. The young woman looks like somebody from what John Stuart Mill called “*the easy classes*”. But whom is she connecting herself to? Is it to the Inuk fisherman or to other members of the “easy classes”? Or is it to business acquaintances, friends or lovers who may or may not be same building, city, country or continent? We do not know. But we do know that mobile phones and other forms of information technology increasingly connect people around the world, and that both producers and owners sometimes want to see themselves and to be seen as subjects connected or belonging to other people - be they “stylish” people, would-be stylish people, or people underlining their ethnic identity through dress or other symbols. “Stylish people”, “ethnic identities” – consumers and communicators - may constitute new collective subjects in a global world, and may even organize as collective *legal* subjects under certain conditions. The young woman is clearly presented as a woman in command, a woman of privilege, but also as an isolated woman. She may be seen as a subject of global “high society” or as a representative of a privileged, mobile and communicating generation? On the contrary the friendly Inuk – the fisherman and human being - is presented as an ordinary man in contact with both the environment and with children. – Privileged post-modern subjects differ and are not identical.

Thus not all white women and not all Inuit belong to the “high society” of Greenland or Europe allowing them to benefit from legal and other privileges in arranging their life including their work relations and love relations. Not all women enjoy the market privileges which the young Nokia-woman clearly seems to enjoy. Not all (Greenlandic or European) men enjoy the privilege of a happy life with close relations to family and friends. Legal mobility combined with economically supported privilege and emotionally satisfying relations of course secures better conditions for indigenous wo/men than does illegal mobility combined with economical and other forms of disadvantage.

Late modernity or contemporary Europe may resemble early modernity – and “Old Europe” - in legal relations more than we think of. We may have left the period of legal subjection of women to men *within* state borders. But we may have returned to – or turned to a (contemporary) form of status society, where some human beings are to a certain extent once again as Mill wrote “*chained down by an inexorable bond to the place they are born to*”, especially if they do not have the economic means to move from that place or the economic means to get access to other attractive places. Others may feel forced to leave in order to survive or escape from ostracism even if they have to live under slave like conditions as illegal immigrants, or under inhuman conditions as drug and alcohol addicts who risk their physical and mental health.

Today’s “legal” subordination not only in Europe seems to take place on the basis of the law of the economically strongest. If a woman and/or an Inuit is economically strong, her legal subjectivity will also be stronger. Economic strength and status and legal status are (again) becoming clearly linked for Inuit who may want to use their legal rights to enjoy EU-citizenship in Europe at the turn of the third millennium.

National immigration law and national marriage law in Europe today seems to be legitimising certain forms of exclusion, and establishing certain forms of differentiated legal status in interaction with market law and market based special rights. Maybe this is an order, which at this period of time is able to create relative peace and order within a multicultural EU with great social and economic division, and increasing religious division, as it was claimed to establish in earlier multicultural empires. It may, however, also contribute to a sense of insecurity and injustice because the transformation of both legal culture(s) and legal regimes which take place produces feelings of powerlessness among big groups including politicians, marginalized and unprivileged groups of citizens and residents and desperate individuals. Some Inuit and indigenous peoples in Greenland may suffer less from the feelings of insecurity since they may still have the advantage of having access to traditions enabling them to handle fear and insecurity in flexible and un-modern ways.

## 10 European Legal Culture in Transformation

Modern European legal culture has been strongly influenced by national legal systems. States have for centuries had a very strong role in lawmaking; laws have been understood as being equally valid for all citizens; laws have been expected to be general and not to give special rights to special groups or individuals; legislation has especially in Northern Europe been understood to be secular; marriage has been assumed to be a voluntary monogamous union between a man and a woman; an assumption that was originally closely tied to Christianity but is increasingly being seen as a cultural assumption (Shah, 2003); legal restrictions on movement from one country to another have been usual, but foreigners (especially foreign women) who have married national men have typically been granted an easier (privileged) access to a national jurisdiction and easier and quicker rights to become a citizen, than have other foreign citizens, who have wanted to settle in the country; the same sometimes goes for legal

subjects of former dependencies or colonial countries; Europeans themselves have typically considered their own social and legal systems as superior to non-European systems perhaps with the exception of American legal culture for some parts of Europe.

If European legal culture and other legal cultures of the globalized 21<sup>st</sup> century will be influenced by legal regimes, where privileges, right, advantages and disadvantages play a much bigger role than they did during most of the 19<sup>th</sup> and 20<sup>th</sup> century, we may have to look to legal theories and concepts of earlier periods in order to find inspiration to conceptualize what we are seeing. If the important legal relations are no longer linked to the city or to the nation-state but to the global village and to the world-market, or to all of these entities together and furthermore to the re-constituted families, then we seem to be in need of new names for ourselves. We're not really citizens anymore, and we may be subjected to nature as much as to nation and emerging empires. Maybe we're all becoming 'nomadic subjects' (Braidotti, 1994)? Or maybe we are just *inuit* who move?

## References

- Braidotti, Rosi, *Nomadic Subjects: Embodiment, and Sexual Difference in Contemporary Feminist Theory*, New York, Columbia University Press 1994.
- Debes, Hans Jacob, *Færingernes land* [Land of the Faroese], Denmark, Multivers 2001.
- Gustafsson, Harald, *The Conglomerate State: A Perspective on State Formation in Early Modern Europe*, In *Scandinavian Journal of History*, 1998 p. 189-213.
- Mill, John Stuart, *The Subjection of Women*, New York, Prometheus Books, Great Books in Philosophy, 1861/1986.
- Munk Christiansen, Peter & Lise Togeby, *Grønlands elite*. In Gorm Winther (ed): *Demokrati og magt i Grønland*, Denmark, Aarhus Universitetsforlag 2003, pp. 80-104.
- Petersen, Hanne, *50 år efter Den Juridiske Ekspedition – Spredte refleksioner over kolonier, køn og ret*. In Peter Blume & Kirsten Ketscher (eds) *Ret og skønsomhed i en overgangstid*. Festskrift til Agnete Weis Bentzon, Copenhagen, Akademisk forlag, 1998.
- Petersen, Hanne, *Magt og myndighed – skift og forandringer*. In Gorm Winther (ed): *Demokrati og magt i Grønland*, Denmark, Aarhus Universitetsforlag 2003, pp. 195-214.
- Petersen, Hanne, *Transformations of Legal Subjectivity in Europe: From the Subjection of Women to Privileged Subjects*, in Passerini et al. (eds): *Women Migrants from East to West: Gender, mobility and belonging in contemporary Europe*. Berghahn 2007, p. 68-83.
- Powell, John, *The Multiple Self: Exploring Between and Beyond Modernity and Postmodernity*, "www.usyd.edu.au/su/social/papers/powell.htm" retrieved 17.01.03.
- Shah, Prakash A. *Attitudes to Polygamy in English Law*. In *International Comparative Law Quarterly*, Vol. 52, April 2003, pp. 369-400.

Silis, Ivars, *Breve fra Letland*, Denmark, mallings 1992.

Ørsted, Anders Sandøe, *Haandbog over den danske og norske Lovkyndighed med stadig Hensyn til Hr. Statsraad og Professor Hurtigkarls Lærebog*, Third Volume, Copenhagen 1828.