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## ***Caribbean Self Determination in the 21<sup>st</sup> Century***

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### **Introduction**

It is my pleasure to be in Curacao, once again, to share some thoughts on the issues of self-determination in the 21<sup>st</sup> Century, specifically as it relates to small island non-independent countries like the Netherlands Antilles – and soon, Curacao as a separate country in the Kingdom. The Caribbean and Pacific are the two regions of the world where most of the non-independent countries are located. Each country has its own unique set of political, constitutional and economic circumstances, and each one is addressing – or in some cases, not addressing - the need for a self-determination process. Self-determination brings with it political maturity. But how do the Caribbean non-independent countries achieve self-determination almost ten years into the 21<sup>st</sup> century? A little bit of history provides important background.

### **An Historical Context**

At the beginning of the 20<sup>th</sup> Century, Europe had many territories in Africa, Asia, the Pacific, Latin America and the Caribbean. The United States, as a newer colonial power, acquired territories such as Guam and the Philippines in the Pacific; along with Cuba and Puerto Rico in the Caribbean after the defeat of Spain in the Spanish-American

War in 1899. The Danish West Indies was later purchased by the United States from Denmark in 1917 for strategic considerations related to World War I.

History has shown that the European powers had strong economic and political interests in this Western Hemisphere. The Dutch in the Netherlands Antilles and Dutch Guiana; the French in Martinique, Guadeloupe and French Guiana; the Portuguese in Brazil; the Spanish in Cuba, part of Hispaniola and most of Latin America; the British in large parts of the English speaking Caribbean. They were all here. The Spanish, Danish and Portuguese ultimately departed as their colonies gained independence. The British, the French, the North Americans and the Dutch remain.

By the end of World War II, the political status of many countries still remained unresolved. An important factor in the creation of the United Nations in 1945 was to determine what was going to happen to the territories which had been acquired by the larger powers – and some smaller powers. This was the beginning of the era of decolonisation. Articles 1 and 55 of the United Nations Charter (1945) give emphasis to the principle of “equal rights and self-determination of peoples.” Three additional chapters of the United Nations Charter were devoted to the dependent territories. There were 72 colonies placed on the United Nations list of non self-governing territories in 1946.

Between 1946 and 1959, eight of these territories became independent. Twenty-one others were removed from the United Nations list because they achieved either a form of autonomy, or because they achieved integration with another country. In this connection, resolutions were adopted by the United Nations General Assembly resulting in the removal of Puerto Rico from the U.N. in 1953 among others during the period. The Netherlands Antilles was removed in 1955.

It is important to note, however, that these and other territories were removed from the U.N. list of non self-governing territories (NSGTs) – some through United Nations resolution, others not – years before full self-government was fully defined by the U.N. in 1960. That year, the U.N. General Assembly adopted two important resolutions which set forth how the process of self-determination and decolonisation was to be achieved for these territories, and which established the parameters for self-government. The first resolution was the Decolonisation Declaration (Resolution 1514) which established the self-determination process leading to decolonisation. This resolution also confirmed that all peoples have a right to self-determination, and emphasised the importance of transferring powers to the territories as a necessary prerequisite before a legitimate act of self-determination can be conducted. When implemented, this mechanism permits the territories to establish their own internal mechanisms such as reasonable voter eligibility criteria for participation in a self-determination referendum.

Eligibility requirements of as little as 30 days for participation in elections prevail in many of the territories, calling into question the legitimacy of any act of self-determination based on such criteria. In such cases, it is difficult to ascertain the actual

views of the people of the territories concerned. Perhaps unsurprisingly, the countries which administer territories have usually ignored transferring powers to the territories as it would not be in the interest of maintaining political control over territories which are becoming exponentially more important for strategic political and economic reasons. There is also insufficient political will on the part of the international community to implement the transfer of powers procedure, while the territories themselves are generally not aware of this course of action. The second companion resolution in 1960 was Resolution 1541 (XV) which defined the three legitimate models of political equality, namely independence, free association and integration. This resolution was extremely important because it established the criteria for deciding whether a territory had become self-governing as a result of any changes that may occur in their political status.

The addition of sixteen newly independent African states to the United Nations in 1960 gave the issue of decolonisation and self-determination greater momentum as the international community, in particular the developing countries, became more vocal on the issue demanding that those 'democratic' countries which administered territories implement their international obligations under the United Nations Charter to bring about democratic governance by accelerating self-determination and decolonisation. Most of the Caribbean territories which became independent between the 1960s and 1980s benefited from this heightened awareness of the majority of the nations of the world. Jamaica and Trinidad and Tobago, for example became independent in 1962, Barbados and Guyana in 1966, the Bahamas in 1973 and Grenada in 1974 following the breakup of the Federation of the West Indies in 1962.

The formation in 1967 of the West Indies Associated States bringing the remaining British colonies under a collective free association political status was put forth by the British as an alternative to independence for the smallest of the territories under their administration. This new arrangement was comprised of the territories of Antigua, Dominica, Grenada, St. Kitts-Nevis-Anguilla, St. Lucia and St. Vincent. The United Nations reviewed the West Indies Associated States, to see if it met the minimum standards of free association contained in Resolution 1541 (XV) of 1960. The UN decided that the West Indies Associated States did not meet the autonomous standard of free association as adopted by the General Assembly because of the retention of inordinate power by the United Kingdom in the new arrangement. This association later dissolved, and the territories became independent beginning with Grenada (1974), as mentioned above, Dominica (1978), St. Lucia (1979), Saint Vincent (1979) Antigua and Barbuda (1981) and Saint Kitts and Nevis (1983).

By the middle 1980s, there were eighteen remaining territories formally listed by the United Nations as non self-governing territories. Most of them were in the Caribbean and Pacific: Bermuda, Turks and Caicos Islands, Cayman Islands, Montserrat, Anguilla and the British Virgin Islands under British administration, and the US Virgin Islands under United States jurisdiction.

With the independence of Namibia at the beginning of the 1990s, there were 17 territories remaining. Yet, others which did not meet the criteria of full self-government remained off the U.N. list since there was no mechanism to review the democratic sufficiency of those territories which had been previously de-listed. Between 1990 and 2009, only one territory – Timor Leste – achieved decolonisation, in this case through independence. Only one territory in almost 20 years – not a very good record. There are now 16 territories remaining on the UN list.

### **Autonomy / Reverse Autonomy**

When I spoke that the University of the Netherlands Antilles three years ago I made the point that this present list of sixteen non self-governing territories reviewed by the United Nations under Article 73(e) of its Charter did not include the *Netherlands Antilles*, nor any of its individual islands. This is because the UN recognized the decolonisation of the *Netherlands Antilles* in 1955, and removed it from the list when the new constitutional arrangement was submitted for review. Again, the UN concluded that the arrangement within the Kingdom of the Netherlands provided sufficient autonomy to be considered fully self-governing.

The point I made at that time – and I emphasise this evening - is that the Netherlands Antilles was removed some five years before the definition of full self-government was adopted by the United Nations in the two resolutions I mentioned earlier. Some scholars have argued that had the Netherlands Antilles constitutional status had been re-evaluated in 1960, following the adoption of the two main UN resolutions that year, the UN may have decided that the level of autonomy was not sufficient to be considered self-governing. These scholars argue that the Netherlands Antilles may have been removed prematurely, and should have been placed back on the UN list after 1960. The same circumstances could have applied to Puerto Rico which was removed from the UN list in 1953 after having achieved a similar status as the Netherlands Antilles – far less autonomous than the Netherlands Antilles. This kind of premature removal of territories from the UN list is known well by advocates and scholars in Puerto Rico, by the (former) President of French Polynesia and by political leaders in other territories who have argued that their territories should be re-listed according to contemporary standards of international self-government.

From an historical perspective, when the autonomous model of the Antilles was created, it served as an important model of association. In 2006, I made the point that many non self-governing territories in the Caribbean saw the Netherlands Antilles as a unique and progressive form of autonomy – and that remains so. But, it is clear that over time, the level of autonomy now being suggested may be below the level of full internal self-government as defined by UN resolutions, as well as by the relevant human rights conventions. Unfortunately, the U.N. does not have a specific procedure to review territories which have previously been removed from their list even if unilateral changes have been made to their political status reducing the level of autonomy. The only way for the situation to be reviewed by the U.N. is for a member country of the UN – or a group

of countries – to make a request for an individual territory to be placed back on the list. In this case, a resolution would have to be adopted by the UN to re-list that territory.

This is rarely done, and then only with the requisite sustained political will on the part of a group of member states whose interests such an action might serve. Countries will not act in contravention of the perception of their own interests. If there was a period when support for decolonisation was based on its merits, that time seems long past. I only know of a precious few examples of re-listing of territories. The particular case of the French-administered territory of New Caledonia comes to mind where the territory was put back on the UN list of non self-governing territories in the 1980s. This was done only after very strong support from the Pacific independent countries who were concerned at the time over French activity in the Pacific region in relation to nuclear testing.

The request for the re-listing of New Caledonia also had strong support in New Caledonia among the indigenous people, but not necessarily among the French settlers which now amount to half the population. Unfortunately, the international political dynamic within the United Nations system at present would not appear to support such an initiative by a group of countries for several reasons:

- The first reason is that there is insufficient awareness among UN member states of the unique situations in non-independent countries. The information that is provided on the UN - listed non self-governing territories lacks sufficient analysis, and no information is provided whatsoever on territories not on the UN list – even for comparison purposes. The listed territories cannot look to the UN for examples of territories which moved to integration or free association because the relevant UN committees consider it prohibitive to discuss un-listed territories in any way. Thus, it would not be expected that these UN member countries would have much awareness about the issues in territories not on the UN list, such as the Netherlands Antilles, French Polynesia, West Papua and a number of others. The singular notable exception is Puerto Rico where the consistent advocacy of Cuba, supported by other Latin American countries, has resulted in the UN Decolonisation Committee adopting a committee-only annual resolution on that territory.
- The second reason for insufficient UN support to address un-listed territories is that UN member states regard such territories as internal matters of a UN member state. within the Kingdom – a UN member state. I would suspect that this would also be the precise UN position in relation to the Netherlands Antilles vis a vis the Kingdom.

But if the new country status arrangements approved by the two island governments of Curacao and Sint Maarten would have the effect of reversing the autonomy which was enjoyed under the Kingdom Charter in 1954, then an independent assessment should be done to assess the extent of this reversal. Such an assessment would review the areas of autonomy which were originally granted to the Netherlands Antilles,

and compare these areas to what is being implemented now. It is unlikely that the UN would make such an assessment – again, the Netherlands Antilles is not on the UN list. Thus, such a study would have to be done independently. If the analysis finds that the level of autonomy has declined below the minimum standards recognised by the UN for full internal self-government, then there are alternative strategies that can be used to bring this to the attention of the international community.

## **Political Evolution**

As societies develop and mature politically, change is often desirable. It is a natural part of the process of political evolution. So, the decision by the people of the separate islands to dismantle the Antilles can be seen as a process of natural evolution. In retrospect, it would have been difficult to maintain the political cohesion necessary over time to govern six islands – and since 1986 - five islands (with the status aparte of Aruba) - especially when the islands were relatively distant, along with other factors. Multi-island governance often places a difficult strain on the main administrative centre – in this case, Curacao – the capital - which has had to accommodate the needs and aspirations of the other islands, especially those in the relatively distant Leewards.

At the same time, the islands in the Leewards (Saba, St. Eustatius and Sint Maarten) are far closer to St. Thomas, St. Croix Anguilla, St. Kitts and Nevis, and the smaller islands of the French West Indies. They have significant trade, transportation and even family ties in this northeastern Caribbean sub-region. They have also progressed sufficiently to obtain more administrative and policy-making powers from the capitol. Bonaire, too, has progressed to the point of needing their ‘political space.’ It is a natural evolution.

In retrospect, the grouping of islands as it has turned out was probably an unnatural fit to begin with, and was only a reflection of which European country could hold onto which island at a given time in history. The Caribbean is full of such examples. All we have to do is look at a map of the wider region, and see the many arbitrary borders which were drawn by the Europeans – and later the Americans – separating the islands into unnatural groups. It is a wonder that we have progressed as much as we have.

A most striking example of these unnatural borders is the demarcation of the island of Sint Maarten with French St. Martin. Same people, same families, but because of the political status of the two jurisdictions, they emerged separately. One side of the island is governed by Curacao. The other side is a part of the French West Indies which was governed by Guadeloupe until quite recently when now they can deal directly with France as a separate commune, and is a mere thirty minute boat ride to the British non self-governing territory of Anguilla. (*the French dependency system is especially complex, with their overseas departments such as Guadeloupe, Martinique, French Guiana, Reunion [in the Indian Ocean], not to be confused with overseas territories in the Pacific such as French Polynesia, New Caledonia and Wallis and Futuna – some of these are now being transformed into overseas “countries”*). So within this small geographic space of the Eastern Caribbean are three non-independent jurisdictions, under

three different governance arrangements with three different European states (France, the Netherlands and the United Kingdom), with different languages – and with a total population of under 100,000 persons.

The currencies are also different. French Sint Maarten used to use the French Franc, but now uses the Euro currency like France. The Netherlands Antilles side of Sint Maarten officially uses the guilder (but more often, the \$US dollar). Anguilla uses the Eastern Caribbean dollar. Europe really did under-develop the Caribbean, and we are, as Bob Marley so characterized us, “The Survivors.” We continue to pay the price.

In 2006, I made reference to the work of the late Guyanese scholar Dr. Walter Rodney who wrote the book “*How Europe Underdeveloped Africa*.” In his book, Dr. Rodney spoke of how artificial borders were drawn on the African continent creating “countries” which had not existed before the European arrival, and which had run counter to traditional boundaries. As I said then, had Dr. Rodney been with us today, he might have written the sequel to this seminal work, which could have been entitled “*How Europe Underdeveloped the Caribbean*.” I encourage one of our eminent Caribbean historians to write the book – “*How Europe Underdeveloped the Caribbean*” using the political analysis of Dr. Rodney as the premise in recognition that the same strategy of division was used in Africa as it has been used in the Caribbean. We are still suffering from this process of “*New Millennium Colonialism*” which is practiced outside of international scrutiny.

I recall my own historical analysis presented in Curacao in 2006, and which remains very much reflective of the emerging reality:

*Emerging from the initial colonial period were island enclaves, controlled by a variety of European states which today form part of the European Union. The British, the Dutch, the French, the Spanish, the Danish, and later the Americans, bought and sold specific islands based on economic and/or strategic considerations, with little regard for the inhabitants. In some cases, the island possessions were distant from one another, and governed by a central authority, creating interesting challenges of multi-island governance.*

*This distance factor remains a formidable challenge to effective governance in a number of territories in the present day. The US Virgin Islands comes to mind where the two main islands of St. Thomas (the ) and St. Croix are some 40 miles apart, with different economies, and essentially equal in population.*

## **The Future of the Non-Independent Caribbean**

At this point, I think that it is important to emphasise that the changes underway in the Netherlands Antilles should be understood in the context of the other non-independent countries in the Caribbean today, and in the framework of a changing world. Even independent countries undergo political and constitutional change – a few days ago,

the people of St. Vincent and the Grenadines voted in referendum to remove the Queen as the titular Head of State. This was the legacy of colonialism which the government tried to correct through a referendum, but the voters failed to make the change. So, St. Vincent and the Grenadines, as an independent country, maintains the Queen of England as its head of state represented by a governor general. This applies to most of the former British territories in the Caribbean. The governor-general is said to be only a ceremonial post – except if you recall the 1983 crisis in Grenada where the Governor-General was put in charge of the government following a coup. Not so ceremonial, after all, it seems.

So, what is the future of our non-independent Caribbean today, one decade into the 21<sup>st</sup> century? Presently, we are composed of seven territories formally listed by the U.N. as non self-governing territories, and the three countries recognised as self-governing territories, but where the political status has not been reviewed for over fifty years to see if their self-government still meets international standards, or whether it has diminished – as has recently taken place in the US-administered Commonwealth of the Northern Mariana Islands.

Five of the six British non self-governing territories are undergoing constitutional review to “modernise” their constitutions – but they will remain as dependent territories even after new constitutions are in place. Progress or the illusion of progress? The sixth British territory, Bermuda, is the only one to have had a sustained internal discussion underway on independence. The Report of the Bermuda Independence Commission should be required reading for those interested in a thorough and exhaustive examination of the costs, benefits and implications of independence for small island countries. The seventh, my own US Virgin Islands, has drafted a local constitution, but the present government has put a hold on its review because of certain provisions which it considers objectionable. The whole issue is before the court. Independence initiatives in Catalonia and Scotland are also instructive here.

In the case of those non-independent countries in the region that are perceived as self-governing – particularly, Puerto Rico, Aruba and the Netherlands Antilles, change is underway. For Puerto Rico, a bill has been approved by one House of the US Congress for a referendum on political status options recognised by the United Nations – independence, free association and integration. It also gives the option to retain the present status. Recent US interpretations on the Puerto Rico commonwealth status render it significantly less autonomous than what was perceived in the Puerto Rico Constitution of 1952.

If the Puerto Ricans choose integration – to be the 51<sup>st</sup> state of the United States – then, the real question is whether the US would accept, for the first time, a state which is culturally and linguistically different than the rest of the US. So far, the US has been successful in avoiding the answer to that question, but if the answer is “no,” then a sovereign free associated state should be the result – maintaining a tie with the former colonial power, but running its own affairs, in earnest free from unilateral US Congressional control via the ‘territory and other property’ clause of the US Constitution.

Thus, changes in the political relationship in the case of the Netherlands Antilles – and changes in the US interpretation of the political relationship in the case of Puerto Rico have placed both of these political arrangements in doubt with respect to their autonomous nature.

The ten non-independent countries in the Caribbean share similar constraints with the independent small island countries, such as limited land mass, economies of scale, distance from external markets, limited economic diversification and other factors. But, they are also increasingly facing the additional obstacle of a democratic deficit which is unique to the dependency political status. This is characterised by insufficient self-government and political power to control sufficiently their own affairs, and to make their own decisions without external interference. This was always the case for the non self-governing territories - but the reduced autonomy emerging in the autonomous countries is most interesting as it appears to be based on economic considerations (extension of European borders and access to natural resources) and even military strategic proximity. These factors may explain, to a large extent, why the push to roll back the autonomy earlier enjoyed (or perceived) by autonomous countries is so intense. It is often the case that some of these strategic reasons have little to do with the territory concerned, but rather it is the strategic concerns of others in their geo-political perspective of the world.

Further, the referenda in Bonaire and Saba in 2004 calling for a direct political tie with the Kingdom of the Netherlands, along with Sint Eustatius (*which was the only one to select to keep the Netherlands Antilles intact*) has important implications for the Caribbean – especially as this direct tie is now being defined as a sort of partial integrated ‘public entity’ of the Kingdom. Some have regarded this as annexation, but in any case, it does not appear that this status rises to the level of the internationally-mandated definition of integration. From a regional perspective, the issues such as the exclusive economic zones, security, ownership of natural resources, et al comes into play since under this ‘public entity’ status, there would be a further extension of European Union borders in the region.

It is assumed that the independent states of the region, and their institutions such as the Caribbean Community (CARICOM), the Organisation of Eastern Caribbean States (OECS), the Association of Caribbean States (ACS), among others, are watching this very closely. Bonaire’s decision to revisit the integrated status with a 2010 referendum widening the choices to include free association along with real political integration is courageous, and should be firmly supported. The reports that some Dutch officials would not recognise the result is disappointing, and is inconsistent with the democratic right of a people to be heard, and to be consulted by their elected government – in this case, the Government of Bonaire. The suspension of financial assistance for development projects such as airport improvements and debt relief in the wake of the decision of Bonaire to hold a second referendum in early 2010 is disturbing.

## Conclusion

In conclusion, I wish to recall my words in 2006 at the University of the Netherlands Antilles:

- *“The present association of the Netherlands Antilles with Aruba and Holland in the Kingdom of the Netherlands is essentially an arrangement of equal partners with consideration for the Kingdom responsibility in defence considerations and on major foreign relations matters.”*

All indications are that in 2010 with the dismantling of the Netherlands Antilles and the rollback of autonomy, the “arrangement of equal partners” referred to in 2006 would no longer apply. I repeat my earlier assertion that an independent assessment is highly recommended to examine the implications of the new, less autonomous status for presentation to the appropriate international bodies. The international perspective on what constituted self-government in 1955 was originally utilised to legitimise” what was contained in the Kingdom Charter in 1954. The Netherlands Antilles was removed from the UN list of non self-governing territories as a result. Five years later, formal guidelines were adopted by the UN General Assembly defining what constitutes self-government. This is the criteria which provides the minimum standards for full self-government. We need to find out if these guidelines are still being followed in 2009 with respect to the Netherlands Antilles and its individual island jurisdictions.

The end of 2010 should mark a defining period for those non self-governing territories on the United Nations list when the Second International Decade for the Eradication of Colonialism comes to an end and the United Nations decides what to do next in terms of the United Nations decolonisation process. The year 2010 – more specifically, ‘10-10-10’ also is a defining moment for the people of Curacao – as well as Sint Maarten - as the new arrangements come into effect. This will mark an end of one era, but more importantly, a beginning of a new era which promises to be even more complex than the previous one.

I am confident that the people of Curacao and Sint Maarten have the talent, sophistication and experience to deal with the challenges which lie ahead. I am confident that the people of Bonaire, Saba and St. Eustatius will do what is required to ensure self-government with absolute political equality. As it is said: *“If you keep your eye on the prize, and remain strong, you will succeed.”* As the indigenous Chamoru people of the Pacific say, *“Be strong, believe in yourself as a navigator.”*

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