

The Dependency Studies Project

Study and Analysis on Dependency Governance

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Assessment of self-governance sufficiency in conformity with internationally-recognised standards:

Country Bonaire

SUMMARY

Political, economic and social inequality continues to linger at the end of the first decade of the entering-into-force of the public entity/body status for Bonaire. This is one of the overall findings of the recent “*Assessment of self-governance sufficiency in conformity with internationally-recognised standards*” conducted by Dr. Carlyle Corbin, Senior Analyst of the global Dependency Studies Project (DSP). The Assessment utilised the specific set of Self-Governance Indicators designed to assess the balance of power between the Netherlands and Bonaire, and to gauge the level of Bonaire’s political equality in accordance with international standards established for Integrated Jurisdictions.

Right to Self-Determination

The Assessment began with the broader question of whether Bonaire’s political transition to public entity status was the result of a credible exercise of self-determination. On this point, the Assessment analysed the developments emerging from the 2004 referendum on political status options; the differing interpretations of the 2006 *Memorandum of Understanding (MoU) on the Future Constitutional Status of Bonaire, St. Eustatius and Saba*; and the subsequent developments in the run-up to the 2010 Bonaire referendum held in December of that year.

It is recalled in the Assessment that the results of the 2010 referendum which overwhelmingly rejected the public entity status were not accepted by the Netherlands owing to the 50 per cent threshold of registered voters having not been met. However, the Assessment pointed to several delays in the referendum date originally scheduled for various times throughout 2010 with the vote only coming after the public entity status had gone into effect. The Assessment observed that the referendum postponements, along with the ultimate change of language of the referendum question, played a significant role in the low voter participation. According to DSP Senior Analyst Corbin, “a major obstacle was the disagreement over the voter eligibility included in the Bonaire Referendum Ordinance which was ultimately annulled by the Governor of the former Netherlands Antilles.”

The Assessment went on to review the subsequent 2015 referendum in which the Bonaire electorate, once again, overwhelmingly rejected the public entity status with the

required percentage of voter participation achieved. Corbin noted that these results were not acted upon by the Netherlands, this time for the reason that the exercise was considered non-binding. The Assessment noted that the 2015 referendum had coincided with a Dutch five-year review of the public entity status, and was followed by the embedding of Bonaire (*along with the other two public entities of Sint Eustatius and Saba*) into the Dutch Constitution in spite of the 2015 referendum results and vocal opposition in the islands. The Assessment concluded that there remained serious questions about the legitimacy of the method by which the public entity status was imposed, and later entered into the Dutch Constitution, given the repeated disapproval of the people through democratic expression in multiple referenda.

The Assessment determined that the process was tantamount to unilateral annexation and violative of the inalienable right of the people of Bonaire to self-determination, and counter to the international legal principle of "*ex injuria jus non oritur*" ("*unjust acts cannot create law*"). The Assessment resolved that the imposition of the status on Bonaire amounted to "an involuntary annexation through partial integration of a people into a larger state without formal consent, against their expressed will, and irrespective of the applicability of international law on self-determination which has clearly been circumvented." Accordingly, the Self-Governance Indicator on the right to self-determination was judged in the Assessment at the lowest level of 1 on the scale of 4 in recognition that while the principle of self-determination continued to apply to Bonaire, the position of the absorbing state (Netherlands) was that said right had been effectively extinguished.

Applicability of Laws

The Assessment then proceeded to review compliance of the imposed status with minimum standards of equality through political integration. In this connection, the second of the three main SGIs applied to Bonaire examined the "extent and nature of applicability to the integrating jurisdiction of the laws and regulations of the absorbing state." In this connection, the Assessment explored a wide array of official documents, academic analyses, scholarly writings, United Nations (U.N.) resolutions and other relevant material. Included in the research were analyses conducted by official Netherlands study groups, independent academic bodies, and international experts.

In this connection, the research revealed noteworthy difficulties and inconsistencies in the application of Dutch laws and regulations to Bonaire. As one Dutch academic pointed out, the people of Bonaire did not envisage having to implement Dutch laws which lacked popular support in Bonaire. The Assessment specified that under the public entity status the Dutch government has the unilateral authority to decide which external laws and regulations would be applied and which would not, and there was a decidedly insufficient consultation process in place to regulate such imposition. One academic study cited in the Assessment indicated that marginal improvement in consultation between the Dutch and Bonaire officials came only after the important unilateral changes has been made unilaterally in the run-up to the political transition to public entity status.

Accordingly, the SGI on the "Extent and nature of applicability to the integrating jurisdiction of the laws and regulations of the absorbing state" was measured at slightly above

the lowest level of 1.5 on the scale of 4 reflective of an absolute unilateral authority of the Netherlands to apply laws and regulations to Bonaire in the 'public entity' status with only the modicum of consultation identified after the political status change.

Equal Status and Rights of Citizenship

The third of three main SGIs assessing "equal status and rights of citizenship" was reviewed with extensive scrutiny of academic, political and other material available in the public domain to determine whether the international standards of political and economic equality had been met. In this connection, the Assessment observed that the public entity status did not provide the same democratic rights as that of Dutch municipalities with which the new arrangement was being compared at its beginning in 2010. The Assessment observed that Bonaire (*Sint Eustatius and Saba*) were placed under a separate article of the Dutch Constitution limited to 'public bodies,' confirming that they were not municipalities even as they were being referred to colloquially as 'special municipalities.'

On the question of political representative which is often used to counterbalance otherwise unequal political status arrangements, the Assessment found that the public entity status of Bonaire also fell short with a lack of direct political representation within the Dutch Second Chamber. The Assessment noted that an electoral college was formed to facilitate public entity participation in the First Chamber, but that, overall, the level of political representation and participation of Bonaire (*Sint Eustatius and Saba*) in the political system of the absorbing state (Netherlands) did not meet the level of full political equality enjoyed by other integrated polities such as the French overseas departments.

From the perspective of economic equality, the Assessment noted that the geographic, cultural, and other differences between the Caribbean and European "parts of the Kingdom" were being used to justify the significantly lower living standards than those enjoyed in the 'European part.' In this regard, the research showed that social benefits in the "Caribbean part of the Kingdom (*Bonaire, Sint Eustatius and Saba*)" had been kept low, and that higher minimum wages and benefits had been considered undesirable for extension by the Netherlands to the Caribbean public bodies..

The Assessment emphasised that the lower standards of support came amid increasing economic challenges in Bonaire including higher trade deficits, declining GDP, considerable increases in housing prices, insufficient wage growth, higher prices, and other factors. The Assessment referenced the submission of a Dutch lawyers group to the "U.N. Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance" that alluded to the application of a double standard with a significantly more expensive cost of living in the islands than in the Netherlands, but with the islands receiving receive lower benefits.

The Assessment highlighted the important social impacts of in-migration from the European Netherlands on the demographic composition of Bonaire, citing Netherlands statistics that between 2011-2017 persons from the European part of the Netherlands formed the largest group of migrants. The Assessment referenced longstanding U.N. resolutions that called on Member States to adopt the necessary measures to discourage or prevent such

migration at the level that would disrupt the demographic composition of the territories under their administration, and that such practices contribute to the minoritisation of the indigenous population in their homeland. As cited in the Assessment, the Dutch lawyers group put it most succinctly:

“Whether called a democratic deficit or colonialism, it is clear that the current imbalance within the constitutional framework is a legacy of inferiority deriving from our colonial history. Although individuals do not always act according to these discourses in daily life, racialized discourses on national identity persists, often classifying ‘original’ Dutch Caribbean populations as distinct peoples. The historically grown constitutional imbalance is therefore susceptible to maintain racialized discourses and practices.”

Accordingly, the SGI on equal status, rights of citizenship and extent of political participation was measured at the lowest level of 1 on the scale of 4 reflective of limited voting rights and no effective representation in the absorbing state for the citizens of the integrated jurisdiction, along with the gross differential in access by Bonaire to economic and social programs.

Concluding Observations

The Self-Governance Assessment of Bonaire concluded with the following observation:

“All things considered, the inalienable right to self-determination must lead to a transformational process of decolonisation and democracy – or it can be replaced with a distorted process resulting in the cruel hoax of colonial reform perpetuating the inequality that the process was supposed to replace. This was the case with respect to (Bonaire, Sint Eustatius and Saba). It is to be observed that dependency governance is not democratic governance, just as colonialism is not democracy. The ‘*public body/entity*’ renamed ‘*territorial public body*’ is one of several global dependency governance models erroneously projected in the 21st Century as forms of democracy, and applied in a fashion that circumvents the inalienable right to genuine self-determination under international law. This is how the scenario has evolved for Bonaire.”

Upon examination of the *oeuvre* of research, the Self Governance Assessment of Bonaire can only conclude that any projection of Bonaire as a model of democratic governance is illusory at best. Instead, what has been created is yet another form of 21st Century *colonialocracy* - deficient by all measures of democratic governance. However, whilst colonialism remains illegal, its illegality is often a matter of power, not justice. This is the fundamental challenge to the contemporary process of self-determination and its consequent decolonisation for island jurisdictions such as Bonaire.

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