

## Contemporary colonialism in the English and Dutch-speaking Caribbean

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Background

The contemporary Caribbean remains the most politically diverse region of the world in such a small geographic space. By the end of the 19th century, much of the region was comprised of colonial dependencies controlled by various European nations. Following the creation of the United Nations (U.N.) in 1945, and the subsequent wave of independence which accelerated after 1960, many of the Caribbean dependencies gained political independence.

Others - in particular, the overseas departments of Guadeloupe, Martinique and French Guiana - became politically integrated with France. By 1960, these two political options of independence and integration, coupled with free association, had become the prevailing international standards of political equality pursuant to United Nations (U.N.) General Assembly Resolution 1541 (XV).

Before U.N. adoption of this self-governance criteria, political advancements in the Netherlands Antilles and Puerto Rico in the 1950s yielded different forms of autonomy but which were deficient in the requirements for full political equality.

Meanwhile, the remaining six United Kingdom (U.K.) dependencies of Bermuda, Turks and Caicos Islands, Cayman Islands, Anguilla, British Virgin Islands and Montserrat; and the United States (U.S.) dependency of the Virgin Islands; were classified by the U.N. in 1946 as non self-governing territories (NSGT) along with most of the non-independent world. Whilst other NSGTs evolved to full self-government, incremental political evolution has been insufficient in

the U.K. and U.S. dependencies in the Caribbean.

### United Kingdom and United States Dependencies

Democratic deficiencies are evident in both sets of dependencies since both are governed through unilateral authority exercised by the cosmopole. U.K. abolition of the elected government of the Turks and Caicos Islands and the institution of direct colonial rule over three years ago is indicative of the abuse of such unilateral power. Neither the U.K./U.S. dependency models were meant to be permanent as these arrangements fall below the recognised threshold of full self-government. These dependency models can be seen as transitional and preparatory to the achievement of full self-government required under the U.N. Charter and General Assembly resolutions.

For the U.K. dependencies, unilateral authority is codified in the constitutions written by the cosmopole, and is reflected in 'reserved powers' exercised by the British governor resident in the dependency who can annul legislation after its adoption by the elected government. The British Governor can also issue Orders-in-Council to unilaterally enact legislation without the consent and against the will of the elected dependency government. Initiatives beginning in 1999 to "modernise" the U.K. dependency constitutions were not intended to transfer powers to the territories, as required by the international decolonisation mandate under U.N. Resolution 1514 (XV). Instead, the result has been to retain and further strengthen the unilateral powers even as changes in nomenclature might suggest otherwise. The new arrangements, for example, change the designation 'dependency' to 'overseas territory,' and the name of the elected head of government from 'chief minister' to 'premier.' However, the unilateral power of the cosmopole remains unchanged.

For the U.S. dependencies, the U.S. Virgin Islands and Puerto Rico (and several Pacific dependencies), similar powers of the cosmopole apply. The overarching Instrument of Unilateral Authority (IUA) is the relevant provision of the U.S. Constitution which authorises the U.S. Congress to apply laws to the dependencies. This model provides for a non-voting representative in the lower U.S. Congressional House but no participation in presidential elections of the metropole. A proposed constitution in 2009 to replace the cosmopole's Organic Act – but not to change the dependency status - contains provisions to address some aspects of the political power imbalance, but objections to its inconsistency with U.S. unilateral authority have stalled the process.

Consistent with the U.K., the U.S. practices a colonial avoidance strategy by not participating in the U.N. Decolonisation Committee work on the substance of the dependency arrangements. The U.S. position is that the dependencies have expressed no interest in modifying their status, thus circumventing the need for the cosmopole to justify the political power imbalance, as well as their requirement to prepare the dependencies for full self-government under Article 73 (b) of the U.N. Charter.

### Semi-autonomous countries of the Netherlands

For the Dutch semi-autonomous countries, provisions in the 1954 Charter of the Kingdom of the Netherlands to ensure 'good governance' in the Caribbean semi-autonomous countries have resulted in a similar, albeit less overt, expression of unilateral power of the cosmopole.

Emerging from the dismantlement of the five-island Netherlands Antilles in 2010 were two semi-autonomous countries of Curacao and Sint Maarten upon which have been imposed a lesser autonomous governance model which shifted the budgetary process and other functional competencies from the elected government to the cosmopole.

A 2012 expert assessment of the level of self-governance of this new model for Curacao using specific indicators revealed that the original autonomous country model in 1954 was deficient in meeting even the less defined international standards of self-government at the time due to the political imbalance of power. By extension, the present semi-autonomous governance model in Curacao and Sint Maarten emerging from the 2010 dismantlement of the Netherlands Antilles further reduced the level of self-government, and is not in compliance with contemporary international standards.

The dismantlement exercise also created three partially integrated 'public entities' of the Netherlands - Saba, St. Eustatius and Bonaire - not integrated enough to provide the people with full political rights but just enough to create three new European Union borders in the Caribbean with implications for fisheries, natural resources, security and regional integration.

### Conclusion

In the remaining U.K. and U.S. dependencies in the Caribbean, no legitimate acts of self-determination have ever been undertaken as the political and constitutional initiatives have all been done under the jurisdiction of the laws of the cosmopole rather than international law. In the meantime, the current Dutch semi-autonomous model does not meet the minimum standards of genuine autonomous governance and full political equality.

The respective metropolises have consistently argued that the dependencies are content in their political dependency arrangements, and equate self-government to the conduct of elections. However, this is inconsistent with the objective reality in the dependencies and autonomous countries where varying degrees of dissatisfaction with the democratic deficiencies have been continuously expressed by elected leaders and civil society.

A concerted effort of the international community is required if international law is to be applied to bring about full self-government in the dependencies and the semi-autonomous countries alike. Given the propensity of the cosmopoles to maintain control over resources and capital flows in the non-independent Caribbean, full self-government will remain a significant challenge.

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