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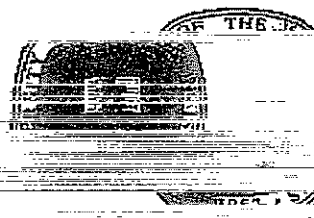
priorities for the remainder of the Decade

Bandung, Indonesia
14 to 16 May 2008

Cooperating Entities

By

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STATES VIRGINIA ISLANDS: THE ROLE OF

AND OTHERS OF THE

Presented before the

By: LaVern E. Bassett, Ph.D., President

OVERVIEW

Islands went to polls throughout the Territory to select 30 delegates to form the Fifth Constitutional Convention. The winning candidates were then set to be certified by the Virgin Islands Joint Board of

construction of the ballot and whether in its final form it met the legal requirements of the authorizing statute.

Islands styled as: *Harry Daniel vs. Virgin Islands Joint Boards of Elections et al.* In this lawsuit

determined judicially that the election complied with local law setting out the election guidelines as well as other rules governing the Convention. Daniel maintained that as per the terms of the he should be certified as a successful candidate. The suit was decided in Daniel's favor. The Virgin Islands Joint Board of Elections appealed the decision of the Superior Court to the Supreme Court.

This was a unanimous decision for the Supreme Court, which had recently come into existence.

The candidates who had initially been declared victorious following the June 12, 2007 election.

The results were certified by the Board of Elections, and the thirty (30) delegates took the oath of office as administered by The Honorable Audrey L. Thomas, Judge of the Superior Court of the Virgin Islands, October 20, 2007. Within moments of their swearing in, members of the

forming several committees designed to address the critical work before the body.

THE FRAMEWORK OF THE CONSTITUTION ADOPTION PROCESS

The Convention is authorized by federal Public Law 94-584 and by local law 1967000 as amended, including its most recent amendment, Act 6909, which gives the Fifth Virgin Islands Constitutional Convention until October 1, 2008 to adopt a proposed Constitution.

The federal public law states clearly that a Constitution for the Virgin Islands will be developed within the existing federal territorial relationship and is not intended as a measure to determine the status of the Virgin Islands vis a vis the United States.

The federal law places additional requirements on the Virgin Islands Constitutional process by requiring that a document drafted by the residents of the Virgin Islands must recognize and be consistent with the sovereignty of the United States over the Virgin Islands and further must

recognize the supremacy of the provisions of the Constitution, treaties and laws of the United States applicable to the Virgin Islands.

The Congress of the United States has created a committee which will require the submission to the President of the United States and the Congress of the United States any draft Constitution before it is presented to the people of the Virgin Islands. This committee will monitor this process as well.

The Congress of the United States pursuant to the Territorial Clause of the United States Constitution requires the submission of any draft Constitution to the President of the United States and the Congress of the United States before such a document is presented to the voters of the Virgin Islands for their consideration.

Thus, it is clear that while the United States has not yet approved a locally drafted Constitution, the process will not be completed until the Congress of the United States has approved the measure of self government.

In Resolution 1541 Principle VI, this body has provided that a Non-Self-Governing Territory can be said to have reached a full measure of self government by:

- (b) Free Association with an Independent State;
- (c) Integration with an Independent State.

The Constitutional process in which the United States Virgin Islands is involved will not be completed until the residents of the Territory from one day make a determination with respect to its ultimate political status.

In the Virgin Islands and Guam Constitutional Self-Governance Act, 48 U.S.C. § 160001-160004.

"Total List of Self-Governing Territories"
"The process of self-government is a continuous one and the determination regarding the ultimate political status of such territory."

With some of this information provided to our Committee which met in Grenada in May 2007, the information bears repeating as the debate continues in the Virgin Islands on the question of political status and whether the adoption of a Constitution before a vote on the

THE UNIVERSITY OF THE VIRGIN ISLANDS

The University of the Virgin Islands was chartered on May 14, 1962, as the first institution of higher learning in the territory. In 1975, the University of the Virgin Islands became the University of the Virgin Islands and has since then expanded its academic curricula, community and regional services and research programs. The institution continues to grow and remains committed to serving its students and its extended family to include faculty, staff, and the entire Virgin Islands Community. Consistent with these goals, the University has adopted the following mission:

committed to enhancing the lives of the people of the U.S. Virgin Islands and the wider Caribbean through excellent

education project undertaken by the University in support of the Constitutional Convention as

project, I will provide you with a series of relevant updates of such projects as they

In the public education project we endeavored to integrate both technology and the traditional public forums which mark a strongly oral culture. The legislation authorizing the convention, Act 6688, provided that prospective delegates file their petition with the Board of Elections by May 16

It is important to note that the University considered that the education project could not be completed without some attention to the preparation of the goal of the commission as envisioned

These preparatory seminars covered a variety of topics, to include Political Science, the

These workshops also offered keynote presentations from representatives of the Center for the Study of State Constitutions at Rutgers University. These discussed the forms of state constitutions and resources that could be made available to Virgin Islands delegates undertaking this historic and monumental task.

Following the announcement of the listing of qualified delegates, the University organized several

roters to their favor. These candidate forums provided an opportunity for delegate candidates to

The University, recognizing the need for continuing public education, has offered to collaborate with the Convention on specific projects that would engage the community throughout the life of the proceedings.

THE WORK BEFORE THE CONVENTION

The Fifth Virgin Islands Constitutional Convention is preceded in its work by four other similar bodies. Each of these previous Conventions has been widely accepted by the residents of the Territory.

However, the work of the Fourth Constitutional Convention included the provisions of the Constitution of the Virgin Islands, previously approved by the Fourth Constitutional Convention which are considered by the Convention to be standard and of a non-controversial nature".

Thus, Committees of the Fifth Convention have been engaged in detailed reviews of the provisions of this document while they have been also coordinating a series of public hearings and discussions to gauge public sentiments on particular provisions as well as new ideas and issues which did not surface in the previous constitutional process.

In this regard, the University has consulted with the Convention, specifically with regard to the critically important provisions regarding education rights for the residents of this Territory. The President of the University has proposed a comprehensive power of education and a state or any local, public institution of higher learning.

Some proposals have been controversial including the need for increased municipal government between the major islands of the Territory and the local government which will be created.

But perhaps the most controversial of issues lies in defining the people of this Territory for whom this document is being written.

The debate rages on, with proponents of various positions often imitating the citizens and the government as well. It is intertwined with the viewpoints of natives who believe that they have been settled in the small territory.

This position is summarized in the sentiments of one local person who testified recently that Native

But the opinion is not shared by all in the Virgin Islands community. In fact, many have taken to the streets to demand that the death of all citizens be decided by all citizens in a referendum.

The sentiment is aired by large numbers of migrants from the Eastern Caribbean who believe that living and raising families in the Territory for the previous four or five decades entitles them to play a part in the political fate of the Territory—from a voice in a local constitution to one in a determination of political status.

It is echoed as well by large numbers of United States citizens who have moved to the Territory from the continental United States and who trumpet their rights under the United States Constitution and the federal law which controls this entire process. They announce that there can be no special treatment for any segment of the population which can survive the mandated reviews by both the President of the United States and the Congress of the United States, which has the authority to decide.

Despite the opposition to the idea of special treatment for the group which defines itself as the Native Virgin Islanders, it is an important issue which demonstrates the questions of identity which confront us as a people. The Virgin Islands, which has witnessed tremendous demographic and political changes during the last decade beginning around 1990,

is a multi-ethnic society. The 2000 census shows that about 67 percent are of African descent and that the remaining 33 percent represent almost any ethnicity imaginable. These include many of the Eastern Caribbean islands and the Greater Antillean islands, several of the West Indies, East, Israeli, African nations, and others.

The convention will have to bridge many racial and ethnic barriers when it brings the document to public vote. In recognition of the awesome task of writing this document and having it be acceptable to the community herein described, the Convention just recently voted (May 6, 2008) to request that the Legislature award it more time—until March 31, 2009 – to complete the document.

After a recent working retreat, the Delegates decided that each committee will have a chair or a co-chair and a secretary. The Delegates also decided that each committee will have a chair or a co-chair and a secretary. The Delegates also decided that each committee will have a chair or a co-chair and a secretary.

is particularly perplexing and troubling since we have shared the same colonial history with these now independent countries which we see from our shores, a colonial history replete with the horrors of African slavery and the ensuing slave-like plantation economies based on sugar and cotton and... This is the context within which the following suggestions regarding... governing territories which may undertake this process.

1. Funding

public education and the expenses associated with having a Constitutional Convention as well. In... \$100,000 for the work of the Convention. That amount appropriation was later supplemented by \$110,000 which... \$110,000 which would have continued the public education program at the University of the Virgin Islands, but which was reprogrammed to support the work of the Convention.

Shortly after the Convention came into office, the delegates to the Fifth Virgin Islands Constitutional Convention created a budget and submitted it to the Legislature of the Virgin Islands. In its budget, the Convention called for a sum of \$3.2 million, which would allow the Convention to identify office spaces, hire staff and consultants, travel between islands, and meet related costs and expenses. To date, the Convention has received only the \$218,000 with another appropriation of \$200,000... date has not been provided to the convention. Nor of the funding supporting this important political change has been provided from the General Fund of the local government.

We suggest that cost of this process should not be shouldered by the Territory of the Virgin Islands and that the work of the Convention can be supported in many ways by the considered resources of the administering power the United States of America. This should apply to other non-self

Through the public education project the University of the Virgin Islands raised first-hand exposure to the incredible challenges of forming citizens an attitude and of the importance of an undertaking to provide a body of principles on which to rest a government. This Constitutional Convention follows the last such endeavor by 27 years. An entire generation of new voters was being exposed to this idea for the first time, and to another generation of older Virgin Islanders, these conversations were at best remote and confusing. Thus the project started with a population essentially... This makes the point for ongoing dialogues on status and on constitutional change. It is essentially

that public education on these critical issues be ongoing and not reserved for the critical time when change is looming directly ahead.

3. Defining the People

The population of the Virgin Islands is incredibly diverse. It includes United States citizens who have migrated to the Territory but who are not naturalized United States citizens who have lived in the Territory for many years, and those persons who have been born in the Territory and who made no such clear choice. Thus, the question continues to raise its head as to exactly who defines the class of persons for whom this document is being written and who will take responsibility for its effects as it passes through generations.

4. Engaging Higher Education Institutions

Institutions of higher education are by their nature, repositories of vast resources. This is clearly the case with the University of the Virgin Islands. These resources should be engaged in constitutional processes because of their potential and invaluable impact on the larger community which these institutions serve.

THE ROLE OF THE UNITED NATIONS

States Virgin Islands. You have requested specifically, however, that we discuss the role that the United Nations might play in the process of self-government. It is to this role and its potential contribution which the following suggestions are offered.

1. Clarify and Publicize the United Nations definition of what constitutes self-government for a Territory.

in the Virgin Islands enjoy a benevolent relationship with the United States might question why he or she does not have the option to retain the Territorial status as is. This is further complicated by

