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FORTH INTERNATIONAL DECADE FOR THE ERADICATION OF COLONIALISM

Pacific regional seminar on the implementation of the Fourth International Decade for the Eradication of Colonialism: advancement of the Non-Self-Governing Territories through the coronavirus disease (COVID-19) pandemic and beyond

Castries, Saint Lucia

11 to 13 May 2022

STATEMENT BY

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(ANGUILLA)

PACIFIC REGIONAL SEMINAR OF THE SPECIAL COMMITTEE OF 24

Castries, Saint Lucia

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I would like to adopt the protocol already established and wish to thank the Organization for the efficient coordination of arrangements for my attendance at this forum.

I wish to extend greetings on behalf of the Hon. Premier Dr. Ellis Webster. In the Anguilla Progressive Movement (APM) 2020 Elections Campaign Manifesto Policy by way of a Vision Statement, we stated, inter alia, that: **“the Anguilla Progressive Movement (APM) understands that enhancing the foundation of a great society means investing more in its people and empowering them to take ownership of their own destiny.”**

On the question of destiny, the United Nations Charter states:

“All peoples have the right to self-determination. By virtue of that right, they freely determine their political status and freely determine their economic, social and cultural development.”

A Constitution can be viewed as a type of architecture or framework. The Oxford Dictionary defines a Constitution as: **“a body of fundamental principles or established precedents according to which a state or other organization is acknowledged to be governed.”**

If we trace back Anguilla’s constitutional history to the 1960s, we see a seminal moment in the UK’s attempt at decolonization in the Caribbean by creating the West Indies Federation in 1958. When this disintegrated, Anguilla was put together with St. Kitts – Nevis – Anguilla to form the so-called Tristate in Association with the UK.

It had a semi-independence constitution with full internal self-government with the UK responsible for external defense and foreign affairs. Experiencing a history of neglect under various constitutional arrangements over the centuries as a British colony, Anguillians quickly demonstrated their dissatisfaction with associated statehood and dispatched the police from St. Kitts, the putative administrative centre, who were stationed in Anguilla. The events culminated in May 30, 1967 now known as **“Anguilla Day”**, a day which Anguillians are taught about from an early age, and one which we cherish and celebrate on an annual basis.

This was followed by declarations of independence, an invasion by a British expeditionary force in 1969 and eventually the UK triggering of a special clause in the West Indies Associated States Act to give rise to the Anguilla Act of 1971 through which Anguilla would be ruled directly from Britain. Since then we have had several constitutional acts: the 1976 Constitution, which introduced party politics and a ministerial form of government around an all-powerful UK appointed administrator, the 1980 Constitution which formally separated Anguilla from the tristate, and the 1982 Constitution which by and large is what governs Anguilla to this day.

Since the 2000s there have been several Constitutional Reform Committees established in Anguilla. The most recent has been the Constitutional Reform Committee of 2015 which after two years of public consultations and other meetings submitted a draft constitution in 2017.

Based on the consultations from the 2017 Constitutional Committee the two main public demands for constitutional reform were:

- (i) **To improve democracy;**

(ii) **To improve standards in public life.**

In order to improve the level of democracy it was proposed to increase the number of elected members on the House of Assembly. It was also proposed that the two ex officio members, the Attorney General and the Deputy Governor shall be non-voting members. Increasing the number of elected representatives while limiting their number in Executive Council (EXCO) ensures that members of EXCO do not dominate the House of Assembly making it a mere “**rubber stamp.**”

While there is the expressed desire of Anguillians to have more authority vested in the elected officials, in the key areas the proposed draft Constitution does not allow for a reduction of the powers of the UK appointed Governor. In that sense it continues the trend, set and maintained with the 1982 Constitution which reduced the level of internal self-government – it formally removed provisions for full internal self-government which were included in the Associated Statehood Constitution of 1967 and to some extent subrogated by the 1971 and 1976 constitutions. The UK maintains that as long as Anguilla chooses to remain a UK Territory, the UK must retain executive and legislative powers through the Governor and Secretary of State to ensure compliance with UK international obligations, maintenance of good governance and manage UK contingent liabilities.

In terms of improving standards in public life there are recommendations for number of institutions and persons, including inter alia: Public Service Commission, Police Service Commission, Electoral Boundaries Commission, Anguilla Status Commission, Public Procurement & Contract Services Commission, Financial Services Commission, Appointments Commission, Judicial and Legal Services Commission, Integrity Commission, Commissions of Inquiry, Human Rights Commissioner, Complaints Commissioner and Freedom of Information Commissioner, among others.

Proposals were also made for strengthening public financial management built around fiscal responsibility legislation and strengthening public procurement.

The Administration of the day, the Anguilla United Front Administration (AUF) Administration, eventually in 2019 submitted three pieces from that draft constitution for the consideration of the UKG to enact by an Order in Council. This was duly done in May 2019, so that the Anguilla Constitution 2019 Amendment, provides for:

1. The name of the Leader of Government Business to change from Chief Minister to Premier;
2. An increase in the number of elected representatives in the House of Assembly from 7 to 11 by providing for 4 members elected on an island-wide basis. (The 2020 General Elections were therefore the first to allow for the election of candidates on an island wide basis); and,
3. Grandchildren of Anguillian belongers not born in Anguilla to qualify for Anguilla status.

In November 2019, a team from the UK Foreign Commonwealth Office visited Anguilla to undertake negotiations on a new constitution with an Anguillian team. The Anguilla team comprised the Premier and other representatives of the administration of the day (the AUF), the then Leader of the Opposition, the leader of the largest opposition party (the APM), members of the Bar Association and other representatives. The UK negotiating team also met with Anguillians at a town hall meeting.

The negotiations were not concluded and it was decided that they be discontinued until after the general elections which were due in the first half of 2020.

Our APM Administration is committed to continuing with the Constitutional Reform process and to that end from September to October 2021 town hall meetings were held in the 7 electoral districts to discuss the draft constitution. The feedback obtained confirmed the desire to improve the level of democratic representation

and to have adequate safeguards and protections to ensure good governance promote high standards of integrity in public life.

One noteworthy suggestion in terms of representation was that all members of the House of Assembly should be elected on an island wide basis. One variant of this is that all persons who will hold Ministerial portfolios should be elected on an island wide basis (that is the Executive) but that there should continue to be parliamentarians elected on a district basis.

Given the well documented weaknesses of the Westminster system as applied to small states (for example that it fosters disunity and factionalism) it may well be worth exploring such arrangements.

In terms of the way forward the following is proposed:

- Constitutional Reform Committee to consider Report on Town Hall Consultations.
- Constitutional Reform Committee to task a Technical Drafting Team to review the draft Constitution as returned by the UKG in 2019, address any matters outstanding and incorporate any changes agreed on arising from the 2021 Town Hall Consultations so as to arrive on position by GOA.
- Revised Draft Constitution tabled and discussed in Executive Council.
- Revised Draft Constitution tabled and debated in the House of Assembly.
- Revised Draft Constitution finalized and sent to UKG for consideration.

Technical assistance with redrafting the Constitution would be welcome, preferably to be provided by a Caribbean Constitutional expert(s).

I end by quoting from Marcus Garvey as follows:

“God and Nature first made us what we are, and then out of our own created genius we make ourselves what we want to be. Follow always that great law. Let the sky and God be our limit and Eternity our measurement.”

As Anguillians we are committed to forging the next steps forward in creating our own destiny by formulating a Constitution which sets the path towards the realization of our dreams and aspirations as a free people under God’s dominion.

Thank you.

Presented by Hon. Kenneth M. Hodge
Minister for Home Affairs with responsibility for Constitutional Affairs
May 11th, 2022