

Documentation

Process of constitutional changes of Bonaire.

June 2008

Partido Demokratiko Boneriano

English version

1. Introduction

In 1994 the Antillean islands held a consultative referendum to find out which island wanted to remain in a restructured Antilles.

Since the year 2000, when they did not succeed in restructuring the Antilles, Partido Demokratiko Boneriano (PDB) took up a clear position related to its future constitution and chose for an autonomy Bonaire in the Dutch Kingdom with cooperative ties with all the other islands in the Kingdom whatever Bonaire can do, it will do by its own force and whatever Bonaire cannot do on its own, it will do together with the other islands of the Kingdom or with Holland.

Since 2004 up till now, a process of constitutional reformation of the Dutch Antilles and Bonaire is taking place.

In this document our party gives a clear point of view about matters, which according to us, do not follow the local and international rules.

2. History

Before 1940 the islands, Aruba, Bonaire, Curacao, St. Marten, Statia and Saba were colonies of the Netherlands. The group of 6 islands situated in the Caribbean that were part of Holland was called The Netherlands Antilles. During the period of 1950 up to 1954 the process of de-colonization of the Antilles started to intensify. In 1950 a “interim –rule” was introduced for the Antilles and a “Island rule Netherlands Antilles (ERNA) was introduced in 1951. Until 1954 the United Nations considered the Netherlands Antilles a country, which did not have its own government. In September 1954 the Netherlands Antilles and its islands received its autonomy (through the **Statute**), auto-determination and its own government. Since that date the Netherlands Antilles has known a parliamentary democracy without interruption.

What remained under the responsibility of Holland after the statute is among others; defense and foreign affairs and the function of guarantee.

Based on the statute, the United Nations agreed after a great deal of deliberation to eliminate the Netherlands Antilles from the list of countries without its own government. This meant that the colonizing country, Holland, did not have to report anymore concerning development of the colonies to the commission of de-colonization of the United Nations

(Note 1, resolution 945 x 15, December 1955).

According to resolution 1415, 1541 the nation the Antilles remains united without its own complete government and one day may succeed in achieving this, the moment it chooses its independence association with an independent country or whatever other state structure.

(Note 2, resolution 1945, 1541, governmental letter, dated 23 January 2004 by the United Nations)

The 5 main points (viewpoints) of the **Statute** are:

1. The seat of the government of the Antilles is situated on the largest island of the Netherlands Antilles, which is Curacao.
2. The constitutional structure, which is the **Statute**, is the base of the government. In the **Statute** the power of the government between the central government and the government of the Kingdom is regulated.

3. Every island has its own government.
4. Holland cannot interfere in internal affairs.
5. Holland offers its technical and financial cooperation for the development of the islands in order to strengthen their autonomy and infrastructure so that poverty can be reduced.

According to point 5 the Netherlands Antilles are in a transitory phase in order to finally reach a complete autonomy. This is according to the way of thinking of the United Nation.

For relevant information concerning our constitutional structure we refer to the “Mission Report” of the United Nations from 1-06 – March 2004 page 3 to 5 (Note 3).

3. Referendum

At the beginning of the 21-century, almost every island of the Netherlands Antilles, with the exception of Statia, chose for a change of the constitution within the Dutch Kingdom. The first island to hold a referendum was our sister island St. Marten. This took place in the year 2000. A large part of the population of St. Marten chose for a constitutional status like the one of Aruba in other words a status aparte.

During the first quarter of 2004, the government of Bonaire started the preparations to organize a referendum.

The Netherlands Antilles does not have an official law to recognize a referendum, which means that a referendum in the Antilles does not have a decisive character, but a consultative one. A referendum in the Antilles and Bonaire can only be considered as an instrument to consult the population.

(Mission report, United Nations article 15 page 6).

Commissioner of constitutional affairs ing. R. Dortalina confirmed this in a newspaper article on the 5 of August 2004.

(Note 4; article newspaper extra Bonaire 5 August 2004).

Even though the government and its advisors at several occasions expressed that they did not consider a referendum necessary.

In a letter dated 23 of January 2004 directed to the United Nations the government proposes that such a referendum may be considered as one of de-colonization and inter-insular constitutional as for the government the islands are still considered to be colonies and it is necessary for the people to chose whether they want to become independent or to be integrated with an independent country.

(Note 5, letter to the United Nations 23 of January 2004).

In order to prepare a referendum in 2004 the government of Bonaire accorded an ordinance (law) for a referendum on January 30, 2004, which was modified at several occasions such as April 13, July 19, August 13 and August 30, 2004.

(Note 6; referendum laws)

In the beginning of the preparations for a referendum the following questions/options were suggested to be put to the people.
The options, which were based on the relationship with Holland.

- A. Independent from Holland
- B. Integration with Holland

The options based on the relationship with the Netherlands Antilles.

- A Remain within the Antilles
- B Direct ties with Holland*
- C Status aparte

The questions and options above mentioned were presented to the United Nations as questions and options, which gave the referendum a character of de-colonization.

In the end the questions were modified on July 9 2004 by the government of Bonaire into the following form:

- A. Remain within the Antilles
- B. Direct ties with Holland*
- C. Autonomie country within the Kingdom
- D. Independence

* Only 33% of those who could vote participated at the referendum. Of the 33%, 57% chose option B.

With this modification of the de-colonization the referendum lost its value, as it did not give the people a chance to choose conscientiously for Independence or Integration according to the principles of the United Nations.

In Curacao the option “to become part of Holland”(that is integration) was added as an option to choose from in their referendum. It is also remarkable that “direct ties” is not a constitutional status.

From the beginning the definition of “direct ties” was not understood by anyone. Not by the government officials not by the public. According to the report of the United Nations of March 2004, on February 20 2004, the island council passed a motion to nominate a commission to define the term “direct ties” as the definition was not clear to everyone.

Observation of Mr. Sean Dunne for the political affairs of the United Nations in the month of March 2004 also illustrates this by stating that the public has no idea what “direct ties” means. According to this observation most citizens consider “direct ties” as a separation of the Netherlands Antilles, maintaining less autonomy compared to status aparte. He also states that the public expressed that the choice was not satisfying and that not all options were presented in the referendum. Several groups expressed the opinion that the referendum had a hidden agenda.

The government let it be known that they had to consult with Holland to give “direct ties” more contents.

(Mission report United Nations page 6 point 18)

During the campaign of information about the referendum, the government of Bonaire explained that “ direct ties” meant elimination of the central government, create a direct tie with Holland by which Bonaire will maintain its maximum autonomy and every citizen will have the same rights as an European Dutchman.

(Note 8: bulletin of information by the government, information of the press: questions for referendum are not understood d.d. May 15 2004. Bonaire cannot become a province or a municipality of Holland d.d. August. 26 2004: Direct ties with Holland have open space to negotiate d.d. Sept. 2 200: Program of information concerning direct ties with Holland `d.d. 27 and 30 July 2004)

The campaign of information was very confusing to the public and for the political parties of the opposition.

This can be illustrated by i.e. a letter from Mr. Abraham political leader of PDB to the minister of Kingdom affairs Mr. Tom de Graaf in which he states his concern about the formulation of questions of the referendum and the quality of information about the referendum.

(Note 9, letter d.d. March 1, 2004 to Minister Tom de Graaf and letter d.d. March 17, 2004 from minister Tom de Graaf to Mr. Abraham)

Some information in the newspapers makes this very clear also.

(Note 10, Partido Demokratiko Boneriano requests to stop the referendum d.d. May 22, 2004: referendum is more confusing than ever d.d. July 13, 2004 demonstrators are treated severely d.d. July 21, 2004)

Which demonstrates that the Bonairean people have chosen an option without a defined content.

A week before the referendum of d.d. September 03, 2004 the party Union Patriotico Boneriano (UPB), party of the government, sends a letter to the Partido Demokratiko Boneriano (PDB) illustrating that according to them direct ties to Holland does not signify municipality nor province and that between autonomy in the Kingdom (option C) and direct ties with Holland (option B) there is no difference which is not negotiable between the two political parties (PDB, UPB)

(Note 11, letter of UPB to PDB and answer of PDB d.d. September 4, 2004)

During the campaign of information of the referendum the government of Bonaire propagandized that direct ties with Holland meant the same rights as the rights of the European Dutch living in Holland. This information was only distributed among a certain group of the community. This also brought a lot of confusion in the information, which was given to the public. Because of this, the political parties of the opposition to name: Partido Boneriano Sosial, Partido Obrero Nobo, Partido Demokratiko Boneriano decided to unite and send a letter on d.d. August 27, 2004 to minister Tom de Graaf, minister of Antillean affairs in Holland, in which they informed the minister that the government informs the public that if they vote for direct ties with Holland they will receive benefits like higher age pensions, higher minimum wages, subsidy for the home, better education, better healthcare, subsidy of water and electricity etc. The parties asked the afore mentioned minister for clarification.

(Note 12, letter d.d. August 22, 2004 from the political parties to minister Tom de Graaf. Folder of information of the Referendum Bonaire: letter of PDB, PABOSO,

POB, d.d. September 7, 2004, letter d.d. March 1, 2004, from minister T. de Graaf to the government)

In the letter d.d. March 1, 2004 from minister Tom de Graaf to the Island Council, the minister informs the government that all promises given by the political leader and commissioner of constitutional affairs of Bonaire do not come from the Dutch government.

(Note 13 letter dated March 1, 2004 by minister T. de Graaf to the government)

In the letter in question from Tom de Graaf he reminds the government of Bonaire that Holland cannot get involved in the development, which can be conducted at the separation of a colonial country from the territory involved. This is the principle of “non disruption”.

Conform the resolution of the United Nations of December 15, 1960 number 1541 principle nr.8 it means that integration into an independent state has to be on the equal rights between the citizen of the country which integrate and those of the independent country.

Citizens of both territories must have equal status and rights as citizens, guaranteed upon the fundamental equal rights freedom without distinction or discrimination. Both countries must have equal rights and opportunities in their representation and participation effective on all levels of legislative execution and judicial organs and of governing.

Principle 9b of the resolution of the United Nations number 1541 indicates that integration must be result of free expression of the wish of the people who are completely informed about the changes in the constitutional structure.

The wishes of the people must be expressed by way of a campaign of information, which is objective and impartial. If necessary the United Nations will supervise the process.

In the negotiations with Holland after the referendum of 2004 resulted that the direct ties are now interpreted that it means that integration with Holland without equal local rights is nothing else but the re-colonization of Bonaire. While the main message of the information campaign was; work together with Holland and do not become part of Holland (municipality or province).

3.1 Conclusions

Bonaire

- There was no adequate information campaign for the people about the 4 options.
- The explication of direct ties was very confusing.
- Manipulation and deceit on the part of the party UPB which is in the government (the referendum was executed like an election)
- The government did not follow and execute all the recommendations from Mr. Dunne of the United Nations.
- After the referendum the government did not inform the people nor the Island Council about the direction of the negotiation.

- All decisions about the constitutional state were taken by the executive college (Island government) and not by the Island Council (Island parliament).
- In principle the government inform the people that direct ties is the same as autonomy in the Kingdom and afterwards changes this (without consulting the public) into integration which is against the rules of the referendum.
- The general advisor of the government of Bonaire and not the commissioner of constitutional affairs signs all documents of the new constitutional state for Bonaire.
- The college of financial supervision (of Holland) decides on financial and personnel policy for the executive council, this is against all democratic rules.
- The government and its advisors dealt with all documents for Bonaire without the participation of the Island Council.
- The government does not consider it necessary to have a new referendum.
- Laws and documents are handled in Holland before the Island Council knows the contents.
- Bonaire has lost its internal autonomy and auto-determination since Holland decides on matters concerning the execution of the policies of personnel, finances and subsidies.

Dutch Antilles

- The Antillean Government did not execute its control of the whole referendum.
- The Antillean Government did nothing with the report of the United Nations concerning the discrepancies there were about the options before and after the referendum.
- The Antillean Government did not execute its responsibility as an organ of control concerning all the changes, which are now taking place to assess what is according to the law and what is not.
- The Antillean government does not let the whole process of change proceed according to the statute and ERNA.
- It lets Holland as well as the islands violate the statute and ERNA as it pleases them
- The Antillean Government does not honor and respect advice from the advisory council or state council.

The position of Holland

Starting from the viewpoint of the United Nations Holland has the responsibility for the development of the islands so that they can achieve their own complete government (self government) so that Holland is in no way directly involved in internal affairs related to the reforms of the state.

Analyzing the process of reformation of the state one must conclude that Holland took over the regime instead of making it easier.

- Holland tied changes in the structure of the state to sanitize the debts and used its financial power to stimulate a course and to stipulate the contents of the new constitutional status of Bonaire.
- At the moment Bonaire is under the financial supervision of Holland as far as taxes and financial policy is concerned.

This is unilaterally regulated by means of a general measure of the government of the Kingdom (Amvrb) in which Holland stipulates the contents of the law conform article 93 of the rule of the state (placing under ward of court) and to present this under article 43 of the statute (a capped form of placing under the ward of court).

- Holland does not follow the advice of the State Council as far as the law of supervision is concerned, having as a consequence that this violates the democratic rights of our people, takes away authority of the Island Council, the island government, the central government, the general supervisory board and surpasses the tax laws.
- Holland systematically does not facilitate the Island Council of Bonaire with information concerning the development of the structure of the state and does not give permission to the members of the Island Council to have access to the website of the ministry of internal affairs of Holland.
(Note 14, correspondence between Mr. Abraham and Gudde, Jan., while public officials do have access)
- Holland negotiates the structure of the state in the name of Bonaire and decides unilaterally about the contents of the new structure. Bonaire only receives “standing invitations” for governmental meetings.
- Holland does not have a neutral position according to the rules of the United Nations as far as the changes in the structured of the state concerned.
- Holland does not respect the other partners in the Kingdom during the whole process of changes in the structure of the state.
- Holland does not respect the statute nor ERNA.
- Holland uses its financial aid for the islands as a weapon in order to change the structure of the state in their own way and not according to the decision of the people during the referendum.
- Holland cooperates by continuing to make decision about the structure of the state without going to the decision platform (RTC) and wants to take responsibilities for Bonaire before the changes of the structure of the state are made.

Bonaire, June 11 2008

Partido Demokratiko Boneriano (PDB)
(Bonairean Democratic Party)