

Report for:
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Submitted by:

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Background

St. Eustatius, affectionately called Statia by its inhabitants was colonized by the Dutch in the 16th Century. Since colonization, the island has experienced various constitutional arrangements with the Netherlands. Between 1954 and 2010, St. Eustatius, together with St. Maarten, Aruba, Bonaire, and Saba, formed part of the Netherlands Antilles, a constellation that existed within the Dutch Kingdom. Within the Netherlands Antillean constellation, the islands exercised semi-autonomous control over most of its internal affairs. Aruba had been part of the Netherlands Antillean constellation until 1986, it subsequently obtained a separate status within the Dutch Kingdom¹.

On October 10, 2010, the Netherlands Antillean constellation was dismantled, whereby Curacao and St. Maarten became separate countries within the Dutch Kingdom, while St. Eustatius, Saba and Bonaire became public entities, an integration status, of the Netherlands. However, Statians at no time voted in favor of integration into the Netherlands. In fact, during the April 2005 constitutional referendum in St. Eustatius most Statians voted to remain within a restructured Netherlands Antilles.² However, because all the other islands rejected this option, St. Eustatius was eventually integrated into the Netherlands against the will of its people. Various scholars have questioned the legality of St. Eustatius' public entity status and have argued that it is in contradiction with international law and the United Nations principles on self-determination³

This report addresses some of the discriminatory and human rights violations committed by the Netherlands against the people of St. Eustatius.

¹ <https://www.loc.gov/item/global-legal-monitor/2010-10-13/netherlands-netherlands-antilles-constitutional-reform-for-netherlands-antilles-takes-effect/>

² https://en.wikipedia.org/wiki/2005_Sint_Eustatius_status_referendum

Human rights violations and discriminatory practices

A. Embedding the public entity status

As was stated before, the public entity status was not the result of the freely expressed wishes of the people of St. Eustatius. Despite numerous calls to respect the people's right of self-determination, the Netherlands unilaterally implemented laws for the island. In 2017, the Island Government of St. Eustatius submitted a formal petition to the Kingdom Council of Ministers, requesting that the island not be embedded within the Dutch Constitution, as this was in violation of Dutch and International Law⁴. Despite the concerns expressed, the Netherlands proceeded with the anchoring of the public entity status⁵.

B. The removal of the legitimate government of St. Eustatius

In February 2018, the elected Island Council members of St. Eustatius were removed from office based on a report written by the Committee of Wisemen⁶. According to said report, there was a gross dereliction of duty by the Island administrators, which justified a take-over by the Netherlands. This resulted in the dissolution of the Island Council of St. Eustatius and the subsequent appointment of two Government Commissioners who would execute all governmental tasks on the island. This based on the law Temporary Act Neglect of Duty St. Eustatius⁷.

³ https://brill.com/view/journals/nwig/90/3-4/article-p257_3.xml?language=en#FN6

⁴ The formal petition can be found in annex 12 of the White Paper St. Eustatius

⁵ <https://wetten.overheid.nl/BWBR0028142/2021-07-01>

⁶ <https://www.government.nl/documents/publications/2018/02/05/report-by-the-committee-of-wise-men>

⁷ <https://www.government.nl/documents/letters/2018/02/05/government-response-to-the-report-by-the-committee-of-wise>

This move by the Netherlands was not only discriminatory in nature but was also in violation of relevant UN resolutions and International Law.

C. Postponement of Island Elections

As part of the Dutch imposed law Temporary Act Neglect of Duty St. Eustatius, it was unilaterally decided by the Netherlands to postpone island elections slated for March 2019. The postponement of the island elections was met with opposition from local political parties and various civil society organizations, as this move by the Netherlands was in direct contravention of the people's rights to freedom of opinion expressed under article 19 and the people's right to political participation under article 25 of the International Covenant on Civil and Political Rights. In addition to this, this act was discriminatory because citizens in the metropole and in other parts of the Dutch Kingdom were able to participate in free and fair elections.

D. The Restoration Act

On July 7th, 2020, the Netherlands approved the law Restoration of the Provisions for Administration of the Public Entity of St. Eustatius, in which there would be a gradual return to democracy. The law⁸ would consist of four phases. The completion of each phase would bring the island of St. Eustatius closer to its pre- intervention functioning whereby the Island Council would be able to execute its full mandate under the law. As part of phase one, Island Elections were held in October 2020, whereby the Island Council members ousted in February 2018, were all re-elected to the Island Council of St. Eustatius. However,

⁸ <https://www.statiagovernment.com/news-and-tenders/news/2020/07/09/law-restoration-of-the-provisions-unanimously-passed-in-the-senate>

based on the restoration act, Island Council Members would initially have limited powers, that would gradually increase once predefined targets, set by the Netherlands, were met. Subjecting a people to such measures, once again testifies to the discriminatory nature of Dutch practices on the island of St. Eustatius.

The discriminatory approach by the Netherlands and the total disregard for the input of elected local officials, emerged during a recent visit of Dutch state secretary, Raymond Knops of Interior and Kingdom Relations to the island, whereby a proposal submitted by all five Island Council members⁹, in support of a swifter return to democracy, was rejected by Knops¹⁰.

Our request to the CERD

We humbly request the CERD:

- To review the human rights violations, discriminatory and colonial practices of the Netherlands committed against the people of St. Eustatius
- To question the Netherlands on its discriminatory and colonial practices executed on the island
- To strongly advise the Netherlands to restore 'democracy' to the island, as to this day, the people of St. Eustatius still do not have the right to elect their own government without Dutch interference
- To remind the Netherlands of its responsibility under UN Chapter XI, article 73 (a-d) to not only respect the culture of the island but to also assist the island in the attainment of self- government and the promotion of useful and encouraging development
- To recommend that the Netherlands engages in constructive dialogue with the island's representatives, civil society organizations and the citizens of St. Eustatius

about the constitutional status the citizens so desire, this based on the principles laid out in General Assembly resolution 1541 (XV)

⁹ See "Proposal route-timetable return democracy in St. Eustatius" submitted to Knops on May 16th, 2021

¹⁰ <https://caribbeannetwork.ntr.nl/2021/05/25/politicians-statia-insulted-after-visit-by-state-secretary-knops/>

¹¹ [https://www.undocs.org/A/RES/1541\(XV\)](https://www.undocs.org/A/RES/1541(XV))