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stock of the decolonization agenda**

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DISCUSSION PAPER

PRESENTATION

BY

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Taking Stock of the Decolonization Agenda – the UK Overseas Territories (Caribbean, Bermuda, and St Helena): Current Positions and Future Options

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1. Executive Summary

This paper analyses the current state of relations between the United Kingdom (UK) government and its Overseas Territories, with a particular focus on the Caribbean territories, Bermuda and St Helena. Over the last two decades the general approach of successive UK governments towards its overseas territories and the decolonization agenda has remained fairly constant. Both Labour and Conservative administrations have made significant efforts to engage with the territories and offer them further, albeit limited, constitutional autonomy. Consequently, every territory under discussion here with the exception of Anguilla has adopted recently a new Constitution. But the UK has retained important powers of oversight, which it feels are necessary to make sure its interests are properly safeguarded. Because of the constitutional model that the UK favours, and the lack of interest on all sides in moving towards either integration or independence, the territories remain on the UN list of non-self-governing territories. Rapid and fundamental change in the territories' status is very unlikely, but initiatives such as political confidence-building measures, improving economic sustainability, and broadening political engagement can help advance the decolonization agenda, as set out by the UN.

2. Territory – UK Relations Today

Relations continue to be underpinned by the UK government White Paper published less than three years ago, entitled *Security, Success and Sustainability* (FCO, 2012). This document sets out the nature of the existing links between the UK and the territories and the measures to “renew and strengthen” the relationship. The White Paper attempts a balance between promoting a positive overall agenda while making clear the responsibilities and high standards of governance the territories must maintain in areas such as the public service and fiscal management.

2.1. The political relationship

Taking the lead from the White Paper attempts have been made on both sides to improve the mood music around the relationship and to enact a range of initiatives that should strengthen the quality of governance in the territories – which might in turn empower them to ask for and gain greater autonomy from the UK. The building of capacity via public service secondments, strengthening of audit bodies and public accounts committees, and updating anti-corruption legislation are to be welcomed. The chance to access expertise not only across UK government departments, but also amongst the territories themselves and the Crown Dependencies are positive developments. However, despite this more positive tone regarding political relations, several developments have highlighted some of the problems that remain inherent in the relationship:

- The trial and acquittal of former Cayman Islands Premier McKeeva Bush.
- The fall-out from the Operation Tempura inquiry in the Cayman Islands.

- The disagreements between the Turks and Caicos Islands Government and the UK authorities over the strengthened 2012 Constitution.
- The allegations of widespread sexual exploitation of girls in St Helena and the suggestion that both local and UK authorities were slow to investigate the claims.

Although all four cases have a major historical component, they reflect some of the problems that remain in the relationship between the UK and its territories.

First is the lack of confidence on the part of the UK in terms of how some of the territories run themselves. Since 2009 the UK authorities have attempted to take a more proactive role in the governance of the territories. In the Cayman Islands, for example, Bush's arrest was the culmination of a period of increasingly strained relations between the ex-premier and the Governor and the authorities in London. His arrest was not linked to the policy clashes that had taken place, but it was a sign that greater attention was being paid to good governance by both the UK and in turn the Cayman Islanders. However, if the UK continues to engage proactively it must adhere to the same standards as it demands from the territories. In some instances, however, this is not always the case.

The second issue relates to the allegations in St Helena, and although very different in nature, have some parallels with what the problems in the Turks and Caicos Islands. In both cases, the UK was reluctant to use its full powers – rather consensus and persuasion were preferred. A further constraint is the limited power governors have in some instances. Thus concerns that are serious but not extremely so are sometimes left unattended and allowed to worsen or are dealt with inappropriately, as in the case of both St Helena and the Turks and Caicos Islands. This then poses a dilemma in relation to discussions over autonomy. Should the individual territory be given the freedom to act, even if problems become very serious, or should the UK retain some responsibility to step in? And if so, when should the UK exercise those powers? Often there is not a clear answer to that question, and so problems slip through the gaps in governance.

2.2. The economic relationship

The economic relationship between the territories and the UK has parallels with the political dimension. Significant emphasis has been placed on improving the economic self-sufficiency of the territories, aided by appropriate support from the UK. The most high profile examples are the construction of the UK-funded airport in St Helena and Montserrat's Strategic Growth Programme. If successful, they will help reduce the UK's financial commitments. Further, there are efforts to increase business investment in each of the territories; one initiative was the Overseas Territories Investment Forum. Further the Conservative-led government has maintained strong support for the territories' offshore financial sectors.

However, these initiatives come at a time when territory economies are still struggling to overcome the impact of the global economic downturn of 2007-08, with slow or no growth, rising levels of debt and growing unemployment. Increasing budgetary pressures were particularly acute in Anguilla, the Cayman Islands, and the Turks and Caicos Islands. This led the UK government to take a stronger hand. For example, in both Anguilla and the Cayman Islands the UK forced revisions to the local budgets to cut spending and raise revenue. Further, the UK and all the Caribbean territories have agreed Frameworks for Fiscal Responsibility – legislation that commits the territory governments to be prudent and transparent on fiscal and debt management and establishes

borrowing limits. In St Helena, meanwhile, the UK does not allow the government to borrow funds. So it is clear that the level of economic oversight of the territories has increased. The Coalition government in the UK with its austerity policies at home believes it is necessary to encourage greater fiscal discipline in the territories (although this comes at a time when the government in London has slowly diluted its own austerity plan). But problems remain. For example, in Bermuda the auditor-general has strongly criticised the lack of transparency and accountability in government accounts; similar criticisms have been made by the Cayman Islands auditor-general; while in the Turks and Caicos Islands a report by its auditor-general in March 2014 highlighted “material weaknesses” and “significant deficiencies” in the government's management of the public accounts. Such criticisms do not help the territories cause when calling for a reduction in the level of UK financial supervision.

3. The political status question

Overall, little has changed in relation to the political status question and what could be done to facilitate full decolonization as set out by the UN. Neither the UK nor the territories favour incorporation; even direct representation in the UK parliament has little support. A move towards Free Association, although favoured by some territories (such as Anguilla) is also not a viable option at present, because the UK government is committed to retaining certain key powers and responsibilities. The stance of the UK also limits the opportunities under UN General Assembly Resolution 2625 (XXV) that considers “the emergence of any other political status freely determined by the people” as a way of implementing the right to self-determination. The other option is of course independence.

Over the last several years voices have been heard from some of the territories concerning a possible move in that direction. However, in no case has a proper debate been initiated, nor a clear time-line set-out. Any mention of independence has largely been used as a means of political pointscoreing, often at the expense of the UK, rather than the start of a proper consideration of the issue. Dealing with it in such a way is regrettable as it trivialises its importance and does little to properly advance the debate. So it seems most likely that the route towards further autonomy, if not independence, is via incremental steps. As Mark Simmonds, UK Parliamentary Under-Secretary of State said in 2013, “My view is that where Territories demonstrate responsible governance, transparency, efficient procurement and financially responsible management, we should look at ways of continually allowing democratically-elected Territories to have more and more control over their jurisdictions” (Foreign Affairs Committee, 2013: 4). In short, if independence is not an option the UK must be reassured that greater autonomy for the territories will not jeopardise its interests.

Having discussed various aspects of the relationship, I would like to end my paper with some consideration of one issue that has important implications related to General Assembly Resolution 69/105, for example in the Turks and Caicos Islands: “the importance of participation by all groups and interested parties” in discussions about constitutional reform.

4. The ‘Belonger’ issue and the decolonization debate

A very important issue, but also a very sensitive one, is in relation to the recognition and role of people living and working in the territories. Within the context of this seminar and the focus on decolonization, the position of ‘Belongers’ as against ‘non-Belongers’ needs to be addressed because it has implications for political participation and how decisions regarding the future political status of the territories might be made. In short, should the number of Belongers be gradually expanded so

they better represent the territory's population as a whole, and in turn the political views of the people?

Before answering this question I would like to provide some background to the Belonger issue. Formal nationality issues are the responsibility of the UK, but each territory has its own more informal arrangements – equivalent to 'local citizenship'. Belonger status (this term is used in a generic way because territories use different terminology: Caymanian; Montserratian; Bermudian; Turks and Caicos Islander) is granted to those individuals who are seen to have particularly strong links with a territory. In some territories (such as Anguilla and the British Virgin Islands) the status is set out in their constitutions; in others (Bermuda, the Cayman Islands, and the Turks and Caicos Islands) local legislation (sometimes guided by the constitution) defines the status. In the main, the only ways to become a Belonger are by birth, descent, adoption, by marriage (after a qualification period), or being the dependent child of someone who becomes a Belonger by marriage. Also, Belonger status can be granted based on the time spent in a territory (e.g. Anguilla) or the social or political contribution made (although this can be open to abuse, as was seen in the Turks and Caicos Islands).

Being a Belonger is highly prized and the privilege strongly defended. This is because there are a range of benefits that Belongers have, which non-Belongers do not. The benefits vary slightly across territories but commonly they include the right to live in a territory without immigration restrictions; better employment opportunities, the right to own property without the need for a licence; and important political rights – chiefly the right to vote and to stand as a candidate for election.

Over the last two decades with good levels of economic growth, a high demand for labour, and relatively open immigration policies, the populations of the territories have grown rapidly but the number of Belongers has not. Thus there has been a growing imbalance between total population size and the number of Belongers. This is particularly true for the Turks and Caicos Islands. According to a 2012 Country Poverty Assessment from the Caribbean Development Bank, Turks and Caicos Islanders accounted for 40 percent of the total population; compared to 52 percent in 2001. It should also be noted that the non-belonger population is particularly concentrated in the main working age group of 25-44 years. In the Cayman Islands, while the percentage of Caymanians has been relatively constant, according to the country's Economics and Statistics Office, they still makeup only 59 percent of the population. Further, as in the Turks and Caicos Islands, migrants form a majority of the working-age population. Such demographic profiles are interesting in highlighting the dependency of some territories on non-Belonger/migrant labour. But they also have implications for the size of the electorates, as the right to vote is dependent on Belonger status. The table provides a comparison of the size of the electorates to the populations in the territories and some neighbouring independent countries.

Country	Population	Registered voters	Registered voters as a percentage of total population
Anguilla	15,754	8,652	54.9%
Antigua and Barbuda	89,990	47,720	53.0%
Bermuda	65,024	43,652	67.1%
British Virgin Islands	23,552	10,525	44.7%

(2007)			
Cayman Islands	58,435	18,492	31.6%
Grenada	105,897	62,243	58.8%
Montserrat	5,189	3,866	74.5%
St Kitts and Nevis	54,190	42,185	77.8%
Turks and Caicos Islands	33,098	7,245	21.9%

Sources: World Bank; IHS Jane's; territory statistical offices; and territory election bodies.

The restricted franchise, as a result of the very tight controls over Belonger status, is an issue that should be considered when evaluating the quality of democracy and civic engagement. Due to the already small size of the territories there are challenges in relation to democratic accountability and transparency, which could be improved if the franchise was broadened. Further, and more specifically in relation to the decolonization issue, a more representative electorate would enrich discussions regarding the future political status of each territory – both in society more generally and in national parliamentary debates. Elected representatives would be obliged to reflect a broader range of views when constitutional changes are being considered. A case in point was the negotiations regarding a new constitution in the Cayman Islands in 2009. In a statement, Leader of Government Business Kurt Tibbetts argued that “the end product of the negotiations with the UK Government is a People’s Constitution firmly anchored on a national consensus” (Official Hansard Report, 2009: 808). However, this was really not the case. Further, when a referendum was held on the draft constitution only 11,244 people voted; a clear minority of the total population. The government tried to pre-empt this anomaly by arguing that those who would be voting have with the strongest connection to the islands. Alden M. McLaughlin, Minister of Education, talking about the fact that the human rights provisions of the draft constitution were not as expansive as some people had hoped, argued:

Accept that Cayman is in a unique position; one of the few countries in the world where the vast majority of the population cannot vote because they do not have a sufficient connection to the Islands. But I do not believe that we have yet reached the point where the Caymanian population who can vote are prepared to simply say that because there are more of you who can’t vote who have more liberal views our constitutional document ought to reflect those views (Official Hansard Report, 2009: 869).

In other words McLaughlin was saying that just because the majority of residents had a certain view that was more liberal in outlook that “does not mean the Constitution should reflect those views rather than the conservative Christian values of the Belongers” (Vlcek, 2013: 364). Although, this argument was related to particular human rights provisions within the draft constitution, the significance of this view has broader implications for any future constitutional and/or status negotiations. In short, does the situation as it stands provide the best foundations for an informed and open debate about decolonization? It may make little ultimate difference to the views that are expressed, but it would strengthen the legitimacy and inclusivity of those discussions.

Increasing the number of residents who have Belonger status is as we have seen very sensitive, and there are good reasons why this issue should be dealt with in a delicate manner. Belongers are fearful of losing their identity and position within society, with influential ex-pats on the one hand and recent large-scale labour migration on the other. In addition, it is important to recognise that any changes are in the gift of the territories, and this power is a key illustration of their autonomy. However this should not mean change should not happen – in a carefully managed way. Residents that have lived in a territory for a number of years and have made a significant contribution to it should be given an easier route to Belonger-status. That would be good for democracy and would hopefully lessen some of the tensions within the territories in relation to xenophobia and equal access to services.

5. Conclusion

Significant efforts have been made in recent years by both the territories and the UK to improve the standard of political and economic governance. Progress has certainly been made; but problems – some of which are inherent in the particular model of governance favoured by the UK – remain. Confidence building measures must be sustained; transparent and accountable administration must be strengthened; and the local populations (defined as broadly as possible) must be engaged in the ongoing political and constitutional debates. If all of these elements are developed and maintained then there is hope that further autonomy and in some cases full decolonization might be achieved.

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