



HOUSE OF ASSEMBLY OF THE VIRGIN ISLANDS

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26th May, 2021

The R. Hon. Sir Gary Hickinbottom
Commissioner
BVI International Arbitration Centre
3rd Floor, Ritter House
Wickhams Cay II
Road Town, Tortola

Dear Sir. Hickinbottom:

What is good governance – Honourable Julian Willock

1. I write in my official capacity as a member of the House of Assembly, in keeping with Sec. 63 (1) and Sec 69 (1) of the Virgin Islands Constitution.
2. Generally, the term good governance as it relates to matters is guiding the state and its people towards prosperity. This view is compatible with the United Nation view on the subject:

“SDG 16 encapsulates the essence of “good governance”. It recognises the importance of the rule of law, controlling corruption, participation, effective, accountable and transparent institutions, access to information and the protection of fundamental freedoms”

<https://www.ohchr.org/EN/Issues/Development/GoodGovernance/Pages/InternationalStandards.aspx>
3. In answering the questions and views as set out by yourself, it is important to note international law and the role (or lack thereof) that the United Kingdom has played in developing the BVI’s institutions and economy. Of course, it is of no question that a part of good governance is to at the very least attempt as far as is practicable, to comply with international law and obligations.
4. Good governance is important because all residents will have faith in our institutions because no one is above the law, whether he is the Governor, Premier, Attorney General or the regular man or woman. In applying good governance principals, regard must be paid to local customs and traditions.
5. The starting points in answering your questions are to be found in Article 1 of the International Covenant on Economic, Social and Cultural Rights (the “Covenant”), Article 73 of the United Nations Charter (the “Charter”) and the Preamble of the Virgin Islands Constitutional Order 2007 (the “Constitution”).
6. Article 1 of the Covenant states:

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

2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

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3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.”

7. Article 73 of the Charter states:

“Members of the United Nations which have or assume responsibilities for the administration of territories whose peoples have not yet attained a full measure of self-government recognize the principle that the interests of the inhabitants of these territories are paramount, and accept as a sacred trust the obligation to promote to the utmost, within the system of international peace and security established by the present Charter, the well-being of the inhabitants of these territories, and, to this end:

- a. to ensure, with due respect for the culture of the peoples concerned, their political, economic, social, and educational advancement, their just treatment, and their protection against abuses;*
- b. to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement;*
- c. to further international peace and security;*
- d. to promote constructive measures of development, to encourage research, and to cooperate with one another and, when and where appropriate, with specialized international bodies with a view to the practical achievement of the social, economic, and scientific purposes set forth in this Article; and*
- e. to transmit regularly to the Secretary-General for information purposes, subject to such limitation as security and constitutional considerations may require, statistical and other information of a technical nature relating to economic, social, and educational conditions in the territories for which they are respectively responsible other than those territories to which Chapters XII and XIII apply.”*

8. The Preamble of the Virgin Islands Constitution states:

“Whereas the people of the territory of the Virgin Islands have over centuries evolved with a distinct cultural identity which is the essence of a Virgin Islander;

Acknowledging that the society of the Virgin Islands is based upon certain moral, spiritual and democratic values including a belief in God, the dignity of the human person, the freedom of the individual and respect for fundamental rights and freedoms and the rule of law;

Mindful that the people of the Virgin Islands have expressed a desire for their Constitution to reflect who they are as a people and a country and their quest for social justice, economic empowerment and political advancement;

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Recognising that the people of the Virgin Islands have a free and independent spirit, and have developed themselves and their country based on qualities of honesty, integrity, mutual respect, self-reliance and the ownership of the land engendering a strong sense of belonging to and kinship with those Islands;

Recalling that because of historical, economic and other reasons many of the people of the Virgin Islands reside elsewhere but have and continue to have an ancestral connection and bond with those Islands;

Accepting that the Virgin Islands should be governed based on adherence to well-established democratic principles and institutions;

Affirming that the people of the Virgin Islands have generally expressed their desire to become a self-governing people and to exercise the highest degree of control over the affairs of their country at this stage of its development; and

Noting that the United Kingdom, the administering power for the time being, has articulated a desire to enter into a modern partnership with the Virgin Islands based on the principles of mutual respect and self-determination;

Now, therefore, the following provisions have effect as the Constitution of the Virgin Islands."

9. As anyone would agree, a part of good governance is respect for international laws and obligations. It also means that no one is above the law, not even governors or secretaries of state.
10. Over the years, one thing has been made abundantly clear, whenever and however the BVI seeks to develop, the UK will do its utmost to hinder it, much in the same way as it completely halted the political and economic development of Anguilla and Montserrat, in breach of its international obligations.
11. Many, many years ago the BVI was abandoned and one option was to make it a bird sanctuary. Eventually, the BVI entered a grant and aid arrangement with the UK, which it must be said helped in some regard. It should however be noted, that the Montserrat representative to the House of Commons Foreign and Commonwealth Affairs Select Committee, decried the grant and aid system as not only as cumbersome, but extremely ineffective. The BVI later opted out of grant and aid. In the late 1970's to very early in the 1980's the BVI made its first attempt at a companies act. It passed through the legislative council, but was for whatever reason denied assent by the then governor. In the late 1980's the former Chief Minister, H. Lavity Stoutt sought assistance from the UK to build a community college. The UK denied such assistance. In 2017, two catastrophic hurricanes hit the BVI, and when the BVI asked for assistance, it got a drop in a bucket and a debt trap in the form of a "loan guarantee". The UK, deciding that the BVI hadn't been kicked enough, opted to cause further turmoil and upheaval to our economy by mandating, without consultation that the BVI create public registers of beneficial ownership for its legal entities, particularly where there is very little evidence to suggest that public registers are an effective tool in combating money laundering. This was done in spite of the fact that the BVI has a state of the art private register system, that it invested millions of dollars into at the behest of the UK. Even more insultingly, this was done in breach of the Constitution according to which, the UK and the BVI are to have a "modern partnership". Even French Guiana has received more investment and assistance from France, than the BVI has from the UK.

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12. In 2020/2021 the BVI passed legislation decriminalizing marijuana and promoting medical cannabis. This would have led to the diversification of the BVI's economy and lifted a burden off of the criminal justice system. This legislation was denied assent for really no reason, which was quite shocking since the USVI, which has far less autonomy has managed to decriminalise marijuana without issue. Even more shocking, is the fact that it has been decriminalized in Bermuda. I suppose that the difference is that the demographic in Bermuda is far more white than the BVI. This lack of assent on a rather uncontroversial bill duly passed by the House of Assembly is a display of poor governance on the part of the UK, as it undermines the role of the BVI's elected representatives and primary law making body. Moreover, it is not in keeping with the "modern partnership". But I suppose, the European Union is finding out that the UK is indeed a very unreliable "partner".
13. Even today, the UK media continues to publish negative stories about the BVI, without even so much as asking for comment from the BVI. If such were done to anyone or anywhere else, this would be considered a breach of Ofcom rules.
14. The UK's antipathy towards the BVI was encapsulated when the then leader of the Opposition, Jeremy Corbyn suggested that the UK should send troops to the BVI so that the BVI bends to the will of the UK. This abhorrent suggestion went without challenge or sanction and seems therefore to be deemed as acceptable.
15. To top off the list, the UK has instituted a Commission of Inquiry in the middle of an international crisis at the behest of a governor, vexed at the world and in particular the BVI. The Commission of Inquiry in and of itself has created quite a burden on the functioning of BVI Government. As a result of the enumerable requests for information and documentation and due to the lack of resources that the BVI has (much thanks to the UK for that), many private individuals are experiencing longer waiting times for licenses and permits, decisions on policies etc are being delayed, as a result of the attention required for the Commission of Inquiry. Moreover, the way in which the Commission of Inquiry was announced, was clearly an attempt to smear the BVI's reputation.
16. As a consequence of the UK's dereliction of duty, if there is a shortfall in governance, much blame is to be placed on the UK. This should be a prime target of the Commission of Inquiry' investigation, as it has a direct effect on the first point of the Commission's terms of reference. Additionally, the Commission of Inquiry itself has absolutely no context by which it may arrive at its conclusions. It knows very little about the culture of the BVI, and probably even less about its history of the BVI, both of which are fundamental aspects in good governance.
17. On the other hand, the BVI takes its international obligations seriously, even to the detriment of its own people. For example the BVI is one of the most secure financial services centres in terms of regulations and anti-money laundering systems. This has made it quite cumbersome for local companies to open bank accounts, add names thereto. It is nigh impossible to have overseas investors on the bank accounts. In addition to that, the amount of banks and insurance companies operating in the BVI have been limited in order to satisfy the BVI's international AML/CFT obligations. Of course the UK media would not bother reporting on that.
18. In terms of guiding its people towards prosperity, the BVI built its own community college, despite objections from the UK. It has a generous scholarship scheme.

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19. The BVI has been implementing legislation to ensure greater transparency and to formalize how appointments to statutory boards are to be conducted.
20. A majority of the issues with respect to good governance relate to the portfolio of the governor. Within the territory there is a palpable lack of accountability as it pertains to the Office of the Governor, and the portfolios that fall under the Governor. For example, immediately after Hurricanes Irma and Maria, the Commissioner of Police hired a number of foreign nationals as police officers without doing the appropriate background checks whatsoever, in fact it is extremely likely that he would have hired persons that were well known criminals elsewhere in the region.

In summary, my conclusions are as follows: my views and my understanding of good governance are as follows:

1. Good governance in the particular and peculiar circumstance of the BVI is when the administering power abides by its international obligations to the territory in quo, abides by its obligation to have a modern partnership with the BVI (including consulting it on legislation that will directly affect it). Moreover, it is when everyone in the country and/or territory including Governors, Commissioners of Police and Speakers, are subject to all the laws of the country and no appointed Governor is exempted from the rule of law.
2. Poor governance will be when a one-man Commission of Inquiry is set up and all the portfolios of the United Kingdom appointed Governor are exempted from the inquiry.
3. Poor governance is when there is no respect for the House of Assembly, as an institution, its duly elected Members, and an appointed Governor that can do as he pleases and there is no redress.
4. Another example of poor governance is when a Commission of Inquiry is called and the local government and press are not advised before the UK press, and even before a report is submitted the world is told the Virgin Islands (VI), is corrupt.
5. As a member of the House of Assembly, good governance is the promotion of democracy and democratic principles. For example, when a Bill is passed by the duly Elected House of Assembly, it is given the Royal Assent in keeping with customs and traditions of Parliamentary democracy.
6. The mechanism I see required to strengthen good governance is immediate constitutional reform, independence and the right of a people to choose their own destiny.
7. Steps should be taken immediately as the current system is weak since it allows a one-man dictatorship for example a Governor who has reserved powers in the VI constitution.

The standards by which good governance is measured, in my humble view, is fighting against racism and white supremacy, eg. in the Governor's office, only Caucasians are employed on the Foreign and Commonwealth side, is this a violation of the European Convention on Human Rights – discrimination?

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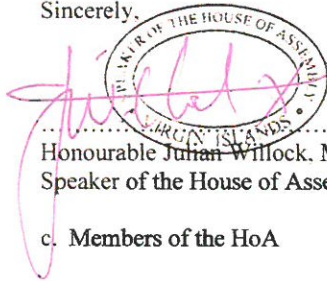
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In closing, the step that should be taken to promote good governance is:

- Self-determination; which will help to promote our institution, where all must be controlled by the rule of law.

These are my views.

Sincerely,



The seal is circular with the text "THE HOUSE OF ASSEMBLY" at the top and "COOK ISLANDS" at the bottom. A handwritten signature in pink ink is written across the seal.

Honourable Julian Willock, MHA
Speaker of the House of Assembly

c. Members of the HoA