



Universiteit Leiden

WHAT CAN WE LEARN FROM THE NEIGHBOURS?

A REPORT ON A SEARCH FOR REGIONAL GOOD PRACTICES
PRACTICES FOR LAW ENFORCEMENT AND PUBLIC SAFETY
IN THE CARIBBEAN NETHERLANDS

SUMMARY

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Summary

On the 10th of October 2010, three small and very different Caribbean islands were integrated into a European country located thousands of miles away. On that date, Bonaire, St Eustatius and Saba became part of the Kingdom of the Netherlands and were given the status of public entity. Together, the islands are often referred to as the Caribbean Netherlands, or the BES islands. In practice, the incorporation of the BES islands proves to be a complex operation. There is a substantial physical and cultural distance between the Caribbean Netherlands and the European Netherlands and between the Leeward island of Bonaire and the Windward islands of Saba and St Eustatius. The social and political conditions on the BES islands cannot be compared to the European Netherlands. Additional complicating factors include the scale of the islands, their isolation, their location in an area that is used for trafficking in drugs, weapons and humans, their vulnerability to natural disasters and their fragile economies. Much has been achieved since the transition, for example in the field of healthcare and education. However, in other areas there is an ongoing search for answers to the question of how to arrange things as well as possible on these small tropical islands.

In this research, the focus is on issues relating to law enforcement and the rule of law. The central themes are detention facilities, juvenile criminal justice, access to justice, crisis management and border control. We hope to contribute to the search by providing new insights through collecting good practices from the 'neighbours' of the Caribbean Netherlands: Caribbean islands that have similar relationships with their former colonizer as the BES islands have with the Netherlands. We use a simple definition of a *good practice*: a method used in practice that meets the goal for which it was conceived. The neighbouring island groups that we have selected are the British Virgin Islands (BVI), the United States Virgin Islands (USVI) and Guadeloupe. Like St Eustatius and Saba, these archipelagos are part of the Windward islands. We will refer to those islands as the *case islands*. States with which the case islands have constitutional ties are referred to as *base countries*.

Method

The central question of this study is: *Which regional good practices in the field of law enforcement and public safety in other Caribbean islands, with a comparable form of government as the Caribbean Netherlands, might benefit the Caribbean Netherlands?* To answer this question, three research questions have been formulated:

1. *How is law enforcement and the rule of law organized in other Caribbean islands that have constitutional ties with a base country?*
2. *How have these Caribbean islands organized their cooperation with the base country in the area of criminal justice and security and how have they organized cooperation and mutual exchange of information in these matters between Caribbean islands that have constitutional ties with the same base country?*
3. *Can any regional good practices be identified that could be beneficial to the Caribbean Netherlands and the Caribbean region with regards to detention facilities, juvenile criminal justice, access to justice, crisis management and border control?*

We have employed the following research methods: a literature study; exploratory interviews with ministries; interviews with experts from the BES islands; a preliminary study for selection of the case islands and case studies of the selected islands. During the preliminary study for the selection of the case islands, we searched for similarities for the following characteristics: relationship with the base country, method of financing, scale, population, socio-economic position, security risk profile and possible relationship with the European Union. For the purpose of crisis management, we have selected islands that, like Saba and St Eustatius, were hit by the hurricanes Irma and Maria in September 2017. A short visit was made to several islands to conduct interviews.

Case islands

Although the case islands are very different, they do share many similarities. The islands all have a history of colonization and slavery. In terms of population size and surface area of the islands, the BVI is most like the BES islands. Guadeloupe, with over 400,000 inhabitants, is considerably larger and the USVI is somewhere in between Guadeloupe and the BVI. Unlike the situation on the BES islands, it is easy to travel between the islands of the case island groups. Hurricanes Irma and Maria have had an unimaginable impact and they are still fresh in the memory of the citizens, certainly at the BVI and the USVI. As far as the economic situation is concerned, the case islands have in common that their Gross Domestic Products are high compared to many other islands and countries in the region, although life on the islands is expensive.

Whereas the constitutional relationship between the Caribbean Netherlands and the European Netherlands has only recently come into existence, the case islands have been in the same constitutional situation for decades. However, there are major differences in the way in which the relations with their base countries have been shaped. In this respect, the situation on the BES islands is very similar to the situation in Guadeloupe. Both have been integrated into the base country. The tie between the BVI and the United Kingdom of Great Britain and Northern Ireland (UK) is the 'loosest'. Here too, the USVI is somewhat in between the BVI and Guadeloupe. The government of the United States (US) takes care of all federal matters and leaves the local matters to the local government.

Good Practices

Detention facilities

The theme 'detention facilities' includes: the organization of these facilities, the differentiation and location of correction facilities and forensic centers, correction programs, resocialization, and aftercare. Facilities and programs are limited on the case islands. For specialized care, they have to rely on their base land. Many Caribbean prisons, including those on the USVI and Guadeloupe, suffer from overcrowding and understaffing. At Her Majesty's Prison on the BVI this doesn't appear to be the case and various good practices have been found there. One of these good practices is the membership of the Association of Caribbean Heads of Corrections and Prison Services (ACHCPS) that is committed to the professionalization of the sector. Another example of a good practice from the BVI is the active and extensive communication of the prison authorities in the media in order to mollify the attitude of citizens towards ex-prisoners returning to society. Her Majesty's Prison works with partners to introduce Restorative Justice in addition to or as an alternative for a prison sentence and has appointed a Restorative Justice Officer. Another good practice is the induction period for 'incoming' inmates and

the outduction period for 'outgoing' inmates. The behavioural points which inmates can earn for good behaviour and to which certain privileges are linked, could also be considered as a good practice. Finally, some good practices are suggested by the UK, such as the deployment of advisors, the creation of a virtual network of experts, the facilitation of 'twinning' and the possibility for staff to gain experience in the UK.

Juvenile criminal law

The topic of 'juvenile justice' relates to the response of the criminal justice system to juvenile delinquency and to the possibilities for alternative sanctioning, resocialization and prevention of recidivism. All case islands have implemented juvenile criminal law and just as in the Dutch juvenile criminal law and the juvenile criminal law that will be implemented on the BES islands, the case islands also have incorporated protective and pedagogical elements in their juvenile criminal law. However, the possibilities that the juvenile justice legislation will offer to the BES islands, seem to be more differentiated than on the case islands. Inspiration might be found in the Juvenile Justice Reform Project of the Organisation of Eastern Caribbean States (OECS) and the United States Agency for International Development (USAID). Within the framework of this project, a Child Justice Bill has been drafted. It could be interesting to join this initiative because of the Caribbean knowledge present in the member states. Another example of a good practice is that on all case islands, the police work closely together with schools. The Gendarmerie of Guadeloupe has a youth brigade and the BVI and the USVI have specialized youth detectives. Finally, we mention the Youth Empowerment Program (YEP) of the BVI. This is a youth center that is largely run by volunteers and has a diverse range of training, courses and activities. In addition, attention is also paid to health, creativity, environmental awareness, culture and leadership.

Access to justice

In the context of this research the theme 'access to justice' refers to access of citizens to information on the law and complaints procedures, the availability of legal professionals and the way in which citizens' right to legal aid is regulated. All case islands have made provisions for access to justice. However, information about legislation is not easy to find on the BVI and the USVI. Guadeloupe benefits in this respect from the fact that it is a French department, because the French government has a wide variety of advanced websites where you can find laws and regulations, often translated into other languages. All the case islands offer their citizens subsidized or free legal aid and, except the BVI, have regulations in place for this. This does not mean that access to justice is effectively guaranteed in practice, because the necessary procedures can take a long time. An example of a good practice on the USVI is that mediation often takes place in civil cases, thereby unburdening the legal system. Another example of a good practice may be found in the Open Doors Federal Court activities that aim to enrich the knowledge of the judicial process through simulations of court cases. The lack of legal professionals like lawyers and notaries is less of a problem on the smaller islands of the case islands than on St Eustatius and Saba because it is quite easy to travel from one island to the other.

Crisis management

When referring to the term 'crisis management' we mean the way in which grave emergency situations are prevented, controlled, and how aftercare is provided. The hurricanes Irma and Maria in September

2017 brought unprecedented devastation to the BVI and the USVI. But they also resulted in a large number of reports and evaluations with potentially good practices for the Caribbean Netherlands. An example of such a good practice is ‘resilience building’, meaning enlarging the defensibility of buildings, infrastructure and communities. Another example of a good practice is ‘targeted messaging’ which accounts for the fact that different people react differently to information regarding a crisis, depending on factors like age, gender, and physical and mental well-being. Even though no good practices were found on the matter of alerting vulnerable groups, we did find recommendations to keep in mind when designing systems. Over the past years, several crisis apps have been developed as well as other ways of communicating, so as not to be dependent on traditional means of communication that could easily fail during a crisis. A good practice here is the Integrated Public Alert and Warning System (IPAWS) which can be used to send out all sorts of communications via all conceivable means. Other good practices are the accreditations of the Emergency Management Accreditation Program (EMAP) and the Tsunami Ready Accreditation and the membership of the Caribbean Disaster Emergency Management Agency (CDEMA); an intergovernmental organization for crisis management that possesses a lot of valuable local Caribbean knowledge. Finally, deployment of the Return to Happiness Program designed by UNICEF for children who have been through traumatic experiences can also be considered a good practice.

Border protection

The theme of border control revolves around good practices in the field of controlling cross-border movement of people and goods via airports, seaports and the coastline. It proved difficult to find good practices in the area of border control because some organizations on the case islands are reluctant to share information with third parties. An important development in this area is the introduction of Advanced Passenger Information Systems (APIS), which allow authorities to receive in-flight data on passengers before an aircraft departs, which they can compare with relevant systems during the flight. Guadeloupe and the USVI are already working with APIS. Within CARICOM, the Caribbean counterpart of the EU, work is underway to introduce an Advance Cargo Information System (ACIS) similar to APIS, but for data on goods instead of people. This could be an example of good practice. Another good practice is the US Customs and Border Protection (CBP) line watch. These are often covert observations at borders, possibly in combination with surveillance or checks in order to intercept terrorists, illegal migrants and smugglers using information from various sources. Other good practices can be found in international projects aimed at disseminating knowledge about migration, such as Migration EU Expertise (MIEUX): a so-called peer-to-peer network of migration experts. One of the activities of MIEUX is to share good practices. In addition, there is the Caribbean Migration Consultations Advisory Forum (CMC), which offers a Caribbean Migration Portal for exchange of information and good practices.

Conclusions

The first research question of this study was: *How is law enforcement and the rule of law organized in other Caribbean islands that have constitutional ties with a base country?* The short answer to this is: very diverse, depending on the nature of the constitutional relationship with the base country. The looser the relationship with the base country, the less influence the base country has on the current state of affairs with regard to law enforcement and the rule of law. If we consider the degree of

influence of the base country as a continuum, then the BVI is at one end and Guadeloupe is at the other end. The relationship between the UK and the BVI can best be compared to the relationship between the Netherlands and the autonomous Caribbean countries within the Kingdom of the Netherlands, i.e. Curaçao, Aruba and Sint Maarten. Guadeloupe is on the other side of the spectrum and is integrated into the base country, like the Caribbean Netherlands. The USVI takes a place in between the BVI and Guadeloupe. Federal matters are in the hands of the US and its federal organizations. Local matters are left to the local government and local organizations. The way in which law enforcement and the rule of law on the case islands is organized in a practical sense is based on the legal systems of the base countries. In Guadeloupe, being a French department, it is almost an exact copy of European France.

The second research question is: *How have these Caribbean islands organized their cooperation with the base country in the area of criminal justice and security and how have they organized cooperation and mutual exchange of information in these matters between Caribbean islands that have constitutional ties with the same base country?* As described above, the relationships between the case islands and their base countries are very different from each other. At the BVI, border control, law enforcement and public safety are local matters. The UK does provide support, but organizations often have to make do with few people and resources. There are still considerable steps to be taken in the area of automated law enforcement systems and information gathering and sharing. On the USVI, border control is in the hands of federal organizations. Law enforcement and public safety tasks are partly carried out by federal organizations in the same way as in the mainland of the US. They have adequate information systems and exchange information in the region and beyond. Local organizations are often understaffed and must contend with a lack of resources, just as organisations on the BVI. Many law enforcement tasks are not yet automated. In Guadeloupe, you find more or less the same organizations as in European France and they can use information systems and working methods that have been developed there.

The third and most important research question is: *Can any regional good practices be identified that could be beneficial to the Caribbean Netherlands and the Caribbean region with regards to detention facilities, juvenile criminal justice, access to justice, crisis management and border control?* The answer is yes, but not from all case islands with respect to all themes. In the area of border control, the USVI seems interesting. When it comes to crisis management, the good practices at the BVI are promising. Guadeloupe seems to be doing well in the area of access to justice and sharing of information systems with the base country. However, the answer to the question if the Caribbean Netherlands can learn from the case islands is also determined by the state of affairs on the BES islands. In a relatively short period of time, much has already been achieved on the BES islands.

Limitations

We didn't assume that good practices would just be there for the taking, but it proved to be more difficult than expected to identify good practices. For various reasons, we must comment on the number of good practices that we have been able to reap. The Netherlands has a relatively high level of facilities. This does not mean that the Netherlands is doing better than the other base countries, only that the Netherlands may have different emphases and may apply different standards. In addition,

the yield of good practices could be limited by the Dutch lens, with which this study was set up and carried out. We encountered numerous differences between the Caribbean culture and the Western culture, but also between the various Western cultures of the base lands and between the cultures of the case islands. The question is whether, without knowing the precise context, we can assess if a practice is a good practice. An additional problem is that there are often no data or studies available on the case islands to determine if a working method is indeed a good practice.

In conclusion

Finally, we would like to note that carrying out an empirical study such as this in the Caribbean region is a good practice in itself. Because of the similar socio-economic and geographical conditions in the region, it is useful to take stock of what we can learn from the Caribbean neighbours. We have found several good practices that may be worthwhile for the BES islands, but we think the case islands can also learn from the BES islands. It therefore seems advisable to join regional cooperation projects with regards to the central themes of this research. Caribbean islands may be isolated, but they are not alone.



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