

## Summaries

*Justitiële verkenningen* (Judicial explorations) is published eight times a year by the Research and Documentation Centre of the Dutch Ministry of Justice in cooperation with Boom Juridische uitgevers. Each issue focuses on a central theme related to judicial policy. The section Summaries contains abstracts of the internationally most relevant articles of each issue. The central theme of this issue (nr. 5, 2009) is *The Dutch Caribbean*.

### **Implosion of the Netherlands Antilles**

*L. de Jong*

How to understand the disintegration of the Dutch Caribbean? The Kingdom of the Netherlands comprising three countries – the Netherlands, the Netherlands Antilles, and Aruba – will be reordered. The Netherlands Antilles will cease to exist as a separate country. Curaçao and Sint Maarten will acquire country status within the Kingdom of the Netherlands, just as Aruba did in 1986, though theirs will be of a different status and with less autonomy. The islands Bonaire, Sint Eustatius and Saba, the so-called *BES* islands, will be integrated into the Netherlands as public authorities (*openbare lichamen*); as such the *BES* islands will be administered by the Netherlands while retaining local government functions (just as municipalities in the Netherlands).

This article outlines the history behind these changes and the factors that are at play. However improbable the *Dutch Caribbean* hypothesis, the Kingdom facilitates a connection of these islands with the international world. Against all odds and populist opponents, the *Dutch Caribbean* is a challenge to square the circle, a complex pact, impossible to balance, which will never come to a definitive conclusion.

### **Towards a new Kingdom of the Netherlands**

*R. Nehmelman*

In 1954 the Statute of the Kingdom of the Netherlands came into force. This document can be seen as an internal Treaty between the Netherlands (as a country in Europe) and its former colonies. Nowadays three countries are (internal) partners in the Kingdom of the Netherlands: the Netherlands, Aruba and the Netherlands

Antilles. In 2005 new negotiations have begun for a new (internal) structure of the Kingdom of the Netherlands. The Netherlands Antilles will cease to be a country in the Kingdom and will be divided into two new countries Curaçao and Sint Maarten. The other remaining (small) islands Bonaire, Sint Eustatius and Saba will be part of the territory of the Netherlands as specific judicial bodies as meant in article 134 Dutch Constitution. A huge diplomatic and judicial procedure has started. Although it is not certain yet, in 2009 it looks as though these plans and procedures will be realized in the very near future.

### **Exorcizing Hulanda; how Sabans have mustered the courage to face the future as a BES island**

*F. Guadeloupe*

In the ongoing effort to create a post-imperial Dutch Kingdom, one in which colonial categories have no place, preparations are underway to reorganize this transatlantic political entity. The BES islands, Bonaire, Sint Eustatius, and Saba, will be granted the status of overseas municipalities of the Netherlands. Such welcoming efforts by mandarins in The Hague must however be based upon a sound understanding of how the cultural sensibilities of many Caribbean Dutch continue to be impacted by the lingering memories of the colonialism. Throughout the Dutch Caribbean isles, these lingering memories have given rise to *Hulanda*, a collection of fantastic spectres supposedly representing the benevolent and malevolent mindsets of the European Dutch to whom the future allegedly belongs. By specifically focusing on Saban imaginings of *Hulanda*, as well as offering modes to exorcize these specific spectres, this essay seeks to contribute to the process of mutual recognition within the Dutch Kingdom.

### **No reason for despondency; the development of crime on the island of Curaçao**

*A.W. Weenink*

In the years 2000-2003 crime on Curaçao seemed to be going out of control and the economy was virtually stagnant with low growth and high unemployment. This situation has changed significantly since 2005. The author shows that a targeted approach by the authorities pushed back major crime problems like the smuggling of cocaine on passenger flights, armed robberies and homicides.

However only a permanent effort can guarantee the continuation of this success. Corruption and nepotism are still vibrant, but mainly concern individuals, not institutions as a whole, while the judiciary actively prosecutes corrupt officials. In the long run not only repression, but preventive measures are needed as well. A major cause of corruption and nepotism is the small scale of island life, in combination with economic protectionism and state ownership of companies. Structural adjustments in economic institutions and policy in recent years heralded the return of economic growth and employment. More adjustments in economic policy and institutions could further reduce incentives for corruption; these might also lead to the opening up of Curaçao's rigid labour markets for the many unemployed youngsters. A more autonomous Curaçao faces serious challenges, but the island's record so far gives no reason for despondency.

### **The backgrounds of fraud and corruption in the Dutch Caribbean**

*N.P.C.M. Schotborgh-van de Ven*

The subjects fraud and corruption play an important role in the recent debate on the constitutional changes within the Netherlands Antilles and the 'status aparte' of Curaçao and Sint Maarten. The Netherlands and the various islands keep passing the blame on one another when it comes to fraud and corruption. It seems there is little willingness to look at the underlying causes or to express self-criticism. In this article an attempt is made to outline what is really going on in the field of fraud and corruption in the Caribbean part of the Kingdom. Several investigations on fraud and corruption committed by politicians in the past fifteen years will be addressed. Furthermore several socio-cultural, political and economic factors that play a role in causing fraud and corruption are being discussed. In this way the author hopes to contribute to a more constructive debate about the issue of fraud and corruption.

### **The reform of law enforcement on the Dutch Antillean islands**

*H. de Doelder*

The regulation regarding the law enforcement in the new construction of the Netherlands Antilles has to be adapted. The country of the Netherlands Antilles will be divided in three parts: two more or less autonomous countries (Curaçao and Sint Maarten) and the remaining islands (the third part) will fall directly under Dutch

rule. In this article special attention is being paid to the law enforcement on the islands (and countries) Curaçao and Sint Maarten. Will it be possible (in the future) for the Dutch Minister of Justice to give guidelines or orders to the prosecution office based in Curaçao and Sint Maarten? It has been agreed that the countries of the Netherlands, Sint Maarten and Curaçao will consult regularly on prosecution policy in order to coordinate their actions. Also a new legal possibility is created for all three Ministers of Justice (including the Dutch minister) to give guidelines or orders to the prosecution, but in special cases only after approval of the Common Court of Justice.

### **A new Criminal Code for the Netherlands Antilles**

*M.F. Murray*

This article discusses the main features of the draft version of the new Criminal Code for the Netherlands Antilles, which was completely revised and updated in accordance with the latest case law and applicable international treaties. The draft legislation abolishes the death penalty and minimum sentences. Also it introduces community services, a travel ban, an extension of self-defense in the direct vicinity of one's house and the obligatory review of life-long jail sentences after twenty years. Furthermore it adapts and modernizes the presently existing fines and criminal law for minors. The draft legislation is pending the recommendations of the Advice Council and will be presented to the Parliament thereafter.