

# Op-Ed: New V.I. Constitution is Step Towards Greater Self Determination

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As Project Director of an Interior Grant devoted towards capacity building to increase constitutional development and self-determination I have the historic responsibility to stimulate greater awareness, civic consciousness, and political will to improve self-government. The U.S. Virgin Islands is in the throes of political transition. As attentive residents may know already, I have openly supported the pending legislation Bill No. 34-0153. Why? It is the logical step to take after the November 3, 2020 referendum that overwhelmingly showed the public position of many voters. For the benefit of the People of the Virgin Islands, I am reiterating my position today and I am providing an excerpt of my written testimony below.

I would like to address three aspects of the bill. First, the context of the very proposal. Second, the strengths or positives of the proposed bill. Third, my humble, friendly amendments that are based on objective reality and experience. So, why are we today discussing a constitution? What

is a constitution? Can't we live with our existing Revised Organic Act of 1954 (Amended) and simply go to Congress or the Federal Courts to make modifications to this very Organic Act?

Let us agree to a few basic facts. A constitution is a political framework of government. In the US tradition, it is a written framework that the People craft and ratify. At least 35 states were once territories that had organic acts which served as the temporary or transitional constitutions that were replaced by state constitutions.

By every modern standard of political development, the creation of a written constitution that places increasing responsibility, accountability, and power in the hands of the People or as some say - the masses - by definition is inherently progressive and in a way decolonizing. In the new millennium or today, every United Nations Committee that reviews political development and insists on decolonization, measure the path a non-self-governing territory or colony or dependent area has moved forward in the path of self-government, economic development, human development, cultural advancement, and every attribute of modern life. The quest for a USVI constitution must be seen as part and parcel of the necessary growth of our People, our society, and our aspirations. We, the People of the Virgin Islands, are not new to this aspiration for political development.

In 1936, after the heroic struggles of the founding fathers and mothers of our current system, the first democratic framework was established. But it was not foolproof; there was an immediate demand to revise it, to eliminate the English-language requirement, unify the political system, and give more economic power to the local government.

The Revised Organic Act of 1954 eliminated the English language requirement, and this allowed Spanish speakers and French speakers the ability to participate in our novel democratic system. Our current unicameral system with its strengths and weaknesses emerged. Even more so, we acquired more power to tax, collect excise taxes and craft legislation to garner investment. Within ten years of the passage of the Revised Organic of 1954, our farsighted leaders created the First Constitution Convention, which was literally called the Convention to Revise the Revised Organic Act of 1954.

In 1964, our honorable leaders sought to improve our political system even without any Congressional authorization and support. They did it again in 1971. At the same time, we had voted-in our first elected governor and had created an office for a national representative who became our Delegate to Congress.

These two early conventions that our People created without Congressional approval or support, set in motion reforms and amendments in our political system and political culture. By 1976, in response to the pressure of our People as well as efforts under way in our sister territory in Guam, the Federal Government passed HR 94-584.

However, the three subsequent Constitutional Conventions did not achieve completion. A few reforms emerged from the third and fourth Constitutional Conventions but the positive results of the fifth convention are elusive.

The constant feature of the last three conventions is that there are no major changes of the political system except perhaps the judicial branch. For example, if we view [Re] Apportionment to be a periodic review or change of electoral districts, it is not a major change. Where we have seen an impressive development from the third and fourth Conventions would be the Judiciary. Today, our Judicial branch is a state-like branch of government, but when the third and fourth conventions were in existence, there were mainly Municipal Courts that evolved into Superior

Courts.

Bill 34-0153 is good. The prefatory clauses were insightful, and the overall spirit of the proposal is promising. Yet as a political scientist, I am trained to separate the “is” from the “ought to be”. A few weaknesses need to be remedied to avoid a failed process. I will list my concerns briefly.

1. The language must be improved to explicitly indicate that the Sixth Constitutional Convention is being organized to adopt the Revised Organic Act of 1954 as Amended, and this means the current 1954 Amended Organic Act is the framework of our government. There must be an explicit statement that the Convention is fulfilling the mandate of the November 2020 referendum.
2. Remove references of modifying, adapting, or adopting provisions from the 5th Constitution Draft. Leave that alone.
3. Do not create a preamble at this time but only include a section that allows for amendments after the new constitution has been ratified.
4. Reduce the approval threshold from 13 out of 15 to a simple majority of 8.
5. Only allow nine members to be elected but allow for six appointed members who will be selected - two by the governor, two by the senate, and two by the supreme court. These appointed members will be three per district and they are selected to create a socio-cultural balance of the various constituent groups of the modern USVI. This is intended to ensure an inclusive, diverse, and representative Convention.
6. Ensure that this Convention does not engage in mission creep to allow political status and unsettled issues to sabotage the process.
7. Include language that if any issue emerges that can be considered new amendments, they will be identified and prepared for the first assignment for a successor Constitution Commission that is to emerge after a new constitution is ratified.
8. The bill should include a brief statement that this process does not preclude a future political status referendum or commission.
9. The public education campaign that concludes this bill must clearly state that the intent is to publicize the draft constitution that has been approved by Congress so that there is a decisive turn out of voters to complete this ratification process without doubt of public interest and mass legitimacy.
10. The 35th Legislature and the Governor are expected to participate in the public education and information campaign. This need for elected officials to at minimum give moral support is indispensable for final success.

The road that we have travelled is like our roads in St Thomas—they are winding, narrow at times, filled with potholes and detours into dirt roads. I urge you to avoid the potholes and dirt roads and stay on the smooth, straight highways. The adoption of the Revised Organic Act of 1954 (Amended) is the smooth highway.

Fellow Virgin Islanders I hope my input is reviewed and considered. After three decades in the trenches, educating the People on self-determination, political status, good governance, and constitutional development, I know that success is in our hands if we are wise and fair. I ask you the Committee of Government Operations and Consumer Affairs to consider my input to improve this bill to allow an overwhelming success. To our People, I end with the questions—

If not now, when? If not us, who?

**Submitted on Tuesday by:** Malik Sekou, PhD

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