



## **VIRGIN ISLANDS YOUTH ADVOCACY COALITION**

Submission to the United Nations  
Universal Periodic Review of  
United States of America

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Human Rights Council  
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Submitted by: Virgin Islands Youth Advocacy Coalition, Inc. and the Virgin Islands Rastafari Sacramental Cannabis Council Inc.

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## Executive Summary

Virgin Islands Youth Advocacy Coalition, Inc. (VIYAC), is a broad-based coalition of organizations and individuals committed to increasing political and civic involvement and overall voter participation of Virgin Islanders, ages 14-30. VIYAC, in conducting its assessment, submits this UPR to highlight VIYAC's concerns as it relates to the United States'<sup>1</sup> lack of implementation of the recommendations pertaining to issues concerning people of African Descent as well as ongoing issues in denial of fundamental rights in Virgin Islanders exercise of their political, social, economic, cultural and educational rights (right to self-determination) not addressed in the prior review, some of which was highlighted during the Statement of our Co-Founder and President, Genevieve Whitaker who served as a Delegate for the 2017 Second Regional Meeting for Europe, Central Asia and North America on the International Decade for People of African Descent.<sup>2</sup>

VIYAC, specifically in submitting this UPR, expresses concern for the political status of the Virgin Islands of the United States, as a Non-Self-Governing Territory, and unincorporated territory of the United States, predominantly comprised of persons of African descent (76 percent according to the 2010 U.S. Census Report), and the effect that non-self-governing status has had on the people of the Virgin Islands' ability to exercise their inalienable right to self-determination. The right of Virgin Islanders to self-determination is established in the United Nations Charter, Article 73 (a) and (b)<sup>3</sup> and enshrined within: (1) the Universal Declaration of Human Rights (UDHR), Article 2 (specifically addressing persons belonging within a non-self governing territory)<sup>4</sup>; Article 1, 1. and 3. of both the International Covenant on Civil and Political Rights (ICCPR)<sup>5</sup>; (3) International Covenant on Economic, Social and Cultural Rights (ICESCR)<sup>6</sup>; (4) and the Revised Organic Act (ROA) of 1954, the federal law unilaterally established by the United States Congress which functions as the de-facto constitution of the Virgin Islands and establishes that "no law shall be enacted in the Virgin Islands which shall deprive any person of life, liberty, or property without due process of law or deny to any person therein the equal protection of the laws." <sup>7</sup> The Virgin Islands is forced to uphold federal law that

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<sup>1</sup> Inter-American Commission on Human Rights (IACHR), American Declaration of the Rights and Duties of Man, 2 May 1948, available at: <http://www.cidh.org/basicos/english/Basic2.American%20Declaration.htm> [accessed 4 December 2016]

<sup>2</sup> Statement by Genevieve Whitaker (OHCHR IDPAD) 2017 Regional Meeting, 23-24 November 2017, Geneva. **See Appendix 1**

<sup>3</sup> UN Charter (Article 73 (a) and (b)): "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;

<http://legal.un.org/repertory/art73.shtml>

<sup>4</sup> UDHR (Article 2.) : Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty. <https://www.un.org/en/universal-declaration-human-rights/>

<sup>5</sup> ICCPR (Article 1):

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

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.

<sup>6</sup> ICESCR (Article 1):

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.

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.

<sup>7</sup> 48 USC Ch. 12: VIRGIN ISLANDS 1954

From Title 48—TERRITORIES AND INSULAR POSSESSIONS <https://uscode.house.gov/view.xhtml?path=/prelim@title48/chapter12&edition=prelim>

discriminates against its own population through denial of full citizenship which is direct conflict to the federal and local laws that govern the Virgin Islands of the United States and its people.

## **A. Background and Framework**

### **1. Scope of International Obligations (In Relevant Part):**

The United States has ratified two international instruments related to the fight against racial discrimination: the International Covenant on Civil and Political Rights, and the International Convention on the Elimination of All Forms of Racial Discrimination. The United States has signed other relevant instruments: the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention on the Rights of the Child. The ratification by the United States of these instruments could enhance the protection and recognition of the rights of people of African descent. Despite the tenets of these treaties being deemed as customary international law because of their widespread ratification and implementation, the United States remains firm in its position to avoid the full ratification of the signed treaties.

Additionally, the United States has not signed and ratified any of the human rights treaties that would allow United States citizens to present individual complaints to the United Nations human rights treaty bodies or to the Inter-American Court of Human Rights. The United States is subject to the individual complaints procedure in the Inter-American Commission on Human Rights and is bound as a member of the Organization of American States by the provisions of the Inter-American human rights mechanism, the American Declaration of the Rights and Duties of Man, having subjected itself to the jurisdiction of the Commission of the Inter- American Commission on Human Rights.<sup>8</sup>

The Working Group in its August 2016 Report expressed that it was informed that due to the standing declarations by the United States considering the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as non-self-executing, courts in general in the United States are reluctant to consider international human rights treaties and jurisprudence when these are invoked as independent legal arguments. Owing to these factors, human rights treaties are generally not recognized as giving rise to individually enforceable rights in United States courts.<sup>9</sup> Specifically, as it pertains to the rights of people living in U.S. territories, in their exercise of their human right to self-determination and right to development as enshrined in the UN Charter, Article 73 (a) and (b). This right further supported by UN General Assembly (UNGA) resolutions.

The General Assembly 1977 Resolution A/RES 32/31 on the Question of the Virgin Islands calls for the United States in cooperation with the territorial Government "...to provide the necessary advice to the Commission on the Status and Federal Relations in its review of the residency requirement for those eligible to participate in a genuine exercise of the right to self-determination in the United States Virgin Islands..."<sup>10</sup> As far back as our research takes us, in a 1951 U.S. Government report to the Secretary General <sup>11</sup> the United States

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<sup>8</sup> Inter-American Commission on Human Rights (IACHR), American Declaration of the Rights and Duties of Man, 2 May 1948, available at: <http://www.cidh.org/basicos/english/Basic2.American%20Declaration.htm>

<sup>9</sup> Report of the Working Group of Experts on People of African Descent - visit to United States of America, 19-29 January 2016 (A/HRC/33/61/ADD.2 ) <https://digitallibrary.un.org/record/848570>

<sup>10</sup> UN General Assembly, Question of the United States Virgin Islands, 28 November 1977, A/RES 32/31 available at: <https://undocs.org/en/A/RES/32/31>

<sup>11</sup> INFORMATION FROM NON-SELF-GOVERNING TERRITORIES: SUMMARY AND ANALYSIS OF INFORMATION TRANSMITTED UNDER ARTICLE 73E OF THE CHARTER. REPORT OF THE SECRETARY-GENERAL. A REPORT ON THE APPLICATION OF THE DECLARATION OF HUMAN RIGHTS IN NON-SELF GOVERNING TERRITORIES ADMINISTERED BY THE UNITED STATES OF AMERICA. INFORMATION TRANSMITTED BY THE GOVERNMENT OF THE UNITED STATES OF AMERICA, 16 October 1951, A/1823/ADD.1, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/NL5/112/48/pdf/NL511248.pdf?OpenElement>

reported the participation of the Virgin Islands and other territories in their respective regional bodies (in the case of the Virgin Islands: the Caribbean Commission and the West Indian Conference). Therefore, it is unclear why there have been barriers to the Virgin Islands becoming joining key regional organizations such as the Organization of Eastern Caribbean States (OECS) and the Caribbean Community (CARICOM). The Virgin Islands has sought the approval of the United States government for membership<sup>12</sup> into OECS and CARICOM, to no avail, with the reasons for denial being unclear. Additionally, the matter of political equality was clearly laid out in 1960 as the UNGA Resolution 1541 XV. As summarized by Dr. Carlyle Corbin, former Virgin Islands' External Affairs Advisor who has served in various United Nations capacities as an international expert on self-determination and governance in a presentation on UNGA Res. 1541 XV, "legitimate political options [were] further defined [,] transfer of powers without condition or reservation in advance of self-determination, [that] [d]ependency impedes world peace." <sup>13</sup> Furthermore, UNGA Res. 1541 XV, in its list of Principles, provides, in part, that "[i]ntegration with an independent State should be on the basis of complete equality between the peoples of the erstwhile Non -Self-Governing Territory and those of the independent country with which it is integrated. The peoples of both territories should have equal status and rights of citizenship and equal guarantees of fundamental rights and freedoms without any distinction or discrimination; both should have equal rights and opportunities for representation and effective participation at all levels in the executive, legislative and judicial organs of government." <sup>14</sup>

## 2. Public Awareness of Colonial Status

There currently exists no curriculum on decolonization or political status education within the public and private school systems of the Virgin Islands, despite the passage of a law in 1983 requiring children to learn Virgin Islands and Caribbean history and culture from Kindergarten to 12th grade (K-12).<sup>15</sup> In fact, there is a pending lawsuit filed by various family members of public school students, as well as a group of taxpayers, against the Virgin Islands government <sup>16</sup> to compel the necessary education reforms in light of the glaring fact that a comprehensive curriculum in Virgin Islands and basic Caribbean history does not exist and there are no courses taught, wherein political status education is part of the curriculum. **See enclosed Complaint and Amended Complaint.**

The level of public awareness of colonial status may have been heightened by the slow recovery efforts of 2017 hurricanes Irma and Maria. Virgin Islanders, as of this report, are being subjected to unfair treatment by the United States government in the issuance of federal disaster aid. For example, the U.S. Department of Housing and Urban Development (HUD), after granting the Virgin Islands two sets of HUD funding for hurricane-related aid, unlike the states impacted by disasters, the third set of funds for the Virgin Islanders were withheld, with HUD Secretary Ben Carson, stating that "[r]ecovery efforts in jurisdictions prepared to do their part should not be held back due to alleged corruption, fiscal irregularities and financial mismanagement occurring in Puerto Rico and capacity issues in the U.S. Virgin Islands."<sup>17</sup> Such statements and actions gave rise to a public discourse on treatment of the people of the Virgin Islands by the United States government, especially in light of the fact that the issues surrounding Puerto Rico's mishandling of federal disaster funds

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<sup>12</sup> Governor Concludes Washington Trip with CARICOM Discussion, March 6, 2007 <https://stjohnsource.com/2007/03/06/governor-concludes-washington-trip-caricom-discussion/>

<sup>13</sup> Carlyle, Corbin. (April 2013, updated 2016). Dependency Governance, Constitutional Reform & Democratic Deficit in the Non-Independent Caribbean, available at: [https://www.uvi.edu/files/documents/College\\_of\\_Liberal\\_Arts\\_and\\_Social\\_Sciences/social\\_sciences/OSDCD/Corbin\\_Self-Determination\\_for\\_small\\_island\\_territories.pdf](https://www.uvi.edu/files/documents/College_of_Liberal_Arts_and_Social_Sciences/social_sciences/OSDCD/Corbin_Self-Determination_for_small_island_territories.pdf)

<sup>14</sup> [https://undocs.org/en/A/RES/1541\(XV\)](https://undocs.org/en/A/RES/1541(XV))

<sup>15</sup> Title 17, Section 41(c) 1 and 2, Virgin Islands law. **See Appendix 2**

<sup>16</sup> Writ of Mandamus, Mary Moohead, et.al v. Governor John P. deJongh, Jr. et. al and Amended Complaint, Mary Moorhead, et.al. v. Governor Albert Bryan, Virgin Islands Board of Education, Commissioner of Education Racquel Berry Benjamin, **See Appendix 3a and 3b.**

<sup>17</sup> HUD denial of 3rd set of funding afforded to the other states that faced hurricanes, available at: [https://www.hud.gov/press/press\\_releases\\_media\\_advisories/HUD\\_No\\_19\\_117](https://www.hud.gov/press/press_releases_media_advisories/HUD_No_19_117)

had nothing to do with the Virgin Islands' ability to manage its own federal grants.<sup>18</sup>

It should be noted that in 1993, the Virgin Islands held a referendum on political status. Dr. Malik Sekou, a Professor of Political Science at the University of the Virgin Islands who served as the Associate Director for Public Education, U.S. Virgin Islands Commission on Status and Federal Relations, summarized the referendum in his paper, "The Failure of the Political Status Process In the U.S. Virgin Islands." Dr. Sekou cited discord among political and community leaders as reasons why he deemed the referendum as a failure.<sup>19</sup> However, Dr. Sekou did not provide any critical analysis of each of the political status options that the public was to vote on. According to the U.S. Government Accountability Office (GAO) in its November 1997 report on the application of the U.S. Constitution, 80 percent voted [representing only "27.5 percent of the electorate"] for "continued or enhanced territorial status", the other options were: "incomplete integration with the United States or removal of U.S. sovereignty."<sup>20</sup> **Note: There is no research that has been found where "enhanced territorial status" is defined by the U.S. government and certainly the Virgin Islands has maintained the status quo prior to the 1993 referendum and to present day.**

The Virgin Islands public is largely aware of their inability to vote for the President of the United States while having a non-voting Delegate to Congress to the U.S. House of Representatives. In 2017, as part of the United States' push for the celebration of the Virgin Islands' colonial status, to "Create Meaningful Observance and Leverage Celebration to Strengthen Ties and Promote Tourism," the U.S. Department of the Interior<sup>21</sup>, gave the Virgin Islands government five-hundred thousand dollars (\$500,000)<sup>22</sup> and two-hundred and fifty thousand (\$250,000) was awarded to the University of the Virgin Islands (UVI) to establish an Office of Self-Determination and Constitutional Development to work with the Centennial Commemoration Commission and other stakeholders across the territory to address the issue of self-determination. "Major duties and responsibilities of the Office of Self-Determination and Constitutional Development] to include political status and constitutional education; research and development; mass public education; and complementing activities of the Centennial Commemoration Commission."<sup>23</sup> Subsequently, UVI established the Office of Self-Determination and Constitutional Development (OSDCD). Dr. Malik Sekou, was appointed as the Project Director of OSDCD, a position that he holds as the date of submission of this Report. "The responsibilities of the Office include public education initiatives on political status and research and development projects."<sup>24</sup> While Virgin Islanders are critical of the lack of voting rights in the territory, the political status question often leads the people of the territory to hesitate. Respondents and ethnographic phenomenology of American colonialism in St. John, U.S. Virgin Islands argues that hesitation is produced by: (1) a lack of resources to help

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<sup>18</sup> [GOVERNOR] BRYAN 'DEEPLY DISAPPOINTED' WITH H.U.D.'S DECISION TO DELAY USVI DISASTER FUNDING, VOWS TO 'PUSH BACK' AGAINST WASHINGTON, available at: <https://viconsortium.com/breaking-news/bryan-deeply-disappointed-with-h-u-d-s-decision-to-delay-disaster-funding-for-usvi-vows-to-push-back-against-washington/>

<sup>19</sup> <https://ufdcimages.uflib.ufl.edu/ca/00/40/01/86/00001/pdf.pdf>

<sup>20</sup> Report to the Chairman, Committee on Resources, House of Representatives U.S. INSULAR AREAS, Application of the U.S. Constitution (November 1997), available at: <https://www.gao.gov/archive/1998/og98005.pdf>

<sup>21</sup> The Department of the Interior falls under the U.S. House of Representatives Natural Resources Committee" which ..." has jurisdiction over the U.S.-affiliated insular areas, which include the territories of Puerto Rico, Guam, American Samoa, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands Department of the Interior (DOI) which is represented by a BULL (a Bison) was "...[f]ounded in 1849 by President Zachary Taylor. It manages the land, water, and mineral resources of the United States as well as oversees American Indian affairs." Go to the Department of the Interior: <https://www.doi.gov/about> then go to the Office of the Assistant Secretary Insular and International Affairs: <https://www.doi.gov/asiia>, then select Insular Affairs, the webpage for Insular Affairs is the Office of Insular Affairs: <https://www.doi.gov/oia>, where the following summary of the office is available: The Assistant Secretary Insular and International Affairs and the Office of Insular Affairs carry out the Secretary's responsibilities for the U.S. territories of Guam, American Samoa, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands. Additionally, OIA administers and oversees Federal assistance under the Compacts of Free Association to the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau. The 2019 budget request achieves the Department's mission of Fulfilling our Trust and Insular Responsibilities through balancing efforts to strengthen economic and health capacities in the territories, and fulfill Compact obligations.

<sup>22</sup> <https://www.doi.gov/oia/interior-provides-500000-help-us-virgin-islands-prepare-centennial-celebrations-2017>

<sup>23</sup> <https://www.doi.gov/oia/interior-announces-nearly-5-million-fy-2016-funding-us-virgin-islands>

<sup>24</sup> Dr. Sekou, created a series of lectures on political status and publications for the public on the history of self-determination, constitutional development and political status in the USVI, available at: <https://www.uvi.edu/academics/lib-arts-and-sciences/research-and-outreach/osdcd.aspx>



educate the public; (2) limited opportunities for education on political status and its implications; and (3) the pervasive belief that a shift in political status does not guarantee decolonization in an unequal world.<sup>25</sup>

### 3. Stories/Examples of Violations:

There have been Virgin Islanders who have taken up the charge of fighting for their rights, but as a federal court opined in 2007 in a case involving a Virgin Islands resident<sup>26</sup> seeking to address the lack of voting rights as a United States citizen, “[t]he Territory of the United States Virgin Islands is one of only seventeen territories remaining in the world today that are classified under international law as ‘non-self-governing territories,’” and thus is “the subject of a continuing United Nations campaign to eradicate colonialism...as a matter of international human rights[,]” acknowledging, the Senate ratification of the ICCPR contains “specific language requiring States Parties to afford their citizens the right to vote, and to afford the people of non-self-governing territories such as the Virgin Islands the right to self-determination.” The Court however, ruled that it “lack[ed] jurisdiction over any ICCPR claim” asserting that the Senate declared that the ICCPR’s “substantive provisions were no self-executing” and therefore the “rights articulated in the ICCPR are aspirational until ‘the discretion of the Legislature and Executive Branch’ and the Plaintiff, Mr. Krim Ballentine’s case was therefore dismissed.

In federal cases<sup>27</sup> involving voting rights of residents of American Samoa, who are American nationals, but denied American citizenship, both the Donald Trump administration in 2018 and the Barack Obama administration in 2016, relied on a series of cases in the early 1900’s, known as the “Insular Cases”<sup>28</sup> that labeled inhabitants ) of the newly acquired U.S. territories as “savages of an alien race” “unfit for citizenship”(it labels Virgin Islanders and other territorial peoples).

As it pertains to healthcare rights, Virgin Islanders, like inhabitants of other United States territories, are subjected to healthcare disparities. One example is the situation concerning the disbursement of Medicaid funds, which as summarized by The Kaiser Family Foundation “are capped for [the] USVI, [the Virgin Islands of the United States] having a fixed federal Medicaid match rate that is lower than the rate they would receive if they were states.” Additionally, residents of the Virgin Islands, unlike those in the mainland United States, were not afforded the same opportunity to take advantage of the full benefits of the Affordable Care Act (ACA) also known as “Obamacare,” as the Virgin Islands government was forced to choose between establishing a healthcare exchange, or an increase in Medicaid funding. The states were afforded the right to both avenues.

Another story is that of residents of the island of St. John, Virgin Islands, wherein the presence of the Virgin Islands National Park, which occupies over two-thirds of the island, raises a lot of questions for the U.S. Virgin Islands about the territory's dependent relationship on the United States. Specifically, the VINP has

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<sup>25</sup> Sewer, Hadiya. 2018. “Possession: A Phenomenology of American Colonialism in St. John, USVI.” Dissertation, Brown University, Providence, RI.

<sup>26</sup> The U.S. federal case of *Krim M. Ballentine v. United States*, 486 F.3d 806 (3rd Cir. 2007) Court of Appeals for the Third Circuit. Case Summary: The facts in this case are not in dispute. Pro se appellant Krim Ballentine was born in Missouri in 1936, and worked as a deputy United States Marshal in the continental United States for many years. In 1973, the Marshal Service transferred Ballentine to the United States Virgin Islands. In 1985, Ballentine retired from the Marshal Service and took permanent residence in the Virgin Islands. On July 30, 1999, Ballentine brought an action against the United States in the District Court of the Virgin Islands asserting various constitutional claims stemming from (1) his inability, as a resident of the Virgin Islands, to vote in the election of the President of the United States or be represented by voting members of Congress and (2) the status of the Virgin Islands as an unincorporated territory, available at: <https://caselaw.findlaw.com/us-3rd-circuit/1251837.html>

<sup>27</sup> *Fitisemanu v. United States*, available at: [http://www.equalrightsnow.org/american\\_samoans\\_make\\_case\\_for\\_birthright\\_citizenship\\_on\\_150th\\_anniversary\\_of\\_the\\_fourteenth\\_amendment](http://www.equalrightsnow.org/american_samoans_make_case_for_birthright_citizenship_on_150th_anniversary_of_the_fourteenth_amendment)  
Virgin Islanders who joined the lawsuit, a case filed by an organization originally, We the People, now Equally American, headed by Neil Weare, an attorney who grew in Guam, to include former non-voting Virgin Islands Delegate to Congress, Congresswoman, Dr. Donna Christensen and the current Virgin Islands Delegate to Congress, Congresswoman Stacey Plaskett, Esq., VIYAC also supported the lawsuit as well as local attorneys, available at: <http://www.equalrightsnow.org/tuaua>

<sup>28</sup> <https://www.scotusblog.com/wp-content/uploads/2016/06/15-981-Scholars-of-International-Law-Amicus-Brief.pdf>

catalyzed the skyrocketing real estate values of the last few decades. In the aftermath of the rise of the luxury tourism economy, the people of St. John have battled economic disenfranchisement and land loss. Rising property taxes have made it difficult for ancestral families to keep their properties. The land issue is another story wherein litigation was involved as in 2008, a non-profit organization, Virgin Islands Unity Day Group, Inc. (VIUDG) filed a lawsuit against the Virgin Islands Government and Roy Martin, in his official capacity as Tax Assessor. VIUDG claimed, in part "...that the Government violated 42 U.S.C. § 1983 ("section 1983") because the reassessment of real property conducted by the company the Government hired to conduct the reassessment, BearingPoint, denies members of the VIUDG substantive due process [and asserted that] BearingPoint allegedly classif[ied] St. John property differently from similar property in St. Croix and St. Thomas "without reason or justification."<sup>29</sup> The opinion of Judge Curtis Gomez at no point addresses the claim of a classification system being unfair, the cost of property being much higher on St. John than the other two Virgin Islands.

VIYAC also takes this opportunity to share stories of various concerns over violations of other rights, to include the statement from a Virgin Islands NGO established to advocate for the rights of Virgin Islands Rastafarians in their exercise of their religion. To that end, the Virgin Islands Rastafari Sacramental Cannabis Council, expresses the following:

*"Far too long have we the members of the Rastafari community in the Virgin Islands have been racially discriminated against and denied our rights to practice our religious beliefs and to support our families through a good education and job opportunities. Universal Declaration of Human Rights Articles 1, 2, 3, 5, 7, 8, 10, 12, 15, 16, 18, 22, 26 and 30; the Charter of the United Nations, Chapter XI — Declaration regarding Non-Self-Governing Territories, Article 73 (self-determination); International Convention on the Elimination of all Forms of Racial Discrimination (ICERD); the International Covenant on Economic, Social and Cultural Rights (ICESCR); the Religious Freedom Restoration Act of 1993<sup>30</sup>; and the Religious Liberty Protection Act 1999, as Rastafari declare that our rights as sovereigns, inherent and legally prescribed human rights are protected. Rastafari declare the Freedom to utilize the Cannabis Herb in its entirety for Sacrament, Religious, Spiritual and Medicinal purposes."*

#### **4. Institutional and human rights infrastructure and policy measures**

While there is no exclusive federal authority charged specifically with monitoring and advancing the situation of people of African descent, the Virgin Islands of the U.S. was governed by the U.S. Navy from the time of the 1917 purchase (treaty of Cession between the Kingdom of Denmark and the United States) until 1931 and from 1931 to present being governed by the Department of the Interior.<sup>4</sup> The policy and legally based framework for the administration of the Virgin Islands follows a rather troubling system of governance. The Department of the Interior's policy structure administered by the U.S. House of Representatives Committee on Natural Resources, Subcommittee on Subcommittee on Indian, Insular and Alaska Native Affairs.

##### **B. Cooperation with Human Rights Mechanisms**

As it pertains to the United States' cooperation with the outlined human rights mechanisms there has been no movement on the part of the United States to address the issue of the right to self-determination and the illegal colonial status of the Virgin Islands of the United States. The United States in its second cycle UPR February 2015 report indicated as it pertains to racial discrimination in voting that "[t]he right to vote is fundamental to democracy [,] ensuring equal access to the ballot box is critical, and the Voting Rights Act of 1965 remains our most powerful tool in this effort."

##### **C. Implementation of International Human Rights Obligations**

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<sup>29</sup> Virgin Islands Unity Group v. Martin, available at: [https://www.leagle.com/decision/infeco20110131877?fbclid=IwAR39S2ILCe8CP5Dhl4tRUXM\\_6Tvc45ydSJ-mZ8B6buz6LNy5SlzicNVny\\_M](https://www.leagle.com/decision/infeco20110131877?fbclid=IwAR39S2ILCe8CP5Dhl4tRUXM_6Tvc45ydSJ-mZ8B6buz6LNy5SlzicNVny_M)

<sup>30</sup> <https://www.law.cornell.edu/uscode/text/42/chapter-21B>, APPENDIX 4, STATUTE-107-1488 (42 U.S.C. Ch 21B) (Not Labeled as it is a secured U.S. Government Document).

**1a. Equality and non-discrimination.** Virgin Islanders do not enjoy the same rights and privileges as do other Americans living under the United States flag, and are subjected to jurisprudence that infringes on their right to exercise the most basic rights, specifically the right to fully participate in the political process as United States citizens. Virgin Islanders cannot vote for the United States President, while military service sign-up (selective service) is mandatory for males.

**1b. Obligations:** U.S. jurisprudence on Virgin Islanders' right to vote for U.S. president and full participation in legislative affairs through their elected U.S. Representative to the House of Representative of the U.S. Congress (a Delegate who cannot exercise his or her right to vote on House measures/bills) violates the right to be free of racial discrimination, which is protected in Article 1 (3) of the International Covenant on Civil and Political Rights (ICCPR) and Article 5 (c) of International Convention on the Elimination of all Forms of Racial Discrimination (ICERD) and Article 15 of ICERD with respect to the mandate to report not only to CERD but also to the General Assembly's Fourth Committee on Decolonization. The United States is a party to both the ICCPR and ICERD. The U.S.'s treatment of Virgin Islanders as second-class citizens, violates both Article 2 (right to equality before the law) and 20 (Right to vote and to participate in government).

**1c. Recommendations** (*United States best practices to ensure protection of Virgin Islanders' rights*)

1. The United States should begin the process of working with the Government of the Virgin Islands to begin the deliberate process of developing a plan of action for the decolonization of the Virgin Islands. Chiefly, the United States, to amend the Constitution to provide voting rights for persons of the territories to vote for President.
2. VIYAC recommends that the United States immediately end the unfair healthcare practices of the provision of aid to the residents of the territory, specifically requesting that any measure passed in support of healthcare rights that the Virgin Islands be treated fairly and equally, on par with fellow Americans, in the distribution of federal healthcare aid packages to the states and territories.
3. VIYAC recommends that the United States investigate and address claims of land rights violations in the Virgin Islands, requesting that the National Park Service make their proof of ownership of lands public and easily accessible to the people of the Virgin Islands and to provide financial and legal support to Virgin Islanders engaged in ongoing advocacy around land rights.
4. VIYAC recommends that the United States establish a task force in conjunction with the Government of the Virgin Islands taking the lead to reestablish the referendum process through an extensive political self-determination education campaign to include funding decolonization education programs starting at the elementary school level.
5. VIYAC recommends that the United States, through Congress, takes concerted steps to ensure adherence of the laws passed to protect Virgin Islanders in the free exercise of their religion, in this case the members of the Virgin Islands Rastafarian community.<sup>31</sup>
6. VIYAC recommends that the United States, through the State Department in conjunction with the Department of the Interior, establish a pathway for Associate Membership into the regional bodies of the Organization of Eastern Caribbean States<sup>32</sup> and CARICOM<sup>33</sup> in promotion of the social and economic development of the territory.

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<sup>31</sup> <https://www.law.cornell.edu/uscode/text/42/2000bb-1>

<sup>32</sup> <https://www.oecs.org/en/homepage/member-states>

<sup>33</sup> <https://caricom.org/membership>