

**Statement by Gerard Luz Anwur James II, President
Fifth Constitutional Convention of the U.S. Virgin Islands
to the Congressional Subcommittee on Insular Affairs**

Good Morning Chairperson Bordallo, Committee members and all others present. My name is Gerard Luz Anwur James II. I am the President of the Fifth Constitutional Convention of the US Virgin Islands, elected at large by the people of our four island paradise which we proudly call home. It is my distinct honor to address this Committee regarding the adoption last May by our Convention of the proposed constitution for consideration by Congress.

I must first emphasize that the Convention is fully aware that our proposed constitution is not designed to usurp the sovereignty or supremacy of federal law and that the passage of our constitution will not, nor is it intended to, alter our political relationship with the United States. It represents a further step along the path toward a full measure of self-government.

This is our fifth attempt to attain greater self government since Congress passed PL 94-584 in 1976 which granted us the authority to draft our own constitution. When passed by referendum of the voters of the Virgin Islands it will replace the Revised Organic Act of 1954. The Organic Act has served as the governing law of the Virgin Islands for fifty six years with no input from the population it governs.

On June 12, 2007, a special election was held to select delegates from throughout the territory to draft the constitution. The keen interest of Virgin Islanders in this process was evident from the inception when voters elected delegates from a field of 135 candidates. Seventeen ran at large with the remaining candidates running from their respective jurisdictions. Thirty delegates were elected, and served as drafters of the constitution. The elected delegates were composed of a former Governor, four former senators, two sitting senators (elected during the term of the convention), a former District Court Judge, three practicing attorneys, farmers, professors, teachers and political activists.

Upon convening in December of 2007, the Convention formed twelve committees which were charged with conducting public hearings on the areas which are now part of our proposed

constitution. The Convention was initially mandated by enabling Virgin Islands legislation to finalize a draft constitution by October 6, 2008, but the period was later extended.

The work of our Convention was impeded at the outset for six months by a court challenge to the results of the election by an unsuccessful candidate, and further delayed in mid-stream as the convention awaited the balance of the operating funds appropriated by the Legislature. The level of funding was itself an impediment with the Fifth Constitutional Convention receiving significantly less funding than the Fourth Constitutional Convention which met some thirty years ago.

This caused several inordinate delays in the drafting process and necessitated an extension of the time frame for submission to our governor. Despite these constraints, the Convention conducted a series of well publicized public hearings, committee hearings and plenary sessions comprising hundreds of hours of testimony and debate and many volumes of transcribed records. These meetings were attended by Virgin Islanders from all walks of life including but not limited to students, political activists, several religious leaders, as well as private citizens. We also consulted with representatives of a wide range of leaders of several local organizations and institutions including the President and department heads of the University of the Virgin Islands.

Unfortunately, insufficient resources and time constraints resulted in our inability to conduct an adequate public relations campaign. Also, the hard work of the Convention was often sensationalized and marginalized by the media's focus on specific issues and individuals, rather than on our substantive work.

Through it all, we are proud to report that at the end of this protracted process, in May of last year, the convention was able to reach the required majority consensus and our proposed constitution passed with a two-thirds vote of 20 delegates. The document was transmitted to our Governor on May 31, 2009, meeting our extended deadline.

A major area of public discussion during this process was extensive debate on the crafting of the definition of a Virgin Islander. According to the 1917 treaty, through which the territory was purchased by the United States from Denmark, the political rights and citizenship of the inhabitants of the territory at the time of transfer would subsequently be determined by the US Congress. The citizenship of the islands' population at the time of the transfer, which was predominately comprised of former enslaved Africans and their descendents, was not determined until ten years later. Article III of the proposed constitution defining Ancestral Native Virgin Islander was based on federal law emerging from that period (See Section 306 INA (8 U.S.C. 1406). It is also consistent with the definition of native populations in the constitutions of other un-incorporated territories.

The proposed constitution provides a broader definition of a Native Virgin Islander as a person born in the territory, or a descendent of a native. The delegates felt that the inclusion of this definition was imperative for several historical reasons. From the early seventies we have experienced a dramatic decline of our native-born population. According to a 2007 study conducted by the University of the Virgin Islands as of 2005 the percentage was approximately 51.3 %. This decline has significant implications for the self-identity of our people.

The proposed constitution also provides that only Ancestral or Native Virgin Islanders are eligible to serve as governor and lieutenant governor, and as members of a proposed future political status advisory commission. These provisions address the unique culture and political backdrop of our islands.

Additionally, a provision to exempt Ancestral Virgin Islanders from paying property tax has been included. This provision is designed to protect the disenfranchised native population from significant externally motivated commercial land speculation which continues to result in the erosion of natives' ability to retain and purchase property. It is also consistent with several relevant General resolutions, most recently operative paragraph 9 of the United Nations General Assembly Resolution 63/108, which mandates that all necessary steps be taken to protect the

property rights of the peoples of the territories on the United Nations list of non self-governing territories. The Virgin Islands, along with American Samoa and Guam, remain on that list today.

Similar native rights provisions are part of the constitutions of other U.S. administered territories, specifically those of American Samoa and the Northern Marianas, both of which have a comparable island geographical make up, and the same unincorporated political status as the U.S. Virgin Islands.

We strongly feel that these provisions are not discriminatory, and do not violate federal law as it is presently applied to the Virgin Islands and supports a compelling state interest. My fellow delegates' testimony will address these issues in greater detail. Further elaboration is contained in our response to the Department of Justice analysis which has been submitted for your consideration and review. Throughout our history our shores have remained open to people of all cultures and ethnicities. The Virgin Islands has long been known as the 'American Paradise.' The proposed constitution is our sincere effort attempt to insure that our beloved territory remains our "Virgin Islands Home."

Thank you again for your time and your thoughtful review of our Constitution