

**PERSPECTIVES ON GOOD GOVERNANCE:
NATURE, IMPORTANCE, PRACTICE AND CHALLENGES**

Lecture by

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1. Introduction

Ladies and Gentlemen, Dames en Heren, Good Afternoon, Goede Middag.

Let me begin by thanking Professor Addink, the Law Faculty and the University of Utrecht for the opportunity to address you today. Thanks also to the members of the board of Politeia for their efforts towards the organization of this lecture.

The title of my lecture is: Perspectives on Good Governance: Nature, Importance, Practice and Challenges. A lot has been written about governance. This lecture is by no means intended to cover the wide body of literature on governance nor is it intended to be a legal discourse on governance. Instead it is intended, based on a review of its nature and importance, to discuss the practice and challenges of governance. A practice which is at the center of my tasks and responsibilities as Governor of Sint Maarten.

On October 10, 2010, the amendment to the Kingdom Charter took effect introducing a new constitutional order within the Kingdom of the Netherlands. The change affected all the people of the Kingdom and in particular the people of the islands of the former Netherlands Antilles: Bonaire, Curacao, Saba, Sint Eustatius and Sint Maarten. The change came with a new political and governance order. For Sint Maarten the change also came with the question:

Now that we have accomplished country status, where do we go from here? Summarized I answered that question during my 2011 new year's message as follows: *"Looking ahead,I trust that we will strive for excellence in governance".....* this because *".....excellence in*

governance is a precondition for meeting the challenge of enhancing education, improving health care, reducing poverty, maintaining our culture, protecting our environment and promoting sustainable financial economic development. It is a precondition for achieving the things you and I” need “and believe in”. unquote.

Mentioned precondition was captured by Abraham Lincoln when he stated, I quote: *“The legitimate object of government is to do for a community of people whatever they need to have done, but cannot do at all, or can not, so well do, for themselves—in their separate, and individual capacities.”*¹. Unquote. Abraham Lincoln’s statement depicts the fundamental role of government in society and by extension underscores the importance of “good governance” in any community.

Against that backdrop I shall following this introduction discuss the parameters of governance in Sint Maarten through a review of the constitutional setting and an analysis of the nature and importance of governance. I shall in addition point towards the challenges which are indicated in the practice of good governance and close with some concluding remarks.

2. Constitutional setting

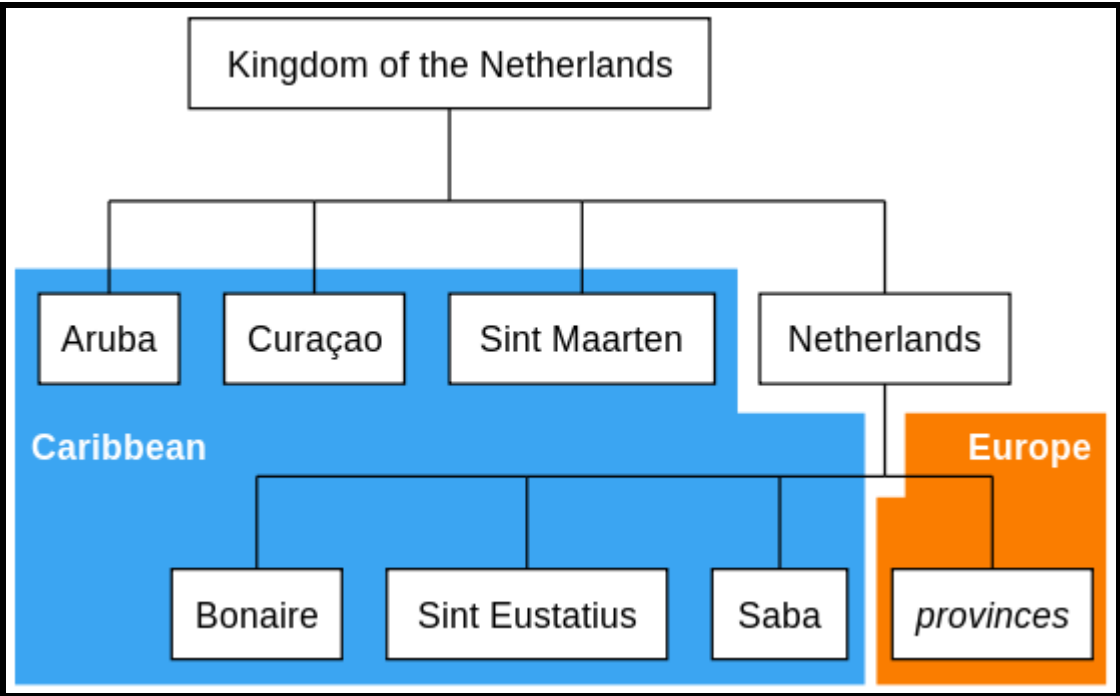
To do so I shall begin by providing a brief outline of the constitutional setting in which Sint Maarten functions.

As outlined above the Charter of the Kingdom of the Netherlands was amended effective October 10, 2010. As of that date the Kingdom

¹ABRAHAM LINCOLN, fragment on government (July 1, 1854?)—*The Collected Works of Abraham Lincoln*, ed. Roy P. Basler, vol. 2, pp. 220–21 (1953).

is comprised of 4 countries: Aruba, Curacao, The Netherlands and Sint Maarten². This is as a result of the dismantling of the Netherlands Antilles. Sint Maarten and Curacao obtained the status of separate countries, as Aruba had done in 1986. And Bonaire, Sint Eustatius and Saba were integrated as public entities in the Netherlands³. The Kingdom is thus geographically located in both Europe and the Caribbean. In addition to its geography, the Kingdom is rich in cultures, with varying scales in terms of area, population and economies between the constituent members.

Scheme 3.1: Structure of the Kingdom of the Netherlands and geographic location of its four constituent countries



Source: Wikipedia File:Kingdom of the Netherlands location tree.svg

The dismantling of the Netherlands Antilles followed referenda in which the peoples of the individual islands made use of the right of self-

² Charter of the Kingdom of the Netherlands, article 1 section 1.

³ Charter of the Kingdom of the Netherlands, article 1 section 2

determination. This “*jus erga omnes*”, this universal right, was executed by the people of Sint Maarten in the referendum on June 23, 2000, when they expressed their free will to be a country within the Kingdom of the Netherlands⁴.

The Kingdom of the Netherlands is a unique constitutional construct, with delineated tasks and responsibilities between the Kingdom and its member countries referred to as Kingdom affairs (Koninkrijksaangelegenheden) and country affairs (landsaangelegenheden). The tasks and responsibilities of the Kingdom are specified and limitative. In accordance with of the Kingdom Charter the main tasks of the Kingdom are: Foreign Affairs, Defense, Dutch citizenship and the safeguarding of fundamental rights and freedoms, legal certainty and good governance⁵. All tasks not specifically assigned to the Kingdom are country tasks.

An important country tasks is the care function (in Dutch: zorgfunctie) or responsibility for the realization of good governance in the country, which is distinct from that of the Kingdom task the socalled safeguard function (in dutch: Waarborgfunction) or the responsibility to safeguard good governance.⁶

To carry out these tasks and responsibilities the Kingdom as well as each of its constituent countries has a government comprised of the King and the ministers. The governments of the Kingdom and of each of the countries are headed by the King. For practical reasons, the King and the Kingdom are represented in Aruba, Curacao and Sint Maarten

⁴ Preamble to the constitution of Sint Maarten.

⁵ For a complete list of the Kingdom tasks see the Charter of the Kingdom of the Netherlands and in particular article 3 section 43.

⁶ in keeping with article 43 of the Charter of the Kingdom

by Governors. This means that the Governor of Sint Maarten fulfills two functions.

- First, on a country level the Governor, as representative of the King, functions as the constitutional head of government of Sint Maarten. In that capacity the Governor, through his role in the ratification of legislation, has the right – to be consulted, to encourage and to warn ministers⁷. This is an important tool of the Governor towards the promotion of good governance.
- And second, on a Kingdom level the Governor, as representative of the Kingdom Government, executes and supervises the implementation of the tasks and responsibilities of the Kingdom government on Sint Maarten. In this supervisory capacity the Governor vets laws or decisions of the government of Sint Maarten for compliance with International law, with the Kingdom Charter and, with Kingdom laws as well as for observance with the principles of good governance⁸.

3. Nature and importance of Governance

Considering the constitutional setting and the division of responsibilities in respect to the realization and safeguarding of good governance in the countries of the Kingdom it is necessary that we review and understand the nature of Governance. To do so I shall stand still for a moment on the concept of good governance.

There is according to the United Nations Commission on Human Rights, *“no single and exhaustive definition of “good governance,” nor is*

⁷ According to the 19th century British essayist Walter Bagehot

⁸ Artikel 21 Regulation for the Governor

there a delimitation of its scope, that commands universal acceptance. However, there is a significant degree of consensus that good governance relates to political and institutional processes and outcomes that are deemed necessary to achieve the goals of development”.

Consistent with that concept Professor Addink describes good governance as: *“a norm and a right for the citizens in which more specific conditions have been formulated. These norms are sometimes linked to the norms of the rule of law or democracy, but mostly they have their own contents. Elements of good governance are: properness, transparency, participation, effectiveness, accountability and (economic, social and cultural) human rights”.*⁹

These norms are similar to and overlap with the nine “core characteristics” of good governance articulated by the United Nations Development Programme in 1994. According to the UNDP: *“Good governance is, among other things, participatory, transparent and accountable. It is also effective and equitable. And it promotes the rule of law. Good governance ensures that political, social and economic priorities are based on broad consensus in society and that the voices of the poorest and the most vulnerable are heard in decision-making over the allocation of development resources”*¹⁰.

As mentioned earlier the Kingdom Charter stipulates in article 43, sub 1, that each of the Countries shall promote the realization of fundamental human rights and freedoms, legal certainty and good governance. The safeguarding of such rights, legal certainty and good governance is a Kingdom affair, according to article 43, sub 2.

⁹ Prof. Dr. G.H. Addink, Good Governance: Concept and Context, 2012

¹⁰UNDP 1994 Initiatives for Change, Good Governance and Sustainable Human Development.

As a result the government of Sint Maarten has the responsibility to deliver good governance to the people based on article 43 sub 1 of the Kingdom Charter as outlined earlier. In practice the government of Sint Maarten addresses this through legislation in which the principles of good governance, such as transparency, accountability, and effectiveness, are incorporated in varying degrees. In this regard it should be noted that whereas the Constitution of Sint Maarten does not have a specific article regulating good governance it does include:

- a number of articles regulating the fundamental rights and freedoms of the people, namely articles 2 through 30;
- as well as a number of articles, that creates the basis for the introduction of laws with good governance provisions, among which articles 74, 78, 105, and 107.

A critical point in this regard is that for the application of the principles of good governance to be effective it must be based on more than the formal boundaries of written law. It should have the substance of personal conviction and believe in a higher purpose than merely following the law.

Likewise in view of the important role which legislation play in good governance it is important to emphasis that the codification of the principles of governance only make sense if there is a broad believe in the rule of law. That is that rights are protected by law and that the laws are just. On Sint Maarten the rule of law is in place and controlled by the Courts.

4. Practice of good governance

Taking into account the nature of governance as discussed through its main indicators and considering that several of the principles are accepted on Sint Maarten through the regulatory framework the relevant question is: to what extent are these principles practiced? To answer that question a good governance benchmark and relevant country data is required to make a substantiated assessment.

In that regard reference can be made to the World Bank which uses indicators to assess the accountability, political stability, government effectiveness, regulatory quality, the extent of control of corruption and the extent of obedience to the rule of law of countries and states.

Table 4.1 World bank indicators average scores for the period 2003-2005

	Voice and Accountability	Political Stability	Government Effectiveness	Regulatory Quality	Rule of Law	Control of Corruption	gemiddeld
Barbados	1,16	1,12	1,15	1,03	1,23	1,18	1,15
Bahamas	1,13	0,88	1,20	1,00	1,31	1,35	1,15
Cayman Islands	0,80	1,08	1,25	1,37	1,08	1,24	1,14
Bermuda	1,02	0,80	1,04	1,37	1,06	1,26	1,09
Anguilla	0,78	0,99	1,26	0,98	1,41	1,02	1,07
Aruba	0,84	1,17	1,23	0,79	0,90	1,18	1,02
Virgin Islands (U.S.)	0,85	0,67	0,92	1,16	1,17	0,70	0,91
Puerto Rico	0,88	0,75	1,09	0,98	0,70	1,01	0,90
Martinique	0,62	1,09	0,76	0,84	0,93	0,81	0,84
Netherlands Antilles	0,51	0,77	1,05	0,73	0,90	0,91	0,81
St. Lucia	1,02	1,27	0,49	0,48	0,58	0,56	0,73
St. Vincent & The Grenadines	0,98	1,25	0,44	0,49	0,59	0,51	0,71
Dominica	1,13	0,83	0,40	0,72	0,61	0,55	0,71
Antigua And Barbuda	0,37	0,89	0,46	0,64	0,86	0,83	0,68
St. Kitts And Nevis	0,85	1,35	0,17	0,45	0,59	0,49	0,65
French Guiana	0,40	0,20	0,70	0,74	0,79	0,78	0,60
Grenada	0,86	0,63	0,24	0,32	0,26	0,61	0,49
Trinidad And Tobago	0,47	-0,01	0,45	0,69	0,00	0,00	0,27
Suriname	0,63	0,42	-0,08	-0,51	-0,31	0,24	0,06
Jamaica	0,52	-0,32	-0,02	0,22	-0,53	-0,54	-0,11
Guyana	0,59	-0,35	-0,29	-0,30	-0,64	-0,49	-0,24
Dominican Republic	0,23	0,05	-0,46	-0,26	-0,55	-0,53	-0,25
Cuba	-1,87	0,03	-0,94	-1,75	-1,14	-0,26	-0,99
Haiti	-1,40	-1,59	-1,57	-1,20	-1,64	-1,52	-1,49
British Virgin Islands	n.a.	1,50	n.a.	n.a.	n.a.	n.a.	1,50
Guadeloupe	n.a.	1,50	n.a.	n.a.	n.a.	n.a.	1,50
Turks And Caicos Islands	n.a.	1,50	n.a.	n.a.	n.a.	n.a.	1,50
Nederland	1,45	0,80	1,95	1,64	1,78	1,99	1,60

Source: World bank data set 2006

While there are no reports available for Sint Maarten to this point, it is interesting that compared to other states and countries in the Caribbean, the former Netherlands Antilles, of which Sint Maarten was a part, were ranked 10th of 24 countries over the period 2003-2005.¹¹ Aruba was ranked 6th and Barbados and the Bahamas were ranked 1st and 2nd, respectively, in the same survey. These rankings are interesting considering the provisions in the Kingdom Charter regarding the responsibility of the countries to realize good governance and of the Kingdom Government to safeguard good governance.

The Charter of the Kingdom was adopted in 1954. Over five and a half decades later the Government of the Netherlands, in a 2011 policy paper about the interpretation of article 43 of the Charter, stated that the contents of good governance does not have a solid base in national and international law and that the interpretation varies in time. The Kingdom Government, on the other hand, however, emphasized that good governance is the basis on which the Kingdom is built.¹²

In the past 62 years of the existence of the Kingdom Charter a lot has been written and said about the application of the provision to safeguard good governance in the Caribbean part of the Kingdom by the Kingdom Government (vide article 43, section 2). Any suggestion or decision to apply the safeguard function is viewed as one time too much by the government of Sint Maarten. The government of the Netherlands, on the other hand, is of the opinion that more has been written about the safeguard function than that has been done with it.¹³

¹¹ World Bank Indicators set 2006

¹² Notitie waarborgfunctie Koninkrijk, Tweede Kamer 15 juli 2011

¹³ Notitie waarborgfunctie Koninkrijk, Tweede Kamer 15 juli 2011

A closer analysis of the relevant factors involved in the considerations regarding the use of the safeguard provision, provides some context in regard to these two views. The relevant factors include, among others, the interpretation of the Charter provision itself and the prevailing political views internationally and within the Kingdom.

- Reviewing the Charter as the first factor, one will see that the official explanation of the Charter, clearly states that measures to safeguard good governance are only to be used by the Kingdom Government if all other instruments to redress an extreme unacceptable situation have failed. The safeguard function of the Kingdom government is as such only to be used, as the Latin expression goes, as an “*ultimum remedium*”. In other words: safeguarding of good governance does not include daily supervisory activities.
- The second important factor can be found in the fact that in 1955 the Charter was evaluated and discussed by the General Assembly of the United Nations. This was done to establish whether the Charter provided sufficient full internal self-government to the Caribbean part of the Kingdom and to decide if the Netherlands could be relieved of the yearly obligation to report about developments in the Netherlands Antilles and Surinam as non-self-governing countries¹⁴. There was a lot of criticism from several states, especially about the Kingdom safeguard article 43, sub 2, which gave the government in the Hague a lot of authority to interfere in the internal matters of the overseas countries. In the end the majority of the UN General Assembly resolved to approve the discharge of the Kingdoms

¹⁴ Article 73 UN Charter

obligation to report, only after the prime ministers of the Netherlands Antilles and of Surinam declared that they did not want independence for their countries at that point in time and that they fully supported the Charter. It was therefore communicated that the discharge would only last as long as the relation between the countries of the Kingdom would not develop in a wrong way¹⁵.

- That brings me to the third factor. It should be realized that the competent authority to execute the good governance safeguard provision in the Caribbean part of the Kingdom is not a Constitutional Court, but the Council of Ministers of the Kingdom. This is a political body and therefore takes political decisions. Political decisions are by their nature based on what is politically feasible. Noteworthy in this regard is that until 1989 the dominant political view in the Kingdom was that the countries in the Caribbean part of the Kingdom would be independent before the millennium. Surinam became independent in 1975 and a date, January 1st, 1996, was set for Aruba. If the Netherlands Antilles and Aruba were to become independent states in the short term, it would not make much sense to interfere in their autonomous matters shortly before the date of independence. This was the political conviction in those days.

Noteworthy in the analysis is that the Netherlands approach and policy with regard to the Kingdom safeguard function changed after the Cabinet Lubbers III and the former Minister Ernst Hirsch Ballin announced that the Netherlands Antilles and Aruba did not need to become independent as long as they did not wish to do so. Good

¹⁵ UN resolution 945(X): A/PV.557 15 Dec. 1955, 21-10-33, Communication from the Government of the Netherlands concerning the Netherlands Antilles and Surinam

governance became a political topic and measures were taken to safeguard good governance. Examples of such measures include:

- First, from 1992 till 1996 the government of the island territory of Sint Maarten was brought under higher supervision of the Kingdom Government by General Kingdom Measure¹⁶ because of a lack of good governance at that point;
- Second, in 1998 the Kingdom Government prevented the appointment of a candidate Minister in Aruba by Royal Decree¹⁷;
- And third, in October 2010 an ordinance of the island council providing pensions to members of the very same island council of the island territory of Curacao was nullified by the Governor of the Netherlands Antilles, as representative of the Kingdom, because the ordinance was judged to be in conflict with the principles of good governance¹⁸.

5. Challenges of good governance

From the above it is evident that the practice of and approach to Good Governance in the Caribbean part of the Kingdom is not without its challenges. It would be interesting to see how Sint Maarten, as a young country of just two and a half years, would score in a World Bank good governance benchmarking survey.

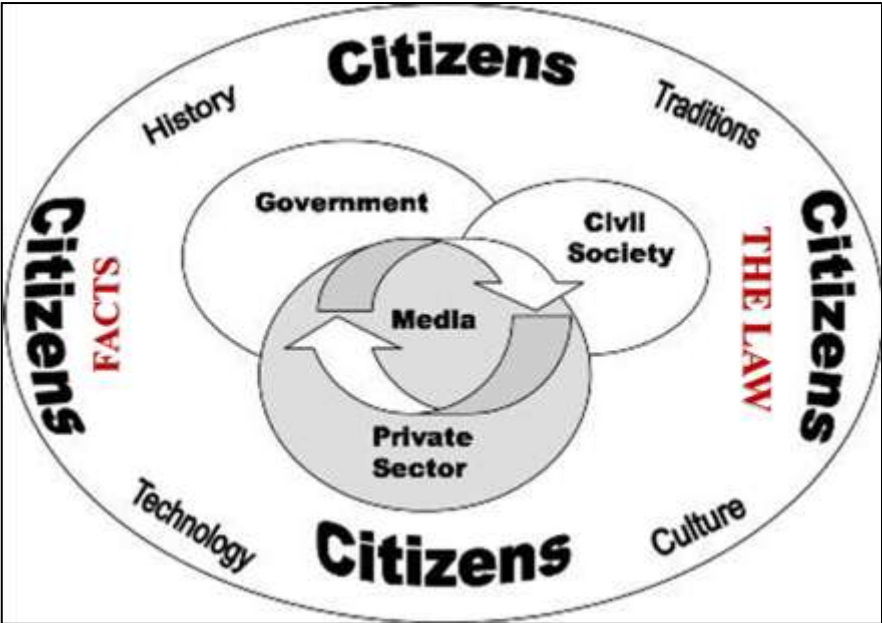
¹⁶ Algemene Maatregel van Rijksbestuur (AMvRB) based on art 93 staatsregeling Netherlands Antilles and art 43 charter

¹⁷ KB 30 juni 1998 based on article 21 Regulation of the Governor.

¹⁸ Besluit Gouverneur Nederlandse Antillen van 5 oktober 2010 based on art. 98 Island Regulation Netherlands Antilles

In academics you learn about good governance and study and form opinions on the subject. Public servants taking decisions everyday often face dilemmas as they try to balance competing interest with limited resources. The answers are not always readily available. This is in the context of a young and small country like Sint Maarten, still working on the development of traditions and government procedures that fit its specific situation and conditions, not without challenges.

Diagram 5.1: Decision making Environment



Source: Institute on Governance

Decisions made by a public servant are never made in a vacuum. Decisions are made within a complex environment of relationships between sectors. How the decision translates in practice will depend on the facts, the law, traditions and the culture which includes political conviction, to name a few. None of these aspects are fixed. People can differ about the facts, the parties involved may not share the same culture or background, it is for example well known that lawyers can

differ over the meaning of a law, good governance means different things to different people and depending on the function a decision maker holds, other aspects of good governance will be important.

It is in this societal context of traditions, culture and history, that the various partners – civil society, businesses and public officials - operate. Operating in this societal context the government, - namely parliamentarians, ministers and civil servants, - have a leading role to play through the application of good governance. In practice the government of Sint Maarten fulfill its role:

- through legislation and public policy in which the principles of good governance, such as transparency, accountability, and effectiveness, are incorporated in varying degrees; and
- through the decisions it takes based on legislation and its policies.

As indicated earlier it can be noted that whereas the Constitution of Sint Maarten does not have a specific article regulating good governance it does include a number of articles regulating the fundamental rights and freedoms of the people as well as a number of articles that creates the basis for the introduction of laws with good governance provisions. There are several examples of legislation in this regard :

- The first example is chapter 2, articles 2 through 30, of the constitution of Sint Maarten which regulates the protection of the fundamental rights and freedoms of persons on Sint Maarten. Moreover, Sint Maarten, through the Kingdom of the Netherlands, is party to the European Convention on Human Rights (EVRM) and to the International treaty on civil and political rights.

- The second example is the National Ordinance Administrative Law (LAR) based on article 105 of the constitution. This law plays a role in the fostering good governance through the promotion of the effectiveness of government decisions. If a decision is not made in the time that is given to the government, a citizen can go to court to force the government to take a decision¹⁹.
- The third example is the National Ordinance on Open Government (Landsverordening Openbaarheid van Bestuur) based on article 107 of the constitution providing citizens the right to request information within the Government and thus creating transparency.
- The fourth example is the National Ordinance establishing the Audit Chamber with its basis in article 74 of the constitution. This ordinance provides the basis for the finances of Sint Maarten to be scrutinized by the Audit Chamber for legality (rechtmatigheid), effectiveness (doelmatigheid) and properness (behoorlijkheid) and serves to hold Government accountable for its actions.
- The fifth example is the National Ordinance establishing the Ombudsman with its basis in article 78 of the constitution. Through this ordinance the principle of properness has been regulated on Sint Maarten.

These examples outline some of the areas where the principles of good governance have been codified in legislation. That does not mean that the codification of the principles of good governance is complete nor does it say anything about the level of specificity. Interesting in this regard is that case law plays an important role in filling the gap both in

¹⁹ Article 3 sub 3 National Ordinance Administrative Law (Landsverordening Administrative Rechtspraak)

terms of completeness and offering clarity on the principles of good governance.

The observation that several of the principles of good governance are anchored in legislation and supported by case law is relevant, because it shows that the foundation for the realization of good governance is there on Sint Maarten . What this observation does not show however is the level of compliance. A World Bank survey as mentioned above would provide some insight in this regard. The level of compliance is in my view a function:

- of the behaviour and attitude of all players in society towards the principles; and
- of the effectiveness of checks and balances.

While both factors are important it is essential to emphasize that at the end of the day compliance stands or falls with behaviour and attitude. As I stated in my introduction to this lecture fostering good governance is at the center of my tasks and responsibilities as Governor of Sint Maarten. My personal motto is: *Excellence in governance to serve the people of Sint Maarten*. I use this phrase not as a substitute for the term good governance but to remind my staff and the people of Sint Maarten that, as individuals, businesses or public officials, we must continually aim to be the best we can be as we strive to develop a more safe, secure and just society. To achieve this we must adopt best practices.

Through the use of the term excellence in governance I emphasize that while we can regulate the aspects of good governance we cannot regulate the behaviour necessary to secure our societal objectives. We can however strive for excellence, by continually displaying best

practices behaviour, through our policies, decisions and actions, necessary to achieve these objective. There are ample examples of the absence of best practices from time to in all parts of the Kingdom in this regard.

Promoting excellence in governance is intended to serve as an guide for our attitude to governance. It promotes the application of a number of universally accepted basic principles. A good example of these basic principles is the four way test of the Rotary concerning the things we must do, in whatever we say and do. This test involves answering the following questions:

- Is it the TRUTH?
- Is it FAIR to all concerned?
- Will it build GOODWILL and BETTER FRIENDSHIPS?
- Will it be BENEFICIAL to all concerned?

In regard to checks and balances there are a number of key institutions namely, parliament, the courts and the high councils of state that play a control role in the realization of good governance. The parliament as the representative of the people and charged with the control of the government must play a determining role in the realization of good governance. The political culture on Sint Maarten has, as is the case in many nations including here in the Netherlands, its challenges with applying the concept of dualism. A concept which is essential to the principle of accountability. An honest reckoning, even amongst friends, is necessary for the functioning of Government. It is parliament, the will of the people, that should be the judge of the conduct of government.

As a check and balance institution, the Council of Advice give their, legally obligated, advice on legislation before it is sent to parliament by the government. Like the Council of State here in the Netherlands they advise on the legal merits of draft legislation, but also on the policy implications of legislation. Good governance is obviously an important part of this advice. While the advice is not legally binding it is important that an advice of The Council of Advice is taken seriously by the Government and that there be a convincing justification not to follow the advice.

The second High Council of State is the Ombudsman. The Ombudsman can and investigates the behavior of government towards the people to assess the degree of properness of government actions. Her decisions are not legally binding and like with the Council of Advice time will tell as to what extent, advices will be followed by Government.

The third important High Council is the Audit Chamber. It's most important task is to report on the financial operations (management, collections and expenditure) of government. That is on whether operations have been legally executed and on whether the accounts are a true and fair representation of the financial activities of Government. The Audit Chamber itself holds no legal power over Government and can only publish its report to the general public. The report is also sent to parliament as a tool to hold Government responsible.

Compared to parliament and the Courts the High Councils of State have limited tools to make Government comply with good governance. The effectiveness of their work will depend on the quality as well as on

the weight and confidence the public places in them as guardians of the public cause. Establishing and securing a solid place for them as relevant actors in the promotion and realization of good governance is thus essential in this formative phase of Sint Maarten as a country.

The Governor, taking the factors and institutions influencing the realization of good governance into account, play an important role as constitutional head of Government. In that capacity I have the possibility to promote good governance in my discussions with ministers. This based on my right to be consulted, to encourage and to warn. It is in this context that I encourage good governance and advocate for the people of Sint Maarten to demand good governance from Government by emphasizing excellence in governance. As representative of the Kingdom government, the governor with a view of the Kingdom Safeguard function have some legal tools, which are rooted in the Regulation for the Governor²⁰. These tools result from:

- The Governor's responsibility to guard over the general interest of the Kingdom²¹;
- The Governor's tasks to supervise the compliance to international treaties^{22,23}; and
- The Governor's obligation or right not to sign a law or decree, if based on legal review the assessment is that, it is in conflict with international treaties, Kingdom legislation or the interest of the Kingdom²⁴.

²⁰ Reglement voor de Gouverneur

²¹ Article 15 Regulation of the Governor

²² Article 20 Regulation for the Governor

²³ For instance the Governor's reports to the Kingdom Council of Ministers about the compliance of the jails of Sint Maarten to the standards of the Committee on the Prevention of Torture of the Council of Europe

²⁴ Artikel 21 Regulation of the Governor

These tools are applied prudently with regular and substantive consultation and have proven to be effective.

6. Concluding remarks

In conclusion, whereas there is still no universally clearly delineated definition of good governance there is a significant degree of consensus on most of the principles thereof and thus on the political and institutional processes necessary to achieve the development goals of our societies.

Through the Charter of the Kingdom of the Netherlands the countries of the Kingdom and the Kingdom government are responsible for the realization and safeguard of good governance, respectively. While the above is the case it should be noted however that the rules of good governance are mostly self-binding.

Sint Maarten as a new country within the Kingdom since October 2010 has the institutional setting and regulatory framework consistent with the good governance provisions in the Charter. This however does not say anything about the extent of observance of good governance principles in governmental decision-making. It does however show that the foundation for the realization of good governance is there on Sint Maarten. In this regard a lot has been written and said both prior to the constitutional reform of October 10, 2010 and thereafter. The most recent discussion regards the debate on financial governance.

Considering the nature and importance of good governance for the overall development of the people of the countries it is evident that we must continue to build on, amend and perfect the existing frameworks. Sint Maarten is a new country and is thus still in the

process of developing the traditions of government which are critical to the progress and wellbeing of the society.

Dr. Martin Luther King, Jr. highlighted this universal quest for progress when he stated: “the arc of the moral universe is long, but it bends toward justice.” In addressing issues of good governance I am, continually inspired by the fundamental optimism revealed in Martin Luther King's statement about the human nature.

Progress is and has never been automatic, it depends on individual and concerted action. It is against this background that as Governor, I continue to work with parties towards the fortification of excellence in governance. For it is only through our continued observance of the principles of good governance that we will continue to progress and build a more safe, secure and just Sint Maarten and Kingdom.

And finally, as we work on bending the arc towards the perfecting of good governance within the Kingdom it is imperative that we realize that we all – residents, businesses and governments – have a role to play. As students you can and I call on you to contribute through substantive research on the approach to and practice of governance in the Kingdom.

Thank you.

