

Submission to the Joint Select Committee

Constitution (Amendment) (Tobago Self-Government) Bill, 2018

THE FOUNDATION FOR THE SELF-GOVERNMENT CONCEPT

The President of the Republic of Trinidad and Tobago on the occasion of the country's 50th anniversary of Independence lamented:

“We made a promise to Tobago, a long time ago and, as Eric Williams said in Parliament with the joining of our two islands, administratively, one form of neglect was exchanged for another.

This is one of the major areas of brokenness that we can fix and must fix, if we are to proceed with dignity and vigour, in unity, over the next 50 years.”

EQUAL STATUS BETWEEN THE ISLANDS OF TRINIDAD AND TOBAGO

The Constitution (Amendment) (Tobago Self-Government) Bill, 2018 seeks *“to accord self-government to Tobago”*.

The Explanatory Note to the Bill lists firstly *‘recognition of the equality of status between the Island of Tobago and the Island of Trinidad’* as one of the means by which this Constitution Amendment will promote Internal Self-Government of Tobago.

And a provision 1A – Equality of Status – is to be inserted which mandates that ‘there shall be equality of status’ between the islands. It further mandates that ‘Tobago shall no longer carry the designation of a ward’ (of Trinidad and Tobago).

What, precisely does equal status connote?

In a practical sense, if there is ‘equal status’ between the islands, how is that to be reflected or supported in the structures of governance, the general Constitutional arrangements, the fiscal, economic and other relations between the islands?

The concept of ‘equality of status’ under pins the notion of self-determination and *‘the right of the people of Tobago to determine their political status’* as an insertion into the Preamble of the Constitution by clause 4 of the Bill proposes.

The ‘equal status’ of the islands is inseparable from the question of ‘self-determination’ of the people of both and each island.

This poses some questions and raises some issues which must be addressed if the principles providing foundation for the Constitutional changes to be made with the aim of ‘self-government’ for Tobago, are to be established:

1. Equal status is not about 2 geographical land masses (islands) per se.

2. It can exist conceptually only if by 'island', the people living thereon, and the relationships forged among them in matters economic, social, cultural, linguistic, historical, political, are included.
3. The histories of the islands, though both colonies, are different. Their economies developed in different ways. So, too, did their governance systems, linguistics, cultures, etc.
4. The development of the people of both islands independently forged each as a nation – with the people of each having a concept of themselves.
5. The fact that, principally as a matter of convenience for the colonial power, the 'islands' were put into a union which was 'forced and unequal' and by which important aspects of the nation – Tobago – were aborted is seminal to the meaning of 'equal status'. Institutions of governance, like the House of Assembly, were discarded.
6. The concept of 'nation' is not synonymous with that of 'nation state', within a single 'nation state' more than one 'nation' may exist. For example, in the nation state of St. Kitts-Nevis-Anguilla 3 nations were put together in an administrative confederation.
7. Central to the concept of 'equal status' is the necessity to transform the relationship between the 'islands' – the 2 nations – into a union that is Free and Equal, replacing the Forced and Unequal union of 1889, forged under conditions of colonial domination.
8. This 'new' union, forged in the condition of Independence and recognizing that 'free' must include the freedom of either 'island' to discontinue the said union, should it be decided by the people of either to be in the best interest of their economic, social, cultural and political development.
1. If the 'equal status' of the 'islands' is not to be a mere formal statement, then "*the right of the people of Tobago to determine in Tobago their political status*" (Clause 4) without a concomitant right of the people of Trinidad to determine **in Trinidad**, their political status would mean a persisting inequality.
2. Equal status cannot be a mere formality. It must be real.

THE RIGHT TO SELF-DETERMINATION

The insertion into the Preamble of the Constitution proposed by clause 4 of the Bill seeks to assert "*the right to self-determination of the people of Trinidad and Tobago including the right of the people of Tobago to determine in Tobago their political status and freely pursue their economic, social and cultural development*".

This is an important statement of principle for any people to make and must be clear if it is to be adhered to and defended.

It raises the following:

- 1) The right to *self-determination of the people of Trinidad and Tobago* **INCLUDES** '*the right of the people of Tobago to determine in Tobago, their political status*.'
- 2) This suggests that the people of Tobago have the right to self-determination themselves.
- 3) For such a right for the people of Tobago to exist in the context of the same right of the people of Trinidad and Tobago, it means that the people of Trinidad, too, also have the same right to determine their political status, as part of their right to self-determination.

- 4) In the post-World War II period, following the defeat of fascism and annexation of nations by force, the notion of self-determination included largely the right to Independence as a major aspect of the tide of national liberation which swept the globe.
- 5) In the current conditions of the 21st century, self-determination for any people in a forced and unequal union must include up to the right to end such union – to secede. This right cannot exist for one but not the other ‘people’ in Trinidad AND Tobago.
- 6) To be meaningful, this right must be afforded to both the people of Tobago and the people of Trinidad. Otherwise, it will not be consistent with the recognition of the right to self-determination which the Bill seeks to insert in the Preamble of the Constitution.
- 7) Nor will it be consistent with the concept of ‘equal status’ of the ‘islands’ which the Bill also promotes.
- 8) To be clear, the right to self-determination, up to and including the right to secession, does not mean that the right will necessarily be exercised by the people of either ‘island’. It is no more a certainty than is divorce in a marriage between 2 individuals, merely because the right to divorce is inherent in the right to marry.
- 9) In any event, the conditions and process under and by which the ultimate right to self-determination have to established by the people of both ‘islands’.
- 10) This notion of self-determination was included in the Constitution of St. Kitts-Nevis-Anguilla and after the departure of Anguilla is retained in the St. Kitts-Nevis Constitution. A two-thirds majority of people voting in a referendum for secession is the mechanism established in that instance.

If what is suggested above is not embraced as the foundation for self-determination and equal status, it begs the question What then does ‘the right to determine their political status’ mean for either the people of Tobago or Trinidad.

‘**Political status**’ cannot and does not mean that they can determine ‘in Tobago’ who is to hold office in the institutions of ‘self-government’. That is too narrow a concept of ‘political status’. It reduces political status to nothing more than the outcome of an electoral process and partisan political interest, rather than a matter for the people of Tobago as a whole.

The danger of such a conception leads to a conception of ‘equal status’ which results in other parts of the Bill, rather than developing a complete Federal Structure of Governance, suggests a National Government (located in Trinidad) with a Tobago Island Government WITH NO corresponding Trinidad Island Government.

The National Legislature is to include elected representatives from both islands, but, only one island is to have its own Island Legislature.

This is one example of how a concept of ‘equal status’ which is one-island focused leads to unbalanced notions of Governance Structure built on a right to self-determination applicable to the people of one and not the other ‘island’.

This is to underline the importance of the proper conceptualization and statement of the principled foundation for proposed ‘self-determination and internal self-government.

Getting the fundamentals wrong, will inevitably lead to a revised version of the unequal union which the statement in clause 4 - *Tobago shall no longer carry the designation of a ward* – signals.

It is to be recalled that the whole question of correcting the historical “*form of neglect*” to which the first Prime Minister and the President at the 50th Anniversary of Independence referred, has been at the heart of the drive for self-determination for the people of Tobago initiated in 1986.

That issue of self-determination has resulted in various proposed solutions labelled as autonomy, more autonomy, devolution, self-government, secession – over the years.

A just solution, acceptable to the people of both islands, requires a shared concept of self-determination, equal status and determination of political status.

To proceed to amend the Constitution in the absence of such a mutually acceptable basic set of principles underpinning the solution to this historic problem will only result in a postponement to another dissatisfaction with the relationship between the 2 islands perhaps for another generation to resolve.

That is neither useful nor desirable.

To summarise my suggestions on this foundational part of the Bill:

- A. The transformation of an historic union which was **neither Free nor Equal** into to one that is between Tobago and Trinidad is at the heart of the solution to the issues that have shaped the relationship between Tobago and Trinidad
- B. In the Preamble of the Constitution the right to self-determination of the people of Trinidad and Tobago **MUST INCLUDE** the right of the People of Tobago and the right of the People of Trinidad to each determine their political status.
- C. The right to self-determination for the People of both Tobago and Trinidad must be up to and including the right to secede from the union (with appropriate mechanisms therefor)
- D. Equal status between the island of Trinidad and the Island of Tobago shall mean the development of a True Federal Structure of Governance (including Island Governments for Each Island with a National Federal Government). The right of the People of either Island to secede from the union must be included.
- E. The historic Constitutional provisions of St. Christopher-Nevis-Anguilla and St. Kitts-Nevis be examined in the context of A to D above.
- F. The people of both Trinidad and Tobago be involved in the discussion on the Bill and the related issues to ensure a mutually-understood and acceptable conception of the problem and solution to ensure unity and mutual respect going forward.

There is much more, by way of examination of the historical development of the discussion on the fundamental principles involved that can be expanded.

As well, the details of the remaining clauses in the Bill must be examined.

I propose to do so in further submissions.

I urge that the JSC not unduly limit itself and the necessary discussion by the deadline set for it.

While the solution of transforming the relationship between Tobago and Trinidad is long overdue, it would be a grave error to sacrifice achieving an outcome acceptable to the people of both islands for the sake of expediency or otherwise.

Getting it right is paramount.

Submitted by

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June 23, 2018