

TOBAGO'S POSITION ON ITS RIGHT TO SELF-GOVERNMENT

1.0 Introduction

In 1977, former President and Prime Minister of Trinidad and Tobago, ANR Robinson in his capacity as Member of Parliament for Tobago East, framed the impetus for self-determination of Tobago within the nation state of Trinidad and Tobago as a “**rights issue**”. In presenting his motion for Internal Self Government, he stated, “*It is consistent with contemporary notion[s] of human rights*”. The issue of autonomy for Tobago remains a “**rights issue**” in 2015. Discussions are ongoing between the Central Government and a Tobago Team regarding the promotion, protection, respect and fulfillment of **the right to self-determination by Tobagonians**. The unfulfilled ambition of Tobagonians for self-determination has to be leveraged from a “**rights**” perspective in order to attain an enabling administrative framework with institutional checks and balances; legal protection and the requisite Constitutional entrenchment in order for Tobago to move to a higher level of development.

The right to self-determination is a **non-negotiable, fundamental human right**, which is written into international human rights instruments that Trinidad and Tobago agrees to be bound by. The instruments include seminal human rights documents such as the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic Social and Cultural Rights (ICESCR). The [Declaration on the Occasion of the Fiftieth Anniversary of the United Nations \(UNGA Res 50/6 \[9 November 1995\]\)](#) reiterated the commitment of the United Nations to reaffirm the right to self-determination of all peoples.

2.0 The anticipated results

By virtue of Article 2, paragraph 1, of the **International Covenant on Economic Social and Cultural Rights (ICESCR)**, States that agree to be bound by the Covenant are legally obliged to undertake legislative action, particularly when existing laws are incompatible with the obligations under the Covenant. Self-government or autonomy reflects the fulfillment of the right of Tobagonians to self-determination. Within Trinidad and Tobago, steps have been taken to engineer law reform for Tobago to realise self-determination. However these measures have not been far reaching enough.

The Tobago House of Assembly Act of 1980, which was replaced by the Constitution (Amendment) (Tobago) Act 1996 and the Tobago House of Assembly Act of 1996, are examples of legislation (laws) to attempt to provide Tobago with Self Government. Recognising that the 1996 Acts also had shortcomings, the Government proffered the Constitutional Amendment Bill 2013 that purported **“to enhance the internal self-government of Tobago.”**

In presenting the 2013 Bill in Parliament, quoting ANR Robinson, the Prime Minister stated, **“The purpose of this motion is to place a substantial part of the responsibility for the conduct of Tobago’s affairs fairly and squarely where that responsibility belongs; that is to say, in the hands of residents of Tobago themselves.”** In 2014, Tobagonians met and confirmed certain fundamental conditions for being a constituent part of the nation of Trinidad and Tobago. The 2013 Bill did not provide for what Tobagonians consider to be their **basic human rights**, nor did it provide Internal Self- Government for Tobago. It is essential that the legislative framework be aligned with the rights of Tobagonians and the minimum conditions of self-determination by Tobagonians.

It should be noted that the Prime Minister went further in her contribution to the debate of the 2013 Bill to remind the country that on page 63 of her party’s manifesto, there was an expressed commitment to **“Revisit the provisions of the Tobago House of Assembly Act, and in particular, the Fifth Schedule, with a view to granting greater autonomy and responsibility to the people of Tobago over matters that directly impact on Tobago”**.

3.0 The conceptual framework

Self-determination refers to the right of the people of a particular place to choose the form of government they wish to have in place. Self-determination may be internal or external. By self-determination for Tobago, the Tobago Team is referring to Internal Self-Determination. According to M. C van Walt van Praag and O. Seroo in their report and analysis of the International Conference of Experts on the “Implementation of Right to Self-Determination as a contribution to conflict prevention” held in Barcelona, from 21-27 November 1998,

“By Internal self-determination is meant participatory democracy; the right to decide the form and identity of rulers by the whole population of a State and the right of a particular group within the State to participate in decision making at the State level. Internal self-determination can also mean

that right to exercise cultural, linguistic, religious or (territorial) political autonomy within the boundaries of the existing state...”

The principle of self-determination is a critical element of the world's constitutional order. Even though it is laid down in the text of Arts 1 **Universal Declaration of Human Rights (UDHR)**, the **International Covenant on Civil and Political Rights (ICCPR)** and **International Covenant on Economic Social and Cultural Rights (ICESCR)**, in an unrestricted form, it does not have an absolute character. The UN Charter states that self-determination is within the context of international security and stability in [Art. 1 UN Charter](#) and of human rights in Arts. 55 and 56 UN Charter. It should therefore be interpreted and applied in the light of these and other basic principles and rules which together form the constitutive core of the international legal order.

According to Daniel Thürer, Thomas Burri in “Self-Determination, Max Planck Encyclopedia of Public International Law [MPEPIL] published under the auspices of the Max Planck Foundation for International Peace and the Rule of Law under the direction of Rüdiger Wolfrum, following the era of decolonization, and within recent times, the driving force of the principle of self-determination manifests itself more commonly on internal self-determination.

The principle of self-determination beyond the context of decolonization has evoked considerable debate. According to Thürer and Burri, *“The implementation of self-determination is said to take a different form outside the context of decolonization: self-determination is to be implemented internally, without entitling the people to its own, independent State. The Supreme Court of Canada in the landmark ruling Reference re Secession of Quebec followed this approach when it was asked whether Quebec had a right to secede from Canada (Secession). It pointed out that ‘[t]he recognized sources of international law establish that the right to self-determination of a people is normally fulfilled through internal self-determination’ (at para. 126). In addition, the principle of self-determination would enable a people to separate from a State only exceptionally, when the rights of the members of the people are violated in a grave and massive way. Arguably, an enabling clause for this exception could be found in the Friendly Relations Declaration in an e contrario argument: The Friendly Relations Declaration does not authorize ‘any action which would dismember ... independent States conducting themselves in compliance with the principle of ... self-determination of peoples ... and thus possessed of a government representing the whole people ... without distinction as to race, creed or colour’ (Principle 5 Friendly Relations Declaration). A similar argument can*

be drawn from The Aaland Island Question: Report Submitted to the Council of the League of Nations by the Commission of Rapporteurs, in which the Commission of Rapporteurs declared: 'The separation of a minority from a State of which it forms a part and its incorporation into another State can only be considered an exceptional solution, a last resort when a State lacks either the will or the power to enact and apply just and effective guarantees' (at 28)".

4.0 Summary of the position of the Tobago Team

4.1 Background

The Tobago Team approaches this matter of Tobago Self Government in the context of:

- a) The **immutable right** of the people of Tobago to self-determination as understood and declared by the United Nations Charter on Human Rights.
- b) The decision of the Parliament of Trinidad and Tobago in 1977 to give effect, in 1977, to that **incontrovertible right**.
- c) The failure of the Acts 37 of 1980 and 39 and 40 of 1996 to implement the decision of 1977.
- d) The need to complete implementation of the Parliamentary mandate of 1977.

These principles are consequently inherent in all the Tobago Team's submissions to the Government.

4.2 Matters for which the Tobago Administration must have exclusive responsibility.

The Tobago Administration shall be responsible for the formulation and implementation of policy in respect of the following matters:

1. Finance;
2. State Lands;
3. Land and Marine Parks;
4. Museums, archives, historical sites and historical buildings;
5. Public buildings and the maintenance of the residence of the President and the Prime Minister;
6. Tourism;
7. Sports;
8. Culture and Arts;

9. Community Development;
10. Co-operatives;
11. Agriculture;
12. Fisheries;
13. Food Production;
14. Forestry;
15. Town and Country Planning;
16. Infrastructure, including air and sea transportation, wharves and airports and public utilities;
17. Telecommunications;
18. Highway and Roads;
19. Industrial Development;
20. The Environment and Natural Resources
21. Customs and Excise
22. Licensing;
23. Health Services;
24. Library Services;
25. Education including Curriculum;
26. Social Welfare;
27. Marketing;
28. Valuations;
29. Postal Services and collection of revenue therefrom;
30. Statistics and Information;
31. Housing
32. Plant and Animal Quarantine
33. Legal Affairs including the Registration of Legal Documents;
34. Labour;
35. Quarries and Mining;
36. Island Security
37. Water Resources;
38. Consumer Affairs;
39. Energy;
40. Such Other Matters as necessary for the preservation of peace, order and good government of Tobago.

4.3 Powers of the Tobago Administration

The Tobago Administration shall have the power to make laws for the peace, order and good government of Tobago and in respect to the matters at 1-40 listed at 4.2 above. Both houses of the bi-cameral legislature are to be elected to allow the population of Tobago a greater involvement in the decision-making process and for more effective checks and balances on the Executive.

4.4 Jurisdiction of The Tobago Administration

The physical boundaries of the area over which the Tobago Administration must provide protection and governance must be appropriately defined to give effect to the policy formulation and the application of “Tobago Laws” as per item 4.3 above.

The Constitution at Sections 1 (1) and 1 (2) clearly states that the Nation, formally known as the Republic of Trinidad and Tobago comprises the Island of Trinidad and the Island of Tobago without specifying the boundaries of either. The delineation is therefore within the purview of the constitutional provisions and merely seeks greater clarity for purpose of effective administration over the respective islands.

Universally accepted methods of delineation of boundaries between entities can be appropriately applied in this matter.

4.4 Financial Arrangements of the Tobago Administration

The Tobago Administration must be provided with the financial wherewithal to give effect to the formulation and implementation of policy and the general governance of the island. A basic degree of predictability is an essential requirement to afford effective planning. Eight percent (8%) of the annual national budget as a grant element, along with the establishment of an Economic Review Commission that will have the power to treat with the economic circumstances and make revenue-sharing decisions will provide that predictability.

Other mechanisms for bolstering the financial package include:

- a) Ability to access donor funds
- b) Ability to impose taxes and grant concessions.
- c) Ability to raise loans on its own credibility
- d) Revenue – sharing mechanism

International financial and development agencies, such as the IDB, recognize the need for specific mechanisms for sub-national entities to effectively discharge their functions. The ability to access donor funds, raise loans and impose taxes is an integral and essential part of the package of measures necessary for good governance.

Sub-national entities, including cities, in most countries of the world impose and collect taxes on certain activities. The Cities and Boroughs in Trinidad have that ability.

Tobago must have the ability to borrow on its own creditworthiness. The Tobago Legislature will make laws that will establish borrowing parameters and repayment of its commitments, based on generally established 'public financial' principles.

4 Staffing the Tobago Administration

The Tobago Administration, must have the Executive Authority over its staff. Tobago must therefore have its own Service Commission that will ensure dedicated attention to its staff needs.

5. Conclusion

The Tobago Team is confident that a resolution of the matter of Self-Government can be arrived at satisfactorily and expeditiously since both parties are on record indicating that this is of critical importance for harmonious relationship between the Islands of Tobago and Trinidad in the Sovereign Democratic State of Trinidad and Tobago.

Legislation should be drafted and enacted forthwith to accomplish these deliverables.