



National Joint Action Committee

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12 May 2021

Mrs. Camille Robinson-Regis, MP
Chairman
JSC, Constitution (Amd't) (Tobago Self-Government) Bill, 2020
Parliament of Trinidad and Tobago

Dear Madam Chairman,

Re: Constitution (Amd't) (Tobago Self-Government) Bill, 2020

The National Joint Action Committee welcomes the opportunity to participate in the process of Self Determination for the people of Tobago, through our contribution towards the drafting of the appropriate legislation.

As NJAC stated in its previous submission to the JSC on 4th June 2018, "*Various occurrences and commentaries over the years have pointed to the critical need for Constitutional reform in Trinidad and Tobago and many other Caribbean islands*

Recent developments in Barbados and other parts of the Caribbean, including Tobago, underscore this point.....

NJAC is of the opinion that this current move to amend the Constitution of the Republic of Trinidad and Tobago to accord Self-Government to Tobago is a timely opportunity for our nation to make a bold step towards this process of constitutional reform by implementing appropriate measures in this Bill. Such measures should point the way forward as an example of a new direction for Trinidad and Tobago, rather than just mirror what currently exists in the present Constitution."

It is NJAC's view that the current political dilemma in Tobago which has been brought about by the results of the last THA elections, is further evidence that strengthens this point and highlights the urgent need for more fundamental changes through constitutional reform.

We do hope that this exercise would advance the long awaited process of Constitutional reform, that would be relevant not only to Tobago, but to the whole nation.

Following are our submissions to the proposals outlined in the draft companion bills.

Respectfully,

Kwasi Mutema
Servant Political Leader

RECOMMENDATIONS TO COMPANION BILLS

1. The Draft Constitution (Amd't) (Tobago Self-Government) Bill - Clause 6(b) & The Draft Tobago Island Administration Bill – Part 1, Clause 3 (2):

In this case, any definition of Tobago, should include the maritime boundaries. This would ensure clarity and much needed specification as regards the full jurisdiction of Tobago.

2. The Draft Constitution (Amd't) (Tobago Self-Government) Bill – Clause 16 (a) and (b):

The Public Service Commission as all other Commissions is meant to be an independent institution. The services and operation of such an institution ought to be insulated from the executive. The above section as currently stated, exposes the Commission to the direct influence of the Premier and by extension, the Tobago Executive Council. This can compromise the independence of the Commission as it can open the door to political interference.

As such, NJAC suggests that in order to preserve the independence of the Commission, there should be no need for consultation with the Premier in the process. If there is any need for consultation, such consultation should involve both the Premier and the Minority Leader.

3. The Draft Constitution (Amd't) (Tobago Self-Government) Bill – Clause 18, 141 B (e):

As stated in our previous submission to the JSC on 4th June 2018: *“The Legislature of any society is the highest institution of representation and civic duty in any democracy. Such an institution should aspire to epitomize the values and principles of true democracy. The Presiding officer in the Parliament or Assembly is the de facto ‘head’ of that institution and therefore the embodiment of such principles of democracy should reside in that office.*

It is therefore necessary that the office of the Presiding officer be beyond any question or doubt of impartiality. Consequently, all efforts should be made to remove any perception of bias or partiality surrounding such an office.

With the aforementioned, NJAC submits that the Presiding officer should be appointed by the President in consultation with the Chief Secretary and the Minority Leader. The Presiding officer should not be selected from amongst any of the sitting Assemblymen.”

The clause, as presently stated, is a mirror of what currently exists in the Parliament and the House of Assembly. This has led to many challenging situations over the years. The most recent being the current state of the political impasse in Tobago.

It is NJAC's view that the office of Presiding Officer should not be drawn from amongst any of the Assemblymen or Councillors. Further, it is our view, that the Presiding Officer should be appointed by the President in consultation with the Premier and the Minority Leader. In this way, there would be no issue of confidence in the office of Presiding Officer from either side of the House of Assembly.

4. The Draft Constitution (Amd't) (Tobago Self-Government) Bill – Clause 18, 141 K (1):

In order to protect such high office from the vagaries of human behaviour or any untoward form of collusion, the passing of this resolution should not be left to a simple majority, but should require at least a two-thirds majority.

Once a vote of no confidence in the Premier is passed by the House of Assembly, it means that the Premier no longer enjoys the confidence of the majority of members within the House of Assembly. It means therefore that the Premier, de facto, immediately loses all moral, if not legal authority within the House of Assembly.

Additionally, a vote of no confidence in the Premier that is passed by the House of Assembly does not translate to a vote of no confidence in the Assemblymen and therefore should not implicate the other members of the House of Assembly.

At this point, therefore, the Premier should not have the authority nor any justifiable reason to advise the President to dissolve the House of Assembly. Once a vote of no confidence in the Premier is passed, the Premier should cease having any authority, either de facto or de jure.

It is therefore proposed, that the phrase, “advise the President to dissolve the House of Assembly”, be removed from this clause.

5. The Draft Constitution (Amd't) (Tobago Self-Government) Bill – Clause 19, 144 (1) (2):

The two main principles of mediation are Impartiality and Confidentiality. The composition of the proposed committee as currently stated in the draft document can compromise these principles, particularly, if the party that forms the Cabinet and the party that forms the Tobago Executive Council is the same.

In order to avoid this unfortunate occurrence, which can defeat the whole process, the composition of the Mediation Committee would need to be altered significantly. Alternatively, it is suggested that the members of this Committee should be drawn from amongst members of the Tobago Legislature, and should comprise of six (6) persons, including:-

- a) The Presiding Officer, who should be the Chairman. The Deputy Chairman should be elected by the members of the committee.
- b) The Premier, providing that the Premier is not one of the parties involved in the dispute.
- c) The Minority Leader.
- d) One (1) Councillor from amongst the five (5) who represent the majority members of the House, providing that such a person is not one of the parties involved in the dispute.
- e) One Councillor from amongst the three (3) who represent the Minority members of the House.
- f) One Councillor from amongst the two (2) who have been appointed solely by the President.