



MINISTRY OF LEGAL & CONSTITUTIONAL AFFAIRS

***c/o 1 DEVON ROAD, KINGSTON 10 & 61 CONSTANT SPRING ROAD, KINGSTON 10
JAMAICA***

Telephone Nos.: (876) 927-9941-3, 929-8880-5 & 927-4101-3 (Minister & Permanent Secretary)

(876) 906-4923-31 (Legal Reform Department & Law Revision Secretariat)

(876) 906-1717 (Office of the Parliamentary Counsel)

MINUTES

11th Meeting of the Constitutional Reform Committee (CRC)

Venue: Jamaica House Banquet Hall

Date: Friday, May 19, 2023

Time: 9:00am

AGENDA

1. Call to Order
2. Prayer
3. National Pledge
4. Welcome and Opening Remarks
5. Apologies
6. Confirmation of Agenda
7. Confirmation of Minutes
 - a. April 12, 2023*
 - b. April 14, 2023*
 - c. April 19, 2023*
 - d. April 26, 2023*
 - e. May 3, 2023*
8. Sub- Committees

a. Public Engagement and Communication

b. State Affairs (new)

c. Referendum (new)

d. Youth Outreach

9. Schedule of Past & Upcoming Activities

10. Preparation of Interim Report to the Cabinet

a. Overview of Work of the CRC

b. Resources

c. Phase 1

i. Jamaicanising the Constitution

ii. Abolition of the Constitutional Monarchy

iii. Establishment of the Office of President of the Republic of Jamaica

iv. Type of Presidency

v. Selection/Appointment Process

vi. Term of Presidency

vii. Powers of the President

viii. Extension of the life of the Parliament

ix. OTHER MATTERS REQUIRING REFERENDUM

11. Additional Matters: Concerns in public domain

12. Any Other Business

13. Date and Time of Next Meeting

14. Adjournment

LUNCH

1. CALL TO ORDER

- 1.1.** The meeting was called to order by the Chairman, Hon. Marlene Malahoo Forte at 10:20 am.

Present Were:

Constitutional Reform Committee

- Honourable Marlene Malahoo Forte, KC, JP, MP (Chairman)
- Ambassador Rocky Meade, CD, JP, PhD (Co-Chairman – Office of the Prime Minister)
- Dr Derrick McKoy, CD, KC (Attorney General of Jamaica)
- Dr the Honourable Lloyd Barnett, OJ (National Constitutional Law Expert)
- Mr Anthony Hylton, CD, MP (Parliamentary Opposition – House of Representatives)
- Mrs Laleta Davis-Mattis CD, JP (National Council on Reparation) via video link
- Dr Elaine McCarthy, Chairperson, (Jamaica Umbrella Groups of Churches)
- Mr Sujae Boswell (Youth Advisor)
- Mr Hugh Small, KC (Consultant Counsel and Nominee of the Leader of the Parliamentary Opposition)

Absent were:

- Senator the Honourable Thomas Tavares-Finson (President of the Senate and Commissioner of the Electoral Commission of Jamaica)
- Senator Ransford Braham, CD, KC (Government Senator)
- Senator Donna Scott-Mottley (Parliamentary Opposition – Senate)
- Professor Richard Albert (International Constitutional Law Expert – University of Texas at Austin)
- Dr David Henry (Wider Society – Faith-based)
- Dr Nadeen Spence (Civil Society – Social and Political Commentator)

Secretariat

Ministry of Legal and Constitutional Affairs

- Mr Wayne O. Robertson, JP, Permanent Secretary
- Ms Judith Grant, Chief Parliamentary Counsel
- Ms Nadine Wilkins, Director, Legal Reform (via video link)
- Mr Christopher Harper, Senior Constitutional Reform Officer (Actg.)
- Ms Nastacia McFarlane, Director, Corporate Communication & Public Relations (Actg.)
- Mrs Janelle Miller-Williams, Senior Director, Legal Education
- Ms Julia Wedderburn, Senior Legal Education Officer
- Mr Makene Brown, Legal Officer
- Ms Christal Parris-Campbell, Assistant Parliamentary Counsel
- Mr Winston Lowe, Communications Officer
- Mrs Chrystine Wedderburn-Bernard - Legislative Editor.

Ministry of Justice

- Ms Samantha Blair, Deputy Director, Legal Services

2. PRAYER

- 2.1. Dr McCarthy led the meeting in prayer.

3. NATIONAL PLEDGE

- 3.1. The Chairman invited the meeting to recite the National Pledge.

Mr. Anthony Hylton joined the meeting.

4. WELCOME AND OPENING REMARKS

- 4.1. The Chairman welcomed everyone. In her brief remarks, among other things, she queried whether the National Pledge was still taught in schools and indicated that the National Anthem, the National Pledge, and the national symbols would be considered for inclusion in the new Constitution.

5. CONFIRMATION OF AGENDA

- 5.1. This matter was deferred until the meeting was quorate.

6. APOLOGIES

- 6.1. Apologies for absence were received from the President of the Senate, the Honourable Thomas Tavares-Finson, Senator Donna Scott-Mottley, Senator Ransford Braham, Professor Richard Albert and Dr Nadeen Spence.
- 6.2. Apologies for lateness were received from Dr Lloyd Barnett, Mr Hugh Small and Mr Sujae Boswell.

7. MANDEVILLE CONSULTATION AND TOWN HALL MEETING

- 7.1. On reflection, Members agreed that the meetings in Mandeville were well received, and of high quality. Issues raised there included fixed election date; the ceremonial head of state, election of the head of state, public education, and the timeline for the process. Some people felt that at least one year was needed for public education.

- 7.2. A member of the public expressed concern that the gold in the flag was not properly being replaced with yellow and asked that steps be taken by the government to address that.
- 7.3. It was noted that many of the issues raised related to phase 2 of the process.
- 7.4. The Chairman asked that the names of people who attended the town hall meetings and the consultations be recorded.
- 7.5. Ambassador Meade commended the Secretariat for successfully executing the events. He was pleased to see the diversity of persons who attended.
- 7.6. He expressed concern that the Committee appeared to be more reactive than proactive and suggested that Members keep abreast of public announcements and press releases so that the Committee could be consistent in the information it provided in successive meetings. He also noted that the delay in tabling the Bill would give the Committee a chance to collate the varied views of the public and he asked that Members ensured that the work proceeded with urgency.

Mr. Hugh Small joined the meeting at 10:44am

- 7.7. The Chairman advised that the responses of the public were varied.
- 7.8. Mr Hylton noted that although he was unavoidably absent from the meetings held in Mandeville, the feedback he had received was good. He informed the Committee that it did not surprise him, that once people were positively engaged their attitudes changed significantly. He urged Members to come to a consensus on the issues raised. He then queried the status of the public education campaign.

7.9. The meeting was advised that public education pamphlets were prepared based on Dr Barnett's work and were distributed at the Mandeville Town Hall meeting. Copies were circulated in the meeting to Members. It was also noted that the Minutes of the first three meetings had also been posted on the website.

7.10. Mr Hylton also indicated that from the feedback he had received persons felt that the Committee should have been given more time for its work.

7.11. The Chairman indicated her disappointment in persons who should know better seeking to take advantage of the public's lack of knowledge.

Mr Sujae Boswell, who was previously online, joined the meeting in person at 10:53 am.

7.12. The Chairman suggested that it may be good to consider introducing something like a 'Republic Day' on which the Head of State would open his office to the public, to hear directly from them.

Dr Lloyd Barnett joined the meeting at 10:56 am

7.13. Dr McCarthy then commended the Secretariat on their successful staging of the meetings in Mandeville, noting that the flow and set up of the meetings were well done.

7.14. Mr Small queried whether the discussions merited the Committee's time. In response, the Chairman noted that consideration of feedback from the public was an important part of the Committee's work and advised that since there was now a quorum, the business of the meeting requiring decisions would then formally commence (at 11:00 am).

8. CONFIRMATION OF THE AGENDA (Deferred at Item 5)

8.1. The Agenda was confirmed by the meeting.

9. CONFIRMATION OF THE MINUTES

9.1. The Chairman advised that going forward the revised draft Minutes would be sent to Members for their review. Their comments could be sent to the Committee liaison officer Mr Christopher Harper to help expedite the process of confirmation of the Minutes at the meetings.

10. PARISH TOWN HALL MEETINGS AND CONSULTATIONS

10.1. Mr Hugh Small cautioned Members not to refer to the Mandeville Town Hall meeting as a ‘County Meeting’ as the other parishes in the county had not been invited. The Chairman clarified that the Committee’s plan was for an initial visit to one parish in each county and thereafter it had been agreed to aim for a meeting in each parish, as the goal was for island-wide engagement.

10.2. Members were then advised that the next set of meetings were scheduled for the first week of June 2023 and would be held in either Portland or Saint Thomas, within the county of Surrey. The Chairman advised that she may not be able to attend the next meeting due to another pressing commitment during that week. Ambassador Meade indicated that he would make himself available although he was scheduled to be in Montego Bay.

10.3. The Committee was advised that consultations had also been scheduled with the Advocates Network Jamaica.

10.4. The Chairman advised the Committee that she had been listening to presentations made at sessions hosted by some religious groups and was dismayed at the levels of misrepresentation in the various presentations.

10.5. A suggestion was reiterated by a Member to establish a high-level sub-committee to handle those concerns and to make connections with those groups.

11. DRAFTING STRATEGY

11.1. Dr Barnett advised the Committee that it was important to settle the Committee's strategy as there was consensus on a Jamaican Constitution and that the country should disengage itself from the Monarchy.

11.2. A query was then raised on whether the People's National Party (PNP) would settle for a new constitution with the Judicial Committee of the Privy Council (JCPC) as the final court.

11.3. Dr McKoy suggested that the since the Committee had already arrived at consensus on various matters including the removal of the Monarch and entrenchment of the Electoral Commission of Jamaica, it was quite likely that the issue of the Caribbean Court of Justice (CCJ) would resolve itself over time.

11.4. Mr Hylton advised the meeting that this position would not be acceptable to the PNP.

11.5. Members then suggested that it was imperative that the two parties resolve that issue. Dr Barnett noted that the process could only succeed if there was consensus between the two political parties as a positive vote is required in Parliament.

- 11.6.** The Chairman informed the Committee that the Prime Minister had promised that further discussions would be held after the Vale Royal Talks and the Parties had agreed on a phased approach for constitutional reform.
- 11.7.** Dr Barnett informed the meeting that it would be impossible to oversee an “either or” draft of the Constitution.
- 11.8.** Discussion then followed on the exchanges that took place at the Vale Royal Talks by the two political party leaders.
- 11.9.** Mr Hylton advised the Committee that the People’s National Party had expected more timely engagement from the Jamaica Labour Party (JLP) in relation to the Caribbean Court of Justice issue. Various steps were to be initiated but nothing had been done. He noted that the People’s National Party’s policy was not in favour of the exclusion of the Caribbean Court of Justice from the first phase.
- 11.10.** In response to queries by Members for the political leaders to meet to determine the issue of the Caribbean Court of Justice, Mr Hylton informed the meeting that the Leader of the Opposition had been talking with the Prime Minister both on and off the record on the matter.
- 11.11.** Mr Small pointed out that the Committee was merely an advisory body, and the Cabinet would need to decide on what was to be presented to Parliament. He asked that the Parties come to a decision in the interest of the country and its people.
- 11.12.** Dr Barnett in referring to the Terms of Reference noted that the Committee had not only been tasked to make recommendations but also to prepare a draft Bill. He advised that the Bill could not be prepared without a policy decision and to date there was no formal decision on the final court, term limits, fixed election dates and other matters. He opined that the Committee could not proceed with its work if those matters were not addressed definitively.

- 11.13.** Mr Hylton reiterated that his Party had declared its position, which is that ‘Jamaica should not loiter on the doorsteps of the Monarch’. He noted that the Party looked forward to hearing the views of the public on this matter but regretted that no one in his Party knew the Jamaica Labour Party’s position to date.
- 11.14.** Members then asked that the Parties, through their representatives, urgently address the situation as the final court had been raised repeatedly by the public.
- 11.15.** The Chairman agreed that a decision would have to be made on the final court. She noted that the Government had been transparent, and it had examined the menu of items prior to deciding on the phased approach. She noted that there was nothing untoward in the Government’s approach in determining the phases, however the faith-based community had raised issues of sexual orientation and abortion.
- 11.16.** The Government recognised that it would take some time to determine those issues and therefore the drafting of the new Constitution would be done in the final phase. That decision was based on the advice of the Chief Parliamentary Counsel (CPC).
- 11.17.** The Chairman noted that the Government was not desirous of having the referendum at the same time as the general elections, as they did not want to politicise the referendum, and that had led to the ambitious timeline. However, the final court was not a deeply entrenched provision and so it would be dealt with in Phase 2.
- 11.18.** Mr Hylton advised the Committee that Dr Barnett’s suggested approach for the new Constitution had found favour with the People’s National Party.
- 11.19.** The Chief Parliamentary Counsel, Ms Judith Grant, informed the meeting that given the varied opinions being postulated, the matter had moved beyond her initial guidance. She noted that the Committee’s Terms of Reference provided for a modern and new

Constitution, but that the discussions seemed to involve a process which could not be phased in the way it was previously anticipated.

Dr McKoy re-joined the meeting.

11.20. Following further discussion on the Terms of Reference and the airing of the perspectives of Members on the Terms of Reference, it was then agreed that a full discussion would be needed with all Members to finalise an agreed approach.

11.21. A query was then raised on whether a press release would be issued immediately to advise the public that the Bill would not be tabled at the end of May as previously anticipated. The Chairman advised that she would address the matter in her sectoral debate presentation in Parliament.

11.22. Dr Barnett advised that a policy decision had not yet been issued for the drafting of the Bill and there were matters which had to be addressed by the Political Parties before the Bill could be drafted. The Chairman agreed with Dr Barnett, but she noted that the inclusion of drafting the Bill was never intended for the Committee, and there was an error in that part of the Terms of Reference.

LUNCH BREAK

11.23. On resumption of the meeting the Chairman advised the Committee that:

- a) Her sectoral debate presentation would focus on constitutional reform.
- b) The Committee would take the gradual approach and move forward with the issues on which there was consensus as the Government wanted to achieve the goal of abolishing the constitutional monarchy within the lifetime of the current Parliament.
- c) The work would be refocussed to achieve the agreed goals.

- d) A meeting would be held to discuss Dr Barnett's recommended strategy. She expressed her gratitude to Chief Parliamentary Counsel Grant for her input in determining the strategy.
- e) Paragraph 5 – Terms of Reference – The Chairman reiterated that there was an error in Paragraph 5 of the Terms of Reference. She informed the Committee that paragraph 5.1 made provision for the preparation of the Bill, however it was never intended that the Committee should prepare a draft bill. The intention was for the Committee to *review* a draft bill which would be finalised by the Cabinet. The Chairman asked that the error be corrected and emphasised that it would be a correction of error, not an amendment to something new and different.

12. SCHEDULE OF PAST AND UPCOMING ACTIVITIES

- 12.1. The Chairman advised that a revised schedule of meetings and activities would be circulated to Members.

13. INTERIM REPORT TO CABINET

- 13.1. This matter was deferred for the next meeting of the Committee.

14. ANY OTHER BUSINESS

- 14.1. The Chairman advised the Committee that a sitting of Parliament had been scheduled for the following Wednesday so there would be no meeting on May 24, 2023. She also advised that the Ministry would be holding its Strategic Planning Retreat on May 25 - 26, 2023.
- 14.2. The Chairman thanked the members of Secretariat for their work.

15. DATE AND TIME OF NEXT MEETING

15.1. The next meeting would be held on Wednesday, May 31, 2023, at 10:00 am

16. ADJOURNMENT

16.1. There being no other business the meeting was adjourned at 2:30 pm.

ACTION ITEMS

MATTER	RESPONSIBLE PERSON/COMMITTEE	DATE FOR COMPLETION
Names of persons who attended the Mandeville Town Hall meeting and the Consultation be recorded.	Secretariat	May 31, 2023
To establish a high-level sub-committee to handle the concerns of Religious Entities and Civic Groups and to make connections with these groups	Minister Malahoo Forte/PEC/Secretariat	June 2023
The political parties to urgently address the matter of the final court	Party Representatives on the CRC	Immediate
Correction of Error at Paragraph 5.1 of the TOR	Minster Malahoo Forte/Permanent Secretary	June 2023
Circulation of new schedule of meetings and activities	Secretariat	June 8, 2023