



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)

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MINUTES

12th Meeting of the Constitutional Reform Committee (CRC)

Venue: Jamaica House Banquet Hall

Date: Wednesday, May 31, 2023

Time: 9:00am

AGENDA

1. Call to Order
2. Prayer
3. National Pledge
4. Welcome and Apologies
5. Confirmation of Agenda
6. Remarks by Chair and Members
 - a. Deferral of Confirmation of outstanding Minutes
 - b. Sectoral Presentation at Parliament- Tuesday June 6, 2023 at 2:00pm

c. Impact of Restructured Compensation for the Political Directorate on the Work of the CRC

7. Public Education on the Constitution - JIS Proposal

8. Schedule of upcoming Public Engagement and Communication events and activities

9. Any Other Business

a. Interim Report to Cabinet

b. Strategic Youth Engagement Sub-Committee

10. Date and Time of Next Meeting

11. Adjournment.

1. CALL TO ORDER

1.1. The meeting was called to order by the Chairman, the Hon. Marlene Malahoo Forte at 10:50am.

ATTENDEES:

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 Hon. Lloyd Barnett, OJ (National Constitutional Law Expert)
- Mr Anthony Hylton, CD, MP (Parliamentary Opposition – House of Representatives)
- Senator Donna Scott-Mottley (Parliamentary Opposition – Senate)
- Mrs Laleta Davis Mattis CD, JP (National Council on Reparation) on line
- Dr Elaine McCarthy, (Chairman – 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)
- Dr David Henry (Wider Society – Faith Based)
- Professor Richard Albert (International Constitutional Law Expert – University of Texas) at Austin) (via video link)
- Dr Nadeen Spence (Civil Society – Social and Political Commentator)

Apologies For Absence

- Senator the Hon. Thomas Tavares-Finson (President of the Senate and Commissioner of the Electoral Commission of Jamaica)
- Senator Ransford Braham, CD, KC (Government Senator)
- Ambassador Sheila Sealy-Monteith, CD, JP, Permanent Secretary, Ministry of Foreign Affairs and Foreign Trade

Secretariat

Ministry of Legal and Constitutional Affairs

- Mr Wayne O. Robertson, JP, Permanent Secretary
- Ms Judith Grant, Chief Parliamentary Counsel
- 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 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. David Henry led the meeting in prayer.

3. NATIONAL PLEDGE

- 3.1. The Chairman invited everyone to say the National Pledge.

4. WELCOME AND APOLOGIES

- 4.1. The Chairman welcomed everyone.
- 4.2. Apologies for absence were received from Senator Hon. Thomas Tavares-Finson, Senator Ransford Braham, CD, KC and Ambassador Sheila Sealy-Monteith, CD, JP.

4.3. Apologies were also received from Ambassador Rocky Meade, Senator Donna Scott-Mottley and Dr Nadeen Spence who would be late.

5. CONFIRMATION OF THE AGENDA

5.1. The Agenda was confirmed.

6. CONFIRMATION OF OUTSTANDING MINUTES

6.1. The Chairman advised the meeting that she had some challenges with the review of the Minutes however they would be available soon.

7. REMARKS BY CHAIR AND MEMBERS

7.1. Deferral of Confirmation of Outstanding Minutes

7.1.1. The Minutes were being reviewed prior to circulation. The review was at an advanced stage, and they would be released shortly.

7.2. Sectoral Presentation to Parliament: Tuesday June 6, 2023, at 2:00 pm

7.2.1. The Minister invited everyone to attend her Sectoral Presentation which was scheduled for the following Tuesday. She advised the meeting that no Bill would be tabled but she would use the opportunity to address some of the issues arising from current public discussion.

Mrs Laleta Davis-Mattis joined the meeting at 10:03 am.

7.3. IMPACT OF RESTRUCTURED COMPENSATION FOR THE POLITICAL DIRECTORATE ON THE WORK OF THE CRC

Senator Donna Scott-Mottley joined the meeting at 10:05 am.

7.3.1. The Chairman invited Committee members to share their views on the recent increase in the salaries of the Parliamentarians against the backdrop of public outrage on the matter.

7.3.2. She informed the Committee of a meeting where she, alongside Dr Spence met with the President and other members of the Jamaica Confederation of Trade Unions, at which time clarity was provided on many issues around the restructuring of public sector compensation packages. She noted that the Ministry of Finance had sought to restructure the entire salary package of the public sector, as well as of Parliamentarians and numerous factors were considered in arriving at a formula for the increase, as it was not merely a percentage increase. The Confederation highlighted the difficulty experienced in attracting and retaining talent based on the existing salary scale and emphasized that mediocre pay had resulted in a mediocre government.

7.3.3. The Chairman indicated that she was also advised that the anomalies which have arisen came about because old job descriptions were being put forward without any necessary modifications to reflect developments in the positions or changes over time. The Confederation pointed out that Government was a standard bearer for other employers in the wider society and the Government's terms and conditions of employment usually set the stage for other employers.

7.3.4. The Chairman cautioned against the CRC making similar mistakes in implementing the reform process. She thanked members for sending their comments on the matter. She also apologised to members regarding allegations that some had sold out to the Government.

7.3.5. The Chairman said that she realized that at the heart of the issue was the public's cry for greater accountability and integrity in political/public life.

7.3.6. She then invited Dr Henry to share his perspectives on the issue, which he had reduced into writing in response to her request.

7.3.7. Dr Henry advised that his concerns were penned in a letter which he had sent to the Hon. Minister and Committee members. He asked that the contents of the letter be recorded in the transcript and Minutes of the meeting.

7.3.8. Issues raised by Dr Henry were as follows:

- It was the moral imperative of the GOJ to facilitate, over a reasonable period of time, the public education campaign and to provide education on what truly is a Republic.
- A reasonable period of time for public education should be a minimum of six (6) months and the timetable for public education should be shared with the public, now.
- The GOJ should reach out to and seek to collaborate with civil society organizations and public commentators in the endeavour to educate the public. Those include organizations such as National Integrity Action, Advocates Network Jamaica, JAMP, Lawyers Christian Fellowship and commentators such as Dionne Jackson-Miller, Peter Espeut, Lloyd B. Smith, and Gordon Robinson.
- No worthy objection to the need for constitutional reform was heard, however there was strong opposition to the manner in which same was being advanced. There was distrust and disgust at a process which was devoid of meaningful public education and engagement, and which therefore sought to foist on our

people reform as defined by the GOJ and its collaborators (the CRC), without due process.

- The CRC should seek to address, now, the compelling and overwhelming concerns and grievances of the Jamaican people which were impacted by constitutional reform. They all primarily related, in his opinion, to accountability of Government.
- Those matters may therefore include dealing with issues of term limits, fixed election dates, roles of Parliamentarians, impeachment, recall elections, appointments to the Senate, qualification for Ministers, etc. Those were all matters on which the previous Commission and other Jamaicans have significantly opined.
- It was proposed that those matters would be addressed in another phase of the reform process. It was however clear that it would not be possible given the timeline advanced for what was proposed to be included and completed in Phase 1 and the reality of elections being on the horizon shortly thereafter.
- Our public engagement should include some public education and most importantly the CRC should **listen** to the public regarding their aspirations for Constitutional Reform and the Committee should strive to build consensus regarding our Republic.
- In the face of the clear acknowledgment by the Government of Jamaica (GOJ) of:
 - a. the poor performers and poor performance by some Members of Parliament MPs and Ministers;
 - b. the absence of job descriptions for Parliamentarians and Ministers; and
 - c. the significant pay hike to all MPs and Ministers in the absence of accountability structures and systems, performance indicators, evaluations or appraisals was tantamount to paying

oneself from the public purse for abject inefficiency, woefully inadequate performance and rewarding poor performers.

- As such, to borrow words articulated through public outcry, it was “obscene, vulgar, brazen and contemptuous” of the Jamaican people. The Prime Minister and Leader of Opposition’s *volte face* in light of this public outcry demonstrates palpable hypocrisy to many, since on the one hand the Prime Minister pioneered and implemented through the Cabinet and the Minister of Finance announced the Cabinet decision. The Leader of the Opposition and Opposition parliamentarians supported the decision made.
- One member of the diaspora speaking on behalf of herself and others who contributed significantly to nation building asked him to convey their utter disgust regarding the pay hikes in these circumstances.
- The independent members of the CRC were understandably viewed by some/many as being puppets, echo chambers for GOJ manipulation and the perpetuation of a system of government, which was not truly a republic to ensure accountability in governance.
- They may be viewed as willing conduits for foisting symbolic changes (removing the monarch and appointing a President) which disguised the continuance and perpetuation of the dictatorial rule of GOJ through its control of the Executive and Legislative arms of Government, manifested so outrageously in the pay hike saga.
- As one commentator aptly opined that the “salary saga could be roadblock to republican status.”
- The Jamaican people were effectively requiring and demanding that we address matters of accountability in Government in this first phase of constitutional reform. There was, in his opinion, no proper basis nor reason not to address those matters of accountability in governance, now, having regard to the Terms of Reference (TOR) which clearly stated that in Phase 1 the goal was to “abolition of the Constitutional Monarchy and **establishment of the Republic of Jamaica**” which is the sovereign rule of the people.

- It was his view that both political parties should solemnly undertake to advance the work of constitutional reform across the constitutional life of the current and the next parliament.

7.3.9. Mr Hylton noted that Dr Henry's comments were useful. However, he wished to clarify one aspect and informed the meeting that the Opposition had not been consulted by the Government in relation to the increased salaries. The Opposition therefore could not agree to something on which they had not been consulted.

7.3.10. He noted that there was a general understanding between the parties that an increase was necessary for all Parliamentarians. Increments had been applied to Parliamentarians' salaries, but no real increase had been given throughout his twenty-seven (27) years in Parliament.

7.3.11. He advised that he was shocked by the extent of the increase. He noted that the Leader of the Opposition was not in the House when the increase was announced but had been listening to the deliberations from another location. The Leader of the Opposition's immediate response was "No".

7.3.12. He further advised the meeting that:

- The original timeline was not appropriate due to the need for public education and effective consultation;
- There was no agreement between the parties on the CCJ. The People's National Party (PNP) had wanted the issue to be dealt with in Phase 1 of the process; and
- The PNP had given its assurance that the constitutional reform process would continue after the next general elections.

- 7.3.13.** Dr Barnett then advised the meeting that there was no doubt that the quantity of the salary increases had shocked the public, however that was not a matter for the Committee's remit except in two ways:
- The Committee would have to ensure that there was credibility in the process of constitutional reform; and
 - Constitutional reform should embrace a process which was acceptable to the public.
- 7.3.14.** He noted that although the level of the increases was questionable in some cases there was merit in the increases offered to the Judiciary.
- 7.3.15.** He informed the meeting that the Stone Committee had made strong recommendations on how the responsibilities of Members of Parliament should be conducted, however, those recommendations had never been implemented.
- 7.3.16.** There were several factors which had raised questions when comparing Parliamentarian's salaries across the Caribbean. The salary issue had stimulated public debate on constitutional reform, and it had raised issues of whether the presidential form of democracy was better for the country rather than the parliamentary format – a matter which needed to be explored further in the public education initiatives.
- 7.3.17.** Mrs Davis-Mattis, while agreeing that the increased salaries were not a matter for the Committee, noted that Dr Henry had encapsulated the views being expressed by the public over the past seven weeks. She highlighted the fact that issues of communication with the public had not been fully resolved by the Committee. She further advised that the timeline for laying the Bill would be addressed and that

initiatives would be taken to reach out to a wider cross section of civil society and not just the entities with the loudest voices.

7.3.18. Senator Scott-Mottley thanked Dr Henry for his reflective and insightful response on several of the current issues. She opined that the Committee should give serious consideration to the salary issue as it amplified the distrust in the Committee's work and there were insufficient and misleading reasons given for the increased salaries. One of those issues was related to training which did not arise from the salary increase. She also noted that the reference to attracting quality reflected negatively on the current ministers and she further queried the premise that a salary increase could attract quality.

7.3.19. She expressed her full agreement that the public needed to be engaged fully and her concern was that there was no formal timetable for public deliberation. She also noted that there was no budgetary allocation in the Government's 2023-2024 budget for the constitutional reform process. She asked the meeting to address those issues so that Committee members could leave the meeting with an adjusted timeline and a schedule of public engagements.

7.3.20. Senator Scott-Mottley recommended that a timeframe be considered for receiving oral submissions from the public and that the Committee should seek to obtain written commitment from the political leaders that the process would continue after the next general elections.

7.3.21. Dr McKoy, in reflecting on Dr Henry's comments, advised that the revised salaries were based on rationalization of the salaries and benefits to politicians. He opined that the re-quantified salaries would allow the Government to compete more effectively in attracting top talent and in retaining its workforce. Dr McKoy acknowledged the importance of public education in the process.

7.3.22. Dr McCarthy stated that she agreed with much of what had been said. She noted that the revision of salaries issue was a distraction to the work of the Committee, and she urged Committee members to refocus and get back on track. She noted three areas in which the Committee could improve communication:

- Preparing weekly press releases;
- Facilitating public discussions to alleviate some of the public’s concerns. She noted that the public wanted to learn more about the role of the President; and
- Using the Jamaica Information Service (JIS) to disseminate information through radio and television programs. She noted that Minister Malahoo Forte had appeared on the radio program “Good morning, Minister”. She suggested that the Committee implement similar programmes to disseminate information on the work of the Committee more widely.

7.3.23. Mr Hugh Small stated that it was clear from Mr Hylton’s response that the two political parties were not speaking with each other. He noted that there were no Jamaica Labour Party (JLP) representatives at that day’s meeting of the Committee.

7.3.24. He agreed with Dr Henry’s comments that:

- There should be a six-month timetable for public education;
- The Bill would be tabled after the six (6) month period;
- Both political parties should commit to advancing the constitutional reform beyond the life of the current Parliament;
- Public engagement initiatives must ensure that the Committee reached out to all corners of the country; and

- The political leaders should indicate to the public that they have been listening to their concerns.

7.3.25. Ambassador Meade commended Dr Henry on his presentation and noted that the Committee had already agreed to revise the original timeline and to make the process/outcome the ultimate marker. He noted that although the Committee could not resolve the issue of salaries, the Committee could include accountability in the process of reform.

7.3.26. In relation to the salary increases he asked that Committee members recognize that since the allowances were added to the basic salary it gave the appearance of an extraordinary increase. He advised however that no one had received a 200% increase based on the formula which had been applied.

7.3.27. He further noted that it was of grave importance that the sub-committees be formally instituted as the Committee would have to consider radical changes, such as the parliamentary system vs the presidential system.

7.3.28. The Chairman advised the Committee that she would address some of Dr Henry's comments in her opening remarks at the Sectoral Debates.

[The Committee took a short break and resumed its deliberations at 11:52 am]

8. PUBLIC EDUCATION - JIS PROPOSAL

8.1. PS Robertson presented the JIS proposal for the consideration by the Committee. He advised the meeting that the "Road to Republic" proposal had been developed in collaboration with the JIS from March 2023 and it encompassed strategies using print and electronic media.

[Dr Nadeen Spence joined the meeting at 12:18 pm]

8.2. The strategies were based on the type of audience and included inter-school debating competitions, school tours, storytelling, and cartoon animation for the younger groups. He noted that TikTok would also be used to reach out to the 13 – 18 age group and that other programmes would be introduced for the 18 – 45 and 45 – 65 age groups.

8.3. The Town Hall meetings would also remain a central focus of this strategy.

9. SCHEDULE OF UPCOMING PUBLIC ENGAGEMENT AND COMMUNICATION EVENTS AND ACTIVITIES

9.1. The Committee discussed the schedule of activities. Permanent Secretary Robertson reported that a draft schedule of activities had been prepared by the Secretariat. It was agreed that the Public Engagement and Communication sub-committee would sign off on the schedule and send a final draft to the Chairman, Ambassador Meade, and Mr Robertson.

9.2. The Chairman advised the Committee that Mr Harper was working on a list of issues raised by the public and this would be available shortly.

9.3. Ambassador Meade reminded members of the Committee about the proposal for public engagement presented by Professor Albert and the steps outlined therein, which included—**Ask, Accept, Acknowledge, Action, Archive.**

9.4. Dr Barnett suggested that the Chairman of the National Debates Commission be engaged in the process.

- 9.5. The Chairman advised that the website was now in the final stages of development and would be up and running shortly. She noted that the Committee already had an Instagram page.
- 9.6. Mr Robertson advised the Committee that the original budget of \$19 million would be increased due to the scope of the work however enough funds were in place now to carry out the work. He further advised that a draft schedule of Town Hall meetings had been shared with the PEC and that an influencer was to be identified.
- 9.7. Ms McFarlane made a presentation on the website and demonstrated how it worked.
- 9.8. Committee members noted that consequential to the short timeline outlined for the process of reform, the public was disgruntled with the Committee and so the Committee must proceed with a sense of urgency.
- 9.9. Members then queried whether the website could be launched before perfection.
- 9.10. Dr Spence then asked the members of PEC to work more assiduously with her. She noted that she had reached out to the police, unions, and teachers and that she was in contact with four (4) journalists to promote the work of the Committee

10. ANY OTHER BUSINESS

10.1. Interim Report to Cabinet

- 10.1.1.** The Chairman advised the Committee that she had noted the request for the Prime Minister and the Leader of the Opposition to meet and she would work with the Secretariat to advance the views shared by the Committee.

10.2. Strategic Youth Engagement Sub-Committee

10.2.1. The Chairman advised that this Committee had been activated.

10.3. UWI Symposium – Saturday, June 24, 2023

10.3.1. Committee members were encouraged to attend the Symposium.

11. DATE AND TIME OF THE NEXT MEETING

11.1. The next meetings will be held on Thursday, June 8, 2023 and Friday, June 9, 2023 at 9:30am

12. ADJOURNMENT

12.1. There being no other business the meeting was terminated at 1:04 pm.

ACTION ITEMS

| MATTER | RESPONSIBLE PERSON/COMMITTEE | DATE FOR COMPLETION |
|---|---|----------------------------|
| The Prime Minister and the Leader of the Opposition to meet to determine issues relating to the constitution reform process | Minister Malahoo Forte/Ambassador Rocky Meade/Mr. Anthony Hylton | As soon as possible |
| To engage the Chair of the National Debates Commission | Minister Malahoo Forte | June 2023 |