



Government of Jamaica



MINISTRY OF
LEGAL &
CONSTITUTIONAL
AFFAIRS

**SECTORAL
PRESENTATION
2023 JUNE 06
GORDON HOUSE**

HON. MARLENE MALAHOO FORTE, KC, JP, MP
MINISTER OF LEGAL AND CONSTITUTIONAL AFFAIRS

ROAD TO REPUBLIC



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PRELIMINARY REMARKS

1. **Madam Speaker**, as you know, my role as Minister sits atop my role as the duly elected Member of this Honourable House from the constituency of St. James West Central. In both roles, every day the opportunity to make a difference in the lives of people around me stands before me. As I paused, while preparing this presentation, and I reflected on the road I have travelled so far, it really struck me that I have been leading change practically all my life.
2. This is my 8th consecutive contribution to these Sectoral Debates, and my second as a Minister. I remain humbled by the Prime Minister's confidence in me to lead this the reform ministry, as he often calls it, to bring unprecedented, focused attention to the government's legislative and constitutional reform aspirations. The work that is historic.
3. All of us who have stepped out on the line, in public service through representational politics, knows the personal and professional vulnerabilities we experience. Every day we encounter people with problems. For some of these problems they do, in fact, have the necessary know-how, but there is also a whole host of other problems that are not amenable to authoritative expertise or standard operating procedures. These challenges cannot be solved by any of us who think we can provide answers from on high, although people do look to us for easy answers to them. However, solving them requires learning new ways - changing attitudes, values and behaviours - in order to thrive in a new environment.
4. When we push for change and people feel threatened, they take aim at us. As we, for example, question the gap between values and behaviour, challenge long-held belief and ask for new ways of doing things, we appear dangerous to people. The danger comes when we confront people with loss because people do not resist change, per se, people resist loss.
5. When we question their values, beliefs, or habits of a lifetime, we place ourselves on the line. When we disturb the personal and institutional equilibrium they know, we place ourselves on the line. When we tell people what they need to hear rather than what they want to hear, we place ourselves on the line.
6. Serving as we do is risky business, but it is worth the risk. The goals extend beyond material gain or personal advancement. By making the lives of people around us better, we find meaning and purpose in life.
7. All of us who serve the public from elected offices bank on the support and kind understanding of our constituents, colleagues, friends, and families. I should therefore like to acknowledge, with profound gratitude, the many - especially my family and close circle of friends - who have helped and held me along the way, who have stood and continue to stand in the gap with me.

Although it is not possible within the context of this presentation to name them all, you will understand if I single-out my husband, the Hon. Justice (Ret'd) Ian X. Forte, OJ, CD, JP. I cannot thank him enough for his love, support, and wise counsel. May he always know how much I truly love, admire, and respect him.

8. **Madam Speaker**, permit me to use this occasion to also pay homage to my St. James West Central constituents. I should like to also acknowledge my constituency office staff, the constituency executive and management teams (including Councillor Dwight “Debo” Crawford, JP of the Spring Garden Division; Divisional Chair and Divisional Co-ordinator Mrs. Rena Forbes, JP and Mr. Bryan House of the Mt. Salem and Granville Divisions, respectively). I warmly greet those who are tuned in, watching and listening attentively to this address.
9. **Madam Speaker**, I remain grateful for the co-operation and support of the cadre of professional civil and public servants, fellow parliamentarians on both sides of the aisle, the parliamentary staff and the ministers of government. I acknowledge and thank my Permanent Secretary, Mr. Wayne O. Robertson, JP, for his support. I also thank the Office of the Prime Minister for accommodating us and the Ministry of Justice with whom we share corporate services.
10. **Madam Speaker**, I should like also to thank the entire staff of the Ministry and its Departments, especially the smaller team in my office of Minister, as well as the assigned Close Protection Officers, for their commitment and support in advancing the work of the Ministry, thereby making this presentation possible.
11. **Madam Speaker**, I will now report on the work done by the Ministry during the period, April 1, 2022 to March 31, 2023.

CONSTITUTIONAL REFORM

12. The mandate of the Ministry of Legal and Constitutional Affairs includes spearheading the most meaningful, comprehensive and consequential post-Independence constitutional reform work to be undertaken in our nation. The goal is to ultimately produce a new Constitution of Jamaica, enacted by the Parliament of Jamaica and approved by the people of Jamaica, to, *inter alia*, establish the Republic of Jamaica as a parliamentary republic, replacing the Constitutional Monarchy, and affirming our self-determination and cultural heritage.
13. It is interesting to note, in passing, how, as territories under British rule progressed towards self-government and independence, including as independent republics, the British Empire evolved into the Commonwealth of Nations, with the British Crown as the recognised head of the Commonwealth.
14. On the occasion of our nation's 60th anniversary of Independence, the People and Government of Jamaica were invited to reflect on our accomplishments and to determine what other steps needed to be taken to progress the goals of Independence.

When the late Queen (Elizabeth II) dispatched her grandson, now the Prince of Wales, to mark the occasion Jamaicans reacted in a lukewarm manner, putting it mildly. Prime Minister Holness told Prince William that his Administration was ‘moving on’. When Her Majesty the Queen passed away and her son inherited the Throne and became King Charles III, King of Jamaica, ‘moving on’ took on greater urgency.

15. However, the place of the Monarch is deeply protected from easy change in the Constitution of Jamaica. Therefore, ‘moving on’ from a Constitutional Monarchy form of government to a Republic requires the Parliament to go through a very specific constitutional amendment process, with a Bill for an Act of Parliament, passed by the votes of not less than two-thirds of all the members of [each] House, and submitted for the majority of electors qualified to vote for the election of members of the House of Representatives to vote to approve the Bill. The process is complex and lengthy.
16. The process becomes even more complex and lengthier, (nigh impossible in some cases) if Government and Opposition are at odds. Nothing goes to the people for their approval unless Parliament agrees to the change.
17. Furthermore, taking a deliberate decision to break a Constitution on your own terms in a period of peace and embark on the Road to Republic in a period of peace is a truly historic journey. It is a journey that will result in us adopting a new form of government and a new Head of State in a period of peace and culminating with the creation of a homegrown Jamaican Constitution in a period of peace. This has never been done before.
18. Over the course of modern constitutional history, constitutions have often emerged from the rubble of war. They have often been written in the crucible of chaos. They have often been enacted at gunpoint. They have commonly been accompanied by a quartet of legal, social, cultural and political changes.
19. Think of the United States’ Constitution, a revolutionary constitution whose seeds were planted in a bloody battle for independence. Or think of the German and Japanese Constitutions, each is an imposed constitution that was the product of conquest in war. Or more recently the South African Constitution, adopted to consolidate the country’s transition from the violence of apartheid to the promise of democracy and equality. These and many other constitutions have come through revolution.
20. In contrast, ours will come through evolution. Peaceful evolution. Structured evolution. Deliberate evolution.
21. And in the end, we will achieve our collective aspiration to replace King Charles III, King of Jamaica, with a Jamaican Head of State, to ‘Jamaicanise’ our highest law, and to enact - for the first time - a constitution by us, of us and for us.

22. Having said that, I note that some have taken issue with how the Holness Administration is going about the work to reform the Constitution. I understand that many, among those who have taken issue, would have preferred a different approach.
23. We are pursuing these changes through a structured process, designed to proceed through distinct and clearly defined phases, consistent with the rules in the current constitution and more broadly with the rule of law. This is not how constitutions have historically been created.
24. We are a people known for doing things differently. When our gold-medal, World-record-breaking athletes ‘jamine’ the tracks on the international stages, our hearts stir with pride at the prospects of what we can achieve and have achieved. When we see our black, green and gold flag flown on centre stage, we stand tall as Jamaicans.
25. I sense that even though when I explain the logic of the historic approach some of those who disagree with the process will continue to disagree, because the quarrel over process is more than meets the eye. It is about the deeper more intractable issue of underlying value choices.
26. For those who genuinely do not understand the process but who genuinely wish to learn about it, I want you to know that the process to change the Constitution of Jamaica is fixed in the Constitution itself and was so fixed when the Constitution came into effect. I will come back to the others.
27. In *Independent Jamaica Council for Human Rights (1998) Ltd & Ors. V Marshall-Burnett & Anor (Jamaica) [2005] UKPC 3*, it was pointed out that the framers of the Jamaica Independence Constitution, 1962 made certain very significant departures from the constitutional practice of the United Kingdom. The governing institutions and practices of the nation were identified and stated in a single instrument, the Constitution. The Constitution has the effect, by section 2, (subject to sections 49 [and 50]) “if any other law is inconsistent with this Constitution, this Constitution shall prevail and the other law shall, to the extent of the inconsistency, be void.” Thus, the Constitution, and not, as in the United Kingdom, Parliament, is to be sovereign.
28. The framers of the Constitution took care to grade its provisions so as to require differing levels of popular support depending on the structural significance of the provision to be altered.
29. To alter some provisions of the Constitution, which may be described as “**deeply entrenched**”, section 49(3) and (4) of the Constitution require:
 - the bill effecting the alteration to be introduced in the House of Representatives,
 - a period of at least six months to elapse between the introduction of the bill into the House and its passing by that House,
 - the bill to be passed in each House by the votes of not less than two-thirds of all the members of that House, and
 - the bill to be approved by a majority of the electorate.

30. These deeply entrenched provisions are listed in section 49(3). They include:
- **section 49** itself – alteration of the Constitution,
 - **section 2** – effect of the Constitution,
 - **section 34** – establishment of the Parliament of Jamaica consisting of Her Majesty (which includes her heirs), a Senate and a House of Representatives,
 - **section 35** – composition of the Senate from the Government and Opposition sides,
 - **section 36** – disqualification from and election to the House of Representatives,
 - **section 39** – qualification for membership in the Senate and House of Representatives, subject to disqualification and including Commonwealth citizenship, age and ordinary residence,
 - **sections 63(2)** – sessions of Parliament,
 - **section 64(2), (3) and (5)** – life, extension and dissolution of Parliament,
 - **section 65** – appointment of Senators after general elections, and
 - **section 68(1)** – vesting of the executive authority of Jamaica in the Monarch.
31. These deeply entrenched provisions which require a referendum to change were set at Independence in the same way that the process to change them was set then. Because we have not done a referendum since Independence, no changes have been made to them. I have no choice in the matter of which type of proposed changes require a referendum.
32. A much larger class of sections and subsections of the Constitution, listed in section 49(2), have been described as “entrenched” but not deeply entrenched”. To amend one of these provisions, section 49(2) and (4) require the same procedure to be followed as in the case of a deeply entrenched provision, save that the bill need not be submitted to the electorate.
33. All provisions of the Constitution, neither deeply entrenched nor entrenched, may be amended if supported by the votes of a majority of all members of each House: section 49(4)(b). But even these provisions enjoy some special protection, since all questions not involving any alteration of the Constitution are determined by a majority of the votes of the members present and voting (section 54(1) and not a majority of all members.
34. For completeness, I set out the provisions of section 49 in full:
- “49- (1)** *Subject to the provisions of this section Parliament may alter by Act of Parliament passed by both Houses any of the provisions of this Constitution or (in so far as it forms part of the law of Jamaica) any provisions of the Jamaica Independence Act, 1962.*
- (2)** *In so far as it alters-*
- (a) sections 13, 14, 15, 16, 17, 18, 19, 20, [21, 22, 23, 24, 25, 26] subsection (3) of section 48, sections 66, 67, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 94, subsection (2), (3), (4), (5), (6) or (7) of section 96, sections 97, 98, 99, subsections (3), (4), (5), (6), (7), (8) or (9) of section 100, sections 101, 103, 104, 105, subsections (3), (4), (5), (6), (7), (8) or (9) of section 106, subsections (1),

(2), (4), (5), (6), (7), (8), (9) or (10) of section 111, section 112, 113, 114, 116, 117, 118, 119, 120, subsections (2), (3), (4), (5), (6) or (7) of section 121, sections 122, 124, 125, subsection (1) of section 126, sections 127, 129, 130, 131, 135 or 136 or the Second or Third Schedule of this Constitution; or

(b) section 1 of this Constitution in its application to any of the provisions specified in paragraph (a) of this subsection, a Bill for an Act of Parliament under this subsection shall not be submitted to the Governor-General for his assent unless a period of three months has elapsed between the introduction of the Bill into the House of Representatives and the commencement of the first debate on the whole text of that Bill in that House and a further period of three months has elapsed between the conclusion of that debate and the passing of that Bill by that House.

(3) In so far as it alters-

- (a) *this section;*
- (b) *section 2, 34, 35, 36, 39, subsection (2) of section 63, subsection (2), (3) or (5) of section 64, section 65, or subsection (1) of section 68 of this Constitution;*
- (c) *section 1 of this Constitution in its application to any of the provisions specified in paragraph (a) or (b) of this subsection; or*
- (d) *any of the provisions of the Jamaica Independence Act, 1962,*

a Bill for an Act of Parliament under this section shall not be submitted to the Governor-General for his assent unless-

- (i) *a period of three months has elapsed between the introduction of the Bill into the House of Representatives and the commencement of the first debate on the whole text of that Bill in that House and a further three months has elapsed between the conclusion of that debate and the passing of that Bill by that House, and*
- (ii) *subject to the provision of subsection (6) of this section, **the Bill, not less than two months nor more than six months after its passage through both Houses, has been submitted to the electors qualified to vote for the election of member of the House of Representatives and, on a vote taken in such manner as Parliament may prescribe, the majority of the electors voting have approved the Bill.***

- (4) A Bill for an Act of Parliament under this section shall not be deemed to be passed in either House unless at the final vote thereon it is supported-
- (a) *in the case of a Bill which alters any of the provisions specified in subsection (2) or subsection (3) of this section by the votes of not less than two-thirds of all the members of that House, or*
- (b) *in any other case by the vote of a majority of all the members of that House.*
- (5) *If a Bill for an Act of Parliament which alters any of the provisions specified in subsection (2) of this section is passed by the House of Representatives-*
- (a) *twice in the same session in the manner prescribed by subsection (2) and paragraph (a) of subsection (4) of this section and having been sent to the Senate on the first occasion at least seven months before the end of the session and on the second occasion at least one month before the end of the session is rejected by the Senate on each occasion, or*
- (b) *in two successive sessions (whether of the same Parliament or not) in the manner prescribed by subsection (2) and paragraph (a) of subsection (4) of those section and, having been sent to the Senate in each of those sessions at least one month before the end of the session, the second occasion, is rejected by the Senate in each of those sessions, that Bill may, not less than two nor more than six months after its rejection by the Senate for the second time, be submitted to the electors qualified to vote for the election of members of the House of Representatives and, if on a vote taken in such manner as Parliament may prescribe, three-fifths of the electors voting approve the Bill, the Bill may be presented to the Governor-General for assent.*
- (6) *If a Bill for an Act of Parliament which alters any of the provisions specified in subsection (3) of this section is passed by the House of Representatives-*
- (a) *twice in the same session in the manner prescribed by subsection (3) and paragraph (a) of subsection (4) of this section and having been sent to the Senate on the first occasion at least seven months before the end of the session and on the second occasion at least one month before the end of the session, is rejected by the Senate on each occasion, or*
- (b) *in two successive sessions (whether of the same Parliament or not) in the manner prescribed by subsection (3) and paragraph (a) of subsection (4) of this section and, having been sent to the Senate in each of those*

sessions at least one month before the end of the session, the second occasion, being at least six months after the first session, is rejected by the Senate in each of those sessions.

that Bill may, not less than two nor more than six months after its rejection by the Senate for the second time, be submitted to the electors qualified to vote for the election of members of the House of Representatives and, if on a vote taken in such manner as Parliament may prescribe, two-thirds of the electors voting approve the Bill, the Bill may be presented to the Governor-General for assent.

- (7) For the purposes of subsection (5) and subsection (6) of this section a Bill shall not be deemed to be rejected by the Senate if-
 - (a) it is passed by the Senate in the manner prescribed by paragraph (a) of subsection (4) of this section within one month after it is sent to that House; or
 - (b) it is passed by the Senate in the manner prescribed with any amendment which is not agreed to by the House of Representatives.
- (8) For the purposes of subsection (5) and subsection (6) of this section a Bill that is sent to the Senate from the House of Representatives in any session shall be deemed to be the same Bill as the former Bill sent to the Senate in the same or in the preceding session is, when it is sent to the Senate, it is identical with the former Bill or contains only such alterations as are specified by the Speaker to be necessary owing to the time that has elapsed since the date of the former Bill or to represent any amendments which have been made by the Senate in the former Bill.
- (9) In this section-
 - (a) reference to any of the provisions of this Constitution or the Jamaica Independence Act, 1962, includes a reference to any law that alters that provision; and
 - (b) “alter” includes amend, modify, re-enact with or without amendment or modification, make different provision in lieu of, suspend, repeal or add to.

35. Under the Constitution, each session of Parliament is required to be held at such place within Jamaica and commencing at such time as the Governor-General acting on the advice of the Cabinet or of a Minister to whom the Cabinet has delegated the authority may, by Proclamation published in the Gazette. It is specifically provided that the sessions must be so arranged that ‘a period of six months shall not intervene between the last sitting of Parliament in one session and the first sitting thereof in the next session’.

36. By definition, each session begins with the first meeting of the House after a prorogation or dissolution and continues until terminated by another prorogation or dissolution. The actual practice has been to have only one prorogation in each year so that for each twelve-month period, there is usually one session. The termination of a session by prorogation is effected by means of a Proclamation issued by the Governor-General and published in the Gazette. Here the Governor-General is acting on the advice of the Prime Minister specifically. The date for commencement of the new session is also fixed in the same way. Prorogation terminates a session but not the life of a Parliament. In contrast, when the Governor-General dissolves the Parliament, the dissolution ends the life of the Parliament.
37. If we were to reform the Constitution all at once, we would make it mightily difficult for us to absorb the changes all at once. The three phases of the work, beginning with the most difficult process is informed by the three different procedures for changing the three distinct categories of provisions in the constitution. Beginning with the most complex process is informed by two points that were made clear in the ruling of our highest court in the Marshall-Burnett case referred to earlier:
- “It is the substance of the law that must be regarded, not the form”. If in substance a bill impliedly alters entrenched provisions of the Constitution, it is therefore necessary to employ the procedure appropriate for alteration of an entrenched provision.
 - In section 49(9)(b) of the Constitution “alter” is defined to include “amend, modify, re-enact with or without amendment or modification, make different provision in lieu of, suspend, repeal or add to”. The Board would accept as was held in *Kariapper v Wijesinha* [1968] AC 717, 743, that the words “amend or repeal” cover an alteration by implication.
38. When we considered the matter internally within the Ministry, against the provisions of the Constitution itself and the interpretation by the Privy Council, we thought it made good sense to start with the deeply entrenched provisions to avoid any procedural error because a procedural error becomes a substantive error when the wrong amendment procedure is used, resulting in a law passed inconsistently with the Constitution, and consequently void.
39. Let me now return to those whose quarrel with the approach is really a quarrel about a much deeper issue. When I listen beyond the noise, to the concerns, I cannot help but agree that we have to pay very close attention to the power dynamics in the State and Government. I agree that greater accountability is required from all parts of Government. I agree that trust in Government is low. I go even further, though, and add that the trust in the society at large is badly broken.
40. I strongly believe that **the nation with the problem must go through a process together to become the nation with the solution.** The problems have to be internalised, owned, and ultimately resolved by leaders and the led to achieve enduring progress.

41. It is not my intention to be irresponsibly unwavering in my stance about the approach. I have never considered it a virtue to cling to the same opinion no matter the cost. I know that when you take on an issue you become that issue in the eyes of many; it follows then, that the way to get rid of the issue is to get rid of you. Whatever the outcome, you will be held responsible for the disequilibrium the process has generated, the losses people have had to absorb, and the backlash resulting from those who feel left behind.
42. I do not want us to try to get rid of the issue of reforming our Constitution. An important function of a constitution is to give protection against governmental misbehaviour. Reforming the Constitution of Jamaica is work that is much bigger than me.
43. We must keep in sharp focus the work to be done. The history of the relationship between Jamaica and the United Kingdom of King Charles III, also King of Jamaica is complicated and includes the transatlantic slave trade- one of the greatest atrocities in human history, the legacy and injustice of which we are still living with today. The better we understand that history and come to terms with it, the more urgent the reform work becomes.
44. We watched with fascination as our new King ascended the Throne, without any input from us. I hope the Kingdom will also watch with fascination as we establish the Office of President of the Republic of Jamaica with a Jamaican without divided loyalties, as our Head of State, in a period of peace, and without external pressures.
45. It feels fitting that Jamaica and the United Kingdom are both entering important new periods in their history, around the same time. As the reign of King Charles III gets going there, the Republic of Jamaica is being established here.
46. Republic means - *res publica*, “the property of the people.” A true republic can exist only when the citizens consent to be bound together under the law. It is said that there is nothing more despicable than a government that falsely assumes the appearance and name of “the people.”
47. What then is the foundation of a just government? What kind of rule is best? How should a leader behave in office? I am a moderate conservative who believes in working with other parties for the good of the country and its people.
48. It is said that there are universal laws that govern the conduct of human affairs. Independent of time and place, they guarantee fundamental freedoms to everyone and constrain the way in which government should behave. They command each of us to do our duty and forbid us from doing wrong. The laws of a State rule over a leader just as he or she rules over the people. The rule of government should be in agreement with the law.

49. **The best form of government embraces a balance of powers, as a just government must be founded on a system of checks and balances.** The ideal government is said to be one which combines the best qualities of a monarchy, an aristocracy and a democracy.
50. This sort of state would have an executive with preeminent and royal qualities, but also grants certain powers to leading citizens and to the people according to their wishes and judgment. This kind of constitution first of all offers a great degree of equality to citizens, but it also provides stability. **When one type of government alone rules, it frequently decays into the corresponding degenerate form- the King becomes a tyrant, the aristocracy turns into a factional oligarchy, and democracy becomes mob rule and anarchy.** A mixed and balance system does not usually turn into something else; instead, it remains stable, unless the leaders are usually wicked. For there is no reason for a government to change when each citizen is guaranteed his own role and there is no underlying debased form into which it might slip and fall.
51. **Leadership should be of exceptional character and integrity-** those who would govern a country must possess great courage, ability and resolve. For among the crowds are those who would destroy our country through revolution and upheaval, either because they feel guilty about their own misdeeds and fear punishment, or because they are deranged enough to long for sedition and civil discord, or because of their own financial mismanagement they prefer to bring the whole country down in flames rather than burn alone. When such people find leaders to help them carry out their wicked plans, the Republic is tossed about on the waves. True leaders always put the interest of their nation above their own. The job is to steer the ship of state smoothly and steadily.
52. The ideal state is one in which the best people desire praise and honour while avoiding humiliation and disgrace.
53. I am pleased to advise this Honourable House that the work to reform the Constitution progressed further on March 1, 2023 with the appointment of the members of the Constitutional Reform Committee.
54. **Madam Speaker,** as I have previously indicated in this Honourable House via Ministerial Statements, the purpose of the CRC is to assist in providing expert guidance and oversight to the Government and People of Jamaica during the constitutional reform process, to, *inter alia*, implement the recommendations of the Joint Select Committee on Constitutional and Electoral Reform JSCCER on which consensus remains, while helping to build consensus where it has eroded or is non-existent on other related matters.

55. The CRC is required to:

- **Assess** how the passage of time has impacted the recommendations of the JSCCER contained in its Final Report (1995) submitted to and approved by the Parliament; and
 - **advise** what fresh perspectives ought to be considered in the light of any new national, regional or international development between then and now, as well as,
 - **recommend** any necessary modification to update the recommendations for implementation.
- **Evaluate** the said recommendations of the JSCCER on the establishment of the office of President; and
 - **advise** on the nature of such presidency, the qualifications and tenure of the president, and the legislative, executive, or ceremonial powers to be exercised by the President.
- **Assist in co-ordinating** the required parliamentary cross-aisle and nationwide consultation and collaboration during the various phases of the reform work; and in particular,
 - **help to educate** the electorate on their role in the referendum process, in order to successfully transition from a Constitutional Monarchy to a Republic and to provide for related matters.
- **Generally agree on and guide** the sequence of steps to be taken to implement the said recommendations of the JSCCER and other recommendations for implementation to achieve the overall reform goal.

56. The TOR indicates that work is being executed in three (3) phases:

- Phase 1:** Patriation of the Constitution of Jamaica, abolition of the Constitutional Monarchy, establishment of the Republic of Jamaica, and all matters within the deeply entrenched provisions of the Constitution for which a referendum is required to amend.
- Phase 2:** Review other ordinarily entrenched provisions of the Constitution for which amendments are desired and required, including the wordings and provisions on the Charter of Fundamental Rights and Freedoms set out at Chapter III.
- Phase 3:** Full assessment of the nation state's legal and constitutional infrastructure to facilitate putting together a new Constitution of Jamaica.

57. The CRC is a high-level committee with representation from a diverse cross-section of the society, comprising the following:

- **Honourable Marlene Malahoo Forte, KC, JP, MP** (Chairman)
- **Ambassador Rocky Meade, CD, JP, PhD** (Co-Chair - Office of the Prime Minister)
- **Dr. Derrick McKoy, CD, KC** (Attorney General of Jamaica)
- **Senator the Hon Tom Tavares-Finson, OJ, CD, KC** (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)
- **Mr. Anthony Hylton, CD, MP** (Parliamentary Opposition - House of Representatives)
- **Mr. Hugh Small, KC** (Consultant Counsel and Nominee of the Leader of the Parliamentary Opposition)
- **Dr. the Hon Lloyd Barnett, OJ** (Constitutional Law Expert)
- **Professor Richard Albert** (Constitutional Law Expert - University of Texas)
- **Dr. Elaine McCarthy** (Chairman, Jamaica Umbrella Groups of Churches)
- **Dr. David Henry** (Wider Society - Faith-based)
- **Dr. Nadeen Spence** (Civil Society - Social & Political Commentator)
- **Mrs. Laleta Davis Mattis CD, JP** (National Council on Reparation)
- **Mr. Sujae Boswell** (Youth Advisor)

Committee Liaison Officer:

Mr Christopher Harper (Senior Constitutional Reform Officer - MLCA)

58. A Secretariat, managed by the Ministry of Legal and Constitutional Affairs, has been established to provide technical guidance and support to the CRC. The officers have been drawn from the following entities:

- Ministry of Legal and Constitutional Affairs:
 - a) Permanent Secretary
 - b) Director of Legal Reform (and technical support team)
 - c) Chief Parliamentary Counsel (and technical support team)
 - d) Senior Constitutional Reform Officer
- Ministry of Justice
- Ministry of Foreign Affairs and Foreign Trade
- Attorney General's Chambers
- Office of the Services Commissions (stenowriters)

59. I have noted the criticisms levied against members of the CRC, not limited to our constitutional law expert from overseas. The pastors and non-political representatives have been attacked and accused of engaging in a rubber stamp of the government's wishes. I should like to share feedback I got from one pastor who listened to another pastor and others who identified as practising Christians as they tore into the pastors on the CRC. He summed it up by saying those critics would fail in leading him to Christ with the approach they took.

60. I thank the members of the CRC and supporting Secretariat for the work they are doing. The candor with which they share and deliberate. The people of Jamaica will be proud of the high-quality deliberations at the CRC meetings when they see the records. CRC members come to meetings well prepared and very mindful of the enormous work ahead of us as a nation to repair and rebuild trust, especially in our political leadership.
61. I know my colleagues in the Committee will join me in singling out our two experts: Dr Lloyd Barnett, OJ and Prof. Richard Albert. We owe them a debt of gratitude for the assistance they have been providing.
62. To date, twelve (12) CRC meetings have been convened and we have also engaged with the segments of public in various fora, including meetings with:
1. Jamaica Umbrella Groups of Churches (Executive)
 2. Jamaica Umbrella Groups of Churches-led public forum (supported by the CRC)
 3. National Youth Council (Executive)
 4. National Youth Council (Full Meeting)
 5. Ministers' Fraternal (St. James & Mandeville)
 6. Justices of the Peace Representatives (St. James & Manchester)
 7. Rotary Club Representatives (St. James)
 8. Kiwanis Club Representatives (St. James)
 9. Lions Club Representatives (Manchester)
 10. Chamber of Commerce & Industry Representatives (St. James & Manchester)
 11. The Jamaica Language Unit
 12. Jamaica LANDS
 13. PNPYO & Patriots
 14. Young Professional Groups
 15. Youth Advisory Council of Jamaica
 16. Aspirar Jamaica (Manchester-based youth group)
 17. Frome Technical High Students
 18. Theodore Skills Center Student body (Westmoreland-based HEART institution)
 19. Jamaica Youth Advocacy Network
 20. UNICEF Jamaica
 21. Permanent Secretaries' Board
 22. Human Resource Network (Public Sector)
 23. Jamaicans living in the Diaspora
 24. Town Hall Meeting - Civic Centre, Sam Sharpe Square, Montego Bay
 25. Town Hall Meeting - St. Mark's Anglican Church Hall, Mandeville
 26. Jamaica Confederation of Trade Unions (JCTU)
 27. Caribbean Association of Military Professionals (CAMP)

63. **Madam Speaker**, we want to hear from the public on the reform issues. All are invited to email their proposals, especially on matters within Phase 1 of the programme to constitutionalreform@mlca.gov.jm. An advertisement was published in the Sunday Gleaner on June 4, 2023.
64. I will continue to keep the Parliament and the people up to date. Please stay tuned.

LEGAL EDUCATION

Public Education Programme on The Laws of Jamaica

65. **Madam Speaker**, I am pleased to report that the Ministry's Legal Education Division has been established and is currently staffed by a Senior Director and a Senior Legal Education Officer. The recruitment process for two Legal Education Officers will be completed in June 2023.
66. **Madam Speaker**, The Legal Education Division has been mandated to implement a robust Public Education Programme on the Constitution and the Laws of Jamaica. The Ministry's portfolio responsibility will transcend the provision of monthly subventions to the Norman Manley Law School to include implementation of a robust programme to, *inter alia*, sensitise the public on their rights under the Constitution, and augment technocrats' knowledge and awareness of the laws which govern the operations of their entities, the legislative review process, and their role in the process. The Ministry recognises the need to improve knowledge and understanding of legislation under each Ministry's portfolio to prevent/reduce the Government's exposure to Court action and ultimately, liability, as well as to help improve confidence and integrity in government.
67. The Legal Education Division has hit the ground running and has already made presentations on the Constitutional Reform Programme to the Permanent Secretaries' Board and the public sector's Human Resource Network. The next step is to make similar presentations to MDAs.
68. **Madam Speaker**, in the coming months, the team will sensitise and solicit feedback from the public on the procedural aspects of transitioning to a Republic; an executive versus a ceremonial president; qualifications to sit in the Parliament; extension of the life of the Parliament; as well as provide information on the referendum process.

The Norman Manley Law School

69. **Madam Speaker**, under the subject matter of legal education, I am pleased to provide a brief report on the Norman Manley Law School, (NMLS) located on the Mona Campus of the University of the West Indies (UWI).

70. **Madam Speaker**, NMLS remains dedicated to realising its vision of delivering up-to-date, practical legal education and training to students, lawyers, and the public at large. This commitment is exemplified by the remarkable achievements of our students in the 2021-2022 academic year. During the August and May evaluation periods, 73% of Year 1 students successfully passed their examinations, while an outstanding 97% pass rate was achieved by Year 2 students for the same assessment period. These results highlight the school's unwavering pursuit of academic excellence and the quality of instruction provided to students.
71. Table 1 (below) summarises the performance of students in Year 1 during the 2021/2022 Academic Year.

Year	No. of Candidates	Passed All Subjects May	Passed All Subjects August	Trail One Subject	To Repeat Year/ Repeat Subject	To Withdraw	Pass Rate %
I	256	123	63	27	38/0	5	73
2	246*	204	35		3/4	0	97

Table 1: Academic performance of Year 1 and Year 1 NMLS students - 2021/2022

72. **Madam Speaker**, and members of this Honourable House, please join me in congratulating the Norman Manley Law School on copping its fourth Caribbean Court of Justice (CCJ) Mooting Title at the 12th Annual CCJ Mooting (virtual) Competition. The team, comprising Ms. Iyka Dorival, Ms. Shaquan Richards, and Ms. Kimberly Blackwood defeated the Hugh Wooding Law School (HWLS) team during intense competition over the two-day period, March 17-18, 2022. The team was coached by Ms. Taneisha Brown and assisted by Ms. Tara Carnegie.
73. The NMLS team members, Ms. Iyka Dorival, Ms. Shaquan Richards, and Ms. Kimberly Blackwood competed against the HWLS team and the NMLS team was victorious. This represents the school's fourth hold on the winning trophy. The team was coached by Ms. Taneisha Brown, assisted by Ms. Tara Carnegie.

LAW REVISION SECRETARIAT

- 74. Madam Speaker,** the goal of the Law Revision Secretariat is to enhance the availability of legal information by publishing annual volumes of the Revised Pages of the Laws of Jamaica and facilitating the online publication of laws.
- 75.** With this goal in mind, the Secretariat undertook the following four (4) major initiatives for the 2022/2023 Legislative Year:
1. Revision of newly enacted and amended statutes for the years 2019, 2020, and 2021.
 2. Revision of newly enacted and amended subsidiary legislation for the years 2019, 2020, and 2021.
 3. Preparation of revised content for publication by the printers covering the years 2019, 2020, and 2021.
 4. Updating of the online version of the Revised Pages of the Laws of Jamaica with content up to 2019 (subsidiary legislation) and 2020 (statutes).
- 76. Madam Speaker,** the Law Revision Secretariat is currently carrying out multiple annual revision exercises to address the existing backlog. It has completed the revision for two legislative years (2019 and 2020) within the fiscal year 2022/2023. The ongoing process involves finalizing the revision for the year 2021, including typesetting and proofreading, which is currently 70% complete.
- 77. In summary:**
- The 'Jamaica Laws Online' webpage (Ministry of Justice's Web Platform) is being updated.
 - 58 new and amended legislation (Revised Statutes) have been uploaded to the Ministry of Justice's webpage.
- 78.** The targets and achievements of the Secretariat over the reporting period are set out below in Table 2.

Budget No/Budget & Expenditure Year-To-Date (\$/%)	Activities	Key Outputs	Performance Measure/ End-of-Year Targets	Achievements (April 2022 – March 2023)	End-of-Year Result(s) of Programmes/Sub-programmes
Law Revision Secretariat	Revision (consolidation, proofreading and preparation) for delivery of new and amended Subsidiary Legislation for 2019, 2020, 2021	Statutes for 2019	53 pieces of 2019 Statutes submitted for publication.	Targeted and achieved in Q1	Increased currency and availability of the Revised Pages of the Laws of Jamaica (Statutes and Subsidiary Legislation), accessible in loose-leaf form
		Subsidiary Legislation for 2019	31 pieces of Subsidiary Legislation for 2019 submitted for publication	Targeted and achieved in Q1	
		Statutes for 2020	11 pieces of 2020 Statutes submitted for publication.	Targeted for achievement in Q2 but achieved in Q3	

Budget No/Budget & Expenditure Year-To-Date (\$/%)	Activities	Key Outputs	Performance Measure/ End-of-Year Targets	Achievements (April 2022 - March 2023)	End-of-Year Result(s) of Programmes/Sub-programmes
		Subsidiary Legislation for 2020	22 pieces of Subsidiary Legislation for 2020 submitted for publication	Targeted and achieved in Q3	
		Statutes for 2021	59 pieces of 2021 Statutes submitted for publication.	Targeted for achievement in Q3 – 42%achieved	
		Subsidiary Legislation for 2021	18 pieces of Subsidiary Legislation for 2021 submitted for publication.	Targeted for achievement in Q4- 33%achieved	
		Statutes for 2021	25 out of 59 pieces of Statutes typeset and proofread	Targeted for FY 2023/2024	
		Subsidiary Legislation for 2021	6 out of 18 pieces of Subsidiary Legislation typeset and proofread	Targeted for FY 2023/2024	
		Statutes for 2022	17* pieces to be typeset and proofread (*final number to be determined)	Targeted for FY 2023/2024	
		Subsidiary Legislation for 2022	11* pieces to be typeset and proofread (*final number to be determined)	Targeted for FY 2023/2024	
	Publish Updated Revised Pages of the Laws of Jamaica (Acts and Subsidiary Legislation) Online.	Statutes and Legislations, revised and digitized for upload	# of Revised Pages of (a) Statutes (Acts) updated to 2020, and (b) Subsidiary Legislation updated to 2019, digitized (scanned and organized) and ready for uploading online.	Partially achieved; official prints not available to be uploaded online.	Increased currency and availability of the Revised Pages of the Laws of Jamaica (Statutes and Subsidiary Legislation), accessible via Laws Online website
	Digitizing of Legislative Instruments (Acts & Gazettes)	Old and recent legislative instruments digitized	# of old & new legislative instruments/documents (Acts & Gazettes) converted from hardcopy to softcopy format	750 of 2000 (Partially achieved due to lack of resources)	

Table 2: Targets and achievements of the Law Revision Secretariat - 2022/2023

79. **Madam Speaker**, to provide up-to-date and accurate legislative information online, we must reduce the lag time between enactment and inclusion in the Revised Laws of Jamaica. At present, Ministries do not have a compilation of Ministerial Orders and many Legal Officers do not know where to find the Gazettes with them. The goal is to have a dedicated website, where all Acts passed by Parliament and subsidiary legislation can be published and circulated in a searchable database, which also includes sunset legislation and repealed Acts of Jamaica, as well as Gazettes containing legal notices and other relevant matters.

DIGITAL TRANSFORMATION

Legal Information Portal for the Laws of Jamaica

80. **Madam Speaker**, during my 2022 Sectoral Presentation, I reported to this Honourable House that the Ministry of Legal and Constitutional Affairs had entered into a Memorandum of Understanding with the Jamaica Promotions Corporation (JAMPRO) to introduce a Comprehensive Legal Information Portal for the Laws of Jamaica. The project is funded by the World Bank Group under Component 1 of the Foundations for Competitiveness and Growth Project (FCGP).
81. **Madam Speaker**, I am happy to report that the tender process was initiated, and negotiations are underway with the preferred bidder. It is projected that the contract will be signed during the month of June 2023. User Acceptance Testing of the system is expecting to be done by December 2023, and the portal operationalised by April 2024.
82. **Madam Speaker**, it is the intention of my Ministry to use the web portal to engage on law reform issues. This engagement will serve to inform both the public and the Ministry about issues of concern that are to be considered in the development of law reform proposals. The portal will provide public access to, *inter alia*:
- The Revised Laws of Jamaica (all editions from 19th century to present)
 - The annual Acts of Jamaica (17th century to the present)
 - The Jamaica Gazette Publications
 - Proclamation Rules & Regulations; Bills & Acts and the Gazette Extraordinary.
83. **Madam Speaker**, materials are currently being scanned and prepared for uploading to the website. No longer will extensive time and effort be expended to identify Gazette notices and laws. The portal will include judgements of the courts.
84. The creation of this portal complements the broader effort to modernise Jamaica's Justice Sector institutions and processes. The justice reform programme and the renewed focus on updating the Laws of Jamaica, in particular, are consistent with the high priority accorded by this Administration to the resolution of issues affecting access to justice and the rule of law. The introduction of this system is part of the Government's thrust to improve the ease of doing business and the country's overall competitiveness.

Legislative Production Management System

85. **Madam Speaker**, you will recall that I had also signalled my Ministry's intention to implement the Legislative Production Management System (LPMS). The LPMS is a comprehensive, modern, computerised tool, capable of managing the life cycle of legislative documents - from drafting to publishing. It will connect all Government entities involved in the process of drafting and publishing legislation. This will redound to a more efficient legislative review process and reduction in the amount of paper used.

86. After several failed procurement attempts, a consultant has now been identified and should be engaged by July 2023 to commence work on the system.

HUMAN RIGHTS

87. **Madam Speaker**, we have established a new division in the Ministry to focus on the assigned subject matter of protection of human rights. The primary objective is to educate all Jamaicans on their rights and freedoms, as well as their responsibilities, under the Charter of Fundamental Rights and Freedoms at Chapter III of the Constitution of Jamaica. The enshrined rights and freedoms are guaranteed to the extent that they do not prejudice the rights and freedoms of others.
88. The state has an obligation to promote universal respect for, and observance of, human rights and freedoms. All persons in Jamaica are entitled to preserve for themselves and future generations the fundamental rights and freedoms to which they are entitled by virtue of their inherent dignity as persons and as citizens of a free and democratic society. All persons are under a responsibility to respect and uphold the rights of others recognised in Chapter III of the Constitution of Jamaica. The Charter applies to all laws and binds the legislature, the executive, and all public authorities.
89. **Madam Speaker**, I am pleased to report to this Honourable House that the Human Rights Specialist was employed in November 2022. The officer was a member of the Jamaican delegation which travelled to the 108th sessions of the Committee on the Elimination of Racial Discrimination to present and defend Jamaica's 21st to 24th periodic report during the period, November 24-25, 2022.
90. **Madam Speaker**, to kick off its Human Rights Education Programme, the Ministry held a Human Rights Forum on December 12, 2022, to commemorate International Human Rights Day. The event was livestreamed on the Jamaica Information Service's YouTube page, and it featured an impressive line-up of speakers from various esteemed organisations, including the Attorney General's Chambers, Jamaica Council for Persons with Disabilities, Office of the Public Defender, Planning Institute of Jamaica, Enabling Environment and Human Rights Unit, Independent Jamaica Council for Human Rights, and Citizens' Action for Free and Fair Elections (CAFFE). The keynote speaker was Dr. the Hon Lloyd Barnett, OJ, who is both the President of CAFFE and the Independent Jamaica Council for Human Rights.
91. **Madam Speaker**, the 186th session of the Inter-American Commission on Human Rights (IACHR) was held on March 7, 2023, and an application lodged by the Maroon Indigenous Women's Circle and the Yamaye Council of Indigenous Leaders (YCOIL) was heard.

92. **Madam Speaker**, their submissions affirmed that a thematic hearing is critical because:

“Jamaican laws do not recognize indigenous rights to self-determination and ownership and control of our ancestral lands and resources. This has given rise to urgent threats to our way of life, including the granting of mining concessions over Maroon lands without free, prior and informed consent, and the policing of Maroon communities.”

93. They further posited that a thematic hearing before the IACHR would, among other things, contribute to the application of standards developed by the IACHR, addressing indigenous and tribal peoples’ right to self-determination and their rights over their lands and resources.
94. **Madam Speaker**, the Ministry of Legal and Constitutional Affairs developed a matrix and collated responses from the various MDAs in preparation for the crafting of a response to the allegations proffered at the hearing. The completed matrix and a brief were subsequently submitted to the Attorney General’s Chambers and a request made for them (AGC) to prepare the defence on behalf of the Government of Jamaica.
95. **Madam Speaker**, the Ministry is currently in the final stages of developing a Human Rights Matrix aimed at directing Ministries, Departments, and Agencies on how to fulfil their human rights obligations. Additionally, the Ministry plans to launch an island-wide sensitisation programme to educate Jamaicans on their fundamental rights and responsibilities.

LEGAL REFORM DEPARTMENT

96. **Madam Speaker**, the mandate of the Legal Reform Department is to keep under review the laws applicable in Jamaica with a view to its systematic reform to meet the changing needs of the Jamaican society, and to assist in the implementation of law reform proposals in accordance with Government policy.
97. During the period, the LRD continued to provide guidance to Ministries with respect to law reform matters by, *inter alia*, commenting on Draft Bills, Policy Papers and Cabinet Submissions concerning proposed amendments to legislation, repeal and replacement of legislation, and proposed increases to fines and penalties under various pieces of legislation.
98. **Madam Speaker**, based on procedures developed by this Ministry, the LRD (acting on behalf of the Ministry of Legal and Constitutional Affairs), determines the extent of the advice and technical support to be provided to the Ministries, having regard to the following factors:
- Whether legislation is being proposed for an area for which no law previously existed;
 - The nature and extent of the proposed reform;

- The far-reaching impact of the proposed reform;
- Whether the proposed reform touches and concerns another Ministry's portfolio;
- Whether the area of the law requires such specialised expertise that a subject matter expert is recommended;
- The extent of the Ministry's in-house legal support; and
- The priority that should be attached to the project when compared with other ongoing or potential projects, having regard to the Ministry's Legislative Agenda as a whole.

99. Madam Speaker, during the 2022/2023 Legislative Year, the LRD reviewed and provided comments and guidance on 47 matters, as shown in Table 4 below:

NAME OF MATTERS	DATE REFERRED TO THE LRD	MINISTRY/AGENCY	STATUS	COMMENTS
Jamaica Teaching Council Bill	2022	Education & Youth	Ongoing	Perusal of the draft Bill and on-going advice and support to the Joint Select Committee reviewing the Bill.
UN Optional Protocol – Involvement of Children in Armed Conflict	2022	Education & Youth	Ongoing	A draft Cabinet Submission was perused by the LRD and comments submitted to the Ministry. The amended Draft Cabinet Submission is awaited
Labour Officers (Powers) Act	2023	Labour & Social Security	Completed	A policy paper seeking to amend this law was reviewed. Comments were prepared accordingly and submitted on April 28, 2023.
Development of Policy for Legislation to Regulate the Quantity Surveying profession	2023	Economic Growth and Job Creation	Ongoing	Participation in the Steering Committee established to develop the policy
Legal Framework for Policing in Jamaica	2022	Legal and Constitutional Affairs	Ongoing	The LRD has initiated this research project with a view to developing

NAME OF MATTERS	DATE REFERRED TO THE LRD	MINISTRY/AGENCY	STATUS	COMMENTS
				proposals for the reform of the Constabulary Force Act
Joint Select Committee for the Review of the Cybercrimes Act	2022	Science Energy and Technology	Completed	The final sitting of the JSC on April 19, 2023
Companies Act (Amendment) Bill	2022	Industry Investment and Commerce	Completed	The Bill was reviewed and on-going support was provided
Monetary Penalties	2020	Justice	Ongoing	The LRD continues to provide support to guide the development of the policy for the reform of the monetary penalties.
Review of Sexual Offences Act	08/12/2014	Justice	Ongoing	Ongoing support is being given to the MOJ and the Ministry of Education in respect of the recommendations made by the Joint Select Committee reviewing the Sexual Offences Act which require amendments to other related laws.
Adoption Act	2023	Education and Youth	Ongoing	Review of the Cabinet Submission for the repeal and replacement of the Adoption Act
Children (Guardianship and Custody) Act	2023	Education and Youth	Ongoing	Review of the draft Cabinet Submission for the repeal and replacement of the Children (Guardianship and Custody) Act
Offences Against the Person Act and	2023	Justice	Ongoing	The review of the draft Cabinet

NAME OF MATTERS	DATE REFERRED TO THE LRD	MINISTRY/AGENCY	STATUS	COMMENTS
the Criminal Justice Reform Act				submission and draft Bill in respect of the amendment to both laws to amend the mandatory minimum penalties for murder. Ongoing support is being provided as the Bill is now being considered by a Joint Select Committee of Parliament.
Towns and Communities Act	2021	Legal and Constitutional Affairs <i>initiated</i>	Ongoing	A thorough review of the Act was undertaken by the LRD, proposals developed for its reform and submitted to the Ministry of Local Government. Awaiting response.
Joint Select Committee to review the Electricity Act	2022	Ministry of Science, Energy and Technology	Ongoing	Ongoing support is given to the Ministry to assist in its critical examination of the Act and also to the Joint Select Committee during its sittings.
Public Service Regulations, 1961	2022	Public Service Commission	Ongoing	The LRD is part of a Technical Working Group asked to review the Regulations concerning Appointments, Promotions and Transfers.
Occupational Safety and Health Bill	2018	Ministry of Labour and Social Security	Ongoing	The LRD has provided support to the Ministry in respect of the development of

NAME OF MATTERS	DATE REFERRED TO THE LRD	MINISTRY/AGENCY	STATUS	COMMENTS
				policy and review of the resulting draft bills. Support was given to the Joint Select Committee that reviewed the final draft Bill and arising from those sittings a new Bill is to be prepared. We await the new draft Bill accordingly.
Justices of the Peace/Lay Magistrates Court	2022	Ministry of Justice	Ongoing	Advice was provided in respect of the examination of the jurisdiction of Justices of the Peace with a view to determining what is required to allow them to try minor traffic offences and small civil claims.
Electronic Signature by JPs on Warrants	2023	Ministry of Justice	Ongoing	A draft Cabinet Submission has been reviewed and comments submitted to the Ministry. A draft Bill has been reviewed as well.
National Correctional Services Policy	2023	Ministry of National Security	Ongoing	A Draft Cabinet Submission on the National Correctional Services Policy was reviewed. Preliminary comments have been sent to MNS and will be followed up with a more detailed paper shortly.
Agricultural Produce Act	2023	Ministry of Agriculture and Fisheries	Ongoing	The LRD has been asked to review a draft Bill to repeal and replace

NAME OF MATTERS	DATE REFERRED TO THE LRD	MINISTRY/AGENCY	STATUS	COMMENTS
				sections of the Act. The draft Bill currently is being reviewed.
Registration of Births and Deaths Act	2022	Office of the Prime Minister (NIDS Project)	Ongoing	The LRD is part of the project team reviewing the Registration of Births and Deaths Act with a view to proposing its modernisation. This project is ongoing.
Jamaica Tertiary Education Commission	2022	Ministry of Education and Youth	Ongoing	Perusal of the draft Bill in respect of the establishment of a tertiary education commission. Comments were submitted to the Ministry to which a response has recently been received from the Ministry requiring further review.
Joint Select Committee to review the Framework Convention on Tobacco Control Bill	2022	Ministry of Health	Ongoing	Review of the draft Bill and attendance and on-going support at sittings of the Joint Select Committee.
International Health Regulations	2023	Ministry of Health	Ongoing	The LRD has been asked to review proposed amendments to the Regulations and provide comments.
DPP Unification of Prosecution Services	2021	Ministry of Justice	Ongoing	The LRD is part of the project team reviewing the submissions by the Consultant for this project. A draft Bill establishing the Office of the DPP as a statutory

NAME OF MATTERS	DATE REFERRED TO THE LRD	MINISTRY/AGENCY	STATUS	COMMENTS
				body and providing for its administrative arrangements is being reviewed
Road Traffic Act Road Traffic (Reprieve and Nullification of Prescribed Notices) Bill	2015	Ministry of Transport and Mining	Ongoing	Further to the passage of the Road Traffic Act and of the Regulations, proposals for their amendment have been received and are being examined.
Wildlife Protection Act	2023	Ministry of Justice	Completed	The advice was provided to respond to a query about the interpretation of sections of the Act.
Jamaica Legal Information Portal	2019	Ministry of Justice/Ministry of Legal and Constitutional Affairs	Ongoing	The LRD is steering this project. During the period the identification of the funding and the establishment of a working group was completed. The procurement of consultants to develop the software and operationalise the website was initiated with the issue of the Invitation for Bids.
Presumption of Regularity and the Powers of the Governor-General	2023	Supreme Court	Ongoing	Research was conducted and comments provided on the presumption of regularity in the exercise of the powers of the Governor General.
Preventative Justice	2023	Ministry of Justice	In progress	Support is being given to the Ministry team to

NAME OF MATTERS	DATE REFERRED TO THE LRD	MINISTRY/AGENCY	STATUS	COMMENTS
				research and develop policy proposals for the introduction of preventative justice programmes.
Research Project to examine particular 19 th Century Laws to determine those which are archaic and in need of repeal or amendment so this can be brought to the attention of the relevant Ministries	2022	LRD	In progress	The Limitation Act (particularly in respect of Negligence and Assault and Battery), Art Unions Legalization Act, Quit Rents Act are being examined.
Restorative Justice Policy	2022	Ministry of Justice	In progress	Support is being given to the MOJ team concerning the review of the Restorative Justice Policy.
Minimum Wage Bill	2022	Ministry of Labour and Social Security	Completed	Reviewed and provided comments on the draft Cabinet Submission to amend the Minimum Wage Act, 1938 and National Minimum Wage Order, 1975.
Sexual Offences Act/Larceny Act/Offences Against the Persons Act			Completed	Review of the proposals made by the DPP in respect of the Sexual Offences Act, the Larceny Act and the Offence Against the person Act to remove the requirements to prove the commission of a felony or intention to commit a felony to prove certain offences, such as sacrilege, burglary,

NAME OF MATTERS	DATE REFERRED TO THE LRD	MINISTRY/AGENCY	STATUS	COMMENTS
				housebreaking and assault with intent to commit a felony.
Joint Select Commission to review the Integrity Commission Act	2022		Ongoing	Attendance at the sittings of the Joint Select Committee to consider and review the Act.
Public Service Regulations 1961	2022		Ongoing	Attended Technical Working Group and prepared brief on the review of the Public Service Regulations pertaining to Appointment Promotions and Transfer.
The Law on Adverse Possession and Squatting	2022	JAMBAR Association	Completed	A team of 3 officers prepared and presented the paper as part of the Jamaica Bar Association's annual conference in December 2023.
Criminal Records (Rehabilitation of Offenders) Act	2023	Ministry of Justice	Completed	Reviewed and provided comments on the revised draft Cabinet Submission to amend the Criminal Records (Rehabilitation of Offenders) Act.
Tourist Board Act River Rafting Act	2022	Ministry of Tourism	Completed	Reviewed and provided comments on the Cabinet Submission to amend the Tourist Board Act and repeal the River Rafting Act.
Joint Select Committee to	2020	Ministry of National Security	Completed	Reviewed the draft Bill, participation

NAME OF MATTERS	DATE REFERRED TO THE LRD	MINISTRY/AGENCY	STATUS	COMMENTS
review the Firearms Bill				in multiple policy review meetings and provided support to the JSC.
Joint Select Committee to review the Bail Bill	2022	Ministry of Legal and Constitutional Affairs	Ongoing	Support is being provided to the Minister and to the Joint Select Committee reviewing the Bail Bill which is to repeal and replace the existing Bail Act.
Beach Access Management Policy	2022	Ministry of Economic Growth and Job Creation	Completed	Reviewed the draft policy document and provided comments.
Constitutional Reform Committee	2023	Ministry of Legal and Constitutional Affairs	Ongoing	Conducted Research, assisted with the preparation of resource materials and attendance at meetings of the Committee.
A Regulatory Framework for ownership of Virtual Assets	2023	Ministry of Finance	Ongoing	Reviewed the draft Cabinet Submission and provided comments accordingly.
Maintenance Act	2022	Ministry of Justice	Ongoing	Reviewed draft Cabinet Submission and provided comments on proposal to amend the Act.
Child Care and Protection Act	2022	Ministry of Education	Ongoing	Reviewed the draft Bill to amend section 24 of the Act to reform the law on the treatment of children deemed to be uncontrollable.

Table 3: Matters referred to the Legal Reform Department

OFFICE OF THE PARLIAMENTARY COUNSEL

100. Madam Speaker, it gives me great pleasure in announcing that, for the 2022/2023 Legislative Year, approximately 134 Draft Bills were prepared. As at March 31, 2023, there were active drafting assignments for 14 of the 62 Bills. This total (62) represents less than half of the drafting work of the Office of the Parliamentary Counsel (OPC) over the period, as the total number of draft Subsidiary Legislation exceeds the total number of Bills. The following eight (8) Bills were passed during the Legislative Year:

1. Appropriation Bill
2. Financial Administration and Audit (Amendment) Bill
3. Firearms (Prohibition, Restriction and Regulation) Bill
4. Income Tax (Amendment) Bill
5. Representation of the People (Amendment) Bill - Postponement of Elections to Municipal Corporations and City Municipalities
6. Road Traffic (Reprieve and Nullification of Prescribed Notices) Act
7. Special Economic Zones (Amendment) Bill
8. Transport Authority (Amendment) Bill

101. Details of the 62 bills, by name and number of drafts per bill, dispatched to the relevant portfolio Ministries, are set out in Table 4 below.

No.	Name	Status as at March 31, 2023	Ministry
1	Agricultural Produce (Amendment) Bill	Under review by Ministry	Agriculture and Fisheries
2	Appropriation Bill	Passed	Finance and the Public Service
3	Bail Bill	Under review by a Joint Select Committee of Parliament	Legal and Constitutional Affairs
4	Bank of Jamaica (Amendment) Bill	Being drafted	Finance and the Public Service
5	Child Care and Protection (Amendment) Bill – Penalties for murder	Referred to a Joint Select Committee of Parliament	Justice
6	Child Care and Protection (Amendment) (No. 2) Bill – treatment of “uncontrollable” child	Under review by Ministry	Education and Youth
7	Civil Aviation (Amendment) Bill	Under review by Ministry	Science, Energy, Telecommunications and Transport
8	Companies (Amendment) Bill	Approved by Cabinet for tabling in Parliament	Industry, Investment and Commerce
9	Consumer Protection (Validation and Indemnity) Bill	Approved by Cabinet for tabling in Parliament	Industry, Investment and Commerce
10	Copyright (Amendment) Bill	Approved by Cabinet for tabling in Parliament	Industry, Investment and Commerce
11	Copyright (Amendment) (No. 2) Bill – Licensing Bodies Validation and Indemnification	Under review by Ministry	Industry, Investment and Commerce
12	Counties and Parishes (Amendment) Bill – Portmore as 15 th Parish	Under review by Ministry	Local Government and Community Development
13	Credit Unions (Special Provisions) Bill	Under review by Ministry	Finance and the Public Service
14	Criminal Justice (Administration) (Amendment) Bill	Referred to a Joint Select Committee of Parliament	Justice
15	Customs Bill	Under review by a Joint Select Committee of Parliament	Finance and the Public Service
16	Customs Duties (Dumping and Subsidies) (Amendment) Bill	Under review by Ministry	Industry, Investment and Commerce

No.	Name	Status as at March 31, 2023	Ministry
17	Domestic Violence (Amendment) Bill	Under review by Ministry	Culture, Gender, Entertainment and Sport
18	Education (Amendment) Bill	Under review by Ministry	Education and Youth
19	Electricity (Validation and Indemnification) Bill - General Procurement Entity	Under review by Ministry	Science, Energy, Telecommunications and Transport
20	Electricity (Validation and Indemnification) (No. 2) Bill – Auxiliary Connections Licences	Being drafted	Science, Energy, Telecommunications and Transport
21	Electricity (Amendment) Bill – Transition to lower carbon energy	Under review by Ministry	Science, Energy, Telecommunications and Transport
22	Electronic Transactions (Amendment) Bill	Approved by Legislation Committee for submission to Cabinet	Justice
23	Fair Competition (Amendment) Bill	Under review by Ministry	Industry, Investment and Commerce
24	Financial Administration and Audit (Amendment) Bill	Passed	Finance and the Public Service
25	Financial Administration and Audit (Amendment) (No. 2) Bill – integration of Audit Commission into MFPS	Under review by Ministry	Finance and the Public Service
26	Financial Services Commission (Amendment) Bill	Being drafted	Finance and the Public Service
27	Firearms (Prohibition, Restriction and Regulation) Bill	Passed	National Security
28	Forest (Amendment) Bill	Under review by Ministry	Economic Growth and Job Creation
29	Gaming Bill	Being drafted	Finance and the Public Service
30	Income Tax (Amendment) Bill	Passed	Finance and the Public Service
31	Income Tax Relief Large-Scale Projects and Pioneer Industries (Amendment and Change of Name) Bill	Under review by Ministry	Finance and the Public Service
32	Income Tax (Superannuation Funds and Retirement Schemes) (Amendment) Bill	Under review by Ministry	Finance and the Public Service
33	INDECOM (Validation, Indemnification and Amendment) Bill	Being drafted	Justice
34	Insolvency (Amendment) Bill	Under review by Ministry	Industry, Investment and Commerce
35	Insurance (Amendment) Bill – Micro-insurance	Under review by Ministry	Finance and the Public Service

No.	Name	Status as at March 31, 2023	Ministry
36	Insurance (Amendment) (No. 2) Bill – Ownership and control	Being drafted	Finance and the Public Service
37	Jamaica Competition and Consumer Protection Bill	Being drafted	Industry, Investment and Commerce
38	Law Reform (Amendment of Penalties) Bill	Under review by Ministry	Science, Energy, Telecommunications and Transport
39	Legal Aid (Amendment) Bill	Under review by Ministry	Justice
40	Leprosy (Repeal) Bill,	Approved by Cabinet for tabling in Parliament	Health and Wellness
41	Mediation Bill	Being drafted	Justice
42	National Compliance and Regulatory Authority Bill	Under review by Ministry	Industry, Investment and Commerce
43	National Council on Drug Abuse (Repeal) Bill	Being drafted	Health and Wellness
44	National Housing Trust (Amendment, Validation and Indemnity) Bill	Being drafted	Office of the Prime Minister
45	National Family Planning (Repeal) Bill	Being drafted	Health and Wellness
46	Occupational Health and Safety Bill	Under review by a Joint Select Committee of Parliament – Revised Bill being drafted	Labour and Social Security
47	Offences Against the Person (Amendment) Bill	Referred to a Joint Select Committee of Parliament	Justice
48	Pensions (Superannuation Funds and retirement Schemes) (Amendment) Bill	Under review by Ministry	Finance and the Public Service
49	Petroleum (Amendment) Bill – integration of functions of PCJ into MSET	Being drafted	Science, Energy, Telecommunications
50	Petroleum Downstream Activities Bill	Being drafted	Science, Energy, Telecommunications
51	Plant Quarantine and Produce Inspection Bill	Under review by Ministry	Agriculture and Fisheries
52	Port Authority (Amendment) Bill	Being drafted	Economic Growth and Job Creation
53	Professional Engineers Registration (Amendment) Bill	Under review by Ministry	Economic Growth and Job Creation
54	Registration (Shared Community) Bill	Under review by Ministry	Economic Growth and Job Creation
55	Rent Restriction (Change of Name and Amendment) Bill	Under review by Ministry	Economic Growth and Job Creation

No.	Name	Status as at March 31, 2023	Ministry
56	Representation of the People (Amendment) Bill -Postponement of Elections to Municipal Corporations and City Municipalities	Passed	Local Government and Community Development
57	Road Traffic (Reprieve and Nullification of Prescribed Notices) Act	Passed	Science, Energy, Telecommunications and Transport
58	Segregated Accounts Companies Bill	Passed by Senate, to be debated in HoR	Industry, Investment and Commerce
59	Shipping (Pollution Prevention Response) Bill	Under review by Ministry	Science, Energy, Telecommunications and Transport
60	Shipping (Prevention of Pollution of the Sea) Bill	Under review by Ministry	Science, Energy, Telecommunications and Transport
61	Special Economic Zones (Amendment) Bill	Passed	Finance and the Public Service
62	Transport Authority (Amendment) Bill	Passed	Science, Energy, Telecommunications and Transport

Table 4 - Bills dispatched by the OPC during the period, 2022/2023

102. **Madam Speaker**, I am pleased to inform this Honourable House that the OPC was recently recognised by the Jamaica Customs Agency for its outstanding work in drafting the new Customs legislation.

INTER-MINISTRY LEGISLATIVE COLLABORATION

103. **Madam Speaker**, one of the strategic priorities of the Ministry is to address the slow pace of legislative reform in the public sector by strengthening inter-Ministry collaboration. The aim is to improve operational efficiency, speed, and the quality of legislation promulgated.
104. **Madam Speaker**, it is well documented and ventilated that the legislative review process has been fraught with delays, culminating in critical pieces of legislation neither being amended, repealed, and replaced, nor developed and subsequently passed in a timely manner. The situation has been exacerbated by the lack of adequate human resources in some Ministries, coupled with the crafting of ambitious legislative targets prior to the start of each financial year. Some targets, which are encompassed in Strategic and Operational Plans, the annual Legislation Programme, and Throne Speeches, are not accorded priority and the concomitant dedication and focus by some entities.
105. **Madam Speaker**, during my Sectoral Presentation last year, I informed this Honourable House that the Cabinet had granted approval for:
- the establishment of Legislative Team(s) in each Ministry, to include the relevant Policy Officer(s), the relevant Legal Officer(s), and the relevant Senior Officers (at

the level of Chief Technical Director, Principal Director or Senior Director) responsible for working closely with the relevant policy and legal officer(s) to provide oversight of each Ministry's Legislation Programme, as part of [my Ministry's] work to strengthen inter-ministry collaboration to advance the Government's Legislative Agenda;

- (b) Collaboration between the Ministry of Legal and Constitutional Affairs and the Office of the Cabinet in supporting and monitoring the legislative work programme, and implementing strategies to close gaps identified, using established and proven project management principles;
 - (c) Implementation of a Public Education Programme on the Laws of Jamaica to augment awareness of, inter alia, (i) the legislative process; (ii) the role of all stakeholders in the process; (iii) the need for full compliance with the law; and in particular, with the Charter of Fundamental Rights and Freedoms; and (iv) the Administrative/Public Law requirements for the exercise of statutory functions; and
 - (d) A projectised approach to law revision and law reform (in principle) with the aim of establishing a law Reform Commission.
- 106.** Moving forward, each piece of legislation to be amended or developed (if it is new) will be treated as a project and managed in accordance with established project management principles.
- 107.** The Ministry of Legal and Constitutional Affairs, supported by its two Departments, the Legal Reform Department and the Office of the Parliamentary Counsel, will provide technical guidance and support to the Legislative Teams in the Ministries with a view to improving efficiency, coordination, and the quality of new and amended laws.
- 108. Madam Speaker,** whenever a Ministry signals an intention to amend an existing piece of legislation or to develop new legislation, the Ministry of Legal and Constitutional Affairs and that Ministry must arrive at a consensus (in writing) on the following matters:
- The policy intent and issues;
 - Timelines for review points and consultations with a view to preparing and/or finalising a Cabinet Submission;
 - Timelines for review points and consultations with a view to preparing and/or finalising drafting instructions;
 - Stakeholders to be consulted; and
 - The estimated timeframe for the drafting of the relevant Bill.
- 109.** The Ministry of Legal and Constitutional Affairs will assist Ministries to develop legislative policy and conduct research to ensure that Cabinet Submissions are cogently expressed. In addition, the Ministry of Legal and Constitutional Affairs will continue to provide support in respect of the preparation of drafting instructions and the drafting of Bills.

- 110. Madam Speaker**, the Ministry of Legal and Constitutional Affairs must be consulted before the Cabinet Submission moves forward to ensure that the proposal adequately covers the main principles which will form the basis for more detailed drafting instructions.
- 111. Madam Speaker**, I am happy to report that Legislative Teams have been established in all Ministries. An inaugural (face-to-face) meeting was convened on September 9, 2022. Thereafter, meetings were held with individual Ministries with a view to discussing the following:
- Progress of priority legislation (including subsidiary legislation) - 2022/2023
 - Challenges and strategies to accelerate the reform process
 - Legislative priorities - 2023/2024
 - Proposed amendments to penalties
- 112. Madam Speaker**, I can report that these discussions have been fruitful, fostering productive exchanges of ideas and strategies. We have already seen improvements in the process.
- 113.** We have taken proactive steps by developing a comprehensive flowchart that clearly outlines the legislative process. This flowchart serves as a critical management tool and a valuable addition to the process, providing clarity and guidance on the steps involved.
- 114. Madam Speaker**, all Ministries are now required to work within settled timeframes. A projectised approach has been adopted to improve management of the process.
- 115. Madam Speaker**, my Ministry will continue to engage all Ministries during this Legislative Year, and beyond, with a view to achieving results.

BAIL BILL

- 116. Madam Speaker**, my Ministry is piloting the Bail Bill, which is currently being reviewed by a Joint Select Committee of the Parliament. It is projected that the deliberations will be completed by July 2023, all things being equal.

CODES OF CONDUCT FOR MINISTERS & PARLIAMENTARIANS

- 117. Madam Speaker**, I am happy to also report that on the direction of the Cabinet, we prepared a draft Codes of Conduct for Ministers and Parliamentarians. The Prime Minister will provide further details on these.

CLOSING REMARKS

- 118.** As I have said on previous occasions, may God grant me the wisdom to discover what is right, the will to choose it and the strength to let it endure.

