



MINISTRY OF LEGAL & CONSTITUTIONAL AFFAIRS

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**ANY REPLY OR SUBSEQUENT REFERENCE TO THIS COMMUNICATION SHOULD
BE ADDRESSED TO THE PERMANENT SECRETARY**

MINUTES

15th Meeting of the Constitutional Reform Committee (CRC)

Venue: Jamaica House Banquet Hall

Date: Wednesday, July 5, 2023

Time: 10:30 am

AGENDA

1. Call to Order
2. Prayer
3. National Pledge
4. Welcome & Opening Remarks
5. Apologies for Absence
6. Confirmation of Agenda
7. Confirmation of Minutes of 8th, 9th and 10th Meetings

8. Proposed Upcoming Public Engagement and Consultation Sessions:

- St. Elizabeth – July 26, 2023
- Westmoreland – July 27, 2023
- Hanover – July 28, 2023

9. Major Recurring Issues from Public Consultations:

- Office of the President
 - i. Method of Selection
 - ii. Powers of the President
 - iii. Term of Presidency

10. Sub-Committee for finalisation:

- State Affairs

11. Any Other Business

12. Date and Time of Next Meeting

13. Adjournment

PRESENT WERE:

Committee Members

- Honourable Marlene Malahoo Forte, KC, JP, MP (Chairman)
- Dr the Honourable Lloyd Barnett, OJ (National Constitutional Law Expert)
- Dr Derrick McKoy, CD, KC (Attorney General of Jamaica)
- Mr Anthony Hylton, CD, MP (Parliamentary Opposition – House of Representatives)
- Dr David Henry (Wider Society – Faith-Based)
- Dr Nadeen Spence (Civil Society – Social and Political Commentator)
- Mrs Laleta Davis Mattis CD, JP (National Council on Reparations)
- Dr Elaine McCarthy (Chairperson, Jamaica Umbrella Groups of Churches (JUGC))
- Mr Sujae Boswell (Youth Advisor)
- Professor Richard Albert (International Constitutional Law Expert – University of Texas at Austin)
- Senator Donna Scott-Motley (Parliamentary Opposition – Senate)

Secretariat

Ministry of Legal and Constitutional Affairs

- Mr Wayne Robertson, JP, Permanent Secretary
- Mr Christopher Harper, Senior Constitutional Reform Officer (Actg.)
- Ms Nastacia McFarlane, Director, Corporate Communication & Public Relations (Actg.)
- Mr Makene Brown, Legal Officer
- Mr Winston Lowe, Communications Officer
- Ms Julia Wedderburn, Senior Legal Education Officer
- Mr Timothy Roper (Legal Intern, Legal Reform Division)
- Ms Donela Roberts (Legal Intern, Legal Reform Division)
- Mrs Chrystine Wedderburn-Bernard, (Legislative Editor)
- Mrs Alma Smith Tyndale (Executive Secretary)

Ministry of Justice

- Ms Samantha Blair, Deputy Director, Legal Services

ABSENT WERE:

Committee Members

- Ambassador Rocky Mead, CD, JP, PhD (Co-Chair – Office of the Prime Minister)
- Mr Hugh Small, KC (Consultant Counsel and Nominees of the Leader of the Parliamentary Opposition)
- Senator the Honourable Thomas Tavares-Finson, OJ, CD, KC, JP (President of the Senate and Commissioner of the Electoral Commission of Jamaica)
- Senator Ransford Braham, CD, KC (Government Senator)

Secretariat

- Ms Judith Grant, Chief Parliamentary Counsel
- Ms Nadine Wilkins, Director, Legal Reform
- Ambassador Sheila Sealy Monteith, CD, JP, Permanent Secretary
- Mrs Janelle Miller-Williams, Senior Director, Legal Education Division

1. CALL TO ORDER

- 1.1** The meeting was called to order by the Chairman, the Honourable Marlene Malahoo Forte at 11:01 am.

2. PRAYER

- 2.1** Prayer was offered by Dr David Henry.

3. NATIONAL PLEDGE

- 3.1** The Chairman invited everyone to recite the National Pledge.

4. WELCOME AND OPENING REMARKS

- 4.1** The Chairman welcomed everyone present. She mentioned the wonderful time spent in Portland and she expressed her delight with the progress being made to sensitise the public. She was particularly pleased with the reception of the Committee by the people in Portland, the expression of their concerns and the interest they showed in the work done by the Committee and the Government.

- 4.2** The Chairman felt that more time would be spent listening to the views of those commentators who were critical of the work of the Committee especially in relation to the nature of the Presidency. She encouraged the Committee not to take lightly how unfamiliar the public was with the Executive Presidential system, as a section of the public had expressed the view that it was the better direction for the country. She noted that the Committee would have to inform the process through research and the experiences of other countries. She advised that it was critical that the Committee Members familiarize themselves with the various aspects of the Presidency.

- 4.3 She expressed appreciation to the Committee for their dedication and for attending the meetings and engagements with the public. The Chairman thanked Dr Lloyd Barnett for being extremely helpful in clarifying the views on the types of Presidencies, and for his continued support in engaging the public in simple language on Constitutional Reform matters. She asked that her appreciation of the work done by Dr Barnett be recorded.

Dr Elaine McCarthy and Mr Anthony Hylton joined the meeting at 11:15 am.

5. COMMENTS AND CONCERNS OF THE COMMITTEE MEMBERS

- 5.1 Mrs Davis Mattis requested that reports on the public consultations be submitted, as they would be necessary for the Committee's deliberations and the decision-making process. The Chairman advised that a summary of each consultation/engagement was being prepared.
- 5.2 The Chairman advised the meeting that having engaged members of the public around the elements of an Executive Presidency, persons had not pressed further for same.
- 5.3 Mr Anthony Hylton concurred with the Chairman's comments on the Executive President. He said that persons with whom he had spoken felt that the transition to an Executive Presidency would require a total restructuring of the Constitution. He noted that the Jamaican Bar Association had recently reiterated its support for the Caribbean Court of Justice (CCJ).
- 5.4 Dr Elaine McCarthy noted that one of the main issues that arose from the consultations was the determination of the type of Presidency. She further noted that consideration would be given to a hybrid Presidency as persons were not interested in a solely ceremonial President, and desired to be engaged in selecting the President.

- 5.5** Dr McCarthy suggested that information on the hybrid President could be crafted by the Committee so that the public could better assess the options and provide their feedback to the Committee. She also advised that the issue of citizenship was also a concern as persons were now listening keenly to the Committee.
- 5.6** Dr David Henry concurred with Dr McCarthy's assessment. He suggested that the Committee's starting point for the constitutional reform process would be based on the recommendations that came out of the 1995 Joint Select Committee on Constitutional Reform. In noting that people wanted to elect their President, Dr Henry expressed that electing a President did not mean that the President would be an Executive President but rather could be as defined by the Joint Select Committee as having limited executive functions.
- 5.7** Mrs Davis-Mattis suggested that the better approach would be to first determine the functions of the Executive President. The presidency could then be defined based on that determination.
- 5.8** Senator Scott-Motley suggested that a profile of the President be developed by the Committee for use at the public meetings. This would be useful in educating the public on the options. Senator Scott-Mottley cautioned that the views of the more vocal people would not be useful as a yard stick for the majority in determining how the President would be elected. She advised that she had engaged several persons on the selection of the President, and they were intrigued.
- 5.9** The Chairman agreed with Senator Scott-Motley's assessment, but noted that the media was not supportive of the Committee going to the people with pre-arranged information. She further agreed that people wanted to be engaged but too many issues were being conflated which had the potential to cause more harm than good.
- 5.10** The Chairman explained that the issue of the hybrid President had been highlighted by the media due to her response to questions asked at a recent town hall meeting. She noted that

the Committee had also discussed the issue of a President who performed some ceremonial and executive duties.

- 5.11** The Chairman felt that the Committee would receive massive criticism if it were to propose options to the public. The media would object strongly to the Committee's proposals on the basis that the public had not been properly educated.
- 5.12** The Chairman however agreed with Senator Scott-Mottley that it was important to go to the public with some proposals. Committee members noted that although the media made it appear that the public would reject the Committee's proposals, this was not true as the public wanted to be a part of the process.
- 5.13** Mr Hylton noted that the Jamaican people did not want to be directed – they instead wanted to be consulted. He noted that the Committee received backlash earlier as the public thought that the deliberations began in secrecy, and this was resented. The Committee had adjusted, and the majority of the people were now more relaxed and receptive of the Committee's proposals.
- 5.14** Mr Hylton stated that some Jamaicans now understood that the Committee was listening to them, and this had brought greater credibility to the process. He opined that the public was more relaxed with the information which had been provided. However, more information needed to be transmitted to the people. He encouraged the Committee to listen to the people and make the necessary adjustments.
- 5.15** The Chairman reiterated for clarity, that the process was never designed to be secretive.
- 5.16** Dr Barnett, in responding to the issues raised, stated that the way the Committee began its deliberations would have caused the public some anxiety, and the criticisms centred the public's reaction why the Committee called for greater public involvement.

- 5.17** Dr Barnett advised the Committee that, in substance, there was no such thing as a hybrid President but rather an Elected President with executive powers. He noted that the present Constitutional structure could accommodate a ceremonial Head of State with some executive powers or a Parliamentary system of government with no ceremonial head. He suggested that the pros and cons of those two systems be presented to the people by the Committee.
- 5.18** Dr Barnett agreed with the Chairman that in engaging persons in discussion, there was no doubt that the people wanted a Jamaican Constitution and a Non-Monarchical system. However, it was necessary to consult with the people as these changes required a referendum. Committee Members agreed that more public consultations would be scheduled.
- 5.19** The Chairman advised that she had discussions with persons who were very vocal on Constitutional Reform issues, however, they did not seem interested in meeting with the Committee despite receiving invitations to do so.
- 5.20** Mr Hylton cautioned that there was a wave emerging among the educated group that nothing would come out of this process. He felt however that the Committee was now at a place where it could formulate recommendations for the public now that the consultations had begun. This gave the Committee more control over the public narrative as the naysayers had their own agendas.
- 5.21** The Chairman noted that the Committee wanted to hear from the people, and it was open to hearing diverse views. She agreed that the recommendations arising from the 1995 Constitutional Commission would be a good starting point, as the issues requiring a referendum had not changed.

6. APOLOGIES FOR ABSENCES

- 6.1 Apologies for absence were offered on behalf of Mr Hugh Small, Senator Thomas Tavares-Finson, Ambassador Rocky Meade and Senator Ransford Braham.
- 6.2 Apologies for lateness were offered on behalf of Dr Nadene Spence and Mr Anthony Hylton.

Dr Derrick McKoy joined the meeting at 12:08 pm.

7. CONFIRMATION OF AGENDA

- 7.1 The Agenda was confirmed by the Committee.

8. CONFIRMATION OF THE MINUTES

8.1 **Confirmation of the Minutes of the 8th Meeting of the Committee held on May 3, 2023**

- 8.1.1. The Minutes of the 8th Meeting of the CRC held on Wednesday, May 3, 2023, were confirmed on a motion moved by Mrs Laleta Davis-Mattis which was seconded by Dr. Elaine McCarthy

8.2 **Confirmation of The Minutes of the 9th Meeting of the CRC held on Wednesday, May 10, 2023**

- 8.2.1. The Minutes of the 9th Meeting of the CRC held on Wednesday, May 10, 2023, confirmed on a motion moved by Dr David Henry which was seconded by Dr Nadeen

8.3 **Confirmation of the Minutes of the 10th Meeting of the CRC held on Friday, May 12, 2023**

8.3.1. The Minutes of the 10th Meeting of the Committee were confirmed on a motion raised by Dr Spence which was seconded by Dr McCarthy

9. PROPOSED UPCOMING PUBLIC ENGAGEMENT AND CONSULTATION SESSIONS

9.1 The following locations and dates were proposed for the next public engagement sessions:

- Saint Elizabeth – July 26, 2023
- Westmoreland – July 27, 2023
- Hanover – July 28, 2023

9.2 It was proposed that the engagements would take the form of Town Hall Meetings, Stakeholder engagements and walk throughs (through the towns and the various marketplaces in the main towns).

9.3 The venues which were proposed for the Town Hall Meeting for the parishes were:

- Saint Elizabeth –The Saint Elizabeth Technical High School or The Black River High School. The Saint Elizabeth High School was the preferred venue.
- Westmoreland – The Manning’s High School, and a location in either Savanna-la-Mar or Little London were discussed.
- Hanover – The venues in Hanover were uncertain at the time of the meeting. Some Committee members were of the view that a walk through might not be effective considering the high temperatures that the island was experiencing.

9.4 Senator Scott-Mottley agreed that the Committee must reach the people, but was not in favour of the Stakeholder Consultation and stated that it was not high on her agenda. She was, however, in agreement with the walkthroughs in the marketplaces. She thought that there would be a point where the Committee could interact with the people. She shared further on how the politicians conducted their walkthroughs to effectively meet and engage

the people. Another Committee Member suggested that a booth be set up where people would receive information instead of having Members aimlessly walking about in the town centres.

9.5 Dr David Henry suggested that political persons from both parties be mobilised to aid in the process of distributing the flyers and encouraging persons to attend the meetings.

9.6 It was suggested that the churches be asked to assist with the distribution of the flyers and that the events be published in the weekend papers. However, the Chairman felt that the print media did not have a far reach.

9.7 Mr Hylton recalled that some laws, as required, were published in the newspapers as part of the historical record and Members were to bear that in mind.

10. MAJOR RECURRING ISSUES FROM PUBLIC CONSULTATIONS

10.1 The Chairman noted that this item had been covered in the open discussions earlier in the meeting.

10.2 Senator Scott-Mottley advised that Dr Barnett's lecture on Constitutional Reform at the Norman Manley Law School would have covered the issue of electing the Head of State.

10.3 The Committee discussed the appropriateness of formulating proposals for the public at the time.

10.4 Dr Barnett suggested that the Committee publish the pros and cons of the options but refrain from taking a position on any of them. Members agreed with this approach and noted that the Committee had to be sensitive to the issues having earned credibility with the public.

10.5 Dr Barnett further outlined his preference for the Parliamentary system of Government noting that the pros of this form of Government far outweighed that of the Presidential system.

10.6 Dr Barnett then pointed out some inaccuracies in the pamphlets the Committee had circulated during the “Road to Republic” campaign. The Chairman advised the Committee that the errors would be corrected, and the pamphlet sent to Dr Barnett for his sign-off prior to printing.

11. DATE AND TIME OF THE NEXT MEETING

11.1 The next meeting of the Committee would be held on Friday, July 14, 2023.

12. ADJOURNMENT

12.1 There being no other business, the meeting was adjourned on a motion raised by Dr McCarthy which was seconded by Dr Barnett.