



## **MINISTRY OF LEGAL & CONSTITUTIONAL AFFAIRS**

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### **MINUTES**

#### **20th Meeting of the Constitutional Reform Committee (CRC)**

**Venue: Jamaica House Banquet Hall**

**Date: September 8, 2023**

**Time: 9:30 am**

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#### **AGENDA**

1. Call to Order
2. Prayer
3. National Pledge
4. Apologies for Absence
5. Opening Remarks
6. Confirmation of Agenda
7. Confirmation of Minutes
  - a. 18<sup>th</sup> Meeting of CRC
  - b. 19<sup>th</sup> Meeting of CRC
8. Matters Arising from the Minutes:
  - a. Schedule of Meetings and Activities
  - b. Interim Report to Cabinet
  - c. Response to Letter by Horace Levy dated September 6, 2023 in the Jamaica Gleaner

9. Matter for Deliberation and Discussion
  - a. Office of the President of the Republic
10. Date and Time of Next Meeting
11. Adjournment

## **ATTENDEES:**

- Honourable Marlene Malahoo Forte, KC, JP, MP (Chairman)
- Ambassador Rocky Meade, CD, JP, PhD (Co-Chairman – Office of the Prime Minister)
- Dr Derrick McKoy, CD, KC (Attorney General of Jamaica) via video link
- Mr Anthony Hylton, CD, MP (Parliamentary Opposition – House of Representatives)
- Senator Donna Scott-Mottley (Parliamentary Opposition – Senate)
- Mr Hugh Small, KC (Consultant Counsel and Nominee of the Leader of the Parliamentary Opposition) via video link
- Dr Elaine McCarthy (Chairman – Jamaica Umbrella Groups of Churches)
- Dr Nadeen Spence (Civil Society – Social and Political Commentator)
- Mrs Laleta Davis Mattis, CD, JP (National Council on Reparations)
- Mr Sujae Boswell (Youth Advisor)
- Professor Richard Albert (International Constitutional Law Expert – University of Texas at Austin) via video link

## **Apologies for Absence**

- Senator Hon. Thomas Tavares-Finson, OJ, CD (President of the Senate and Commissioner of the Electoral Commission of Jamaica)
- Senator Ransford Braham, CD, KC (Government Senator)
- Dr the Hon. Lloyd Barnett, OJ (National Constitutional Law Expert)
- Dr David Henry (Wider Society – Faith Based)

## **Secretariat**

### **Ministry of Legal and Constitutional Affairs**

- Mr Wayne O. Robertson, JP, Permanent Secretary
- Ms Judith Grant, Chief Parliamentary Counsel via video link
- Ms Nadine Wilkins, Director, Legal Reform Department
- Mr Christopher Harper, Senior Constitutional Reform Officer (Actg.)
- Ms Roxene Nickle, Advisor/Consultant
- Ms Nastacia McFarlane, Director, Corporate Communication and Public Relations (Actg.)

- Mrs Janelle Miller-Williams, Senior Director, Legal Education (Actg.)
- Mr Ivan Godfrey, Legal Education Officer (Actg.)
- Mr Makene Brown, Legal Officer
- Ms Christal Parris-Campbell, Assistant Parliamentary Counsel via video link
- Mr Jordan Jarrett, Constitutional Reform Officer (Actg.)
- Mr Winston Lowe, Public Relations Officer (Actg.)
- Ms Shaedane Facey, Strategic Planner (Actg.)
- Mrs Chrystine Wedderburn-Bernard, Legislative Editor
- Ms Georgette Campbell, Administrative Assistant

## **1. CALL TO ORDER**

- 1.1.** The meeting was called to order by the Chairman, the Hon. Marlene Malahoo Forte at 10:45am, when a quorum was established.

## **2. PRAYER**

- 2.1.** Prayer was offered by Mrs Laleta Davis Mattis.

## **3. NATIONAL PLEDGE**

- 3.1.** The National Pledge was recited.

## **4. APOLOGIES FOR ABSENCE**

- 4.1.** Apologies for absence were received from Senator the Hon. Thomas Tavares-Finson, Senator Ransford Braham, Dr the Hon. Lloyd Barnett, Dr Derrick McKoy and Dr David Henry. (Dr McKoy later joined the meeting virtually).
- 4.2.** Apologies for lateness were tendered on behalf of Senator Donna Scott-Mottley and Dr Elaine McCarthy.

## **5. OPENING REMARKS**

**5.1.** The Chairman reminded Members that the meeting was a continuation of the housekeeping meeting held on September 6, 2023, to complete the confirmation of outstanding Minutes and other matters. She highlighted that the Minutes of the last meeting were prepared and circulated ahead of the meeting, as a sign of the commitment made and kept by the Secretariat, to ensure that the Minutes were no longer backlogged. She sought the cooperation of Members to move expeditiously through the agenda items to enable the Committee to refocus on the discussion around the proposed Office of the President of the Republic, and whilst so doing, to address the related list of issues raised in the public domain.

## **6. CONFIRMATION OF AGENDA**

**6.1.** The Agenda was confirmed without amendments on a motion by Mrs Laleta Davis Mattis and seconded by Dr Nadeen Spence.

## **7. CONFIRMATION OF MINUTES**

**7.1.** The Minutes of the 18<sup>th</sup> Meeting of the Constitutional Reform Committee held on August 11, 2023 were corrected and confirmed on a motion raised by Dr Nadeen Spence and seconded by Senator Donna Scott-Mottley.

*Coffee Break taken during the review of the Minutes of the 18<sup>th</sup> Meeting of the Constitutional Reform Committee*

**7.2.** The Minutes of the 19<sup>th</sup> Meeting of the Constitutional Reform Committee held on September 6, 2023 were corrected and confirmed on a motion raised by Mr Anthony Hylton and seconded by Dr Nadeen Spence.

**LUNCH BREAK**

## **8. MATTERS ARISING FROM THE MINUTES**

- 8.1.** Mrs Davis Mattis queried the level of attribution in the Minutes and reminded the Committee of the agreement among Members that unless submissions were specific and technical, there would be no attribution. The Chairman noted that while there were many Minutes with points attributed to Members, the Minutes need not be written with attribution going forward, since transcripts of the meetings would also be published in due course.
- 8.2.** Senator Scott-Mottley suggested that because of the complaints that the Minutes were being redacted every view point should be reflected, as she was unsure how to respond to comments about the Committee being duplicitous.
- 8.3.** The Chairman agreed that attribution should be minimal going forward, except where strictly necessary. She noted that not all of the Minutes had been read by the public, but felt that once they were all uploaded and read, those who complained would see how the Committee operated and realise that their concerns were being addressed.
- 8.4.** The Chairman indicated that the issue of language was included in the List of Issues under the heading “Rights and Fundamental Freedoms” (in the document circulated to Members), in response to a query by Mr Hylton. He recalled the presentation made by the Jamaican Language Unit at the University of the West Indies, Mona Campus and asked whether the issue of language would be considered during the transition period.
- 8.5.** Dr Spence reminded that the Minutes of previous meetings also reflected discussions on the inclusion of a preamble. She suggested that the Committee consider whether there should be a general preamble or a preamble at the start of each chapter within the Constitution.
- 8.6.** The Chairman reiterated that having gone through the Minutes, she noted that many of the recurring concerns had been addressed. She further reiterated that the Minutes were up to date, as the Minutes of the last meeting had been corrected and confirmed. She thanked members of the Secretariat who worked to ensure its timely production, as well as preparation of a List of Issues and a draft of the Interim Report to Cabinet, for discussion.

## **8.7. RESPONSE TO LETTER BY HORACE LEVY DATED SEPTEMBER 6, 2023 IN THE JAMAICA GLEANER**

- 8.7.1.** The Chairman invited the Committee to consider the request of Dr Barnett to respond to the letter written by Horace Levy published in the Jamaica Gleaner on September 6, 2023. In response, Mrs Davis Mattis enquired why the Committee was responding to any one individual and Dr Spence asked why would the Committee respond to Mr Levy considering the many other letters published in the newspaper.
- 8.7.2.** The Chairman indicated that she understood Dr Barnett's request for a response to the letter to mean a general need to address the issues that were raised in it. She recalled the agreement to notify the public that the Committee had heard the issues they raised, and the decision to provide them with an opportunity to share any other issues they would like to see the Committee consider in each phase. She shared that there were challenges in meeting Sunday's publication deadline for public acknowledgement but indicated that, in the interim, the list would be published across other platforms.
- 8.7.3.** Senator Scott-Mottley asked that the Committee acknowledge submissions from the public, in accordance with the guidance provided by Prof. Richard Albert, as she believed it would make a difference. The Chairman agreed and indicated that the publication of the List of Issues raised was intended to do just that, as it was important to convey to the public that the Committee had heard them, taken note of their issues and would consider them in its deliberations.
- 8.7.4.** Dr Spence pointed out that the Committee had not been able to address some of the issues because the discussions had strayed. She suggested that the Committee refocus and use the List of Issues as a guide.
- 8.8.** The Chairman then invited Members to consider the initial request for meetings of the Constitutional Reform Committee to be streamed live. She suggested that it would be a good opportunity to allow members of the public to view the deliberations of the Committee.
- 8.9.** Mr Robertson indicated that the Public Broadcasting Corporation of Jamaica (PBCJ) could be engaged to facilitate the live stream.

- 8.10.** Mrs Davis Mattis asked for a decision to be made. She believed that PBCJ was the appropriate entity but doubted its availability every Wednesday. She also noted that the Banquet Hall (meeting venue) was not equipped for live streaming of meetings and suggested that another space be found that would allow for meetings to be streamed by PBCJ.
- 8.11.** Mr Robertson indicated that he would engage the Chief Executive Officer of PBCJ to request a feasibility opinion.
- 8.12.** The Chair asked Mr Robertson to draft a letter for her signature to the Prime Minister to remind him of the conversation they had about engaging PBCJ and the Jamaica Information Service (JIS) to assist with the work of the Committee, since the matter required his directive as the Minister with portfolio responsibility for the entities.
- 8.13.** Mrs Davis Mattis enquired whether the next meeting of the Committee would be streamed.
- 8.14.** The Chairman was unable to say whether the next meeting of the Committee would be live-streamed as she did not know the availability of the PBCJ or whether the Secretariat was able to do it, but the goal was to have the facilities put in place to enable members of the public to tune in.
- 8.15.** Mr Robertson indicated that work was done to identify the specs of the relevant equipment. The Director of Information and Communications Technology (ICT) had provided an opinion on how to proceed and a firm had been identified. Once an update was available, Members would be apprised.
- 8.16.** The Chairman shared that for the month of September, the work of the Committee would focus on amendments to deeply entrenched provisions.
- 8.17.** Dr Spence supported the goal of livestreaming the meetings but queried whether the interactions and expressions of Members would become fodder for public abuse and expose Members to danger.
- 8.18.** The Chairman stated that there would always be a downside as one of the concerns raised repeatedly was whether opening meetings to public scrutiny would impact the candour with which issues are discussed. She shared that the rules around Cabinet secrecy were designed to ensure that Members could speak candidly and frankly without any fear about a viewpoint being attributed to them.



**8.19.** The Chairman indicated that an email would be sent out to Members to invite them to share their views on whether the meetings should be livestreamed. She also instructed the Secretariat to find out what it would cost and what would be required to action the stream.

## **8.20. SCHEDULE OF MEETINGS AND ACTIVITIES**

**8.20.1.** Every Wednesday in the month of September was reserved for meetings of the Committee. Meetings may also take place on a Friday if necessary and Members would be informed accordingly. Decisions had to be made about the other activities to be scheduled.

**8.20.2.** Mr. Boswell informed the Committee of a collaboration with the television programme, “*Talk Up Yout*” and the Marley Foundation to host a series of school tours commencing in September with 5<sup>th</sup> and 6<sup>th</sup> form students. There was a preliminary meeting with the Legal Education Unit of the Ministry of Legal and Constitutional Affairs to flesh out how the collaboration would look and the process of doing it. Activation would see a number of artists performing to pique the interest of young people.

**8.20.3.** Mrs Davis Mattis shared that October would be celebrated as Heritage Month and the Institute of Jamaica had invited the Committee to speak to a group of 5<sup>th</sup> and 6<sup>th</sup> form students on October 31, 2023. She further noted that Mico Teacher’s College had invited Members to participate in a forum on October 26, 2023. She also shared that Shortwood Teacher’s College had engaged her regarding the possibility of a future consultation but on which she was awaiting further information.

**8.20.4.** The Chairman indicated that in addition to the September schedule, meetings of the Committee would be set for October 4, 11, 18, 25 and November 1. She advised that she may be traveling in the week of October 11 but noted that the Co-Chairman could chair the meeting in her absence.

- 8.20.5.** Dr Spence stated that on September 12, 2023, there would be a meeting with ACORN at noon. She asked which Members were available to participate. Messrs Hylton and Boswell, and Senator Scott-Mottley expressed their availability.
- 8.20.6.** The Chairman then instructed Mr Harper, the Liaison Officer, to prepare a schedule of meeting/activities to be circulated among members.

## **8.21. INTERIM REPORT TO CABINET**

- 8.21.1.** The Chairman went through the draft Interim Report that was prepared for submission to Cabinet, for the Cabinet to note the work undertaken by the Constitutional Reform Committee so far, during the period March to August 2023, particularly to advance Phase 1 of the Constitutional Reform Work Programme
- 8.21.2.** She disclosed that the draft Report would invite them to recall that Phase 1 was focused on the (re)patriation of the Constitution of Jamaica, the abolition of the Constitutional Monarchy, the establishment of the Republic of Jamaica, and all matters within the deeply entrenched provisions of the Constitution for which a referendum was required to amend.
- 8.21.3.** She indicated that the Report would remind them that in March 2023, the Prime Minister announced the 14 members of the high-level Committee. Nineteen (19) meetings were held during the indicated period and the Committee decided to make the Minutes of the meetings accessible to the public.
- 8.21.4.** The Cabinet would be informed that the Committee had convened five (5) Town Hall Meetings in the parishes of St. James, Manchester, Portland, St. Elizabeth and Westmoreland. That Stakeholder sensitization sessions were convened in the parishes of St. James, Manchester, Portland and Westmoreland and that Members of the Committee have participated in over 50 consultative activities with a variety of stakeholders. WhatsApp line, email address and social media pages have all been established to facilitate the receipt of submissions from the public on matters related to constitutional reform. Stakeholders who have made presentations to the

Committee would be listed, as well as all the engagements and annexed to the Report.

- 8.21.5.** Under the heading of Public Education, she shared that the Report made reference to the agreement between her Ministry and the JIS to execute a national public education campaign aimed at informing Jamaicans on the Constitution and the Constitutional Reform Process. The campaign commenced on August 1, 2023 and was expected to run for two (2) years.
- 8.21.6.** The report would include information on the establishment of sub-Committees, noting the three (3) which existed, namely Public Engagement and Communications, Youth Strategic Engagement and State Affairs.
- 8.21.7.** The Report contained a section outlining the substantive issues considered by the Committee and the consensus among Members on the abolition of the Monarchy, the repatriation of the Jamaican Constitution and the transition to a Republic which would see the establishment of the Office of the President of the Republic of Jamaica.
- 8.21.8.** Cabinet would also be reminded of the recommendations of the 1995 Joint Select Committee on Constitutional and Electoral Reform.
- 8.21.9.** The consensus within the Committee that Jamaican citizenship, at a minimum, would qualify one for membership in the Parliament would be reported and would note the existence of divergent views on the inclusion of a residency requirement. The Committee considered whether persons with dual citizenship would be eligible to sit in Parliament and determined the need for a test of allegiance.
- 8.21.10.** She also highlighted that Cabinet would be apprised of the Committee's deliberations around the extension of the life of Parliament whereby it had been suggested that Parliament could be extended beyond war, to include circumstances created by or as a result of the occurrence of any earthquake, hurricane, flood, fire, outbreak of pestilence, outbreak of infectious disease or other calamity. An extension would be limited to a period not exceeding six (6) months in the first instance and other periods not exceeding six (6) months up to a maximum of two (2) years.

**8.21.11.** Regarding the update on the deliberations around the Final Appellate Court contained within the draft Report, the Chairman indicated that it would have to be rephrased to reflect the perspectives of the Members of the Parliamentary Opposition.

**8.21.12.** She also indicated that a Ministerial Statement would be made after the Cabinet Note was submitted and considered by the Cabinet, to disclose the content of Note to the public.

**8.21.13.** Having set out the content of the Interim Report, the Chair asked Members whether they were in agreement with it. The Members responded favourably and indicated that it seemed comprehensive. No other issue was raised for inclusion.

## **9. MATTER FOR DELIBERATION AND DISCUSSION**

### **9.1. OFFICE OF THE PRESIDENT OF THE REPUBLIC**

**9.1.1.** The Chair instructed the Secretariat to prepare a summary of the views expressed in the presentations around the Office of the President for circulation among Members ahead of the next meeting, since the agenda item would be rolled over to the next meeting.

## **10. DATE AND TIME OF NEXT MEETING**

**10.1.** The next meeting was scheduled for Wednesday, September 13, 2023.

## **11. ADJOURNMENT**

**11.1.** There being no other business, the meeting was terminated at 3:34pm on a motion by Dr McCarthy and seconded by Mrs Davis Mattis.