



## **STATEMENT BY MINISTER**

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**MINISTER OF LEGAL & CONSTITUTIONAL AFFAIRS**

**UPDATE ON THE WORK OF THE CONSTITUTIONAL REFORM COMMITTEE**  
**TO**  
**THE HOUSE OF REPRESENTATIVES**  
**GORDON HOUSE, KINGSTON, JAMAICA**  
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### **Introduction**

**Madam Speaker**, this Ministerial Statement is intended to update this Honourable House and the people of Jamaica on the status of the work of the Constitutional Reform Committee (CRC) during the period, March to September 2023.

The CRC has been working assiduously to advance the reform priorities under Phase 1, which include (re)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.

I wish to remind this Honourable House that in November 2022, the Cabinet granted approval for the phased implementation of the matters on which consensus remains, starting with the change from a Constitutional Monarchy to the Republic of Jamaica, and all matters for which a referendum is constitutionally required.

I should also highlight and remind this Honourable House that the CRC is building on the work of the Joint Select Committee on Constitutional and Electoral Reform (JSCCER) and the Constitutional Commission that were established in the 1990s.

## **Meetings & Publication of Minutes**

**Madam Speaker**, I am happy to report that as at September 20, 2023, the CRC has convened twenty-two (22) meetings which have provided the Members with an opportunity to assess how the passage of time has impacted the recommendations of the JSCCER contained in its Final Report (1995), advise what fresh perspectives ought be considered in light of any new national, regional and international development between then and now, and recommend any necessary modification to update the recommendations for implementation.

The confirmed Minutes of all meetings to date have been made accessible to the public via the Ministry's website ([mlca.gov.jm](http://mlca.gov.jm)) and the dedicated Constitutional Reform (Road to Republic) website ([roadtorepublic.mlca.gov.jm](http://roadtorepublic.mlca.gov.jm)).

## **Establishment of Sub-Committees**

**Madam Speaker**, the CRC, in accordance with its Terms of Reference, has formed three (3) sub-committees so far:

- Public Engagement and Communication
- Youth Strategic Engagement
- State Affairs

### **Public Engagement and Communication Sub-Committee**

The Public Engagement and Communication Sub-Committee facilitates the receipt and examination of questions, proposals and ideas from the Jamaican public and mobilizes public interest in the work of the Committee. This sub-committee is chaired by Dr Nadeen Spence (Civil Society Representative).

### ***Consultations:***

I am pleased to announce that, to date, we have held consultations in **each county**, with **five (5) Town Hall Meetings** in the parishes of St. James, Manchester, Portland, St. Elizabeth, and Westmoreland. Focus group sensitisation meetings were also convened with key stakeholders in St. James, Manchester, Portland and Westmoreland.

The stakeholders who have attended these meetings are from various sectors of the society,

including, but not limited to:

- The man in the street
- Private sector (Chambers of Commerce in each parish)
- Ministers' Fraternal
- Service Clubs
- Community Groups
- Custodes Rotulorum and Justices of the Peace

Through these Town Hall Meetings and sensitisation sessions, the CRC was able to meaningfully engage members of the public around critical matters of reform and provide a platform for persons to pose questions, raise issues, share perspectives, and proffer recommendations.

Members of the CRC have also participated in **over sixty (60)** consultative activities with a variety of stakeholders. A wider cross section of Jamaicans has been sensitised on the work to be done in Phase 1 and all issues raised by them have been documented for further deliberation.

The Committee has also received submissions from twenty-five (25) individuals and organisations, and has heard presentations from eight (8) stakeholders; namely, Mr. Carvel Stewart; the Jamaica Language Unit; Jamaica Left Alliance for National Democracy and Socialism (Jamaica LANDS); the National Democratic Movement (NDM); the Advocates Network; We the People Republic JA; Citizens Action for Free and Fair Elections (CAFEE); and the Jamaican Bar Association (JAMBAR).

A lot has been achieved in our engagements with the public, but much more needs to be done.

***Public Education Programme:***

**Madam Speaker**, an agreement was entered into between the Ministry of Legal and Constitutional Affairs and the Jamaica Information Service (JIS) to execute a National Public Education Campaign aimed at educating Jamaicans on the Constitutional Reform Process, particularly the country's journey from a Constitutional Monarchy to a Republic. The campaign is to run for two years, in six-month implementation phases, between August 1, 2023 and August 1, 2025.

There is broad agreement within the Committee and Secretariat for an ongoing comprehensive programme to educate the nation on the Constitution of Jamaica and our governance system. Engagements with members of the public have revealed a high level of ignorance among the

people about the Constitution and basic governance concepts, as well as a lack of understanding of the structure of government.

***Website, Social Media Presence & Contact Information:***

**Madam Speaker**, the CRC, through the support of the Secretariat, has also established a dedicated website ([roadtorepublic.mlca.gov.jm](http://roadtorepublic.mlca.gov.jm)), as indicated earlier; social media pages (Facebook: Road To Republic Ja; Instagram: @RoadToRepublicJa; X (formerly Twitter): @RoadToRepublic); a dedicated WhatsApp number (876-441-9097); and an email address ([constitutionalreform@mlca.gov.jm](mailto:constitutionalreform@mlca.gov.jm)) to facilitate the receipt of submissions from the public on matters related to constitutional reform. Through these media, the CRC has received submissions, compiled and collated a number of issues/questions and considered perspectives and matters which will inform its recommendations. These issues were published in the print media in September (2023).

I can assure this Honourable House and the people of Jamaica that we will continue to engage and educate the populace.

**Youth Strategic Engagement Sub-Committee**

The Youth Strategic Engagement Sub-Committee has been mandated to facilitate active and inclusive participation of young people in the constitutional reform process and to ensure that their perspectives, needs and aspirations are considered and represented in the formulation of constitutional reform recommendations. This sub-committee is chaired by Mr Sujae Boswell (Youth Advisor).

**State Affairs Sub-Committee**

The State Affairs Sub-Committee is responsible for reviewing the existing powers exercised by the Monarch through the Governor General, under the Constitution and any other relevant laws or by convention, to determine what, if any additional powers should be vested in the Office of the President for the Republic of Jamaica. This sub-committee is chaired by Senator Ransford Braham, CD (Government Senator).

## **Referendum Sub-Committee**

A decision has also been taken to establish a sub-committee, in due course, to focus on matters related to the holding of the referendum.

## **Substantive issues considered by the CRC**

**Madam Speaker**, I will now summarise some of the substantive issues considered by the CRC to date.

The Committee has reached consensus on the abolition of the Monarchy and the (re)patriation of the Jamaican Constitution.

### **Jamaicanising the Constitution**

There are divergent views on how to achieve the goal of having the Constitution passed in our Parliament and approved by the people of Jamaica, without, *at this stage*, writing a new Constitution.

Members considered and adopted the term “Jamaicanising,” first raised in the 1995 JSCCER Report. The term means that the Constitution, as the supreme law of the land, should be passed by the Parliament of Jamaica and approved by the people of Jamaica, to replace the present arrangement where the Constitution is a schedule to a British Order in Council.

### **Establishment of the Office of the President**

In relation to the establishment of the Office of the President, the 1995 JSCCER, in its Report, recommended that the transition to a Republic would require a President as the Head of State who would be above partisan politics and vested with the power to appoint persons to certain sensitive national positions.

Following extensive deliberations, the Committee initially agreed that the new Constitution should make provision for the creation of the Office of the President as the formal Head of State of the Republic of Jamaica to which certain executive powers may be granted. In so determining, the Committee affirmed that the Office of the President would be separate from the Office of the Prime Minister, with the latter serving as the political Head of Government of the Republic of Jamaica.

There was further consensus that the Head of State should be nominated by the Head of Government in/after consultation with the Leader of the Opposition and confirmed by the Parliament *via* affirmative resolutions on a two-thirds (2/3) majority vote. A super-majority would signal consensus on the selection of the President.

The Committee also considered several contingencies should a vote of the Parliament be unsuccessful. The Committee, in light of this, has considered making a proposal that the incumbent hold over or the Prime Minister appoint an interim President in the absence of an incumbent. Where such an interim President is to be put forward for confirmation by the Parliament, this would require the Prime Minister to nominate the candidate after consulting with the Leader of the Opposition.

In our meeting on September 27 (last Wednesday), the Committee considered the need for greater clarity on the forms of president, having regard to the seeming confusion in the public domain. We examined three categories.

The first is the Executive President. It is the Presidential system where the Head of State is politically selected or elected, with executive powers covering substantial areas of government. The second is the Non-Executive President who is the formal Head of State performing merely ceremonial functions. The third is a formal Head of State who does not only perform ceremonial functions, but in whom is vested certain powers which do not involve the daily administration of government. This third category reflects a model that is above partisan politics.

### **Qualification for Membership in the Parliament**

There is consensus among the Committee that, at a minimum, Jamaican citizenship, and not Commonwealth citizenship, should be the qualifying citizenship for membership in the Parliament of Jamaica. However, divergent views exist around the inclusion of a residency requirement.

The Committee also considered whether persons with dual citizenship should be eligible to sit as Members of Parliament and determined that a test of allegiance would be necessary. The Committee noted that the Constitution in its current form has contemplated various ways to deal with persons who possess dual or multiple citizenships and their involvement in the Parliament

of Jamaica. A test of allegiance was therefore seen as a necessity in resolving any contention that may arise from conflicting allegiance. The CRC considered it important to design the rules on eligibility with sufficient flexibility to attract the best public servants to produce the best outcomes.

### **Extension of the Life of the Parliament**

**Madam Speaker**, the constitutional life of the Parliament may only be extended if Jamaica is at war. The Committee noted that the Constitution makes no provision for the extension of the life of the Parliament in the case of public emergencies, such as a pandemic.

Accordingly, the Committee, in principle, has agreed that the life of the Parliament could be extended when a public emergency arose. It agreed that where it is not practical to hold general elections due to circumstances created by or as a result of the occurrence of any earthquake, hurricane, flood, fire, outbreak of pestilence, infectious disease or other calamity, whether similar to the foregoing or not, the life of the Parliament should continue beyond its normal term for a period not exceeding two (2) years in total.

The Committee further noted that the period of extension should be limited to one 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. It was suggested that the initial proclamation should be done by the President acting on the advice of the Prime Minister in consultation with the Leader of the Opposition. Subsequent extensions should be done by the Parliament for a period not exceeding six (6) months, on the vote of a majority of the House of Representatives. If the circumstances persist and require further extension, such a vote should be held with a majority of two-thirds (2/3) of the House.

### **Deliberations around the Final Appellate Court**

**Madam Speaker**, it has been agreed that the phasing of the work of the CRC was necessary to, among other things, allow for the building of consensus where it does not currently exist. It has also been agreed that consideration of which final court for the Republic of Jamaica would be done in Phase 2. JAMBAR made a submission to the Committee, which included recommendations for Jamaica to accede to the appellate jurisdiction of the Caribbean Court of Justice (CCJ).

The Parliamentary Opposition Members of the CRC have called on the Government to publicly state its position on the CCJ.

The Government is paying very close attention to the polls results on the matter concerning the final court.

There is no room for disagreement that it is unacceptable and untenable to continue with an arrangement where Jamaicans need a visa to access their final court.

**Concerns expressed by some CRC Members on the Constitutional (Amendment of Sections 96(1) and 121(1)) Act, 2023**

**Madam Speaker**, on August 2, 2023, I provided audience to members of the CRC, following a request from Dr Lloyd Barnett for a special meeting.

Some Members expressed concerns about the approach taken by the government in amending the ordinary provisions of sections 96 (1) and 121 (1) of the Constitution. They clarified that the bane of their contention was not a question of law but one of courtesy, as the tabling of the Bill to amend the Constitution to extend the tenure of the Director of Public Prosecutions and the Auditor General was done without their knowledge or input.

Members did not contend that the Government had no legal power to act as it did, as they believed that the Constitution allowed for the provisions in question to be amended by a majority of the Members of the House. However, given the Committee's remit, there was an expectation among some Members that the Committee would have either been consulted or informed of any decision to amend the Constitution.

Members further conveyed that courtesy and respect were important, particularly in the context of the work being done and the demands of the public for greater trust and accountability.



## **The Way Forward**

**Madam Speaker**, we have embarked on a momentous journey. We are in uncharted waters. It requires careful navigation. We seek God's guidance and wisdom on the right path to take and the understanding to make wise choices.

I commit to continue to provide periodic updates to this Honourable House and the people of Jamaica on the progress of the constitutional reform programme.