



MINISTRY OF LEGAL & CONSTITUTIONAL AFFAIRS

*c/o 1 DEVON ROAD, KINGSTON 10 & 61 CONSTANT SPRING ROAD, KINGSTON 10
JAMAICA*

Telephone Nos.: (876) 927-9941-3, 929-8880-5 & 927-4101-3 (Minister & Permanent Secretary)
(876) 906-4923-31 (Legal Reform Department & Law Revision Secretariat)
(876) 906-1717 (Office of the Parliamentary Counsel)

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MINUTES

35th Meeting of the Constitutional Reform Committee (CRC)

Venue: Ministry of Legal and Constitutional Affairs

Date: April 10, 2024

Time: 11:00am

AGENDA

1. Call to Order
2. Prayer
3. National Pledge
4. Apologies for Absence/Lateness
5. Confirmation of Agenda
6. Confirmation of Minutes
 - 33rd Minutes of the CRC
 - 34th Minutes of the CRC
7. Matters Arising from the Minutes
8. Preparation of the Final Report of the Constitutional Reform Committee
9. Public Engagement and Communication Strategy going forward
 - Preparation of the public for receipt of the Report
10. Any Other Business
11. Date and Time of Next Meeting
12. Adjournment

ATTENDEES:

- Honourable Marlene Malahoo Forte, KC, JP, MP (Chairman)
- Ambassador Rocky Meade, CD, JP, PhD (Co-Chairman – Permanent Secretary, Office of the Prime Minister)
- Dr Derrick McKoy, CD, KC (Attorney General of Jamaica) *via video link*
- Senator Ransford Braham, CD, KC (Government Senator)
- Senator Donna Scott-Mottley (Parliamentary Opposition – Senate)
- Mr Anthony Hylton, CD, MP (Parliamentary Opposition – House of Representatives)
- Dr the Hon Lloyd Barnett, OJ (National Constitutional Law Expert)
- Mr Hugh Small, KC ()
- Dr Elaine McCarthy (Chairman – Jamaica Umbrella Groups of Churches)
- 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)
- Mr Sujae Boswell (Youth Advisor) *via video link*
- Professor Richard Albert (International Constitutional Law Expert – University of Texas at Austin) *via video link*

Secretariat

Ministry of Legal and Constitutional Affairs

- Mr Wayne O. Robertson, JP – Permanent Secretary
- Ms Nadine Wilkins – Director, Legal Reform Department
- Mr Christopher Harper – Senior Constitutional Reform Officer
- Ms Janelle Miller-Williams – Senior Director, Legal Education
- Mrs Cheryl Bonnick Forrest – Senior Director, Strategic Planning, Policy, Research and Performance Management (Actg.)
- Ms Roxene Nickle – Consultant/Advisor
- Ms Nastacia McFarlane – Director, Corporate Communications and Public Relations
- Mr Makene Brown, Legal Officer

- Ms Shaedane Facey, Strategic Planner
- Mr Ivan Godfrey, Legal Education Officer
- Ms Yaniek Douglas, Legal Education Officer
- Mr Winston Lowe, Public Relations Officer

1. CALL TO ORDER

- 1.1. The meeting was called to order at 11:00am by the Chairman, the Hon Marlene Malahoo Forte when quorum was achieved.

2. PRAYER

- 2.1. Prayer was led by Senator Ransford Braham.

3. NATIONAL PLEDGE

- 3.1. The National Pledge was recited.

4. APOLOGIES FOR ABSENCE/LATENESS

- 4.1. Apologies for lateness were tendered on behalf of Mr Hugh Small and Dr Derrick McKoy

5. CONFIRMATION AGENDA

- 5.1. The Agenda was confirmed without amendments on a motion by Dr Elaine McCarthy and seconded by Ambassador Rocky Meade.

6. CONFIRMATION OF MINUTES

- 6.1. The Minutes of the 33rd Meeting of the CRC held on April 3rd 2024 were corrected and confirmed on a motion by Dr Elaine McCarthy and seconded by Ambassador Rocky Meade.
- 6.2. The Minutes of the 34th Meeting of the CRC held on April 5th 2024 were corrected and confirmed on a motion by Dr Elaine McCarthy and seconded by Dr Lloyd Barnett.

7. MATTERS ARISING FROM THE MINUTES

- 7.1. Senator Scott-Mottley referenced her absence at the last meeting and expressed a concern about the proposed April 10 timeline for the signing of the Report. She explained that because she was not present at the last meeting and also because the draft Report was embargoed to guard against leaks before it was finalised, she would experience some difficulty with discussing the matters with her party leader in time. She therefore asked that the embargo be reconsidered.
- 7.2. Dr Barnett stated that he understood that while the Report was being drafted, it would not be shared.
- 7.3. The Chairman said she understood Senator Scott-Mottley's concern and would accommodate her request. She however reiterated how unfortunate it was that a draft document was leaked in the past, which made it necessary to embargo the draft Report. She reminded everyone that when the leak of that other draft occurred it gave rise to a perception in the media that its contents were final. She reminded Members that the draft of the Report was in very rough form. Therefore it would be inappropriate to have it shared; and for the public to discuss its contents before there was agreement among Members. The Chairman also stated that while it was agreed that the recommendations were not secret, the Report was not finalised. She also recalled that Members from the Opposition would have engaged their leader and party by extension on a number of specific issues, along the way, such as the process of selecting the President and the type of Presidency.

Mr Hylton arrived at 12:00pm

- 7.4. Senator Scott-Mottley stated that if there was an issue discussed within the Committee that they were not convinced that they carried the position of their Party appropriately, it would be discussed. She said that the devil was in the detail of the discussion. While they may signal to the Leader of the Opposition that a matter may be contentious, they did not report to him after every meeting. She believed that the Leader of the Opposition should have sight of the Report before it was signed by the Committee, as he may express concern with the report not adequately reflecting the matter of Caribbean Court of Justice as being discussed.

- 7.5. Dr Barnett, in response, stated that during the process of drafting the Report, the embargo would operate. Otherwise, he saw no issue with it being shared between the period of finalisation and signing.
- 7.6. Senator Scott Mottley expressed favourability with that proposal.
- 7.7. The Chairman agreed and then stated that the other matter that needed to be addressed was how to put the Report in the public domain before reporting to the Cabinet.
- 7.8. Senator Scott-Mottley stated that she found the suggestion of putting a submission to Cabinet but having a public signing prior to it to be awkward. The Chairman, in response, stated that the proposed 'public signing' was to merely signal that the Committee concluded its work on the recommendations.
- 7.9. Dr Henry stated that Members still had not arrived at a position on the composition of the Senate and proposed that the matter be discussed. He further stated that in relation to the Report, the Public Engagement and Communication Sub-Committee was tasked to canvass views. He suggested that those views should be collated and included in the Report. The Chairman, in agreement, recalled a document prepared by Dr Spence, through the sub-committee highlighting the issues raised which allowed Members to spend some time discussing what they meant.
- 7.10. Dr Spence noted that on the matter of the 'public' signing of the Report, it was a strategy developed for engaging the public.
- 7.11. The Chairman then recommended that full discussion on the signing of the Report be reserved for a substantive agenda item at the next meeting, as it would help to clarify some of the points raised. Mr Hylton stated that there was still interest in a consultation with his constituency.
- 7.12. Dr Barnett invited Members to consider that there were two different stages regarding engagement. Firstly, in relation to the public education and engagement around the proposals being suggested and considered. On that stage, there was considerable public opinion that the Committee had not satisfied the requirement of adequately doing so. Secondly, after the Report had been publicized, where the Committee would be required to address the implications of the proposals.
- 7.13. Dr Spence noted that many of the criticisms raised seemed justified in the first instance but went away after sufficient explanations were offered.

- 7.14. Dr Barnett explained that while he would not criticise the efforts, he was concerned with the results. He acknowledged that there was a general belief that the Committee had not sufficiently educated or engaged the public. He observed that people were interested and noted that regardless of the many efforts of the Committee, the public was not educated about the Constitution.
- 7.15. Senator Scott-Mottley stated that there was a time where a number of short videos were posted on Instagram but opined that that was not necessarily how the public engaged. She stated that she while she intended to make her observations at Agenda Item 9, the conversation was already there. She highlighted that there was need for something to say what the Ministry was doing. She had no doubt as to the efforts of the Ministry but in the absence of knowledge, she was unable to defend, in response to concerns. She noted information about the Ministry's intention to carry out a school tour but was unsure of whether it happened.
- 7.16. Dr Barnett stated that the impression he got from the public concerned the slow pace of the Committee and its secretive cosmetic approach. He recalled the Permanent Secretary expressing an intention to saturate the media but stated that he was yet to see that done because such effort, if made, would be clear.
- 7.17. Dr Spence stated that earlier in the life of the Committee, it was agreed that the Ministry's team would report on what it was doing for the record. Secondly, having listened to the comments raised in the public domain and having engaged with members of the public, she was of the opinion that even if Members brought the Constitution directly to the people, and engaged them on an individual basis, there were some whose minds would never change. She explained that she has interacted with such people who as soon as a question was answered, another was raised, because of their cynicism. The Committee had an obligation to engage those who wanted to be engaged.
- 7.18. Dr McCarthy stated that she grew to appreciate that quite a bit of work was done. She stated that it would be good for Ms. McFarlane to make a presentation to the Committee highlighting the achievements, so that Members would have the information to share when asked.
- 7.19. Mrs Davis Mattis opined that the past work of the Committee was not relevant at this juncture as perception was perception. She stated that the public education needed to be robust going

forward and that the Committee should focus its efforts there. There was no need for the Committee to defend itself. The reality was that at April 2024, a Report was to go to Cabinet and the recommendations would thereafter go to the public. The processes therefore needed to adopt a suitable methodology.

- 7.20. Dr Barnett indicated that the Report would highlight the work done.
- 7.21. Senator Scott-Mottley opined that at such a critical juncture, the Committee needed a clear strategy. When the Report was published, the public may respond that the Committee simply decided what it wanted to do with no attention to other matters. She stated that some of the aspirations were not attainable in her lifetime, recognising that with constitutional reform, one could not achieve everything all at once. It did not take place instantly nor was it a static thing. She opined that the Committee had not communicated to the public how it intended to proceed. The process did not adequately capture how the reform would unfold and the role the public would play. She stated that people felt that decisions were already made. Thought therefore needed to be given about the mechanism of selling the report in a manner that would evoke public buy-in.
- 7.22. Mr Hylton stated that he believed that there needed to be a strategy for the introduction of the Report into the public space. While he explained that he anticipated concerns from his constituents as to why now, it was an opportunity to put such concerns to rest. The strategy could highlight and further contextualise the work done, while acknowledging that there was a need for more.
- 7.23. Dr Henry stated that he shared substantially the concerns raised by Senator Scott-Mottley and others about how the Report may be received by the public. He noted that it may appear to some that the Committee concluded without adequate consultations, which may suggest that Members ignored some of the important issues that they wanted to see addressed at this stage. He suggested that the issues raised be placed in the Report and that the phasing of the work be realistically clarified by setting out what would be involved at each phase.
- 7.24. The Chairman stated that from the start of the work, there was tension on how the work should be done, its sequencing and who should be directing the path. She stated Members kept going over the same issues despite having discussed them at length and proposing solutions. She opined that that may amount to ‘work avoidance’ (a term of art). She stated

that the Minutes that were just confirmed indicated what was to go in the Report at different sections, reflecting the concerns raised, yet Members spent time rehashing issues.

- 7.25. She recalled expressing that the Members of the Parliamentary Opposition did justice in reporting on the issues that were of concern to them. She stated that Members have already agreed that the Committee had not satisfied the public's appetite for engagement. She further stated that Dr Barnett's position of being concerned with the results rather than the efforts was agreed by her. She advised that after the break, a considerable amount of time was spent collating what was done, with an agreement that it would be formally reported to the Committee but because some Members were not present, time was spent going over it. She queried expectations around what communication meant in this age and wondered whether information not boldly stated was not regarded as meaningful. She highlighted that there was competition in the space and people had an expectation that the work should be present wherever they turned. She suggested that the Committee go back to the drawing board.
- 7.26. Senator Scott-Mottley enquired whether the Chairman was truly responding to the concerns raised about publication of the Report and the type of strategy that would be employed.
- 7.27. Dr Spence stated that she found some Members of the Committee to be disingenuous, as some of the issues had been raised and discussed on many occasions. She expressed that she was left to wonder what else needed to be done. She opined that some of the Members behaved like the cynics in the public domain and wondered who would be able to convince the Members otherwise. She further stated it did not seem like her interventions made sense because of how some members of the Committee behaved.
- 7.28. Senator Scott-Mottley opined that criticism could be painful especially when one had the knowledge of the work done. However, sometimes it required an examination of the criticism.
- 7.29. The Chairman indicated that she was sharing her own perspective, to which Senator Scott-Mottley indicated that Members needed to move on.
- 7.30. Dr Spence stated that while the Chairman tried to broker some of the tension, she believed some of the criticisms to be unfair.
- 7.31. The Chairman then noted that there were two other matters arising. Firstly, she stated that at the last meeting, she indicated that she would seek the approval of Cabinet for Members of the Committee to be present when the Cabinet Submission was being made. She advised that

approval was granted at the last meeting of Cabinet. She further indicated that the issue of the final court of appeal was a recurring issue and that there were some suggestions on how to treat it. The request for a meeting between the Prime Minister and the Leader of the Opposition was raised and she reported faithfully the issues. The Chairman then stated that she indicated to the Prime Minister the suggestion proposed by Dr Barnett about the inclusion on the referendum ballot of an indicative question on the final court.

- 7.32. Dr McCarthy enquired whether a date was given to which the Chairman responded that the schedule was outlined in the timetable shared prior but noted that they were conditions precedent to be met in order for the timelines to hold.
- 7.33. Regarding the other matter arising, the Chairman stated that concerns raised by Dr Barnett about phasing the work in the Terms of Reference vis-à-vis the goal of Jamaicanising was further clarified in the Drafting Strategy Sub-Committee. She further noted that there were other issues to be discussed in Phase One.

Coffee Break at 12:45pm

Meeting resumed at 1:20pm

8. PREPARATION OF FINAL REPORT OF THE CONSTITUTIONAL REFORM COMMITTEE

- 8.1. Dr Barnett proposed a recommendation on the expansion of the Senate to include fifteen (15) Members appointed by the Government, ten (10) Members appointed by the Opposition and four (4) Independents. He further recommended the retention of the existing constitutional safeguard which required at least one (1) Member of the Opposition to vote in favour of a proposed constitutional amendment to an entrenched provision.
- 8.2. Dr Henry enquired of Dr Barnett why he proposed those numbers, as opposed to those proposed in the 1995 of the Joint Select Committee on Constitutional and Electoral Reform (JSCCER).
- 8.3. Dr Barnett, in response, stated that the increase in independent Members being appointed was on the basis that they represented some elements of civil society and that the number of persons should be fairly moderate.

- 8.4.** The Chairman enquired whether the proposed composition of the twenty-nine would yield the required majority inclusive of the single vote from the Opposition.
- 8.5.** She further stated that what she understood from Dr Barnett's proposal was a means of demonstrating to the public that the Committee, in response to concerns and calls for greater participation from people outside of the political process, considered expanding the number within the Senate. She noted that a constitutional norm was already established where the Senate acted as a safeguard by requiring at least one opposition Senator to vote in favour, for constitutional reform to succeed.
- 8.6.** Senator Braham noted that it was a very popular view that the Senate should be expanded to make provision for independent Members. He opined that most of those independents did not vote in popular elections and looked down on the political class. He expressed suspicion of independents because he did not perceive them to be truly independent. He therefore expressed that he was not in favour of their inclusion but suspected that he was the only person of that view.
- 8.7.** Senator Scott-Mottley enquired whether such perspective was that of the Party, to which the Chairman responded that the views of the Jamaica Labour Party were diverse and noted that she had been tackled by small groups within the Party that shared views similar to those raised by the Opposition.
- 8.8.** Dr Barnett recalled several instances in the past where independent persons were appointed because the circumstances so required.
- 8.9.** Dr Spence asked Members to consider the type of change that would make people trust and reinvest in the political process.
- 8.10.** Dr Barnett then suggested that the method of appointment may address some of the concerns. He suggested that where the independent member was appointed by the President after consultation with the Prime Minister, the Leader of the Opposition and Civil Society leaders, for example, the person making the appointment would be able to take certain factors into account. The intention was to represent public interest at the table. He further stated that if substantive change was not made to democratic processes, the Committee may not be able to secure public trust. Dr Henry said he believed that a change like that would indicate that the Committee was doing more than rubber stamping.

- 8.11.** Dr Spence enquired whether there was any way to preface the narrative around the Senate so that people could appreciate what it was created to do and how it was expected to act.
- 8.12.** The Chairman then asked for the provision within the Constitution of the Republic of Trinidad and Tobago on the Senate to be shared.
- 8.13.** Senator Scott-Mottley indicated that that issue was one on which she did not have a view but noted the recommendations made proposing an expansion of the Senate and how to expand it. She highlighted that both political parties, on previous occasions, indicated a desire for a member of the Jamaica Diaspora to sit in the Senate as an independent member.
- 8.14.** Dr Barnett stated that for a long time, he shared the view shared by Senator Braham, but invited Members to recognise that there were persons who did not align themselves with political parties and still demonstrated strong patriotism.
- 8.15.** Mr Boswell stated that Members needed to look at political participation from a wider basis. He shared the example of persons serving on school boards who may not participate politically but often contributed to civic life. He opined that being independent did not mean a lack of desire to participate. There was an opportunity to widen the political process to provide for independent senators. He noted the view expressed by many that the process of constitutional reform was held tightly by both political parties and given the historical antecedents, only two parties had the opportunity of possessing State power. An expansion of the Senate would provide an opportunity not to alienate but to make it more inclusive. He expressed support for the recommendation. He further stated that while he was not wedded to a particular number, he understood the need for the constitutional safeguard as it existed currently.
- 8.16.** Mr Hylton stated that he understood that there were persons who were committed to the nation state but who were not committed to a political party. He believed that the political process of legislating and policy making could be enriched and have been enriched by views contending. He then suggested that the process should make room for the Diaspora, given the wealth of skills and talents available. Having regard to the need for expertise that sometimes did not exist in Jamaica, there were many opportunities to tap into the Diaspora.
- 8.17.** Mr Small stated that he approved the approach recommended by Dr Barnett which rearticulated a point of view that was included in the work of other Constitutional reform processes. He then stated that the main function of legislators was to pass laws and

regulations. Alongside those functions, Parliament represented a forum in which other office holders and persons with power were held to account. They have the responsibility of articulating questions and ventilating points of view that may not be convenient or politically wise. While the Constitution did not expressly recognise political parties, it had implicitly entrenched the first past the post system. He stated that he had heard points of view that a lack of desire to participate suggested a forfeiture of one's right to have one's voice heard in the legislative chamber of the people. He further stated that when reference was made to the elevation of the Office of President above how previous Heads of State may have operated and having laid down very clear criteria as to what should be considered for qualification of President, one possessed a view of the society that was much wider than seeing the history of political structures.

- 8.18.** He expressed that he was of the view that the Senate should be expanded beyond persons whose allegiance was to those who were elected to Parliament by the first-past-the-post system. Persons with other points of view should be considered as eligible. The President should have the duty and capacity to look to those people to enrich the quality of what goes on in the Senate where all of them were unelected. Persons who did not support political parties but who had interest in areas such as climate change, or how power should be distributed across the government, were persons from whom the President should be able to select to enrich the unelected House. He expressed strong support for it.
- 8.19.** Regarding the Diaspora, he stated that he had different views from Anthony Hylton, as he did not regard it in the same reverence that some did. He further stated that he had spoken to and listened to many people who claimed to be the representatives of the Diaspora and regarded some of them as articulate, particularly in their support of issues faced by Jamaicans at home and abroad. He also noted that some of those spokespersons were islands onto themselves. He enquired whether the distinguished grandson or granddaughter of Jamaican descent who performed well all over the world were to be considered as part of the Diaspora. He also queried whether they were part of the cornucopia of talent that would be drawn from, when seeking to populate the House.
- 8.20.** Dr Henry stated that he agreed with the principle and that he wholeheartedly agreed with Mr Boswell and concurred with Mr Small. He observed that the majority of the people who did

not vote were patriotic and that he hoped to increase a percentage of those persons in the composition of the Senate, which would work to the benefit of the nation.

- 8.21.** The Chairman expressed the opinion that that was one of the better qualitative discussions within the Committee in a long time.

Lunch Break at 2:11pm

Meeting resumed at 2:56pm

- 8.22.** Mrs Davis Mattis said that she wished to align herself with Mr Hylton's submission on the importance of the Diaspora and necessity for them to participate. Beyond that, she endorsed the recommendation to expand the Senate and stated that she was not sure if there was any particular magic to the number four, but appreciated that the total amounted to an uneven number.
- 8.23.** The Chairman, in an effort to tease out some of the submissions on the role of the Diaspora, noted the perspectives shared. She then stated that under previous administrations and the current, the subject matter of Diaspora Affairs was under the Ministry of Foreign Affairs and Foreign Trade and concerns related to experiences in the Diaspora were brought through the Minister with portfolio responsibility. She then asked Members to consider how a member of the Diaspora would operate given the proposal on the qualification criteria for membership in the Parliament. She further asked Members to consider how civil society groups would be consulted to determine the appointment of independent senators. She noted that in other jurisdictions, the provision on the expanded Senate with Independents also included the appointment process.
- 8.24.** The Chairman then opened the floor for comments beginning with the issue of the inclusion of a representative from the Diaspora. Mr Hylton stated that there was a general agreement that such a person would be expected to attend a certain number of meetings and have some presence. He suggested that given the weekly occurrence of meetings, online attendance could be facilitated.
- 8.25.** The Chairman queried whether special exemption would be made given the residential qualification of being 'ordinarily resident', for membership in Parliament. She also recalled her experience as Minister within the MFAFT where it was proposed that provision be made for a member from the Diaspora to be included in the Senate. She noted that there was no

agreement, at that time, in determining *the who*. She then enquired whether Parliament was the place for someone not *ordinarily resident* in Jamaica, amidst desire for their voices to be appropriately heard.

- 8.26.** Dr Barnett said that there was no need to include specifics in the Constitution and enquired whether the residential requirement for membership in the Parliament should be modified for one person.
- 8.27.** The Chairman asked whether the requirement to be present in Jamaica for the last ten (10) of fifteen (15) years would qualify someone to be a part of the Diaspora. Dr Barnett, in response, stated that someone who lived two (2) of the last ten (10) years or travelled back and forth considered him/herself a part of the Diaspora. He also noted that there were people within the Diaspora who came to Jamaica for a certain number of months.
- 8.28.** Mr Small reaffirmed his position that there should be no appointment to the membership of either House of Parliament of persons described as “Diaspora.” He agreed that provision should be made to hear their views on particular issues but that should be done by inviting them to make representations to Parliament. He stated that there was no rational basis for appointing persons who lived outside of the jurisdiction who would be responsible for making laws for taxation and regulation, among other internal things, when they, by their choice to live overseas, would not be held accountable.
- 8.29.** Senator Braham, Dr Spence, Dr Henry and Dr McCarthy endorsed the submission made by Mr Small.
- 8.30.** Mrs Davis Mattis indicated that that she would concede but suggested that ways be found generally to involve the Diaspora.
- 8.31.** The Chairman, in response, stated that there was no disagreement on the facilitation of Diaspora views but the merit of the discussion concerned whether they should have a direct seat in Parliament.
- 8.32.** Mr Hylton stated that from the outset, there was recognition that implementing such a proposal would require more thought and clarity, except in the way in which the constitutional safeguard was preserved, which would exclude such persons.
- 8.33.** Dr Barnett indicated that the present route requiring the vote of at least one person appointed by the Opposition should remain. He further stated that the proposal preserved two (2) things: 1) The normal power of the majority party to carry an ordinary vote; and 2) the power

which now existed in one (1) Senator appointed by the Leader of the Opposition, whereby constitutional amendment could not be made unless such Senator was in support. He stated that the one (1) person required could not come from the four independent persons proposed as the normal protections would continue.

- 8.34.** The Chairman noted that if the intention was to preserve the absolute majority vote in reforming ordinary provisions and a two-thirds majority vote to change ordinarily entrenched and deeply entrenched, an accurate compositional formulation was needed as the current proposal did not reflect the required 66%.
- 8.35.** Mr Small enquired why the Committee was proceeding on an assumption that the Government should have an interest in being able to change the Constitution by merely bringing along one person from the Senate that had not been nominated by the Government. He expressed the view that amendments should not be approached on the basis of the majority party plus one, but rather what was in the interest of the nation as a whole. If the proposal was to expand from the current twenty-one (21) members to a larger number, it would be an opportunity to incorporate into the dialogue the thinking for the future that fundamental change to the constitution must not only be by virtue of the will of the elected House but the wider support of the unelected house.
- 8.36.** Dr Barnett, in response, stated that the system was to be preserved against partisan manipulation by requiring that the governing party should not be able to pass a constitutional amendment of importance if at least one opposition was not in favour. He expressed that he would be against anything that risked destroying that protection.
- 8.37.** He also stated that Jamaica established a protection of the constitutional system through this formula which required one (1) person from the Opposition to vote in favour. An alternative was for it to be increased to two (2) but recommended that it not be advanced because it may create a long and difficult argument.
- 8.38.** Dr Barnett further advised that where the Senate was engaged to make a constitutional amendment, the independent members would not be entitled to vote.
- 8.39.** The Chairman then proposed that reducing the number of independent members from four (4) to three (3) and the number of Opposition members from ten (10) to nine (9) would yield the required two-thirds reflecting the constitutional safeguard. The proposal would therefore

be revised to fifteen (15) Government nominations, nine (9) Opposition nominations and three (3) Independent nomination.

- 8.40.** Mr Hylton enquired about the method of appointing independent members. Dr Henry, in response, referenced the recommendations outlined in the 1995 JSCCER Report, noting two main ways of ensuring the representation in the Senate, of interests other than those of the governing party and the main opposition party, namely: by providing for the appointment of a Senator by the leader of any other grouping which having contested a General Election in at least one-half of the constituencies, obtains a certain proportion of the national vote and by the President appointing Independent Senators as was recommended by the Constitutional Commission.
- 8.41. The Chairman noted that with the registration of political parties under the Representation of the People Act, Jamaica was nearer to achieving such a feat and stated that such recommendation was similar to what was being proposed now. She remarked that it was interesting to hear the same sentiments after thirty (30) years.
- 8.42.** Dr Henry stated that the Report of the JSCCER further outlined that it could not agree on the approach to be taken in respect of those two (2) seats and the majority of the Committee recommended to Parliament that the Leader of any other grouping which contested at least 50% of the constituencies in a General Election be given the power to appoint a Senator for every 7.5% of the national vote secured by that grouping.
- 8.43.** Dr McKoy stated that the decision-making in Parliament should not be difficult as anything complex would make it hard for Parliament to work. Dr Barnett stated that the numerical formula proposed would preserve the safeguard.

9. PUBLIC ENGAGEMENT AND COMMUNICATION STRATEGY GOING FORWARD

- 9.1.** The Chairman noted that the discussions from matters arising had exhausted the issue. On the matter of the preparation of the public for receipt of the Report, it was recommended that the matter be addressed in the Public Engagement and Communication Sub-Committee since most of the issues had already been ventilated.
- 9.2.** Dr Spence nevertheless outlined a number of strategies to be pursued ahead of the tabling of the Bill ,for Members' consideration. She stated that critical stakeholder meetings were to

be held and that the sub-committee was in the process of developing a list of thought leaders to be engaged and influencers who could help relay the message of constitutional reform post submission of the substantive Report. She also stated that billboards in public squares could be used and that providers of such services were being engaged. She also recommended the use of television and radio ads as well as screens within public spaces such as tax offices. The Committee would then re-engage mainstream media through press releases, press conferences and interviews. After the Bill was tabled, Members of Parliament would be engaged to sensitize their constituents.

10. ANY OTHER BUSINESS

10.1. The Chairman suggested, if possible, that arrangements be made to accommodate submissions from the Jamaica Coalition for a Healthy Society at the next meeting and for the Committee to take stock of other requests and respond accordingly.

11. DATE AND TIME OF NEXT MEETING

11.1. The Chairman informed Members that the next meeting would reconvene on Wednesday, April 17, 2024 at 10:00 am.

12. ADJOURNMENT

12.1. There being no other business, the meeting was adjourned at 4:11pm on a motion by Dr Elaine McCarthy and seconded by Dr Nadeen Spence.