



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

42nd Meeting of the Constitutional Reform Committee (CRC)

Venue: Ministry of Legal and Constitutional Affairs

Date: June 7, 2024

Time: 11:00am

AGENDA

1. Call to Order
2. Prayer
3. National Pledge
4. Apologies for Absence/Lateness
5. Confirmation of Agenda
6. Opening Remarks
7. Confirmation of Outstanding Minutes of CRC Meetings
8. Submission of CRC Reports to Cabinet and Cabinet Response
9. Responses to Comments of the Leader of the Opposition
10. Constitutional Reform Timeline
11. Review of Public Outreach Programme
12. Any Other Business
13. Date and Time of Next Meeting
14. 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)
- Dr. the Hon. Lloyd Barnett, OJ (National Constitutional Law Expert)
- Mr. Hugh Small, KC (Consultant Counsel and Nominee of the Leader of the Parliamentary Opposition)
- Dr. Elaine McCarthy (Former Chairman – Jamaica Umbrella Groups of Churches)
- Dr. Nadeen Spence (Civil Society – Social and Political Commentator)
- Dr. David Henry (Wider Society – Faith-Based) *via video link*
- 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
- Mr. Christopher Harper, Senior Constitutional Reform Officer
- Mr. Makene Brown, Legal Officer
- Mr. Winston Lowe, Public Relations Officers
- Mrs. Shawna-Kaye Taylor Reid, Administrative Assistant

1. CALL TO ORDER

- 1.1.** The meeting was called to order at 11:15am by the Chairman, the Hon Marlene Malahoo Forte when quorum was achieved.

2. PRAYER

- 2.1.** Prayer was led by Dr. Elaine McCarthy.

3. NATIONAL PLEDGE

- 3.1.** The National Pledge was recited.

4. APOLOGIES FOR ABSENCE/LATENESS

- 4.1.** Apologies for absence were received from Senator the Hon Thomas Tavares-Finson, Senator Ransford Braham, Senator Donna Scott-Mottley and Mrs. Laleta Davis-Mattis.

5. CONFIRMATION OF AGENDA

- 5.1.** The Agenda was confirmed without amendments on a motion by Dr. Lloyd Barnett and seconded by Ambassador Rocky Meade.

6. OPENING REMARKS

- 6.1.** The Chairman, having acknowledged that a lot had happened since the Committee last met, invited Members to share brief comments. Dr. Barnett enquired whether any alternative dates were identified for meetings of the Committee having regard to the unavailability of the Senators on a Friday. Ambassador Meade suggested that Wednesdays be retained as the primary meeting date noting that Thursdays may also be considered.
- 6.2.** Dr. Spence stated that she was pleased with the conversations in the public domain on the Report. Noting the concerns about the impact of politics on the process of constitutional reform, she highlighted that people were focused on the substance of the Report. She also noted a general need among members of the public for guidance on the more technical aspects of the Report.
- 6.3.** The Chairman, in response, expressed that the recommendation in respect of the extension of the life of the Parliament in the event of a public disaster was the subject of much discussion. She then highlighted that many were unaware that the Constitution already provided for a two-year outer limit and that the Committee, in its deliberations sought to limit the scope of the extension in the initial 12 months. She observed that there were many views limiting the recommendations to the Parliament as currently comprised. She opined that constitutions should be written to consider the years ahead. Therefore, the focus of the work should not be confined to the personalities present but more so on how such personalities exercised power.
- 6.4.** Ambassador Meade suggested that in an effort to demonstrate that the Committee was not targeting any current office holder, a grandfathering mechanism could be introduced where

certain provisions would not apply to persons of a significant standing currently in specific positions. Instead, it would apply to the next iteration.

- 6.5.** The Chairman stated that in any event, a change would not come into effect until it was made. For example, if anyone was to be disqualified using the recommendation related to dual citizenship or conflicting allegiance, such disqualification would only come into effect after the referendum was held, once the facts were established. Ambassador Meade, in response, stated that many persons may be comforted knowing that they would enjoy protection beyond enactment.
- 6.6.** Ambassador Meade then advised Members that Kings House may have an interest in the extent to which the Report of the Committee addressed the administrative concerns raised at the meeting held in May 2023 with His Excellency, the Governor-General. He further advised that he was asked by His Excellency to consider the appropriate institutional arrangements that were required by the Office.
- 6.7.** The Chairman recalled that the Report was sent informally with a commitment to send a physical copy formally. Ambassador Meade added that in the formal copy, a note should be attached indicating that anything that was not addressed by the Report was sequenced.
- 6.8.** The Chairman further noted that one matter on which the Governor-General had a keen interest concerned the provision of transitional arrangements which was covered by the Report. She stated that many of the other matters raised were to be addressed by the Ministry of Finance and the Office of the Services Commission which would require further conversations between those Offices. She recalled that there was dialogue within the Cabinet but stated that a more formal conversation was needed.
- 6.9.** Dr. McCarthy highlighted that having engaged different sectors of society, there was still a general misunderstanding around the process of consensus. The Chairman, in response, stated that some people did not understand consensus as a decision-making modality generally. She then invited Members online to share brief remarks.
- 6.10.** Mr. Boswell stated that there was a lot of conversation around the content of the Report which facilitated increased public engagement. He also stated that those Members of the Committee who were non-political were responsible for ensuring that they were not coloured by the political atmosphere hovering over the reform process.

- 6.11.** The Chairman thanked Mr Boswell for his work in engaging young people across Jamaica noting the feedback to be positive.
- 6.12.** Professor Albert, stated that while he did not have a clear sense of the pulse of the situation in Jamaica regarding the process of constitutional reform, he shared the Report with his colleagues. He noted that they were impressed with the Report and the robustness of the discourse contained within. He also commended the Committee and the Secretariat for the work done since the publication of the Report. The Chairman thanked Professor Albert for his invaluable contribution to the process.
- 6.13.** Dr. Henry stated that he too observed the robust discussions around the different aspects of the Report. He, however, noted that those Members who were independent and non-political, had to be careful in navigating the political environment.
- 6.14.** The Chairman, in response, stated that it was difficult to avoid politics because constitution making was as much political as it was legal. The extreme partisan views were not grounded in any policy consideration and that Members were to focus on the principle and policy that supported the perspectives and recommendations shared. She also highlighted that partisanship would emerge with a general election on the horizon making collaboration difficult. As a result of this, she explained that she had to manage a number of risks which required a different exercise of leadership. She then asked whether there were any remarks from the Secretariat.
- 6.15.** Mr. Robertson indicated that the Secretariat was committed to supporting the Constitutional Reform Committee. He acknowledged the magnitude of what was required and stated that the team was prepared to achieve the results. He acknowledged that while there were a few challenges, adjustments would be made internally to ensure better outcomes.
- 6.16.** Mr. Small stated that he was uncertain whether the Minutes adequately reflected the discussions which took place, particularly in relation to recommendations around the Senate that were once in the Report but subsequently removed. From his understanding, at the point the matter was considered, the entire Committee changed its outlook resulting in it being removed. He recalled his previous requests for the verbatim records to be made available to Members as they were an important part of the work of the Committee. While acknowledging that the work started off in good will to arrive at consensus, the verbatim records would best reflect how the Committee arrived at agreement.

- 6.17.** Dr. Barnett advised that the discussion related to the Senate took place at the 35th Meeting of the Committee. Mr. Small recalled the important discussion around relevant periods in Jamaica's history where Senator Douglas Tapper and Senator Sydney Phillips were required to tender their resignation by the then Prime Minister because they voted against the Dangerous Drugs law in October 1963. He reiterated that the Minutes did not adequately reflect the discussion and emphasized the importance of Members of the Committee and future generations having access to the verbatim records. He then reminded the Chairman of his request for access to the verbatim records which was yet to be acknowledged.
- 6.18.** The Chairman asked Mr Small to whom was the request made. He responded the Permanent Secretary, as the administrative head of the Ministry. He further stated that the request was made over a month ago.
- 6.19.** Dr. Barnett stated that since there was a need for access to the verbatim records, Members should be advised about their availability. The Chairman, in response, stated that while transcripts were not available immediately, where a member requested copies of the transcripts, they would be prepared and provided to the Member, once available, as was done recently for Senator Scott-Mottley. She acknowledged the general concern regarding the accessibility of verbatim records but advised that there was no deliberate withholding of the material. She stated that this was her first-time hearing of Mr. Small's request.
- 6.20.** Mr. Small asked Mr. Robertson to confirm whether he received the request to which he responded that he would check to ensure that there was no misrepresentation. Dr. Barnett said that the Secretariat should be sensitive to the need for access to the verbatim records and enquired whether there was anything against facilitating such access.
- 6.21.** Mr. Robertson advised that on the 14th of May 2024, he received a message from Mr. Small requesting access to the Report signed by Members. In response, he indicated to Mr. Small that the document was available for collection and that Mr. Small stated that he would be able to collect.
- 6.22.** Mr. Small stated that on the 15th of May 2024, a message, addressed to Mr. Robertson, was sent in the Committee WhatsApp Group requesting access to the verbatim records having regard to the inability of Members to recall having agreed to the power to revoke the appointment of a Member of the Senate.

6.23. Dr. Spence recalled that while there was an informal discussion on May 3, 2024 about the recommendation for the inclusion of a power to revoke, there were changes made to it at the last hour because of a dissenting view. Dr. Barnett stated that the decision of the Committee was that no provision should be made for the termination of the appointment of Senators which was reflected in the amended Report. Dr. Spence further recalled that there would not have been any substantive record of that meeting as it was convened with the sole intention of signing the Report.

Lunch Break at 1:00pm

Meeting resumed at 1:50pm

6.24. The Chairman stated that the absence of Members during substantive discussions created a challenge. After the Report was adopted by the Committee in subsequent meetings, some Members expressed revised positions. Ultimately, on any matter where there was no consensus, those matters were either removed or revised, as was seen in the treatment of the recommendation on the Senate.

7. CONFIRMATION OF OUTSTANDING MINUTES OF CRC MEETINGS

7.1. The Minutes of the 35th Meeting of the Constitutional Reform Committee held on April 10, 2024 were corrected and confirmed on a motion by Dr. Nadeen Spence and seconded by Dr. Elaine McCarthy.

7.2. The Minutes of the 36th Meeting of the Constitutional Reform Committee held on April 24, 2024 were corrected and confirmed on a motion by Dr. Lloyd Barnett and seconded by Mr. Anthony Hylton.

7.3. Confirmation of the Minutes of the 37th and 38th Meeting was deferred subject to checks against the verbatim records where available.

8. SUBMISSION OF CRC REPORT TO CABINET AND CABINET RESPONSE

8.1. The Chairman advised Members that while the Decision of Cabinet was available, the Minutes of the respective Cabinet meeting was being reviewed as a handful of matters that required further clarification were identified. Nevertheless, she informed Members that the Cabinet accepted the Report of the Committee without changes.

9. RESPONSES TO COMMENTS OF THE LEADER OF THE OPPOSITION

- 9.1.** Dr. Barnett advised Members that the comments from the Leader of the Opposition appended hereto as **Annex I** and the draft response prepared by him appended hereto as **Annex II** were circulated.
- 9.2.** Dr. Barnett then guided Members through the draft response noting the submissions contained within. On the matter of the acting President, Members indicated that they were not opposed to the position shared by the Leader of the Opposition.
- 9.3.** On the matter of the process of selecting the President and the contingency plan proffered by the Committee, Dr. Barnett reiterated that if the Prime Minister and the Leader of the Opposition could not agree, there was a need for a method of resolution. He reminded Members of the recommendation empowering the Prime Minister and the Leader of the Opposition to make a separate nomination to be confirmed by the Parliament by a vote of the absolute majority of each House. This, he said, appeared to be the only practical solution. He then recalled discussions around involving the electorate in making such a determination but noted that most Members felt it undesirable.
- 9.4.** The Chairman acknowledged that a lot of time was spent discussing the matter and enquired whether Mr. Hylton had any view on it. Mr. Hylton, in response, stated that it seemed as though the Leader of the Opposition was prepared to accept the President's Council (currently the local Privy Council) endorsing an interim President until consensus was achieved to dissolve the situation.
- 9.5.** The Chairman stated that decisions should not be made on present personalities. Dr. Barnett, in agreement, explained that when drafting laws, preparation should be made for the ideal as well as those circumstances where there was no ideal. In this regard, the ideal was consensus and confirmation. The recommendation of the Committee sought to address a situation where such an ideal did not exist. He noted that in a democratic country, where there was division, such could be resolved by a vote.
- 9.6.** Mr. Boswell enquired whether the Committee intended to spend additional time engaging in a back and forth on the written communication received from the Leader of the Opposition and suggested that the exchanges be shifted to an in-person meeting to facilitate dialogue.
- 9.7.** Mr. Hylton, having acknowledged the suggestion, stated that while the convening of a meeting was initially raised in the context of the Final Appellate Court, this invitation would

be slightly different as it was now clear that there were other matters on which the Committee wished to engage.

- 9.8.** The Chairman highlighted that the Leader of the Opposition did not provide the Committee an opportunity to properly respond to his concerns as he went public with a number of matters before and without engaging the Committee. She noted that the matter of the Final Court was important as it would have to be included in the Bill.
- 9.9.** Mr. Hylton stated that consensus building was part of the remit of the Committee and if Members were minded to meet, he was prepared to engage the Leader of the Opposition.
- 9.10.** The Chairman then invited Members to recall that timelines were running and expressed reservation about deliberating on matters where there was no genuine intention to arrive at consensus.
- 9.11.** Mr. Small expressed the view that whenever he considered the matter, the timelines that were predictable were those set out in the constitution itself. He then enquired whether the Chairman, in her Sectoral Presentation to the Parliament on June 11, 2024 would convey a commitment on behalf of the Government as to the timelines within which the process was expected to advance. He further expressed uncertainty about the form of the instrument that was to be laid in the Parliament. He then recalled and endorsed Dr. Barnett's Drafting Strategy. He also noted that the Government has proceeded to propose amendments to Section 61 of the Constitution based on the advice of the Chief Parliamentary Counsel, an action that many Jamaicans were unaware of.
- 9.12.** The Chairman indicated that the instrument would take the form of a Bill which would be reviewed by the Drafting Strategy Sub-Committee.
- 9.13.** Dr. Barnett expressed frustration at the approach taken in proposing an amendment to section 61 of the Constitution. Dr. Spence, in response, urged Members to recall the conversations about the amendment noting that it was a recommendation by the Ministry. Dr. Barnett stated that the discussion was not related to its necessity but that timing of it being presented should be strategic.
- 9.14.** The Chairman, in response to the concerns raised by Mr. Small, stated that she was unable to give any commitment for the Government having regard to the end of the life of the Parliament. Dr. Barnett stated that the amendment process could transcend the life of Parliament and that the Committee should proceed on that basis.

- 9.15.** Dr Barnett then stated that the drafting of the Bill would take some time and while the Committee awaited a draft, public education on the Report should be intensified since the Bill was to be informed by the Report. This would ensure that people understood what was in the Bill. He also opined that the process of public education on the recommendations would take at least four months.
- 9.16.** The Chairman noted that there were two sets of views within the public: one related to the the Bill being informed by the Report and the other was whether matters not included in the Bill should be debated. There was a danger in presenting the engagement as a done deal. Dr. Barnett, in response, stated that traditionally, those matters accepted by Cabinet were included in the Bill.
- 9.17.** Mr. Hylton enquired whether the Report would be subject to a Joint Select Committee of the Parliament. The Chairman, in response, stated that the Bill rather than the Report would be. In respect of the response to the Leader of the Opposition, particularly on the point of the contingency plan in the event there was no consensus, the Chairman noted that the matter was discussed at great length and that it would be unwise for the Committee to make a recommendation without considering the possibility of the absence of consensus.
- 9.18.** The Chairman then invited Members to focus their attention on the draft reply to the Leader of the Opposition and indicate whether they agreed with the substance of it.
- 9.19.** On the matter of the President's Council, Dr. Barnett indicated that the drafting instructions would have to take into account the need to have, in the interim, the body now performing the functions of the Privy Council. Additionally, on the coming into effect of the reformed Constitution, provision should be made for the current members of the Privy Council to continue until the new President's Council was appointed.
- 9.20.** The Chairman then enquired whether Members were settled on the response in relation to an interim and acting President to which some expressed that they needed additional time to consider it. On the matter of the Sectoral Presentation, Mr. Boswell opined that there was no practicality in sharing timelines as there were some matters that would be met with divergence which may affect the work to be done by the Committee.
- 9.21.** The Chairman stated that she could only speak to timelines to the extent that such was provided for in the Constitution. She stated that there was no intention to hold a referendum in the life of this Parliament.

- 9.22.** Mr. Hylton opined that the remaining issues were fundamental. Mr. Small also suggested that the best time to engage in a process of reform was at the beginning of the life of Parliament. He stated that public education on what was in the existing constitution and what needed to be changed should have started already.
- 9.23.** The Chairman then asked Members to consider the comments from the Leader of the Opposition and the draft response of the Committee on the matter of impeachment. Dr. Barnett expressed the view that he was unclear about the comments on impeachment as the Leader of the Opposition as he had responded unfavourably without putting forward any example demonstrating an impeachment process that worked well. Dr Barnett explained that the arguments against impeachment were powerful and strong. Having acknowledged that the Leader of the Opposition tabled a Private Members Bill in the House of Representatives on impeachment, he was unable to identify any expert on impeachment who thought that it was a good practice.
- 9.24.** Mr. Small enquired whether the Private Members Bill was informed by a proposal previously made by former Prime Minister Bruce Golding to which Dr. Barnett responded affirmatively. Dr. Spence stated that Mr. Goldings proposal was for the introduction of a new governance structure that would move Jamaica from the first-past-the-post system thereby creating an environment within which the process of impeachment could have worked.
- 9.25.** The Chairman said that there were recommendations among her constituents for a process of recall. She stated that having regard to the fact that Parliamentarians carried out functions beyond their role as legislators, there may be persons seeking recall for a failure to serve a constituency. Dr. Barnett, in response, stated that a process of recall may result in two or three byelections in quick succession.
- 9.26.** The Chairman sought the perspective of Members on the approach to be taken in relation to the response. Mr. Small stated that it was necessary to respond to which the Chairman enquired whether such response should be communicated through Mr. Hylton as the initial intermediary. Mr. Small asked whether the response would be made public to which the Chairman responded that it would not be shared publicly at the time. It was agreed that a copy of the response would now be given to Mr Hylton for delivery to the Leader of the Opposition and that was done. Dr. Barnett stated that if the Leader of the Opposition wanted to discuss the matter, he should be willing to engage in further discourse.

9.27. The Chairman then asked Members whether they had any suggestions as to what should be included in her Sectoral Presentation. Dr. Barnett stated that the recommendations should be highlighted. Dr. Spence suggested that consensus within the Committee should be clarified as distinct from consensus required by the Constitution.

10. CONSTITUTIONAL REFORM TIMELINE

10.1. The matter was deferred and Members were advised that a meeting of the Drafting Strategy Sub-Committee would be convened.

11. REVIEW OF PUBLIC OUTREACH PROGRAMME

11.1. The matter was deferred and Members were advised that a meeting of the Public Engagement and Communication Sub-Committee would be convened.

12. ANY OTHER BUSINESS

12.1. There was no other business.

13. DATE AND TIME OF NEXT MEETING

13.1. The Chairman informed Members that they would be informed as to whether the next meeting would be held on June 12 or 19, 2024. She then reminded everyone that her Sectoral Presentation was scheduled for June 11, 2024 and that all were invited to attend.

14. ADJOURNMENT

14.1. There being no other business, the meeting was adjourned at 3:21pm on a motion by Ambassador Meade and seconded by Mr. Sujae Boswell.

ANNEX I

Clause in draft CRC Report	Reply to CRC Responses to Comments
4.3.3 and 4.3.4	<p>The key issue here is that we do not support the solution which, in the absence of consensus as to the appointment of the President, enables the President to be approved via a simple majority vote of both Houses of Parliament. That solution would effectively incentivize the Prime Minister to choose someone who he/she perceives as favouring his/her Party, as the inevitable (and, perhaps, desired) failure to achieve consensus will lead to a President acceptable to the Government for political reasons and who is not even perceived to be politically neutral. We do not consider that to be in the Nation's best interests.</p> <p>On the other hand, we are not wedded to the Chief Justice acting as President until consensus is achieved as to the choice of the new President. The suggestion was put forward for consideration as an alternative to the unacceptable formulation in the CRC Report.</p> <p>What matters is that the person who is to act as President during the interim until consensus is achieved, must be someone whose independence from perceived political partisanship, good reputation and eminence are unquestioned.</p> <p>The person should be selected (perhaps by majority vote of the local Privy Council) with those criteria in mind, and the selection process should require consultation with the Prime Minister and the Leader of the Opposition before the appointment to act as President is made.</p>
4.9.1	<p>Our position remains that we do not support the mechanism in the CRC Report for appointing an interim President to act in a temporary vacancy.</p> <p>In Jamaica, Custodes are political appointments made by the Governor-General on the advice of the Prime Minister¹ They are not a suitable pool from which to appoint someone who is politically independent to act as interim President, when the Prime Minister and the Leader of the Opposition have not been able to agree on the person.</p> <p>We suggest that the mechanism for appointment of an interim President to act in a temporary vacancy be the same as that for the appointment of an interim President to act where consensus has not been achieved on the appointment of President (as to which see our remarks on 4.3.3 and 4.3.4 above).</p>
4.10.3	<p>We note that CRC accepts that the adjudication of the grounds for removal should be by a quasi-judicial tribunal.</p> <p>We should add that the objection to a parliamentary procedure for removing the President has no bearing on the workability of an impeachment process. Impeachment is for delinquent parliamentarians. The President is not a parliamentarian, and should be kept out of the political fray.</p>

¹ The analogy made between Custodes and the Chief Justice is misplaced, as the Chief Justice is appointed after consultation with the Leader of the Opposition, and must be someone who meets the prescribed qualifications for appointment as a judge of the Supreme Court.

4.10.3.5	Our concerns remain, in keeping with our remarks on 4.9.1.
6.1.9	<p>We remain of the view that excluding dual citizens from Parliament is a retrograde approach in the Jamaican context.</p> <p>The theoretical risk mentioned in your document dated May 17, 2024 is outweighed by the benefits of opening the talent pool to all Jamaican citizens, many of who have dual citizenship.</p> <p>Indeed, dual Jamaican/other Commonwealth citizenship has been permitted since independence in 1962, and the risk you refer to has not been a problem. The Commonwealth criterion is now obsolete and should be replaced by affording all Jamaican citizens the opportunity to serve in Parliament.</p>
6.3	<p>We note that the CRC agrees that the Constitution should include a procedure for holding parliamentarians to account for misconduct. However, the CRC Report is deficient in failing to provide a robust solution.</p> <p>Merely relying on the existing mechanisms (the 5 year re-election cycle and the criminal justice system) will be regarded by many Jamaicans as inadequate to address the issue.</p> <p>As we have pointed out previously, the introduction of an impeachment procedure has received support from both political parties. It also enjoys some support in the media and civil society.</p> <p>The fact that in 74 years Costa Rica has never had to use its impeachment procedure to remove a President may be regarded as evidence of the efficacy of the existence of an impeachment procedure in discouraging impeachable conduct.</p>
6.5.3	The mechanism for extending the life of Parliament beyond 5 years must address/mitigate the potential and temptation for abuse which would arise if this power were to reside solely in the hands of the Government of the day through its parliamentary majority.

Mark J. Golding, Leader of the Opposition
June 19, 2024

ANNEX II

**COMMENTS ON THE REPLY OF THE LEADER OF THE
OPPOSITION ON THE CRC'S RESPONSES TO HIS ORIGINAL
COMMENTS**

The CRC's Report was finalised and submitted to Cabinet so the reference should be to the CRC's Report and not the draft CRC Report.

RELEVANT CLAUSES	COMMENTS
4.9.1	The Leader of the Opposition appears to have accepted the CRC's opinion that the appointment of the Chief Justice as Interim or Acting President is not desirable. The CRC is not opposed to the Leader of the Opposition's suggestion that the Acting President should be selected on the basis of a majority vote of the President's (Jamaican Privy) Council after consultation with the Prime Minister and Leader of the Opposition.
4.3.3 & 4.3.4	<u>Substantive Appointment of President in Cases of Deadlock</u> The CRC recommended a 2-stage process. In the case of deadlock, a solution has to be provided. Ultimately in a democracy, the decision of the majority has to be allowed to prevail. Our previous

	<p>experiences in the appointment of Governors-General, where three of them were previously active politicians do not suggest that the selection of the President by the Prime Minister with the added need to obtain a parliamentary majority in favour will result in the selection of an unworthy or incompetent President. In addition, the functions and powers to be performed by the President do not suggest that there is much scope for unprincipled, partisan decision-making.</p>
4.10.3	<p>The CRC does not agree that the principle of adjudication by a non-partisan tribunal where an adverse finding may be made with a serious sanction being imposed is inapplicable to a person holding parliamentary office. The Leader of the Opposition has not provided any example where the impeachment process has operated efficiently and fairly.</p>
4.10.3.5	<p>The CRC adheres to its opinion on the selection of the President from an expanded pool which includes members of the President's Council.</p>
6.1.9	<p>The CRC's recommendation did not amount to excluding dual citizens from Parliament as the Leader</p>

	<p>of the Opposition suggests but only conflicting allegiance. The CRC believes that where a person has conflicting loyalties the obligation to faithfully serve and protect the interests of Jamaica and its citizens may be compromised.</p>
6.3	<p>The CRC has conducted a careful examination of the pros and cons of introducing an impeachment process, but adheres to its view that it runs a great risk of descending into partisan and bitter conflicts. Neither the Leader of the Opposition nor those who have advocated it have given any examples where it has operated fairly and efficiently or any assurance that in Jamaica it would not become a weapon of political vindictiveness.</p>
6.5.3	<p>The CRC believes that its recommendation if modified by the shortening of the duration of the first extension and the application of a special majority will remove any temptation or facility for abuse.</p>

LLOYD BARNETT

May 21, 2024