



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

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### **MINUTES**

#### **43<sup>rd</sup> Meeting of the Constitutional Reform Committee (CRC)**

**Venue: Ministry of Legal and Constitutional Affairs**

**Date: June 26, 2024**

**Time: 10:00am**

### **AGENDA**

1. Call to Order
2. Prayer
3. National Pledge
4. Apologies for Absence/Lateness
5. Confirmation of Agenda
6. Confirmation of Outstanding Minutes of CRC Meetings

#### **6A. Update on Reform Programme**

7. Public Education and Engagement
8. Any Other Business
9. Date and Time of Next Meeting
10. Adjournment

**\*Amendments to Agenda**

## **ATTENDEES:**

- Ambassador Rocky Meade, CD, JP, PhD (Co-Chairman – Office of the Prime Minister)
- Dr. Derrick McKoy, CD, KC (Attorney General of Jamaica)
- Mr. Hugh Small, KC (Consultant Counsel and Nominee of the Leader of the Parliamentary Opposition)
- Dr. the Hon. Lloyd Barnett, OJ (National Constitutional Law Expert)
- Dr. David Henry (Wider Society – Faith-Based)
- Dr. Elaine McCarthy (Chairman – Jamaica Umbrella Groups of Churches)
- 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)

### **Secretariat**

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

- Mr. Wayne O. Robertson, JP, Permanent Secretary
- Mrs. Cheryl Bonnick-Forrest, Senior Director, Strategic Planning
- Mr. Christopher Harper, Senior Constitutional Reform Officer
- Mr. Makene Brown, Legal Officer
- Mrs. Shawna-Kaye Taylor Reid, Administrative Assistant (Actg.)

## **1. CALL TO ORDER**

- 1.1. The meeting was called to order at 10:04am in the absence of a quorum by Co-Chairman Ambassador Rocky Meade to deal with administrative matters. Ambassador Meade noted that where decisions were taken, a ratification of the decisions would be done once quorum was achieved.

## **2. PRAYER**

- 2.1. Prayer was offered by Dr Elaine McCarthy.

### **3. NATIONAL PLEDGE**

- 3.1. The National Pledge was recited.

### **4. APOLOGIES FOR ABSENCE/LATENESS**

- 4.1. An apology for absence was received from Senator Donna Scott-Mottley.
- 4.2. Apologies for lateness were tendered on behalf of Mrs. Laleta Davis Mattis, Mr. Hugh Small and Mr. Anthony Hylton.
- 4.3. The Chairman, the Hon. Marlene Malahoo Forte and Dr. Nadeen Spence indicated that they would attempt to join the meeting online as they were both overseas.

### **5. CONFIRMATION OF AGENDA**

*Dr. David Henry joined the meeting at 10:08am*

- 5.1. The Chairman advised that the Confirmation of the Agenda would be recommitted when there was a quorum.

### **6. CONFIRMATION OF OUTSTANDING MINUTES OF CRC MEETINGS**

- 6.1. The Co-Chair, with the permission of Members present, suspended the Agenda for a few minutes to enable Members to review the Minutes of the 37<sup>th</sup> to 41<sup>st</sup> Meetings of the Constitutional Reform Committee. He explained that the relevant Minutes would be duly confirmed once there was a quorum. He then invited Members to examine the Minutes noting any changes. He then asked Mr. Harper to advise when there was a quorum.

*Sujae Boswell joined via video link at 10:11am*

*Dr. Barnett joined at 10:23am*

*Mr. Small arrived at 10:40am*

*Mr Harper advised that the meeting was quorate at 10:40am*

### **7. CONFIRMATION OF AGENDA (RECOMMITTED)**

- 7.1. The Co-Chair stated that having obtained a quorum, the Agenda could be confirmed. He then invited Members to indicate whether they wished to propose any changes.
- 7.2. Dr. Barnett stated that there was no agenda item regarding updates on the progress of the Constitutional Reform Programme. Dr. McKoy suggested that the Agenda be amended to insert a subparagraph at item 6 entitled “*Update on Reform Programme*”
- 7.3. There being no other amendments, the Agenda was recommitted and confirmed on a motion by Dr. Elaine McCarthy and seconded by Dr. Derrick McKoy.
- 7.4. Dr. Barnett stated that he had enquired, on separate occasions, about the response to the Leader of the Opposition, noting that it was not on the Agenda. The Co-Chair, in response, recalled that there was agreement among Members on the need to respond but noted procedural challenges. He suggested that it be dealt with as a matter arising. Dr Barnett opined that it was not a matter arising but a matter of concern. Dr. McKoy said it could be treated as an update.

## **8. UPDATES ON REFORM PROGRAMME**

- 8.1. The Permanent Secretary advised Members that Ms. Nastacia McFarlane would provide a general update whereas he would provide a brief update on the progress made to date. He commended the integral team comprising Ms. Nadine Wilkins, Mr. Christopher Harper and Mr. Makene Brown who did extensive work in preparing the Drafting Instructions which has since been submitted to the Chief Parliamentary Counsel (CPC). He advised that the Instructions were submitted to the Minister prior to it being sent to the CPC and that the CPC was assiduously working on preparing the Bill, the production of which would impact the establishment of a clearer timeline. He noted that the Drafting Strategy Sub-Committee would be instrumental in the review of the Bill. He also informed Members that the Bill proposing an amendment to Section 61 of the Parliament was passed in the House of Representatives and was before the Senate for review.
- 8.2. Mr. Small enquired whether the Committee would have an opportunity to examine the Bill before it was sent to the Cabinet. Mr. Robertson responded that it would be shared before.
- 8.3. Mr. Harper reminded Members of the indicative timeline that was shared previously which suggested a series of activities as a precursor to the tabling of the Bill. He highlighted that a two-day retreat may be convened with Members of the Committee to facilitate the review of

the draft Bill ahead of its submission to the Legislative Committee of Cabinet. He suggested that while those initial dates were no longer tenable, the proposed sequence of activities were likely to remain the same.

- 8.4. Mr. Small then enquired whether there was a date for the Retreat to which Mr. Harper responded that such would be determined once a draft Bill was submitted by the CPC.
- 8.5. Dr. McKoy enquired into the responsibilities of the Committee and where its work ended. Dr. Barnett, in response, explained that the Terms of Reference of the Committee stipulated that Members were not only concerned with the Drafting Instructions but also the draft Bill. If that remained the case, he suggested that Members be apprised of the Drafting Instructions, especially having regard to the establishment of the Drafting Strategy Sub-Committee mandated to support the drafting process.
- 8.6. The Co-Chair advised that while the details and precise dates could be later clarified, there was agreement that the Committee would be informed of the work done and that the Bill ought capture what was discussed.
- 8.7. Dr. Barnett stated that he had not seen the Drafting Instructions and reiterated that the Members of the sub-committee should have been apprised of it.
- 8.8. Mr. Robertson explained that the Drafting Instructions were prepared internally by technocrats within the Ministry and on the matter of the involvement of the sub-committee, there was room for members to weigh in.
- 8.9. The Co-Chair then enquired whether provision could be made for the Drafting Instructions to be shared with the members of the sub-committee. Mr. Robertson responded that arrangements could be made.
- 8.10. Dr. McCarthy enquired whether there were any updates on the response to the Leader of the Opposition to which Mr. Robertson indicated that he was unable to speak to that.

## **9. PUBLIC EDUCATION AND ENGAGEMENT**

- 9.1. Ms. McFarlane provided an overview of the work of the Ministry in supporting constitutional reform. She began by noting that the Ministry participated in the 10<sup>th</sup> Biennial Jamaica Diaspora Conference held from June 17 to 19, 2024 in Montego Bay, St James. She stated that there was a plenary session on Constitutional Reform and a booth in the marketplace exhibition. During this exhibition, members of the Secretariat handed out brochures and

paraphernalia to members of the public who attended. She expressed that the feedback was largely positive and that the engagement was timely.

- 9.2.** Thereafter, she advised Members that there was a meeting of the Public Engagement and Communication Sub-Committee to discuss a number of short-term engagements. From this meeting, it was suggested that communities be engaged via a “pon di corner reasoning” as it would facilitate more intimate dialogue on constitutional reform. She explained that these meetings would take place in bars, wholesales, barbershops and other similar places. She noted that these sessions would require the CRC and the Ministry to engage the relevant Members of Parliament ahead of the activity to ascertain available dates.
- 9.3.** She further advised Members that the Ministry would be convening a webinar series on July 8<sup>th</sup> and 10<sup>th</sup>, 2024 respectively from 6pm to 8pm. These sessions would be convened by the Legal Education Division and be facilitated via Zoom. She informed Members that persons would have the opportunity to register in advance. The webinar was intended to be a teach and learn session on the substance of the Report of the Committee.
- 9.4.** Dr. McCarthy enquired whether the sessions would be streamed on YouTube to which Ms. McFarlane indicated that the team would look into it.
- 9.5.** She then informed Members that the Constitutional Reform Division, with the support of the Legal Education Division, had been working together to prepare a popular version of the Report that would be widely disseminated. She advised that a graphic designer was engaged to illustrate the booklet and that the team was awaiting the final version of the proposed simplified text. She then stated that a graphically designed version of the Report was also being prepared for Parliamentarians and other technocrats. Quotations were received from the Jamaica Information Service (JIS) and purchase orders were being prepared.
- 9.6.** Beyond this, she advised Members that dates were being identified to host sessions with civil society groups and other critical stakeholders and that a Town Hall was being proposed for Emancipation Park to be aired live on Television Jamaica (TVJ). Ms. McFarlane then suggested that there be a discussion among Members about the scope of the Town Hall.
- 9.7.** The Co-Chair asked Ms. McFarlane to state the minimum time needed to plan a Town Hall. Ms. McFarlane, in response, indicated three (3) weeks. The Co-Chair then proposed that the Town Hall be held in the week of the 22<sup>nd</sup> as it was the last full week of the month.

- 9.8.** Mr. Small enquired about the modality of the civil society engagement. Ms McFarlane advised that it would take the form of a face-to-face interaction with members from civil society groups identified by Dr. Spence.
- 9.9.** Dr. Barnett invited members to recall that two groups requested to meet with the Committee. Mr. Robertson, in response, stated that the Committee was reminded of those submissions and that there needed to be agreement on how to proceed.
- 9.10.** Mr. Small asked Members to consider whether there was anything to be gained by engaging these groups having regard to the fact that the Report was already submitted to Cabinet and Drafting Instructions were being refined.
- 9.11.** Mr. Robertson said that there would be an opportunity for all groups to make submissions when a Joint Select Committee of Parliament was convened to review the Bill.
- 9.12.** Mr. Small then suggested that those groups who requested audience with the Committee be updated on the progress to date. In the correspondence, they should also be invited to indicate whether they were still interested in make a presentation to the Committee or would await the Joint Select Committee. Dr Henry echoed support for the approach proposed.
- 9.13.** The Co-Chair then instructed that a reply be prepared indicating the position of the Committee and any opportunities to come.
- 9.14.** Additionally, Ms. McFarlane advised members that the Ministry was working with the Radio Jamaica (RJR) Group to reconvene a radio programme on constitutional reform dubbed “All Things Legal” hosted by Clive Mullings. This programme would now feature a call in segment to garner feedback from the public on the reform process. A contract and a brief were being prepared. She further stated that while Mr. Harper would serve as the main voice there would be opportunities for members of the Committee to participate.
- 9.15.** She also appealed to Members that whenever requests for engagement were brought to their attention, notice should be sent to the Permanent Secretary in writing so that support could be provided where required.

*Mrs. Davis Mattis joined at 11:36am*

- 9.16.** The Co-Chair then reinvited Members to articulate whether the week of the 22<sup>nd</sup> of July was suitable to host a Town Hall at Emancipation Park. Once agreed, the Secretariat would consult with the relevant stakeholders to identify the best date.

- 9.17.** Mr. Boswell enquired whether a more suitable week would be that of “Emancipence” celebrated from August 1-6, 2024. He invited Members to recall that during last year’s Grand Gala, a drone display highlighted the fact that Jamaica was on a journey to becoming a Republic. He then suggested that the Ministry of Legal and Constitutional Affairs could partner with the Ministry of Culture, Gender, Entertainment and Sport.
- 9.18.** Dr. Barnett suggested that the Emancipence week should be avoided because of the vast number of activities that took place during that week which would shift public focus away from reform efforts. Dr. McCarthy suggested that a booth could be set up in the Independence Village during the relevant period.
- 9.19.** Mrs. Davis Mattis endorsed the suggestion for a booth at the Independence Village and the convening of the Town Hall before the “Emancipence” week.
- 9.20.** Having regard to the discussion, Mr. Boswell then suggested that the Town Hall be held immediately after “Emancipence,” rather than before, to capitalise on the national pride and patriotism often demonstrated during that period. Mr. Harper reminded members that there would other Town Halls targeting citizens in other parishes.
- 9.21.** The Co-Chair, in summarising the discourse, stated that there was agreement that the Town Hall should not be held during “Emancipence” week but enquired whether it should be held before or after.
- 9.22.** Mr. Small, in response, reminded members that the national attention during the month of August would be on the Olympic Games in Paris. It would therefore be difficult to get persons to focus on constitutional reform.
- 9.23.** There being no other points raised, the Co-Chair stated that the Kingston and St Andrew Town Hall would be held during the week of July 22 with the remaining Town Halls to follow the Olympic season.
- 9.24.** Mrs. Davis Mattis then invited members to recall discussions about engaging the Institute of Jamaica which had a lecture theatre. She suggested that such a space could be used to engage Government agencies. Dr. Barnett stated that the Bank of Jamaica had a sizeable conference room that the Jamaican Bar Association had once utilised.
- 9.25.** Mr. Harper reminded members that the Legal Education Team had commenced engagement with public sector workers and to date have sensitized over 2000 civil servants across forty-five (45) Ministries, Departments and Agencies.



- 9.26.** Mrs. Davis Mattis commended the team and enquired whether there was any merit to a larger forum being convened with civil servants.
- 9.27.** Professor Albert enquired whether it would make more sense to do the Town Hall outside of Kingston, in an area such as Portmore. He explained that if the idea was to build interest and education, it may be best if the signature event was done outside of Kingston. In response to this suggestion, the Co-Chair enquired whether any member had a perspective that they wished to contribute.
- 9.28.** Dr. Barnett stated that it would be strategic to host the Town Hall in Kingston as it would enable the Committee to take advantage of the concentrated attention in Emancipation Park.
- 9.29.** Mr. Robertson advised Members that the team was cognizant of the fact that planning a Town Hall was a very involved process which required the procurement of goods and services in advance. Mrs. Davis Mattis enquired whether it was possible to procure everything at once. Mr. Robertson responded affirmatively as the Ministry had done so in the past. He then stated that while he was not averse to having it in Portmore or Kingston and St Andrew, Dr. Barnett's point was well noted. He also warned against having them back to back.
- 9.30.** Mrs. Davis Mattis further enquired whether it was possible to develop a schedule of activities so that Members of the public would be apprised of the Committee's engagements. She also highlighted a number of agencies within communities who could be engaged such as the Social Development Commission. Mr. Robertson informed Members that the Ministry was in the process of engaging them.
- 9.31.** Mr. Harper stated that the size of St. Catherine may require engagements in both Spanish Town and Portmore which could affect planning and coordination. Mr. Small, in response, cautioned the assumption that a meeting in a parish capital was sufficient to serve the people of the parish. While Spanish Town and Portmore were the concentration of people who live in St Catherine, there were other areas such as Bog Walk, Linstead, and Ewarton amongst others. He stated that those spaces were no less important and should be considered when planning engagement activities.
- 9.32.** The Co-Chair thanked everyone for their submissions and noted that it would be advantageous to have a schedule of activities as far as possible and that the schedule should not be limited to Town Halls. He also stated that there seemed to be consensus on a Town

Hall at Emancipation Park during the week of July 22 followed by a Town Hall in Portmore on a date to be identified.

- 9.33.** Dr. Henry, having highlighted that the success of a referendum hinged on consensus between the Government and the Opposition, enquired whether it would be possible to navigate the content of a Town Hall when both parties were on different pages. The Co-Chair asked whether he was able to propose a suggestion. Dr. Henry indicated that the answer would have to come from the political actors.
- 9.34.** Dr. Barnett noted that there were a number of issues raised in the Report on which there was political disagreement. If a successful outcome was desired, a solution was needed.
- 9.35.** Mrs. Davis-Mattis opined that the Committee should not concern itself with any determination that is to be made between the two political parties. She stated that Jamaicans were sensible enough to form their own views. The Committee did what was required, proposed recommendations and made commitments to engage in good faith. Dr. Barnett, in response, stated that such a perspective ignored a number of substantive points such as the implementation of the basic recommendations requiring an affirmative vote in a referendum.
- 9.36.** Mr. Small expressed that Mrs. Davis Mattis' point of view, while seemingly philosophical, was not practical for the Committee considering what was required for the referendum. He stated that there may be issues against which persons had campaigned because they disagreed with subsidiary points. He noted that if the Committee desired a successful outcome, Members should pay attention to Dr. Barnett's perspective.
- 9.37.** The Co-Chair then suggested that Mr. Robertson ask the Chairman to provide an update on the status of the discussion between the political leaders.

## **10. ANY OTHER BUSINESS**

### **10.1. CONFIRMATION OF MINUTES (RECOMMITTED)**

**10.1.1.** Dr Barnett indicated that it was not possible to confirm the Minutes at the time, without the relevant reference materials appended to the Minutes.

**10.1.2.** The confirmation of Minutes was therefore deferred until the next meeting of the Committee.

**11. DATE AND TIME OF NEXT MEETING**

**11.1.** The Co-Chair advised that the next meeting of the Committee would be held on Wednesday, July 3, 2024. The meeting would commence at 9:30am.

**12. ADJOURNMENT**

**12.1.** There being no other business, the meeting was terminated at 12:33pm on a motion raised by Dr. Derrick McKoy and seconded by Dr. David Henry.