



OFFICE OF THE LEADER OF THE OPPOSITION

June 3, 2022

Minister Marlene Malahoo Forte
Minister of Legal & Constitutional Affairs
Ministry of Legal & Constitutional Affairs
c/o 1 Devon Road
Kingston 10

Dear Minister Malahoo Forte,

I acknowledge receipt, on the afternoon of Wednesday June 1, 2022, of your letter dated May 31, 2022 captioned “Establishment of Constitutional Reform Committee”, and confirm that the Parliamentary Opposition will participate in the deliberations of this Committee.

You have described the remit of this Committee as “*to conduct a thorough and comprehensive review of the 1962 Constitution, including the 2011 Charter of Fundamental Rights and Freedoms, as well as recommendations for reform made through the various constitutional reform commissions and committees in the past, to ultimately implement an ambitious reform agenda, settled by consensus*”.

This will be a major undertaking, and the Parliamentary Opposition has no idea of the Government’s specific priorities in relation to the reform process. I must state some initial concerns:

1. Firstly, the country is anticipating that the process for our country to become a republic with a Jamaican head of state will begin in earnest this jubilee year celebrating our 60th anniversary of independence. Indeed, the Prime Minister publicly told Prince William in clear terms in March this year that this is where Jamaica is going.

The relevant parameters in this regard have already been agreed by the two major political parties arising from the extensive constitutional reform consultative processes over the past 25 years, and the required legislative research has already been done.

We are now in June, and we feel strongly that the commencement of the process cannot be delayed by shunting the matter to be again deliberated by another Committee

2. There is also the critical matter of Jamaica adopting the Caribbean Court of Justice as our final court of appeal. Again, the preparatory work for this has already been done. This matter concerns the fundamental issue of access to justice for our citizens, and is a logical adjunct to moving away from the British monarchy.

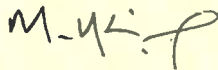
We do not wish this matter to be enmeshed in another process of deliberations by another Committee.

3. Thirdly, the Charter of Rights was recently enacted, and importance jurisprudence is already beginning to emerge from the Courts as to the meaning and effect of some of its provisions. There is an important pending judgement of the Constitutional Court relating to the constitutionality of the Government's recent use of the State of Public Emergencies, a matter which (as you are aware) was the subject of adverse dicta by the Supreme Court in a previous case.

The Opposition is not persuaded that this is an appropriate time to embark on, and sees no compelling need for, a review of the Charter of Rights.

I hope to hear from you soon on the foregoing issues of concern. Your responses will be considered in making my choice of the persons to represent the Parliamentary Opposition on the Committee.

Yours truly,



MARK J. GOLDING
Leader of the Opposition



OFFICE OF THE LEADER OF THE OPPOSITION

June 22, 2022

Minister Marlene Malahoo Forte, QC, MP (Hon)
Minister of Legal & Constitutional Affairs
Ministry of Legal & Constitutional Affairs
C/o 1 Devon Road
Kingston 10

Dear Minister,

Re: Constitutional Reform Committee

I am following up on my letter to you dated June 3, 2022, on the captioned matter, to which I have not yet received a reply.

I await your substantive reply to that letter.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. J. Golding'.

Mark J Golding, MP
Leader of the Opposition



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)

ANY REPLY OR SUBSEQUENT REFERENCE TO THIS COMMUNICATION SHOULD BE ADDRESSED TO THE PERMANENT SECRETARY

January 5, 2023

Mr. Mark Golding, MP
Leader of the Opposition
1 West King's House Close
Kingston 6

Dear Mr. Golding,

Re: Establishment of Constitutional Reform Committee

I take this opportunity to wish you and your family a happy new year.

Please refer to my telephone voice message to you on the 3rd instant, your WhatsApp message of even date in response, as well as my letter to you dated May 31, 2022, requesting the nomination of two (2) members of the Parliamentary Opposition (one from each House of Parliament) to sit on the Constitutional Reform Committee (CRC).

I note the contents of your response letter dated June 3, 2022, encompassing three (3) areas of concern. Since then, we have spoken informally on the matter and you may have also taken note of the Statements by Minister presented by me updating the Parliament on several related issues.

By way of formal response to the concerns raised, please see below:

Concern No. 1

“Firstly, the country is anticipating that the process for our country to become a republic with a Jamaican head of state will begin in earnest this jubilee year celebrating our 60th anniversary of independence.....we feel strongly that the commencement of the process cannot be delayed by shunting the matter to be again deliberated by another Committee.”

Response

The CRC is being formally constituted and is to be announced in the Parliament next Tuesday, January 10, 2023 (if there is a sitting). The reform work will be done in phases, with Phase 1 focusing on the transition from a constitutional monarchy to a republic and matters for which a referendum is required. The proposed duration of work in Phase 1 is an ambitious six (6) weeks, commencing January 18, 2023, and ending on March 1, 2023.

.../2

Page 2

January 5, 2023

Mr. Mark Golding, MP
Leader of the Opposition

Re: Establishment of Constitutional Reform Committee

Concern No. 2

“There is also the critical matter of Jamaica adopting the Caribbean Court of Justice as our final court of appeal. Again, the preparatory work for this has already been done. This matter concerns the fundamental issue of access to justice for our citizens and is a logical adjunct to moving away from the British monarchy. We do not wish this matter to be enmeshed in another process of deliberations by another Committee.”

Response

Phase 1 of the reform programme will encompass implementation of matters on which there is consensus and for which a referendum is required. Adoption of the Caribbean Court of Justice (CCJ) as our final court of appeal is not a settled issue - unlike the abolition of the constitutional monarchy and subsequent establishment of the Republic of Jamaica on which there is consensus.

The question of the final court will be put before the CRC during the second phase of the reform work, to commence after tabling the Bill to provide for the Republic of Jamaica and related matters.

Concern No. 3

“The Opposition is not persuaded that this is an appropriate time to embark on, and sees no compelling need for, a review of the Charter of Rights.”

Response

A review of aspects of the Charter of Fundamental Rights and Freedoms is of high priority for the government, to ensure that right balance is struck to facilitate the implementation of solutions to some of the most pressing challenges in the nation.

A comprehensive review of the Constitution to ultimately provide a new Constitution of Jamaica, retaining the best features of the existing Constitution, but reflecting the realities of the present and providing for the aspirations for the future, reflecting modernity, international best practices, the will of the people of Jamaica, and guided by research and consultations is also required. The new Constitution should include, *inter alia*, certain social, economic, and cultural rights (for example), which are not contained in the present Constitution.

I should therefore be grateful for your usual prompt response. I ask that the names of the representatives of the Parliamentary Opposition for the CRC be submitted by **Monday, January 9, 2023** to facilitate the next step in the process.

Sincerely,



Marlene Malahoo Forte, KC, MP
Minister



OFFICE OF THE LEADER OF THE OPPOSITION

January 10, 2023

Mrs. Marlene Malahoo Forte, KC, MP
Minister of Legal & Constitutional Affairs
C/o 1 Devon Road
Kingston 10

Dear Minister Malahoo-Forte,

I wish you and your family all the best for 2023.

I have received your letter dated January 5, 2023, replying to my letter to you of June 3, 2022.

I have some concerns which will delay my appointment of representatives to the proposed committee until we achieve a common understanding on them:

1. I consider that the move to make Jamaica a republic ought to walk in tandem with the move to accede to the CCJ as our final court of appeal. The processes for our departure from both vestiges of our colonial past ought to commence simultaneously, with a commitment to achieving Jamaica's final decolonization by completing both processes as expeditiously as practicable.


The expansion of our people's access to their final court of appeal is a practical benefit of utmost importance to be derived from this constitutional reform, not to be further delayed.

2. Please provide full and transparent disclosure of the specific changes to the Charter of Rights that the Government is intent to pursue, and of the amendments requiring a referendum that the Government intends to pursue (other than moving to a republic).

I am not willing to participate in an exercise that may lessen or weaken the Charter's fundamental rights and freedoms, or which would result in more restricted parliamentary oversight of the executive branch's recourse to emergency powers.

I hope that we can achieve consensus on these important matters, and that you will reply to this letter more expeditiously than the last one.

Yours truly,


MARK J. GOLDING
Leader of the Opposition