



**MINISTERIAL STATEMENT**  
**To the House of Assembly**

**by**

**The Hon. Kathy Lynn Simmons, JP, MP**  
**Attorney-General and Minister of Legal Affairs**  
**and Constitutional Reform**

**Update on Constitutional Reform**

*Friday, 18<sup>th</sup> November, 2022*

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**Mr. Speaker**, I rise today to update this Honourable House on the project of Constitutional Reform for Bermuda.

**Mr. Speaker**, Bermuda's Constitution is a live instrument that must remain relevant to the needs and aspirations of our People, as it is the foundation of our constitutional democracy. The 2022 Speech from the Throne renews this Government's commitment

to exploring greater ways to improve our constitutional arrangements. We are undertaking two overarching approaches to constitutional reform. That is to say, the project of constitutional reform encompasses needed piecemeal amendments to the Bermuda Constitution Order 1968, referred to as ‘modernising’ reforms, which may or may not provide greater self-governance. Secondly, the constitutional reform project will also consider bolder steps towards a full measure of self-governance by legitimate and acceptable means. Full self-governance for territories is defined by United Nations mandates, ultimately leading to a territory’s achievement of:

- ‘Independence’ or ‘Sovereignty’;
- ‘Integration’ with an Administering State; or
- ‘Free Association’ with another Sovereign State.

**Mr. Speaker**, putting piecemeal constitutional amendments to one side, Members will recall that historically the pinnacle of

constitutional reform for Bermuda has focused on pathways to independence or sovereignty. Thus, the Bermuda Independence Commission's 2005 Report provided seminal considerations and recommendations as Bermuda weighed the value proposition of constitutional reform leading to sovereignty at that time.

**Mr. Speaker**, the work of the Bermuda Independence Commission, and its 2005 report, remain valuable to the constitutional reform project for Bermuda. We recall that the impetus for the Bermuda Independence Commission was precipitated by events such as the 1995 independence referendum; the Progressive Labour Party's win at the 1998 general election; and other global winds of change directed at achieving full self-governance for overseas territories of UN Sovereign Member States. A report by a United Nation's Mission

to Bermuda in 2005 also framed observations on Bermuda's readiness for self-governance.

**Mr. Speaker**, it is the Government's position that constitutional reform in today's context would be incomplete if it did not include the exploration of options for full self-governance for Bermuda—whether that is by way of sovereignty or one of the other internationally recognised pathways, such as integration or free association.

**Mr. Speaker**, constitutional reform has featured in both the 2021 Speech from the Throne and the 2022 Speech from the Throne. The 2021 Speech from the Throne promised, *“During this session, and in keeping with the United Kingdom Government's request for recommendations, the Government will advance proposed amendments to the Bermuda Constitutional Order 1968.”*

Fast-forward to today, the 2022 Speech from the Throne builds upon this by signaling the Government’s intent to take a wider scope to constitutional reform encompassing a “mature approach” to discussions with the UK Government about self-determination for Bermuda, alongside public engagement at home through wide-ranging community discussion and education.

That so-called mature approach, and public engagement starts now, as we open up the dialogue by informing the public of the steps taken and the trajectory going forward.

**Mr. Speaker**, in furtherance of the Government’s constitutional reform priorities, in May of this year I attended the United Nations Special Committee on Decolonization seminar entitled: *‘United Nations Special Committee on the Situation with Regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples*

*Pacific Regional*'. Recognising the value of that experience, in June, I delivered an address at a resumed session at the United Nations General Assembly in New York City. Attendees included representatives from the remaining 17 overseas dependent territories (or non-self-governing territories) of the UN Member States.

On the heels of my UN address, I commissioned a benchmarking assessment of Bermuda's perceived readiness to advance towards greater, or full, self-governance. A draft report entitled: *'Assessment of Self-Governance Sufficiency in conformity with internationally-recognised standards'* was delivered on the 5<sup>th</sup> of October, 2022 by Dr. Carlyle G. Corbin, international advisor on global governance at a contracted price of fifty thousand dollars (\$50,000.00). Dr. Corbin, is also a UN expert and former Minister of States for External Affairs of the US Virgin Islands. Dr. Corbin is no stranger to Bermuda, having functioned as an

expert for the UN's Mission to Bermuda in 2005, which contributed to the Bermuda Independence Commission's exercise. He has also lectured here at Bermuda College on governance and political development.

**Mr. Speaker,** Dr. Corbin is the best person to conduct this assessment for Bermuda, as he is the designer of the 'Self-Governance Indicators' diagnostic tool which assesses self-governance sufficiency and preparedness of island non-self-governing countries.

Dr. Corbin's expert influence spans the globe, as he has conducted Self-Governance Assessments across the Caribbean and Pacific regions, including countries such as Curacao, French Polynesia, Norfolk Island, Guam, and most recently for The Virgin Islands (BVI).

Since its naming in the 2022 Speech from the Throne, much public speculation abounds about what is contained in Dr. Corbin’s report. I would describe the report as a comprehensive assessment evaluating the political, legal and structural status of our existing constitutional model, to determine Bermuda’s self-governance sufficiency across ten (10) ‘Self-Governance Indicators’.

**Mr. Speaker**, the application of the Self-Governance Indicators to Bermuda, as provided in Dr. Corbin’s report, gives insight as to areas where there are structural, political or legal inequities in the constitutionally delegated power and authority to local officials, as assessed against the reserved powers of the Sovereign—as exercised by the United Kingdom Government and/or Her Excellency the Governor.

The complete report is yet to be fully considered by the Cabinet, so I am cautious not to get ahead of the Cabinet's discussion and decision making in this regard. What I will share publicly at this time, is that the methodology used in the report is the preeminent tool utilised by other countries during their preparatory steps towards full self-government. It is anticipated that the final report may be ready for tabling in the Legislature as soon as 2<sup>nd</sup> December, 2022, once Cabinet's review is complete.

**Mr. Speaker**, when we talk of full self-governance for territories we must understand that it is mandated under Article 73(b) of the UN Charter; and overseen by the work of the United Nations Special Committee on Decolonization. It is also a requirement under the UN Charter, that Member States support their territories with the progressive realisation of self-governance, decolonization and/or sovereignty. By way of reference, the UK Government's White Paper '*The Overseas Territories Security*,

*Success and Sustainability*’ (2012) represents the UK’s formal public position on the relationship with its territories, including its views on constitutional reform leading to greater self-governance and sovereignty.

**Mr. Speaker**, as a mature nation, we know, understand and feel the impacts of the UK’s imposed limitations on the democratic will and aspirations of our People. This occurs whenever UK officials decide to exercise the reserved colonial powers, with the effect of erasure or neutering local policies and mandates. The Government knows all too well the frictions which arise in the relationship with the UK under our ‘Elected Dependency Governance’ status—to use a United Nations term—which abides under the 1968 Constitution Order.

**Mr. Speaker,** the challenges of maintaining the constitutional *status quo* of Elected Dependency Governance in Bermuda is becoming starkly contrasted against local aspirations of full self-governance and the desire for a modernised relationship with the UK—one based on equality rather than subordination in a post-colonial world. It is from a position of national democratic development that we are empowered to actively consider the full range of self-governance options for Bermuda via the constitutional reform process.

**Mr. Speaker,** let me reiterate that public information and education on the subject of constitutional reform and self-governance remains an immediate goal of the exercise, as promised in the 2022 Speech from the Throne. In fact, a takeaway from the UN Mission’s 2005 observation on Bermuda, is the recognition that there were clear deficits in public awareness of the issues around self-determination.

Unsurprisingly, **Mr. Speaker**, UN observers found little local knowledge of all the options available to Bermuda to achieve full self-governance. The historic focus on independence alone, as the only option available to Bermuda, can be viewed as self-limiting. It does not align with the range of options open to all territories seeking full self-governance under the UN Charter.

In keeping with a mature and transparent approach, the Government's pledge is to provide comprehensive public education and engagement to foster informed public dialogue regarding self-determination and self-governance. This will be an ongoing endeavor that will certainly ensure that the collective voice of Bermuda's electorate is heard.

Projecting forward, **Mr. Speaker**, as a 'Non-Self Governing Overseas Territory'—to use another UN term—Bermuda will enter into comprehensive discussions on self-determination, self-governance and constitutional reforms that are vital to our

continuing development as a nation. Next steps will also include exploring minimum standards that provide for the full measure of self-governance options available for Bermuda. Furthermore, a Cabinet Decision will allow for a framework for defining, prioritising, discussing and approving what the path towards greater or a full measure of self-governance looks like for Bermuda.

**Mr. Speaker**, at this point, I wish to quickly dispel any public agitation or misinformation which attempts to paint a narrative of a clandestine political plan to take Bermuda to sovereignty at any cost.

To be absolutely clear: there is no formula or pathway to sovereignty for Bermuda, which excludes an unambiguous democratic mandate from the Bermuda electorate. We can put any speculation of the contrary to rest. Understanding that

persons have strong and passionate views about sovereignty should not restrain the country from exploring, discussing and considering whether full-self-governance is the aspiration of its People, and setting out a pathway for how, or when, it might be achieved.

Finally **Mr. Speaker**, constitutional reform is overdue. Bermuda's collective advancement as a mature nation must coalesce around a strong, palpable, national identity and a declaration of the People of Bermuda to define how they chose to be governed. It is now ripe for present generations to have an active say in a constitutional reform process that is relevant to our democratic needs.

Wider public input was fundamentally denied past generations, as a result of entrenched exclusion from the constitutional development process that produced our 1968 Constitution.

Likewise, known, historic racialised disparities in political representation and the absence of other fundamental rights at the time undermine the democratic legitimacy of the Constitutional model we obtained from the United Kingdom.

To redress those past wrongs, we believe, as a Government, that Bermudians must be emboldened to re-frame the Constitution—as a living instrument—with our ambitions to construct our island community into an image and vision fit for the Bermuda of today, and into the future.

Thank you, **Mr. Speaker.**