

**Remarks by Her Excellency Aloun Ndombet Assamba
High Commissioner for Jamaica
At the Third Biennial Jamaican Diaspora Conference
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Jamaica: Monarchy or Republic

- Salutations

This year as Jamaica celebrates fifty years as an independent nation as we reflect on the achievements past and present as well as confront the challenges that may lie ahead, it is fitting that we visualise what the next fifty years as a nation will be and the lasting legacy we would wish to leave for our future generations. At present we have every reason to swell with national pride as Jamaicans continue to excel in every sphere of life and as a nation we punch above our weight, rivalling any developed country.

Yet the paradox exists that Jamaica though attaining political independence in 1962 continues the Monarchical tradition inherent over the three hundred years prior to independence. It begs the question, can Jamaica be truly independent when its Head of State resides in a foreign country? Is the Monarchical system truly reflective of the modern day reality within the Jamaican context? Enoch Powell, former British politician in the late 1950's questioned the legitimacy of the Westminster model which itself rests on its representative nature in claiming authority over colonial peoples who are denied representation.

These questions remain relevant today and lie at the heart of the present debate that now ensues within the Jamaican society over whether to retain the Monarchy or to become a Republic with a locally elected President as Head of State.

Historical Overview

The Framers of the Jamaican Constitution in 1962 opted to retain the Queen as the Head of State for Jamaica. It was felt at that time that the cultural and historical association with Britain justified the preservation of that link rather than opting to become a Republic. The sentiment in favour of preserving the monarchical ties in 1962 was so strong that the Framers of the Constitution decided that the Queen should be entrenched in the Constitutional Framework. The Queen of England is therefore the Queen of Jamaica and is so styled in the constitution: **“Elizabeth the Second, by the Grace of God, Queen of Jamaica and of her realms and Territories, Head of the Commonwealth”**.

In essence, the very constitution adopted in 1962 is British Law that has been extended to Jamaica. The present Constitution, though it benefitted from the input of a few Jamaicans, is still not

considered to be home grown Jamaican legislation which is representative of the aspirations of the Jamaican people.

The Constitution also provided that the Judicial system would continue at least to have at the apex the Judicial Committee of the Privy Council which had been created in 1833 as an instrument for ensuring the uniformity of Jurisprudence throughout the British Commonwealth. The final Court for Jamaica currently they resides at the Privy Council in the United Kingdom.

Jamaica along with 15 other countries is considered part of the Realm where the Queen is Head of State as well as a member of the British Commonwealth that comprises former British colonies who regard Her Majesty as the symbol of the Free Association of Independent states.

In reality, the Queen is represented locally by a Governor General who is the titular Head of State that carries out her Constitutional and Ceremonial duties.

The entrenched provisions in the Constitution relating to the Monarchy state that **“THERE SHALL BE A PARLIAMENT OF JAMAICA WHICH SHALL CONSIST OF HER MAJESTY, A SENATE AND A HOUSE OF REPRESENTATIVES”**, and also that **“THE EXECUTIVE AUTHORITY OF JAMAICA IS VESTED IN HER MAJESTY”**.

The day to day functions of governance reside in the executive power of the Cabinet. In light of The Queen being a constituent part of the Legislature, all Bills presented to the Governor General for Assent must contain the following words of enactment: “Be it enacted by the Queen’s Most Excellent Majesty, by and with the

advice of the Senate and the House of Representatives of Jamaica”.

Bills are Assented to by the Governor General in the name of the Queen and on her behalf. A Bill does not become law until it is Assented to by the Governor General.

The Governor General, the Speaker of the House of Representative, members of the House of Representatives, Ministers of Government, Judges of the Supreme Court and Court of Appeal are all required by the Constitution to swear allegiance to Her Majesty Queen Elizabeth Queen Elizabeth 11, her Heirs and Successors according to Law”.

In terms of Executive functions, the appointment of Ambassadors, the ratification of Treaties and the Declaration of war reside, with the Queen and laws enacted by Parliament are so done with the

Royal Assent signified by the Governor General as the Sovereign's representative, and the Broad Seal of Jamaica.

Having outlined the historical and present reality of the Monarchical system of operation in Jamaica, I will now make reference to the questions raised earlier as to the relevance of the Monarchy in Jamaica and the steps being taken by the Government of Jamaica to devise a system that is truly reflective of Jamaica's development as a nation.

There has been growing recognition over decades that our present constitutional arrangements need to be fashioned in a manner to make it more applicable to present day Jamaica. This recognition led to the initiation in 1991 of a process designed to achieve the amendment of the Constitution. The Joint Select Committee of Parliament after years of deliberations concluded that there was widespread agreement that the assumptions that

underlie the present constitution, no longer reflect the prevailing sentiments either in the political parties or in the nation as a whole.

Prime Minister Portia Simpson Miller in January of this year also pledged to continue the process towards the appointment of a Jamaican to replace the Queen as Head of State and moving to become a Republic. There is some confusion as to whether the change will be immediate and if Jamaica stands to lose internationally from the change. I will outline further in my remarks the time lines involved in transitioning to becoming a Republic but I hasten to add that it will not be this year given the steps involved in the parliamentary process.

Arguments in support of constitutional change include the following:

- It is no longer considered appropriate for our Head of State to be a Hereditary Monarch of a foreign country which our citizens require a visa to enter. It is noted that this requirement also applies to the Governor General, the local representative of Her Majesty the Queen.
- There is the growing concern that former colonies are no longer of value to Britain as evidenced in the shift in focus of relations towards Europe and the emerging markets.
- It is now generally accepted that the new Jamaican Constitution should create a Jamaican Republic with the Head of State chosen by a process that will enable the holder to symbolize the Sovereignty and unity of the nation. This person should be above partisan politics.
- The Constitutional process will be an essential tool in furthering Nation building. Jamaicans will for the first time

have a say in the process, thus instilling a sense of national pride and reinvigorate the democratic process.

Best Practices in other Jurisdictions

In the late 1950's and early 1960's several African states opted to become Republics rather than retain the Queen as Head of State. This was done immediately upon gaining Independence from the British. Such countries include Nigeria, Ghana, Malawi, Sierra Leone and in later years Zimbabwe. They still maintain membership within the British Commonwealth but have Republican systems of Government that is wholly borne out of a sense of nationalism.

Closer home, our Caribbean neighbours, Trinidad and Tobago, Guyana and Dominica are Republics, a path, in the case of the latter two, they chose at the time of Independence.

I should like to point out to you that in all these cases Republicanism has not brought about any political isolation nor economic downturn rather it has built a deep sense of identity within the peoples.

Altering the Entrenched Provisions in the Constitution

The road to becoming a Republic is not an immediate one. The provisions relating to the Queen as Head of State are DEEPLY ENTRENCHED in the Constitution and as such any alterations will require the agreement of the two major political parties and would involve a delaying period of at least eight cumulative months as well as the support of at least a simple majority of the electors through a referendum. The Constitution in Section 49 outlines the process as follows:

- A period of three months must pass between the introduction of the Bill in the House and the start of the debate on it.
- Another three-month period must pass between the end of the debate and the passing of the Bill in the House.
- The Bill for amendment must be passed by a two-thirds majority of all the members of each House.
- Thereafter a Referendum must be held in which there must be at least a simple a majority in favour of change.

The success of the change can only be realised if it is buttressed by at least several months of public consultations and ongoing public education. This kind of Referendum is in reality very similar to the holding of a General election. Those of you who are

older might remember the experience with the Referendum in the early 1960's concerning the West Indies Federation.

The Privy Council

The Removal of the Privy Council as the Final Court of Jamaica is another issue being debated. These two issues are quite separate and should not be confused as being one and the same.

It is felt that at this stage of our development, Jamaica should not have to rely on judgements of Jurists that are far removed from the realities of the Jamaican or Caribbean experience. The final court should reside in a Regional body, the Caribbean Court of Justice where it is felt that judges familiar with our experiences are best placed to make judicial pronouncements on cases.

Several countries of the Commonwealth have already opted to remove the Privy Council as their final Court and instituted instead local or Regional courts. Some countries include Barbados, Belize, Trinidad, Australia, Canada and Nigeria.

The process for removal of the Privy Council (an entrenched provision) is similar to that stated above except that it does not require a Referendum.

The Process is as follows:

- The Bill is passed in the Lower house and then sent to the Senate.
- If the Senate refuses to pass the Bill after it has been twice sent from the House of Representatives, the Bill may be put before the voters in a referendum. If it is approved by two-

thirds of the electors it may be presented to the Governor-General for his assent.

Conclusion

I am firmly of the view that Jamaica can only logically complete the circle of true Independence if it becomes a Republic with a local Head of State that is representative of the people of Jamaica.

The symbolism of true Independence is something that is hard to define but one that must be experienced. I suspect that the opposition that may be voiced to some to the proposed changes is borne out of fear rather than fact and may also be rooted in a sense of lack of self worth as a people.

We need to take pride in ourselves and our institutions, valuing our system of National Honours and our heroes and desist from the practice of self deprecation.

On June 19th the Honourable Justice Patrick Robinson will deliver a public lecture at the University of London on this very topic. I urge as many of you that can attend to do so.

Justice Robinson has a wealth of experience at the Bar and the Bench in both Jamaica and internationally and is very well suited to speak on the matter because of his unique experience.

I thank you.