**Establisment of the Constitutional Review Commission 2022**

Cabinet on 10th June, 2020 approved the establishment of a Constitutional Review Commission for the purpose of conducting a full review of the Virgin Islands Constitution Order, 2007.

General terms of reference were approved as follows:

(i). to re-evaluate the vision of the people of the Virgin Islands, as expressed in the preamble to the Virgin Islands Constitution Order, 2007, and to amend accordingly, if necessary;

(ii) to evaluate the current Virgin Islands Constitution Order, 2007, and determine whether it is in strategic fit to facilitate the people of the Virgin Islands in achieving the revised vision in (i) above;

(iii) to identify any gaps in relation to item (ii) above;

(iv) to make recommendations for Constitutional Reform, if necessary, based on (i), (ii) and (iii) above; and

(v) to review the next step towards self-determination for the Territory of the Virgin Islands.

On 28th July, 2020 the House of Assembly passed Resolution No. 15 of 2020 (INSERT WEBSITE LINK) which approved the establishment and composition of the Constitutional Review Commission for the purpose of conducting a full review of the Virgin Islands Constitution Order, 2007 (U.K.S.I. 2007 No. 1678) with the Terms of Reference specified above.

Cabinet on 31st December, 2021, reviewed and noted the House of Assembly's Resolution No. 15 of 2020 and approved an 11-member Constitutional Review Commission for a period not to exceed two years with effect from 4th January, 2022.

On 4th April, 2022, Sir Gary Hickinbottom submitted the completed Commission of Inquiry (COI)Report to Governor Rankin for his consideration. In Recommendation A2 of the report, he recommended that there should be an early and speedy review of the Constitution. He proposed that the review should begin promptly and conclude its work within a year or, if the Governor is persuaded to extend that time, to 18 months.

In the Government of National Unity's Framework for Implementation of the Recommendations of the Commission of Inquiry Report and other Reforms (Framework), for Recommendation A2, it has been agreed that Cabinet should propose a revised Constitutional Review Committee by 30th June, 2022. Its (revised) final membership should be jointly agreed by the Governor and Premier. The Terms of Reference should consider, among other things:

1. how the executive ministerial government can be held to account in the House of Assembly (e.g. by some different structure, number and/or configuration of seats) and/or in other ways;
2. whether the current constitutional pillars of governance are sufficient, and in any event how those independent institutions can be effective;
3. the powers that need to be reserved to the Governor, and how issues as to the exercise of devolved and reserved powers respectively, when they arise, are to be resolved;
4. a mechanism for the transfer of reserved powers to the devolved BVI Government in the future, without a further change to the Constitution being required;
5. whether there should be a regime in relation to election expenses in the form of (e.g.) a requirement on election candidates to submit a breakdown of expenses including donations above a specific sum and/or a cap on such expenses;
6. whether statutory boards should be embedded in the Constitution and, if so, whether there should be a Statutory Boards Commission; and
7. whether the Speaker should continue to be a political appointment, or whether he or she, even if elected, should be independent of the political parties.

The Framework requires that the Committee's Terms of Reference be developed by 31st July, 2022.

The revised members of the Commission comprise persons selected from the main islands of the Virgin Islands and are drawn from the legal fraternity, academia, business, aviation, and other areas of civil society.

An increase in membership of the Constitutional Review Commission (CRC) from 11 to the following 16 members was approved by Cabinet with effect from 8 July, 2022:

1. Mrs. Lisa Penn-Lettsome, Chairman
2. Ms. Janice Stoutt, Deputy Chairman
3. Sir Charles Michael Dennis Byron;
4. Ms. Maya Barry
5. Mrs. Tanya Cassie-Parker
6. Mr. Sendrick Chinnery
7. Ms. Susan V. Demers
8. Ms. Noni Georges
9. Dr. Steve Lennard
10. Mr. Coy Levons
11. Mrs. Bernadine Louis
12. Dr. Benedicta P. T. Samuels
13. Mr. Ronnie W. Skelton
14. Mr. Rajah A Smith
15. Rev. Dr. Melvin A Turnbull
16. Dr. Charles Wheatley

Terms of reference were expanded to include several bespoke matters suggested in the Commission of Inquiry Report.

The CRC held its inaugural meeting on 18 July 2022 and presented the following draft terms of reference to be signed off by the Governor and the Premier:

1. To re-evaluate the vision of the people of the Virgin Islands, as expressed in the preamble to the Virgin Islands Constitution Order, 2007, and to amend accordingly, if necessary;
2. To evaluate the current Virgin Islands Constitution Order, 2007, and determine whether it is in strategic fit to facilitate the people of the Virgin Islands in achieving the revised vision in (i) above;
3. To identify any gaps in relation to (ii) above;
4. To make recommendations for Constitutional Reform, if necessary, including but not limited to considering the following:
   * + - 1. *How the executive ministerial government can be held to account in the House of Assembly, and how checks and balances and mechanisms for accountability may be employed to militate against abuse of power;*
         2. *Whether the independent institutions enshrined in the Constitution are sufficient and effective to ensure good governance;*
         3. *The powers that need to be reserved to the Governor, and how issues as to the exercise of devolved and reserved powers, respectively, when they arise, are to be resolved;*
         4. *A mechanism for the transfer of reserved powers to the devolved BVI Government in the future, without a further change to the Constitution being required;*
         5. *Whether there should be a regime in relation to election expenses;*
         6. *Whether statutory boards should be embedded in the Constitution and, if so, whether there should be a Statutory Boards Commission and, if yes, its functions and responsibilities;*
         7. *Whether the Speaker should continue to be a political appointment, or whether he or she, even if elected, should be independent of the political parties.*
         8. *Whether sections 66 and 67 of the Constitution needs to be amended to make clearer the circumstances in which a person seeking election to the House of Assembly or a Member of the House who (either personally or through a dba, a partnership or company with which he or she is associated) contracts with the BVI Government needs to declare such an interest, how such a declaration should be made and the consequences of him or her not doing so;*
         9. *Whether sections 66 and 67 of the Constitution needs to be amended to also apply to statutory and other Public bodies;*
         10. *What should be the proper relationship between Ministers and their Departments and whether any amendment to section 56 of the Constitution should be made.*
5. To review the next step towards self-determination for the Territory of the Virgin Islands; and
6. To consider how best the law enforcement and justice agencies can sit within the constitutional framework.

The timing of the meeting meant that the CRC met the 31 July, 2022 deadline in the Framework for Implementation of the Recommendations of the Commission of Inquiry Report for the draft terms to be presented.

At its 29 June, 2022 meeting, Cabinet decided that a resolution approving the revised composition of the Constitutional Review Commission be laid on the table for debate at the next available Sitting of the House of Assembly (HoA). The following resolution (inclusive of Terms of Reference) appeared on the HoA’s agenda (INSERT WEBSITE LINK TO AGENDA) for 21 July, 2022 and was debated at its postponed sitting on 21 September, 2022:

RESOLVED that the House of Assembly of the Virgin Islands approves an increase in the composition of the Constitutional Review Commission from eleven (11) to sixteen (16) members and the update and expansion of the Terms of Reference as specified above, for the purpose of conducting a full review of the Virgin Islands Constitution Order, 2007.

In spite of the debate the terms of reference remained as tabled in the HoA.