



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**

**Tabling of Report: *“Assessment of Self-governance
Sufficiency in conformity with internationally-recognised
standards”***

Friday, 2nd December, 2022

Mr. Speaker, I rise today to table for the information of this Honourable House the report entitled *“Assessment of Self-governance Sufficiency in conformity with internationally-recognised standards”*. This report, authored by Dr. Carlyle G. Corbin, on behalf of the Government of Bermuda, represents a marked advancement for the project of constitutional reform for

Bermuda. Dr. Corbin's distinguished qualifications are well established and already on record.

Mr. Speaker, as I mentioned in my Statement in this Honourable House on 18th November 2022, I commissioned this report as a benchmarking assessment of Bermuda's perceived readiness to advance towards greater, or full, self-governance. Further to those comments, I will continue the exercise of informing the public of our progress, and take this opportunity to comment briefly on some of the details found in the Report.

Mr. Speaker, the Report reiterates that Bermuda, as an Overseas Territory of the United Kingdom, remains listed as a 'Non-Self-Governing Territory' according to the United Nations. The inalienable right of a People to freely decide their political status and freely pursue their economic, social and

cultural development is foundational to the United Nations Charter.

Mr. Speaker, we must understand that the UN Charter mandates certain obligations are placed upon State Parties, such as the United Kingdom, to assist their territories with achieving the full measure of self-governance. The United Nations Special Committee on Decolonisation monitors the progress towards decolonisation of the remaining non-self-governing territories. By way of reference, the UK Government's White Paper '*The Overseas Territories Security, Success and Sustainability*' (2012) still represents the substantive UK position paper on how it defines its relationship with its territories; including its views on constitutional reform leading to greater self-governance and sovereignty.

Mr. Speaker, despite perceptions that Bermuda has a high measure of 'internal self-governance' we remain subject to

dependency governance status in international law. The Bermuda Constitution Order 1968 acts as an ‘Instrument of Unilateral Authority’ and an ‘Instrument of Delegated Authority’ for the purposes of determining the distribution of power locally under the Sovereign.

Mr. Speaker, just as independent Small Island States—such as Barbados—consider their continued constitutional relation with the UK Sovereign, it is timely that Bermuda, too, resume the evaluation of our position and relationship with the United Kingdom under our existing constitutional arrangements.

The Report being introduced in this Honourable House today, shines a lens on the historic constitutional evolution of Bermuda through respective periods of dependency governance under the Bermuda Constitution Order 1968. In doing so, the author

draws comparisons to the circumstances in other non-self-governing territories.

Additionally, **Mr. Speaker**, the Report utilises a comprehensive, internationally-recognised diagnostic tool, the ‘Self-governance Assessment’ to evaluate our political status and governance arrangements; with the goal of determining the level of compliance with the minimum standards of self-government, as recognized under relevant international criteria.

Essentially, what is being measured in the Report is the extent of the political power differential within the existent dependency governance arrangement, and the degree of ‘Preparedness for Self-Government’ through the existence and exercise of delegated authority to the territory under the Bermuda Constitution Order 1968 (as amended) to attain the full measure of self-government.

The Self-Governance Assessment procedure considers the self-governance sufficiency of a non-self-governing territory across ten (10) ‘Self-Governance Indicators’. The indicators are as follows—

- **Indicator 1:** The UK’s (as the Administering State) compliance with international self-determination/decolonization obligations. (**Score: 2**)
- **Indicator 2:** Level of unilateral applicability of laws to the territory. (**Score: 2**)
- **Indicator 3:** Degree of awareness of the people of the territory of the legitimate political status options, and of the overall decolonization process. (**Score: 2**)
- **Indicator 4:** Right of the people to determine the internal constitution without outside influence. (**Score: 2**)
- **Indicator 5:** Extent of evolution of governance capacity through the exercise of delegated internal self-government. (**Score: 3**)
- **Indicator 6:** Extent of evolution of governance capacity through the exercise of external affairs. (**Score: 2**)
- **Indicator 7:** Degree of autonomy in economic affairs. (**Score: 3**)
- **Indicator 8:** Control and administration of internal security. (**Score: 3**)
- **Indicator 9:** Control and administration of military activities. (**Score: 3**)
- **Indicator 10:** Indicator of ownership and control of natural resources. (**Score: 3**)

Application of the Self-Governance Indicators can be found in Part VI (six) of the Report, beginning at page 146. Bermuda's self-governance sufficiency is evaluated on a sliding scale of one (1) to four (4). A score of one (1) represents the lowest level of preparedness for self-governance and a score of four (4) being indicative of the highest level of preparedness for self-governance, for the specific Self-Governance Indicator concerned.

Bermuda's scoring across the ten (10) Self-Governance Indicators demonstrates that we have not achieved preparedness for the full measure of self-governance under any of the indicators. Bermuda is scored level two (2) for five (5) of the indicators and level three (3) on the remaining five (5) indicators. The rationale for the scoring is explained fully within the Report, which I would refer Honourable Members and the public at large to read in detail.

Mr. Speaker, to be clear, this Report does **not** make recommendations on the path, or mechanisms, for how Bermuda should approach gaining a full measure of self-governance. Those discussions, and the framing of any such steps, are reserved for the decision of the Cabinet.

In closing, **Mr. Speaker**, the Government's commitment to the wider exercise of constitutional reform is underscored by 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.

Thus, I am pleased to provide the Report to this Honourable House and to the public, to ensure the greatest degree of public engagement can be achieved. The commissioning and distribution of this Report signifies an important first-step

among many that will be taken to achieve long overdue, and much needed, constitution reform for Bermuda.

Thank you, **Mr. Speaker.**