



# Grenada Constitution Reform

RECOMMENDATIONS BY GRENADA CONSTITUTION REVIEW COMMISSIONS

Collected and Combined  
by  
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for  
Grenada Constitution Reform Advisory Committee

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## 0.0 COLLECTING AND COMBINING

0.1 Very substantial Reports with Recommendations for reform of the independence Grenada Constitution 1973 have been made by each Constitution Review Commission ('CRC') so far established. There was the CRC Report 1985 ('CRC 1985') and the CRC Report 2006 ('CRC 2006'). This paper collects and combines those recommendation, without comment.

### CRC 1985

0.2 The first CRC was set up in February 1985. Its Chairman was Sir Fred Phillips. Other members were Professor Ralph Carnegie, Brynmor Pollard, John B Renwick and A Michael Andrew. Its secretary was Bernard Gibbs. Later, there was an associate member, Professor Randolph Mc Intosh. Its Terms of Reference is Appendix 1 hereto. It submitted its Report on 5 November 1985.

### CRC 2002-2006

0.3 The other CRC was established in February 2002. Its Terms of Reference is Appendix 2 hereto. It submitted its Report on 30 April 2006. At that time, its Chairman was The Hon Mr Justice Lyle St Paul OBE CBE. Other members were Carol Bristol QC, Meryl Forsythe OBE, Fr Gerard Paul and Basil Harford. The secretary was James Andrews JP. Originally, Dr The Hon Justice Nicholas Liverpool was Chairman, he resigned 2 October 2003; and Professor Randolph Mc Intosh was Deputy Chairman, he resigned 13 December 2002.

### Randolph Mc Intosh Draft

0.4 A Revised Draft Constitution with many clauses ('cls') was done by Professor Randolph Mc Intosh; referred to here as ('RMD'). No terms of reference were attached to RMD.

## Methodology

0.5 Not only does this paper collate the Recommendations without comment. It reproduces the Recommendations exactly as made by the CRCs as far as possible, even when direct verbatim quotations are not presented.

0.6 Where a CRC made no recommendation for change to the Constitution, this is not mentioned here; only recommendations for change to the Constitution are set out here.

## Abbreviations

0.7 Abbreviations used here other than that seen in paragraph 1.1 (CRC) are:

A-G	Attorney-General	P(p)	Page(s)
CCJ	Caribbean Court of Justice	Parl	Parliament
Consti	Constitution	PM	Prime Minister
EBC	Electoral & Boundaries Commission	PSC	Public Service Commission
G-G	Governor-General	PS	Permanent Secretary
Gov	Government	Rep	Representative
OL	Leader of the Opposition	UKPC	UK Privy Council

## 1.0 NAME OF THE STATE

1.1 As to whether the name of the state should be changed from ‘Grenada’ to ‘Grenada, Carriacou and Petite Martinique’, much more debate should be held before any decision can be taken; the arguments on either side are balanced in their merits; CRC 2006 pp 19, 123.

1.2 The name of the state should be ‘The Commonwealth of Grenada’; RMD cl 1.

## 2.0 HEAD OF STATE

2.1 (1) CRC 1985 recommended that whether there is a G-G or a President, she should be chosen by an Electoral College of all parliamentarians and the Chairpersons of the District Boards and the Council for Carriacou & Petite Martinique; pp 33, 101. If there is a G-G, the President of the Senate should ordinarily be appointed Deputy to the G-G; CRC 2006 p 36; and the G-G should be able to spend her annual vacation leave at home or abroad, while her Deputy acts for her; CRC 2006 pp 36, 126.

2.1 (2) CRC 2006, finding those favouring a G-G and those a President more or less evenly divided, with the latter having a slight edge, p 32, recommended that there should be a parliamentary republic with a ceremonial President. She should be selected by an Electoral College comprising all parliamentarians sitting together; her tenure of office should be not more than 10 years: pp 39, 125-126.

### Her Majesty or a President?

2.2 There should be a parliamentary republic with a ceremonial President; CRC 2006 pp 39, 125-126; RMD cls 1, 41, 45, 77.

## 3.0 HEAD OF GOVERNMENT: PRIME MINISTER

### Term Limits

3.1 CRC 2006 recommended that ‘no person should hold the office of Prime Minister for more than two five-year consecutive terms’: pp 57, 130.

### Reducing powers

3.2 CRC 2006 recommended that the PM should no longer be able to:—

- (i) call 'snap election'; a specific date for holding general elections should be set by the Consti; pp 49, 127;
- (ii) select Ministers from among Senators; only elected MPs may be Ministers; pp 49, 128;
- (iii) have an A-G from a public office; pp 64, 130;
- (iv) veto the appointment of PSs, though he should be consulted thereon; pp 62, 130.

3.3 CRC 1985 recommended that the convention requiring Ministers to divest themselves of directorships and shareholdings, to avoid conflicts of interest, should be acknowledged; p 105.

#### 4.0 PARLIAMENT

##### Unicameral Parliament

4.1 (1) CRC 2006 recommended that Parliament should comprise a National Assembly and a State President unicamerally; pp 43, 48, 126.

(2) The Senate can be a very useful institution performing vital functions; as a chamber of review, a reservoir from which may be drawn technocrat Ministers, participating in constitutional amendments, being part of the Electoral College to elect G-G or the President, CRC 1985 pp 46, 102.

##### Four categories of members

4.2 CRC 2006 recommended that the National Assembly should comprise four categories of Members of Parliament, namely:—

- (i) Constituency Representative Members, or Constituency Representatives, chosen in direct elections on the first-past-the-post-system to represent electoral constituencies; whose number should be increased; pp 43, 48, 126; see too RMD cl 61(1)(2);
- (ii) Proportional Representation Representatives, or Proportional Representation Members, chosen by the leader of each political party which contested the last general elections for CR Members; the percentage of votes a party polled in those elections would determine proportionally the number of PR seats a party gets; pp 43, 48, 127; see too RMD cl 61(3);
- (iii) Nominated Members, or Senators, chosen by the State President in his own deliberate judgment; pp 43, 49, 127. See too CRC 1985 pp 41, 102.
- (iv) A Local Government Representative, nominated by Local Government bodies; pp 43, 49, 127.

4.3 Only a Constituency Representative may be the PM or act as PM; CRC 2006 pp 43, 49, 127.

4.4 Only CRs may speak or vote on a motion of no confidence in the Government; CRC 2006 pp 43, 49, 127.

### No Floor-Crossing

4.5 Persons elected to serve in the National Assembly on a party ticket should not be allowed to 'cross the floor' and join another party; but, rather, should be required to resign and face the electorate; CRC 2006 pp 49, 127.

### Recall

4.6 If the recall of Representatives before the end of the term is introduced, the manner of its implementation should not be set out in the Consti; enabling provisions in the Consti should empower Parl to pass laws to provide for recall; CRC 1985 pp 50-51, 102.

### Integrity

4.7 Persons seeking election or nomination to the National Assembly should be required to declare their assets before being elected or nominated and after they have completed their term of office; CRC 2006 pp 49, 128.

### Parliament separate from Cabinet

4.8 The size of the Cabinet in relation to the size of Parl should enhance separation of powers between the Executive and the Legislature, and restrict domination of the House by the Cabinet; CRC 2006 pp 58, 129.

### 5.0 LEADER OF THE OPPOSITION

5.1 Some important functions should be performed by OL, such as sharing with the PM the appointed of persons to key positions in the public service; CRC 2006 pp 59, 129.

### 6.0 LOCAL GOVERNMENT

6.1 The Consti should provide that the principal organs of local administration on the island of Grenada are the St. George's Corporation; and six District Boards, one for St. George's (outer) and one each for the other five parishes; CRC 1985 pp 57, 103. This should be deeply entrenched; CRC 2006 pp 11, 135-136.

6.2 Amendment of the section of the Consti on the Council for Carriacou & Petite Martinique should require a two-thirds referendum vote; CRC 1985 pp 56, 90, 103. Amendment of an Act prescribing the membership and functions of the Council should require the prior consent of the Council; CRC 1985 pp 56, 103.

6.3 There should be a Local Gov Rep in Parl, who should be the Minister for Local Gov Affairs; CRC 2006 pp 11, 135-136.

6.4 Provisions on Local Gov should have a separate Chapter in the Consti, entitled 'Local Government'; CRC 1985 pp 56, 103.

### 7.0 ELECTORAL & BOUNDARIES COMMISSION

7.1 There should be an Electoral and Boundaries Commission ('EBC'), CRC 1985 p 34, RMD cl 120; or a Constituency Boundaries and Elections Commission, CRC 2006 pp 51-52, 128; which would displace the Constituency Boundaries Commission. It would review the number and boundaries of electoral constituencies; it would also exercise general supervision over the registration of voters for parliamentary elections and the conduct of such elections; CRC 1985 pp 44-45, 102; CRC 2000 pp 51-52, 128; RMD cl 122.

7.2 The EBC Chairman should be a person who has held high judicial office; CRC 1985 p 34. She should be appointed by the Head of State in her own deliberate judgment; CRC 1985 pp 44, 101; or on the advice of PM and OL, CRC 2006 pp 52, 128, or consulting PM and OL, RMD cl 120(2).

### Supervisor of Elections

7.3 The Supervisor of Elections could become the Chief Administrative Officer of EBC; CRC 1985 pp 45, 102. She would be appointed by the Head of State, CRC 1985 pp 45, 102; CRC 2006 pp 52, 129; on consulting EBC Chairman, CRC 1985 pp 45, 102; or on EBC recommendation, CRC 2006 pp 52, 129; RMD cl 121(2). She may be appointed by EBC, CRC 1985 pp 45, 102.

7.4 She should be called the Chief Electoral Officer, CRC 2006 pp 52, 128.

## 8.0 JUDICAIRY

### Appointment of Judiciary

8.1 PMs should have no say in the appointment of CJ; that should be for an independent tribunal; CRC 2006 p 96.

### Protection of jurisdiction

8.2 There should be made explicit the principle of the protection of the jurisdiction of the Judges from abrogation by legislation, CRC 1985 p 104.

### Independence of Judiciary

8.3 The Consti should say that 'The Judiciary shall be independent and shall be subject only to the authority of this Constitution'; RMD cl 88. Also RMD cl 113.

### Age of Retirement

8.4 The Age of Retirement of a High Court Judges should be 72 years, and of Court of Appeal Judges 75, without option for extension of service; CRC 2006 pp 96, 99, 134. That for Magistrates should be 72 years, CRC 2006 pp 96, 99, 134.

Name of Court

8.5 The name of the Court should be, not 'The Supreme Court of Grenada and the West Indies Associated States', CRC 1985 p 85; but 'The Eastern Caribbean Supreme Court', CRC 1985 pp 65-66, 103; CRC 2006 pp 99, 134.

### UKPC or CCJ?

8.6 CRC 1985, when CCJ was not in existence, recommended restoration of UKPC to preserve the unity of the EC judicial system, and 'not because it is in favour of the retention of such appeals as a matter of principle', considering 'the disadvantages of the system of the final appellate jurisdiction of the Privy Council'; pp 69, 104.

8.7 As to whether Grenada should replace UKPC with CCJ, an extensive and intensive programme of education on the issue should be implemented, enabling citizens to be aware of the jurisdiction of CCJ, before any decision is reached. Such decision should be given by the people in a referendum; CRC 2006 pp 97, 99, 134.

8.8 The Consti should have CCJ as the final appellate tribunal; RMD cls 87(a), 89, 90.

### 9.0 PUBLIC SECTOR SERVICE COMMISSIONS ('PSSCs')

9.1 Caribbean Constitutions have what may be called Public Sector Service Commissions ('PSSCs'), although they are not styled so formally. An example of these is the Public Service Commission ('PSC').

#### Public Service Commission ('PSC')

9.2 (1) CRC 2006 recommended that PSC Chairman should be selected, not by PM as done now, but by PM and OL; that another member should be selected by PM and another by OL; pp 76, 132.

(2) CRC 1985 recommended that three PSC members should be appointed from among Public officers; pp 35, 77.

#### Police Service Commission

9.3 There should be a Police Service Commission to replace PSC regarding police officers.

9.4 The Chairman should be selected by the Head of State, one member by PM, one by OL; CRC 2006 pp 104-105, 135.

9.5 The Chairman should be PSC Chairman. Two members should be selected, one by G-G, one by PM bindingly consulting the Police Welfare Association. Sitting ex-officio should be PS of National Security. CRC 1985 pp 80-81, 104.

#### Prison Service Commission



9.6 There should be a Prison Service Commission. The Chairman should be selected by the Head of State; one member by PM, one by OL; CRC 2006 pp 104-105, 135.

#### Protective Services Commission

9.7 There should be a Protective Services Commission to look after the police service, fire service, prison service and such defence force as might be established; RMD cl 188.

PS: manage, not supervise

9.8 A PS should afford a department, not 'supervision', but 'management'. CRC 2006 pp 62, 130.

#### Ministry of the Public Service

9.9 A Ministry of the Public Service should be established to create new posts, regulate conditions of service; CRC 1985 pp 78-79; and serve as the executive arm of PSC, CRC 1985 p 104.

9.10 The most senior public officer of this Ministry should be at the most senior rank of PS, and be the Head of the Civil Service, CRC 1985 p 79.

#### 10.0 PUBLIC SERVICE BOARD OF APPEAL

10.1 The member of the three member Public Service Board of Appeal now selected by PM, should be selected by the representative body for Lawyers; CRC 2006 pp 77, 131. Also, the member selected by the appropriate representative bodies should be a retired public officer, CRC 2006 p 77.

#### 11.0 ATTORNEY-GENERAL

11.1 The A-G should be a politician, not a public officer: CRC 2006 pp 64, 130.

#### 12.0 DIRECTOR OF PUBLIC PROSECUTIONS

12.1 The office of DPP should not be shared with any other office, including that of A-G; CRC 2006 pp 64, 130.

#### 13.0 DIRECTOR OF AUDIT

13.1 The Director of Audit should be enabled to initiate legal actions against persons found wanting in their accountability in the management of the business of the State; CRC 2006 pp 85, 130.

13.2 She should report directly to Parl through the Speaker, and not through the Minister of Finance; CRC 2006 pp 85, 130.

#### 14.0 OMBUDSMAN

14.1 Ombudsman should be established by the Consti; CRC 1985 pp 37, 101; CRC 2006 p 113.

14.2 She should be selected by the Head of State, consulting PM and OL, CRC 1985 pp 35, 37.

14.3 She should be as independent as DPP, CRC 2006 p 136.

## 15.0 HUMAN RIGHTS

15.1 The Human Rights Chapter of the Consti, the Bill of Rights, should have a new preamble; RMD cl 17.

15.2 The death penalty should be abolished; CRC 2006 p 124.

15.3 An emergency detainee should be entitled to legal representation paid for the state if he needs it; CRC 2006 p 27.

15.4 Women's Rights should be promoted, to include, among other things, Article XII of the CARICOM Charter of Civil Society; CRC 2006 pp 29-30, 125.

15.5 The Age of Responsibility for both males and females in all legal matters should be 18 years; CRC 2006 p 30.

15.6 Duties and responsibilities should require individuals to respect the rights of others, cooperate with the state in the maintenance of law and order, respect National Emblems, participate in the life of the polity as by voting. CRC 2006 pp 28, 124; RMD cl 40.

15.7 There should be a human right vote; RMD cl 30.

15.8 The Court should be empowered to order that the costs of an unsuccessful human rights litigant be borne by the state; CRC 2006 p 23.

## 16.0 CITIZENSHIP

16.1 The Consti should prohibit the sale of citizenship and passports under the Economic Citizenship Programme which demean and devalue citizenship; CRC 2006 pp 91, 132.

## 17.0 REGIONALISATION

17.1 Federation measures should be specially exempted from the more rigid entrenchment stipulations; CRC 1985 pp 87, 90; RMD cls 193(7), 194.

## 18.0 PREAMBLE

18.1 The preamble to the Consti should be re-written in the first person; CRC 2006 pp 12-13, 123.

18.2 That preamble should be re-written; RMD p 11.

## 19.0 PATRIATING AND GRENADIANISING

19.1 The Consti should be patriated, brought home, by having it put to a referendum for endorsement, and if so approved then brought into force in an Act passed by the Parl of Grenada, thus Grenadianising it. CRC 2006 pp 17, 123.

National Emblems

19.2 The Consti should refer to the National Anthem, National Flag, National Pledge and all other National Emblems; CRC 2006 p 28; RMD cl 3.

20.0 LANGUAGE IN THE CONSTITUTION

20.1 The language in the Consti should be made simpler for easier understanding by the average citizen; CRC 2006 p 124.

20.2 The term 'Articles' should be used instead of 'Sections'; CRC 2006 pp 28, 123, 124.

21.0 ENTRENCHMENT

21.1 To the entrenching section, section 39, should be added the mandatory requirement that there be a special enacting formula for all constitutional amendments. Failure to use this would be fatal to any attempt to amend the Consti. This guards against implied repeal of the Consti. CRC 1985 pp 89-90.

21.2 An amendment of the Consti should require a two-thirds majority support in the Senate; CRC 1985 p 90.

21.3 The present scheme of entrenchment should be revised so that there should be a new category of provisions of the Consti whose amendment would require only a majority of all the members of each of the two Houses. CRC 1985 p 90.

Dated this 5<sup>th</sup> day of January 2014



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Chairman

Grenada Constitution Reform Advisory Committee