



Presentation by



Senator the Honourable Mark
Golding
Minister of Justice

6th Annual International Maroon Conference 2014

“The Importance of the Legal recognition of Maroon rights”

Sunday, June 22, 2014

2:00 p.m.

Asafu Yard, Charles Town, Portland

Salutations/Protocol

- The Distinguished Colonels and Deputy from Charles Town, Moore Town, Scotts Hall and Accompong
- Conference participants and specially invited guests
- Members of the Diplomatic Corps
- Maroons from this and other communities
- Ladies and gentlemen, boys and girls

A pleasant afternoon to everyone,

I am pleased to be able to participate in this the 6th Annual International Conference which celebrates the 275th anniversary of the signing of the Treaty between the Windward Maroon and the British. Indeed we are truly proud of the spirit that embodies the Maroon heritage which is a true example of resilience and determination. The Maroons show a love for community and self, and respect for the environment. The wider Jamaican community would do well to mirror those traits so that we can see them more strongly reflected in Jamaican society as a whole.

This conference demonstrates a scholarly seriousness for which you are to be commended. The Government of Jamaica celebrates the value of the Maroon heritage and acknowledges its contribution to the diversity and richness of our nation. Your dynamic heritage is derived from our shared history of courage during colonialism.

A respect for indigenous knowledge, cultures and traditional practices aid in the sustainable development of our country. At the highest level, the Prime Minister demonstrated respect for the Maroons by addressing the Accompong Maroon Conference in 2012, at which members of the Windward Maroons were present. As a signatory to the United Nations Declaration on the Rights of Indigenous Peoples, Jamaica recognizes the need for the protection of indigenous people whose unique cultures and traditions strengthen the multifarious nature of humanity.

I take this opportunity to laud your continued efforts to sustain the cultural emblems and values that distinguish you as a people, even as the wider society drifts towards a more externally-derived outlook through the influences of social media, traditional media and travel.

Events such as this conference seek to maintain, share and educate about the longstanding practices, and will help to ensure that these valuable traditions are passed on to generations to come. Students of history will always be fascinated by the cultural heritage that is maintained by indigenous groups, as they are a surviving link from the past to the present. As Maroons, you are Jamaica's best example of the past informing the present and the future.

Jamaica may also be proud of the continued level of mutual respect that both the Maroons and the Government enjoy, which speaks to the treatment of the indigenous communities in Jamaica. It is no secret that the treatment of aboriginal peoples in many countries has had a sad and shameful history. It is important to recognize that changes are being made in some countries to redress this situation, with the right of autonomy of various indigenous groups being recognized in various ways under law.

The Miawpukek First Nation of Newfoundland in Canada is one such group that has maintained a strong vibrant community. Congratulations are due to Colonel Lumsden and the Charles Town

Maroons, who will be signing a memorandum of understanding with the Miawpukek First Nation, a move that will open gates of opportunities for both parties. Through this relationship, we expect that new and traditional legal rights, and a range of social, economic and educational opportunities may be better identified and enjoyed.

The two treaties signed by the Maroons and the British Government in 1738 and 1739 gave legal recognition to Maroons. Those treaties brought to an end some 80 years of war during which the Maroons, using superior knowledge of and adaptability to the environment and immense military skill, brought a leading global power of that age to the bargaining table. Indeed, the Maroons' strategic thinking, courage and communication, and your great and courageous leaders, are legendary.

The Maroon Treaties provide the legal foundation for their special status under the law. Since independence, the Government of Jamaica has recognized and affirmed the rights of the Maroons, which are underpinned by the UN Declaration on the Rights of

Indigenous Peoples. Articles three, four and five of that Declaration speak to the right to self-determination which allows for the free pursuit of economic, social and cultural development. Article four provides for the right for self-government in matters relating to local affairs, as well as ways and means for financing autonomous functions.

There is therefore no doubt that you have the right to pursue economic development in the best interest of your community. I must commend you for the leadership you have sustained throughout the years. This is indeed a legacy that was nurtured out of the clauses of the treaty and set you apart as a self-governing indigenous group that is also entitled to all the rights and privileges for all Jamaicans. These articles also protect the *“right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions.”* Under these protections, indigenous peoples are empowered to keep their culture alive.

The rights of indigenous and tribal peoples regarding traditional lands are well-established in international law, and are increasingly

being recognized in national laws and by national courts. The International Labour Organization (ILO) Convention (No. 169) concerning Indigenous and Tribal Peoples in Independent Countries, which was adopted on 27 June 1989, entered into force on 5 September 1991), applies to Good Governance, Rule of law and Human Rights, which are among my priorities as Minister of Justice. These precepts are, I suggest, of importance in supporting the growth, development and protection of the rights within the Maroon communities.

We live in an ever-changing environment, with calls being made for the assimilation of indigenous peoples in some societies. Jamaica is no exception, and arguments have been posited about the cultural authenticity of the Maroons which questions the differences between the Maroons and the wider society. Events of this nature provide opportunities for discourse on these matters, and help to cement the recognition and cultural heritage of a great people.

The question of land rights has been an on-going discussion between the Government and the Maroons. Jamaica recognizes the right of

the Maroon communities to use land in accordance with their system of communal property. It may be necessary to establish mechanisms to give domestic legal effect to such right in the national legal system. The administration is open to dialogue with the Maroons to assess any issue that is of concern to you, whether legal, social, economic or otherwise.

In early March, it was announced that Jamaica's first licensed casino will be constructed in a few months, creating prospects for economic growth especially in the tourism sector. It is understood that the Maroons continue to look for new economic opportunities that will support your communities. Service-based, heritage and technological industries have potential to provide improved job and investment opportunities.

You will perhaps have noted that on Thursday June 12, I announced changes to the laws governing the treatment of ganja. Among the proposals made were amendments to the Dangerous Drugs Act to make possession of small quantities, specifically two ounces

(0.057kg) or less of ganja for personal use, a non-arrestable, ticketable infraction that will not attract a criminal record.

It is important to understand the rationale and context that informed that particular position. The objective is to provide a more enlightened approach under the law to dealing with possession of small quantities and smoking, while remaining true to our international obligations.

The treatment of the offence of possession of a small quantity of ganja and of smoking ganja has caused significant hardships in Jamaica, particularly among young men, some of whom would certainly be Maroons. A conviction for possession or use of ganja results in a criminal record, and often hinders one's opportunity to gain employment and travel overseas. It is also an offence that allows arrest and detention, which has often led to disproportionate abuses of the rights of our citizens.

The proposed changes represent an approach which will remove the social ill-effects that the current law imposes on what is

perceived as a relatively minor offence, and will also reduce the case load on our over-burdened court system.

I wish to stress that the proposed changes to the law are not intended to promote the smoking of ganja, especially by adolescents and other vulnerable persons. We are developing a policy that will allow a lawful, regulated medicinal ganja industry to emerge, along with industrial hemp. We anticipate that these new industries will provide revenues to the Government through licensing fees and normal business taxes that will enable a public education programme to be funded to discourage the smoking of ganja by adolescents and other vulnerable persons, pressing public health need which is not presently being addressed. I also hope that the policy on medicinal ganja and industrial hemp will in due course provide opportunities for the Maroons to participate in these new industries.

The Ministry of Justice is currently undergoing a major reform programme to streamline the processes of the courts and improve the overall administration of justice in Jamaica. This programme will

see the upgrade of physical infrastructure through the renovation of several courts across the island, and the retrofitting and expansion of the Supreme Court, Court of Appeal and the Office of the Director of Public Prosecutions. As the justice sector moves into the future, the use of technological solutions will be implemented through the installation of video conferencing portals and the introduction of electronic recording of evidence in the Resident Magistrate's Courts.

There are also programmes geared at the elimination of unnecessary delays and the speedier conclusion of cases. This will be facilitated through a variety of measures, including the implementation of criminal case management, reform of the jury system, reform of the laws governing the administration of deceased estates, modernizing our laws of evidence, and introducing more efficient procedures such as committal proceedings.

As justice reform is implemented over the coming years, it will redound to all persons living in Jamaica, including Maroons.

As I close, I must express how honoured I am to be a participant in this celebration of your rich heritage and this 275th anniversary of the

Treaty. I hail your excellent example of resilience, perseverance and independence. In keeping with your example, all of us Jamaicans need to re-discover our own identity and embrace a sense of responsibility for our own lives, so that we can achieve the greatness for our nation that we have the potential to be.

Thank you.