

Democracy and Governance in Jamaica: An Assessment

by
Ivelaw L. Griffith, Ph.D.
Professor of Political Science
Associate Dean of the College of Arts & Sciences
Florida International University
Miami, Florida 33199
Griffiti@fiu.edu

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Executive Summary

This report explains and interprets some of the democracy and governance challenges facing Jamaica, with a view to suggesting engagement areas USAID/Jamaica may consider in order to improve the nation's governance climate. First, it sketches some of the dimensions of the four areas of critical concern to USAID/Jamaica—rule of law, elections, civil society, and local government—and outlines the five variables forming the core of the assessment: consensus, rule of law, competition, inclusion, and good governance.

It notes the importance of examining the variables in the context of the country's political institutions. Thus, it examines the main structural features of Jamaica's parliamentary system of government, notably the main executive, legislative, and judicial architecture. Because political power in Jamaica has a sub-national component, attention is also paid to the structure of local government. Moreover, in light of the considerable coercion in the country brief attention is paid to the Jamaica Defense Force and the Jamaica Constabulary Force, the main components of the country's security establishment.

Given the importance of complementing knowledge of institutional structures with that about functional dynamics, there next is a discussion of three aspects that underline and influence some of the political dynamics. These are the country's political culture, which is characterized by clientelism, its economic condition, which is marked by early an post-recession circumstance and by economic deprivation, and the drug phenomenon, with its myriad components

Attention then is turned to the five variables. Regarding consensus, the study finds qualified consensus in Jamaica. There is fundamental acceptance of the need for a political system based on democratic choice and popular consent, as opposed to one based on autocracy or dictatorship. However, given discontent with the architecture and mechanics of governance, the society is in search of an appropriate mechanism to ensure fundamental fairness and facilitate political stability. Thus, Jamaica is in a positive search for consensus.

On the rule of law, the study finds strong philosophical and polemical support among the political elite and most of the rule of law managers. However, for reasons related to the country's economic condition, political culture, the occupational culture of security agencies, and the search for consensus among power brokers about aspects of the architecture of governance, the operational rule of law stands on shaky ground.

As to competition, there is a strong philosophical attachment to popular participation in political rule. But, the tenuousness of the existing consensus, the unsettled nature of electoral reform initiatives, and the jolting of memories that has started as elections draw near combine to create a delicate competition environment. In relation to inclusion and good governance, the report finds measurable activism by several civil society entities and demonstrable interest

and some commendable action by the political elite to improve the democracy and governance environment. Still, much ground remains to be covered.

Based on the analysis and four assumptions about resource availability, modus operandi of the Mission, the Project's design, and the mutually dependent nature of the five variables, 13 recommendations are offered in relation to:

- Facilitating progress on the stalled corruption and freedom of information legislation, to enhance inclusion, improve the climate of competition, and strengthen rule of law efforts.
- Promoting bridge building between civil society groups and the police as a contribution to rule of law and aimed at complementing the community policing efforts of the JCF.
- Facilitating more citizen awareness of the work of Parliament, to cultivate citizens' taking more ownership of the political process and its outcomes.
- Providing local government training through workshops and "best practices" sessions with local government officials from within and outside Jamaica.
- Conducting a needs-assessment, with appropriate subsequent initiatives, for ways to create, and, in some cases, improve positive functional cooperation between Parliament and government ministries and agencies
- Assessing the resource and other aspects of government's regulatory challenges in managing private security, with a view to facilitating the acquisition of training and equipment considered necessary or useful.
- Commissioning a study on civil society groups that includes a needs-assessment relative to fund raising, resource use, management, and other areas, with a view to enabling skills enhancement by leaders and members.
- Facilitating the holding of "best practices" forums for civil society groups.
- Prioritizing areas of engagement, perhaps giving more attention to rule of law, inclusion, and consensus areas.
- Acting discretely in some areas, notably in relation to elections, to avoid accusations of meddling in the country's internal political affairs.
- Providing country-relevant human rights sensitivity training to police officers and low-level management officials in the JCF.
- Providing for periodic "relevant issues" forums—outside the capital—for media, labor, and religious leaders to foster inclusion, and tolerance and understanding of each other's issues and challenges.
- Convening a democracy and governance donor summit to survey donors' areas of engagement, perhaps in the context of priorities, to avoid duplication (and overloading of the absorptive capacity within Jamaica) and to plan for better use of scarce resources.

Three Appendixes are provided to complement the narrative discussion. The first is a list of actors and institutions considered important to democracy and governance and to improving these in Jamaica. The second is a list of some of the major pieces of legislation, which provide the legal basis for democratic rule in Jamaica. The third is a short recommended reading list.

"In framing a government which is to be administered by men over men," [James] Madison warned in *The Federalist*, No. 51, "the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself."

~~~ Samuel P. Huntington<sup>1</sup>

The existence of a political democracy does not guarantee good government, but good government, in the present context of Latin America [and the Caribbean], is only viable within a political democracy.

~~~ Edelberto Torres Rivas<sup>2</sup>

At the political level, we need wise and visionary leadership and a vigilant populace to lay the groundwork that will guarantee democratic governance and respect for the rights of individuals in our societies. ... It is political leadership built on mutual trust and informed by tolerance that will enable us to overcome the social and ethnic cleavages which have periodically manifested themselves in our societies and which must be dealt with by a process of political inclusion rather than exclusion.

~~~ Rex Nettleford<sup>3</sup>

## II. Introduction

Several things differentiate the three epigraphs one from the other. One, they are drawn from works by scholars from different disciplines: Huntington is a political scientist, Torres Rivas is a sociologist; and Nettleford is a scholar of philosophy and the arts. Moreover, their focal ambit varies. Huntington's remark has the greatest generality and breath; that by Torres Rivas is pitched at Latin America and the Caribbean; and the observation by Nettleford has a Jamaican specificity to it. This is not to say, of course, that the observations by the latter two have geographic perimeters to their validity and applicability.

Yet, more interesting than the things that differentiate the epigraphs are the things they have in common. They all directly or indirectly address two sets of Ps: political power and public policy. The concern with political power, a perennial challenge of organized human behavior, relates not only to how power is exercised, but to the interests in which it is exercised, and the consequences of its abuse by power brokers. Public policy could be viewed as an outcome of

<sup>1</sup> *Political Order in Changing Societies* (New Haven: Yale University Press, 1968), p. 7.

<sup>2</sup> "Democracy and the Metaphor of Good Government," in Joseph S. Tulchin and Bernice Romero, eds., *The Consolidation of Democracy in Latin America* (Boulder: Lynne Rienner, 1995), p. 47.

<sup>3</sup> "The Way Forward," in Kenneth O Hall and Denis Benn, eds., *Contending with Destiny: The Caribbean in the Twenty First Century* (Kingston: Ian Randle Publishers, 2000), pp. 591-92.

the political process. Hence, there is a certain symbiosis between political power and public policy, as it is the exercise of political power and the class, ideological, or other interests guiding it that influence the kind of the policy that is designed and the manner in which it is implemented.

These epigraphs capture the fundamental thrust of this assessment of democracy and governance in Jamaica: the task here is to explain and interpret some of the challenges facing Jamaica as it experiences the exercise of political power and the conduct of public policy. This is with a view to suggesting opportunities that may exist for the modification of current political behavior and or the adoption of different policies or the revision of current ones to improve the nation's socio-political climate. Needless to say, this assessment does not claim to be a definitive treatment of the multiple vicissitudes of power in Jamaica. Neither does it pretend to offer a prescription to resolve any political catharsis the country may be experiencing, or "solve" its public policy problems.

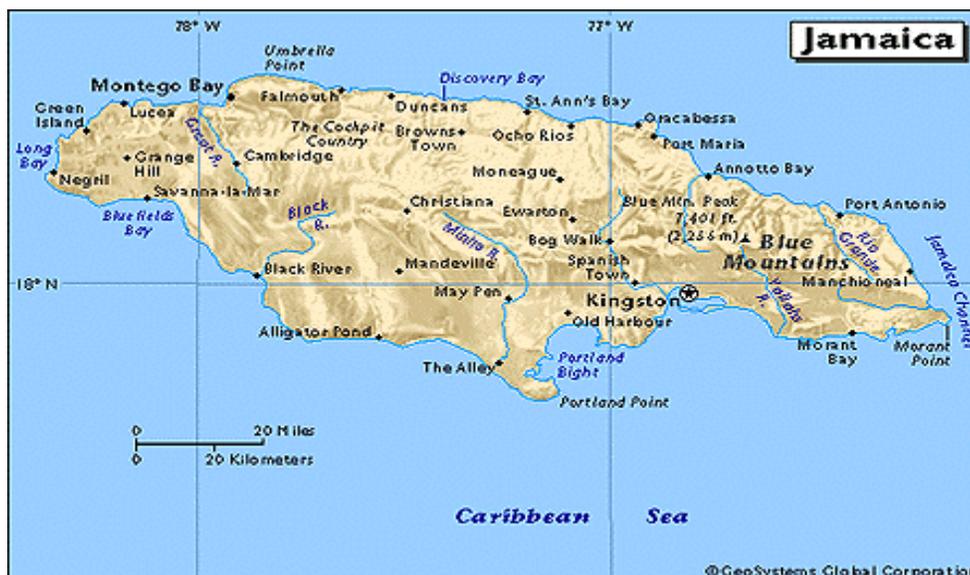
In order to accomplish the task at hand this study first offers some diagnostics by examining key democracy and governance challenges facing the nation. These relate essentially to rule of law, elections, civil society, and local government. While it is necessary to appreciate the challenges involved it is not sufficient merely to do so. Also needed is a portrait of the structural and functional aspects of power allocation and application. The second and third sections of the study--Institutional Framework and Politics and Praxis, respectively--will, therefore, focus on this. This is done in order to assess the Jamaican political reality in relation to five variables: consensus, rule of law, competition, inclusion, and good governance.

Only after this can attention credibly be paid to some areas where USAID/Jamaica may lend its institutional hand at helping to improve the democracy and governance quality of life in Jamaica. The final substantive section of the study--What's to be Done--makes a modest attempt at this. Three important complements to the narrative description and analysis then follow, in the form of Appendixes. The first is a list of actors and institutions that this author considers important to democracy and governance and to improving these in the country.<sup>4</sup> The second is a listing of some of major pieces of legislation, which provide the legal basis for democratic rule in Jamaica. Finally, a short recommended reading list is provided to facilitate further examination of some of the issues raised here but which, because of the mandate and time and space constraints, cannot be fully explored.<sup>5</sup>

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<sup>4</sup> This list should also prove valuable as the team prepares for Phase Three of the project, which involves discussions with several individuals and agencies in Jamaica.

<sup>5</sup> I wish to acknowledge, with appreciation, the assistance of the following individuals who aided preparation of this report in a variety of ways: Richard Loudis and Cheryl Mitchell of USAID/Jamaica; Lynn Carter and Jill Tirnauer of Management Systems International; Col. Alan Douglas of the Jamaica Defense Force; Winsome Leslie and Rolande Pryce of the Embassy of Jamaica in Washington, DC; and Lee Companioni and Davile Gonzalez of Florida International University.



### III. Problem Definition

Democracy, human rights, economic prosperity, law enforcement, and transnational crime are among key United States interests in its relationship with Jamaica.<sup>6</sup> Regarding the first two areas, for instance, the current U.S. Mission Performance Plan specifies the Mission Goal as: "To foster and support a representative, accountable, and transparent government in Jamaica which respects the rule of law and fundamental human rights, and a strong and participatory civil society."<sup>7</sup> In the context of these interests, recent democracy and governance trends in Jamaica have given rise to concern by several agencies that execute U.S. interests there. USAID/Jamaica is one such agency. Its concern relates to four areas: rule of law, elections, civil society, and local government.<sup>8</sup>

#### Critical Concerns

Rule of law is a critical area of concern. It has several aspects and implications: crime and violence, law enforcement management, judicial operations, including court backlogs and alternate dispute resolution and sentencing, private security,

<sup>6</sup> It is important to note that these are not only within United States national interest. They also are within Jamaican national interest. Hence, in terms of United States-Jamaican relationships, they represent coincidental interests, speaking in foreign policy terms.

<sup>7</sup> See United States Embassy, *Mission Performance Plan (MPP) FY 2000-2002*, p. 37.

<sup>8</sup> For an explanation of those concerns, see USAID/Jamaica, *Scope of Work: Democracy and Governance Assessment in Jamaica*, 2000. These (and other) concerns are also reflected in the MPP.

prison management, among other items. This is not only because of the implications for constitutionalism intrinsically, but also because of the ripple effects on investment—both local and foreign—and economic growth and development.

An appreciation of the rule of law scene could be gained from the following four vignettes drawn partly from the USAID/Jamaica Scope of Work.

- Considerable animosity exists between the police and the average citizen, especially in inner-city areas. During 2000 confrontations resulted in the killing of some 160 citizens by the police and nearly a dozen policemen by criminals.
- Human rights violations by members of the security services have led to restrictions by the United Kingdom on the sale of weapons and an extended assessment by the United States of the sale of body armor to the Jamaica Constabulary Force (JCF).
- On average, a major civil case takes upwards of five years before adjudication, although criminal cases go to trial much earlier. Within the 42 Resident Magistrate Courts, which hear 85% of all the nation's cases, the backlog is especially serious, due partly to poor case-flow management and the absence of a court reporting system; all proceedings are recorded by Magistrates in long-hand.
- Regarding Alternative Dispute Resolution, at the Supreme Court level no system exists to allow a judge to order civil disputes to be referred for resolution by a mutually acceptable third party.

As for elections, the contestation season draws close, as national elections are due constitutionally by December 2002. This increases the apprehension over both electoral politics and elections management. This apprehension is understandable for four sets of reasons. One is the history of violence associated with elections, the 1997 experience notwithstanding. Two is the nature of Jamaica's two-party politics, which makes attempts by third parties at interest aggregation and interest representation quite difficult, as is evident from the current experience of the National Democratic Movement, and that of the Workers' Party of Jamaica and others earlier.

In addition, there is zero sum partisanship in many political quarters, which leads to a predisposition to "win at all costs." Hence, electoral fraud becomes a tool of empowerment that some people rationalize, if not defend, as serving the best interests of their political party (and the nation.) Finally, it is recognized that delays in improving both policy and operational aspects of the electoral system risk undermining both the transparency of elections and the legitimacy of the individuals declared as winners following them.

Needless to say, the implications of electoral instability go beyond undermining constitutionalism generally and the rule of law particularly; numerous ramifications extend to both polity and economy, and to domestic quality of life and international relationships, the latter of which are important for

the former. As to the relationship with the United States, for example, one assessment suggests that electoral fraud and corruption stand to “Undermine other strategic U.S. objectives, such as fostering opening markets, respect for the rule of law, and controlling immigration.”<sup>9</sup>

The concern about civil society pertains both to its nature—generally poorly organized and inadequately funded—and functionality, which is marked by sporadic citizen participation and limited scope of action. Consequently, apart from the critical commentary and scrutiny by the media, both the process of political rule and the public policy to which it gives rise could benefit from increased energy, vigilance, and participation by the various elements of civil society.

As regards local government, there is a sense that “a highly centralized government coupled with weak local government institutions further constrains democratic development, economic growth, and the ability to introduce and sustain development programs.”<sup>10</sup> The resurgence of interest in local government since the early 1990s notwithstanding, this concern is prompted by several realities about local government operations, including

- A huge reduction in revenues over the past five years due to debt management necessities, with the attendant reduction in both the scope and quality of service.
- The low level—and, in many cases, zero—management training by elected and appointed officials in the parishes that often results in “the blind leading the blind.”
- The limited independent revenue enhancement ability of parishes and, consequently, discretionary spending capacity by them.
- The two-party alliances at parish level, which often frustrates consensus and transfers national political animosity and bickering to the local level.

### Five Variables

In broad conceptual terms, the areas of concern noted above pertain to three realms of the link between political power and public policy: constitutionalism, political contestation, and political participation. Rule of law is an aspect of constitutionalism, elections relate to political contestation and political participation, civil society is associated with political participation, and local government is connected to both constitutionalism and political participation.

However, the overall analytic approach adopted by USAID suggests the need for attention to five variables:

- Consensus: whether (a) there exists basic agreement on the most fundamental rules of political life, (b) political contests are played by those

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<sup>9</sup> *Mission Performance Plan (MPP)*, op cit.

<sup>10</sup> *Scope of Work*, p. 4.

rules, (c) there is agreement on the definition of citizenship, and (d) there is agreement on the rules for achieving power.

- Rule of Law: whether (a) there are basic legal structures for public and private activities and interactions, (b) basic human rights are observed and the rule of law is applied equitably, (c) personal security is guaranteed by the state, and (d) the judiciary has integrity and independence.
- Competition: competition in the political system, notably through elections, in the media, and in the “marketplace of ideas;” the ability of citizens to legally organize to pursue their interests; and competition within government.
- Inclusion: interest in whether problems of inclusion and exclusion exist, and whether any elements of society are excluded formally or informally from meaningful political, social, or economic participation because of religion, ethnicity, gender, geography, or income status.
- Good Governance, viewed not merely as the functioning of the governmental machinery, but also the functionality of social institutions. Hence there is interest in whether (a) overall there is adequate governance by the state and by public and private sector agencies, and (b) agencies are accountable, transparent, and efficient.<sup>11</sup>

Whether in terms of the three conceptual areas (constitutionalism, contestation, and participation) or the five variables above, an assessment of the functional dynamics linking political power and public policy needs to be done in the context of the country’s institutional framework for governance, to which we turn our attention.

#### IV. Institutional Framework

Political scientist Samuel Huntington once made a prescient observation about the place of political institutions in society: “In the total absence of social conflict political institutions are unnecessary; in the total absence of social harmony, they are impossible.”<sup>12</sup> This statement resonates powerfully with Jamaica, where the balance between social conflict and social harmony has long been a tenuous one.

##### Main Institutional Architecture

The institutions that strive to exercise a balance between social conflict and social harmony, allocating power and permitting its use in the process, exist within an executive, legislative, and judicial framework, and operate as part of a parliamentary democracy.

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<sup>11</sup> For a further discussion of these five areas and USAID’s overall analytic framework for democracy assessments, see USAID Center for Democracy and Governance, *Strategic Assessment*, available at <http://www.usaid.gov/democracy/center/sa.html> .

<sup>12</sup> Huntington, *Political Order in Changing Societies*, p. 9.

Executive power is vested nominally in the Queen, but exercised by the Governor-General, whom the Queen appoints on the recommendation of the Prime Minister. The Governor-General performs the functions of head of state. These are largely ceremonial, and include the prerogatives of judicial pardon, formal appointments of public officials, formal assent to bills before they can become law, and summoning and adjourning Parliament. In most cases, the Governor-General acts only on the advice of the Prime Minister, but on some occasions he acts on the advice of both the Prime Minister and the Leader of the Opposition, or on the advice of his Privy Council.<sup>13</sup>

Substantive power in the executive branch lies with Prime Minister and the Cabinet. Although the theory of parliamentary government points to the Prime Minister as *primus inter pares* (chief among equals) within the Cabinet, in Jamaica and elsewhere in the Caribbean (and other regions) the Prime Minister is a predominant leader, with capacity to influence choice and stifle opposition within the Cabinet (and elsewhere in the political system).<sup>14</sup> The Prime Minister's authority and assumption of office are a function of the "fusion of branches" aspect of parliamentary government—as opposed to the "separation of branches (powers)" principle of most presidential systems. Hence, P.J. Patterson is Prime Minister because the party he leads—People's National Party (PNP)—won control of the popularly elected House of the bicameral Parliament in the last elections, held on December 18, 1997.<sup>15</sup>

Cabinet ministerial appointments go to some of the party stalwarts who win at the polls, although some Cabinet positions go to people in the Senate, which is non-elected. One current example is Attorney General A.J. Nicholson. As is evident from Appendix A1, some Cabinet ministers hold more than one portfolio. For example, the Prime Minister is also Minister of Defense, and Minister Arnold Bertram has the portfolios for local government, youth, and community development. Partly because of multiple portfolios, some Ministers also have Ministers of State—and sometimes Parliamentary Secretaries—assigned to them by the Prime Minister, as Appendix A1 also indicates. Michael Peart and Erroll Ennis, for instance, are both Ministers of State in the Ministry of

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<sup>13</sup> The Privy Council being referred to here is not the Judicial Committee of the Privy Council, which is a judicial body, but the entity established under Section 82 of the Jamaica Constitution as a six-member advisory body to the Governor-General. Members serve for three years, and the Council advises the Governor General on issues related to clemency and disciplinary appeals from the public service. For more on the subject, see Lloyd G. Barnett, *The Constitutional Law of Jamaica* (Oxford: Oxford University Press, 1977), pp. 181-83.

<sup>14</sup> For a discussion of the theory and practice of Cabinets in parliamentary systems (which are different from those in presidential systems), see Ivor Jennings, *Cabinet Government* (Cambridge: Cambridge University Press, 1969); and Michael Laver and Kenneth A. Shepsle, eds., *Cabinet Ministers and Parliamentary Government* (Cambridge: Cambridge University Press, 1994). For a discussion of Caribbean Prime Ministers as predominant leaders, see Ivelaw L. Griffith, *The Quest for Security in the Caribbean* (Armonk, New York: M.E. Sharpe, 1994), chapter 2.

<sup>15</sup> Although simple majority control is all that's needed for one party to "form the government," the PNP secured preponderant control, winning 51 of the 60 parliamentary seats.

Finance and Planning. Key to the functioning of ministries at the administrative level are Permanent Secretaries, also shown in Appendix A1.

As regards the legislature, in its political element it is a bicameral body, with a 60 member elected House of Representatives, where members are elected for terms of five years, and a 21 member appointed Senate. However, the head of state is also an element of Parliament, under Section 34 of the Constitution. The legislative role of the head of state (Governor-General) includes appointment of Senators: 13 on the advice of the Prime Minister and 8 on the advice of the Leader of the Opposition. The normal parliamentary terms is five years, but the Prime Minister may call elections earlier if he considers it politically expedient to do so, in order to renew his party's mandate and thereby extend his and his party's rule.<sup>16</sup>

The House initiates all funding bills, but other bills may be introduced in either chamber. Because of the executive-legislative linkage, Cabinet ministers usually introduce bills intended to set, revise, or implement policy. As with bicameral legislatures elsewhere, each chamber regulates its own procedures and chooses its own officers. A key officer of the House is the Speaker, who controls its proceedings; the equivalent officer in the Senate is the President. In addition to submitting bills, the Senate reviews legislation submitted by the House and may delay legislative bills for seven months and money bills for one month. However, the Senate delay may be overridden if a majority in the House passes such bills three times in succession. As for constitutional amendments, the concurrence of the Senate is necessary.

In terms of judicial institutions, there are several courts: the Judicial Committee of the Privy Council, the Court of Appeal, the Supreme Court, the Revenue Court, the Gun Court, the Traffic Courts, the Family Court, the Magistrate's Courts, and Petty Sessions courts.

The Judicial Committee of the Privy Council, which sits in the United Kingdom, is Jamaica's final court of appeal.<sup>17</sup> It is composed of between five and seven Law Lords, who hear criminal and civil appeals from the Jamaican Court of Appeal. On the other hand, the Court of Appeal is based in Kingston and consists of a President, the Chief Justice (who sits at the invitation of the President), and six Appeal Court judges. A person who is dissatisfied with a decision of one of the other courts, except Petty Sessions, can appeal to this court. Judges in chambers hear Petty Sessions appeals.

The Supreme Court consists of the Chief Justice, a Senior Puisne Judge, and 14 Puisne Judges. It has both criminal and civil jurisdiction, with a single judge sitting with a jury--twelve in murder cases, and seven in other cases.

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<sup>16</sup> Early elections also could be held if there is a successful vote of no confidence in Parliament against the ruling party. However, there is little likelihood of this in a two party system such as the one in Jamaica, especially where the ruling party has such a significant margin of legislative control.

<sup>17</sup> If all goes according to plan, this will change from 2003 when a newly established Caribbean Court of Justice succeeds the Judicial Committee of the Privy Council as the highest judicial tribunal for Jamaica and 10 other Caribbean countries. See "Caricom Signs for CCJ," *Jamaica Gleaner*, February 15, 2001.

Criminal cases go to the Circuit Court through committals by the Resident Magistrates. In its civil jurisdiction, the Supreme Court is concerned with civil actions arising from negligence, breach of contract, slander, libel, trespass, divorce administration, among other things.

The Revenue Court, which was established by the 1971 Revenue Court Act, hears appeals under the Customs Act, the Excise Duty Act, the Valuation Act, the Income Tax Act, the Land Development Duty Acts, the Transfer Tax Act, and the General Consumption Tax Act. The Gun Court was established three years after the Revenue Court. Certain divisions-- notably the High Court Division and the Circuit Court Division—are superior courts of records. In these divisions, firearm offences that attract mandatory life imprisonment sentences are tried.

The Family Court deals with the maintenance of children, juvenile delinquency, custody and guardianship of children, adoption and married women's property rights, in the corporate area—Kingston and St. Andrew. It also operates in Montego Bay. This court has jurisdiction for the parishes of St. James and Hanover. Outside of these areas, the Resident Magistrates' Courts generally deal with the matters covered by the Family Court. As for the Traffic Court deals it with breaches of the Road Traffic Law within the corporate area of Kingston and St. Andrew.

The Resident Magistrates' Courts also deal with traffic breaches in the various parishes. Resident Magistrates' Courts exist in each of the parishes. They deal summarily with less serious matters, both civil and criminal, and conduct preliminary inquires for more serious criminal cases. The Resident Magistrate is the parish Coroner. There also are Petty Sessions courts, which deal with minor offences. These usually are presided over by Justices of the Peace. A Small Claims Court is also being established.<sup>18</sup>

In terms of appointments, the Governor-General appoints the Chief Justice, on the recommendation of the Prime Minister and following the Prime Minister's consultation with the Leader of the Opposition. The Chief Justice is the head of the Judiciary, and by virtue of that office, he also is Chairman of the Judicial Service Commission. Hence, he handles administrative matters such as appointments and transfers. The President of the Court of Appeal is also appointed by the Governor-General, on the advice of the Prime Minister, after the latter's consultation with the Leader of the Opposition. In addition to his duties in the Court of Appeal, where he presides whenever he is sitting, the President of the Court of Appeal is a member of the Judicial Service Commission.

Beyond the importance of the three branches, but with varying degrees of importance to all of them, is the Leader of the Opposition. This individual is appointed by the Governor General as the parliamentarian best able to command

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<sup>18</sup> In relation to the Small Claims Court in June 2000 the National Security and Justice Minister told Parliament "On December 17, 1999 the regulations were effected and since then the Chief Justice has been putting in place the necessary infrastructure for the effective operation of the court." See Parliament of Jamaica, *The Criminal Justice System: A Crime Prevention Approach, Presentation to Parliament by the Hon. K.D. Knight, Q.C., M.P., Minister of National Security and Justice, Sectoral Debate 2000*, June 13, 2000, p. 48.

the support of the majority of the members from parties opposing the ruling party. The current Opposition Leader is Edward Seaga, head of the Jamaica Labor Party (JLP), the other party that won parliamentary seats in the December 1997 elections. The Opposition Leader is expected to perform a certain check and balance function: to serve as a critic of how power is being exercised and policy is designed and implemented, challenge the ruling group, and provide an ever-ready alternative to those in power. Moreover, the Governor General and the Prime Minister are obliged to get his input prior to making decisions in several areas. Some of this was noted above.

### Local Government and Security



Governmental power is not only allocated and exercised at the national level; there also is a sub-national element. Local government is organized along geographic units called parishes. As the map above shows, there are 12 parishes in addition to the metropolitan authority for the capital city, known as the Kingston and St. Andrew Corporation. Parish Councils are elected generally every three years, and Mayors are elected by the respective councils to lead them. (See Appendix A5 for the list of current Mayors.)

Parish councils are supposed to be responsible for minor water supplies; solid waste collection; parochial roads, traffic management and parking; public markets and abattoirs; regulation of certain retail establishments, such as restaurants, food shops, and barbers, among others; poor relief and infirmaries; parks and cemeteries; drainage; and building approval. However, as Jamaica has limited decentralization national government agencies or enterprises provide many local services, including infrastructure development, land use planning, solid waste collection and disposal, local revenue collection, fire protection, electricity supply and distribution, and water supply and distribution.

The economic downturn in Jamaica during the early 1980s and the subsequent economic restructuring led to a re-centralization of a number of powers and service responsibilities. This effectively eroded both the authority and fiscal base of parish councils, leading to significant reduction in the effectiveness of local governments to manage them, to provide services, and to plan for growth and development. It also led to greater institutional fragmentation of responsibilities for the land development process and local services, resulting in uncoordinated planning and delivery.

As in other countries, the political elite in Jamaica relies on a security establishment to facilitate their legitimate exercise of coercion as they wield power and design and implement public policy. As Appendix A4 indicates, that security establishment has several parts to it, but the two most important ones are the Jamaica Defense Force (JDF) and the Jamaica Constabulary Force (JCF).

The Jamaica Defense Force (JDF) has the mandate to defend the nation from external threats and help provide internal order. Its declared duties include assistance with the maintenance of essential services, such as electricity and water supplies; assistance of the population in the event of disaster; protection of the country's maritime zone; and search and rescue by air, land, and sea. They also are permitted to render aid to other Caribbean countries, when requested and necessary for the restoration of law and order.

Policy direction for the JDF falls to the Defense Board. Currently it comprises the Prime Minister (and Minister of Defense), as Chairman, the Minister of National Security and Justice, the JDF Chief of Staff, and the Permanent Secretary of the Ministry of National Security and Justice, who is also Secretary of the Board. Operational control of the Force lies with the Chief of Staff, subject to overall direction from the Cabinet. However, the Prime Minister is able give the Chief directions for operational use of the Force without formal Cabinet direction.

The JCF, founded in the aftermath of the 1865 Morant Bay rebellion, is the other major security agency. It is responsible for the maintenance of law and order, the prevention and detection of crime, the protection of life and property, the investigation of alleged crime, and the enforcement of all criminal laws. Operational control of the JCF is the responsibility of the Commissioner of Police, who reports to the National Security and Justice minister. Three Deputy

Commissioners and 12 Assistant Commissioners aid the Commissioner in the management of the Force.

Operationally, the Force is organized into five geographic Areas:

- ❑ Area 1: St. James, Hanover, Trelawny, and Westmoreland
- ❑ Area 2: St. Mary, St. Ann, and Portland
- ❑ Area 3: Clarendon, Manchester, and St. Elizabeth
- ❑ Area 4: St. Andrew South, Kingston West, Kingston East, & Kingston Central
- ❑ Area 5: St. Andrew North, St. Thomas, St. Catherine North, & St. Catherine South.<sup>19</sup>

Moreover, the JCF works through several unit and divisions, including the regional drug training center, the forensic laboratory, the National Firearm and Drug Intelligence Center, the narcotics division, the Special Anti-Crime Task Force, Community Relations, Mobile Reserve, and internal affairs.<sup>20</sup>

## V. Politics and Praxis

Understanding the structural components of a society's governmental institutions, which we did in the preceding section, is necessary for an appreciation of some of the power and policy dynamics. Yet, it is not sufficient; an awareness of some functional aspects—the focus of this section—is important to complement the knowledge about structure.

The ensuing discussion must be prefaced with the observation that while staying within the manifestly political realm may be plausible for a review of structure, understanding politics and praxis requires venturing beyond the political domain. The economic and social domains become necessarily part of our purview, as in societies symbiotic relationships exist between things political and economic, and things political and social. Jamaica is no different in this respect.

### Political Culture and Economic Condition

It is always useful in seeking to understand a society's political dynamics to gain some appreciation of its political culture, used here to mean political orientations within a society and attitudes by its citizens towards the political system and it

<sup>19</sup> See Jamaica Constabulary Force, *JCF Annual Report 1999-2000*. Kingston, 2000.

<sup>20</sup> For more on the security establishment, see Humberto García Muñiz, "Defense Policy and Planning in the Caribbean: The Case of Jamaica," in Jorge Rodríguez Beruff, J. Peter Figueroa, and J. Edward Greene, eds., *Conflict Peace, and Development in the Caribbean* (New York: St. Martin's Press, 1991); Griffith, *The Quest For Security in the Caribbean*, chapter 5; and Anthony Harriott, *Police and Crime Control in Jamaica* (Kingston: University of the West Indies Press, 2000), chapters 2-6; [www.jdfmil.org](http://www.jdfmil.org), and [www.infochan.com/jcf](http://www.infochan.com/jcf).

component parts, and to their roles in the system.<sup>21</sup> In the case of Jamaica, it is widely accepted that the political culture is characterized by clientelism.

The assertion by political sociologist Carl Stone two decades ago still has considerable validity: "Clientelism in the Jamaican context promotes competitive politics, but under the governance of the rules of the game that limit the level of competitiveness and constrains genuine democratic forms associated with parliamentary democracy.... Clientelistic competitive politics survives in Jamaica partly because the mass publics continue to believe that the political bosses have a capability to manage the state system effectively. ..."<sup>22</sup> Political behavior in Jamaica also supports Stone's view that clientelism is under-girded by political values that deeply respect the exercise of political power, and at times place access to political patronage above the importance of citizens' rights.

This orientation and attitude is said to have several consequences. Among other things, it

- Promotes personalized authority and, therefore, weak institutions.
- Encourages low levels of accountability in political life.
- Sustains an agenda of issues debate controlled by the dominant political bosses and hinders the development of a civic sense of national interests that rise above partisanship.
- Presents intimidating obstacles that repress free public debate and discourages the ethic that governance is the preserve of the power brokers.
- Survives on a competitive basis because neither of the two major parties has been able to maintain winning majorities for more than two terms in office because of the inadequate flows of material inducements related to economic underdevelopment.
- Leads to citizens blaming everything on the politicians from whom miracles are expected, and accepting little responsibility for happenings in the public arena.<sup>23</sup>

Societies are dynamic, not static. Thus, one expects there would have been change in Jamaica relative to some of the features Stone identified two decades ago. Change has occurred, including in relation to free public debate. Yet, there is cause for concern about attitudes by citizens towards the political system and to their roles within it. For instance, political scientist (and labor leader and Senator) Trevor Munroe recently drew attention to a 1995 study in which less than 2 percent of Jamaicans indicated that the Jamaican constitution and government constituted the aspect of Jamaica about which they were most

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<sup>21</sup> The definition follows the approach of Gabriel Almond and Sydney Verba in *The Civic Culture* (Boston: Little, Brown, and Co., 1965), p. 12.

<sup>22</sup> Carl Stone, *Democracy and Clientelism in Jamaica* (New Brunswick, NJ: Transaction Books, 1980), p. 109.

<sup>23</sup> Stone, *Ibid.*

proud. Moreover, some two-thirds of the respondents felt the country's political system was dysfunctional and needed fundamental change.<sup>24</sup>

Understandably, these views and attitudes about self and politics carry over into self-interest and economics. This is not only because politics is essentially about who get how, what, and when, but also because clientelism places a high premium on patronage; who get how much, from whom, and for how long, one might say.

Tony Payne's 1995 observation is still is very true: "Politics in Jamaica in the mid-1990s is more about style and spoils than substance. The trouble is that styles are dull and the spoils are scarce."<sup>25</sup> This spoils scarcity is directly related to the economic travails that Jamaica has been experiencing over the last few decades as it coped with huge debts, structural adjustment, and financial mismanagement. For instance, one study indicates that after an encouraging drop in late 1980s, inflation increased thereafter, rising to 80 percent in 1991 and then slowly declining to 26.9 percent in 1994. There was almost a 50 percent decline in the purchasing power of workers between 1977 and 1989, and the number of low earning female household heads increased by 116 percent between 1977 and 1985. There was also an impact on housing. Whereas in 1976 7,852 public sector housing units were provided, the figure dropped to 1,821 in 1985 and rose to a little over 2,700 in 1994. Moreover, public sector employment contracted over 10 percent during 1990 and 1994.<sup>26</sup>

Hence, there was relative economic deprivation. More than this, though, argues one scholar, has been a two dimensional crisis of the state. "First, the state is losing its already tenuous ability to shape and direct national development. Second it is losing the capacity to determine and shape the limits of political activity directed toward maintaining a social and legitimizing base." Thus, "the reality is that democratic consciousness is confined within the narrow limits of neoliberalism. As people see themselves less as part of a collectivity and more as individuals with specific interests, they become depoliticized relative to traditional institutions of the state and to political parties."<sup>27</sup>

Closer to our time, the Caribbean Development Bank reported that the 1998 ratio of debt service payments to exports of goods and services rose to 47.8 percent, up from 29.6 percent in 1997; GDP real growth for 1998 was a negative 2.4 percent; and unemployment stood at 17 percent in 1997.<sup>28</sup> A more recent report indicates that after four consecutive years of economic decline, there were indications of economic recovery during 2000. Overall developments suggest that the economy may have at least bottomed out, due partly to

<sup>24</sup> See Trevor Munroe, *Renewing Democracy into the Millennium: The Jamaican Experience in Perspectives* (Kingston: University of the West Indies Press, 1999), p. 42.

<sup>25</sup> Anthony J. Payne, *Politics in Jamaica* (New York: St. Martin's Press, 1995), p. 144.

<sup>26</sup> Dorith Grant-Wisdom, "Globalization, Structural Adjustment, and Democracy in Jamaica," in Ivelaw L. Griffith and Betty N. Sedoc-Dahlberg, eds., *Democracy and Human Rights in the Caribbean* (Boulder: Westview Press, 1997), pp. 205-207.

<sup>27</sup> Grant-Wisdom, *Ibid*, p. 202.

<sup>28</sup> Caribbean Development Bank, *Annual Report 1998*, Bridgetown, Barbados, 1999, pp. 14, 16, 35

performance in the construction industry, tourism and, to some extent, the manufacturing and financial sectors. Standard and Poor's assigned a single B rating to short term foreign and local currency and a B+ to long term local currency rating. Hence, it was felt: "The change in outlook from stable to positive reflects better prospects for improved creditworthiness arising mainly from restructuring of the country's financial sector along with tight fiscal policy. However, high debt servicing continues to be a cause for serious concern."<sup>29</sup>

A few specific areas are worth mentioning:

- Banana production during the first eleven months of 2000 declined by 18.4 percent as compared to the same period the year before. Moreover, the new "first come first served" system of distributing banana-importing licenses announced by EU has worsened the prospects for the industry.
- Sugar production for the new 2000/2001 crop year started late in December. The Sugar Industry Authority projects about 198,000 tons for the crop year, reflecting an 8.5 percent decline over the previous crop year. Domestic crop production for the first three-quarter of 2000 declined by 23 percent, due mainly to a severe island-wide drought.
- Stopover tourist arrivals increased by 5.6 percent to 1.2 million during the first eleven months of 2000. Cruise ship passengers increased by 20.4 percent to 812,576, and total ship visits increased by 3.9 percent.
- Total bauxite and alumina production declined by six percent in January-November 2000 from the same period in 1999 to 10.15 million tons. However, the resumption of shipments to Kaiser's Gramercy refinery and expansion of aluminium refining in Jamaica bodes well for the mining industry.
- The Jamaican dollar devalued by 10 percent during 2000. The slippage may reflect greater speculative demand and the high interest rates offered on foreign exchange fixed deposits.
- As regards inflation, for the period Jan-Nov 2000, the consumer price index rose by 6.8 percent. Annual inflation was 7.3 percent for the twelve months from November 1999 to November 2000. The increased price of oil during mid year and higher costs for housing and food were the major contributors to the overall increase.<sup>30</sup>

Needless to say, the country's economic condition is not merely its statistical indicators; the quality of life consequences for citizens in various socio-economic classes have been real. Both the quality and quantity of social services have declined due to reduced public spending for food, education, and health care, among other things. In the last area, for instance, among other things, there has been a shortage of health care personnel, overcrowding and closures

<sup>29</sup> See U.S. Embassy Jamaica, *Jamaica: Economic Overview*, available at <http://usembassy.state.gov/kingston/www/hfeoj.html>

<sup>30</sup> U.S. Embassy Jamaica, *Ibid.* For a detailed economic report, see Planning Institute of Jamaica, *Economic and Social Survey of Jamaica 1999*. Kingston, April 2000., especially chapters 3-16.

of medical facilities, inadequate supplies of drugs, and increases in sexually transmitted diseases, including AIDS, and in stress illnesses.

The latest annual survey of the Planning Institute of Jamaica provides some very revealing vignettes of the country's social condition

- Some 15.9 percent of the population lived below the poverty line in 1999, with the highest incidence of poverty—19.5 percent--being in the rural areas and the lowest in the Kingston Metropolitan areas.<sup>31</sup>
- At the parish level, all parishes with the exception of St. Mary and Trelawny recorded impoverishment in their welfare status compared with 1992, when parish data were first recorded.
- Children, who comprise 39 percent of the overall population, comprised 49 percent of people in poverty and recorded a poverty rate of 18 percent.
- The elderly, 65 years and over, were also over-represented in the poverty cohort, accounting for 10 percent of the poor, while being 7.2 percent of the country's total population.
- Enrollment at the pre-primary (pre-K and K), primary (elementary), and secondary (middle and high) school levels increased 1 percent in 1999 over 1998. At the three UWI campuses it increased by 5.3 percent and at Jamaica's University of Technology it dropped 8 percent below the 1998 level.
- The 1999-2000 budgetary allocation of \$J 2.1 billion for Social Development Welfare and Culture was 4 percent less than the previous allocation. Within that allocation there was a 3.4 percent decline in the funds for Social Security and Welfare Services (the National Insurance Scheme, Public Assistance, Services to the Aged, Handicapped, and Destitute, the Food Stamp Program, Women's Welfare, grants to Private Sector Welfare Organizations, and the Kerosene Assistance Program.) However, Family Services received a 21 percent increase in funding, in an effort to promote the care of children and prevent the further disintegration of families.
- The 1999-2000 allocation of \$J 7.4 billion to the Ministry of Health was 12 percent below that for 1998-99, but infant mortality has been constant at 24.5 per 1000 live births since 1993, while national immunization coverage for 1999 was 82 percent, down from 85.2 percent the previous year.
- There were no major outbreaks of communicable diseases in 1999 and the country maintained its polio free status. Up to the end of 1999 there were 892 new AIDS cases, a 38.7 percent increase over the same period for 1998, bringing the cumulative total of 4,162 since 1982 when the first case was diagnosed. Deaths from HIV/AIDS up to December 1999 were 2,515, with a fatality rate of 60 percent.<sup>32</sup>

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<sup>31</sup> Some observers suggest that the number of people living below poverty is closer to 22-25 percent. One British report puts the number living below poverty between 1989 and 1994 at 32 percent. See Annex 1 of United Kingdom Department for International Development, *Draft Jamaica Strategy Paper 2000-2004*, September 18, 2000.

<sup>32</sup> These vignettes are drawn from the Overview section of Planning Institute of Jamaica, *ibid.*

## The Drama of Drugs

The country's economic and social condition increases people's need to and interest in intensifying the competition for spoils. Yet, there are other complications. One of them is the drama of drugs, which serves to mitigate elements of the economic condition and warp people's attitude towards political authority, thereby posing dangers to democracy and governance.

Jamaica's "drug problem" should not be viewed in parochial terms, as it is a manifestation of a transnational phenomenon. In broad conceptual terms, it may be examined in the context of regional geonarcotics. The concept of geonarcotics captures the dynamics of three factors besides drugs: geography, power, and politics. It posits that the drug phenomenon is multidimensional, with four main problem areas--drug production, consumption-abuse, trafficking, and money-laundering. It also suggests these give rise to actual and potential threats to the security of states, and that drug operations and the activities they spawn precipitate both conflict and cooperation among various state and non-state actors

Geography is a factor because of the global dispersion of drug operations, and because certain physical, social, and political geography features of many countries facilitate drug operations. Power involves the ability of individuals and groups to secure compliant action. In the drug world, this power is both state and non-state in origin, and in some cases non-state sources exercise relatively more power than state entities. Politics revolves around resource allocation in the sense of the ability of power brokers to determine who gets what, how, and when. Since power in this milieu is not only state power, resource allocation is correspondingly not exclusively a function of state power-holders.

The geonarcotics milieu involves a variety of state and non-state actors, which differ in how they affect and are affected by the various problems, and in their responses to them. Drug operations are seen as generating two basic kinds of interactions: cooperation and conflict. These are bilateral and multilateral, and do not all involve force. Moreover, some actors engage simultaneously in cooperation and conflict. The geonarcotics approach does not view the "war on drugs" purely as a military matter, but it sees international assistance as necessary, as all countries face resource constraints. However, collaboration among states may result in conflict over sovereignty and perception of the nature and severity of threats and, therefore, appropriate responses.<sup>33</sup>

In geonarcotics terms Jamaica's geography, politics, and power combine to facilitate its deep implication in the drama of drugs. For instance, Jamaica's subtropical climate makes the entire island ideal for cannabis cultivation. Ganja, as marijuana is popularly called there and elsewhere in the Caribbean,

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<sup>33</sup> For the original geonarcotics exposition, see Ivelaw L. Griffith, "From Cold War Geopolitics to Post-Cold War Geonarcotics," *International Journal* Vol. 48 Winter 1993-94, pp. 1-36, and for an empirical study based on it, see Ivelaw L. Griffith, *Drugs and Security in the Caribbean: Sovereignty Under Siege* (University Park: Pennsylvania State University Press, 1997).

traditionally is harvested in two main annual seasons, of five to six month cycles. However, the indica variety matures in three or four months, making four harvests possible. Marijuana has had a long history of accepted socio-religious use, dating from the introduction of indentured workers from India following the abolition of slavery in the nineteenth century. Indeed, the word ganja is itself an Hindi word. However, marijuana's socio-religious use pattern has changed over the years. However, it still is important to the Rastafarians, Afrocentric social-religious sects, for whom it is an herb with biblical justification for its use.<sup>34</sup>

**Figure 1** Narcotics Flows through the Caribbean



<sup>34</sup> According to Scott MacDonald, the biblical references are Genesis 1:12 and 3:8; Exodus 10:12; and Psalms 104: 14). See his *Dancing on a Volcano: The Latin American Drug Trade* (New York: Praeger, 1988), p. 91. For a discussion of the ritual smoking of ganja by Rastafarians, see Barry Chevannes, *Background to Drug Use in Jamaica*, Institute of Social and Economic Research Working Paper No. 34, University of the West Indies, Jamaica, 1988, pp. 11-12.

**Table 1 Statistical Portrait of Drugs in Jamaica**

| Activity Area          | 1999  | 1998  | 1997  | 1996  | 1995  | 1994  | 1993  | 1992  | 1991  |
|------------------------|-------|-------|-------|-------|-------|-------|-------|-------|-------|
| <b>Cannabis</b>        |       |       |       |       |       |       |       |       |       |
| Potential Harvest (ha) | unk   | unk   | 317   | 527   | 305   | 308   | 744   | 389   | 950   |
| Eradication (ha)       | 894   | 705   | 743   | 473   | 695   | 692   | 456   | 811   | 833   |
| Cultivation (ha)       | unk   | unk   | 1,060 | 1,000 | 1,000 | 1,000 | 1,200 | 1,200 | 1,783 |
| Potential Yield* (mt)  | unk   | unk   | 214   | 356   | 206   | 208   | 502   | 263   | 641   |
| <b>Seizures</b>        |       |       |       |       |       |       |       |       |       |
| Cocaine (mt)           | 2.46  | 1.16  | 0.41  | 0.24  | 0.57  | 0.18  | 0.16  | 0.49  | 0.06  |
| Cannabis (mt)          | 56.22 | 35.91 | 24.00 | 52.99 | 37.20 | 46.00 | 75.00 | 35.00 | 43.00 |
| Hashish Oil (kg)       | 371.5 | 144.1 | 383.0 | 263.4 | 278.0 | 47.0  | 235.0 | 165.0 | 71.0  |
| Heroin (mt)            | 0.000 | 0.000 | 0.001 | 0.001 | -     | 0.001 | 0.001 | 0.002 | -     |
| Hashish (mt)           | 0.06  | 0.04  | 0.078 | -     | -     | -     | -     | -     | -     |
| <b>Arrests</b>         |       |       |       |       |       |       |       |       |       |
| Nationals              | 6,385 | 7,093 | 3,143 | 2,996 | 3,325 | 788   | 899   | 785   | 3,353 |
| Foreigners             | 333   | 259   | 221   | 267   | 380   | 98    | 517   | 364   | 674   |
| Total Arrests          | 6,718 | 7,352 | 3,364 | 3,263 | 3,705 | 886   | 1,416 | 1,149 | 5,027 |

## Notes:

unk: unknown

\* : Yield is based on an estimate of 675 kilograms per hectare

Source: U.S. Department of State, *International Narcotics Control Strategy Report 1999*, March 2000.

As regards trafficking, Jamaica has long been key to the drug trade, given its long coastline, proximity to the United States, its many ports, harbors, and beaches, and its closeness to the Yucatan and Windward Passages. Trafficking takes place by both air and sea, with traffickers using a variety of methods to “move” their merchandise. According to the latest International Narcotics Control Strategy Report, “Jamaica-based traffickers use couriers who board commercial airlines attempting to smuggle cocaine that they have ingested or concealed in their clothing or luggage. U.S Customs reports that more than 63 percent of all arrests at U.S. airports for cocaine possession involved flights originating in Jamaica.”<sup>35</sup>

Table 1 provides a small statistical portrait of the drama of drugs, mainly in relation to production and trafficking. But it is important to stress that Jamaica’s “drug problem” is not a one or two-dimensional one; it truly is multidimensional. Not only are there production, trafficking, consumption, and money laundering problem areas, some more significant than others, but these have multiple consequences and implications, including increased crime, corruption, and arms trafficking. Moreover, the problem area issues and the crime, corruption, and other consequences they spawn have an impact on agents and institutions of security and governance.

A few specific examples, with clear economic and governance elements, will suffice. First, in November 1998 an American-owned company named Cupid Foundations closed operations in Jamaica after 22 years. Cupid no longer could afford the fines incurred with the seizure by U.S. Customs of its merchandise because of attempts to smuggle drugs into the United States among its clothing. That decision placed some 550 people out of work in Jamaica. (They went to Nicaragua.) Second, on November 14, 2000 police seized 1,540 pounds of cocaine, worth \$J 195 million (about \$US 5 million) in a raid in Alligator Pond, Manchester, in southern Jamaica. Finally, Since mid-October 2000 Jamaica has been witnessing a serious drug-related drama, involving high-level police corruption and illegal wire-tapping of major government officials, including the Prime Minister, among other things. Indeed, the Prime Minister himself has noted the serious implications of the case.<sup>36</sup>

The first two examples given above reinforce a point made earlier: there is a nexus between “the drug problem” and the social and economic condition examined in the previous section of this report. One gets a clear sense of this from the following statement by scholar-practitioners who are keenly aware of the Jamaican reality: “Structural adjustment increases poverty, which needs to be addressed by ‘social’ expenditure by governments. However, governments’ capacity is reduced and constrained by debt servicing. Consequently, in the

<sup>35</sup> U.S. Department of State, *International Narcotics Control Strategy Report 1999*, March 2000, available at [www.state.gov/www/global/narcotics\\_law/1999\\_narc\\_report/carib99\\_part3.html](http://www.state.gov/www/global/narcotics_law/1999_narc_report/carib99_part3.html).

<sup>36</sup> See *Statement to Parliament by Rt. Hon. Prime Minister P.J. Patterson, Q.C, Tuesday, 24 October 2000*, available at [www.jis.gov.jm/PM\\_Speeches\\_2000/PM's\\_Statement\\_to\\_Parliament.htm](http://www.jis.gov.jm/PM_Speeches_2000/PM's_Statement_to_Parliament.htm).

highly indebted countries, such as Jamaica and Guyana, here has been an immiserization of large segments of the population, creating increased economic vulnerability and leading more individuals to succumb to the temptation of involvement in drug activities."<sup>37</sup>

Moreover, what is said about the Caribbean generally resonates strongly with the Jamaican reality

The production, consumption, and trafficking of drugs [as well as drug money laundering] have increasingly affected most aspects of Caribbean society. This in turn has a debilitating effect on structural adjustment and development. First, there are adverse effects on economic activity. A country that develops a reputation as one that is unable or unwilling to confront its drug problem can find a chilling effect on efforts to attract new investment and promote tourism. Faced with the added costs of extra security for their shipments and potential embarrassment if their cargoes are used for drug smuggling purposes, many multinational companies may simply opt to do business in countries that are less prone to narcotics transshipment. The net effect is a diversion in investment, a decline in export revenues, and a loss of legitimate jobs.<sup>38</sup>

Even apart from the clientelist political culture, but complicated by it, the harsh reality--albeit a politically unpalatable one--is that the drama of drugs does provide economic buoyancy to parts of the society. Indeed, in rough cost-benefits terms, while the drug phenomenon has economic (and social and political) costs, it also has economic (and social and political benefits). Of course, the costs outweigh the benefits. Elsewhere, I have shown—for Jamaica and the rest of the Caribbean--the costs to include the negative impact on the tourism and apparel industries, fines imposed by the United States, and the distortions in resource allocation and use. Benefits include employment, income generation, and revenue enhancement.<sup>39</sup>

Some of these were long recognized as part of the Jamaican reality. For example, more than a decade ago Carl Stone indicated: "The illegal marijuana trade emerged as the way business interests attempted to fill the growing gaps between their demand for foreign exchange and the declining supply through legitimate channels. In other words, the marijuana trade helped to sustain the

<sup>37</sup> Richard L. Bernal, Winsome J. Leslie, and Stephen E. Lamar, "Drugs, Debt, and Structural Adjustment in the Caribbean," in Ivelaw L. Griffith, ed., *The Political Economy of Drugs in the Caribbean* (London: Macmillan, 2000), p. 73.

<sup>38</sup> Bernal et al, Op cit.

<sup>39</sup> See, for example, Ivelaw L. Griffith, "Drugs and Political Economy in a Global Village," in Griffith, *The Political Economy of Drugs in the Caribbean*.

flow of imports into this highly import dependent economy by providing a supplementary source of foreign exchange to importers, by way of a rapidly growing black market in U.S. dollars which was supplied mainly from the drug trade."<sup>40</sup> In re-reading Stone's article, especially in relation to this issue, I thought of the French adage: plus ça change, plus c'est la même chose (the more things change, the more they remain the same).

### Five Variables

Understandably, the society's praxis in relation to the five variables is a function of the structural and functional dynamics of its institutions, its political culture, and its socio-economic realities, some of which was reflected in the discussion on drugs and the economic condition.

### **Consensus**

Consensus is sought in societies not so much as an end in itself, but generally to facilitate social harmony, economic prosperity, and stable political rule. Much as some statesmen and scholars would like it to be otherwise, political stability itself is not an automatic condition. It is the outcome of various factors. I readily agree with Samuel Huntington on some of those factors: "Political stability is in part the product of historical conditions and social forces, but it is also in part the result of choices and decisions made by political leaders."<sup>41</sup>

Jamaica is no different in this respect. Hence, while there are numerous historical factors and contemporary social and economic forces that can serve to aid dissensus, a high premium is to be placed on the willingness and capacity of leaders in the society to forge and sustain consensus. Recall Rex Nettleford's call in the third epigraph for "wise and visionary leadership" and "political leadership built on mutual trust and informed by tolerance." I view it as a call for the kind of leadership needed for consensus. This leadership is needed especially to articulate change in those aspects of the society's political culture with a deleterious effect on consensus and stability. These include the desire for personalized authority and, therefore, weak institutions, the tolerance of low levels of accountability if such meets partisan interests, and disinclination to accept responsibility for public policy outcomes.

Leaders also would need to go beyond advocating change to adopting behavior consonant with the change advocated. One place for the higher level leaders to begin would be within their own political parties; to practice consultation and not dictation; inclusion and not ostracism; tolerance for dissent and not group think. Of course, the onus is on the two major parties to take the

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<sup>40</sup> Carl Stone, "Crime and Violence: Socio-Political Implications," in Peter Phillips and Judith Wedderburn, eds., *Crime and Violence: Causes and Solutions*. Mona: Department of Government Occasional Paper No. 2, University of the West Indies, September 1988, p. 44.

<sup>41</sup> Huntington, *Political Order in Changing Societies*, p. 329.

lead in this respect. However, other parties are just as liable for sustaining this political cultural trait if they do not contribute to adaptations in this area.

Needless to say, there may be political costs attached to pursuing such adaptations, both to the individual leaders in relation to their positions of authority within their parties, and to their parties in relation to retaining or securing power. This is all the more because the nature of the economic and social condition makes the average citizen predisposed to pursuing self-interest, in order to secure spoils and gain competitive advantages economically as well as politically. Thus, political leaders will have to make conscious and deliberate choices to put longer-term national interests above short term partisan ones. Of course, this is easier said than done. But, the question for the leaders involved should not be: What do I have to gain from this action? It should be: What will be the cost to nation and party of not taking it?

Consensus is not only about leadership, though. It also is about rules governing the allocation and use of political power and the formulation and execution of public policy. At one level there seems to be general agreement about one thing in relation to the superstructural rules: they are dysfunctional and need to be changed. This sentiment exists significantly in relation to several rules area, but notably three: the over-arching rules structure, namely the parliamentary system of governance; the statutory rules governing elections; and the rules in relation to the ultimate judicial tribunal.

There had long been pockets of political disquiet about the political acceptability of retaining the existing parliamentary system and about its functionality. However, efforts to seriously consider modifications date to 1990 with the creation of the Committee to Examine Ways of Strengthening the Roles and Performance of Parliamentarians, under the chairmanship of Professor Carl Stone. The Stone Committee recommended radical surgery to the system rather than tinkering with it, including adoption of a presidential system with separation of powers and the right of citizens to "recall" their elected representatives.

There was both popular and parliamentary ambivalence to the Stone report. Trevor Munroe explains: "In regard to the change to a presidential form of government with separation of powers, public response was more or less evenly divided in early 1991 between 44 percent in favor, 46 percent against, and 10 percent undecided. Interestingly, but perhaps unsurprisingly, the overwhelming majority of parliamentarians were against such as change."<sup>42</sup> The ambivalence among the power brokers led to the establishment in 1991 of a Joint Select Committee of the Houses of Parliament on Constitutional Reform. The work of that Committee was suspended in 1992 to allow for creation of a Constitutional Commission with membership broader than that of the Joint Select Committee, which was limited to legislators. Unlike the Stone committee, the Commission did not advocate radical moves such as presidentialism and the right of recall.

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<sup>42</sup> Munroe, *Renewing Democracy into the Millennium*, p. 46.

Overall, the power elite is yet to act definitively on the over-arching superstructural rules of the game. Change action has been mixed in relation to electoral reform,<sup>43</sup> but it has been fairly definitive in relation to rules in the appellate judicial arena.<sup>44</sup> Partly because of all this ambivalence and mixed action, it is fair to say that there is qualified consensus in Jamaica. There is fundamental acceptance of the need for a political system based on democratic choice and popular consent, as opposed to one based on autocracy or dictatorship. Yet, it is precisely because of the discontent with the architecture and mechanics of the rules of governance that the society finds itself in search of the kind of mechanism that would ensure fundamental fairness and facilitate political stability. In sum, Jamaica is a polity in a positive search for consensus.

### **Rule of Law**

Notwithstanding the qualified consensus identified above, there is acceptance in the Jamaican polity of a fundamental maxim of democratic rule of law cited by Alexander d'Entrèves three-and-a-half decades ago: In a democracy it must be possible by the exercise of political rights to change a government without threatening the existence of the state, otherwise the state becomes identified with the sheer force of coercive might and the rule of law within it is "virtually emptied of moral content, for the state cannot be conceived in terms of force alone."<sup>45</sup>

This acceptance forms the basis for embracing, at least polemically, of the three main aspects of the rule of law enunciated by A. V. Dicey in the nineteenth century and which are now accepted not only in the Commonwealth, in which context they were first outlined, but throughout the Western world. One element is that the rule of law expresses a preference for law and order rather than anarchy or political instability. Second, it "expresses a legal doctrine of fundamental importance, namely that government must be conducted according to law, a general principle of law which is declared and applied by judicial decision." Third, it refers to a body of political opinion about what the detailed rules of law should provide in both matters of substance, such as whether

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<sup>43</sup> For a discussion regarding electoral reform, see Munroe, *Ibid.*, pp. 22-39.

<sup>44</sup> The reference to definitiveness here relates to the government's decision to withdraw from the Judicial Committee of the Privy Council and join the Caribbean Court of Justice, now being created. This was done at the signing on February 14, 2001 of the agreement on the Court at the Caricom summit in Barbados. This came after over two years of public debate on the issue, including whether there was need for a referendum on the subject. (No referendum was held.) Noteworthy, though, is that the JLP is adamantly opposed to the decision, and has vowed to withdraw Jamaica from the Court if it wins the next election. See "JLP Ready to Launch CCJ Protests," *Jamaica Gleaner*, February 14, 2001; and "JLP Protests Signing of CCJ Agreement," *Jamaica Gleaner* February 15, 2001.

<sup>45</sup> Alexander Passerin d'Entrèves, *The Notion of the State: An Introduction to Political Theory* (Oxford: Clarendon, 1967), p. 69.

government should be empowered to detain citizens with trial, and of procedure, for example the presumption of innocence when charged.<sup>46</sup>

However, observance of the Jamaican scenario points to at least two realities. One, there is a less than desirable landscape in the general arena of human rights, both civil and political, but more so the former. Second, there is a disconnection between acceptance of the theoretical postulates about rule of law and the praxis in the institutional areas that are critical to it, especially in relation to the police, the courts, and the prisons, the main rule of law managers in the country.

In relation to human rights, several fundamental rights and freedoms are guaranteed under Chapter Three of the Jamaican Constitution. While not detracting from the commendable actions of some agents and agencies of rule, the general translation of those guarantees into real form and substance, however, is less than wholesome. One gets a sense of this from the very balanced reporting on Jamaica in the latest annual report on human rights issued by the U.S. Department of State.

The report—for 1999—shows that generally the Jamaican government respects the human rights of its citizens. However, members of the security forces committed extra-judicial killings and beatings and carried out arbitrary arrests and detentions. Although the Government moved effectively to punish some of those involved, continued impunity for police who commit abuses remains a problem. Prison and jail conditions remained poor; overcrowding, brutality against detainees, poor sanitary conditions, and inadequate diet are problems. The judicial system was overburdened, and lengthy delays in trials were common. Violence and economic discrimination against women remained problems, but child labor is not a problem. Mob violence against people suspected of breaking the law also remained problematic.

There were no reports of political killings, but security elements often used lethal force in apprehending criminal suspects, usually in the guise of shoot-outs. This resulted in the killing by police of 151 persons during 1999. While allegations of "police murder" were frequent, the validity of some of the allegations was suspect. This problem is the result of unresolved, longstanding antipathy between the security forces and certain communities, especially among the urban poor.

From April 19 to 21 1999, there were island-wide protests following a substantial increase in the tax on various petroleum products. The protests were mainly peaceful; some involved blocking roads, and some persons exploited the situation to loot businesses and stone passing vehicles. In general the security forces acted with restraint and professionalism in the course of arresting 152 persons, mainly for looting. Nevertheless, during the disturbances the police

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<sup>46</sup> See E.C.S Wade and G. Godfrey Phillips, *Constitutional and Administrative Law* (London: Longman, 1977), pp. 89-90. In the United States context this is called substantive and procedural due process. See Ralph A Rossum and G. Alan Tarr, *American Constitutional Law: Cases and Interpretation* (New York: St. Martin's Press, 1987), especially chapters 11 and 14.

killed 7 persons and wounded 5 others. Although the majority of those killed and wounded were alleged looters, one of those shot and killed was an off-duty JDF soldier, who reportedly was trying to protect a child from gunfire and was shot by police despite allegedly identifying himself as a soldier.

In August 1999 a 26-year-old allegedly clinically depressed Kingston man died following a severe beating by nine soldiers and four policemen. He had attempted to violate a police barricade during a curfew. Following his death from peritonitis caused by the beating, local human rights groups demanded that the law be changed to allow relatives and their representatives to observe the post mortems of persons killed by the security forces.

Initially, the Government tried to bar an independent pathologist from observing the deceased man's autopsy. As a result of an independent autopsy paid for by a local human rights group, a coroner's inquest was convened. On December 22, the coroner's jury returned a 10-to-1 verdict that the death was manslaughter. The record was forwarded to the Public Prosecutor's office for possible prosecution of the security force members who conducted the beating. Another case that received national publicity involved the police firing on a taxi carrying passengers in Kitson Town in June. The police killed the driver--a district constable--and injured one of the passengers. It is unclear why police fired on the car, but local human rights activists claim the police acted under the mistaken belief that the taxi contained someone they wanted. The incident triggered a violent protest by the Kitson Town community, resulting in the arrest of 26 people and the burning of 2 police cars.

Vigilantism, involving spontaneous mob executions in response to crime, continued to be a problem. However, there was a decline in reported vigilante killings: 9 during 1999 compared with 16 in 1998 and 16 in 1997. Official investigations into such killings generally do not uncover any information, since the individuals and communities involved usually conspire to intimidate potential witnesses. There were no reports of politically motivated disappearances. In December 1998, the court of appeal announced that flogging could not be imposed as a punishment because the legislative authority for it had expired. This sentence was rarely used; prior to 1994, no sentence of flogging had been imposed for 25 years.

In April 1997, the Police Commissioner criticized the excessive use of force by police in Hopewell, Hanover, who shot six people demonstrating against the substandard roads and water supply. Although the authorities initially charged three policemen with unlawful wounding, in December 1998, the court dismissed the case for lack of prosecution. The Director of Public Prosecutions could have appealed the verdict, but declined to do so.

A Human Rights Watch (HRW) report published in July 1999 detailed frequent and credible allegations of police abuse in lock-ups, including severe beatings, mock executions, and rape. The Government did not deny the report's allegations (and one government Minister admitted that the situation did not differ much from that described in a 1994 HRW report). Human Rights Watch

noted that the Government responded quickly to remove some children from lockups. But it also noted that the Government should undertake a systematic effort to curb police abuse effectively and act against officers who commit abuses. The HRW report also criticized the conditions in which juveniles are held, detailing many cases where juveniles were detained improperly, not given access to legal representation, and held in adult lock-ups where they were victimized by adult prisoners. The conditions in the lock-ups are harsh, with severe overcrowding, intermittent meals, poor lighting, ventilation, and sanitation.<sup>47</sup>

In general the Government allowed private groups, voluntary organizations, international human rights organizations, and the media to visit prisons and monitor prison conditions. The police continued to arrest and detain citizens arbitrarily. In 1994 Parliament repealed the 1974 Suppression of Crimes Act, which allowed searches without warrants and the arrest of individuals "reasonably suspected" of having committed a crime. Anyhow, the Jamaica Constabulary Force Act now contains several of these provisions, and there were continued reports that the police abused these provisions.

In March 1997, the Jamaican Bar Association (JBA) protested that the police were unlawfully detaining and fingerprinting groups of citizens in poor, inner city areas. At the time, the Police Commissioner disavowed the practice and ordered it discontinued. However, both the JBA and the Independent Jamaica Council for Human Rights assert that the practice continues. This was confirmed in July 1999, when police rounded up 52 men from the Grant's Pen area of Kingston. The men reportedly were fingerprinted, photographed, and then released without being charged.

A July 1999 case involving the detention and forced transport of 32 people, many of them reportedly mentally ill, who were living on the streets in a Montego Bay business district, triggered a national debate about police action and the dignity of citizens. These persons were rounded up during the night; some allegedly were bound and sprayed with pepper spray. They then were transported in an open truck belonging to the St. James Parish Council, and were released in the rural part of a neighboring parish. That same month five police officers were suspended from duty pending an investigation, which failed to uncover sufficient evidence for the Public Prosecutor to charge anyone with a crime.

Upon further investigation, in October the authorities charged three persons (including a police inspector and two public sector employees) with false imprisonment and assault. However, few observers believe that only three persons were involved; it is believed widely that the police were involved and acted on behalf of Montego Bay merchants and with the acquiescence of the local government, and that large sums of "hush money" were paid for a coverup. The local media severely criticized the apparent coverup. One talk show went so

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<sup>47</sup> See Human Rights Watch, "Nobody's Children:" *Jamaican Children in Police Detention and Government Institutions*, July 1999.

far as to offer a \$6,250 (J\$250,000) reward for information leading to the identification of the parties responsible.

The law requires police to present a detainee in court within 48 hours of detention, but the authorities continued to detain suspects, especially those from poor neighborhoods, without bringing them before a judge within the prescribed period. Magistrates inquire at least once a week into the welfare of each person listed by the JCF as detained. There is a functioning bail system.

The Constitution prohibits exile, and no instances of exile occurred in 1999. It also provides for an independent judiciary, which generally exists. However, the judicial system is overburdened and operates with inadequate resources. The lack of sufficient staff and resources hinders due process. As was discussed in the Problem Definition section above, trials often are delayed for years, and other cases are dismissed because files cannot be located. Night court was instituted in 1995, and this has helped reduce the backlog of cases. While the defendant's right to counsel is well established, the courts appoint counsel for the indigent only for serious offenses, such as murder, rape, robbery, and gun offenses. However, as the law does not consider many offenses, including wounding with intent to cause great bodily harm, as "serious," the courts often try defendants without legal representation.

There were no reports of political prisoners. The Constitution prohibits arbitrary state intrusion into the private life of citizens, but the revised Jamaica Constabulary Force Act gives security personnel broad powers of search and seizure. It also provides for freedom of speech and of the press and the Government respects these rights in practice. The Jamaica Broadcasting Company was privatized in 1997, but the official broadcasting commission is allowed to regulate programming during emergencies. Foreign television transmissions are unregulated and available through satellite antennas. The four largest newspapers, all privately owned, regularly report on human rights abuses, particularly those involving the JCF.

The Government does not restrict academic freedom. The Constitution provides for freedom of assembly and the Government generally respects this right. It also provides for freedom of association, which the Government respects. Moreover, the Constitution provides for freedom of religion, and the Government respects this right also. There is cooperation with the office of the United Nations High Commissioner for Refugees and other humanitarian organizations regarding refugees. The Government provides first asylum, and provided it to some 40 persons in 1994. Similar but smaller numbers of first asylum cases, mainly Cubans and Haitians, were accepted in 1995 and 1996.

There are no legal restrictions on the participation of women in politics. However, they are underrepresented, holding about 13 percent of all political offices and 30 percent of the senior civil service positions. Two of the 16 cabinet members are women, as is the PNP General Secretary. Several human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. The Independent Jamaica Council for Human

Rights (IJCHR) remains the country's only formal organization concerned with all aspects of human rights. However, Jamaicans for Justice was created in August 1999 in response to widespread concern about police impunity. It focuses on the issues of extra-judicial killing and excessive use of force by the police. Government officials are generally cooperative and responsive to the views of human rights organizations.

The Constitution prohibits discrimination on grounds of race, place of origin, political opinions, color, creed, or sex. These prohibitions are generally enforced. Social and cultural traditions perpetuate violence against women, including spousal abuse. Violence against women is widespread, but many women are reluctant to acknowledge or report abusive behavior. The Domestic Violence Act of 1995 became effective from 1996. It provides remedies for domestic violence, including restraining orders and other non-custodial sentencing.

There were reports of sexual harassment by police during 1999. One such case involved a young woman who was protesting peacefully the April gas tax increase and allegedly was arrested for no apparent reason. The incident, which was videotaped and widely broadcast, angered women throughout the country and contributed to the large turnout for the Women's March for Justice, an event that received international media coverage. There is no societal pattern of abuse of children. The Juveniles Act of 1951 regulates several areas related to the protection of children, including the prevention of cruelty, juvenile begging, the treatment of juvenile offenders, and the employment of juveniles. However, resource constraints have resulted in juveniles "in need of care or protection" being incarcerated in police lock-ups with adults.

No laws mandate accessibility for people with disabilities. Several government agencies and NGOs provide services and employment to various groups of disabled citizens. In January 1998, the first blind member of the Senate was appointed<sup>48</sup> an action that is expected to raise the parliamentary profile of problems affecting disabled persons. In July an incident in which police rounded up 32 persons, many of them reportedly mentally ill, triggered a national debate over the action.

The law provides for the right to form or join trade unions, and they function freely. The Labor Relations and Industrial Disputes Act (LRIDA) defines worker rights. However, only 15 percent of the work force is organized. The LRIDA neither authorizes nor prohibits the right to strike, but strikes occur. Striking workers can interrupt work without criminal liability but cannot be assured of keeping their jobs. Workers in 10 broad categories of "essential services" are prohibited from striking, a provision the International Labor Organization repeatedly condemned as overly inclusive. No strikes were declared illegal during 1999. Domestic labor laws apply equally to the export processing or "free zones." However, there are no unionized companies in any of the three zones--established in 1972, 1985, and 1988--that employ 10,039 workers.

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<sup>48</sup> The Senator is Floyd Morris of the PNP.

Organizers attribute this to resistance by foreign owners in the zones to organizing efforts, but attempts to organize plants within the zones continue.

The minimum wage, raised from \$20 (J\$800) to \$30 (J\$1,200) per week in August 1999, is widely considered inadequate to provide a decent standard of living for a worker and family. Most salaried workers are paid more than the legal minimum. Work over 40 hours per week or 8 hours per day requires compensation at overtime rates, a provision that is observed widely. The law does not prohibit specifically trafficking in persons. However, there are laws against assault and fraud, and other laws establish various immigration and customs regulations. There were no reports that persons were trafficked in, to, or from the country.<sup>49</sup>

The human rights portrait above points to various structural and operational deficiencies on the part of the agents and agencies charged with giving life to the rule of law tenets and principles. Some of this is a function of resource insufficiencies under conditions of dramatic crime. Dudley Allen, a former Jamaican Commissioner of Corrections, once remarked "It is no longer possible to think of crime as a simple or minor social problem ... Mounting crime and violence have been declared leading national problems, and the issue of law and order has assumed high priority in national planning and policymaking. Fear of crime is destroying ... freedom of movement, freedom from harm, and freedom from fear itself."<sup>50</sup> Allen made that statement in 1976, but it is still relevant in 2001—25 years later, now even more dramatically so.

In the context of the high crime, it is troubling that people between ages 11 and 25 commit 40 percent of the violent crimes; and that people between ages 26 and 35 commit 40 percent of the crime. Perhaps most worrisome is that 85 percent of violent crimes are committed by young men.<sup>51</sup> Moreover, the use of firearms in the prosecution of crimes is considerable. For instance, according to the latest JCF annual report, firearms were used in 60 percent of the 833 murders committed between April 1999 and March 2000 and in 68 percent of the robberies reported during the same period.<sup>52</sup>

However, it is important to note that there often is a mismatch between the reality of criminal conduct and public perceptions of it. As the National Security and Justice Minister reported to Parliament during the budget sectoral debate for 2000, "the fact is that some criminal activities are beginning to show a reduction. In 1997 there were 1,038 reported murders. This number was reduced by 95 to 943 in 1998 and by a further 104 to 849 in 1999."<sup>53</sup>

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<sup>49</sup> This portrait is adapted from U.S. Department of State, *Country Reports on Human Rights Practices 1999*, February 25, 2000, available at [www.state.gov/www/global/human\\_rights/1999\\_hrp\\_report/jamaica.htm](http://www.state.gov/www/global/human_rights/1999_hrp_report/jamaica.htm)

<sup>50</sup> Dudley Allen, "Urban Crime and Violence in Jamaica," in Rosemary Brana-Shute and Gary Brana-Shute, eds., *Crime and Punishment in the Caribbean* (Gainesville, FL: University of Florida, 1980), p. 29.

<sup>51</sup> *The Criminal Justice System: A Crime Prevention Approach*, p. 11.

<sup>52</sup> *JCF Annual Report 1999-2000*, p. 20.

<sup>53</sup> *The Criminal Justice System*, *Ibid.*, p. 26.

The human rights portrait above also highlights numerous instances of power abuse by law enforcement and security agents. Police abuse in Jamaica is not new, as Anthony Herriott shows in *Police and Crime Control in Jamaica*. Not that longevity makes it acceptable, of course. But the abuse by the police and the army is not just a function of resource insufficiency. Contributing factors are corruption, an organizational culture that accentuates arrogance and impunity, and that is reinforced by the clientelist attitudes in the society, and regulatory deficiencies, among other things. Consequently, upholders of the law often act contrary to the notion that "It is a basic rule of constitutional law that the organs of government must themselves operate through law."<sup>54</sup>

To their credit, most of the political managers within the criminal justice establishment find the abuse and corruption unacceptable, as the following declaration indicates: "There can be no greater cause for alienation between citizens and police than when the latter behave excessively in carrying out their functions. ... When the police disregard the basic rights of these citizens the conclusion is that not only are the police oppressive, but the state itself sanctions the oppression. ... The upholders of the law must at all times act in accordance with the law, and whenever there are breaches, sanctions must be swift, certain, and transparent."<sup>55</sup> Consequently, action—albeit not enough—is often taken against rogue cops and soldiers within the security establishment, as well as well in the criminal justice system at large.<sup>56</sup>

The reluctance to be sanguine about the quality and efficiency of the rule of law in Jamaica is reinforced when one notes other elements of the criminal justice establishment, especially the courts and prisons. Apart from the glimpse at the weaknesses provided earlier, the following three vignettes about a small part of the judicial system causes one to pause and ponder the motto of the courts: "Timely Delivery of a High Standard of Justice."

- In 1999, 440 new cases went before the court of appeal; 232 of them were determined. Also, 180 of the 363 cases that were pending at the beginning of the year were settled.
- That same year, 7,830 cases were filed in the Civil Registry of the Supreme Court; 666 of them were disposed of, and 392 were discontinued.
- In 1999, 790 new gun related cases were filed with the Gun Court, but there were 2,833 pending at the beginning of the year. By the end of the year 594 cases had been disposed of and 3,027 remained pending.<sup>57</sup>

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<sup>54</sup> Wade and Phillips, *Constitutional and Administrative Law*, Ibid., p. 90.

<sup>55</sup> *The Criminal Justice System*, Ibid., p. 18.

<sup>56</sup> For recent examples of this, see Glenroy Sinclair, "Massive Transfers in JCF," *Jamaica Gleaner* January 16, 2001; and Barbara Gayle, "Policeman to Pay \$307,000 for Assault," *Jamaica Gleaner*, February 11, 2001. See also *The Criminal Justice System*, and *JCF Annual Report 1999-2000*.

<sup>57</sup> Planning Institute of Jamaica, *Economic and Social Survey of Jamaica 1999*, Ibid., pp. 23.8-23.9. For a thoughtful and fairly recent commentary on "the judicial condition" by a respected academic, see Errol Miller, "The State of the Jamaican Justice System," *Jamaican Gleaner* July 20, 2000

Table 2—Prison Capacity and Populations in Jamaica

| Correctional Center | 1998 Official Capacity | 1998 Population | 1999 Official Capacity | 1999 Population |
|---------------------|------------------------|-----------------|------------------------|-----------------|
| St. Catherine       | 671                    | 1,253           | 671                    | 1,344           |
| Tower Street        | 895                    | 1,232           | 895                    | 1,309           |
| South Camp          | 280                    | 239             | 280                    | 241             |
| Tamarind Farm       | 280                    | 185             | 280                    | 192             |
| Richmond Farm       | 315                    | 183             | 315                    | 198             |
| New Broughton       | 30                     | 18              | 30                     | 24              |
| Fort Augusta        | 330                    | 158             | 330                    | 181             |
| TOTAL               | 2771                   | 3268 (497)      | 2771                   | 3489 (718)      |

Source: Planning Institute of Jamaica, Economic and Social Survey of Jamaica 1999, April 2000.

The prison situation is also unwholesome, both in terms of the overcrowding and the quality of services within them. The 1993 Wolfe Report found that prisoners were required to eat with their hands for security reasons, a situation deemed “inhuman and degrading.” Meals were found to be generally “revolting in appearance and taste.” In some places, “the diet fed to the cell occupants should be consumed only by pigs.” The Wolf investigation also found that prison indiscipline abounded and that all sorts of malfeasance and abuse existed in the Jamaican prisons. Conditions certainly have changed since then, but only barely in some cases. Overcrowding, which, in the year the Wolfe report was issued, was 503 prisoners above official capacity, is still problematic. Indeed, in some cases it is worse, for as Table 2 shows, in 1999 the prisons had 718 more people than the official limit.

In sum, in Jamaica the rule of law has strong philosophical and polemical support among the political elite and most of the rule of law managers. However, for reasons related to the country’s economic condition, political culture, the occupational culture of security agencies, and the qualified consensus among power brokers about aspects of the over-arching rules of governance, the operational rule of law stands on very shaky ground.<sup>58</sup>

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<sup>58</sup> I’m not talking here merely about procedural shaky ground, as there also are substantive areas needing attention, as the earlier discussion suggests.

## Competition

We saw above there is acceptance of the fundamental tenets of the rule of law, central to which is the right of citizens to articulate and aggregate their interests, with a view to choosing individuals they deem best suited to representing them. Broadly speaking, this speaks to the issue of political participation, significantly, but not solely, important to which is electoral choice.

Our discussion of consensus suggests that in so far as participation and competition are concerned, Jamaica has been facing what Philippe Schmitter calls a “central problem of transitology.” Schmitter rightly points out that “many different rules and organizational forms can satisfy the criteria of contingent consent among politicians and gain the eventual assent of citizens.” The problems, though, is this: “How to come up with the rules of competition and cooperation that the former will actively respect and the latter will passively (and belatedly) accept.”<sup>59</sup>

Under the rubric of parliamentary democracy “rules of the game” Jamaica has attempted to meet this “rules of competition and cooperation” challenge through constitutional provisions and a variety of legislative and administrative arrangements dealing with electoral policy and management. Curiously, the right to vote is not guaranteed under the Constitution. Lloyd Barnett explains that at the time of the independence conference that decided on the constitution, many leaders felt the right to vote should have been given the same specific protection accorded other rights. “It is not clear why this suggestion was not accepted, but it appears that the general principle was eventually submerged by the discussions connected with the subsidiary but more controversial problem of establishing an electoral system which would eliminate casting of illegal, or as they are popularly termed in Jamaica, ‘bogus’ votes.”<sup>60</sup>

Thus, the only explicit provision in the Constitution dealing with voting rights is Section 38 (1):

- Any law for the time being providing for the election of members of the House of Representatives shall-
- a. contain provisions designed to ensure that so far as is practicable any person entitled to vote at an election of members of the House of Representatives shall have a reasonable opportunity of so voting; and
  - b. contain provisions relating to the conduct of elections of members of the House of Representatives, including provisions relating to the identification of electors, designed to ensure that as far as is practicable no person shall vote at

<sup>59</sup> Philippe C. Schmitter, “Transitology: The Science or Art of Democratization?” in Tulchin and Romero, *The Consolidation of Democracy in Latin American*, Ibid., p. 17.

<sup>60</sup> Barnett, *The Constitutional Law of Jamaica*, Ibid., p. 197.

an election of a member of the House of Representatives-

- i. who is not entitled to vote; or
- ii. when he is not entitled to vote; or
- iii. where he is not entitled to vote:

Provided that this paragraph shall not come into operation until the first Day of January 1964.

Apart from Section 38(1), perhaps the most important constitutional provision that sets the context for participation is Section 13, which reads

Whereas every person in Jamaica is entitled to the fundamental rights and freedoms of the individual, that is to say, has the right, whatever his race, place of origin, political opinions, color, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following, namely-

- a. life, liberty, security of the person, the enjoyment of property and the protection of the law;
- b. freedom of conscience, of expression and of peaceful assembly and association; and
- c. respect for his private and family life, the subsequent provisions of this Chapter shall have effect for the purpose of affording protection to the aforesaid rights and freedoms, subject to such limitations of that protection as are contained in those provisions being limitations designed to ensure that the enjoyment of the said rights and freedoms by any individual does not prejudice the rights and freedoms of others or the public interest.

On the legislative side, as Appendix B shows, there are several important laws, not to mention subsidiary regulations, which are not shown in the Appendix. The most important law is the Representation of the People's Act, first adopted in 1944 and modified several times since then to accommodate various initiatives intended to improve electoral policy and elections management. On the administrative side the Electoral Office is the agency established in 1943 to administer parliamentary and local government elections in keeping with the six commonly accepted principles of universal adult suffrage: the vote is universal, free, secret, direct, personal, and non-transferable.

Three main statutes regulate the conduct of parliamentary and local government elections: the Representation of the People Act, mentioned earlier; the Kingston and St. Andrew Corporation Act; and the Parish Council Act. The

Representation of the People Act was first introduced in 1944. It declared the entitlement to very qualified person to be (a) registration as an elector of the polling division in which he or she is ordinarily resident, and (b) voting at a Parliamentary election for a constituency if his or her name appears on the official list for a polling division for that constituency. Similar provisions exist in the Kingston and St. Andrew Corporation Act and in the Parish Council Act with regard to election of a member of the council of the Kingston and St. Andrew Corporation and of a Parish Council, respectively.

In terms of organization, the Electoral Office maintains headquarters in Kingston, 7 regional offices, and outposts in the 60 constituencies. Full-time personnel staff the regional offices while both full-time and part-time officers run the constituency offices. The Electoral Office is divided into departments responsible for administration, information systems, field operations, internal auditing, and training and research.

A committee--the Electoral Advisory Committee (EAC)--oversees the activity of the Electoral Office. It is comprised of two people nominated by the Prime Minister, two nominated by the Leader of the Opposition, three independent members, and the Director of Elections, as a non-voting member.<sup>61</sup> This committee was created under Representation of the People (Interim Electoral Reform) Act, 1979 to protect the electoral process from the immediate direction, influence, and control of the government. Part of its mandate is to advise the Director of Elections on electoral policy and operations. If the Director of Elections considers advice from the EAC to be unacceptable and therefore does not propose to act on it, then the Director is required to report this position to Parliament.

As was noted in the Problem Definition section, the contestation season draws close, as national elections are due constitutionally by December 2002. This increases the apprehension over both electoral politics and elections management. For decades elections in Jamaica have been characterized by fraudulent voters' list, multiple voting, and intimidation and violence during campaigning and on polling day. Moreover, the imminence of the next elections jolts memories of the last ones, held in December 1997, because of irregularities perpetrated. According to Trevor Munroe, for example, in 1997 there was overvoting in 214 or 34 percent of the 6,294 polling divisions. Also significant is the fact that 161 (75 percent) of the divisions involved were in 10 percent of the 60 constituencies, and all of them were in the Kingston-St. Andrew area.<sup>62</sup>

In general, there is a strong political and philosophical attachment to popular participation in political rule, not to mention economic competition, given the economic adaptations since the first Manley rule in the 1970s. However, the

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<sup>61</sup> The members of the Committee currently are: Professor Errol Miller, Chairman, Dr. Herbert Thompson, Dorothy Pine-McLarty, Senator Maxine Henry-Wilson (PNP), Senator Ryan G. Peralto (JLP), Danville Walker, Director of Elections. Each of the two major parties also is able to identify Alternate Members. Currently, the Alternates are Michael Peart for the PNP and Abe Dabdoub for the JLP.

<sup>62</sup> See Munroe, *Renewing Democracy into the Millennium*, Ibid., p. 39.

tenuousness of the existing consensus, the unsettled nature of several electoral reform initiatives for both parliamentary and local elections, and the jolting of memories beginning to occur as the contestation season approaches combine to create a very delicate competition environment.

### Inclusion and Good Governance

As we saw in the discussion on rule of law, there is no constitutional or legal instrument sanctioning or directly facilitating exclusion in Jamaica. Yet, we also saw a political culture that can serve to precondition exclusion because of the zero sum aspects of political attitudes. We also noted an unwholesome economic and social condition. This itself can result in exclusion, either by choice on the part of those who feel fatalistic because of poverty and or ignorance, or because constituency leaders take advantage of that poverty and or ignorance.

Conscious efforts, therefore, have to be made by political power brokers to resist the inclination to exclude citizens, whether individually or as groups, from policy formulation and execution, either by design or default. But the society at large should not risk having the political elite trying to do this on its own. Hence, the importance of organizing and sustaining civil society, with resources from local social and corporate entities as well as from international state and non-state ones.

Table 3—Civil Society Organizations in Jamaica

| <u>Category of Organization</u> | <u>No. in 1990</u> | <u>No. in 1995</u> | <u>No. in 1999</u> |
|---------------------------------|--------------------|--------------------|--------------------|
| 4H Clubs                        | 256                | 329                | 760                |
| Youth Clubs                     | 605                | 872                | 1,336              |
| Police Youth Clubs              | 95                 | 146                | 287                |
| Neighborhood Watches            | 131                | 384                | 533                |
| Citizen's Associations          | 497                | 606                | 636                |
| Community Councils              | 215                | 196                | 180                |
| Totals                          | 1,799              | 2,533              | 3,732              |

Source: Trevor Munroe, *Voice, Participation, and Governance in a Changing Environment: The Case of Jamaica*, June 2000.

The good news is that there already is an active and critical media. Moreover, as Appendix A6 and Table 3 show, there has been a healthy growth of civil society organizations over the years. Several reasons explain this growth. One is because of frustrations with the absence of desired levels of civility in society. Two is a sense of alienation by lower class and rural residents, given the economic deprivation experienced. Three, frustration with what Jamaicans call “political tribalism.” A fourth reason pertains to frustration and disappointment by business and professional leaders. Perhaps a final reason relates to the vigilance and activism of the media.

Nonetheless, the extent to which the number of organizations indicates health of civic society could be deceiving. This is especially if an assessment of resources of those organizations and their functionality reveals that merely a few of them have the ability and will to make the necessary sacrifices and face the seen and unforeseen challenges involved in civic action. This could be bad news. Unfortunately, there is some bad news in Jamaica.

Understandably and justifiably, many of the civil society organizations will—and should—be concerned with electoral policy and elections management. This is partly because elections determine, or at least influence, the allocation of economic and social resources and the kind of policies and programs flowing from them. Hence, one could expect a significant civil society involvement in the debates and initiatives on constitutional and electoral reform and on the reforms related to the judiciary. This has, indeed, been the case.

However, I trust the leaders of those civil society organizations preoccupied with the political domain, especially elections, appreciate that elections are not ends in themselves. As one scholar put it succinctly: “After an election, people [should] expect Good Government.”<sup>63</sup> Moreover, the portrait of the economic and social condition painted above suggests the need for as much civil society attention to the economic and social (and cultural) arenas as given to the political one.

As was said earlier in relation to other variables, inclusion is not an end in itself. Like consensus and rule of law, it facilitates political stability and economic prosperity. And like consensus and competition it requires civic and political leaders to rise above narrow self-interest. As Huntington remarked, “The stability of democratic regimes depends, first, on the stability of the principal political elites—party leaders, military leaders, business leaders—to work together to deal with the problems confronting their society and to refrain from exploiting those problems for their own immediate material or political advantage.”<sup>64</sup>

In sum, in Jamaica there is measurable activism and impact by several civil society entities and demonstrable interest and some commendable action by the political elite to improve the democracy and governance environment. Still, much ground remains to be covered relative to inclusion and governance.

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<sup>63</sup> Edelberto Torres Rivas, “Democracy and the Metaphor of Good Government,” *Ibid.*, p. 46.

<sup>64</sup> Samuel P. Huntington, *The Third Wave: Democratization in the Late Twentieth Century* (Norman: University of Oklahoma Press, 1991), p. 259

## VI. What's To Be Done

Mindful of the analysis above, what follows is suggestions for broad areas of engagement. This task is approached with several working assumptions in mind.

### Working Assumptions

- ❖ As resources controlled by USAID/Jamaica and available through it are both finite and scarce, it is in USAID/Jamaica's best institutional interest to pursue focused engagement rather than pursue wide panoply of initiatives.
- ❖ Given the Mission's team approach, USAID/Jamaica will likely pursue initiatives with or through other units in the Jamaica country team.
- ❖ While identification of broad engagement areas now will profit the Project, an attempt at detailed strategy or program design will not; such should follow the second and third stages of the Project.
- ❖ None of the four critical areas or five variables examined is self-standing; rather, they are mutually dependent and reinforcing. Hence, an attempt to provide recommendations for each of the areas and variables would be infeasible.

### Areas of Engagement

Consideration should be given to the following, which are not offered in any special order of importance. Of course, this list is suggestive, and not definitive.

- ❖ Facilitate progress on the stalled corruption and freedom of information legislation by educating legislators and civic society leaders about the collective self-interest in their passage. Passage of these laws and the USAID/Jamaica facilitation could enhance inclusion and improve the climate of competition. Moreover, it will strengthen rule of law efforts over the long term.
- ❖ Promote bridge-building between civil society groups and the police on a selective basis, starting in two parishes with good track records of low police-citizen animosity and build on them as a model of community-police partnership that could complement the community policing efforts of the JCF.
- ❖ Facilitate more citizen awareness of the work of the legislature, to cultivate citizens' taking more ownership of both the political process and its outcomes.<sup>65</sup> This could have several elements. For example, make legislative proceedings more accessible by the public, through the Internet, with audio facility, and with speeches and documents made available there. Also, there

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<sup>65</sup> I was pleased to note, in this respect, the government's move towards transparency in Parliament's financial decision making. See "PM Proposes Opening up of Finance Committee to Media," *Jamaica Gleaner* February 19, 2001.

could be an intra-constituency, or better yet, inter-constituency “Know Your MP” programs, offered through high schools and or selective civic organizations. A modified version for the Senators could also be designed.

- ❖ Provide local government training, both through specific workshops on subjects such as budgeting, mediation, and public accountability, as well as through “best practices” sessions with local government officials from elsewhere in Jamaica and or from the US.
- ❖ Conduct a needs-assessment, with appropriate subsequent initiatives, for ways to create, and, in some cases, improve, functional cooperation between Parliament and government ministries and agencies. There is a strong sense in some Parliamentary quarters that decision-making there is often sub-optimal, if not inefficient, because of (a) the information disconnect between Parliament and ministries, and (b) resource insufficiency in Parliament that undermines informed decision making on policies and programs.<sup>66</sup>
- ❖ Assess the resource and efficiency (and other) aspects of government’s regulatory challenges in managing private security. Afterwards, facilitate the acquisition of training and equipment considered necessary or useful.
- ❖ Commission a study on civil society groups that includes a needs assessment relative to fund raising, management, leadership, public relations, group dynamics, and other areas. Later, hold workshops to facilitate skills enhancement by leaders and members in those and other areas.
- ❖ Facilitate the holding of organizational “best practices” forums for civil society groups, on a selective parish basis, or three or four island wide.
- ❖ Prioritize areas of engagement, perhaps giving more attention to rule of law, inclusion, and consensus areas.
- ❖ As the elections season is fast approaching, act discretely in some areas, notably in relation to elections, to avoid accusations of meddling in the country’s internal political affairs.
- ❖ Provide country-relevant human rights sensitivity training to police officers and low-level management officials in the JCF, especially in the various operational Areas. (See page 15 above.)
- ❖ Provide for periodic “relevant issues” forums—outside of Kingston--involving low and mid-level media, labor, and religious leaders to build cross-group friendships, foster inclusion, and tolerance and understanding of each other’s issues and challenges.
- ❖ Convene a democracy and governance donor summit to survey donors’ areas of engagement, perhaps in the context of priorities, to avoid duplication (and overloading of the absorptive capacity within Jamaica) and to plan for better use of scarce resources.

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<sup>66</sup> This issue was raised by Ronnie Twaites, Member of Parliament for Central Kingston in a telephone interview, conducted on February 12, 2001.

Obviously, the outcome of this Project is important to USAID/Jamaica and to United States national interest. It should also be important to Jamaica, as the areas of concern and variables deeply affect their political and economic interests. However, USAID/Jamaica should not presume ready acceptance of the outcome by the Jamaican Government, although it is fair to say that individual state actors, as well as actors in civil society, will be keen to accept it. Moreover, even with Governmental (as opposed to individual actor) acceptance, it may not stay fully on the radar screen for one of several reasons. First, the election season is fast approaching, and this will affect the attention span and interest of the ruling party. Moreover, engagement by the Jamaican Government on similar initiatives with other (non-U.S.) entities may affect reception and attention.<sup>67</sup>

## VII. Conclusion

If nothing else, this report should serve to highlight the fact that although Jamaica is a small state in the international arena, it is a complex society in terms of the vicissitudes of power and policy. Moreover, not only do those vicissitudes have domestic ramifications, they have international ones as well. The international ramifications go beyond bilateral United States-Jamaican dealings; they have regional elements too. In a Caribbean context, Jamaica is a regional actor of considerable importance, and for this reason developments there usually are a harbinger of change or a barometer of action or reaction within the Caribbean. Hence, the democracy and governance landscape in Jamaica signals to others in the region what is permissible and possible.

Ultimately, "It's the economy, stupid!" But in the near term one could assert: "It's political stability, stupid!" Political stability not only for its intrinsic value, but also because it serves to facilitate social harmony and individual and corporate prosperity. Jamaica provides evidence that although stability does not guarantee democracy and human rights, there are strong causal and consequential links between stability, on the one hand, and democracy and human rights, on the other, and between the political condition and the socio-economic one. Improving those conditions is not to be left to the political elite; business and civil participation, especially by labor unions, the church, and the media, is crucial. So too is the action of foreign state and non-state actors.

Clearly, then, the democracy and governance landscape in Jamaica has several complicated nooks and crannies. There is reason for hope, though. For one, United States national interests and USAID/Jamaica's institutional interests combine to inspire confidence that there will be engagement by the United States and USAID/Jamaica. Moreover, Jamaicans are a proud, tough, and generally non-fatalistic people. Survival is an enterprise they know well.

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<sup>67</sup> This observation is not intended to dampen any spirits, but to inject a sense of realism based on conversations with state actors.

## VIII. Appendix

### Appendix A

#### Key Democracy and Governance Institutions and Actors<sup>φ</sup>

##### 1. Governmental Political: Executive      Governmental Administrative: Executive

Governor-General

- Sir. Howard Felix Cooke

Geoffrey Madden

Secretary to the Governor-General

Prime Minister & Min. of Defense

- Percival J. Patterson
  - ~~ Minister of Information
  - Senator Maxine Henry-Wilson
  - ~~ Minister of State
  - Derrick Kellier

Permanent Secretary

Charmaine Constantine

Deputy Prime Minister &  
Minister of Land & Environment

- Seymour Mullings

Minister of Finance & Planning

- Dr. Omar Davies
  - ~~ Ministers of State
  - Michael Peart
  - Errol Ennis

Financial Secretary

Shirley Tyndall

Minister of Tourism & Sports

- Portia Simpson-Miller
  - ~~ Minister of State
  - Wykeham McNeil

Director General

Carole Guntley-Brady

Minister of Mining & Energy

- Roger Pickersgill

Permanent Secretary

Godfrey Perkins

Minister of Foreign Affairs

- Dr. Paul Robertson

Permanent Secretary

Ambassador Stafford Neil

Minister of Foreign Trade

- Anthony Hylton

Permanent Secretary

Ambassador Stafford Neil

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<sup>φ</sup> This list does not represent all institutions and actors, but those considered by this author to be the key “movers and shakers” on democracy and governance issues.

|                                                                                                                                         |                     |
|-----------------------------------------------------------------------------------------------------------------------------------------|---------------------|
| Minister of Trans. & Works                                                                                                              | Permanent Secretary |
| <ul style="list-style-type: none"> <li>□ Dr. Peter Phillips</li> <li>~~ Minister of State</li> <li>□ Dean Peart</li> </ul>              | Dr. Alwyn Hayles    |
| Min. of National Security & Justice                                                                                                     | Permanent Secretary |
| <ul style="list-style-type: none"> <li>□ K.D. Knight</li> <li>~~ Minister of State</li> <li>□ Ben Claire</li> </ul>                     | Elaine Baker        |
| Minister of Education & Culture                                                                                                         | Permanent Secretary |
| <ul style="list-style-type: none"> <li>□ Senator Burchell Whiteman</li> <li>~~ Minister of State</li> <li>□ Phyllis Mitchell</li> </ul> | Margarite Bowie     |
| Minister of Agriculture                                                                                                                 | Permanent Secretary |
| <ul style="list-style-type: none"> <li>□ Roger Clarke</li> <li>~~ Minister of State</li> <li>□ Dr. Fenton Ferguson</li> </ul>           | Aaron Parke         |
| Minister of Health                                                                                                                      | Permanent Secretary |
| <ul style="list-style-type: none"> <li>□ John Junor</li> </ul>                                                                          | George Briggs       |
| Minister of Local Government,<br>Youth & Community Development                                                                          | Permanent Secretary |
| <ul style="list-style-type: none"> <li>□ Arnold Bertram</li> <li>~~ Minister of State</li> <li>□ Fitz Jackson</li> </ul>                | Barbara Jones       |
| Minister of Water & Housing                                                                                                             | Permanent Secretary |
| <ul style="list-style-type: none"> <li>□ Dr. Karl Blythe</li> </ul>                                                                     | Thorant Hardware    |
| Ministry of Industry<br>Commerce & Technology                                                                                           | Permanent Secretary |
| <ul style="list-style-type: none"> <li>□ Phillip Paulwell</li> <li>~~ Minister of State</li> <li>□ Colin Campbell</li> </ul>            | Faye Sylvester      |
| Minister of Labor & Social Security                                                                                                     | Permanent Secretary |
| <ul style="list-style-type: none"> <li>□ Donald Buchanan</li> <li>~~ Minister of State</li> <li>□ Horace Dalley</li> </ul>              | Anthony Irons       |

Attorney General

- Senator A. J. Nicholson

## 2. Political Governmental: Legislative and Judicial

Speaker of the House of Assembly

- Violet Neilson

Leader of the House

- Dr. Peter Phillips

Clerk to the House of Assembly

- Shirley Lewis

President of the Senate

- Syringa Marshall-Burnett

Leader of Government Business in the Senate

- Senator Maxine Henry-Wilson

Chief Parliamentary Counsel

- Hyacinth Lindsey

Director of Public Prosecutions

- Kent Pantry

Public Defender (formerly called Parliamentary Ombudsman)

- Howard Hamilton

Chief Justice

- Lensley J. Wolfe

President of the Court of Appeal

- Ian Forte

## 3. Other Political and Administrative

Secretary to the Cabinet

- Dr. Carlton E. Davis

Auditor General

- Adrian Strachan

Contractor General

- Derrick McKoy

Director of Elections

- Danville Walker

Electoral Advisory Committee

- Professor Errol Miller, Chairman

Office of Utilities Regulation

- Winston Hay, Director General

Jamaica Labor Party

- Edward Seaga, Leader

National Democratic Movement

- Bruce Golding, President

People's National Party

- Percival J. Patterson, Leader

4. Law Enforcement and Security

Corrections Department

- Col. John Prescod, Commissioner of Corrections

Immigration Department

- Joy Frazer, Director

Island Special Constabulary Force

- Wilbert L. McNight, Commandant

Jamaica Constabulary Force

- Francis Forbes, Commissioner of Police

Jamaica Defense Force

- Major General John Simmonds, Chief of Staff

Port Security Corps

- Christopher Honeywell, Managing Director

Private Security Regulation Authority

- Wesley Moss, Executive Director

Regional Drug Training Center

- ACP Bertram Millwood, Director

## 5. Local Government Mayors

Kingston and St. Andrew

- Marie Atkins

Portland

- Phillip Thomas

St. Mary

- Fitzroy Nicholson

St. Ann

- Charles Tate

Trelawny

- Joseph Wright

St. Catherine

- Owen Stephenson

Clarendon

- Minnie Clarke

Manchester

- Horace Williams

St. Elizabeth

- Daphne Holmes

Hanover

- Lloyd Hill

St. James

- Hugh Solomon

Westmoreland

- Ralph Anglin

St. Thomas

- Owen Aitkenson

## 6. Civil Society

a. Media, Education, and Religion

CVM TV

- Neville Blythe

Jamaica Gleaner

- Oliver Clarke, Chairman and Managing Director

Jamaica Observer

- Lincoln Robinson, Managing

Radio Jamaica (and other media outfits in RJR Communications)

- J. A. Lester Spaulding, Chairman & Managing Director

National Council on Education

- Dr. Rex Nettleford, Chairman

Northern Caribbean University

- Herbert Thompson, President

University of Technology

- Dr. Rae Davis, President

University of the of the West Indies-Mona

- Dr. Kenneth Hall, Principal and Pro-Vice Chancellor

Anglican Diocese of Jamaica

- Right Reverend Dr. Alfred Reid, Lord Bishop

Archdiocese of Kingston (Roman Catholic)

- Most Rev. Edgerton Clarke, Archbishop of Kingston

Church of God in Jamaica

- Pastor Kenneth Smith, Chairman

Ethopian Orthodox Church

- Keswolde Dawit, Administrator

Jamaica Association of Evangelicals

- Rev. Rennard White, President

Jamaica Baptist Union

- Rev. Karl Henlin, General Secretary

Jamaica Council of Churches

- Rev. Fr. Howard Gregory, President

Jamaica Methodists

- Rev. Phillip Robinson, Chair

Jamaica Pentecostal Union

- Bishop Frank Otto, Chairman

Moravian Church in Jamaica

- Rev. Stanley Clake, President

Religious Society of Friends

- Rev. Stanley Perkins, Pastor

Roman Catholic Church

- Right Rev. Edgerton Clarke, Archbishop of Kingston

Salvation Army

- Col. Dennis Phillip, Territorial Commander

United Church of Jamaica and Cayman Islands

- Rev. Dr. Gordon Evans, Moderator

West Indies Union of Seventh Day Adventists

- Pastor Leon Wellington, President

b. Civic and Professional groups

All Island Banana Growers Association

- Bobby Pottinger, Chairman

Bankers Association of Jamaica

- William Clarke, President

Citizens Action for Free and Fair Elections

- Archbishop Emeritus Samuel Carter, Acting President

Independent Jamaican Council for Human Rights

- Dr. Lloyd Barnett, Chairman

Jamaica Bar Association

- Derek Jones, President

Jamaica Chamber of Commerce

- Donald, Lynn, Executive Director

Jamaica Exporters Association

- Beverly Lopez

Jamaican Federation of Musicians

- Desmond Young, President

Jamaica Hotel and Tourist Association

- James Samuels, President

Jamaica Manufacturers' Association

- Clarence Clarke

Jamaica Press Association

- Donna Ortega, President

Jamaicans for Justice

- Dr. Carolyn Gomes, Chair

Private Sector Organization of Jamaica

- Peter Moses, President

Small Business Association of Jamaica

- Andrea Graham, President

Transparency International-Jamaica

- Trevor Macmillan, President

c. Labor Unions

Bustamante Industrial Trade Union

- Hugh Shearer, President

Jamaica Association of Local Government Officers

- Stanley Thomas, President

Jamaica Civil Service Association

- Edward Bailey, President

Jamaica Confederation of Trade Unions

- Hugh Shearer, President

Jamaica Teachers Association

- Lorraine Spencer-Jarrett, President

Jamaica Union of Public Officers and Public Employees

- Fitzroy Bryan, President

Jamaica Workers' Union

- Clifton Brown, President

National Workers' Union

- Clive Dobson, President

Nurses Association of Jamaica

- Edith Allowood-Anderson, President

Trades Union Congress

- Edward Smith, President

Union of Schools, Agriculture and Allied Workers

- Dwayne Barnett, President

United Union of Jamaica

- James Francis, President

Union of Technical, Administrative, and Supervisory Personnel

- Anthony Dawkins, President

University and Allied Workers' Union

- Prof. Trevor Munroe, President

## Appendix B

### Some Major Democracy and Governance Legislation<sup>φ</sup>

- ❑ Civil Service Act
- ❑ Citizenship (Constitutional Amendment) Act of 1999
- ❑ Commissions of Inquiry Act of 1969
- ❑ Contractor General Act of 1983
- ❑ Correction (Amendment) Act of 1995
- ❑ Corruption Prevention Act of 1931
- ❑ Criminal Justice (Administration) (Amendment) Act of 1994
- ❑ Criminal Justice (Reform) Act of 2001
- ❑ Customs Act
  
- ❑ Drug Court Act of 1999
- ❑ Dangerous Drugs Act of 1948 (with numerous subsequent amendments)
- ❑ Domestic Violence Act of 1995
- ❑ Drug Court (Treatment and Rehabilitation of Offenders) Act of 1999
- ❑ Drug Offences (Forfeiture of Offences) Act of 1994
- ❑ Emergency Powers Act
- ❑ Emergency (Public Security) Act of 1966
- ❑ Evidence (Amendment) Act of 1995
- ❑ Excise Duty Act
- ❑ Extradition (Amendment) Act of 1995
- ❑ Food and Drugs Act
- ❑ Gun Court (Amendment) Act of 1999
- ❑ Income Tax Act
  
- ❑ Jamaica (Constitution) Order in Council 1962
- ❑ Jamaican Nationality (Amendment) Act of 1999
- ❑ Judicature (Revenue Court) Act of 1971
- ❑ Judiciary Act of 1972
- ❑ Judicature (Resident Magistrates)(Amendment) Act of 1995
- ❑ Judicature (Resident Magistrates)(Amendment) Act of 1999
- ❑ Judicature (Revenue Court) Act
- ❑ Judicature (Rules of Court) Act
- ❑ Judicature (Supreme Court) (Amendment) Act of 1999
- ❑ Jury Act
- ❑ Justices of the Peace Act
- ❑ Juveniles Act of 1951
- ❑ Juveniles (Amendment) Act of 2000

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<sup>φ</sup> This is not a complete list of all legislation relating to the various democracy and governance areas, but a listing of some key ones relating to areas covered in this report. Also, the many revisions of some of the laws are not reflected here.

- ❑ Justices of the Peace Jurisdiction (Amendment) Act of 1995
- ❑ Jury (Amendment) Act 1999
  
- ❑ Kingston and St. Andrew Corporation Act
- ❑ Law Reform (Protection and Enforcement of Public Rights) Act of 1999
- ❑ Labor Relations and Industrial Disputes Act
- ❑ Military Training (Prohibition) Act
- ❑ Money Laundering (Amendment) Act of 1999
- ❑ Noise Abatement Act of 1997
- ❑ Office of Utilities Regulation Act of 1995
- ❑ Ombudsman Act of 1978
  
- ❑ Parish Council Act
- ❑ Parliament (Integrity of Members) Act of 1972
- ❑ Parliament (Membership Questions) Act of 1963
- ❑ Parole Act
- ❑ Perjury Act
- ❑ Port Authority Act
- ❑ Precursor Chemicals Act of 1999
- ❑ Prevention of Crime (Special Provisions) Act of 1963
- ❑ Public Authorities Protection (Amendment) Act of 1995
- ❑ Public Defender (Interim) Act of 1999
- ❑ Public Order Act
- ❑ Public Service (Attendance of Witnesses) Act
- ❑ Public Utilities Protection Act
  
- ❑ Real Property Representative Act
- ❑ Registration of Electors (Prescribed Age) Special Act 1972
- ❑ Representation of the People Act of 1944
- ❑ Representation of the People (Interim Electoral Reform) (Amendment) Act of 1996
- ❑ Representation of the People (Postponement of Enumeration Period) Act of 1996
- ❑ Representation of the People (Validation and Indemnity) Act of 1997
- ❑ Revenue Board Act
  
- ❑ Senate and House of Representatives (Powers and Privileges) Act
- ❑ Sharing of Forfeited Property Act of 1999
- ❑ Solicitor General Act
- ❑ Trade Union Act
- ❑ Traffic Court Act
- ❑ Witness (Public Inquiries) Protection Act of 1964

## Appendix C

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## Biographical Note

Ivelaw L. Griffith is Professor of Political Science & Associate Dean of the College of Arts & Sciences at Florida International University (FIU). A specialist on Caribbean Politics and Inter-American security and narcotics issues, he has published six books, most recently *The Political Economy of Drugs in the Caribbean* (Macmillan, 2000), *Democracy and Human Rights in the Caribbean* (Westview Press, 1997), and *Drugs and Security in the Caribbean: Sovereignty Under Siege* (Penn State University Press, 1997).

Ivelaw also has written articles in several journals, including *Journal of Inter American Studies & World Affairs*, *Caribbean Studies*, *Dickinson Journal of International Law*, *Caribbean Affairs*, *Journal of Commonwealth & Comparative Politics*, *Caribbean Affairs*, *University of Miami Law Review*, *International Journal*, *Mershon International Studies Review*, *Caribbean Perspectives*, *Latin American Research Review*, *Caricom Perspective*, *Caribbean Quarterly*, *Naval War College Review*, *International Journal*, *Third World Quarterly*, and *Low Intensity Conflict & Law Enforcement*. Book reviews have also been done for *Hemisphere*, *Black Scholar*, *Political Studies*, *New West Indian Guide*, *Hispanic American Historical Review*, and *Journal of Third World Studies*.

Dean Griffith has been a Visiting Scholar at the Royal Military College of Canada and at the George Marshall Center for European Security Studies in Germany, as well as a consultant to Canada's Ministry of Foreign Affairs and International Trade and the Organization of American States, among other agencies. He has lectured at the Institute for National Strategic Studies, the Center for Hemispheric Defense Studies, and the Inter-American Defense College, all in Washington, DC, the US Air Force School of Special Operations and the US Coast Guard in Florida, and elsewhere.

The MacArthur Foundation, the University of Miami's North-South Center, and FIU have funded his research, and he received FIU's 1999 Award for Excellence in Research. Professor Griffith serves on the editorial board of several journals, including *Security and Defense Studies Review*. He is Vice President/ President Elect of the Caribbean Studies Association.