

The Association of Development Agencies

Report on the Civil Society Follow Up of
the Implementation of the Quebec Plan of
Action

The Jamaica Report

February 2004



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Eliminado: ¶

1. Executive Summary

This report is the result of an initiative taken on by the Association of Development Agencies (ADA) to conduct research on five (5) stated areas; namely (i) access to information (ii) freedom of expression (iii) justice (iv) local government and decentralization and (v) civil society and participation. This initiative was strategized at the 2001 Summit of the Americas. This strategy was to mandate civil society organizations to follow-up on the implementation of the Quebec Plan of Action in their respective countries. This initiative has been driven by a cooperation of hemispheric and regional civil society organizations. These organizations are as follows: The Regional Coordination for Economic and Social Research [*Coordinadora Regional de Investigaciones Económicas y Sociales*, CRIES]; The Department of Political Science of the Universidad de Los Andes (UNIANDES), Colombia; FLACSO-Chile; FOCAL of Canada and PARTICIPA Corporation of Chile.

The Association of Development Agencies (ADA) was the National Coordinators for this research-based project within Jamaica. The Association is an umbrella non-governmental organization with the following organizational policy: [See Appendix One (1) for general information on ADA]

The Association of Development Agencies is a Jamaican forum for collective analysis, discussion, planning, advocacy and collaboration among a number of national and international non-government organizations.

It supports indigenous development initiatives and links with similar regional and international efforts aimed at effective social change, which increases the participation, power and control of ordinary people over decisions affecting their lives.

This report seeks to document the outcome of research conducted on the five areas of interest in Jamaica. It is fair to state that interest in these subject areas improved as ADA embarked on this task. These issues are always of interest to civil society organizations in their work as lobbyists and activists. ADA is therefore pleased to be a part of this initiative as increased and renewed interest in the issues at hand has led to renewed activism.

2. Acknowledgements

The Association of Development Agencies (ADA) would first like to thank the cooperation of hemispheric civil society organizations that initialised this project. The outcome of this research has lead to greater awareness on the subject areas.

Also, ADA would like to acknowledge assistance received from participants who took time to speak with the researchers and fill-in questionnaires. These persons include those from civil society, local government, the justice system, media personnel and the government. The information given was an invaluable contribution to the completion of this report.

Finally, we would also like to acknowledge and thank the researchers who worked tirelessly on gathering the relevant information; sometimes with not much resources and cooperation from informants.

3. Introduction

The Quebec Plan of Action was initiated in 2001 at the Quebec Summit of the Americas. As a result of this initiative, the coordinators have sought to design and implement a civil-society-led follow-up mechanism to examine the implementation of the Quebec Plan of Action in individual countries. This project focuses on areas related to the strengthening of democracy with five (5) areas of interest.

These are:

- ✚ Access to Information;
- ✚ Freedom of Expression;
- ✚ Access to Justice;
- ✚ Local Government and Decentralization; and
- ✚ Civil Society and Participation

These five (5) areas were chosen based on the following criteria¹:

- ∅ These themes constitute the foundations required for the effective development of the other themes laid out in the Quebec City Plan of Action.
- ∅ The advancement of these themes creates positive conditions for the strengthening of civil society and will support the fight against the “crisis of democracy and governance” that plagues the region.
- ∅ They permit the verification of progress in areas related to good governance, an area that is essential for the strengthening of democracy and of civil society.
- ∅ The involved organizations have experience and interest.
- ∅ These are themes that are not being tackled by other civil society networks in the region.

During the Quebec Summit, the main drivers and leaders of the project, PARTICIPA, a Chilean non-profit organization, in joint effort with FOCAL (Canada) and Fundacion ESQUEL (US), coordinated a consultation among Civil Society Organizations (CSOs). As a result of this consultation, several

¹ Espinoza, Vincente et al (2003) *Civil Society Follow Up of the Implementation of the Quebec Plan of Action. Methodological Guide: Indicators and Questionnaire.*

recommendations were made by the CSOs that focused on such issues as “strengthening democracy”, “creating prosperity” and “developing human potential”.

For the process of gathering the relevant information questionnaires were used. Due to the inability to reach each participant physically the questionnaires were sent via email. Also follow-up telephone calls were made to ensure receipt of the document, to find out and make clarifications that may have been needed and to encourage participation. This is the second of two (2) reports that seeks to give a detailed description of the progress of the follow-up activity that has taken place between September 2003 and February 2004.

4. Methodological Background

4.1 Target Audience

The main aim of the Association of Development Agencies (ADA) as National Coordinator is to gather relevant information on Jamaica as it relates to the five (5) subject areas. The information gathered will form the basis for the national consultation and feed public education and awareness.

Therefore our target audience comprises persons from:

- Ø all spheres of civil society;
- Ø municipalities;
- Ø local government;
- Ø those involved in the justice system
- Ø media personnel;
- Ø lecturers
- Ø university students and;
- Ø individuals with a concerted interest in one or more of the themes.

It is our belief that the groups listed above are able to contribute a vast amount of knowledge to the process and was therefore chosen to give subjective and objective information on the theme (s) that most represent their work and interest (s). The target audience was therefore chosen based on work they have completed on one (1) or more of the five (5) themes of focus.

4.2 Distribution of Sample by Theme

Based on the work and interest (s) of the target audience, the questionnaire was distributed by theme. This means that the questionnaire was sent based on the following; that is, organizations or individuals dealing with (i) access to information (ii) freedom of expression (iii) local government and decentralization (iv) strengthening of civil society (v) access to justice and (vi) all themes. The sixth category stated deals with those organizations that work on or are interested in all the themes being focused on. Along with the questionnaire, a letter was sent giving the background to the Quebec Plan

of Action. The letter also requested that the informants fill in the questionnaire. The distribution of the sample by theme is as follows:

- (i) Access to Information (6)
- (ii) Freedom of Expression (3)
- (iii) Local Government and Decentralization (11)
- (iv) Strengthening of Civil Society (14)
- (v) Access to Justice (8)
- (vi) All Themes (16)

ADA also solicited the participation of eleven (11) individuals in society who show some interest in the issue (s) but are not necessarily affiliated with any organization.

5. Subject Areas

Both objective and subjective information was gathered on the five (5) areas of interest. This information was gathered by way of interviews. The instrument used to conduct these interviewees was questionnaires provided by the Methodological Guide provided for this follow up. Also, in addition to these interviewees, information was gathered from secondary sources. The indicators, dimensions and subdimensions were used as guides when gathering information from these sources. The following is the result of the research by subject area.

51. Access to Information

Jamaica has made exceptional progress as it relates to the issue of Access to Information. The country has seen the passing of its Access to Information Act (ATI) in May 2002 (Please See Appendix II). Jamaica is the third Caribbean country following Trinidad and Belize to enact such a legislation and is aimed at “bringing greater transparency to Government by giving the public access to official documents...”² The Act also “aims to reinforce fundamental democratic principles vital to

- Improved, more transparent government;
- Greater accountability of government to its people;
- Increased public influence on and participation in national decision making; and
- Informed knowledge of the functioning of government.”³

An Amendment Bill to this Act has been tabled in Parliament, but has not yet been passed (Please See Appendix III). According to Bellanfante (2003), the Amendment deals with section five (5) of the principal Act and relates to (a) “all public authorities” (b) “official documents created by or held by a public authority not earlier than 30 years immediately preceding the appointed day” and (c) “applies to such government companies as defined, or any other body or organization which provides services of a public nature which is essential to the welfare of the Jamaican society”. A set of regulations accompany the Act which seek to ensure a clear understanding of the Act itself and how best to use this Act (Please See Appendix IV).

With the passing of the Bill and the Amendment Bill, it is believed that the country has come to the most difficult stage, that is, actual implementation. This is evident by the fact that this Act was to be implemented on a phased basis beginning in August 2003. This date was however suspended to October 1, 2003, which was further suspended to the end of October. The implementation for the end of October was also postponed until further notice from the Senate. It was agreed by the Senate that with the passing of the Bill there should be phased implementation in several Ministries and Public Agencies. Eventually, the first phase of this implementation began on January 5, 2003. The

² Bellanfante, Dwight

“Senate passes Access to Information Bill” in the *Daily Observer*.
Saturday, November 1, 2003

³ <http://www.jjis.org.jm>

government agencies inclusive in this first phase are: (i) Office of the Prime Minister (ii) Office of the Cabinet (iii) Ministry of Finance and Planning (iv) Ministry of Local Government, Community Development and Sports (v) National Works Agency (vi) Jamaica Information Service and (vii) The Planning Institute of Jamaica. (Please See Appendix V)

An ATI Appeals Tribunal has been set up. This Tribunal consists of five (5) persons who are responsible “for the hearing of any Appeal under this Act...”⁴ The work of the tribunal is very important to the success of the Act as it deals with such issues as “refusal of access; the granting of access to only some of the documents requested; deferral or delay of access; charging a fee for action; the amount of fee charged; refusal to annotate or amend an official document containing personal information which is claimed incomplete; incorrect or out of date or misleading and is being used for administrative purposes by a public authority.”⁵

Overcoming the culture of secrecy; ensuring that the Act is implemented in the time-frame set out by the Senate and replacing old retrieval systems with new, state-of-the-art ones are just some of the obstacles being faced in the implementation of the Act. In attempting to deal with some of these obstacles, the Minister of Information, Colin Campbell formed the Access to Information Unit (http://207.21.234.181/special_sections/ATI/default.html). The responsibilities of this Unit included putting a plan together to deal with requests and information retrieval. However it is quite clear that civil society organizations (CSOs) are working considerably hard to ensure that the citizens use this Act. In November 2001, civil society organizations became involved in the issue of access to information. At this time, the third draft of the Act was being tabled in Parliament. Since then three (3) non-governmental organizations, namely, Jamaicans for Justice, Transparency International (Jamaica Chapter) and The Farquharson Institute of Public Affairs have all been working assiduously to ensure the proper implementation and working of the Act.

The institutions seek to engage the public in discussions on the topic of access to information and how best to maximize the use of the Act to get best results. In so doing, Jamaicans for Justice has been working closely with Carter Center to host workshops and conduct assessments of the Act in order to make informed suggestions to the Government of Jamaica. They have also sought to

⁴ Section 32 of The Access to Information Act, 2002

⁵ <http://www.jjis.gov.jm>

engage other civil society organizations on the matter, and as such, in collaboration with the Carter Center hosted a workshop on the Access to Information Act. Held on September 10, 2003, this workshop sought to educate other civil society organizations on the principal Act and requesting ideas on how best to put forward their suggestions for Amendments to the Act and suggestions for successful implementation of the Act. This organization has been influential in pushing this Act forward as the group has been successful in monitoring the process of implementation and Amendment.

These two (2) organizations also hosted a follow up meeting, after the implementation of the Act. This meeting sought to assess the working of the Act since its implementation, to bring to the fore any flaws which do exist and how these flaws may be overcome. In this meeting, attendees were also asked to make requests for information on any topic of interest to them. This was to enable the participants to have practical knowledge of the Act.

In an article entitled “Jamaica ahead of US, Britain, France, in world press freedom rankings” in the Sunday Observer dated November 2, 2003, it was stated that Jamaica has been placed 21 out of 166 countries surveyed for the 2003 world press freedom rankings issued by Reporters Without Borders. Jamaica had a score of 3.3 points (tied with Hungary and South Africa for 21st place); with 0 being the best score and 100 being the worst score. It was stated that Jamaica was placed above the United States, Britain, France, Italy, Spain, and Australia in the rankings. These rankings were prepared from a questionnaire that was sent to journalists, researchers, jurists and human rights activists. This questionnaire sought to “evaluate respect for press freedom in a particular country.”⁶ It is believed that Jamaica’s good standing in the rankings was also as a result of Jamaica making amendments to the Access to Information Act. Also, according to the article, Prime Minister PJ Patterson signed the Inter-American Press Association’s Declaration of Chapultepec, committing Jamaica to fully observing press freedom. The signing of this document also contributed to Jamaica being looked on favourably by media organizations all over the world. Due to the adoption of some old colonial laws from England, Access to Information in the country has been hampered. One such law that has impeded access to information is the Official Secrets Act. This Act called for civil servants to swear an oath of secrecy. If this oath is not upheld, these civil servants may be subject to prosecution under

⁶ Allen, Desmond (2003)

“Jamaica ahead of US, Britain, France, in world press freedom rankings” in *The Sunday Observer*, November 2, 2003, p. 9

the law. However, now, with the Access to Information Act, any person can request information, with the exception of exempt documents. Section 6 (1) states:-

Subject to the provisions of this Act, every person shall have a right to obtain access to an official document, other than an exempt document.

Under the Act, exempt documents are those that fall within the following categories:-

- § those that affect security, defense or international relations
- § those that relate to law enforcement
- § those that are subject to legal privilege
- § those that affect national security
- § those that reveal government's deliberative processes
- § those that relate to business affairs
- § those that relate to heritage sites
- § those that affect personal privacy; and
- § Cabinet documents

From the above, civil society is of the view that these categories are too broad, are not clearly stated and encompass a large number of documents. Therefore, persons requesting information may be faced with difficulty in actually obtaining that information because it may be classified in one or more of the above categories.

As it regards documents that contain exempt matter, these documents must be provided without the exempt matter. Section 11 (1) states:-

Where an application is made to a public authority for access to an official document which contains exempt matter, the authority shall grant access to a copy of the document with the exempt matter deleted.

As it relates to the time frame in which an application for information must be processed, the Act states that a response to a request must be made within thirty (30) days of this request. Section 7 (4) of the Act deals with this issue and states the following: -

A public authority shall respond to an application as soon as practicable but no later that-
(a) thirty days after the date of receipt of the application; or

(b) in the case of an application transferred to it by another authority pursuant to section 8, thirty days after the date of the receipt by that authority, so, however, that an authority may extend the period of thirty days for a further period, not exceeding thirty days, in any case where there is reasonable cause for such extension.

One concern of civil society as it concerns the response time for an application for information is that the meaning of “response” is not clearly specified. There is the question of what constitutes a response. Is the response, one to acknowledge receipt of the request or the provision of the requested information? This is not stated clearly in the interpretation of the Act.

A law inconsistent with the principle of maximum public access to information, namely the Official Secrets Act, is provided for in the Access to Information Act 2002. Section 35 of the Act deals with this issue, and states thus: -

- (1) Where access to an official document is granted in accordance with this Act, the person who authorizes such access and any other person concerned in the granting thereof shall not, by any reason only of so doing, be guilty of a criminal offence.*
- (2) Subject to subsection (3), nothing in this Act shall affect the provisions of any other Act other than the Official Secrets Act, relating to the non-disclosure of information.*
- (3) For the avoidance of any doubt, it is hereby declared that the Official Secrets Act shall apply in relation to the grant of access to an official document in contravention of this Act.*

Above are some of the issues (not all encompassing) dealt with by the Access to Information Act 2002 in Jamaica. Other issues are covered more in-depth in the questionnaire.

Due to the fact that the Act was practically implemented less than one (1) month ago, it may be difficult to assess and analyze the effectiveness of this Act. However, it is the view of civil society that the only way to ensure that this Act “stays alive” is to use it. The citizens of Jamaica have to ensure that this Act remains active. The only way to do this is to be involved in its continuous phased implementation. Monitoring and evaluation of the implementation of this Act is essential to ensure that it is highly beneficial to the cause of the people.

Questionnaire One (1)

Laws on freedom of access to information and other regulations

1. Do laws exist regarding freedom of access to information?

- Yes
- Yes, but with restrictions ***
- No

Explain:

Some areas of government do not fall under the Act

2. In the affirmative case, specify the aspects covered by these laws:

The laws regarding access to information establish that:	YES	NO
1. Public offices are obligated to publish key information.	***	
2. Information held by the State can be requested by any person.	***	
3. Information requests must not necessarily state the motive for which the information is solicited.	***	
4. The government is obligated to provide all of the requested information that it holds, with exceptions that must be explicitly specified.		
5. The cases in which the State is hindered from providing information (e.g., protection of privacy or national security) are enunciated in a clear and explicit manner.		***
6. Exceptions to the principle of public access to information have been reduced to the bare minimum.		***
7. The justice system possesses the authority to exercise oversight in all cases of exception to the principal of public access to information.		
8. When a document contains a combination of permitted and restricted information, the permitted information must be provided to the requester.	***	
9. The principle of public access to information held by the government serves as a guide to interpret the law when specific cases are contested/in question.	***	
10. Short time periods have been established for offices providing public information in response to requests for information.	***	
11. The justice system can be used as a recourse in cases when requests for information that have unjustifiably been refused by the government.	***	
12. Persons requesting information can resort to the justice system to ask for explanations of unnecessary delay, obligating the State to respond.	***	
13. Clear responsibilities are established for the officials providing information, as are clear sanctions for those who refuse the release of information without sufficient justification.	***	
14. The right to solicit information includes the right to reproduce the requested information.	***	
15. The costs established by the State for information searches and reproduction must not exceed "reasonable" values, which in the final instance are determined by the justice system.	***	

16. Laws inconsistent with the principle of maximum public access to information have been abrogated or modified.		***
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Comments:

The Official Secrets Act 1904, which is in direct conflict with the ATI Law 2002 remains in place.

Effective access to information held by the central government.

3. What is the availability of public information in each of the areas indicated?

The categories are defined as follows:

Satisfactory: Information which is broad, relevant, up-to-date, understandable and accessible in accordance with pre-defined rules.

Insufficient: Information which is partial, of little relevance, not up-to-date or confusing or unclear.

Not available: Scarce information which is irrelevant, not updated or incomprehensible.

EFFECTIVE AVAILABILITY OF INFORMATION ABOUT:

Public Finances				
Item	Satisfactory	Insufficient	Not Available	Explanation
1. Government Spending		***		
2. Public contract w/private sector (bids)	***			
3. Economic measures (e.g. Privatization and International agreements)		***		
4. Loans, setting rates for basic services		***		

EFFECTIVE AVAILABILITY OF INFORMATION ABOUT:

Activities by Public and Senior Officials				
Item	Satisfactory	Insufficient	Not Available	Explanation
5. Public servants' income			***	
6. Assets of senior officials			***	
7. Votes on legislation	***			

Explain: Parliaments proceedings are public, the other information is not

EFFECTIVE AVAILABILITY OF INFORMATION ABOUT:

Results/Impacts of Government Activities				
Item	Satisfactory	Insufficient	Not Available	Explanation
8. Levels of poverty and inequity	***			
9. Student achievement and other educational indicators	***			
10. Health care and other health indicators	***			
11. Accusations of police abuse and the excessive use of force	***			
12. Accusations of human rights violations	***			

EFFECTIVE AVAILABILITY OF INFORMATION ABOUT:

Support for Vulnerable Groups and Individuals				
Item	Satisfactory	Insufficient	Not Available	Explanation
13. Sources of support for victims of domestic violence and sexual abuse		***		
14. Sources of support for populations that are displaced or affected by war or internal conflict		N/A		

EFFECTIVE AVAILABILITY OF INFORMATION ABOUT:

Finances, Accounting and Audits of Private Firms and Executives				
Item	Satisfactory	Insufficient	Not Available	Explanation
15. Performance indicators of (public or private) companies providing public services		***		
16. Price and quality of consumer products		***		
17. Performance indicators of the financial system		***		

Restrictions on the freedom of access to information.

4. Are there access to information restrictions for media/communications in order to protect children and adolescents (for example, restrictions on the publication of the names of juvenile crime suspects)?

Yes***
No

Explain:

.....
.....

Use of information and communications technologies to facilitate access to public information.

5. Is the proportion of government bodies offering web pages on the Internet high, moderate, low or non-existent, at the levels indicated?

At the level of:	% of Government departments that have web pages on the Internet:			
	80-100%	50-79%	Less than 50%	Non-existent
National		***		
Regional and/or provincial			***	
Municipal			***	

Explain:

.....
.....
.....

Sources

- ∅ Information provided by the OAS Special Rapporteur for Free Expression
- ∅ Government agencies' public information departments or offices
- ∅ National Statistics Institutes
- ∅ National legislative diaries or official publications or national laws
- ∅ National consultations
- ∅ Consumer groups and other civil society organizations
- ∅ National and International NGOs concerned with the subject

Con formato: Inglés (Reino Unido)

List of Interviewees

Dr. Carolyn Gomes
Executive Director
Jamaicans for Justice

5.2 Freedom of Expression

1. Citizens' Rights.

1.1 National Legislation on Freedom of Expression

Chapter III, section 22 of the Constitution of Jamaica guarantees the right to freedom of expression of every citizen. No person is to be hindered from freely expressing himself. It guarantees each citizen the freedom to "hold opinions, receive and impart information without interference, and freedom from interference with his correspondence and other means of communication".

The constitution also forbids the passage or content of any piece of legislation that would be in direct opposition to this freedom. However, legislation that makes provision for public safety, order, morality or health; defence; rights and freedoms of other persons; confidentiality; maintaining authority and independence of courts; regulating telephony or telegraphy, posts, wireless broadcasting, television or other means of communication; public exhibitions or public entertainments. In addition, legislation that imposes restrictions on public officers, police officers, or members of a defence force is permissible.

1.2 International legal obligations on freedom of expression

- Ø Declaration of Chapultepec
- Ø Inter-American Declaration of Human Rights

1.3 Equal enforcement on the law on freedom of expression.

- a. Exceptions for political and judicial officials

The Senate and House of Representatives (Powers and Privileges) Act, Section 3, allows parliamentarians to express themselves freely in the House of Parliament without being susceptible to any legal action by others.

b. Anti-discrimination legislation

Chapter III, section 24 of the constitution forbids the enactment of any legislation that is discriminatory, either of itself, or in its effect.

2. Communications Media.

2.1 Legislation regarding citizens' opportunities to express themselves in the public communications media.

a. Exercise of the right to reply

The "right to reply" is frequently exercised in this country. Jamaicans are very outspoken individuals and the numerous radio "call-in" programmes in the daytime bear strong witness to this fact. The major newspapers also have a special section where public commentaries are posted. Television talk shows also welcome the views of the public in shaping the discussions.

b. Pluralism in the Communications Media

Relative to the population, Jamaica has a cross section of different types of media. There is a combination of radio, television and print media. There are 10 listed radio stations, 4 listed local television stations, 11 listed newspapers and a variety of magazines. There is also access to North American cable television.

c. Distribution of ownership and communication media

- i. Television- There are 3 main televisions stations each owned by a separate media group. These are Television Jamaica, CVM Television, and Love Television.
- ii. Radio- There are at least 12 radio stations, 9 of which are owned by separate companies. RJR Communications Group owns the others. These radio stations are Fame FM, Hot 102 FM, Irie FM, Kool 97 FM, Love 101 FM, Power 106 FM, Radio Jamaica Limited, Radio 2 FM, Zip 103 FM, Radio Mona, Music 99 FM and KLAS FM.
- iii. Newspapers- There are 7 main newspapers, 3 of which are owned by separate companies. Ownership is evenly distributed among the others. These are The Gleaner, The Star, The Jamaica Observer, The Herald, The Sunday Herald, The X-News, The Western Mirror.
- iv. Ownership Cross-links- There are two major media companies with regards to radio and television. These are RJR Communications Group and the CVM Communications Group. The former owns 3 radio stations and a television station. The latter owns one television station, one radio station and two newspapers. The National Religious Media Commission owns one radio and a television station.
- v. Community based media or micro media- Community-based media exists in Jamaica. Currently Roots FM is a radio station located in an innercity community and services communities in Kingston, St. Andrew and parts of St. Catherine. Also, Irie FM began as a community radio station, but now has islandwide coverage. Radio Mona, the University of the West Indies radio station began as micromedia but is now received islandwide.

2.3 Legislation regarding political parties' access to the media in electoral campaigns. Laws regulating this access.

There are no laws regulating the access of political parties to the media in electoral campaigns. In practice, no party has been restricted from accessing the media for campaign purposes.

2.4 Ethical rules applying to the media

Laws and regulations spelling out the rights and duties of journalists and media outlet owners

Journalists are governed by a code of ethics which details their duties and code of conduct. It states that journalists should:

- Ø Seek truth and report it
- Ø Minimize harm
- Ø Act independently
- Ø Be accountable

(Society of Professional Journalists)

There are no laws or regulations that speak to the rights and duties of journalists. Their rights are derived from Chapter III, section 23 of the Constitution that deals with Freedom of Expression. Journalists have tried to convince politicians without success of the need for explicit mention of freedom of the press in the Constitution. Politicians however argue that the rights put forward in the Constitution are sufficient for journalism in Jamaica.

Television and radio stations are governed by the Broadcasting and Re-Diffusion Act. This law requires the licensing of radio and television stations through the Broadcasting Commission. No radio or television station may be operated without a license. This Act does not state the rights and duties of Media outlet owners.

There is no legislation governing the print media.

2.5 Legislation regarding the free exercise of journalism

- a. Mandatory membership in associations

There are no mandatory requirements for membership to any association in Jamaica.

b. Protection of Information Sources

There is no legislation with regards to this issue. Journalists use their own judgement.

2.6 Laws, regulations or conditions restricting the free exercise of journalism

Journalists are restricted by the Libel and Slander and Discrimination Acts. The Gleaner Company had to award millions of dollars in damages for statements the newspaper had published with regards to a former government Minister. The former Minister sued the Gleaner Company in accordance to the Libel and Slander Act and was successful.

Journalists have been restricted by the Official Secrets Act (which is soon to be repealed because of the passage of the Access to Information Act). This law prevented journalists, as well as other members of the public, from accessing information from government. Government officials disclosed information as they pleased and not as the public demanded.

The Corruption Prevention Act passed in 1999 prevents journalists from publishing information not authorised by the Commissioner for the prevention of corruption.

The Children's Code for Programming restricts the type of programmes that can be aired or broadcasted within a certain period of the day. It requires programmes to be rated and scheduled appropriately so that it may be viewed by the appropriate audience.

a. Pressure from media sponsors to publish notices or information

Many of the media houses in Jamaica are owned by prominent businesspersons. This means that a story that impacts negatively on the image of that business will not be aired or written. There is little revealed about this issue in Jamaica, so it is very difficult to draw any conclusions about the matter.

b. Confiscations, including private ones

This is not an issue in Jamaica.

c. Blacklists, blacklisted individuals or taboo issues

This is not a feature of Jamaican journalism in recent times. However, there was an incident where the host of a radio programme in an interview with the Leader of the Opposition, commended him for his work in some area of social development. The host was fired, as it was construed that he was giving mileage to the Opposition leader during the period leading up to the general elections. The individual was not blacklisted or prevented from being an active journalist. He now works with another radio station. Therefore, this is not an issue in Jamaica as a whole, but could be construed as one relating to the biases of media houses.

3. Artistic Expression (more examples of organizations)

There is a high level of artistic expression in the Jamaican society. Jamaica has a strong cultural base that embodies such activities as dance, paintings, music, theatre, sculptures, the media fine cuisine and other areas. Organizations exist that aim to improve and further artistic expression in the country. These organizations (not all encompassing) include the Jamaica Cultural Development Commission (JCDC), the Creative Productions Training Centre (CPTC), The Philip Sherlock Centre for Creative Arts, Edna Manley College of the Creative and Performing Arts and Sistren Theatre Collective (STC). These organizations engage in various activities that seek to enhance and improve the practice of cultural activities throughout the country through the use of artistic expression.

4. Non-Media Citizen Expression

4.1 Laws or regulations restricting public demonstrations

a. Ease of organizing and participating in demonstrations

The Public Order Act allows citizens to organise and participate in public marches and meetings subject to a permit. The leader of any such demonstration must request this permit from the Jamaica Constabulary Force before the event takes place. The march or meeting should adhere

to the terms of the permit. If the terms are not respected, then the leader will be asked to disperse the persons attending the march. Persons operating in contravention to the Public Order Act are subject to a fine or imprisonment.

Despite the provisions of the Public Order Act, persons freely demonstrate without a permit from the Jamaica Constabulary Force. Most demonstrations in recent times have been of a violent and destructive nature, causing harm and injury to other parties and are in a direct contravention of the Riot Act. This Act makes it a felony for persons to assemble riotously and unlawfully in contravention of public peace.

4.2 Laws or regulations providing access by citizens to political, legislative and judicial officials.

b. Existence of official and extra-official channels for public complaints

The Public Defender (Interim) Act established a Commission of Parliament known as the Public Defender, for the purpose of protecting and enforcing the rights of the citizens.

Other non-government organisations such as the Jamaicans for Justice, Families Against State Terrorism, among others, also deal with citizens' complaints with regards to various issues. Radio "talk shows" and newspapers are also mediums through which the public complain about various issues.

5. New Technologies

5.1 Internet access and freedom of expression

a. According to the Human Development Report 2002, Internet hosts were 0.6 per 1000 in 2001.

b. Internet use in public schools

Type and Number of Public Schools with Internet Access

School Type	Number of public Schools with Internet Access
Infant	6/29
Primary	31/353
All Age	18/350
Primary & Junior High	19/80
Junior High	1/1
High	32/153
Special	0/5
Total	107/974

Source: Ministry of Education and Culture: Internet Access Survey, July 2002.

The Ministry conducted another survey in the latter part of 2003. Preliminary figures indicate that the number of schools with Internet access has dramatically increased from the numbers stated above. However, the results of the survey have not yet been finalised, as it has not yet passed through the aggregation and approval processes. It is the Ministry's goal that all schools have Internet access. As such, they provide Internet grants to schools that request them.

c. Number of public spaces with Internet access.

There are no official statistics on the number of public spaces with Internet access. However, some Post offices and Parish Libraries across the island provide Internet service at a fixed cost per hour. There are also Internet Caf  s in central parts of the country that provide this service.

6. Practical opportunities for free expression by citizens

6.1 Levels of complete and functional illiteracy in the country.

According to the Economic and Social Survey 2002, the illiteracy rate (adult total) was 12 percent in 2002.

6.2 Number of communication devices per unit of the population

Telephones (land lines)...197 per 1000 people (based on 2001 figures)

Cellular Telephones... 269 per 1000 people (based on 2001 figures)

Television sets... 194 per 1000 persons (based on 2001 figures)

Radios... 796 per 1000 persons (based on 2001 figures)

(Source: www.worldbank.org/data/countrydata/ict/jam_ict.pdf)

6.3 Number and coverage of the mass and local communications media relative to the population.

Most of the radio and television stations have signals that are transmitted across the entire island. The coverage for newspaper is less because the outlets are situated in the main sections of the island. Remote areas may not have access to them unless the persons travel to the central areas in their parish.

7. Predisposition of the population to express themselves

7.1 The population's perception of its access to free expression:

The perceived need to express itself through some form of the mass communications media. The population in Jamaica seeks to be heard. This is indicated by the numerous daytime radio talk shows. These programmes are designed to facilitate the many opinions held by the average citizen, who wishes to express his/her views to fellow countrymen or women and the talk show host. Issues range from social, economic to political, as the population seeks to make their voices heard. Injustices against persons are another reason for persons using the mass media. Many times, it is through this avenue that persons get the justice that they have been seeking. They also hope to gain sympathy from the population at large, the talk show host and the attention of the offender.

Con formato: Francés (Francia)

Código de campo cambiado

Con formato: Francés (Francia)

Con formato: Francés (Francia)

The mainstream newspapers also perceive the need of persons to be heard. As such, there is normally a page dedicated to expressing the views of the people.

7.2 The population's motivation for public expression:

The will to express itself through some form of mass communication

The Jamaican public's drive to express themselves is seen in the volume of telephone calls made to radio station during the talk show. Some talk shows have been going on for over 10 years, as the people never exhaust issues to be discussed. The Editor's column is always filled with letters from ordinary citizens, who write about various issues.

7.3 The population's attitude towards public expression

The population has a positive attitude towards public expression based on their response to opportunities to express themselves. The population always welcomes any avenue through which public views are entertained, because they like to feel that they are being heard.

7.4 The population's experiences with public expression:

The quality of experiences with freedom of expression

Jamaicans are not hindered from expressing themselves publicly. Radio talk shows and newspapers readily facilitate this expression. Persons demonstrate freely when they are upset about an issue or situation, most times, without violent interference from the police force. Although they are commonly in breach of the Public Order and Riot Acts, they are not prosecuted in most instances. These demonstrations tend to impinge on the rights and safety of others, even though the aim is to be seen and heard by the relevant authorities. Jamaica has had good experiences with freedom of expression, as the authorities are rather facilitative of it.

Sources

The Constitution of Jamaica

Radio and Telegraph Control Act 1973

Public Defender Interim Act 2000

Riot Act 1857

Libel and Slander Act 1969

Police Public Complaints Authority Act

Broadcasting and Radio Diffusion Act 1949

Defamation Act 1963

Noise Abatement Act 1997

Public Order Act 1957

Public Defender (Interim) Act 2000

Official Secrets Act 1911

The Corruption Prevention Act 1999

The Children's Code for Programming

www.worldbank.org/data/countrydata/ict/jam_ict.pdf

Planning Institute of Jamaica. Economic and Social Survey 2002.

UNDP. Human Development Report 2002. Deepening Democracy in a Fragmented World.

Ministry of Education and Culture

Interview: Edgar Lewis, Journalist

Questionnaire One (1)

Citizens' rights.

1. Does your country's constitution explicitly guarantee freedom of expression?

Yes***

Yes, but with restrictions

No

Explain: _____

1.a. Which criminal, civil or military laws guarantee freedom of expression?

There is no legislation that speaks to freedom of expression. It is only embedded in the constitution.

2. Are there criminal, civil or military laws restricting freedom of expression?

	Restrict YES or NO
Immunity	
Libel and slander	***
Abuse of publicity	
Others	***

Explain: The Defamation Act- This has the same object as the Libel and Slander Act

The Corruption Prevention Act- This restricts journalists from publishing information not unauthorized by the Commissioner for the prevention of corruption.

3. What types of penalties are applied to those who do not respect legal restrictions on the freedom of expression?

	Prison		Fines		Confiscation of publications/productions	
	Severe	Mild	Severe	Mild	Pre-emptive	Subsequent
Immunity						
Libel and slander		***	***			
Abuse of publicity						
Others		***	***			

Severe prison sentence: Must remain in prison.

Light prison sentence: House arrest or similar.

Severe fines: 1000 dollars or more.

Light fines: Less than 1000 dollars.

Confiscations:

Pre-emptive (previous to circulation)

Subsequent (after circulation).

4.Has your country signed international treaties and agreements related to freedom of expression?

Yes***

No

5.Has your country ratified international treaties and agreements related to freedom of expression during the 2000-2002 period?

Yes

No

Specify agreements and dates

6.Has allegations of violations of the freedom of expression in your country been presented to the Inter-American Human Rights Commission during the past year?

Yes, five or more

Yes, less than five

No***

7.Are there formal mechanisms in addition to the courts of law (with the state or with civil society) for lodging complaints of abuse or violation of the freedom of expression?

Yes***

No

If yes, what kind and how many? The Public Defender was set up for lodging formal complaints against breaches of constitutional rights.

8.Have there been legal cases or decisions aimed at protecting freedom of expression in the 2000-2002 period?

	2000	2001	2002
Yes			
No	***	***	***

9.Have journalists or other persons involved in communication been detained, tried or sentenced due to limitations on the freedom of expression, during the 2000-2002 period?

	2000	2001	2002
Yes			
No	***	***	***

If yes, please indicate the number, type of cases and circumstances:

.....

10.Have any of the following incidents occurred during the 2001-2002 period?

Obstruction of the dissemination of information	YES	NO
Confiscation of publications	YES	NO***
Threats against journalists	YES	NO***
Censored media or programs	YES	NO

If yes, please explain the case(s): _____

11. Is there evidence of pressure from third parties on media sponsors to withdraw support from a program?

- Yes, one or more cases
- Yes, three or more cases
- Yes, five or more cases
- No

12. Is there evidence of pressure from media sponsors to withdraw a program due to its content?

- Yes, one or two cases
- Yes, three or four cases
- Yes, five or more cases
- No

13. Is there evidence of financial pressure from creditors on a media outlet due to the contents of their production/output?

- Yes, one or two cases
- Yes, three or four cases
- Yes, five or more cases
- No

14. Have journalists or other persons involved in communication been assassinated during the 2000-2002 period for reasons connected to their professional work?

	2000	2001	2002
Yes			
No	***	***	***

Details:.....

15. Have journalists or other persons involved in communication been fired, displaced or exiled during the 2000-2002 period for reasons connected to their professional work?

	2000	2001	2002
Yes			***
No	***	***	

Explain: There was an incident where the host of a radio programme in an interview with the Leader of the Opposition, commended him for his work in some area of social development. The host was fired, as it was construed that he was giving mileage to the Opposition leader during the period leading up to the general elections. The individual was not blacklisted or prevented from being an active journalist. He now works with another radio station.

16. Have restrictions on freedom of expression due to membership in an ethnic group, nationality, gender, religion or minority group, or other similar reason, been evident in practice during the 2000-2002 period?

Yes

No***

If yes, explain:

.....

Communications media.

17.a. Are the country's diverse ideological currents reflected in the leading communications media?

Yes***

No

Explain:

.....

17.b. Are the country's diverse cultural currents reflected in the leading communications media?

Yes***

No

Explain:

18. Do local communities, ethnic and minority groups and others have public guarantees to have access to their own means of communications (local press, community radio, local television, etc.)?

Yes***

No

Explain: There is one community radio station called Roots FM. It is only heard by the persons of particular communities. The University of the West Indies also has its own radio station that serves the University population, as well as other parts of the country where there are signals.

19. Do any anti-monopoly regulations for the communications media exist?

Yes

No***

Explain: The Broadcasting and Radio Re-Diffusion Act states that commercial licenses can be non-exclusive licenses or exclusive, but it has to be one or the other.

20. Is ownership of the communications media relatively concentrated, or relatively dispersed among various owners?

	Relatively Concentrated	Relatively Dispersed
Television		***
Radio		***
Newspapers		***
Magazines		***

Comment: _____

21. Are there any laws or regulations that control or define the relationship (rights, responsibilities, duties) between journalists and owners of communications media outlets?

Yes

No***

22. Is there a law protecting journalists' information sources or professional secrecy?

Yes

No***

Explain: Journalists use their own discretion

23. What is the level of public confidence in the communications media?

	High	Moderate	Low
Television	***		

Radio	***		
Newspapers	***		
Magazines		***	

Explain: Most of the population do not rely on magazines for information.

Artistic expression.

24. Do public funds exist to support the arts?

No

Yes

If yes, indicate the total annual amount in US \$

25. Do private funds exist to support the arts?

No

Yes

If yes, indicate the total amount in US \$ available during the last fiscal year.

26. Are there laws that facilitate and promote artistic production and dissemination (e.g., tax exemptions, laws favoring donations)?

Yes

No

27. Have any works been censored, or exhibitions closed down during the 2000-2002 period?

	2000	2001	2002
+1			

Over 5			
None			

Non-media citizen expression

28. In practice is the population's right to stage public demonstrations respected?

Yes, without restrictions

Yes, with a few restrictions***

Yes, with many restrictions

No

Explain: The leader of the demonstration should obtain a permit from the Jamaica Constabulary Force. This is normally not adhered to.

29. Are authorized demonstrations generally tightly controlled?

Yes***

No

Explain: Due to the indiscipline of the Jamaican people, unauthorized demonstrations have to be under the watchful eyes of the police force. However, these demonstrations are not prone to violence, as opposed to the unauthorized ones.

New technologies.

30. What percentage of the population has an Internet connection (in their homes)?

5% or less***

5-10%

- 10-20%
- 20-30%
- 30-40%
- Over 40%

31. How many public outlets offer free access to the Internet (including public schools)?

- Under 1000***
- 1001 to 3000
- 3001 to 5000
- 5001 to 8000.
- 8001 to 10000.
- Over 10,000

Capacity and opportunities for citizens to express themselves freely.

32. What percentage of the population over 15 years of age has less than five years of schooling?

..... %

33. What percentage of the population OVER 15 YEARS OF AGE is illiterate?

12 %

34. Number of communications devices per capita:

Telephones (land lines).....197 per 1000 people (based on 2001 figures)

Cellular Telephones..... 269 per 1000 people (based on 2001 figures)

Television sets..... 194 per 1000 persons (based on 2001 figures)

Radios..... 796 per 1000 persons (based on 2001 figures)

(Source: www.worldbank.org/data/countrydata/ict/jam_ict.pdf)

- Con formato: Francés (Francia)
- Código de campo cambiado
- Con formato: Francés (Francia)
- Con formato: Francés (Francia)

Citizens' disposition to express themselves freely.

35. Have violent actions taken place within the past five years against members of the population, or a subgroup of the population, due to their expression of ideas contrary to those of State officials or of another powerful group, whether legal or illegal?

Yes***

No

Explain: These have mainly occurred in inner city communities and are politically related. When communities are divided by political affiliation, one group normally incites violence against another because of party preferences.

36. If there has been a high or moderate level of generalized repression, as referred to in the preceding question, has the situation changed during the 2000-2002 period?

	2000	2001	2002
Yes			
No			

Explain:.....

5.3 Justice

Questionnaire One (1)

1. Educational efforts on justice related topics by the Ministry of Justice and its various arms are ongoing but restricted in coverage. The Ministry in its efforts tries to go to all 14 parishes however, in terms of segments of the population represented it is mainly older – middle age persons who have been the beneficiaries of these efforts. It appears that the relatives of young persons interested in the law especially when young persons get into trouble with the law.
2. The level of citizen's knowledge/ education regarding their right of access to justice is high this conclusion is based on feedback from radio talk shows. The Ministry is in constant contact with the Jamaica Information Service (JIS) which produces *You & the Law* and based on the feedback from this service in terms of the types of questions asked by citizens regarding the law and their rights the Ministry believes that the knowledge level of our citizens is high. They also base this conclusion on other radio legal programmes such as *Balancing Justice* (produced by Radio Jamaica) from the types of questions asked and the interest expressed by the public in these shows.
3. Public Defender – YES – 2000 – 693 2001 – 707 2002 – 717 – Recent changes that have taken place - In 1999 the Public Defender Act was passed & came into effect April 16, 2000 – it was then that the office of the Public Defender replaced the office of Parliamentary & Public Utility Ombudsman.
4. No information received so far – Research Department of the Ministry of Justice is currently conducting research on this issue and the report is to be published by the end of February.
5. Information not yet available.
6. The State grants SOME legitimacy to justice administration mechanisms. The State has been actively moving towards these types of justice administration systems. The mechanism primarily in use is that of Alternate Dispute Resolution. The Dispute Resolution has been in existence for the 10 years and has actively been engaged in trying to get acceptance from the public. Mr. Cohen also cited the example of the Restorative Justice Centre in Mandeville to emphasize

community involvement. The centre is operated under the auspices of the Northern Caribbean University and the Ministry has played and active an integral role in its establishment and activities. It offers counselling services to the public and is staffed by legal and non - legal personnel. Since January 2003 the Court sanctioned mediation was made a part of the Civil Procedure system. The plan is to also apply this to criminal cases as well.

7. Please see Questionnaire Two (2)
8. Among lower – income social groups, the proportion of problems which are reported to and brought before the formal judicial system is in Mr. Cohen's opinion HIGH especially in criminal matter involving alleged brutality. However, he believes that when it involves criminal activity it is low – he pointed to low reporting in cases of incest and domestic violence. In civil cases reporting is definitely far less.
9. MOB KILLINGS Committed for Years 2000 – 2002 (Statistical Division of Police Dept.) –
2000 –8 2001 – 9 2002 –11
10. Unanswered
11. Unanswered
12. Yes there have been initiatives to provide special support for victims of domestic violence since 2000. The Victim Support Unit and arm of the Ministry of Justice has been in operation for the past five years and it handles cases of that nature and any form of abuse that can be classified as criminal act against an individual. The Ministry of Health also provides support for children through its Children's Services programme.
13. Please see Questionnaire Two (2)
14. (1) YES (2) YES (3) YES (4) NO - BEING DEVELOPED (5) NO - BEING DEVELOPED.
(1) The advance made is the inclusion of Jamaica Bar Association in that process (2) There have been no advances as there have been no complaints about system of selection based on merit so far. (3) No limitation in terms of term for which they are selected however the age limit is 75 after which they MUST retire.
15. NO
16. Not Available
17. No cases have occurred
18. (1) High – can be retrieved through House of Parliament (2) Low – Corruption Prevention Commission (agent of Ministry of Justice) keeps track of judges' assets. Judges must declare

their assets and in general civil servants who earn over 2 mil per annum will automatically be investigated. (3) High – through the Court (4) High – through the Court. Items 4, 5 & 6 info not available at this time

19. The quality level of information about the judicial system available on the Internet is GOOD in Mr. Cohen's estimation. There is an overview of the Court system on the Internet and a copy of the system and court structure. Additionally, recent cases are posted on the site.
20. Information not available at this time.
21. Men – 16 Women – 11 Mr. Cohen did not believe the rest of categories applies to Jamaica.
22. Unanswered

INDICATORS

1.1. 1 (a) Attorney General's Department, Ministry of Justice, Jamaica Information Service, Education of Justice Education Unit of the Ministry of Justice – its aim is to educate citizens about the rights and access to justice it plans to do this on a broad sustained basis by March 31 2004.

(b) Public Relations Dept. before the establishment of educational unit has been travelling throughout the country visiting high schools, select tertiary institutions and community special interest groups such as service clubs – Kiwanis, Lions and rural community groups with JIS. They have covered a variety of topics such as: the death penalty, the Caribbean Court of Justice, the Bail Act and from these have come a mixture of questions such as the treatment of extra judicial killings, witnesses and jurors.

(c) Coverage is wide ranging as the groups they see are a composite of different persons. Recently, the Unit (Education Unit of Ministry of Justice) addressed 80 citizens at the National Conference of Citizen's Association on the topic the responsibility of a citizen in ensuring that justice is carried out in a reasonable time.

1.1.2 Sometimes Resident Magistrates may speak on particular topics if asked by service clubs however there is nothing on a planned and sustained basis.

1.2

1.2.1 Public Defender's Office

(a) 1978

- (b) The Office has an operational budget of 36 million Jamaican dollars. In relation to bringing cases in Court no budget is set this however has not proven to be a disadvantage because the Office engages counsel to complete the case in Court and then at the conclusion a bill is submitted through the Public Defender's Office to the Ministry of Finance which pays the lawyer. Mr. Hamilton stated that experience has shown that it would be impossible to predict the budget for a year in this case as such he believes this system is by far more workable.
- (c) The Office has a list of ten constitutional lawyers but the list can be added to.
- (d) The Office does not deal with criminal matters only civil matters as it seeks compensation for its clients – constitutional and administrative redress. We are currently the only jurisdiction in the English speaking Caribbean where the Public Defender's (or Ombudsman) ambit is extended to include constitutional matters and not just administrative. The Public Defender's Office can go to Court on constitutional matters.
- (g) Two cases so far went to Court - West Kingston Inquiry and Rastafarian Constitutional Motion re discrimination in prisons against Rastafari as a religion. Through this case, Rastafari gained recognition in the prison as a religion. All their cases aside from the above have been settled out of court and there have been no additional costs to the government. The Office does not charge for its services.

Questionnaire Two (2)

7. Are the actions of the police compatible with the requirements of a democratic state in the following ways?

Appropriate treatment of detainees by the police	YES	NO
Informing detainees of their rights and duties	YES	NO
Informing detainees in a timely manner about the accusations against them	YES	NO
Respecting detainees' right to contact an attorney	YES***	NO
Police training in the area of human rights	YES	NO
Respectful treatment of victims, complainants and anyone else who contacts the police	YES	NO

Explain:

1. It is difficult to answer Yes or No to these questions. In Jamaica, the way you are treated by the police is determined by each individual policeman/woman, despite the fact that some of them are exposed to customer service training as well as human dignity and human rights sensitization sessions.
2. Overall it would appear that persons to be charged are informed of charges. With respect to detainees, usually they are held for investigation. I am not aware if the practice of holding detainees beyond the legal time, is still prevalent not having received any recent complaints.
3. Police (training) sensitization in human rights is well below what ought to obtain. At present interaction range from 4 hours to 1 day. Given the lack of human rights knowledge, clearly far more time is needed. It is to the credit of most participants that they usually state the desire/ need for more time.

13. Have there been initiatives to ensure more humane and dignified treatment of prisoners since 2000?

	2000	2001	2002
Yes	***	***	***
No			

If yes, what kind?

1. Warders are being exposed to human rights principles;
2. Vastly improved meals now made available;
3. Rehabilitation programmes have increased.

Questionnaire Three (3)

Access to justice.

Education of individuals about their right of access to justice.

1. Are educational efforts on justice-related topics by the judicial branch and other government bodies:

- Scattered or occasional, and restricted in coverage***
- Scattered or occasional, but reaching a wide audience
- Ongoing, but restricted in coverage
- Ongoing, and reaching a wide audience

Explain:

One might be able to get material, but is unable to purchase them because there is a cost to it. One can obtain flyers or pamphlets upon request and sometimes there is a charge.

Con formato: Inglés (Reino Unido)

2. The level of citizens' knowledge or education regarding their right of access to justice is:

- High
- Moderate
- Low***
- Nonexistent

Explain:

Majority are misled and are unable to afford the cost added to accessing such information
 Egs. (i) Some persons have tried to access legal aid and have been told that a fee is required, while the government states that this service should be free of charge.
 (ii) Avenues of complaints which are said to be independent perform otherwise

Expeditious, equitable and universal access to justice.

3. Does the country have a public defender's office, free legal aid (distinct from the public defender's office), an ombudsman (citizens' defender), and oral trial proceedings?⁷

If yes, indicate the number of cases served by each office/service during the previous years.

	Does it exist?		Number of cases attended to		
			2000	2001	2002
Public defender	YES***	NO			

⁷ Note that the oral trial proceeding portion of this question does not apply to countries using the Common law system.

Legal aid (distinct from the public defender)	YES***	NO			
Ombudsman (citizens' defender)	YES	NO			
Oral trials in civil cases	YES	NO			
Oral trials in criminal cases	YES	NO			

Explain, especially if recent changes have taken place:

Changes have taken place in the legal aid system where persons now have to pay a retainers fee of \$5000.00. Mediation as a means of solving disputes have also been implemented.

4. In recent years, average time delays for the pronouncement of judicial sentences have been:

Excessive
Reasonable***

If estimates exist of the actual time periods (in months), indicate:

.....
.....
.....

If estimates of the actual time periods do not exist, explain the response:

One experience is that there are significant delays in starting proceedings but no unreasonable delay in pronouncing sentence at the end of court proceedings that terminate in a guilty verdict

5. Has the number and percentage of persons detained or brought to trial but still awaiting a judicial sentence changed in recent years, and how?

	2000	2001	2002
Number of pre-trial prisoners without a sentence			
% of pre-trial prisoners without a sentence vs. the total prison population			

Explain: One problem that exists is people being detained for extended periods under the guise of awaiting identification parade (s). Many persons have been released without being charged.

“Fair treatment” of the poor, the disadvantaged and those subject to discrimination.

6. What level of recognition/legitimacy does the State grant to justice administration mechanisms (community justice/sentencing programs etc.), applied by indigenous peoples/communities?

None
Some
High

If recognition is given, indicate the types of mechanisms used:

.....

7. Are the actions of the police compatible with the requirements of a democratic state in the following ways?

Appropriate treatment of detainees by the police	YES	NO***
Informing detainees of their rights and duties	YES	NO***
Informing detainees in a timely manner about the accusations against them	YES	NO***
Respecting detainees' right to contact an attorney	YES	NO***
Police training in the area of human rights	YES	NO***
Respectful treatment of victims, complainants and anyone else who contacts the police	YES	NO***

Explain: Families are often verbally abused and assaulted when they ask for information pertaining to the detention of the accused. Detainees' rights are usually abused. They sometimes go on identification parades without an attorney present, and fingerprints taken. They are sometimes assaulted, threatened and detained over a 24-hour period without being charged.

8. Among lower-income social groups, the proportion of problems which are reported to and brought before the formal judicial system is:

High***
Moderate
Reasonable
Low
Nonexistent

Explain: There are persons who are unable to educate themselves and are therefore main victims. They are exposed to exploitation and are being targeted.

9. In your country do cases exist where the population (or communities) has resorted to "taking justice into their own hands" (beatings, extra-judicial killings, lynchings etc)

Yes

	2000	2001	2002
Number of cases			

Explain: The above may exist where robberies or rapes etc. take place.

10. The quality of free or low-cost legal aid services for the poor, disadvantaged or those subject to discrimination is:

	High	Average	Low	Does Not Exist
Free legal aid				***
Support services (e.g. transport to courts, etc.)			***	
Psychological support			***	
Protection of victims and accusers			***	
Translation services for those who require them			***	

Explain: These are people who are being targeted in the society. They are the victims of the crime and therefore will have to finance their own way.

11. a) Have reforms been made to the criminal trial laws?

- Yes
- No

If yes, indicate what kind and when (dates):

.....

.....

.....

b) If yes, is there evidence that the reforms favor low-income plaintiffs?

- Yes
- No

Explain:

.....

.....

.....

c) If yes, is there evidence that the reforms favor those affected by domestic violence (spousal violence, child abuse)?

- Yes
- No

Explain:

.....

.....

12. Have there been initiatives to provide special support for victims of domestic violence (spousal violence, child abuse) since 2000?

Yes
No

If yes, what kind?

.....

13. Have there been initiatives to ensure more humane and dignified treatment of prisoners since 2000?

	2000	2001	2002
Yes			
No			

If yes, what kind?

.....

Independence of the judicial branch.

Transparency in the selection of judicial authorities.

14. Have advances been observed since 2000 in relation to transparency and independence in the selection of Supreme Court justices, in the following areas?

	YES	NO
Broadening of the entities involved in the selection of justices	YES	NO
Establishment of objective criteria for the selection of justices by merit	YES	NO
Limitation (in law and in practice) of the term for which justices are selected	YES	NO
Publication of information about candidates	YES	NO
Open and public mechanisms for objection to candidates	YES	NO

If yes, specify the advances:

.....

If no, explain:

.....

Job security for judicial authorities.

15. Is there evidence from the previous year of cases in which judges have been removed or suspended from their jobs due to political pressure or other arbitrary influences, in reaction to their previous judicial decisions?

- Yes
- No

If yes, explain:

.....
.....
.....

Appropriate codes of conduct.

16. Have codes of ethics, if existing, been applied in specific cases to the judicial branch since 2000?

- Yes
- No
- There are no explicit codes of ethics for the judicial branch

If yes, explain whether these codes are effective in ensuring transparency in the judicial branch:

.....
.....

17. If cases of judicial corruption have occurred since 2000, have they been adequately addressed?

- Yes
- No***
- No cases have occurred

Explain: If victims and their families are unable to pay an attorney to represent them and file an appeal in the court of appeal they will have to serve the time or pay the fine. One example is a case of a judge taking over the role of prosecutor in the Gun Court on more than one occasion.

Accountability to society.

18. What is the availability of information for each of the following items?

Item	Availability of Information				What / who facilitates access to this info?
	High	Average	Low	None	
Budget of the judicial system			***		Head Clerk
Remuneration and personal assets of judges					
Judicial proceedings			***		Clerks
Judicial cases and decisions			***		Head Clerk
Users of the judicial system					
Detainees and defendants awaiting judicial sentencing		***			Head Clerk/family member
Accusations of torture and police abuse	***				Citizens

Other judicial statistics (specify):

.....

19. What is the quality level of information about the judicial system available on the Internet?

- Excellent
- Good
- Mediocre
- Unsatisfactory***

Explain: One will always have to call, write or fax in for further information or more specific information

20. Are there effective response mechanisms for complaints and demands for investigation lodged against the judicial system or individual judicial officials?

- Yes***
- No

Institutional structures facilitating the inclusion of the poor, the disadvantaged and those subject to discrimination.

21. What is the composition of the Supreme Court, by gender and ethnic origin? Indicate the number of:

	Number	Explanation of data available and used
Men		
Women		
Whites		
Blacks		
Indigenous Peoples		
Other visible minorities (specify)		

22. Have there been changes to the composition of the judiciary, allowing it to better reflect gender, ethnic and other kinds of social diversity, since 2000?

Yes

No

Explain:

.....

Con formato: Inglés (Reino Unido)

List of Interviewees

Mr. Michael Cohen
Public Relations Officer
Education Unit
Ministry

of

Justice

Miss Florizelle O'Connor
Advisor
Ministry of Justice

Mr. Howard Hamilton
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Ann Marie Geddes
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5.4 Local Government and Decentralization in Jamaica

Local Government and Decentralization in Jamaica

Operation of the System of Local Government

Jamaica boasts one of the oldest systems of Local Government in the Western Hemisphere. This system was first established in 1664 by the English and patterned off the original Elizabethan parochial model of Vestry and Justices (Mills 1985). The local government system resulted in the creation of parishes, which served as a convenient geographical framework for grouping sugar estates and also as the foundation on which the economy of the island was based. As time passed cities and towns replaced sugar plantations however the parish configuration that existed in 1867 continues to be the basis on which local government is organized in Jamaica today. (LGR: 2001).

The parish is the lowest level of territorial division within Jamaica's political system and the Parish Council is the formal institution of local government and the lowest tier of public administration within the country. Although Jamaica has fourteen (14) parishes there are currently thirteen (13) Parish Councils as the metropolitan parishes of Kingston and St. Andrew share a joint Council known as the Kingston and St. Andrew Corporation (KSAC).

Parish Councils are responsible for the management of all the towns and communities that fall within their respective parish borders however local authorities have recently moved to create municipal management mechanisms in an attempt to provide more effective management for discrete urban and rural development areas that have emerged over time within the parishes across the country. In 2003, the first municipality status was conferred upon Portmore, a town in the parish of St. Catherine. A municipality is defined as a town or district that has its own local government. This new arm of local government performs similar functions to a Parish Council however because of the nature and locality of the municipality some of the broader functions of a parish council may not be applicable. The municipality is also expected to operate in collaboration

with the parish council, as the council continues to maintain overall responsibility for the entire parish.

Parish Councils provide a range of public services to the population. The demands placed on the councils as a result of the rapidly growing urban population have been intense. In the metropolitan parishes of Kingston and St. Andrew the population is approximately 711 200 inhabitants which represents 27.5% of the country's total population. When the population of the neighbouring urban area of Portmore is combined, the metropolitan areas together account for % of the entire population. These figures are expected to increase as there is continuous rural to urban migration.

Presently Parish Councils are responsible for:

- § solid waste management, street lighting, cemeteries, abattoirs, parochial roads, public health, public parks and markets, minor water supply, public sanitary conveniences, disaster preparedness, poor relief and local planning for building and sub-divisions.

The Parish Council is the local planning authority within the Parish and is required to work in collaboration with several other institutions to ensure community development.

Local authorities have recently moved to create municipal management mechanisms in an attempt to provide more effective management for discrete urban and rural development areas that have emerged over time within the parishes across the country. In 2003, the first municipality status was conferred upon Portmore, a town in the parish of St. Catherine. A municipality is defined as a town or district that has its own local government. This new arm of local government performs similar functions to a Parish Council however because of the nature and locality of the municipality some of the broader functions of a parish council may not be performed.

The Portmore Municipality is responsible for:

- § The preparation and adoption of an annual budget and work plan for Portmore
- § Maintenance and enhancement of the revenue base for Portmore
- § Solid waste management (garbage collection and street cleaning, etc.)
- § Street lighting Code Enforcement

§ Beautification

The St Catherine Parish Council maintains overall jurisdiction for the parish and has direct responsibility for the services and functions related to Portmore that are listed below:

§ public health, cemeteries and animal pounds.

There is collaboration between the Portmore Municipality, the Parish Council and Central Government in carrying out major projects. (www.mlgycd.gov.jm)

The demands placed on the councils and the municipality as a result of the rapidly growing urban population have been intense. In the metropolitan parishes of Kingston and St. Andrew the population is approximately 711 200 inhabitants which represents 27.5% of the country's total population. When this population is combined with the adjoining parish of St. Catherine, collectively the parishes account for almost half of the country's entire population. These figures are expected to increase as there is continuous rural to urban migration.

The breadth of service provision means that the local governments have a significant role to play in local development. Furthermore the Parish Councils are of growing political significance as they are in closer proximity to civil society and are therefore seen as a crucial mechanism for ensuring greater political accountability and also to play a strategic role in bridging the gap between the state and civil society. However questions still arise about the level of autonomy of the local governments, the quality of citizen participation and the prospects for sustainable local economic and social development.

Community Profile by Parish

Table 1

Parish	Population	% of Total Population	Size	Communities
KMA	711 200	27.5%	456.3 km ² (176.2 miles ²)	83
St Thomas	91 900	3.5%	725.2 km ² (280 miles ²)	54
Portland	79 300	3%	738.15 km ² (285 miles ²)	32
St Mary	113 000	4.4%	519.2 km ² (236 miles ²)	24
St Ann	163 700	6.3%	1,212.6 km ² (550.9 miles ²)	43
St James	178 000	6.9%	595 km ² (229.7 miles ²)	44
Hanover	67 800	2.6%	450.4 km ² (173.9 miles ²)	39
Trelawny	72 600	2.8%	874.6 km ² (338.3 miles ²)	39
Westmoreland	139 000	5.4%	807 km ²	64
Manchester	185 900	7.2%		78
St Elizabeth	148 000	5.7%	1212.4 km ² (468.1 miles ²)	60
Clarendon	227 500	8.8%	1196.3 km ² (461.9 miles ²)	44
St Catherine	411 600	15.9%	1,217.3 km ² (470 miles ²)	25
TOTAL	2 589 500			629

Taken from Local Government Reform: A Regional Framework for Local Governance and Development (2001).

* New Municipality Portmore – Population (approx. 160 000); Size (27 000)

Local Government Reform

In February 1993 the government initiated the Local Government Reform Programme (LGRP) with the tabling in Parliament of Ministry Paper 8/93. The goals of the LGRP included:

- § Deepen and Broaden the democratic process
- § Create a framework for the active participation of citizens in the affairs of their communities.
- § Improve the quality of service delivery to ensure that it is cost-efficient, of a high-quality and responsive to the needs of the citizens.
- § Ensure that there is a clear defining line between the roles of the Central Government and the Local Government.
- § Increase accountability. The citizens themselves would constitute a monitoring mechanism to ensure efficiency in the use of financial and other resources that are available to address the economic and social development of specific localities.
- § To empower citizens and communities to take responsibility for the management of their economic, health, educational, cultural and recreational needs. (Ministry Paper 7/03)

The vision of the reform process is aimed at not only building the capacity of the local governments but also creating and establishing a new framework of governance for the management of the modern Jamaican society.

Legal Framework

Despite the attempts of the Reform process, outdated legislation still pose a major challenge to local government in Jamaica. The lack of constitutional recognition for local governments has been cited as a major deficiency of the decentralisation process. The entrenchment of the local government in the constitution would provide the necessary safeguard against possible whimsical changes in the future and in so doing prevent a relapse of the 1980's occurrence that resulted in the local governments being stripped of several of their functions. In essence the institutionalisation of the local governments would provide a more conducive framework for the effective operation of the decentralisation process.

Whereas broad consensus exists on the need to entrench local governments into the constitution there exists no timetable for when this will be achieved. [Interview with Keith Miller, Senior Advisor, Ministry of Local Government and Community Development (MLGCD) 2004].

Decentralization in Jamaica is primarily conceived in terms of deconcentration to the parish levels. However much debate surrounds the strengthening of local governments and several proponents advocate devolution to local governments. However there has been no positive trend in this direction.

Legislative Improvement

The Local Government system has in excess of 100 statutes and regulations. Of this number, 29 have been identified for immediate amendment. Work on legislative amendments has started on 21 of the 29 pieces of legislation. Arising from this review are the Pound Act, Keeping of the Animals Act and the Municipal Act. (Ministry Paper 7/03)

Autonomy of Local Governments

Fiscal Autonomy

Local Government in Jamaica has always been subordinate to central government. However through the Local Government Reform Programme (LGRP) Jamaica has undertaken strategies aimed at strengthening the autonomy of the local governments. The main objectives of financial reforms under the LGRP have been centred on giving the local governments greater financial autonomy and building their institutional capacity. Reforms have brought about significant improvements, however, several problems still plague the movement to strengthen the autonomy of the local governments.

One of the most significant moves to improve local finance and strengthen local autonomy was the establishment of the Parochial Revenue Fund (PRF) in April 1997. The PRF includes 66 2/3% vehicle licenses revenue and 100% of property taxes dedicated to financing property-related

services such as the maintenance of the parochial road networks and street lighting (Ministry of Local Government 2001:9). A Unit has been set up in the Ministry, which has the responsibility of managing the PRF. It is stipulated in the Parochial Law of Finance (1996) how the PRF should be distributed; that is within 30 days the revenue must be distributed to the parishes, using a formula.

Up to 1997, 90% of the budget of Local Authorities came in the form of grants from the Central Government, however today, dedicated taxes and own-source revenues account for over 60% of their budgets; (LGRP: Timetable of Implementation (2001). Presently the focus for achieving financial autonomy is primarily geared at improving the revenue flows to the parochial revenue fund (PRF) and maximizing the revenues controlled by the councils, that is the General Revenues and Commercial Services. (Ministry Paper 7/03).

Improving of Revenue Flows PRF

The emphasis for revenue increases for the Parochial Revenue Fund has been concentrated on Property Taxes. With the agreement of the Inland Revenue Department, the Ministry of Local Government and the Local Authorities have been integrally involved in the printing and distribution of the Assessment Notices, updating and maintenance of the accounting records and improvement in compliance measures. This has consequently led to the increase in Property Tax collections from J\$475.9M in 1998/99 to a record of J\$645.0 M in 2001/2002 on the tax base, an increase of over J\$170.0 M in three years. (Ministry Paper 7/03).

Maximising Own Source Revenues

The Local Authorities presently have direct responsibility for their General Revenues (user fees and charges) as well as those derived from their Commercial Services. In order to meaningfully improve these revenues, the user-fees and charges were examined and adjustments made in the rates charged. The revenues moved from approximately JA\$80.0 million in 1997/1998 to JA\$131.7M in 2002/2003. Additionally, professionals were contracted by the local authorities to manage their commercial portfolios. (Ministry Paper 7/03)

Other initiatives that are currently being explored include a Revenue Survey to objectively determine the existing revenue base for each Local Authority, as well as the contracting of an international Consultant to advise on municipal taxation and other sustainable measures for the Parish Councils and the KSAC. (Ministry Paper 7/03)

Though there has been considerable improvements in local financing this is still not sufficient to provide the services for which they are required. This occurrence is not unique to Jamaica as it is the practice of several countries to assign more expenditure functions to sub-national governments than can be financed from revenue sources allocated to those governments. This mismatching of functions and finances has generally been responsible for creating the continued dependence of sub-national governments upon transfers from higher levels of government (Osei 2002).

Table 3

SUMMARY OF REVENUE EXPENDITURE FOR ALL THE PARISH COUNCILS AND THE KSAC (COMPUTED IN JAMAICAN DOLLARS)

<u>Parochial Revenue Fund</u>		
Property tax related Expenditure	273,250,180	
Street Lighting	460,537	
Parks and Beautification	617,000,000	
Public Cleansing & Beautification		
Sub-Total	854,710,717	39%
Motor Vehicle Related Expenditure		
Roads and Technical Services		
Motor Vehicle Licenses		
<i>Less Contribution to Administration (10%)</i>	498,165,932	
Available for Road maintenance	-	
	498,165,932	
Sub-Total	498,165,932	23%
<u>Specific Grant Expenditure</u>		
Poor Relief Services	151,767,000	
Minor Water Supply	41,341,765	
Public Water Supply		
Sub-Total	193,108,765	9%
<u>Other General & Municipal Services</u>		
Debt Charges	242,021	
Pension and Retiring benefits	120,048,449	
Executive Direction and Administration (Excluding Councillors)	193,074,630	
Political Directorate	150,292,685	
Roads and Works Administration	72,135,921	
Building and Sub-division		
Civic Improvement and Public Amenities	38,302,792	
Community Participation	4,926,177	

Inspection, Enforcement and Security	950,000	
	17,265,940	
Sub-Total	597,238,615	27%
Self-Financing Services		
Markets	49,011,400	
Cemeteries	6,045,868	
Abattoirs	8,976,550	
Sub-Total	64,033,818	3%
TOTAL EXPENDITURE	2,207,257,847	
Excess/Shortfall	10,773,216	

Source: Ministry of Local Government, Youth and Community Development, Ministry Paper No. 36/99

In the Jamaican context it is important to assess how far the local reforms go in addressing the present problems of local fiscal capacity and particularly to analyze how effectively the Parochial Revenue Fund (PRF) has operated.

The revenue base of Parish councils has increased since the establishment of the PRF. However the local authorities still possess little financial autonomy, as they play no role in the management of the PRF. Management of the fund remains firmly in the hands of the central government. So much so that local governments appear to be simply administrative agents of the state.

Closer examination reveals that although the size of the budgets of the councils have increased through the release of yields into the PRF, there has been no corresponding appreciable increase in the money spent on development projects. Most of the expenditures were absorbed by administration costs. (Osei 2002) This needs to be seriously addressed if the councils intend to build the capacity of citizens and communities and to play a critical role in the overall development of the parishes.

Local government accounts for approximately 2% of total public expenditure. This figure is miniscule and raises the question of the impact that can be made by the local government if it

continues to be awarded such insignificant amounts of funding. Major investments and intergovernmental transfers to the local government lie at the heart of creating a sustainable sub-government institution capable of responding to the challenges of a new era. The inability of the central government to rethink their budgets and secure more funding for the local governments raises questions about the level of commitment of the Government of Jamaica to the reform process and to the institution of local government.

Jamaica is a small developing country with a narrow based economy that suffers greatly from limited resources. Consequently ingenious means of optimising the yield obtained from the available resources should be explored. Presently there are several agencies and mechanisms through which funding aimed at achieving community development enters a parish and often times they pursue projects independent of the Parish Councils.

For instance, funds for the cleaning of drains and the renovation of markets is provided by the Tourism Product Development Company (TPDCo) and money is made available to the Member of Parliaments through the Social and Economic Programme (SEP) to use in their constituencies for indigent housing etc. These activities for which funding is given falls within the mandate of the Parish Councils. This splintering and incoherent approach to the process of community development leads to the wastage of resources as well as the undermining of the position of the councils. An integrated and coordinated approach to the management of these funds is seriously needed if any sustainable and effective parish development is to be achieved and also if the yields from the limited resources are to be optimised.

Institutional Reform and Capacity Building

The local governments have been in partnership with several international and regional organisations to build the capacity of their councils and central government. Some of these are:

United Nations Development Programme (UNDP) -To provide computers and training programmes in computer technology, project management and business plan development.

Canadian Institute for Development Assistance (CIDA) - To provide equipment, training and other forms of institutional support for local authorities

Parish Infrastructure Development programme (PIDP) - As part of the strategy of advancing the Reform Agenda, the Government of Jamaica (GOJ) in collaboration with the Inter-American Development Bank (IDB) is implementing a five (5) year Parish Infrastructure Development Programme (PIDP) at a cost of US \$50.0M. This Programme is intended to finance inter-alia, rehabilitation of parish infrastructure (parochial roads, markets, administrative buildings, minor water supplies) as well as institutional strengthening and capacity building of the Local Authorities (Ministry Paper 7/03).

PIDP's Achievements: (Ministry Paper 7/03)

- § 195 km of parochial roads throughout the Island are scheduled for rehabilitation under the project at a cost of US\$1.0M. To date 91 km have been repaired in various parishes island-wide; 40 km are currently in progress.
- § 400 computers have been installed in Local Authorities island-wide.
- § 405 staff members from the Local Authorities and the Ministry have been provided with computer training.
- § A contract for a Local Area Network for the Local Authorities has been awarded. Installation began February 2003
- § 19 markets are scheduled for refurbishing. The Brown's Town market is partially completed. Designs have been undertaken for Spanish Town and Ocho Rios
- § All 13 Parish Council administrative buildings are scheduled for refurbishing. So far 3 buildings have been refurbished (KSAC, Hanover and St. James) with Manchester now underway.
- § 13 pickups have been provided for parish infrastructure maintenance.

Performance of Local Government Officials

Recruitment

In 2002 the local authorities employed some 1500 people including temporary employees (LGRP: Timetable for Implementation). There exists a central office responsible for the recruitment of personnel for the local governments known as the Parish Council and Municipal Services Commission. The local governments are therefore not directly responsible for recruiting personnel.

System to Promote Excellence Among Officials

At present an island-wide merit-based career system does not exist, however a few parish councils have tried to introduce ingenious systems to promote excellence among officials. However little is known about the progress that has been made.

Citizen Participation in Local or Municipal Politics

For many persons participation in the local government is limited to the direct election of parish councillors once every three years. In most instances the majority of the councillors are members of the governing national political party. This majority group elects the Chairman or Mayor of the Council.

In the new municipality of Portmore the Mayor is directly elected. The Deputy Mayor is however elected by councillors from among themselves. The creation of municipalities provides an opportunity to deepen democracy and enhance the present system of governance. It is hoped that the process will begin with Portmore but will gradually extend throughout Jamaica.

The direct election of councillors within the parish councils demonstrates that there is a direct relationship between the voter and the leading members and through voting they provide a democratic legitimacy for the entire council. Although this direct election of local councillors is the main determining factor for democracy in the local governments, a democratic deficit exists in the public's perception. This deficit has arisen largely because many citizens feel outside of the decision-making processes and receive very little information about activities in their parishes. Consequently members of the public feel that they have and can exert very little control or influence on the Council and its actions.

One of the major objectives of the Local Government Reform process [in order to address this deficit] is to create a decentralized, democratically controlled system of local administration which will facilitate maximum participation by all elements of the local community in the management of local affairs and taking initiative to solve local problems. (Ministry Paper No. 8/93).

Participation opportunities provided to the citizens by the local government

In an attempt to achieve the targeted objective of wide public participation, the following opportunities were provided by the government:

There has been the creation of a "National Advisory Council (NAC)" on Local Government Reform at the national level and "Parish Advisory Committees" now known as 'Parish Development Committees (PDC's)" at the parish level as participatory mechanisms which involve the State, private sector, community leaders and other members of civil society in the process of local governance.

The National Advisory Council (NAC)

- § The NAC was created to provide a structure through which persons who have special knowledge and expertise in local government could contribute to the process of local government reform. (Miller 1995) The NAC is expected to advise and assist the Minister of Local Government in the further development and implementation of proposals related to local government.
- § The NAC is expected to create an impartial forum through which all major sectoral interests, socio-political tendencies and perspectives in the society are able to represent the views of their respective groups, and through which the reform process would have direct linkages with these groups. (Miller 1995)
- § To ensure that there is broad national representation in the public discussion on reform and that the proposals that emerge constitute a consensus of the Jamaican population. (Miller 1995)

The NAC had its first meeting in September 1995, where a preliminary 'Action Plan' was outlined. Members also agreed to hold quarterly meetings, with representatives from the Parish Advisory Committees (PACs) to discuss parish proposals for reform. (Tindigarukayo 2002) The NAC ceased its operations in 1998 when its Chairman Professor Gladstone Mills resigned and the then administration did not seek to resuscitate the body. However in January 2004 the National Advisory Council was re-established and it is expected to continue to make its contribution to the reform process.

The Parish Development Committees (PDCs)

Parish Development Committees (PDCs) have been established in all parishes with the aim of promoting local development through partnership of the Local Authorities with other state agencies (e.g. Planning Institute of Jamaica and National Environment and Planning Agency), the private sector, civil society, national utility service providers and community based organizations.

The aim of this initiative is the promotion of participatory local governance. PDCs are expected to encourage, among other things, the preparation of long-term strategic plans for their respective parishes, enhancement of business competitiveness, and economic development for job creation. (Local Government Reform: Timetable for Implementation, MLGCD)

An example of this is the *KSA/PDC Cities Alliance Project*. Here the KSAC, in collaboration with the Kingston & St. Andrew PDC obtained a grant of US\$256,000 from the World Bank to prepare a sustainable development plan for the parishes of Kingston & St. Andrew. This plan is to set the framework for the implementation of sustainable development programmes that promote orderly development, economic growth and environmental management.

Public Education Campaign

The main objectives of the Parish Education Plan are listed below (Local Government Reform Unit, October 1995)

- § To educate and inform the local community about LGRP

- § To educate the local community about Local Government
- § To solicit support for and participation in the reform process by community based organisations in each parish
- § To establish linkages between the local authorities and the public in each parish.

PDC's were expected to prepare a parish plan for their individual public education campaigns, which they would send to the NAC and invite individual specialists to the meetings so that they could give detailed updates on their areas of expertise. (Tindigarukayo 2002).

As part of the public education campaign the Local Government Reform Unit began publishing a Quarterly Newsletter, the "Reform Outlook" (LGRU 1998). There is also a Monthly Newsletter published by the Ministry of Local Government.

The LGRU has prepared a number of video and other audio-visual materials to assist in the Public Education Programme. Brochures on local government and the LGRP were prepared for distribution to interested persons and particularly to members of the NAC and PDC. (LGRU Status Report 1998).

The LGRU organized and held several regional seminars/workshops and a National Conference for NGOs, CBOs, staff members of parish councils and PDCs in each parish, to inform them about the LGRP, discuss the implications of decentralisation and to begin the process of building alliances between these organizations and their respective parish councils. (LGRU Status Report 1998)

There is an official website of the Ministry of Local Government that provides access to information about local government planning, programmes and administration. Several parish councils also possess individual websites.

Parish Council Initiatives

Individual councils have also adopted several new practices to strengthen participation and accountability. Some of these are as follows:

- § Some councils have opened their council meetings to the public.
- § This has resulted in the broadcasting of the proceedings from the council meetings on some local television stations.
- § Public Reading of Budgets
- § Publishing of productivity and other reports which make people aware of set targets and whether these targets have been met.
- § General meetings to communicate with the public.

The Access to Information Act (ATI)

The Local Government Ministry was the first to successfully implement and operate ATI unit. The ATI Act was passed in Parliament in June 2002 and became operational in 2004. It seeks to promote accountability, transparency and increased public participation in Government by giving members of the public a general right of access, subject to exempt Provisions, to official documents in the possession of government bodies. (Ministry of Local Government website)

The Social Development Commission (SDC)

There is an emerging partnership between the Local Authority and the community, which seeks to bring a new dimension to the process of Local Government Reform by providing a platform for community participation. The Social Development Commission has been very instrumental in the community development process and has so far created a mapping of each community and has set up a community data base to store aggregate data as well as facilitate the Community Development Committees (CDC's) comprising of the leaders of Community Based Organisations (CBO's) to plan for development on the basis of common ownership of and access to community facilities as well as sharing common interests, objectives and needs (Local Government Reform: Timetable for Implementation, 2000).

Though much has been done to increase the level of participation several imperfections exist in the system and some councils are more advanced and effective in the implementation of participatory mechanisms than others.

Openness of Local Government to Citizen Participation

Despite the several avenues for participation highlighted, inadequate public participation in Jamaica's local government continues to be a chronic problem. From as early as 1963, the Brownstone Report on local government reform acknowledged this. (Brownstone 1965). Work conducted in Jamaica by Tindigarukayo (2002), Ragoonath (1994), Mills(1985), Miller(1985) and Stone (1985) have also served to confirm the existence of low levels of participation at the local level.

Miller(1985) believes that the lack of public participation stems from the failure of the Government to win the loyalty of the masses and the failure to cultivate a sense of identification between the people and the government. The result is therefore the feeling of alienation, suspicion and the unwillingness to support governmental programmes. Tindigarukayo (2002:90) believes that another contributing factor is the failure of the parish councillors to play the role of being intermediaries between the parish council and citizens. Incompetence and inadequate training (Ragoonath 1994) and the propensity of the councillors to pay greater attention to party interest (Miller 1985: 40) also appear to be contributing factors to the problems experienced with participation at the local level.

In an island wide survey of 500 members of civil society, Tindigarukayo (2002) found that there existed great ignorance among civil society about the different avenues for participation offered at the parish level. As many as 50% of the respondents were not aware of the formation of Parish Development Committees (PDCs). However an overwhelming majority (97%) believed that it is important for citizens to participate in the decision making of Parish Councils and (63%) were willing to serve on Parish Committees if they were given the opportunity to do so.

Despite the negative rating of Parish Councils' performance by the respondents, most of the persons felt that the Parish Councils were in a better position to serve the interests of the local community than any other government agencies.

The findings of Tindigarukayo (2002) serve to highlight that the focus should not only be on the establishment of participatory mechanisms but also on effective implementation. PDCs have been established in all parishes however this body does not operate at optimum levels in all. Involvement in the activities of the PDC is voluntary and as a result, the weak dissemination of information about the PDCs can result in lack of support. PDC's can easily become an elite body and also become susceptible to political influence.

If the local government is to be maintained in Jamaica it is imperative that the issue of participation be addressed. In order to combat lack of participation and in an attempt to reduce ignorance and the feelings of apathy at the local level, communities have to be mobilized so that they see participation as being vital for their survival.

In order for local governments to enhance popular participation it needs to be conceptualised somewhat differently. The reform process must more radically seek to change the orientation of stakeholders, one sure way of achieving this is to ensure the awareness of all the stake holders of the cost and benefits of the local governments. 'Ultimately the educated consciousness would make for stronger participation and greater confidence in choice making (Jones 1998). It is also imperative that the reform process continues to enhance the capacity of the local governments in order to produce results that speak for themselves.

Promoting the Sustainable Economic and Social Development of the Community

In order to strengthen local government and to ensure the sustainable development of local communities, it is important to re-examine the environment in which the local government operates. Jamaica suffers from the inefficient allocation of resources, inadequate human resource capacitation and participation and the unequal power distribution between the central and local

governments. The decentralisation process also operates in an environment that is indifferent, if not resistant to change.

The Jamaican Government has recognized the obstacles that local governments face and continue to reaffirm their belief that the local governments are well poised to advance the values of development in Jamaica and provide the opportunities for capacity building and participation in decision-making at the community level. However the local government reform aimed at achieving this has been very passive, moving at sluggish speeds and in a piecemeal fashion.

While it is recognized that the process has experienced difficulties including limited resources and the problems associated with administration change and personality clashes, the government needs to display real commitment to the reform process and appreciation for the value derived from empowering local governments and by extension communities and not continue to pursue reform policies half-heartedly for the symbolic value it presents to their incumbent governments.

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List of Interviewees

Mr. Arnold Bertram
Minister of Local Government and Community Development and Sport (1994-2002)

Mr Keith Miller
Senior Advisor
Local Government Reform Programme
Ministry of Local Government and Community Development and Sport

Ms Lorna Ford
Human Resource Manager
Ministry of Local Government and Community Development and Sport

Mr. Robert Montague
Mayor
St. Mary

Mr. Sheldon Peart
Secretary/Manager
St. Mary Parish Council

Mr. David Parks
Acting Secretary/Manager
Portland Parish Council.

5.5 Civil Society and Participation

A Report on Civil Society Activism in Jamaica

Introduction

The phrase civil society has become a buzz word in recent times. With the rise in people's apathy towards political institutions and the nation-state in providing good governance and socio-economic accesses, the non-governmental sector, has become increasingly important in facilitating these provisions. "The historical period we live in is one in which the dominant role of government agencies in the planning of development activities is firmly established, and growing. Yet in recent years we have witnessed the explosive emergence of nongovernmental organizations (NGOs) as a major collective actor in development activities and on the public agenda in general. This is a significant political, social and economic trend. Within the traditional areas of encounter between the state and the people, this new actor is asserting himself with increasing force."⁸ As Dr. Neville Duncan pointed out, non-governmental organizations and the non-profit sector in Jamaica have expanded its role in community and national development. In his work "*Community Governance and Participation*" he noted that within the Anglo-Caribbean states, the absence of a national consensus around a shared vision of society based on nationalism, sovereignty, self-sufficiency and independence, as resulted in the rise of the non-state, non-governmental sector in local and national affairs.

This report will identify the way(s) in which Civil Society Organizations (CSOs) in Jamaica are currently being:

- *Strengthen and facilitated by an inflow of public/private financing and support*

- *Allowed to participate in the political, economic and social development of Jamaica*

⁸ See Michael Cernea's article in the **40th World Bank Discussion Papers** entitled, **Non-governmental Organizations and Local Development**, 1998.

- *Used to facilitate and promote a culture of democratization and public education on Human Rights*

It is important to have a working definition and conceptual framework of what Civil Society is, before these three areas are probed.

Civil Society Defined

Michael Walzer concludes that the words 'civil society' "name the space of un-coerced human association and also the set of relational networks- formed for the sake of family, faith, interest and ideology-that fill this space."⁹(2001) This definition raises the idea of civil society as a process and a set of associations that occupy the space between the state and the 'market'. Deakin summarized that "transactions and relationships which are located in the civil society arena take place on terms not wholly dominated by the state in its various forms or by the values and procedures of the market." (In Search of Civil Society, 2001) Civil society then, centres on 'associational life', a space that is characterized by social and civic organizations, which express arrangements of mutual engagements to advance the interests of all concerned. Civil society could be anything between the state and the market, and as such would encapsulate the mobilizations of the church, school, family, NGOs and other clubs and societies. Civil society networks can therefore include, women's groups, neighbourhood associations, religious groupings, and community associations, private and professional institutions, which manifest autonomous and self-regulating features. From this conceptual framework two conclusions can be made, and Stanley Katz outlines the first;

- 1) civil society is a process that can generate trust and mutual understandings;
- 2) the non-profit sector and NGOs, form an important part of civil society operations, and in effect is a major catalyst for micro and macro levels of development.

⁹ Nicholas Deakin, In Search of Civil Society, p.4.

Colin Ball and Leith Dunn provide us with a comprehensive description of what civil society organizations (CSOs) comprise of and how they should be defined. According to them the following four characteristic traits define CSOs:

- 1) Voluntary – they are formed voluntarily; there is nothing in the legal statutory framework of any country that requires them to be formed or prevents them from being formed.
- 2) Independent – within the laws of society, they are controlled by those who have formed, or by boards of management.
- 3) Not-for-profit- they are not for personal or private gain although NGOs may have employees, like other enterprises, who are paid for what they do. NGOs may engage in revenue –generating activities, they do not however, distribute profits or surpluses to shareholders or members. They use revenues generated solely in pursuit of their aims.
- 4) Not self-serving in aims and related values- the aims of NGOs are to improve the circumstances and prospects of disadvantaged people who are unable to realize their potential or achieve their full rights in society, through direct or indirect forms of action.¹⁰ (Commonwealth Foundation, 1995)

Additionally, the *Quebec Plan of Action* noted that civil society contributes to the dynamics of citizen participation in public life without dependence on political parties, helping the citizenry serve as a counterweight to the power State. “It is the dynamic element which expresses, through participation, the rights of men and women to influence the decision-making processes affecting their lives and well-being, in the conditions of equality and equity.”

This exposition on the nature and conceptual makeup of what Civil society and its associated organizations are, provides a good reference point for examining and understanding how these organizations promote citizen participation and inclusion in the administration of their societies, the

¹⁰ Ball & Dunn, **Non-Governmental Organizations: Guidelines for Good Policy Practice**. (Commonwealth Foundation, 1995)

promotion of democratic values and a civic culture and the education in the values of human rights.

Some of the main areas in which NGOs and Civil Society Organizations operate in Jamaica.

(www.jamaica-kidz.com/you). This website provides a listing of some NGOs in Jamaica, from which the following were taken.

- Ø Environmental (e.g. Americas Initiative and Environmental Foundation, NEST). The National Environmental Societies Trust (NEST) is a not-for-profit, non-government organization (NGO) which serves as an umbrella for environmental NGOs in Jamaica. NEST provides developmental assistance to these NGOs and is involved in training of the staff and board members of the organizations. The Regional Office is located in Montego Bay and assists NGOs in Western Jamaica.
- Ø Housing, the establishment of low income housing settlements (e.g. CDRC, Construction Resource and Development Center, ASCEND, Association for Settlement and Commercial Enterprise for National Development). The CDRC was founded in 1983. Its' mission is to be a resource center for the informal housing sector and to make for better housing solutions island-wide.
- Ø Poverty Alleviation Projects, such as Food for the Poor and the Salvation Army.
- Ø Building community participation, for example Habitat for Humanity who works in partnership with low-income communities in financing and constructing housing projects. To date Habitat for humanity has worked with residents in the communities of Majesty Gardens, August Town, Yallahs and Gayle in St. Mary. The S-Corner Clinic, which is a Community Based Organization with an active Community Development Council. The Council along with members of the Community and the Project Director has organized several programme activities for the residents of the Waltham Park community. These include:
 - i. A grassroot college
 - ii. A clinic

- iii. Provision of trained community health workers to assist the elderly
- iv. A latrine project for community residents

- Ø Education and Youth up-liftment projects, such as YMCA, YWCA and Youth Opportunities Unlimited (YOU). YOU is a Jamaican "Mentoring" organization which links caring adults with young people in a supervised programme fostering the provision of care guidance, positive role models, emotional support and counseling.
- Ø Health, areas concerning health such as the fight against AIDS and other sexual transmitted diseases. (E.g. Jamaica AIDS Support). (its' role is highlighted later).
- Ø Areas concerning Human Rights and Justice (Jamaicans for Justice). [Jamaicans for Justice](#) - Jamaicans for Justice is a non-profit, non-partisan non-violent, volunteer citizens' rights action group, founded in 1999. It advocates for fundamental change in all spheres of Jamaican life -judicial, economic, social and political - in order to improve the lives of Jamaican citizens. JFJ believes that justice is the bedrock of any civilized and progressive society, and all Jamaicans must have equal access to fair, correct and impartial treatment.
- Ø Empowering Jamaican Women (e.g. Association of Women's Organization of Jamaica, Women's Media Watch, Jamaica Women's Political Caucus, Sistren Theatre Collective and Women's Crisis Center).
- Ø Agriculture (e.g. The Jamaica Agricultural Society/Foundation).

Umbrella organizations exist. These organizations include the Association of Development Agencies (ADA), People's Action for Community Transformation (PACT) and the Council for Voluntary Social Services (CVSS). These organizations deal with an array of subject areas such as community development, trade, issues affecting women and people at the grassroots. They work on campaigning, advocacy and education on the above issues, among others that may arise. These umbrella organizations have member agencies that are involved in different areas of foci. This encourages the umbrella agencies to also be involved in these issues.

How is Civil Society being strengthened in Jamaica:

■ *State support and resource funding for CSOs*- Under the current Local Government Reform Policy (Ministry Paper 7/03), provisions are made for CSOs to have a greater sphere of influence and opportunities for community and national involvement and participation. Under the Parish Development Committee initiative currently undertaken by the Ministry of Local Government, Community Development and Sport, civil society organizations are given more scope and space to participate in local governance and community development. With this new strategy for local governance in Jamaica, the primary players are; Central Government (various Ministries), Local Government (Mayors, etc.), Private Sector organizations and Civil Society networks.

▪ The Canadian Overseas Consulate in collaboration with the Government of Jamaica has embarked upon a programme to provide financial and other resource based support for civil society groups in Jamaica. Under the Enhancing Civil Society Project (ECSP) - Project No. 504/19364, the goal is to build social cohesion through the integration of people as active members of civil society. The purpose of ECSP is to empower civil society at the community level by strengthening the capacity of community based-organizations to act as community catalysts while concurrently deepening their interest in and their understanding of civil society issues within the Jamaican context. The expected outputs are civil society organizations that are strengthened through:

i) A participatory process which identifies capacity issues and develops sustainable capacity development plans;

ii) The integration of the recommendations of these plans into Community Based-Organizations' organizational structure and their activities within local communities;

iii) Parish level workshops on broader civil society issues; and

iv) A national forum on civil society.

■ *Private Sector Funding*- Research has shown that a number of CSOs in Jamaica are supported and funded by private sector entities. In a research conducted on the *Multi-Care Foundation of Jamaica* (this is a developmental civil society group that is concerned with

community and youth development), it was found that a major part of its resource base comes from private sector financing. Two of the major private sector supporters are Cable and Wireless Jamaica Limited and Caribbean Cement Company.

The Participation of CSOs in the political, economic and social development of Jamaica

In Jamaica most civil society organizations are members of the of the Council of Voluntary Social Services (CVSS) where they form themselves into a conglomerate.

Elsie Sayle (1994) outlines the main functions as well as goals of the CVSS as:

- To promote and foster sound principles of action in all social welfare work.
- To encourage and where possible provide for training at all levels.
- To correlate the work of all organizations within council membership.
- To provide information about various agencies engaged in social welfare work.
- To provide a means of consultation between those who are concerned with the social needs of the community and initiate action.
- To provide a means by which opinion and advice and services may be rapidly exchanged between the council's membership and statutory and other bodies.
- To advice government on matters with the councils competence and to act as liaison between the council membership and government and wherever practicable to assist government when requested in carrying out specific task of social welfare.

The following civil society organizations illustrate how the non-governmental sector in Jamaica has and is, participating in the political, economic and social spheres of development.

- The Red Cross – this is a one of the longstanding NGOs operating in Jamaica. The Red Cross is part of the International Federation of Red Cross and Red Crescent Society that is committed to alleviating human suffering wherever it may be found. They are instrumental in feeding and caring for the homeless and less fortunate. It is seen that they also assist in times of natural and manmade disasters such as floods, hurricanes and fires. The Red Cross in collaboration with the Ministry of Health has conducted a number of health fairs and clinics that

have contributed to the promotion of health awareness and wellness programmes for citizens in various communities across Jamaica. (*Social*)

- Jamaica AIDS Support - their mission is to develop an effective national response to HIV/AIDS/STD in Jamaica by forging multi-sectoral partnerships at national and parish levels in order to reduce HIV/AIDS/STD incidence in the Jamaican population and mitigate the adverse social impacts arising from the AIDS epidemic. This civil society organization has played an instrumental role in providing assistance, information and counseling to HIV infected persons and their families. The JAS has been a major participant in assisting the Jamaican society in dealing with the social and economic costs that come with the AIDS virus.

- Build Jamaica Foundation - was developed out of a vision and Christian concern for the social and economic development of the Jamaican people. The idea of the project concept was derived from the need to develop a programme, which would assist in creating a positive and significant impact on the economic development and social well being of Jamaica. Some of the objectives are to:

- (1) *Promote economic and social prosperity in Jamaica.*

- (2) *To assist and promote structured development and local community restoration.*

- (3) *To negotiate with the Jamaican Government on matters that will improve the quality of life and welfare of the Jamaican people.*

- (4) *To encourage the development of the social services sector to deliver services in the areas of health, social care, and community education.*

- (5) *To encourage and develop Christian Action and Research Education in every local community. (Community CARE)*

Civil Society's role in the promotion of a democratic culture and its support for Human Rights.

Creating a Democratic Culture- *The United States Agency for International Development (USAID) and the Canadian International Agency for development (CIDA) have embarked upon partnerships with other NGOS in Jamaica for the promotion of a democratic culture and for more*

citizen participation in the political process and decision making. The USAID has been active in the area of public education on citizen's rights and responsibilities. (USAID report 2002)

The CIDA's programme, Supporting Local Government Reform Project (SLGR)

- Project No. 504/20755, demonstrates the role that this civil society organization is now playing in fostering the development of a culture and the values of democracy. The CIDA has been a pivotal player in the current Local Government Reform programmes of the Jamaican government. (CIDA report 2003)

Promotion of Human Rights- The civil society organizations which have been instrumental in this regard in Jamaica are; *Jamaicans for Justice* and the *Women's Crisis Center*. Jamaicans for Justice has done some pioneering work in the field of human rights and justice in Jamaica. This civil society organization (CSO) has been involved in a number of police brutality cases. Recently, the head of the Crime Management Unit (CMU) and a team of police officers were taken to court by the Jamaicans for Justice for excessive use of force and extra-judicial killings. Additionally, Jamaicans for Justice have a continued sensitization programme on fundamental human rights issues.

The Women's Crisis Center cater to the needs and concerns of women and the domestic, employment and other social challenges that face women within the Jamaican society. Women's rights and the laws that seek to promote these rights are made accessible to women irregardless of status, age and class.

Conclusion

It is seen that NGOs have had a long history in the Jamaican society and that they have made significant contributions to the social, political, economic and developmental landscape of Jamaica. The contemporary period in Jamaica has seen the rise of several NGOs both national and international who have sought to address issues in certain strategic areas.

Due to their comparative advantage over the public sector most NGOs have been able to be successful in their endeavors. However it is also seen that NGOs do not provide a panacea for

many of the issues that they seek to address. In some cases they however have been able to mitigate problems or alleviate 'suffering'. The major challenge which civil society groups face in Jamaica is the issue of funding and the accumulation of a broad resource to carry out their policy initiatives for increased citizen participation in local and national governance.

What is recommended is that civil society organizations in Jamaica continue the process of creating partnerships with both the state and the private sector, thereby increasing their ability and strength to effect positive change and development, both socio-economically and politically.

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Questionnaire One (1)

Civil society organizations have been very influential in putting forward and pushing many issues to the fore. These organizations have acted as pressure groups on issues not being adequately focused on or dealt with by the government. Some of these organizations have formed benchmarks for future action by the government and other civil society organizations. Civil society organizations in Jamaica have been influential actors in issues such as trade, violence against women, violation of the rights of children, and the strengthening of civil society among other issues. The work of civil society will be represented in the following. This information was collected from the Bureau of Women's Affairs.

1. Do laws and regulations exist guaranteeing the representatives of minority groups or those subject to discrimination in bodies making political, social or economic decisions? (Affirmative action, quota system, etc)

There exist no laws and regulations that guarantee representation of minority groups including women who are subjected to discrimination in government bodies or private bodies making political, social or economic decisions such as affirmative action or quota systems.

2. Do the country's current laws and regulations generally defend discrimination by race, ethnic group, religion or gender?

The provisions of the Jamaican Constitution, which prohibits discrimination, are to be found in Section 24(1). The Jamaican Constitution declares, "no law shall make any provision, which is discriminatory either of itself or its effect." Section 24 (2) provides that no person shall be treated in a discriminatory manner by any person acting by virtue of any law or in the performance of functions of any public office or any public authority" (1962: 28). The protection from discrimination afforded by Section 24(1) and (2) of the Constitution is subject to the exceptions contained in subsections (4) and (5).

In Section 24 (3) of the Constitution, the word “discriminatory” is defined to mean “affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, place of origin, political opinions, colour or creed whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not accorded to persons of another description.” (1962: 28).

The absence of the word “sex” from the definition of discriminatory in section 24(3) of the Constitution prevents a person from invoking the Constitutional remedies where discrimination has occurred on the basis of sex.

Representations have been made by the Bureau of Women's Affairs and other women's organizations, for an amendment to the section, to include the word “sex”. There is a new Charter of Rights Bill that will repeal and replace Chapter III of the Constitution. The Bill has been referred to a Joint Select Committee of Parliament for consideration. Clause 13(3)(h) of the Bill essentially recognizes a right to freedom from discrimination on a number of specified grounds. Sex is identified as one of the grounds on which a person could be discriminated against. In the future, therefore, constitutional redress could be sought where there has been an infringement of a person's right to freedom from discrimination on the basis of sex.

Presently, the constitutional provisions regarding discrimination, relate to actions by the State and State agents. These provisions do not apply to private individuals.

However, under clause 13(n) of the new Charter of Rights Bill, in addition to the public domain, the Constitution will apply to private and domestic spheres of life. That is, the Constitution will also “bind natural or juristic persons if, and to the extent that, it is applicable, taking account of the nature of the right and the nature of any duty imposed by the right.”

3. Do specific policies exist in support of minority groups or those subjected to discrimination?

Please see previous question.

In addition, in 1987 a National Policy Statement on women was developed in which the contribution and potential contribution of women to all areas of national development was given recognition and specific plans to recognize and raise the status of women were spelt out. Permanent Secretaries in all ministries were mandated to implement the principles and goals of the Policy Statement as they related to their own ministries.

List of Interviewees

Penny Dowedoff and Jennifer Williams
Bureau of Women's Affairs
4 Ellesmere Road,
Kingston 10

6. Limitations Encountered

As stated before, one of the challenges to the implementation of the Access to Information Act is the culture of secrecy in the Jamaican society. This culture of secrecy was experienced in the preparation of this report. This is because some perspective participants showed large amounts of scepticism when asked to participate in the survey. Further, it was especially difficult to get civil servants to participate in the survey. Difficulty was also experienced in acquiring the Letter of Endorsement from the Ministry of Foreign Affairs and Foreign Trade.

Also participants who agreed to take part in the survey were not effective in sending the required information back to ADA. This is also a downfall of information gathering in Jamaica. We believe that face-to-face meetings with these participants would be a better way of receiving information required to complete our report. However, due to financial and human constraints this is however not possible, at present. For example, the cost of travelling to the many places to acquire the needed information is very high, as no one in the Secretariat, working on the project, has access to a private vehicle.

Informants complained that the document was too lengthy and therefore time consuming. This served as a deterrent to their participation. The document was therefore cut into five (5) separate parts. Specific sections were then resent to the informants, based on the focus of their organization or individual work.

Even with this renewed effort, there was still a high non-response rate. To counter this, four (4) additional researchers were hired to assist. Each of these researchers was given one (1) section to concentrate their efforts on and obtain both objective and subjective information.

In order to overcome these obstacles the Association is venturing on a restructuring phase of the project. Initially, the entire document was sent to the prospective participants by email. However, the participants complained that the document was too lengthy. Therefore, in an attempt to attain participation, we will send only that part (s) of the document which is (are) relevant to their work

and or interest (s). We will also make more follow-up calls to these participants, encouraging participation.

7.1 Appendix I

ORGANISATION POLICY

The Association of Development Agencies is a Jamaican forum for collective analysis, discussion, planning, advocacy and collaboration among a number of national and international non-government organizations.

It supports indigenous development initiatives and links with similar regional and international efforts aimed at effective social change, which increases the participation, power and control of ordinary people over decisions affecting their lives.

MISSION

ADA is a grouping of non-government development organizations that operates as a collective forum to promote sustainable development and social change.

ADA creates a framework for reflection, debate, policy advocacy and analysis, and systematic study of global and macro issues, which builds the capacity of the collective to undertake development education and research.

ADA therefore exists to strengthen its constituencies and support the emergence of community-based organizations and civic associations capable of advancing the interest of people nationally, regionally and internationally.

ADA's mission reflects its commitment to the achievement of a people-centered and democratic approach to economical, social, political, cultural, ethical and spiritual development.

This commitment to development is based on ADA's policy, which indicates that indigenous development initiatives aimed at empowerment of ordinary people increases their participation, power and control over decisions affecting their lives in the process of social change.

GOALS

1. To promote community and public education programs to increase civic consciousness and representational and problem solving capacities of social organizations at local and international levels.
2. To enhance the performance of NGOs in the areas of governance, programming and financial and personnel management.
3. To provide ongoing, systematic analysis of global and macro issues to strengthen awareness and to collaborate with others to lobby for alternative strategies and mechanisms that will address threats and exploit opportunities for sustainable development.
4. To promote advocacy and representational work on selected aspects of social, cultural, and economical policy.
5. To improve the diversification of ADA's funding options and build an independent financial base for the Association.
6. To maintain the support for regional and international efforts to build a sustainable development paradigm, and use these efforts to enrich ADA's own work in Jamaica.

ADA's Membership is as follows:

ADA has twelve member agencies and one individual member. Their areas of work are as follows:

- Caribbean Conference of Churches [CCC]:

The CCC has an enunciated policy of accompaniment of its member churches, and one that would facilitate the realization of its mandate of "Promoting Ecumenism and Social Change in obedience to Jesus Christ and in solidarity with the Poor". Areas of work include: ecumenism, HIV/AIDS, drug demand reduction, uprooted and displaced peoples and advocacy and communication.

- Combined Disabilities Association [CDA]:

The CDA is a self-start organisation of disabled persons. It advocates on matters concerning the welfare and development of disabled persons. It is concerned primarily with employment, training, housing, mobility access and prevention.

- CUSO:

CUSO has continued to provide support to initiatives that would increase the capacity of peoples, communities and organizations in the Caribbean to be active participants in the development process in the region. The programme operates as part of an Americas Caribbean Programme, with activities in Jamaica, Belize, Cuba and Grenada.

Issues related to globalisation, poverty and natural disasters set the stage for the context in which CUSO operates. CUSO co-operants (volunteers) are the main resource for programmes and provide institutional support to those regional and national agencies, which have the capacity to develop sustainable communities and the alternative development strategies.

The thematic areas of the programme are: meeting basic human needs (economic and social), promoting better governance, and natural resource management. The promotion of gender, racial and ethnic equality is a fundamental principle for all programme activities. In addition, CUSO conducts research and shares information with its partners to ensure they have the capacity on which to build their advocacy programmes. CUSO's target group includes women and young people, rural communities and indigenous peoples.

- Mel Nathan Institute [MNI]:

MNI is an agency of the United Church in Jamaica and the Cayman Islands. The institute operates at the ST. John's United Church in Hannah Town. Operational areas include: Hannah Town Operation, Financial Services, Research Administration and Documentation Centre, Community Economic Services, Business Enterprises and marketing Advocacy and Promotions.

- Mennonite Central Committee [MCC]:

Mennonite Central Committee (MCC) is the relief and development agency of the Mennonite and Brethren in Christ churches of North America. In times of famine, war, and disaster, MCC provides emergency food, shelter, medicine, blankets, and school supplies to people and institutions in the

areas affected. Ongoing developmental programs involve the initiation of projects and the placement of personnel with partners who share like values and vision particularly in the areas of capacity building, gender equality and empowerment, connecting people, and peace and justice issues.

- Association of Clubs [AOC]:

The AOC is a grouping of community-based organizations in rural Jamaica. The AOC successfully operates the Frank Morgan Loan Fund, which provides access to financial and technical resources to persons who cannot access these resources in the traditional financial sector. In addition to this, the AOC conducts training exercises for persons in the participating communities and students from three basic schools in computer technology. The AOC actively works in community education and advocacy. Finally, the AOC conducts several cultural events in the participating communities.

- Women's Construction Collective [WCC]:

The Women's Construction Collective (WCC) continues to assist low in-come women to obtain training in non-traditional skills. Since July 2000 the collective has been working with the Heart Trust/NTA-Inter-American Development Bank (IDB) Regional Project. This project aims to train low-income women in non-traditional skills and to empower women for a better life. The focus is to increase access to employment by creating employment opportunities, for low-income women.

- Habitat for Humanity:

Habitat's goal is based on the teachings of Jesus Christ and driven by a Christian ecumenical vision of the dignity of human beings as his sisters and brothers. Habitat calls on people to share their faith into action through voluntary service.

Habitat houses are not grand mansions. However they meet the immediate needs of people presently crowded in small shanties, often as squatters and without running water. They also provide a start, to which people can make additions on a timely basis.

- S-Corner Clinic and Community Development Organization:

This organization serves the people of Bennett land, an inner city community. Activities include:

- § Efforts to realize and maintain open communication and peaceful resolutions.
- § Lane and home visits
- § S-Corner Golden Aged Club
- § Advocacy campaign on sanitation
- § The Homework Preparatory Programme for Youth (HAPPY)
- § Nutritional assistance to the community
- § S-Corner Football League
- § Playground for the children of Bennett Land

- Trinityville Extension Area Development Committee [TEADC]:

The Trinityville Extension Area Development Committee (TEADC) continues to serve their members and communities by working towards community participation, governance and sustainable development of our communities. This is being done through networking and sharing of information, public awareness, advocacy and lobbying, project planning, training, as well as partnerships and collaboration with other organizations.

- Sistren Theatre Collective

Sistren Theatre Collective is an independent women's cultural organization. Through drama, SISTREN confronts the public with the problems facing women and brings pressure for the society to change. Since its birth in 1977, SISTREN has gained international acclaim for its theatre work, and has played a major role in Caribbean popular education and in the regional women's movement.

SISTREN celebrates the creativity of black working class women and supports cultural and economic sovereignty for our women.

SISTREN Collective supports skills-sharing for personal growth and under its umbrella it create and produces wall-hangings, calendars, t-shirt, bags and cushions – utilizing various designs. Their designs are mainly drawn from SISTREN Theatre pieces and from memories of growing up working, class communities, and man and woman relationship.

SISTREN conducts workshops with all sectors of society. Themes vary depending to the situation. Within each of their workshops they incorporate song, dance and exercises. The emphasis is on collective development.

- Women's Media Watch

The WMW coordinates programmes to end gender violence through lobbying against media violence, the negative images of women and girls in the media and developing gender analysis and media critiquing skills.

- Individual Member: Judith Wedderburn

Judith Wedderburn is the Director of the Friedrich Ebert Stiftung (FES) organization and is the current Deputy Chairperson of ADA.

7.2 Appendix II

Prepared by the Access to Information Unit © Government of Jamaica 2003
Jamaica Archives & Records Department
Office of the Prime Minister

THE ACCESS TO INFORMATION ACT

JAMAICA

No. 21— 2002

I assent,

(L.S.)

H. F. COOKE,

Governor-General

22nd day of July, 2002.

AN ACT to Provide members of the public with a general right of access to official documents and for connected matters.

[The date notified by the Minister bringing the Act into operation]

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

1. This Act may be cited as the Access to Information Act, 2002, and shall come into operation on a day to be appointed by the Minister by notice published in the *Gazette*.ⁱ

PART I. *Preliminary*

2. The objects of this Act are to reinforce and give further effect to certain fundamental principles underlying the system of constitutional democracy, namely—

(a) governmental accountability;

(b) transparency; and

(c) public participation in national decision-making, by granting to the public a general right of access to official documents held by public authorities, subject to exemptions which balance that right against the public interest in exempting from disclosure governmental, commercial or personal information of a sensitive nature.ⁱⁱ

3. In this Act, unless the context otherwise requires—

"appointed day" means the day appointed pursuant to section 1;

"document" includes, in addition to a document in writing—

(a) any map, plan, graph or drawing;

(b) any photograph;

(c) any disc, tape, sound track or other device in which sounds or other data (not being visual images) are embodied, whether electronically or otherwise, so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom;

(d) any film (including microfilm), negative, tape or other device in which one or more visual images are embodied whether electronically or otherwise, so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom;

"exempt document" means a document which by virtue of any provision of Part III is exempt from disclosure;

"exempt matter" means any matter the inclusion of which in a document causes that part of the document to be exempt from disclosure;

"government company" means a company registered under the Companies Act, being a company in which the Government or an agency of the Government, whether by the holding of shares or by other financial input, is in a position to influence the policy of the company;

"official document" means a document held by a public authority in connection with its functions as such, whether or not it was created—

(a) by that authority; or

(b) before the commencement of this Act,

and for the purposes of this Act, a document is held by a public authority if it is in its possession, custody or control;

"public authority" means—

(a) a Ministry, department, Executive Agency or other agency of Government;

(b) a statutory body or authority;

(c) a Parish Council;

(d) the Council of the Kingston and St. Andrew Corporation;

(e) any government company which—

(i) is wholly owned by the Government or an agency of the Government, or in which the Government holds more than 50% shares; or

(ii) is specified in an order under section 5 (3);

(f) any other body or organization specified in an order under section 5 (3);

"responsible Minister" means the Minister responsible for the public authority which holds an official document.ⁱⁱⁱ

4.—(1) A public authority shall cause to be published within twelve months of—

(a) the appointed day;

(b) its establishment; or

(c) the coming into operation of an order under section 5 (3) which specified that authority, whichever is later, an initial statement of its organization and functions containing the information specified in the First Schedule.^{iv}

(2) The provisions of the First Schedule shall apply for the purposes of making available to the public the documents described in that Schedule.

(3) The information required under subsection (1) shall be published in such manner and shall be updated with such frequency as may be prescribed.^v

(4) The Minister may amend the First Schedule by order subject to affirmative resolution.

5.—(1) Subject to subsection (2), this Act applies to—

(a) all public authorities;

(b) official documents created by or held by a public authority not earlier than thirty years immediately preceding the appointed day.

(2) The Minister may, by order subject to negative resolution, declare that this Act shall apply to official documents created by or held by a public authority at such date, being earlier than the thirty years referred to in subsection (1) (b), as may be specified in that order.

(3) The Minister may, by order subject to affirmative resolution, declare that this Act shall apply to—

(a) such government companies, other than those specified in paragraph (e) (i) of the definition of "public authority", as may be specified in the order;

(b) any other body or organization which provides services of a public nature which are essential to the welfare of the Jamaican society, or to such aspects of their operations as may be specified in the order.

(4) An order under subsection (3) may be made subject to such exceptions, adaptations or modifications, as the Minister may consider appropriate.

(5) The Minister may, by order subject to affirmative resolution, declare that the application of this Act in relation to any government company specified in paragraph (e) (i) of the definition of "public authority" shall be subject to such exceptions, adaptations or modifications as the Minister may consider appropriate.

(6) This Act shall not apply to—

(a) the Governor-General, in relation to the exercise of the powers and duties conferred or imposed on him by or under the Constitution of Jamaica or under any other law;

(b) the judicial functions of—

(i) a court;

(ii) the holder of a judicial office or other office connected with a court;

(c) the security or intelligence services in relation to their strategic or operational intelligence gathering activities;

(d) any statutory body or authority as the Minister may specify by order subject to affirmative resolution.

(7) This Act applies to official documents held in a registry or other office of a court, being documents that relate only to matters of an administrative nature.

(8) In subsection (6) "security or intelligence services" means—

(a) the Jamaica Constabulary Force;

(b) the Island Special Constabulary Force;

(c) the Rural Police;

(d) the Jamaica Defence Force.^{vi}

PART II. *Right of Access*

6.—(1) Subject to the provisions of this Act, every person shall have a right to obtain access to an official document, other than an exempt document.

(2) The exemption of an official document or part thereof from disclosure shall not apply after the document has been in existence for twenty years, or such shorter or longer period as the Minister may specify by order, subject to affirmative resolution.

(3) An applicant for access to an official document shall not be required to give any reason for requesting access to that document.

(4) Where an official document is—

(a) open to access by the public pursuant to any other enactment, as part of a public register or otherwise; or

(b) available for purchase by the public in accordance with administrative procedures established for that purpose, access to that document shall be obtained in accordance with the provisions of that enactment or those procedures, as the case may be.^{vii}

7.—(1) A person who wishes to obtain access to an official document shall make an application to the public authority which holds that document.

(2) An application under subsection (1)—

(a) may be made in writing or transmitted by telephone or other electronic means;

(b) shall provide such information concerning the document as is reasonably necessary to enable the public authority to identify it.

(3) A public authority to which an application is made shall—

(a) upon request, assist the applicant in identifying the documents to which the application relates;

(b) acknowledge receipt of every application in the prescribed manner;

(c) grant to the applicant, access to the document specified in the application if it is not an exempt

document.

(4) A public authority shall respond to an application as soon as practicable but not later than—

(a) thirty days after the date of receipt of the application; or

(b) in the case of an application transferred to it by another authority pursuant to section 8, thirty days after the date of the receipt by that authority,

so, however, that an authority may extend the period of thirty days for a further period, not exceeding thirty days, in any case where there is reasonable cause for such extension.

(5) The response of the public authority shall state its decision on the application, and where the authority or body decides to refuse or defer access or to extend the period of thirty days, it shall state the reasons therefore, and the options available to an aggrieved applicant.^{viii}

8.—(1) Where an application is made to a public authority for an official document—

(a) which is held by another public authority; or

(b) the subject matter of which is more closely connected with the functions of another public authority, the first mentioned public authority shall transfer the application or such part of it as may be appropriate to that other public authority and shall inform the applicant immediately of the transfer.

(2) A transfer of an application pursuant to subsection (1) shall be made as soon as practicable but not later than fourteen days after the date of receipt of the application.^{ix}

9.—(1) Access to an official document may be granted to an applicant in one or more of the following forms—

(a) the applicant may be afforded a reasonable opportunity to inspect the document;

(b) the authority concerned may furnish the applicant with a copy of the document;

(c) in the case of a document from which sounds or visual images are capable of being reproduced, arrangements may be made for the applicant to hear the sounds or view the visual images;

(d) in the case of a document by which or in which words are—

(i) recorded in a manner in which they are capable of being reproduced in the form of sound and images; or

(ii) contained in the form of shorthand writing or in codified form,
the applicant may be furnished with a transcript of the data or the words, sounds and images recorded or contained in that document.

(2) Subject to subsection (3), where an applicant requests that access be given in a particular form, access shall be given in that form.

(3) A public authority may grant access in a form other than that requested by an applicant where the grant of access in the form requested would—

(a) be detrimental to the preservation of the document, or be inappropriate, having regard to its physical state;

(b) constitute an infringement of copyright subsisting in any matter contained in the document.

(4) Copies of documents to which access is granted shall be authenticated in the prescribed manner.^x

10.—(1) Where the information provided by the applicant in relation to the document is not such as is reasonably necessary to enable the public authority to identify it, the authority shall afford the

applicant a reasonable opportunity to consult with the authority with a view to reformulating the application so that the document can be identified.

(2) A public authority may defer the grant of access to an official document—

(a) if publication of the document within a particular period is required under the provisions of any enactment, until the expiration of that period;

(b) if the document was prepared for presentation to Parliament or for the purpose of being made available to a particular person or body, until the expiration of a reasonable period after its preparation for it to be so presented or made available to the person or body;

(c) if the premature release of the document would be contrary to the public interest, until the occurrence of any event after which or the expiration of any period beyond which, the release of the document would not be contrary to the public interest.

(3) Where a public authority decides to defer access in accordance with subsection (2), it shall, within fourteen days of its decision, inform the applicant of that decision and shall, where possible, indicate to him the period during which the deferment will operate.^{xi}

11.—(1) Where an application is made to a public authority for access to an official document which contains exempt matter, the authority shall grant access to a copy of the document with the exempt matter deleted therefrom.

(2) A public authority which grants access to a copy of an official document in accordance with this section shall inform the applicant—

(a) that it is such a copy; and

(b) of the statutory provision by virtue of which such deleted matter is exempt matter.^{xii}

12.—(1) The cost of reproducing any documents containing information in relation to which an application is made under this Act shall be borne by the applicant.

(2) The responsible Minister may waive, reduce or remit, the cost specified in subsection (1) for access to an official document where he is satisfied that such waiver, reduction or remission is justifiable.^{xiii}

13. Subject to this Act, where—

(a) an application is made in accordance with section 7 for access to an official document; and

(b) the cost incurred by the public authority in granting access has been paid,

access to the document shall be granted in accordance with this Act.^{xiv}

PART III. *Exempt Documents*

14. Official documents are exempt from disclosure if—

(a) the disclosure thereof would prejudice the security, defence or international relations of Jamaica;

(b) those documents contain information communicated in confidence to the Government by or on behalf of a foreign government or by an international organization.^{xv}

15.—(1) An official document is exempt from disclosure if it is a Cabinet document, that is to say—

(a) it is a Cabinet Submission, Cabinet Note or other document created for the purpose of submission to the Cabinet for its consideration and it has been or is intended to be submitted;

(b) it is a Cabinet Decision, or other official record of any deliberation of the Cabinet.

(2) Subsection (1) does not apply, to—

(a) any document appended to a Cabinet document that contains material of a purely factual

nature or reports, studies, tests or surveys of a scientific or technical nature; or

(b) a document by which a decision of the Cabinet has been officially published.^{xvi}

16. Official documents relating to law enforcement are exempt from disclosure if their disclosure would, or could reasonably be expected to—

(a) endanger any person's life or safety;

(b) prejudice—

(i) the conduct of an investigation of a breach or possible breach of the law; or

(ii) the fair trial of any person or the impartial adjudication of a particular case;

(c) disclose, or enable a person to ascertain, the existence or identity of a confidential source of information, in relation to law enforcement;

(d) reveal lawful methods or procedures for preventing, detecting, investigating or dealing with matters arising out of breaches or evasions of the law, where such revelation would, or could be reasonably likely to, prejudice the effectiveness of those methods or procedures;

(e) facilitate the escape of a person from lawful detention; or

(f) jeopardize the security of any correctional facilities.^{xvii}

17. An official document is exempt from disclosure if—

a) it would be privileged from production in legal proceedings on the ground of legal (professional privilege; or

(b) the disclosure thereof would—

(i) constitute an actionable breach of confidence;

(ii) be in contempt of court; or

(iii) infringe the privileges of Parliament.^{xviii}

18.—(1) An official document of a type specified in subsection (2) is exempt from disclosure if its disclosure or, as the case may be, its premature disclosure would, or could reasonably be expected to, have a substantial adverse effect on the Jamaican economy, or the Government's ability to manage the Jamaican economy.

(2) The types of documents referred to in subsection (1) include but are not limited to, documents relating to taxes, duties or rates, interest rates, monetary policy and exchange rate policy or currency or exchange rates.^{xix}

19.—(1) Subject to subsection (3), an official document is exempt from disclosure if it contains—

(a) opinions, advice or recommendations prepared for;

(b) a record of consultations or deliberations arising in the course of, proceedings of the Cabinet or of a committee thereof.

(2) Subsection (1) shall not apply to documents which contain material of a purely factual nature or reports, studies, tests or surveys of a scientific or technical nature.

(3) A public authority shall grant access to a document referred to in subsection (1) if it is satisfied, having regard to all the circumstances, that the disclosure thereof would, on balance, be in the public interest.^{xx}

20.—(1) Subject to subsection (2), an official document is exempt from disclosure if—

(a) its disclosure would reveal—

(i) trade secrets;

(ii) any other information of a commercial value, which value would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed;

(b) it contains information (other than that referred to in paragraph (a)) concerning the commercial interests of any person or organization (including a public authority) and the disclosure of that information would prejudice those interests.

(2) Subsection (1) shall not apply where the applicant for access is the person or organization referred to in that subsection or a person acting on behalf of that person or organization.^{xxi}

21.—(1) Subject to subsection (2), an official document is exempt from disclosure if its disclosure would, or could reasonably be expected to result in the destruction of, damage to, or interference with, the conservation of—

(a) any historical, archaeological or anthropological resources;

(b) anything declared to be a national monument, designated as protected national heritage or protected by a preservation notice under the Jamaica National Heritage Trust Act;

(c) any species of plant or animal life so designated or which is endangered, threatened or otherwise vulnerable;

(d) any other rare or endangered living resource.

(2) A public authority shall grant access to a document referred to in subsection (1) if it is satisfied, having regard to all the circumstances, that the disclosure thereof would, on balance, be in the public interest.^{xxii}

22.—(1) Subject to the provisions of this section, a public authority shall not grant access to an official document if it would involve the unreasonable disclosure of information relating to the personal affairs of any person, whether living or dead.

(2) Subsection (1) shall not apply in any case where the application for access is made by the person to whose affairs the document relates.^{xxiii}

23.—(1) Where—

(a) the Prime Minister is satisfied that an application for access relates to a document specified in section 15 (1);

(b) a responsible Minister is satisfied that an application for access relates to an official document to which section 14, 16 or 18, as the case may be, applies, the Prime Minister or the responsible Minister, as the case may require, may issue a certificate to the effect that the document is an exempt document and shall specify the basis of the exemption.

(2) Where the Prime Minister or a responsible Minister, as the case may be, is satisfied as mentioned in subsection (1) by virtue of anything contained in any particular part or parts of an official document, a certificate issued under that subsection in respect of that document shall identify that part or those parts of the document by reason of which the certificate is issued.

(3) A certificate issued under subsection (1) shall be conclusive that the document is exempt.^{xxiv}

PART IV. *Amendment and Annotation of Personal Records*

24.—(1) Where a person claims that an official document contains personal information about the person that—

(a) is incomplete, incorrect, out of date or misleading; and

(b) has been used, is being used or is available for use by a public authority for administrative

purposes, the person may apply to the public authority for an amendment or an annotation, as the case may be, of that document.

(2) An application under this section shall be in writing and shall specify as far as practicable, the document claimed to be the personal record requiring amendment or annotation, as the case may be, and shall—

(a) in the case of an application for amendment, specify—

(i) whether information in the record is claimed to be incomplete, incorrect, out of date or misleading and the information in respect of which that claim is made;

(i i) the applicant's basis for making that claim; and

(iii) the nature of the amendment required by the applicant;

(b) in the case of an application for annotation, be accompanied by a statement specifying—

(i) the matters referred to in paragraph (a) (i) and (ii); and

(ii) the information that would make the record complete, correct, up to date and not misleading.^{xv}

25.—(1) Where, in relation to any application under section 24, a public authority is satisfied as to the truth of the matters stated in the application, it shall amend the document concerned in the prescribed manner.

(2) Where a public authority decides not to amend an official document it shall—

(a) take such steps as are reasonable to enable the applicant to provide a statement of the kind referred to in section 24 (2) (b); and

(b) annotate the document by adding thereto the statement referred to in paragraph (a).^{xxvi}

26. Where, in relation to an application for annotation of an official document containing personal information, the public authority—

(a) is satisfied as to the truth of the matters specified in that application, the authority shall annotate the document in the prescribed manner;

(b) is not so satisfied, it may refuse to annotate the document.^{xxvii}

27. A public authority which amends or annotates an official document pursuant to section 25 or 26, or, as the case may be, decides not to do so, shall take reasonable steps to inform—

(a) the applicant; and

(b) any other public authority which it is satisfied has made prior use of the document, of the nature of the amendment or annotation or, as the case may require, of the decision and the reasons for that decision.^{xxviii}

28. The provisions of section 8 shall apply, with such modifications as may be necessary, to applications for amendments or annotations of personal records.^{xxix}

PART V. *Review and Appeal*

29. In this Part and Part VI “relevant decision” means a decision referred to in section 30 (1) or (2), as the case may require.^{xxx}

30.—(1) An applicant for access to an official document may, in accordance with subsection (4), apply for an internal review of a decision by a public authority to—

(a) refuse to grant access to the document;

(b) grant access only to some of the documents specified in an application;

(c) defer the grant of access to the document;

(d) charge a fee for action taken or as to the amount of the fee.

(2) An applicant for amendment or annotation of a personal record may, in accordance with subsection (4), apply for a review of a decision by a public authority to refuse to make that amendment or annotation.

(3) For the purposes of subsections (1) and (2), a failure to give a decision on any of the matters referred to in subsection (1) (a) to (c) or to amend or annotate a personal record within the time required by this Act shall be regarded as a refusal to do so.

(4) An application under subsection (1) or (2) may only be made where the decision to which the application relates was taken by a person other than the responsible Minister, a Permanent Secretary or the principal officer of the public authority concerned.^{xxxi}

31.—(1) An internal review shall be conducted—

(a) by the responsible Minister in relation to documents referred to in sections 14, 15, 16 and 18;

(b) in any other case, by the Permanent Secretary in the relevant Ministry or the principal officer of the public authority whose decision is subject to review.

(2) An application for internal review shall be made—

(a) within thirty days after the date of a notification (in this subsection referred to as the initial period) to the applicant of the relevant decision, or within such further period, not exceeding thirty days, as the public authority may permit; or

(b) where no such notification has been given, within thirty days after the expiration of the period allowed for the giving of the decision or of any other period permitted by the authority.

(3) A person who conducts an internal review—

(a) may take any decision in relation to the application which could have been taken on an original application;

(b) shall take that decision within a period of thirty days after the date of receipt of the application.^{xxxii}

32.—(1) An appeal shall lie pursuant to subsections (2) and (3), to the tribunal established for that purpose, constituted in accordance with the Second Schedule.

(2) A person may lodge an appeal—

(a) where internal review under section 30 is applicable—

(i) against a decision taken on such review;

(ii) if the time specified in section 31 (2) (b) has expired without the applicant being notified of a decision;

(b) in any other case, against a relevant decision in relation to any of the matters referred to in paragraphs (a) to (c) of section 30 (1) or section 30 (2), and accordingly section 30 (3) shall apply with necessary modifications to an appeal under this paragraph.

(3) An appeal shall be made—

(a) by the lodgement of a document within sixty days after the date of the notification to the appellant of the relevant decision or of the decision taken on an internal review; or

(b) where no notification has been given within the period required by this Act, within sixty days after the expiration of that period.

(4) Where an appeal is not made within the period specified in subsection (2), the Appeal Tribunal may extend that period if it is satisfied that the appellant's delay in so doing is not unreasonable.

(5) On the hearing of an appeal, the onus of proving that the relevant decision was justified or that a decision adverse to the appellant should be made by the Appeal Tribunal, shall lie on the public authority which made the relevant decision.

(6) On hearing an appeal, the Appeal Tribunal—

(a) may subject to paragraph (b), make any decision which could have been made on the original application;

(b) shall not nullify a certificate issued under section 23.

(7) The Appeal Tribunal may call for and inspect an exempt document, so however that, where it does so, it shall take such steps as are necessary to ensure that the document is inspected only by members of staff of the Appeal Tribunal acting in that capacity.^{xxxiii}

PART VI. *Miscellaneous*

33.—(1) Nothing in this Act shall be construed as authorizing the disclosure of any official document—

(a) containing any defamatory matter; or

(b) the disclosure of which would be in breach of confidence or of copyright.

(2) Where access to a document referred to in subsection (1) is granted in the *bona fide* belief that the grant of such access is required by this Act, no action for defamation, breach of confidence or breach of copyright shall lie against—

(a) the Government or any public authority, any Minister or any public officer involved in the

grant of such access, by reason of the grant of access or of any republication of that document; or

(b) the author of the document or any other person who supplied the document to the Government or the public authority, in respect of the publication involved in or resulting from the grant of access, by reason of having so supplied the document.

(3) The grant of access to an official document in accordance with this Act shall not be construed as authorization or approval—

(a) for the purpose of the law relating to defamation or breach of confidence, of the publication of the document or its contents by the person to whom access is granted;

(b) for the purposes of the Copyright Act, of the doing by that person of any act comprised within the copyright in any work contained in the document, as follows—

(i) any literary, dramatic, musical or artistic work;

(ii) any sound recording, cinematograph film, television broadcast or sound broadcast; or

(iii) a published edition of a literary, dramatic, musical or artistic work.^{xxxiv}

34.—(1) A person commits an offence, if in relation to an official document to which a right of access is conferred under this Act he—

(a) alters or defaces;

(b) blocks or erases;

(c) destroys; or

(d) conceals,

the document with the intention of preventing its disclosure.

(2) A person who commits an offence under subsection (1) is liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding five hundred thousand dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.^{xxxv}

35.—(1) Where access to an official document is granted in accordance with this Act, the person who authorizes such access and any other person concerned in the granting thereof shall not, by reason only of so doing, be guilty of a criminal offence.

(2) Subject to subsection (3), nothing in this Act shall affect the provisions of any other Act other than the Official Secrets Act, relating to the non-disclosure of information.

(3) For the avoidance of any doubt, it is hereby declared that the Official Secrets Act shall apply in relation to the grant of access to an official document in contravention of this Act.^{xxxvi}

36.—(1) The Minister shall, as soon as practicable after the end of each year (but not later than the 30th of June in the following year) prepare a report of the operation of this Act during the year, containing the matters specified in subsection (4).

(2) The report referred to in subsection (1) shall be laid on the table of the House of Representatives and of the Senate.

(3) Each public authority shall submit to the Minister, quarterly reports on the matters specified in subsection

(4) The matters referred to in subsections (1) and (3) are—

(a) the number of applications for access received, granted, deferred, refused or granted subject to deletions;

(b) the categories of exemptions claimed and the numbers of each category;

(c) the number of applications received for—

(i) amendment of personal records;

(ii) annotation of personal records;

(d) the number of—

(i) applications for internal review of relevant decisions;

(ii) appeals against relevant decisions, and the rate of success or failure thereof;

(e) such other matters as are considered relevant.^{xxxvii}

37. The Minister may make regulations generally for giving effect to the provisions and purposes of this Act and such regulations shall be subject to affirmative resolution.^{xxxviii}

38.—(1) This Act shall be reviewed from time to time by a committee of both Houses of Parliament appointed for that purpose.

(2) The first such review shall be conducted not later than two years after the appointed day.^{xxxix}

FIRST SCHEDULE

(Section 4)

Information to be Published by Public Authorities

1. The information referred to in section 4 of this Act is—

(a) a description of the subject area of the public authority;

(b) a list of the departments and agencies of the public authority and—

(i) subjects handled by each department and agency;

(ii) the locations of departments and agencies;

(iii) opening hours of the offices of the authority and its departments and agencies;

(c) the title and business address of the principal officer;

(d) a statement of the documents specified in sub-paragraph (e) being documents that are provided by the public authority for the use of, or which are used by the authority or its officers in making decisions or recommendations, under or for the purposes of an enactment or scheme administered by the authority, with respect to rights, privileges or benefits, or to obligations, penalties or other detriments, to or for which persons are or may be entitled or subject;

(e) the documents referred to in sub-paragraph (d) are—

(i) manuals or other documents containing interpretations, rules, guidelines, practices or precedents;

(ii) documents containing particulars of a scheme referred to in paragraph (d), not being particulars contained in an enactment or published under this Act.

2. The principal officer of the authority shall—

(a) cause copies of such of the documents specified in paragraph 1 (e) as are in use from time to time to be made available for inspection and for purchase by members of the public;

(b) within 12 months after the publication of the statement under paragraph 1(d) and thereafter at intervals of not more than 12 months, cause to be published in the *Gazette*, statements bringing up to date information contained in the previous statement or statements.

3. The principal officer is not required to comply fully with paragraph 2 (a) before the expiration of 12 months after the appointed day, but shall, before that time, comply with that paragraph so far as is practicable.

4. This Schedule does not require a document of the kind specified in paragraph 1 (e) containing exempt matter, to be made available in accordance with paragraph 2, but, if such a document is not so made available, the principal officer shall, unless impracticable or unreasonable to do so, cause to be prepared a corresponding document, altered only to the extent necessary to exclude the exempt matter, and cause the document so prepared to be dealt with in accordance with paragraph 2.

5. Paragraphs 2 and 3 apply in relation to a public authority that either comes into existence after the commencement of this Act, or has been specified by order under section 5 of the Act as if the references in paragraph 3 to the appointed day were references to the day on which the authority comes into existence or has been so specified, as the case may be.

SECOND SCHEDULE

(Section 32)

Constitution of Appeal Tribunal

1. The Tribunal shall, subject to paragraph 2, consist of five members appointed by the Governor-General after consultation with the Prime Minister and the Leader of the Opposition.^{xi}

2. For the hearing of any appeal under this Act the Tribunal may consist of one member sitting alone if the parties to the appeal agree.^{xii}

3. The members of the Tribunal shall, subject to the provisions of this Schedule, hold office for a period of five years and shall be eligible for re-appointment.^{xiii}

4. The Governor-General shall appoint one of the members of the Tribunal appointed under paragraph 1 to be chairman thereof.^{xiii}

5. The Governor-General, after consultation with the Prime Minister and the Leader of the Opposition may appoint any person to act in the place of the chairman or any other member of the Tribunal in the case of the absence or inability to act of the chairman or other member.^{xliv}

6.—(1) Any member of the Tribunal other than the chairman may at any time resign his office by instrument in writing addressed to the Governor-General and transmitted through the chairman, and from the date of the receipt by the Governor-General of such instrument that member shall cease to be a member of the Tribunal.^{xlv}

(2) The chairman may at any time resign his office by instrument in writing addressed to the Governor-General and such resignation shall take effect as from the date of receipt by the Governor-General of that instrument.

7. The Governor-General, after consultation with the Prime Minister and Leader of the Opposition may terminate the appointment of any member of the Tribunal who—

(a) becomes of unsound mind or becomes permanently unable to perform his functions by reason of ill health;

(b) becomes bankrupt or compounds with or suspends payment to his creditors;

(c) is convicted and sentenced to a term of imprisonment or to death;

(d) is convicted of any offence involving dishonesty;

(e) fails to carry out the functions conferred or imposed on him by this Act.^{xlvi}

8. If any vacancy occurs in the membership of the Tribunal such vacancy shall be filled by the appointment of another member.^{xlvii}

9. The names of all members of the Tribunal as first constituted and every change in the membership thereof shall be published in the *Gazette*.^{xlviii}

10. There shall be paid to the chairman and other members of the Tribunal, in respect of each appeal, such remuneration, whether by way of honorarium, salary or fees, and such allowances as may be determined by the Minister responsible for the public service.^{xlix}

11. Subject to paragraph 2, the decision of the Tribunal shall be by a majority of votes of the members, and in addition to an original vote, the chairman shall have a casting vote in any case in which the voting is equal.ⁱ

12. Subject to the provisions of the Act, the Tribunal shall regulate its own proceedings.ⁱⁱ

13. The office of chairman or member of the Tribunal shall not be a public office for the purposes of Chapter V of the Constitution of Jamaica.ⁱⁱⁱ

Passed in the House of Representatives this 28 th day of May, 2002 with four (4) amendments.

O.T. Williams,
Deputy Speaker.

Passed in the Senate this 28 th day of June, 2002.

Syringa Marshall-Burnett, C.D.
President.

7.3 Appendix III

AN ACT to Amend the Access to Information Act.

[12th day of December, 2003]

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

1. This Act may be cited as the Access to Information (Amendment) Act, 2003, and shall be read and construed as one with the Access to Information Act, 2002, hereinafter referred to as the principal Act.

2. Subsection (1) of section 4 of the principal Act is amended—

(a) in paragraph (b) by deleting the word “or”;

(b) in paragraph (c)—

(i) by inserting immediately after the numeral “5” the words “(1) (a) or”;

(ii) by deleting the comma appearing at the end thereof and substituting therefor a semi-colon and the word “or”;

(c) by inserting next after paragraph (c) the following as paragraph (d)—

“(d) the application of the provisions of this Act to that public authority pursuant to section 5 (1)(b),”.

3. Section 5 of the principal Act is amended in subsection (1)—

(a) by deleting paragraph (a) and renumbering paragraph (b) as paragraph (c); and

(b) by inserting the following as paragraphs (a) and (b)—

“(a) public authorities which are specified by the Minister by order within eighteen months after the appointed day; and

(b) all other public authorities immediately after the expiration of the period of eighteen months referred to in paragraph (a);”.

4. The First Schedule to the principal Act is amended by deleting paragraph 5 and substituting therefor the following—

“5. Paragraphs 2 and 3 apply in relation to a public authority—

(a) that comes into existence after the appointed day;

(b) which is specified in an order under section 5(1)(a) or (3) of the Act; or

(c) to which section 5(1)(b) of the Act applies, as if the references in paragraph 3 to the appointed day were references to the day on which the authority comes into existence or the date on which the order referred to in subparagraph (b) takes effect or the date on which the provisions of section 5(1)(b) of the Act take effect in relation to the authority, as the case may be.”

7.4 Appendix IV

THE ACCESS TO INFORMATION ACT, 2002 The Access to Information Regulations, 2003

In exercise of the power conferred upon the Minister by section 37 of the Access to Information Act, the following Regulations are hereby made:—

1. These Regulations may be cited as the Access to Information Regulations, 2003.

2. In these Regulations—

“applicant” means a person who applies for access to an official document;

“responsible officer” means a person, whether employed on contract or otherwise, who is attached to a public authority, is responsible for administering the process of access to information and whose duties are specified in regulation 4;

3. Every public authority shall cause to be appointed a responsible officer.

4. The functions and duties of the responsible officer, for the purposes of these Regulations, shall include—

(a) the acknowledgement of the receipt of applications for access to official documents;

(b) electronically recording or putting in writing, oral requests received;

(c) conducting interviews with applicants, where necessary, in order to ensure proper identification of the official documents being requested;

(d) conducting an initial review of each requested document under the Act in order to determine whether any such document is to be released;

(e) examining a requested document to determine whether—

(i) that document is an exempt document;

(ii) that document contains exempt matter;

(iii) that grant of access to that document should be deferred; or

(iv) the form of access requested would be in breach of the Copyright Act;

(f) keeping applicants for access to official documents fully informed of the status of their requests;

(g) providing access to non-exempt official documents to applicants as provided under the Act;

(h) providing advice to the Permanent Secretary in a ministry or a principal officer in other public authorities for the purpose of identifying exempt matter or an exempt document in accordance with the provisions of the Act;

(i) informing an applicant, in writing, that a requested official document is exempt or contains exempt matter, or that access to the document will be deferred and indicating to the applicant the basis for the exemption or deferral;

(j) assisting with the implementation of all decisions in accordance with the Act and any other relevant enactment;

(k) maintaining knowledge of the Act, laws relevant to the administration of the Act and laws affecting records and information management;

(1) informing applicants when it is known that an official document requested is already published, and if requested, providing access to such a publication in accordance with existing relevant administrative procedures or statutes;

(m) coordinating throughout the public authority information required to be published under section 4 of the Act;

(n) publishing in a newspaper circulated in the Island a notice indicating the gazetted date of the initial and subsequent statements of a public authority's organization and functions pursuant to section 4 of and the First Schedule to the Act;

(o) the transferring of applications and keeping the applicant informed as to the status thereof;

(p) anything required by the Act or these regulations to be done.

5. The responsible officer may from, time to time, delegate such of his duties as may be necessary.

6. The Permanent Secretary of a Ministry or a principal officer of a public authority, shall cause to be published in the Gazette—

(a) an initial and subsequent statements on the organization and functions of the public authority pursuant to section 4 of and the First Schedule to the Act.

(b) whenever a change occurs in the subjects handled by the public authority, or in its functions, a statement as to such change.

7. The responsible officer shall cause a record to be made of all applications made under section 7 and section 24 of the Act.

8.—(1) Where an application is made by telephone or other electronic means to a public authority for access to an official document, the responsible officer shall immediately take the necessary

measures to record and store the receipt of such application on the application form set out as Form 1 in the Schedule.

(2) An application in writing for access to an official document may be made to the relevant public authority in the form set out as Form 1 in the Schedule.

9. A responsible officer shall provide such assistance as may be necessary for a person to prepare a written application for access to an official document where that person informs a public authority of his desire to apply for access to such a document but is unable to do so on his own as a result of his—

(a) inability or limited ability to read or write English; or

(b) mental or physical disability, or other condition that impairs his ability to make a request by other means.

10. Where—

(a) access to an official document has been granted and the cost of reproducing that document is not paid within the specified time as was mutually agreed; or

(c) the public authority receives an application for the waiver, remission or reduction of such cost, time shall cease to run until the cost is paid or the waiver, remission or reduction is granted, as the case may be.

11. Upon receipt of an application for access to an official document, the responsible officer shall—

(a) examine the application to determine whether the information requested is already published;

(b) if the information is already published, inform the applicant accordingly;

(c) process the application for an official document in accordance with the provisions of regulation 4.

12. Upon receipt of an application for access to an official document the responsible officer shall acknowledge receipt of the application or cause it to be acknowledged in writing addressed to the applicant.

13. An application—

(a) for access to official documents; or

(b) for amendment or annotation of personal records, shall not be transferred from one public authority to another more than three times unless the responsible officer is satisfied that such additional transfers are necessary in the circumstances and this is communicated to and agreed by the applicant.

14.—(1) The preparation of official documents by a public authority for the purpose of granting access, and the inspection of, viewing of, listening to or collection of copies of official documents, shall normally be done during the regular working hours of the public authority.

(2) Where access is to be granted to an official document the applicant shall be notified in writing as to—

(a) the manner in which access to such document will be granted;

(b) the cost of any reproduction as may have been requested; or

(c) the location where originals of official documents or copies or transcripts thereof may be inspected, viewed, listened to or collected, as the case may be.

15.—(1) The responsible officer or his designate shall authenticate copies of all official documents to be released to an applicant.

(2) Such authentication shall be effected by means of the official stamp of the public authority or such other official means as would be appropriate and practicable, having regard to the nature of the official document.

16. Where an applicant requires access to an official document in the form of a copy and the condition of the official document is such that it would yield a copy of poor quality, the applicant shall be informed accordingly and an alternative form of access suggested.

17.—(1) An applicant may be denied access—

(a) to an official document in any case where—

(i) the document is an exempt document; or

(ii) public disclosure of such a document is otherwise prohibited under the Act or under any other enactment; or

(b) to any part of an official document which contains exempt matter.

(2) Every certificate required to be issued under section 23 of the Act shall be in the form set out as Form 2 in the Schedule.

(3) The responsible officer shall, not later than fourteen days after the issuance of a certificate under section 23 of the Act, publish in the Gazette a notice indicating the issuance of such certificate.

18.—(1) In any case where the personal privacy of a person may be affected by the grant of access to an official document, the responsible officer shall consult, if possible, with that person or

his representative to determine whether access would involve unreasonable disclosure of information relating to that person.

(2) Where it is determined that access is to be granted to an official document, in circumstances where the personal privacy of a person may be affected by the grant of access, such person, or his representative, is to be entitled to a copy of the document to which access has been granted.

19.—(1) An application pursuant to section 24 of the Act for amendment or annotation of an official document containing personal information about the applicant shall be accompanied by evidence that the official document is incomplete, incorrect, out of date or misleading.

(2) The responsible officer shall, if he considers it necessary, require the applicant to provide such additional evidence and documents as the responsible officer considers necessary in support of the application for amendment or annotation.

(3) Where a public authority amends an official document under section 25 of the Act the amendment shall be done in such a manner as not to obliterate the text of the document or any part thereof.

(4) An amendment under paragraph (3) shall appear at the side of the document being amended or such other distinct place on the document, with a notation attesting to the amendment.

(5) An application to a public authority for an amendment or annotation of an official document may be made in the form set out as Form 3 in the Schedule.

20.—(1) The cost of reproduction of official documents shall be the cost prescribed by order pursuant to section 37 of the Act.

(2) A public authority shall display, in such a manner as to bring to public notice, the costs presented for the reproduction of official documents.

(3) The cost of reproduction shall be paid by such method as the public authority shall specify and shall include payment by cash, cheque or electronic bank cards.

21.—(1) An applicant may make a written application to the responsible Minister requesting a reduction, remission or waiver of the cost of reproduction of official documents.

(2) The application under paragraph (1) shall specify the reasons for such a request.

(3) Where the responsible Minister considers it necessary he may request such further information to more effectively make a decision.

SCHEDULE (Regulations 8, 17 and 19)

Form 1

(Regulation 8 (1) and (2))

Reference No.

(For Internal Use Only)

THE ACCESS TO INFORMATION ACT, 2002

APPLICATION FORM FOR ACCESS TO OFFICIAL DOCUMENT

(Please use a separate application form for each document requested)

1. Title of Public Authority:.....

(Please state the title of the public authority from which you are requesting the document).

2. Name of Applicant:

(Print).

Last.....

First.....Middle.....

3. Address:

(Please indicate the address to which correspondence related to your application should be sent).

Mailing..... Business.....

.....

.....

Tel: Fax:..... Tel:..... Fax:.....

Email..... Other.....

.....

.....

4. Description of Document:

(Please state all information available to you which will assist us in filling your request quickly).

Name/Type of Document (if known).....

Reference/File No. (if known).....

Other.....

.....

.....

.....

.....

5. I would like to:

(Please check the relevant box(es))

- inspect the document
- listen to the document
- view the document
- have a copy(ies) of the document made available to me in the following format:
 - photocopy
 - compact disc
 - diskette
 - transcript
 - other (please specify).....

Number of copies required :.....

Please note that:

- payment will be required before copies are made;*
- information on available formats and prices per copy may be obtained from the relevant public authority;*
- where the provision of copies in the requested format is not possible, an alternative format, as may be agreed between the parties, will be made available.*

.....

Date.....

Signature of Applicant

Note: Responsible Officers should complete a Memorandum of Attestation & Verification if an Application is completed by him/her on behalf of the Applicant.

FORM 2

(Regulation 17(2))

THE ACCESS TO INFORMATION ACT, 2002

Certificate of Exemption

In accordance with S. 23 of the Access to Information Act, this is to certify that the

- official document
- part (s) of the official document

requested under Application for Access to Official Document Reference Number
....., dated and being the document described hereunder:

(describe exempt document or exempt part(s) of document)

.....
.....
.....

is/are exempt pursuant to s..... (state relevant section) of the Act
for the following reasons:

.....
.....
.....

Dated this day of, 20..... (year)

Signed:..... Signed:.....

Prime Minister

Minister of.....

(insert name and title of relevant Minister)

Reference No.

(For Internal Use Only)

THE ACCESS TO INFORMATION ACT, 2002

Application Form for Amendment/Annotation of Personal Record

1. Title of Public Authority:.....

(Please state the title of the public authority to which the request for amendment/annotation is being directed).

2. Name of Applicant:

(Print)

Last.....

First.....Middle.....

Alias(es) (if any).....

3. Address:

(Please indicate the address to which correspondence related to your application should be sent).

Mailing.....Business.....

.....

.....

Tel:..... Fax:..... Tel:..... Fax:.....

Email.....Other.....

.....

4.

I require an amendment/annotation of the official document stated below as the information which it contains about me is:

(identification may be required)

Incomplete

Incorrect

Out of date

Misleading

5. Description of Document:

(Please state all information available to you which will assist us in filling your request quickly).

Name/Type of Document (if known).....

Reference/File No. (if known).....

Other.....

.....
.....
.....
.....

6. The information in respect of which the above claim is being made indicates that:

.....
.....
.....

7. State the basis of your claim:

.....
.....
.....
.....

8. The amendment(s) required is/are:

.....
.....
.....
.....

9. The annotation(s) required is/are: *(state the information which would render the document, described at 5 above, complete, correct, up to date or not misleading and attach the statement, signed by you, to this application).*

Note: Please submit any documents/evidence in support of the amendment/annotation requested).

..... Date.....

Signature of Applicant

Note: Responsible Officers should complete a Memorandum of Attestation & Verification if an Application is completed by him/her on behalf of the Applicant.

Dated this 17th day of October, 2003.

BURCHELL WHITEMAN,

Minister of Information.

7.5 Appendix V

This appendix gives the other phases in which the Access to Information Act 2002 will be implemented in Jamaica. One concern of civil society as it relates to these other phases is that dates have not been proposed or set for implementation within these phases.

Phase II

Ministry of Agriculture
Ministry of Commerce, Science and Technology
Ministry of Education
Ministry of Youth and Culture
Ministry of Health
Ministry of Water and Housing
Accountant General's Department
Bank of Jamaica
Urban Development Corporation

Phase III

Ministry of Foreign Affairs and Foreign Trade
Ministry of Transportation and Works
Ministry of Justice
Ministry of National Security
Ministry of Labour and Social Security

Phase IV

Ministry of Industry and Tourism
Ministry of Land and Environment

Endnotes

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- i Short title and commencement*
 - ii Objects of Act*
 - iii Interpretation*
 - iv Publication of information by public authority*
 - v First Schedule*
 - vi Application of Act*
 - vii Right of access*
 - viii Application of Access*
 - ix Transfer of requests*
 - x Forms of Access*
 - xi Assistance and deferment of access*
 - xii Deletion of exempt matter*
 - xiii Fees, etc*
 - xiv Grant of access*
 - xv Documents affecting security defence or international relations*
 - xvi Cabinet documents*
 - xvii Documents relating to law enforcement*
 - xviii Documents subject to legal privilege, etc*
 - xix Documents affecting national economy*
 - xx Documents revealing Government's deliberative processes*
 - xxi Documents relating to business affairs, etc*
 - xxii Documents relating to heritage sites, etc*
 - xxiii Documents affecting personal privacy*
 - xxiv Issue of certificate re exempt document*
 - xxv Application for amendment or annotation of personal records*
 - xxvi Amendment of Records*
 - xxvii Annotation of personal records*
 - xxviii Notice of amendments or annotations*
 - xxix Transfer of applications for amendment or annotation*
 - xxx Interpretation*
 - xxxi Internal review*
 - xxxii Procedure re internal review*
 - xxxiii Appeal: Second Schedule*
 - xxxiv Protection from liability re defamation breach of confidence or copyright*
 - xxxv Offence*
 - xxxvi Provisions re other Acts*
 - xxxvii Reports*
 - xxxviii Regulations*
 - xxxix Review of Act by Parliamentary committee*
 - xl Constitution of tribunal*
 - xli Power of one member to sit alone*
 - xlii Tenure of office*
 - xliii Chairman*
 - xliv Acting appointments*
 - xlv Registration*
 - xlvi Revocation of appointments*
 - xlvii Filling of vacancies*
 - xlviii Publication of membership*
 - xlix Remuneration of members*
 - l Voting*
 - ii Power to regulate own proceedings*

ⁱⁱⁱ *Office of chairman or member of Tribunal not public office*