



JAMAICA COUNTRY ASSESSMENT

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1. Scope of Document

1.1 This assessment has been produced by the Country Information and Policy Unit, Immigration and Nationality Directorate, Home Office, from information obtained from a wide variety of recognised sources. The document does not contain any Home Office opinion or policy.

1.2 The assessment has been prepared for background purposes for those involved in the asylum / human rights determination process. The information it contains is not exhaustive. It concentrates on the issues most commonly raised in asylum / human rights claims made in the United Kingdom.

1.3 The assessment is sourced throughout. It is intended to be used by caseworkers as a signpost to the source material, which has been made available to them. The vast majority of the source material is readily available in the public domain. These sources have been checked for currency, and as far as can be ascertained, remained relevant and up to date at the time the document was issued.

1.4 It is intended to revise the assessment on a six-monthly basis while the country remains within the top 35 asylum-seeker producing countries in the United Kingdom.

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2. Geography

2.1 Jamaica, with an area of 10,991 sq km, is the third largest island in the Caribbean Sea, lying 145 km (90 miles) to the south of Cuba and 160 km (100 miles) to the south-west of Haiti. Kingston is its capital and the island is divided into 14 parishes. **[1d]** According to the official estimate in 2000, the population stood at 2, 597,600.

2.2 The official language is English but a local Patois is also widely spoken. The majority of the population belongs to Christian denominations, with the Church of God being the most numerous. **[1d]** There are also Jewish, Baha'i, Muslim, and a growing Rastafarian communities. **[1a]**

For further information on geography refer to the Europa World YearBook 2002.

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3. Economy

3.1 The key sectors in Jamaica's economy are bauxite and tourism. Since assuming office in 1992, Prime Minister Patterson has eliminated most price controls, streamlined tax schedules and privatised government enterprises, whilst tight monetary and fiscal policies have helped slow inflation. **[1d]**

Since 1991, when the foreign exchange market was completely deregulated, real economic growth in Jamaica has averaged 1 per cent per annum. **[9h]**

3.2 The slow economic growth is a result of Jamaican industries being exposed to the full impact of global economic forces. **[9h]** In early September 2001, the economy showed signs of possibly attaining a 2% growth rate but the prolonged effects of global recession, followed by the terrorist attacks in the US, and a major flood in the north-eastern part of the Island threatened to reverse the positive effects. **[9i]**

3.3 The young have been disproportionately affected by the slowdown in economic growth, suffering from high unemployment levels. **[9h]** Jamaica's labour demand structure has also compounded the problem of youth unemployment. The pattern of unemployment suggests that the jobs being generated by current development strategies call for relatively low skills levels. This contrasts starkly with the characteristics and aspirations of young people who are entering the labour market with some secondary schooling and who are aspiring to higher-skilled or white-collar jobs. **[9h]** According to one report by USAID, in 2001, there were approximately 200,000 youths age 15-24 who were neither in school nor employed. **[9i]**

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4. History

4.1 Jamaica, a British colony since 1655, was granted internal self-government in 1959, and full independence, within the Commonwealth, on 6 August 1962.

Recent History

4.2 The Jamaica Labour Party (JLP) and the People's National Party (PNP) have been the two dominant political parties since the country's independence that have formed successive governments. **[1e] [2c]**

4.3 In 1992, Percival Patterson became Prime Minister after the retirement of the late Michael Manley and then led the People's National Party (PNP) to election victories in 1993 and 1997. In the general election of 18 December 1997, the PNP won 56% of the votes cast and 50 of the 60 seats in the House of Representatives. This was the third consecutive electoral success for the PNP since the general election of February 1989. **[1e]** JLP obtained 39% of the votes and secured 10 seats, but the National Democratic Movement (NDM), which won 5% of the votes failed to gain parliamentary representation.

The PNP was re-elected for the fourth time on 16 October 2002. **[14c]**

4.4 In its post-independence history, Jamaica has experienced periods of escalating violence and gang warfare, as in 1992, much of which appears to have been politically motivated. Economic crisis, social deprivation and public protests against police actions have all contributed to rising levels of violence. The public protests against police actions and deepening economic crisis led to the imposition of a curfew in Kingston in October 1998. The decision to raise the price of diesel in the budget of 1999/2000 also provoked further unrest. The JLP and NDM initially helped organise the protests but later disassociated themselves from the subsequent violence. **[1e]**

4.5 Rising crime, mainly drugs-related, and continued confrontations between the police and different sectors of the community led the PNP government to introduce new security measures and reform of the police force. In Sep- Oct 2000, the Jamaican Government announced the establishment of a specialised police unit to combat organised crime and also launched an investigation into the alleged corruption in the police force that included involvement in drugs-trafficking. In August 2001, it was proposed that a crime committee would be established, to be jointly led by the Minister of National Security and the Julep's Spokesman on National Security.

However, social unrest and sporadic outbreaks of violence continued into 2002 and prompted the Government to deploy army, air and coastguard units to suppress the unrest in October 2001. **[1e]**

General Election of 16 October 2002

4.6 On 16 October 2002, the People's National Party won the election for the fourth consecutive term in office. This was also a record third consecutive term for Prime Minister Paterson. **[14c]** Election results show that the PNP won 35 seats of the 60 seat legislature, against its main opposition party the JLP, which won 25 seats in the House of Representatives. **[10g]**

Of just over 1.3 million electors on the register of voters, 745,585 or just over 57% voted. **[10d]** Nearly 20000 members of security forces and election day workers voted on Friday 11 October 2002. **[8t]** The ballots were sorted out by constituencies and placed in a secure location until they could be added to the general pool for tallying on election day. **[8w]**

4.7 Groups and organisations such as the Citizens Action for Free and Fair Elections (CAFFE) and the Carter Centre monitored the 2002 general elections in an attempt to reduce the violence that previously marred Jamaican elections. Following the election former President Carter declared them “free and fair”. **[2b]**

Political Violence & the Election Campaign

4.8 The October 2002 election was a relatively violence free election and only a handful of murders were politically motivated. **[10e][14d]** The streets were occupied with patrolling soldiers in an attempt to keep the election free from violence after a history of politically motivated gang violence. **[17p]** There are differing accounts as to numbers of people killed. **[8u] [8y] [2c]** Reuters News Agency reported 18 people have been killed in politically related violence since the election campaign began in late July 2002. **[8u]** However a BBC report suggested that 50 people were dead, but it is not clear how many of these killings were politically motivated. **[8y] [17n]** The US State Report of 2002, published April 2003, considers there to have been five confirmed deaths, with a possible further seven victims. **[2c]** A commentator said there was “less violence and less intimidation” in the 2002 General Election and suggested that “things were looking up”. **[17n]**

There were no reports of political prisoners in 2002. **[2c]**

4.9 In the run up to the election both Prime Minister Patterson and his main opponent Edward Seaga preached a message of peace and non- violence amongst their supporters. **[8y]** In June 2002, both men signed a non-violence pact in a public ceremony in an effort to reduce tension among their followers. **[8o]** However, reports of political violence persisted during the election campaign. Many areas of the capital, Kingston, were in a state of war as armed gangs loyal to the two rival political parties - the ruling People's National Party and the opposition Jamaica Labour Party - launched attacks into each other's territories and candidates. Both the motorcades led by Prime Minister Patterson and the opposition leader Edward Seaga were fired upon. **[8v]** On 7 October 2002, a bus transporting scores of opposition Jamaica Labour Party supporters was attacked in the central parishes of Clarendon and Manchester. **[8s]**

4.10 Campaigning was reportedly banned in several constituencies to prevent outbreak of political violence. These constituencies were Central Kingston, Eastern St Andrew,

Central St Andrew, Central St Catherine, Central Manchester and Western St Thomas. [8t]

4.11 Although ostensibly political, much of the violence emanated from the 'garrison communities', which are also home to the country's drug barons. According to one report, it is becoming clear that many of the attacks were being funded by Yardie gangsters based in London. Yardie gangsters have reportedly been using money made from the drug trade to disrupt elections and ensure their favoured candidates are brought to power. [8v]

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5. State Structures

The Constitution

5.1 The constitution came into force on 6 August 1962, when the country gained its independence. The Head of State is the British Monarch, who is locally represented by the Governor-General. [1a]

5.2 The Constitution includes provisions in safeguarding the fundamental freedoms of the individual, irrespective of race, place of origin, political opinion, colour, creed or sex. [1a]

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The Fundamental Rights and Freedoms

5.3 The fundamental rights and freedoms are enshrined in chapter three of the constitution and include:

(a) The right to life. This section provides that "no person shall intentionally be deprived of life save in execution of the sentence of a court in respect of a criminal offence of which he has been convicted." It also stipulates that a person shall not be regarded as having been deprived of his life in contravention of this section if he dies as a result of the use of force in protection from violence, defence of property, to effect a lawful arrest, to prevent escape from lawful detention, in suppression of a riot, insurrection or mutiny or in lawful prevention of a criminal offence. [1b]

(b) Protection from arbitrary arrest or detention

(c) Protection from inhuman treatment,

(d) Freedom of movement,

(e) Protection of property and privacy of home

(f) Provision to secure protection of law

(g) Freedom of conscience

(h) Freedom of expression

(i) Freedom of assembly and association. [1b]

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Citizenship and Nationality

5.4 Under chapter 2 of the 1962 Constitution, any person who was born in Jamaica and was a citizen of the United Kingdom and Colonies prior to 5 August 1962, became a citizen of Jamaica on 6 August 1962. All persons born in Jamaica after independence

automatically acquire Jamaican citizenship. Persons born outside Jamaica to Jamaican parents, who would have qualified for citizenship on 6 August 1962, can become Jamaican citizens. **[1b]** Any person who marries a Jamaican can be registered as a citizen of Jamaica. **[1b]**

5.5 The Governor-General is empowered to deprive of their citizenship those citizens of Jamaica who have acquired legal rights or the citizenship of another country by registration, naturalisation or other voluntary and formal act (other than marriage). **[1b]**

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Political System

5.6 Jamaica is a constitutional parliamentary democracy. The Head of State is the British Monarch and is locally represented by the Governor-General.

The legislature is bicameral and comprises the upper chamber or the Senate and the lower chamber or the House of Representatives. The Senate consists of 21 Senators, 13 of whom are appointed by the Governor-General on the advice of the Prime Minister and 8 by the Governor-General on the advice of the leader of the opposition. In the absence of an opposition leader, 8 independent Senators may be appointed to the Senate.

The House of Representatives consists of 60 elected members called Members of Parliament. **[1a]**

5.7 The Prime Minister exercises Executive power and is appointed by the Governor-General as the leader of the majority party within the House of Representative. The cabinet comprises at least 11 ministers, 4 of whom may sit in the Senate. **[1a]**

5.8 The legislature is elected every 5 years by universal adult suffrage. The last general election was held on 16 October 2002 when the People's National Party was re-elected for a fourth term. This is the third consecutive term in office for the PNP leader Mr Patterson. **[14c]**

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Electoral Reform

5.9 Amid allegations made by the opposition party JLP of electoral procedural abuses, in April 1993, the Prime Minister Patterson (PNP) announced plans to reform and modernise the electoral system. Proposals drafted in late 1994 recommended the establishment of a permanent electoral commission to supervise elections, the publication of a revised register of voters every six months, and rules governing political campaigning and the nomination of candidates. An electronic voter registration system was installed in 1996 and new electoral rolls were completed in late 1997. **[1e]**

5.10 In the general election of 16 October 2002, the US-based Carter Centre, which sent a team of international observers, praised the Electoral Advisory Committee (EAC) and the Electoral Office of Jamaica (EOJ) for their execution of the election. **[10d]** This was a relatively violence free election. The institution of the Election Centre, which allowed for the immediate resolution of disputes, and the consultative process in verifying the voters list, determining the location of polling stations and selecting poll workers, contributed to a peaceful election day. **[10e]**

5.11 The Carter Centre praised the Electoral Office of Jamaica for taking steps to weed out political activists with freshly recruited election -day workers who manned more than 7,200 polling stations on the island. **[10f]** Nearly 80 per cent of the 20,000 Election Day

workers were trained by the Election Office of Jamaica and experienced the election for the first time. [10d]

5.12 The Carter Centre also described the voters' list, for the 2002 election, as the cleanest in the country's history, a factor in eliminating voter irregularity. [10f] On the eve of the elections, there were still about 100,000 voter identification cards that had remained uncollected since the 1997 enumeration exercise. The EAC urged persons to collect their cards and stated that those not in possession of a card would still be allowed to vote. [8x]

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Political Parties

5.13 The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in periodic elections on the basis of universal suffrage. [2c] All citizens aged 18 and over have the right to vote by secret ballot. However, voters living in "garrison communities" in inner-city areas dominated by one of the two major political parties face substantial pressure from politically connected gangs and young men hired by political parties, which impede the free exercise of their right to vote. Although there is a history of political violence and killings in the period leading up to elections, the October 16 elections were less violent than previous general elections. There were some reports of intimidation of voters and party agents. [2c]

5.14 A director of the Carter Centre, who observed the recent general election on 16 October 2002, commented that "garrisons" are political constituencies fiercely loyal to either the People's National Party or the opposition Jamaica Labour Party. President Carter, the founder of the Carter Centre, also commented that Jamaica's garrison politics was a disgrace and in effect curtailed the right of the constituents to freedom of assembly and the freedom of speech and expression in choosing one's leaders. [10f]

5.15 The Jamaica Labour Party (JLP) and the People's National Party (PNP) have been the two dominant political parties since the first elections under universal adult suffrage in 1944 and have formed successive governments. [1e] [2c]

5.16 National Democratic Movement (NDM) is another party that has also contested the elections since its formation in 1995 by Bruce Golding, when he broke away from the Jamaica Labour Party. [1a] There are reports that Golding recently rejoined the JLP for the October 2002 election, leading to speculation that he is in line to take over the leadership when Seaga steps down. [8u] NDM did not win any seats in the general election on 16 October 2002. [10g]

5.17 The Imperial Ethiopian World Federation Party (I.E.W.F. Inc.) was launched in 1997 and hopes represents the Rastafarian community in the Jamaican Parliament. [16c] The IEW Inc took part in the general election on 16 October 2002 but failed to win any seats in the parliament. [10g]

5.18 The United People's Party is a new party formed in 2001 by Antoinette Haughton. [8f] The growing impetus to break the political domination of PNP and its main political opposition JLP has given rise to formation of another new party, that of the Jamaica Alliance for National Unity (JANU), which was launched in 2002 by a group of church leaders. [7b]

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Judiciary

5.19 The Constitution provides for an independent judiciary, which generally exists in practice, but lacks adequate resources. **[2c]** The judiciary consists of a Supreme Court, a Court of Appeal and minor courts. The Judicial System is based on English common law and practice.

5.20 Final appeal is to the Judicial Committee of the Privy Council in UK, although in 2001 the Jamaican Government signed an agreement to establish a Caribbean Court of Justice (CCJ) to fulfil this function. **[1a][3c]** The appellate court is scheduled to be established in 2003 and will be based in Port-of-Spain in Trinidad. **[10a]** In November 2003 Edward Seaga renewed his proposal for a referendum on the model of government including the plans to supersede the Privy Council with the CCJ. **[17k]**

The defenders of the proposed CCJ argue that the Privy Council is very expensive because of its geographical distance and also the high cost of retaining attorneys in England. They predict that the proximity and the lower cost of CCJ will facilitate more matters being heard in the final court of appeal. **[10a]**

5.21 There is some opposition from the Jamaica Bar Association to the proposed CCJ. The members of the bar are concerned that there is potential for political influence on the proposed Judicial Services Commission, which will appoint the Court's judges. **[7a]** The bar association also insists that the Court should be included in the member countries' constitution to ensure that succeeding governments are not able to withdraw it. **[7a]**

5.22 In response to the Privy Council's ruling on use of death penalty, the Jamaican government withdrew from the UN Optional Protocol on Civil and Political Rights in 1999, giving Jamaicans one less international body to which to appeal human rights cases, especially those involving the death penalty. **[7a]**

5.23 According to the bar association of Jamaica, the Jamaican judicial system lacks adequate infrastructure, support services and equipment. Many courtrooms need repairs and public-address systems, and a chronic shortage of court stenographers forces judges to take their own notes. **[7a]**

Jamaicans for Justice also has reported that the courts are slow and cases take years to make their way through all the stages allowed by the Constitution and International protocols signed by successive governments. **[15a]**

5.24 In September 2002 Supreme Court judges and senior court staff were trained under the Legal Institution component of the Social Conflict and Legal Reform Project (SCLR), to prepare them for a case and "caseflow" management under the Civil Procedure Rules. The aim of the initiative is to resolve civil disputes in a more timely and less costly and more accessible manner. **[17h]** Aims of the joint initiative by the Canadian and Jamaican government include improved information access and retrieval within the legal system. This project is underway and involves modernising the Supreme Court and Court of Appeal as well as the resident Magistrate and other Courts in the Justice System in Jamaica. The modernisation is in terms of court case management, document management, office automation, Internet access and electronic case filing. **[9o] [18a]** In September 2002 the Government introduced a New Civil Procedure Rule to improve the efficiency and management of the judicial system. **[18b]**

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Legal Rights and Detention

5.25 The Constitution provides for the fundamental right to protection from arbitrary arrest and detention. **[1b]**

The Jamaica Constabulary Force Act permits the arrest of persons "reasonably suspected" of having committed a crime. The law requires the police to present a detainee in court within 48 hours of arrest. There were some reported incidents of arbitrary arrest during the year, and the authorities continued to detain suspects, especially those from poor neighbourhoods, without bringing them before a judge within the prescribed period. **[2c]**

The defendant's right to counsel is well established. Generally, legal aid attorneys are available to the indigent, except those charged with certain offences under the Money Laundering Act or Dangerous Drugs Act. Defenders may bring cases for individuals who have their constitutional rights violated and there are sufficient funds and legal aid attorneys to meet demand. **[2c]**

Legal Aid

5.26 The human rights organization Jamaicans for Justice has stated that the Legal Aid Authority has a budget that is less than one third of what it needs to effectively represent all those who need legal aid. They also have difficulty getting the police to either inform the citizens of their rights to counsel or to call the duty counsel when needed. **[15a]**

Death Penalty

5.27 The Constitution provides "no person shall intentionally be deprived of life save in execution of the sentence of a court in respect of a criminal offence of which he has been convicted." **[1b]** Jamaica retains the death penalty by hanging as a mandatory punishment for murder. **[8d][9a(i)]**

Those convicted of murder and sentenced to death by judge and jury can appeal to the local court of appeal and if unsuccessful then to the Judicial Committee of the Privy Council (JCPC) in London as the final court of appeal. **[9a(i)]**

5.28 In a 1994 judgement, the Privy Council ruled that after five years on death row, the death sentences must be commuted to life imprisonment. Of the 300 inmates on the death row at the time, 270 became immediately eligible for life imprisonment. **[8c]** In another decision on 11 March 2002, the Privy Council upheld a ruling by the Eastern Caribbean Court of Appeal that the mandatory death penalty is in violation of the constitutions of seven island states. **[3a]**

5.29 According to reports by the Penal Reform International and other NGO's, treatment of death row inmates in the Caribbean falls below the standards set out in the domestic prison rules and the UN Standard Minimum Rules for the Treatment of Prisoners. **[9a(i)]** Amid rising crime, the ruling party PNP and the main opposition party JLP have called for an extension of the death penalty to arms smugglers and drug traffickers but the public opinion appears to be against it. **[8c][8d]**

In March 2002, the Attorney General A J Nicholson publicly announced that he is personally against the death penalty and thus joined the emotive debate surrounding the issue in Jamaica. **[3a]**

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Internal Security

5.30 The Jamaica Constabulary Force (JCF) is responsible for internal security and is assisted by the Island Special Constabulary Force. Jamaica Defence Force (JDF, army, air wing, and coast guard) is charged with national defence, marine narcotics interdiction, and support of the JCF. **[2c]** The JDF had no mandate to maintain law and order and no powers of arrest, unless so ordered by the Prime Minister. The Prime Minister occasionally gave the JDF powers to cordon and search. The Ministry of National Security oversaw the JCF and the JDF. Civilian authorities generally maintained effective control of the security forces; however, some members of the security forces committed human rights abuses. **[2c]**

In July 2002, it was announced that the JDF is to assist the police in fighting crime on the island by adjusting its operations. **[8i]** The New Crime Plan, which was launched in November 2002, formalised the role of JDF in fighting crime in co-operation with JCF.

For further details of the co-operation between JCF and JDF see below "The New Crime Plan".

The Jamaica Constabulary Force (JCF)

5.31 The Jamaica Constabulary Force was established in the aftermath of the Morant Bay Rebellion in 1865. The JCF has retained its semi-military character and comprises a system of gazetted and non-gazetted ranks. **[11a]** The Commissioner of Police Francis Forbes leads the JCF. The Officer Cadre (gazetted rank) are drawn from Jamaican Officers who have been promoted through the ranks from constable. **[11a]**

5.32 The Force is responsible for the maintenance of law and order, prevention and detection of crime, the protection of life and property, the investigation of alleged crime, and the enforcement of all Criminal Laws. **[11a]**

The senior management groups are organised into activities described as the following portfolios: Administration and Support Services, Operations, Crime, and Special Projects. **[11a]**

5.33 In his statement of the Corporate Strategy of the JCF, Commissioner of Police, Francis Forbes, has described the Force as a reactive Fire Brigade style of policing. He has pledged to pursue proactive policing methods, which will gain the support of the public. He has identified key operational areas where he seeks to improve the quality of policing. These are Crime Management, Community Policing, and Traffic Management. **[11c]**

5.34 December saw the official launch of police courtesy week under the theme "police and Community in partnership for a safe Jamaica". **[17e]** The "community policing" initiative approached the recurrent conflicts between the police forces and many of the poor inner-city areas. The JCF were educated by the Human Rights Advisor to the Minister of National Security and Justice to respect the citizens and a Code of Conduct along with a Charter of Citizens Rights was distributed to police officers and citizens. **[2c]**

5.35 The JCF is supported by the auxiliary force Island Special Constabulary Force. The uniform of the ISCF is similar to that of the JCF, with the exception that the bands on the cap and pants have blue stripes instead of red and the shoulder insignia bears the letters I.S.C.F. instead of J.C.F. **[11b]**

5.36 Within the JCF, there are a number of key groups. There is the special operations

group, the Crime Management Unit that has been singled out in the Amnesty International report. [3b] Established in September 2000 by the Prime Minister, the CMU was the thirteenth special operations group to be set up since 1976. [3b] Likewise there is the Mobile reserve, a "heavily armed, denim-clad response team". [8e]

5.37 Since February 2003, plans are being formulated for a major restructuring of the JCF. These plans include new guidelines to deal with the problem of corruption within the service and drafting a new training manual and the establishment of training units across the island. Police Commissioner Francis Forbes has said that the force would have to undergo an annual training and certification for the use of force and firearms as it moves to modernize its operations. The JCF will also purchase fewer lethal weapons and plans to restructure its arrest procedure to increase officer's and the public's safety. Ambulances will be acquired to transport victims of shootings, which will end the current practice of taking them to hospitals in patrol cars. [17c]

The New Crime Plan

5.38 In response to escalating violence, on 13 November 2002, the Security Minister Peter Philips announced the launch of a new national crime plan. [10h] The basic purpose of this plan is to dismantle criminal groupings of a paramilitary nature and to break the back of criminal gangs. [10h][15c]

5.39 The new anti-crime thrust will rely heavily on the military working with the police to flush out the criminals, many of whom are involved in drug trafficking. The crime plan will also encompass a broad-based poverty reduction programme and a slate of legislative reforms. [15c] The security forces will also be involved in the removal of derelict buildings; a general clean up of communities and the building of community sports facilities. [15c]

5.40 According to Dr Philips, the Jamaica Defence Force and the Jamaica Constabulary Force (JCF) have been engaged in the highest level of planning and preparation in gathering the necessary intelligence, in undertaking the reconnaissance of the locations, and training and the re-equipping of the police personnel. [10i]

5.41 The new crime plan involves a change in approach to policing and would see the security forces being more proactive, and maintaining a more long-term presence in the violence-prone areas. [10k] [17g] [17m] The security forces took their anti-crime initiative involving curfews and premises-by-premises search for guns and criminals to the Central Kingston community of Southside in December 2002. Southside is a pocket of strong support for the Jamaica Labour Party (JLP) in a constituency that votes substantially for the ruling People's National Party (PNP). The area is also notoriously prone to politically motivated and gang-related gun violence. [10j] It has been suggested that support of the inner-city communities are not forthcoming as they associate the fight against crime with police brutality and social injustice. [17i] However, since the launch of the initiative the impact was almost instant, as there was considerable decline in crimes in the areas targeted as well as the recovery of more than two dozen guns, several rounds of ammunition and the detention of several wanted men. [17f] [3h]

5.42 The intelligence capability of the police force has greatly increased and the personnel focussing on organised crime, gangs and other groups are now preparing a

list of names as well as arrest and search warrants. [10i] The United Kingdom will be assisting the Jamaican police to set up a National Intelligence Bureau, which will co-ordinate the operations of all intelligence units within the constabulary. [10k]

The Consultative Committee on the National Security Crime Plan

5.43 In December 2002, the Minister of National Security, Dr Philips, announced the setting up of a consultative committee to serve as an advisory group to the Minister of National Security. [15b] The committee will have an initial tenure of one-year and will have as its Terms of Reference:

- Oversight of the implementation of the National Crime Report.
- Making recommendations regarding the improvement and effectiveness of security arrangements in Jamaica, including enhancement of Police/Community relations.
- Securing the public support necessary for the legislative changes deemed necessary for more effective law enforcement.
- Advising on matters which would lead to more effective and professional law enforcement agencies. [15b]

The Legislative Framework

5.44 To pave the way for the new crime plan the Jamaican Government is introducing changes to the law. The Government has already changed the law as far as the interception of communication legislation was concerned. The Security Minister has also secured the Cabinet's approval for the preparation of bills in relation to plea-bargaining and amendments to the Fingerprint and Port Security acts. [10i]

5.45 In December 2002, the opposition Jamaica Labour Party (JLP) refused to support the proposed amendment to section nine of the Defence Act that would give Jamaica Defence Force (JDF) soldiers the powers to search premises and apprehend persons regardless of whether members of the police force are present. JLP critics fear that the JDF soldiers are not trained to apprehend suspects and that their increased powers were likely to lead to further "brutality, atrocity and indignities". [17a]

The Security Forces and the Human Rights Apparatus

5.46 The JCF undertook an initiative of "community policing" to address the problem of long-standing antipathy between the security forces and many poor inner-city neighbourhoods. For example, designated policemen walk beats and interact with members of the community on a daily basis. The Advisor, who is a prominent human rights activist, has been engaged in educating JFC trainees and junior officers to respect citizen's rights. The Jamaica Chamber of Commerce Inner-City Development Committee has distributed a Police Code of Conduct and a Charter of Citizen's Rights to police officers and citizens. The Police Federation conducted lectures to educate policemen in citizens' rights. The Government, the Independent Jamaica Council for Human Rights, and foreign governments developed human rights materials to be used in all subjects at the primary and secondary levels, which were being tested in selected

classrooms at year's end. The JCF policy statement on the use of force incorporated U.N.-approved language on basic principles on the use of force and firearms by law enforcement officials. [2c]

5.47 The Government has established several bodies with the authority to investigate police corruption and misconduct. In 1999, it established the Bureau of Special Investigations (BSI) within the JCF specifically to address the police shootings. BSI supplements the JCF Office of Professional Responsibility (OPR), which investigates police corruption and other misconduct, and the civilian Police Public Complaints Authority (PPCA), which oversees investigations of the other two bodies and can initiate its own investigations. [2c]

5.48 After the introduction of the New Crime Plan, in December 2002, the Prime Minister also established a Consultative Committee that will, among other things, hear complaints brought by members of the public against members of JDF. [17a]

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Prisons and Prison Conditions

5.49 Prisons and jail conditions remain poor and overcrowded. Brutality against detainees, poor sanitary conditions, and insufficient medical care are typical. [2c] Poor prison conditions have in the past led to prison riots. In May 2000, a riot at St Catherine's district prison led to report of beatings by guards and JDF soldiers of at least 150 inmates. A subsequent investigation into the riot revealed that poor conditions and poor supervisions had been the root causes of the riot. Following the Commissioner's recommendations, the Corrections Department has installed an electronic surveillance system in the prison and has introduced alternative methods of restraint. [2]

5.50 In November 2001, the new prison Horizon Remand Centre was opened in West Kingston. The new jail, which has a capacity for 1000 prisoners, was opened to ease overcrowding at other jails in the capital Kingston. However, in June-July 2002, Jamaica's army took control of the new prison after several clashes between the inmates and the warders and breach of security by the prisoners. [8j][8k]

5.51 The majority of pre-trial detainees are held in police lockups, conditions of most of which have been criticised by human rights organisations. An Amnesty International report on Hunt's Bay police lockup has documented severe overcrowding, lack of light and sanitation and reports of denial of medical care and adequate food. The report also detailed allegations of police abuse, including severe beating, mock executions, and rape. [2a] The US State Department writes that allegedly at least five detainees died while in police lockups during 2002. [2c] It also suggests that mentally ill inmates were being used as sex slaves in prison and prison officials were aware of the problem. [2c] Women are detained in Ft. Augusta Women's Prison, where sanitary conditions are poor but less so than in the men's jail. [2a]

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Military Service

5.52 Conscription does not exist in Jamaica and has not existed since the country achieved independence in 1962. The legal enlistment age is between the ages of 18 and 24. There is no known legal provision for conscientious objection and as military service is voluntary, "the question of conscientious objection status does not apply."

Desertion is punishable by up to two years' imprisonment in peacetime. In wartime desertion is punishable by firing squad execution. [9f]

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Medical Services

5.53 The Pan American Health Organization, in its 1999 country profile of Jamaica, has summarised the healthcare system thus:

"Jamaica has developed a large and complex public network of primary health care centres and hospitals around the country, offering an extensive array of services, frequently for free or below cost. The rising costs of health care resources, which are largely imported and devaluation of the Jamaican currency have widened the gap between available and required resources. In response to this situation, the Government is engaged in health sector reform with the assistance of several technical co-operation agencies." [13b]

5.54 In 1997, the Government proposed a National Health Insurance plan to offer coverage for a defined set or package of hospitals, laboratory, diagnostic, and pharmacy services. [13b] However, in the past decade there has been significant growth in the private health care sector. It is estimated that 75% of the ambulatory care of a curative nature is delivered in the private sector, while most hospital and preventive services are provided largely in the public sector. [13b]

5.55 The 1997 National Health Services Act provided for the implementation of the reform of government health services in Jamaica. The Act essentially decentralised the management of the health services by creating four semi-autonomous regional bodies named the Regional Health Authorities (RHA's). The RHA's have direct management responsibility for the delivery of health services within a geographically defined region. [13a]

The National Health Insurance Programme (NHIP)

5.56 The National Health Insurance Plan (NHIP) is a critical component of the overall Health Reform Programme currently being implemented to improve the delivery, management and financing of health services. NHIP is a contributory health financing plan aimed at covering all residents of Jamaica for a stipulated package of medically necessary services. Its main features are:

- a. It is universal and guarantees access to the package of health services for all residents.
- b. The NHIP, in its first phase, offers the Standard Benefit Package (SBP) which will cover three categories of services:
 - Prescription drugs arising from visits to general practitioners, a health centre, and the casualty department of a hospital.
 - Laboratory, imaging and diagnostic tests.
 - Specific hospital in-patient services.
- c. The NHIP is mandatory and everyone is required to purchase health insurance, either from a public or private health insurance agency. Contributions are shared by employers and employees, paid in full by the self-employed and fully subsidised by the Government for the medically indigent.
- d. Services in the benefit package will be accessible from public or private providers.
- e. The NHIP is managed by the independent and non-profit making body, the

Health Insurance Commission. [13h]

5.57 Over the past decade there has been a significant growth in the private health care sector. It is estimated that 75% of ambulatory care of curative nature is delivered in the private sector, while most hospital and preventive services are provided largely in the public sector. [13b]

5.58 The public secondary and tertiary care system comprises a total of 23 acute care hospitals: six tertiary speciality hospitals, five secondary care hospitals, nine small community hospitals, and three hospitals specialising in chronic care. [13b]

5.59 A recent study carried out on behalf of the World Bank, indicates that the public sector health centres in rural areas are not easily accessible to many communities but that they remain significant because they charge less than the private clinics for consultation fees. A recent study by the Ministry of Health suggests that residents of rural areas spend on average over \$800 per visit (to clinics) compared to around \$400 in urban areas. [9j]

5.60 The government of Jamaica has been expected to launch its US\$46m national health fund (NHF) in April 2003. Around US\$18m will be used to purchase pharmaceuticals for patients with chronic diseases, at government-owned pharmacies; while US\$5.5m will be used for programmes aimed at promoting good health. The balance will be used to provide health support funds, which will help with the upgrading of the public sector health-care system. In an interview with the *Jamaica Observer* on 12 March, Health Minister John Junor said that more than 700,000 persons suffering from one or more chronic diseases would be able to get medication, at significantly reduced prices. [9i]

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HIV/AIDS

5.61 Jamaica's first AIDS case was reported in 1982. In 2002, 20000-24000 Jamaicans are reported to be HIV positive. [7c][8f]

According to the head of the national HIV/AIDS programme, Yitades Gebre, in 2001, 439 women were among the 939 new cases of HIV/AIDS reported, which represented a 10 percent rise from 2000. Gebre has attributed this increase to the rise in the number of homosexual males entering in relationships with women. [8f]

5.62 The Government recently approved its new five-year Strategic Plan on HIV/AIDS for the period 2002-2006. The five priority areas identified under the plan are: [12b]

- Policy, advocacy, legal and human rights
- Integrated and multi-sectoral response
- Prevention
- Care treatment and support
- Monitoring, surveillance and evaluation

5.63 The amount of 15 million US dollars, mainly funded by international organizations, has been approved for the five-year cycle between 2002 and 2006 and is intended to improve the availability of HIV/AIDS prevention and treatment for the population, especially for marginalised groups at high risk. The project will not finance the procurement of anti-retrovirals except for the Mother to Child Transmission (MTCT) programme but it will support training and clinical management in relation to anti-retrovirals to accommodate increased access to anti-retrovirals. [12b]

5.64 The National Aids Committee (NAC) is a private non-governmental organization that was established in 1988 by the Minister of Health to co-ordinate the national multi-

sectoral response to the AIDS epidemic in Jamaica. It has over 100 member organizations and works towards prevention, control and support of HIV/AIDS in Jamaica and those affected or infected. [13e]

5.65 The National AIDS Committee Jamaica issued a report stating the reported AIDS cases in Jamaica showed a minimal increase in the first half of 2002 compared to the year 2001. A total of 511 new AIDS cases were reported. [13l]

Availability of Anti-retrovirals

5.66 The National Aids Committee has published a comprehensive list of medication available in Jamaica for treatment of HIV/AIDS. Please see the source material for this list. [13f]

5.67 A survey published by the Pan American Health Organization indicates that the price of anti-retroviral therapy in Latin American and Caribbean countries, including Jamaica, dropped up to 54% in the year 2001-2002. According to this report, the cost to Jamaica's Ministry of Health of purchasing the antiretroviral combination 3TC+AZT+EFV was \$1226.40 in May 2002. [13c] [13i]

Mental Health Care

5.68 Jamaica has a Mental Health Act. Under the new Mental Health Bill, provisions have been made for the admission of patients, whether voluntary or involuntary, and the designation of psychiatric facilities for the mentally ill.

Mental health facilities include disability benefits for persons with mental disorder, care provisions in the primary health care system, and actual treatment of severe mental disorders in primary care. For a list of therapeutic drugs available in Jamaica see the source material. [13j]

5.69 Primary care, including mental health care, is performed by more than 1200 general practitioners across the island. They refer the more serious cases to psychiatrists. [13j]

5.70 Continuity of public policy and fiscal support has ensured the ongoing development of the island's community mental health services. The National Community Mental Health Service relies on trained psychiatric nurse practitioners who provide crisis management, medication, supportive psychotherapy, and make home visits. More patients are treated within the community than in hospitals. [13j]

Cardiac Disease and Treatment

5.71 In addition to the general and specialist treatment and referral units within the public health service, the Jamaica Foundation for Cardiac Disease (JFCD) is a non-profit, non-governmental organization that has promoted and supplemented cardiac healthcare since 1994. [13k] The JFCD has developed a good reputation for facilitating subsidised and free heart surgery, particularly for children. [8r]

5.72 According to a 1999 report, heart surgery in the public health system, where the surgeon's fee is passed on to the patient, costs between \$5,000 and 7,000. If a heart valve needs to be replaced, there is an additional \$1,500 charge. [8r]

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Educational System

5.73 The education system consists of a primary cycle of six years, followed by secondary cycles of three and four years. [1a] At the end of the primary cycle, pupils sit

the National Assessment Programme, which is the basis of selection for the secondary education. Secondary schools provide a programme of maximum of seven years leading to the Caribbean Examinations Council Secondary Education Certificate after 5 years and GCE Advanced 'A' levels after a further 2 years. **[9b]**

5.74 Education is financed centrally and the government provides most of the funds. In August 2002, the Government announced its plans to gradually phase out the education cost-sharing programme and pay tuition fees in full for needy students by 2005. It also pledged to reduce the cost-sharing element in the secondary schools and pay the examination fees for students sitting English, mathematics, information technology and science CXC subjects. **[8q]**

5.75 Higher Education comprises two stages of study. The first stage is the undergraduate level, which after 3 years leads to the Bachelor's Degree. The second stage leads to higher degrees. **[9b]**

5.76 In 1990 an estimated 1.6% of adult population had received no schooling and in 2000 an estimated 13.3% of the population was illiterate. **[1a]** In a statement made on Jamaica Adult Literacy Survey of 1999, Burchell Whitman, the Minister of Education, Youth and Culture stated that in some rural parishes there is a high level of illiteracy and 15.3% of all adults are characterised as 'basic literate'. He added that among the 15-19 age group 7.4% were found to be illiterate and another 8% 'basic literate'. Some of this population are recorded as having completed secondary education. **[12a]**

These statistics demonstrate that a sizeable proportion of adult Jamaicans are effectively excluded from full participation in some of the more complex demands of the modern society. **[12a]**

5.77 USAID has allocated a budget of \$ 3,678,000 for improving education quality in Jamaica for the year 2002. Its activities will include provision of material, improving the management of schools and nutritional support to targeted schools. **[9c]**

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6. Human Rights

6A. Human Rights Issues

Overview

6.1 The Government generally respects the human rights of its citizens but there are serious problems in some areas. **[2c]** In brief, the main areas of human rights' concerns are police brutality and, arbitrary arrests and detentions, an overburdened judiciary, poor prison conditions, violence and discrimination against women and homosexuals, cases of societal discrimination against persons with disabilities and members of Rastafarian religion. Child labour has been a problem in Jamaica. **[2c]** The US State Department suggested that children as young as 10 years old were involved in child prostitution which has also been a major problem country wide. **[2c]** Violent attacks and killings of those suspected of committing a crime remained a problem. **[2c]** Jamaica was invited by the Community of Democracies' (CD) Conveying group to attend the November 2002 CD Ministerial Meeting in the Republic of Korea as a participant. **[2c]**

6.2 Several national and international human rights organisations operate in Jamaica without government restriction and investigate and publish their findings on human rights issues. **[2c]** The Independent Jamaica Council for Human Rights is the country's only formal organization concerned with all aspects of human rights. Human rights

organisations mainly focus on the issues of extrajudicial killings and police impunity. [2c] In response to their criticisms, in July 2002, the Minister for National Security, Dr Philipps and the Commissioner of Police, Francis Forbes accused the United Nations, Amnesty International and national human rights groups of influencing, attracting and protecting criminals. [3f]

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Crime

6.3 Jamaica is reported to have one of the highest crime and murder rates in the world and reports by human rights organisations suggest that there is a direct relation between prevalence of crime and abuses of human rights. [3e]

Last year more than 1100 murders were recorded in Jamaica and 100 tonnes of cocaine trans-shipped to western markets. [14a] Many of these murders were drug related and the Jamaican Minister of National Security and Justice commented, in March 2002, that the government is putting a new strategy in place to try and tackle drug related murders. [14a]

According to Perry Christie, the Prime Minister of Bahamas, "the illicit traffic in narcotic drugs and firearms, and other organised crime, underpin much of the crime experienced by the Caribbean countries." [8m]

6.4 There are signs that the murder rate has declined by 7 percent this year. The National Security Minister Dr Phillips has noted that the breakdown of the statistics shows that reprisal and drug/gang related killings constitute the highest percentage of murders in the country. By June 2002, these killings accounted for 51 percent of total murders. [8n]

6.5 New policing initiatives and approaches to crime control appear to have reduced fighting and tension in some of the inner city areas of Kingston. In Tavares Gardens nearly 100 days after the Government imposed a 24-hour curfew on the neighbourhood fighting has all but stopped. The National Security Minister has attributed this success to the police maintaining a longer presence in these areas and developing a community style of policing. In a major public relations campaign, the Jamaican military and police are not only keeping order but tiling school classrooms, demolishing derelict buildings and clearing garbage. [17d]

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Gang Violence

6.6 There is a history of violent confrontations between rival gangs in Jamaica who masquerade under the banner of rival political parties. Gang violence generally escalates at election times. Jamaica experienced its worst political violence in the election of 1980 when 844 people were killed during the campaign. [8o] According to the human rights group Jamaicans for Justice, Jamaica is today a case study in tribalist politics typified by inner-city "garrison" communities, that are entrenched in state-built housing, are politically homogenous, intolerant of dissenting views, and defended by guns and bullets. [15a] Tribalist politics persists and is now overlaid and entangled with other destructive forces, that are criminal gangs linked with US "posses", UK "yardies" and most lethally, with elements of the Colombian drug trade. [15a] According to one source, in many areas of Kingston, the fight today is more about control of the drug trade than political affiliation. [8y] [17p] More than 800 people reportedly died in violent attacks in 2002 many of which were blamed on drug gangs. In October Prime Minister

Patterson vowed to resume executions in the hope of eliminating violent crime. [17o]

The most recent election campaign, October 2002, also was violent though to a much lesser extent. Rival political parties in St. Catherine, central Jamaica, agreed to a truce in August 2002 after 6 people were killed amid rising tension before the general election of 16 October 2002. [8p]

6.7 Well-armed gangs that allegedly trafficked in narcotics and guns controlled some inner-city communities. The gangs were often better equipped than the police force and often targeted assaults against police officers and their families. [2c]

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Police

6.8 Police brutality and impunity remain a problem in Jamaica. A recent study carried out on behalf of the World Bank (2000-2001) shows that in urban communities in Jamaica the Police force is widely seen as a negative influence on society. The public views the Police as not committed to their responsibility for providing protection from criminals. Many groups, particularly males and especially younger men who were interviewed, vocalised concern over Police abuse. This typically takes the form of illicit fines and violence. Some respondents interviewed for this study seemed to suggest that the Police had the capacity to inflict harm on the community, through involvement in criminal activity. [9j]

Use of lethal force

6.9 The Police force is suspected of using lethal force in apprehending criminals, amounting to acts of 'police murder'. [2c] According to Amnesty International, the rate of lethal police shootings in Jamaica is one of the highest in the world. An average of 140 people per annum have been shot and killed, according to official statistics, for the last ten years. The police have been criticised for their use of firearms as a first resort. [3b]

6.10 On 14 March 2002 according to Amnesty International, the police Crime Management Unit killed seven youths in a house in Braeton, St. Catherine parish. According to eyewitnesses, the police entered the house and executed the youths. The pathologist report indicated that the victims had been shot at close range with bullets to the head. [3h] On October 3, a 10-member jury for the coroner's inquest found the police "not criminally responsible" by a 6 to 4 vote. By law, a jury comprising seven or more persons cannot have more than two dissenters; if it does, the Coroner may hold a new inquest or the resident magistrate may refer the case to the DPP for a ruling. An Amnesty International press release called the inquest "deeply flawed" and asked the DPP immediately to instigate criminal proceedings against the police officers involved. [2c]

6.11 In another incident on 7-10 July 2001, 27 people, including a policeman and a soldier, were killed in a gun battle in Western Kingston. The police were reportedly searching for illegal weapons and drugs in a neighbourhood, which is dominated by the main opposition political party the Jamaica Labour Party. The government appointed a commission, headed by the former chief of justice of Canada's federal Supreme Court, to investigate the killings. In its report of July 2002, the Commission exonerated the security forces and stated that the security forces had carried out their duties satisfactorily in all respects. [8g][8h]

6.12 The US State Department states that during 2002 there were 149 deaths, including

those of 16 police officers, during confrontations with criminals, compared with 163 deaths in 2001. However the validity of many allegations of "police murder" were questionable. [2c]

6.13 The Gleaner reports that since the New Crime Plan was launched, the police have killed 27 people. Over the last three years only one policeman had been charged. [17j]

Arbitrary arrests

6.14 The Jamaica Constabulary Force Act permits the arrest of persons "reasonably suspected" of having committed a crime, and the police continued to arrest arbitrarily. In 2001 the authorities continued to detain suspects, especially from poor neighbourhoods, without bringing them before a judge within the prescribed time of 48 hours. [2a] The government allegedly criticised the overburdened court system that could not accommodate large numbers of presentations in a prompt manner. There was a bail function. [2c]

6.15 foreign prisoners must pay for their own deportation costs when they have completed their sentences. If they are unable to pay they would be kept in prison until a relative or consulates can arrange for transportation. [2c]

6.16 Human Rights groups and others have for many years reported the frequent practice of unlawfully detaining individuals or groups of citizens for holding of identification parades. Reports indicate that such individuals are not given access to, or informed of their rights and legal assistance during their detention. [3b]

Torture and ill-treatment of suspects in custody

6.17 The law prohibits torture and other abuses of prisoners and detainees. However, despite the Government's efforts to remove abusive guards and improve procedure, physical abuse of detainees by guards continued, according to the US State Department report for 2001. [2a] Amnesty International has also reported that ill treatment by the security forces usually follows arrest and detention and the victims are predominantly young, poor, black men from urban areas and criminal suspects. They also include women, children, members of the Rastafarian community and gay men. [3b]

Police impunity

6.18 According to the human rights organization 'Jamaicans for Justice', "Jamaican laws and constitution are impressive in the protection they provide for the rights of the citizens but the breeches by the agents of the state of the law and the constitution go unpunished and result in a culture of impunity". [15a] According to Amnesty International many of the killings committed by police are the result of "justifiable use of lethal force". Jamaica suffers a high level of crime and police officers often encounter armed criminals leaving them no option but to use lethal force to protect their own lives and the safety of the public. However over recent years Amnesty International has documented many cases indicates that those killed were the victims of extra-judicial executions. [3h]

6.19 In August 1999, in a much-publicised case, nine soldiers and four policemen severely beat Michael Gayle to death, who has been described as a schizophrenic, at a roadblock during a curfew. At a coroner's inquest, the jury returned a majority verdict that all the police and military personnel on duty at that roadblock should be charged with manslaughter. In March 2000, the Director of Public Prosecution decided that there was not sufficient evidence to bring charges against the accused. The police opened a

new investigation but no new evidence came to light. The case was recommended to be closed and no criminal charges had been filed at the end of 2001. **[2c]**

6.20 On 3 October 2002, the Braeton inquest returned a 6-4 majority verdict that no one should be held criminally responsible for the deaths of seven young men at the hands of the police officers in Braeton on 14 March 2001. Amnesty International has indicated that "the inquest proceedings appear to have been conducted without the impartiality required under international law for investigations into alleged extrajudicial executions". There appear to have been manifest examples of bias on the part of the Coroner, leading to the police version of being consistently favoured. **[3g]** **[2c]**

6.21 There have been reports of police killings and impunity in 2002. On 6 March 2002, four men were reportedly taken away unarmed, beaten and shot by the police, whilst the eyewitnesses have received death threats from the police purportedly to prevent them from testifying. According to the Amnesty International report, the circumstances surrounding the shootings suggest that the deaths amounted to extrajudicial execution. **[3d]**

6.22 Amnesty International has reported that in Jamaica the mechanisms to fairly adjudicate whether a police officer is guilty of human rights abuses may exist but resources and the political will that those mechanisms require to enforce them appear to be lacking. Prosecutions for extrajudicial killings, torture and other human rights abuses remain exceptional occurrences. Investigations fail to conform to international standards. The scenes of shootings are not preserved; with forensic and ballistics evidence contaminated or removed. **[3b]**

Official information is often sketchy or unavailable. In November 2001, the human rights group Justice for Jamaica was unable to obtain from the Police Constabulary Communications Network figures on an annualised basis which list the number of cases of police shootings and the outcomes of the investigations. Statistics on how many have been ruled justifiable, how many have been sent to Coroner's Inquest, how many have been charged for excessive use of force, murder or manslaughter and how many have been convicted are not systematically available. **[15a]**

6.23 Amnesty International stated in a 2003 document there has been some progress towards holding police officers accountable for their actions, for example a staffing increase for the under-resourced Police Public Complaints Authority. However, the human rights issue in Jamaica still remains an immense concern. Amnesty International are unaware of any conviction of a security officer on charges relating to the violation of human rights. Many communities believe the police are untrustworthy which suggests community policing will be less effective if the police are allowed to continue to kill members of the community unlawfully and with impunity. **[3h]** No improvements are known to have been made in police practice to ensure that crime scenes are protected from disturbance in order for a full and accurate investigation to take place. **[3h]**

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Internal investigation into police misconduct

6.24 Two units within the JFC are responsible for investigating alleged abuse by the police. Both are accountable to the Commissioner of Police. Members of the public may deposit complaints with either unit, or with the civilian oversight body, the Police Public Complaints Authority (PPCA). Their completed reports are sent to the Director of Public Prosecutions, for a ruling on whether criminal or disciplinary proceedings or a coroner's inquest should follow. The two offices are the Bureau of Special Investigations (BSI)

and the Office of Professional Responsibility. [3b]

6.25 Bureau of Special Investigations was established in May 1999 to investigate police shootings. It is headed by the Deputy Commissioner of Police, and its officer's work under close supervision of the Director of Public Prosecutions. [3b] Amnesty International claims that the quality of investigations carried out by BSI do not conform in many respects to international standards and that incidents are still not investigated promptly, impartially and thoroughly. [3b]

6.26 The Complaints Division, a unit within the Office of Professional Responsibility investigates all other complaints of misconduct concerning the police that do not involve firearms. Human rights organisations, lawyers and others have repeatedly criticised this office for lacking impartiality and thoroughness. [3b]

6.27 In February 2003, Police Commissioner Francis Forbes announced that a new policy document was being examined that would form the basis of an anti-corruption strategy for the police force. The police force has been rocked by allegations of misconduct and arrest of several of its members for breaches of the Anti-Corruption Act since the start of the year. [17c]

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Freedom of Speech and the Media

6.28 The Constitution provides for freedom of expression in the following terms:

"Except with his own consent, no person shall be hindered in the enjoyment of his freedom of expression, and for the purposes of this section the said freedom includes the freedom to hold opinions and to receive and impart ideas and information without interference." [1b]

The Government generally respects these rights in practice. The largest newspapers are privately owned and regularly report on alleged human rights abuses, particularly involving the JCF. [2a][2c] Nonetheless it is reported journalists often feel intimidated during election campaigns. [14e] The Government does not restrict academic freedom or access to the Internet [2a] and foreign television is unregulated and largely available via satellite or cable transmissions. [2c]

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Freedom of Religion

6.29 The Constitution provides for freedom of religion, and the Government generally respects this in practice. [2a]

There are more than 100 Christian denominations active in Jamaica. There are also Jewish, Muslim and Baha'i religious minorities. [1a]

Rastafarians number 14,249 and form another significant religious group on the island. [1a]

Rastafarians

6.30 Members of the Rastafarian community have complained that the law enforcement officials unfairly target them. Rastafarians have also complained of mistreatment in prisons. These have included being forced to cut their hair and being given food that they are forbidden to eat. They have also complained of being denied prison visits or ministrations by their clergy, a right that is afforded to members of other religious groups. [2a]

Freedom of Association and Assembly

6.31 The Constitution provides for freedom of peaceful assembly and association, in particular the right to form or belong to trade unions or other associations for the protection of one's interests. **[1b]** Trade unions function freely and independently of the Government. **[2a]**

6.32 There were several community protests against the police in 2002. Security personnel generally acted with restraint during public demonstrations. However police used tear gas and fired guns during a violent protest against the alleged "unwarranted" police killing of a man. **[2c]**

The law permits political activism and the government generally respects this right in practice.

Employment Rights

6.33 The law provides for the right to form or join a trade union, and unions function freely and independently of the Government. The Labour Relations and Industrial Disputes Act (LRIDA) defines worker rights. Some trade unions are affiliated to political parties. **[2a]**

The LRIDA neither authorises nor prohibits strikes and strikes do occur. Striking workers can interrupt work without criminal liability but cannot be assured of keeping their jobs. **[2a]**

6.34 The Government sets the minimum wage after receiving recommendations from the National Minimum Wage Advisory Commission. The minimum wage, increased during 2002 from J\$1,200 (US\$25, £16) to J\$1,800 (US\$38, £25) per week, is considered to be inadequate to maintain a decent standard of living. However most workers are paid more than the minimum wage, except the tourist industry. Work over 40 hours per week or eight hours per day must be paid at overtime rates. **[2c]**

6.35 The Constitution does not specifically prohibit forced or compulsory labour by either adults or children. The Juvenile Act provides that children under the age of 12 should not be employed, except by their parents, but according to the Minister of Labour, Welfare, and Sport, in a speech in December 1999, there are 23,000 children who are engaged in child labour. **[2a]**

6.36 There are reports that children under the age of 12 are employed illegally in fishing communities and in prostitution. **[2a][9g]** A recent study by the International Labor Organization, published in November 2001, has identified poverty, tourism, poor parenting practices and distorted values among some of the factors associated with child prostitution in Jamaica. **[9g]** Consistent with the International Labor Organization Convention 182, this study regarded children working in prostitution as one form of child labour. **[9g]**

People Trafficking

6.37 The law does not specifically prohibit trafficking in persons and there were no confirmed reports that persons were trafficked to, from, or within the country. **[2a]**

Freedom of Movement

6.38 The Constitution provides for the freedom of movement within the country, foreign travel, emigration and repatriation. The Government generally respects these rights. The Government also provides for asylum or refugee status in accordance with the 1951 Convention Relating to the Status of Refugees and its 1967 protocol. However, the Government denied all claims to refugee status by Haitians and Cubans in 2001.

[2a] In November 2002 Amnesty International reported six Haitian nationals are in danger of being returned to Haiti without having their asylum claims assessed thoroughly. They claim that if returned their lives would be in danger. **[3i]** However the US State Department claimed that their appeals were heard in September 2002 and the six Haitians were granted asylum. **[2c]**

There were no reports of the forced return of persons to a country where they feared persecution. **[2c]**

6.B Human Rights - Specific Groups

The constitution prohibits discrimination on account of race, place of origin, political opinion, colour, creed or sex. **[2c]**

Ethnic Groups

6.39 The ethnic composition of the people of Jamaica is as follows: black 90.9%, East Indian 1.3%, white 0.2%, Chinese 0.2%, mixed 7.3%. **[1d]** CIPU has found no reports of persecution or ill treatment on grounds of race or ethnicity in Jamaica.

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Women

Domestic Violence

6.40 Gender-based violence including domestic violence is widespread in Jamaica. **[4c][2a]** According to the US State Department report on Jamaica, reported incidents of rape and incest increased by 5 percent during 2001. **[2a]**

The Jamaica Women's Crisis Centre, which provides counselling and shelter for abused women, reportedly handled 2,226 cases of domestic violence including rape and incest, in 1989, and by 1999, that figure had risen to 6,680. **[4c]** Data provided by the Emergency Unit of Kingston Public Hospital indicates that everyday approximately 20 women are treated on an outpatient basis for wounds and that 90% of these injuries are result of domestic violence. **[6a]**

6.41 Judicial instruments for protection of persons affected by gender-based violence include Matrimonial Causes Act, Act 2 of 1989; the Domestic Violence Act of 1995, and the Offences Against the Person Act. **[6a]** The Domestic Violence Act of 1995 provides remedies including restraining orders and other noncustodial sentencing. Breaching a restraining order is punishable by a fine of up to \$250 (JS10, 000) and/or 6 months imprisonment. **[4c]**

6.42 Policy instruments such as the National Policy Statement on Women, approved by the Government Cabinet in 1987, recognises that the incidents of gender-based violence and sexual abuse within families are increasing and pursues means of providing adequate protection to women and children who are victims of domestic violence. **[6a]** The Women's Affairs Office, attached to the Ministry of Labour, is responsible for carrying out gender- based policies and has been involved in training

judicial personnel. [6a]

6.43 According to the Canadian IRB, although the laws to protect women exist, they are not enforced. [4c] This is mainly attributed to the "traditional attitudes" held by the police towards women. According to the same source, the manner in which the police handle a case of domestic violence depends on the gravity of the case. In cases of severe bodily harm, the police encourage women to seek medical help and will also carry out an investigation. In most cases, however, they refer the women to the Women Inc Crisis Centre for Women for counselling. [4c] Furthermore, Family Courts, where the emphasis is on counselling and reconciliation, handle most cases of domestic violence. However, a change in police attitude towards domestic violence is detected as there are increasing efforts to train the police and the judiciary. [4c]

6.44 The US State Department concludes during 2002 the number of reported rape incidents decreased by 4 percent. [2c]

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Children

6.45 The Government is committed to improving children's welfare. The Juvenile Act is the principal instrument in protection of children. It includes prevention of cruelty, a prohibition on causing or allowing juvenile begging, the power to bring juveniles in need of care or protection before a juvenile court, the treatment of juvenile offenders, the regulation and supervision of children's homes and restrictions on juvenile employment. [2a] The new Child Care and Protection Bill is expected to come into effect by the end of 2002. [4d]

Despite the above legislative and legal framework, enforcement is uneven and main areas of human rights concerns continue to be a rising trend in sexual abuse and incest, prostitution, child labour. [2a] During 2002 the US State Report states there were 270 cases of "carnal abuse with girls under the age of 16".

Detention of Children in Lock Ups

6.46 In 1999, the Human Rights Watch criticised the conditions in which juveniles were detained in adult lock ups without access to legal representation and were victimised by adult prisoners. [2a] [3b] The Government acted quickly and in response to this report ordered the immediate removal of all children from lock ups. Human Rights Watch commended the Jamaican Government for its action. [5a] According to the US State Department, The Government acted quickly and charged the Ministry of Health with finding appropriate "places of safety" for juveniles.

6.47 The new procedures are thought to be effective on the whole. [2a] The Government also appointed an officer to monitor cases of children being taken to lockups, and a 24-hour hotline to help ensure that Children's Services is notified when police take a child into custody. [5a] In August 2000, it was reported that juveniles were no longer allowed to be held in police lock-ups for longer than one week. [3b]

Protection and Alternative Child Care

6.48 The state is obliged to provide protection and "alternative family care or suitable institutional placement" for a child "deprived of the family environment". According to the Children Services Division of the Ministry of Health in Jamaica, in a case of child abuse, neglect, or abandonment, the Child Services, police or the probation department are responsible for investigation and removal of the child to a "place of safety", where this is

warranted. These childcare institutions are either government-run or privately run under government supervision. The child is then brought before a Juvenile or Family Court to ensure the "legality" of the placement. [4d]

6.49 The Ministry of Health, Children Service Division declares there are 52 licensed Child Care Institutions operated by the state or private individuals/organisations across all the regions in Jamaica. The staff are well qualified and have special training to a consistent standard in order to respond to the need of the children. Child care Institutions provide care for children up to the age of 18 and in special circumstances over the age of 18. If a child is returned to Jamaica unaccompanied the Children Services Division would utilise Social Workers (children's Officers) to investigate individual cases. Efforts would be made to identify the child's parents or relatives who would be willing to take them into their care. If there are no relatives to take care of the child then a representative from the Children Services Division would meet them at the airport and arrange for reception in care of the State. The case would be referred to a Juvenile/Family Court for a Fit Persons Order to allow for alternative placement and the child would either be placed in foster care, adopted if the parents are unknown or have a place in a Child Care Institution. The child would automatically gain entrance into an Educational Institution/School on their return. [12c]

Child Labour and Prostitution

6.50 The Constitution does not specifically prohibit forced or compulsory labour by either adults or children. The Juvenile Act provides that children under the age of 12 should not be employed, except by their parents. The US State Report gives conflicting views stating in the 2001 report according to the Minister of Labour, Welfare, and Sport, in a speech in December 1999, there are 23,000 children who are engaged in child labour. [2a] However in the 2002 report it states there were no reports that this practice occurred.

6.51 There are reports that children under the age of 12 are employed in worst forms of child labour, particularly prostitution, fishing, tourism, and the informal sectors. An International Labor Organization (ILO) adviser overseeing the project was assigned to the Labour Ministry and conducting various assessments of the problem. [2c][9g] A recent study by the International Labor Organization, published in November 2001, has identified poverty, tourism, poor parenting practices and distorted values among some of the factors associated with child prostitution in Jamaica. [9g] Consistent with the International Labor Organization Convention 182, this study regarded children working in prostitution as one form of child labour. [9g]

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Homosexuals

6.52 Article 76 of the Offences Against Persons Act criminalises homosexual intercourse between men and Article 77 criminalises the attempt to commit the said crime. [9m] According to this Act, "consenting adults can be imprisoned for 10 years with hard labour if they are caught in the act". [9d]

In addition to the above legislation, homosexuals in Jamaica also face considerable societal prejudice, discrimination, and homophobic violence. Prominent politicians, media personalities, and churchmen have publicly voiced homophobic views. [9d]

6.53 There are reports of public acts of violence against suspected homosexuals. In January 2001, a group of students beat four university students with wooden boards

because they were suspected homosexuals. [2a] [17m]

According to J-Flag, alleged homosexuals in the inner city are particularly at risk. Last year, one man was shot to death as he sought refuge in a churchyard in central Kingston. [9d]

6.54 Amnesty International reports that gay people in Jamaica, or those being suspected of being gay, are routinely victims of ill treatment and harassment by the police. Furthermore, there are reports suggesting that the police may refuse to offer protection to gay men. In April 2000, a man was allegedly refused protection that he requested after he received death threats. The man fled his home after his partner was chased by a mob into a church and killed. [3b] There are no reports of homosexuals being afforded special police protection. [4b]

6.55 High levels of discrimination and the threat of violence force male homosexuals to "fit in" by having sex with women. According to Jamaican health officials, such pressure for gay men to lead "normal" heterosexual lives is fuelling a rise in the number of HIV infections among women. [8f]

The impending HIV/AIDS epidemic has prompted Dr Figueroa, Jamaica's senior medical officer to call for homosexuality and prostitution to be decriminalised. [8f][10b] J-Flag, the Jamaica Forum for Lesbians, All Sexuals and Gays, too has been campaigning for constitutional amendments, urging the parliament to provide for a Bill of Rights that would include "sexual orientation" among constitutional anti-discrimination protections. [9e]

6.56 "The law is mute on sex between women, but it remains a crucial element of the homophobic social atmosphere (compounded by militant traditional Christian beliefs) which harms lesbians as well." [9k]

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HIV/AIDS Sufferers

6.57 Jamaica's Health Minister John A. Junor has stated in public that "discrimination and stigmatisation" has resulted in job losses and violence against people battling with AIDS. It is acknowledged that people living with AIDS do their utmost to hide their condition from their families and communities for fear of ostracism and persecution. [8i]

The island's chief medical officer, Peter Figueroa, has admitted that the stigma is a major obstacle to treating HIV/AIDS in Jamaica. A major problem is the reluctance of the AIDS sufferers to take the HIV test, for fear of publicity and the resulting violence. According to the Health Ministry, one-third of all HIV/AIDS cases are diagnosed after death. [8i]

6.58 In Jamaica, HIV virus has reached epidemic proportions and almost a year ago the National Aids Committee proposed changing some 20 laws that activists say discriminate against people affected by HIV/AIDS. The legislative review has recommended many measures, including striking out quarantine laws that allow the government to isolate persons with serious illnesses, and changes to laws that cover social services and housing. The proposals also recommend mandatory or voluntary testing for both the victims and offenders in cases of sexual assault and that the HIV test results of all sexual offenders be made public to "their sex victims or their next of kin". However, activists have criticised the Government for its silence over this issue and unwillingness to create controversy before the general election of October 2002. [8i]

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Annex A: Chronology of Major Events

1655. Britain captured Jamaica.

1670 Jamaica formally ceded to Britain.

1838 Slavery abolished.

1938 Norman Manley founded the People's National Party (PNP).

1944. Universal adult suffrage introduced; new constitution providing for a Popularly-elected House of Representatives promulgated.

1962. Jamaica becomes independent within the Commonwealth with Alexander Bustamante of the Jamaica Labour Party (JLP) as Prime Minister.

1972. The PNP wins the general election and Michael Manley becomes Prime Minister.

1976. The PNP wins another election.

1980. JLP wins the general election and Edward Seaga is elected Prime Minister. Seaga proceeds to privatise state enterprises.

1989 Michael Manley is elected Prime Minister after PNP ousts the JLP in elections.

1992. Michael Manley retires on health grounds and is succeeded by Percival Patterson as the Prime Minister and the leader of the PNP.

1993. The PNP returned to office with an increased majority.

1998. The PNP wins a third term in office amid increasing crime and deteriorating economy.

1999. In April violent protests take place against a 30% increase in fuel prices.

In July the Government ordered the army to patrol the streets of Kingston following a massive increase in crime.

2001. In July troops backed by helicopter gunships, tanks and armoured vehicles moved in to restore order in capital, Kingston, after three days of unrest left at least 27 people dead.

2002. In January, the authorities announced that more than 1,100 people were murdered in Jamaica in 2001. This showed an increase of 30% over the previous 12 months, and the highest ever recorded in a single year.

In March, Britain's Privy Council, decided to halt executions in a number of Caribbean countries where capital punishment has widespread support as a deterrent to rising violent crime. Prime Minister P. J. Patterson criticised the move.

In June, Prime Minister P. J. Patterson and the opposition leader Edward Seaga agreed to a public ceremony to reduce tension among supporters in the run-up to elections. A code of conduct calls on parties to refrain from encouraging violence in politics. **[14b]**

16 October, the People's National Party was re-elected for the fourth term in the general election. This was the third consecutive election victory for Prime Minister Patterson.

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Annex B: Political Organizations

The People's National Party (PNP)

Was founded in 1938 by Norman Manley, who led the party until 1969. Until 1989 PNP adopted radical socialist policies, nationalising key industries. However, following his victory in the 1989 election, Manley abandoned the socialist policies of the 1970s and continued the programme of market deregulation and privatisation that had been implemented by the previous JLP administrations. In 1992 Percival J Patterson succeeded Manley as the party leader. In the 1997 elections, PNP secured 56 percent

of votes cast, giving Prime Minister P J Patterson a third term in office. [1c][1a] PNP continued its electoral success in the local elections, held on 10 September 1998, gaining control of all 13 local councils and winning 157 seats, compared with the JLP's 90. [1a] PNP is an affiliate of the Socialist International. [1c]

The Jamaica Labour Party (JLP)

Is a Conservative Party with a free market orientation. It was founded in 1943 by Alexander Bustamante as the political wing of the Bustamante Industrial Trade Union (BITU). [1c] After a period of power between 1980 and 1989, JLP has been the main opposition party. [1c] Edward Seaga has been leader since 1974, and seen off many political rivals for leadership, most recently in December 2000 from Mike Henry, a JLP MP. Mike Henry, a rural MP from Central Clarendon and a former minister in Seaga's government, had been in conflict with the party leadership for two years prior to the party conference in November 2000. His public expressions of dissatisfaction with Seaga had led to his suspension from holding party office until early 2000 when the suspension was lifted. During the November 2000 party conference Seaga succeeded in securing the backing of 90% of the delegates. [8a]

From the early 1990s JLP has been characterised by internal factionalism.

In 1995, Bruce Golding, Seaga's protégé, broke away and founded the National Democratic Movement. Despite the political rift between the two factions, the Canadian IRB only found one report of violence between them in the period 1995-2000. [4a] In the election of 1997 the party polled 39% of the votes. [1a]

The National Democratic Movement (NDM)

Was founded by Edward Seaga's former protégé, Bruce Golding, in October 1995 after a bitter split within the JLP. The split led to a number of violent incidents between JLP and NDM supporters in 1996. The party polled 5 percent of the vote in December 1997 but won no seats. Golding resigned as leader after a poor by-election result in March 2001. [1a]

The party has called for sweeping reform of Jamaican society and politics, pledging to tackle issues such as corruption in government and public contracts, police brutality and paramilitarism, judicial inefficiency, poor prison conditions and bureaucratic negligence. [1c]

There are reports that Golding has recently rejoined the JLP for the October 2002 election, leading to speculation that he is in line to take over the leadership when Seaga steps down. [8u]

Jamaica Alliance for National Unity (JANU)

JANU has just been launched in 2002 by a group of church leaders who seek to break the political domination of the ruling People's National Party (PNP) and the major opposition Jamaica Labour Party (JLP). [7b] JANU leader Barry Wade has challenged the Jamaicans to become more politically involved and has announced that it would endorse the nomination of suitable candidates from any other political party in the 2002 election. Party founders say JANU will dissolve after one parliamentary term of 5 years. [7b]

United People's Party

A new political party launched by the former talk-show host and lawyer Antoinette Haughton-Cardenas in 2001. [7b] The party contested the general election of October 2002 with 9 candidates. [10c]

Imperial Ethiopian World Federation Party (I.E.W.F. Inc.)

This is an organization with worldwide chapters representing Ethio-Africans and the

Nationalists in the geographical locations within politics. The International President is Bro. Ascento Fox who established the International Headquarter in Jamaica in 1983. The Imperial Ethiopian World Federation Incorporated Political Party was officially launched on 16 July 1997 and contested the 1997 general election with five candidates. The party's aim is to represent the Rastafarian community in the Jamaican Parliament and democracy. [16a] The I.E.W.F. Party nominated seven candidates for the election of October 2002. [10c]

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Annex C: Prominent People

Percival J Patterson

The leader of the People's National Party (PNP) since 1992. Has served as Prime Minister for three consecutive terms since 1992.

Edward Seaga

The leader of the Jamaica Labour Party (JLP) since 1974.

Bruce Golding

Founder of the National Democratic Party in October 1995. He had been a former protege of Edward Seaga and supporter of the JLP before his split from the party. There are reports that Golding has recently rejoined the JLP.

Antoinette Haughton

The leader of United People's Party.

Barry Wade

The leader of the Jamaica Alliance for National Unity, the new political party launched in 2002.

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