

STATE OF THE NATION DEBATE

PRESENTATION BY

**SENATOR THE HON. DOROTHY LIGHTBOURNE
ATTORNEY GENERAL AND MINISTER OF
JUSTICE**

**“DELIVERING ON OUR COMMITMENTS TO
JUSTICE AND HUMAN RIGHTS”**

February 13, 2009

WELCOME

Mr. President I welcome the opportunity to address this Honourable Senate in my first State of the Nation debate since assuming office in September 2007 as Attorney General and Minister of Justice.

It is a great honour and yet humbling to be given the opportunity to serve my country in this capacity, and I thank the Prime Minister, Hon. Bruce Golding, for the confidence he has reposed in me.

First, I wish to thank the Lord for his blessings and guidance in helping me to surmount the early challenges faced, and pray that he continues to give me the necessary wisdom and strength to cope with the tasks ahead.

I also want to thank my colleagues on this side for the tremendous support they continue to give me as Leader of Government Business in the Senate.

Mr President, I thank also my colleagues on that side for their cooperation – having overcome the initial discomfort and

disorientation of being on that side – and participation in matters coming before the Senate. Your interventions have, undoubtedly, resulted in better laws being passed.

Mr. President I wish to thank my Parliamentary Liaison and staff at the Ministry of Justice, the Office of the Parliamentary Counsel, Legal Reform, the Solicitor General and officers of the Attorney General's Chambers, my Consultants/Advisers, and staff of the several other Departments and Agencies. They have been unstinting in their efforts to ensure that I stay on course, and I thank them for their continued efforts and commitment to the work before us.

My thanks too to the Clerk and staff of this Parliament who I have always found very helpful. I want to specially laud the Hansaard Writers who work tirelessly to ensure that our deliberations are documented for posterity. I thank the Media too whose role in reporting on our deliberations cannot be minimized. Last but certainly not least, I thank you, Mr. President, for the leadership and aplomb with which you conduct the proceedings in this House.

Mr. President, while we were in Opposition we set out our vision and plans to make this country better, in our 2007 Manifesto; and there were those, Mr President, who mistakenly characterised our vision and the commitment to achieve it, as mere promises which could not be achieved.

My Government, Mr President, reaffirms its commitment to heed the cry for Justice made so stridently and for so long by the Jamaican people; and we reassert the view that we make commitments not promises.

OUR COMMITMENTS

Mr. President since assuming office in September 2007 my Government has made the delivery of justice and protection of the human rights of our citizens one of our primary objectives; and, we have been steadfast in pursuing this objective because as stated in our Manifesto -

“The justice system is indispensable to a free and democratic society. It is the ultimate source of protection of the rights of the citizen holding the scales between one citizen and another and between the citizen and the State. How efficiently and fairly its functions define the quality of our democracy and, indeed the quality of our lives”

Mr. President, it is a fact that we inherited a justice system groaning under the weight of years of neglect. There were, inter alia, -

- a severe backlog of cases in our Courts;
- inexcusably poor physical facilities;
- a shortage of competent staff; and
- archaic judicial and administrative procedures.

Mr President, to put it frankly, it was contemptuous of our citizens to subject them to a system which at best might appropriately be characterised as ‘ramshackle’.

It was imperative, therefore, Mr President that we change course in order to achieve the efficient and fair justice system to which we had committed.

Mr President, that is why, in our manifesto we committed to implementing most of the recommendations of the Jamaica Justice System Reform Task Force. There were no funds identified to implement the programme but we pledged to find the resources and provide the necessary policy framework for its implementation. We recognised, Mr President, that given the scope of the reform programme it has to be implemented over time: so we decided having regard to the resource constraints to direct our focus in 2008/9 to the following –

- Reducing the backlog of cases before the courts.
- Automating and modernizing the court processes.
- Rehabilitating the court infrastructure and increase the number of court rooms available for use
- Training and expanding the work force
- Increasing the number of judges of the Court of Appeal and the Supreme Court, as well as other key personnel

- Increasing the number of Prosecutors in the Office of Director of Public Prosecution
- Increasing the number of Resident Magistrate and provide them with the same security of tenure as Judges in the Supreme Court.
- Ensuring equity, fairness and access to persons using the justice system
- Improving the access to justice at the community level

In addition to this reform programme, the Government committed to undertaking certain initiatives to secure the fundamental human rights of our citizens and to improve the delivery of justice. We committed to -

- (a) seek the entrenchment in the Constitution of a new Charter of Rights to guarantee the fundamental rights of every citizen;
- (b) establish an Office of Special Prosecutor whose role would be to investigate and prosecute public officials and persons involved in corruption;

- (c) establish an Independent Commission of Investigations which would investigate cases of abuse of citizens by the Security Forces, and other agents of the State, and submit its report to the Parliament.
- (d) establish an office of Special Coroner who would conduct inquests into deaths of citizens which occurred in circumstances where the security forces and other agents of the State are involved;
- (e) introduce whistleblower legislation to provide protection for those persons who provide information on wrongdoing within organizations and institutions
- (f) modernize the laws relating to defamation so as to increase the possibility that those involved in corruption can be exposed;
- (g) ensure that judgment debts owed to citizens who have been injured by Agents of the State are paid promptly;
- (h) improve the disposition of cases by:
 - (i) establishing special courts to deal with specific subject matters; and

- (ii) recruit on a temporary basis retired judges and members of the private Bar to assist in clearing the backlog;
- (i) enact the necessary legislation to facilitate establishment of the Restorative Justice process as a recognized tool in the delivery of justice;
- (j) set up Community Justice Tribunals to resolve disputes between citizens that do not involve criminal offences.
- (k) Amend The Evidence Act so as to facilitate the use of Live TV links in the Court rooms and video recorded evidence.
- (l) provide the framework for handling criminal activities related to the internet and computer use and abuse -***The Cyber Crime Bill***
- (m) make the production, possession, exportation, importation and distribution of child pornography a criminal offence –***The Child Pornography Bill.***
- (n) establish the Regulations to allow for the bringing into force of the Criminal Justice Administration (Plea Agreements and Negotiations) Act 2005

WHAT WE HAVE DELIVERED

Mr. President, in this State of the Nation debate, I can now report to the Senate, that this Government and the Ministry of Justice which I lead are well on our way to delivering on the commitments made to improve the justice system and enhance the delivery of justice to our citizens. We are extremely proud of the progress we have made in the last sixteen months. We have begun to implement several of the specific changes we undertook to make and have laid the foundation for the rest.

CASE BACKLOG REDUCTION

Mr. President, the immediate strategy adopted to achieve this was by better utilisation of Court facilities. Emphasis was placed on the backlog in the Criminal Division of the Supreme Court and the Court of Appeal.

We have made provision to increase the number of Judges of the Supreme Court from twenty-six to forty, and in the Court of Appeal from the President and six to the President and twelve. It

is intended to bring on three (3) of these additional Judges for the Court of Appeal in April 2009.

We have increased the number of Masters from one to no less than four, and recruitment is now underway. As I mentioned earlier Mr. President, legislation has been amended to increase the number of Resident Magistrates by eight. This will include two judges for the Family Court. The number of Prosecutors in the office of the Director of Public Prosecutions has been increased by twelve and other staff additions will be made in the Supreme Court and the Office of the Director of Public Prosecutions (ODPP).

We have made available at least three (3) additional courtrooms in the Supreme Court to deal with criminal matters. Two of these are being used for Gun Court hearings, making a total of four (4) Gun Courts. This has been done by shifting civil matters to the three (3) caucus rooms at the Jamaica Conference Centre since mid October 2008.

We have amended the Jury Act to, *inter alia*, allow for the expansion of the jury pool and change the responsibility for the

service of process from the sole responsibility of the police. The Registrar of the Supreme Court will now in addition make arrangements for engaging process servers. This bill was passed late last year.

In addition Mr. President, the Director of Public Prosecutions is undertaking a review of cases so as to strike out those which are merely clogging up the system.

CASE MANAGEMENT

Mr. President, another of the strategies being employed to deal with the backlog problem is the introduction of Case Management targeted at the criminal courts. The successful implementation of Case Management will improve the ability of the Courts to set performance targets and predict the conclusion of cases brought before the Courts.

Mr. President, the British government has offered their assistance in this endeavour specifically in preparing the Judges, members of the public and private bar and staff of the criminal

registry for the introduction of case management. This programme of assistance will also include a public awareness programme which will be undertaken during the remainder of the fiscal year and into next year. The activities to achieve these objectives are being coordinated by the Justice Training Institute.

We estimate, Mr President that addressing the backlog issues will cost approximately \$103 million annually.

While these early measures are expected to make an immediate impact on reducing the backlog, we are also taking a more holistic approach. Last year, we commenced a Backlog Assessment Study, which involved the audit of criminal matters in the Supreme Court and the Resident Magistrate's Courts. This will help us to identify the scope and complexity of the cases and the dimensions of the backlog problem. It will also provide a basis to analyze proposed backlog reduction strategies for greater impact. Preliminary research has indicated that, as at July 2007, there were nineteen thousand four hundred and fifty-six (19,456) active cases in the Resident Magistrate's Courts.

Approximately forty (40%) percent, or seven thousand eight hundred and thirty-one (7,831) of these cases exceeded the 8-month time frame used in jurisdictions like the United States, Canada and the Republic of South Africa. Of this amount, approximately seventy-seven (77%) per cent of the cases were criminal, eighteen (18%) per cent were civil cases and five (5%) per cent were coroner's matters.

Findings from the Backlog Assessment of Criminal Cases, completed in October 2008 - a report is being prepared, also confirm that of almost twelve thousand (12,000) active criminal cases in the RM Courts, fifty-seven percent (57%) fall within the "backlog" status: these are active matters which have been in the Courts for a period of eight (8) months and more and have not yet been disposed of.

Mr. President, we recognize that there is a close link between the difficulties being experienced in empanelling jurors and the high backlog of cases in the system. Therefore, it will be necessary to examine the jury system to address issues like the increasing reluctance of citizens to serve. The limitations

previously created by the reliance on the Voters List, as the sole source of constituting a pool of jurors have been addressed. The recent amendments to the Jury Act allow for the widening of the pool from which jurors are selected to include the list of persons with Taxpayer Registration Numbers (TRNs) and the age limit for jurors increased to seventy-five (75) years.

The Ministry will continue to review the Jury System in the context of the recommendations from the various Task Force Reports during the next year, to identify areas in current practice that require change, as well as other relevant legislative amendments that must be made such as:-

- To re-examine the exempted categories of Jurors
- To revise the types of cases that can be tried without a jury

AUTOMATING AND MODERNISING THE COURT PROCESSES

Mr. President, modernization of the court system is next to impossible without appropriate technology. The government recognizes that requiring judges and magistrates to take notes in

long hand must become a thing of the past if we are to improve our rate of disposition of cases and solve the problem of backlog.

Mr. President, in fulfilment of another of our commitments, we introduced real-time transcription in the criminal courts of the Supreme Court. Four of our criminal court rooms were equipped with this technology for the Michaelmas term. This means that the judges who sit in these court rooms are able to have live access to the notes of evidence as the case proceeds. The judge is no longer required to take the notes by hand and can remotely access the record of each day's proceedings via computer. He is able to make notations and highlight via the computer during the proceedings for his own purposes and is able to do summations far more quickly than before. The court diary is being computerised to allow judges to fix dates in real-time, without the need for verbal consultation with the court registry. The Transcript of evidence in the recent Kilancholly murder case is now being edited and will be completed within the next two (2) weeks

Twenty-six (26) laptops and related support equipment were procured for the implementation of real-time transcription. Thirteen (13) Court Reporters were trained in the use of the real time transcription software and ten (10) Judges were also given practical training/assistance in the manipulation of the software. A user manual is also being drafted to which court personnel may refer for simple technical issues.

An additional four (4) courtrooms are now being provided with real-time transcription capability expected to be completed at the end of this month. In total twelve (12) courtrooms at the Supreme Court will be outfitted to accommodate the use of this software. We are currently in the process of implementing this system in the Court of Appeal and in court-rooms that house Circuit Courts islandwide.

In the Resident Magistrates Courts, we are seeking to implement a Digital Voice Recording System to automate the recording and transcription process. This system is less costly than the real-time automation being used for the higher courts, but can

produce transcripts in as little as 24 hours. The procurement process for this system has been initiated.

Resident Magistrates courts are also being equipped with internet services. This will facilitate research and online access to court forms. The following Resident Magistrate's Courts now have internet service:-

- Montego Bay – December 2008
- Mandeville – January 14, 2009
- St. Ann's Bay – January 15, 2009
- Brown's Town – January 19, 2009
- Morant Bay – January 19, 2009 (Court's office)
- Savanna-La-Mar
- May Pen – February 2009

We have begun the search for a consultant to assist with modernisation of the business processes that will promote increased efficiency in the Courts.

With the completion of the upgrading work currently underway at the Supreme Court to strengthen the communication and hardware infrastructure, we anticipate having the technology for case management in the Criminal Division of the Supreme Court and at the Office of the Director of Public Prosecutions fully implemented by the end of the current financial year. Immediately afterwards staff will be trained in the use of the various pieces of software. These include specifically the Judicial Enforcement Management System (JEMS) and the Prosecuting Attorney's software, (PAS). JEMS has already been introduced in the Civil Division of the Supreme Court.

We are currently in discussions with Professional Computer Software Services Incorporated, developers of several pieces of case management software used by our CARICOM neighbours, to position the Justice Training Institute as the authorized trainers in the Caribbean for the Judicial Enforcement Management Systems (JEMS).

We are working with the Clarendon Resident Magistrates Court as the pilot for the implementation of case management within the RM Courts, among other things.

Mr. President the Ministry is developing court forms for online availability to reduce the manual input of information and improve the pace at which information is included in the case files. The compact discs (CDs) have been circulated to the courts for implementation.

Mr. President, the development of websites to allow public access to information regarding cases or judgments is also being pursued. The Court of Appeal website has been designed and approximately seven hundred and thirty-one (731) judgments uploaded. Three (3) persons at that Court have been trained to use and post information on a test site. This will ensure maintenance of the site when activated. The ODPP's website is also being developed. These websites will be activated once full installation of the Ministry's newly procured high capacity servers is completed. Installation of these servers is in the final stages.

COMPUTERIZATION OF THE COURTS

Computerisation of the courts is ongoing and is normally done following the refurbishing of each Court. For this financial year, we anticipate that about 10 RM Courts will be computerised or have their desktop computers upgraded.

To date, we have delivered on this commitment in the following courts –

- (Supreme Court a part)
- Westmoreland RM Court (Savanna- la- mar) delivered September 2008
- St Mary RM Court
- Mandeville RM Court delivered August 2008
- Corporate Area Family Court delivered November 2008
- Hanover RM Court delivered August 2008
- Drug Court and Rehab. Centre (Corporate Area) delivered September 2008

- Drug Court and Rehab. Centre (St. James) delivered
September 2008

Other RM Courts that have computers are:-

- Brown's Town
- St. Ann
- May Pen
- Buff Bay
- Port Antonio
- Duncan
- Lucea
- Black River
- Port Maria
- Half Way Tree
- Montego Bay Family Court
- Westmoreland Family Court
- Lucea Family Court

In Kingston

- Civil Court
- Traffic Court
- Court of Appeal

- Office of the Director of Public Prosecutions

FIVE YEAR PROGRAMME FOR THE
REHABILITATION, CONSTRUCTION &
MODERNISATION OF COURT INFRASTRUCTURE

Mr President from a capital allocation of \$470 Million for this fiscal year \$237 million was used for court infrastructure improvement. The following projects were undertaken and are at varying stages of completion:

- Upgrading works on Court facilities at Claremont and St. Ann's Bay have been completed.
- Construction/refurbishing of Balaclava and Cambridge Courts are underway. In fact the Cambridge Court was formally opened on November 24, 2008.
- Refurbishing of the former Good year factory to provide a temporary home for the Morant Bay Court, and return the matters to the parish. We are also exploring other options.
- Acquisition of additional land for the construction of the new judicial complex in Morant Bay.

- Construction of one shelter for the Victims of Human Trafficking
- Furnishing of the Port Antonio Court house where raw construction has been completed.

Mr. President, I make a comment on the Port Antonio Courthouse which has been featured in the media in recent weeks. The factual background to the construction of this Court is that on February 1, 2005, Senator A. J. Nicholson on behalf of the Government entered into an agreement with the National Commercial Bank to exchange a heritage site property for the building of a new courthouse in 2006. Mr. President, there were clear inadequacies in the contract terms and plans agreed upon, based on the disputes which subsequently arose – eg responsibility for installing fixtures etc.

Sometime after I assumed office as Attorney General and Minister of Justice, I toured the new courthouse and identified several defects which would have to be resolved before the courthouse could function for its intended purpose. As a consequence I asked my property manager to inspect the Court

and submit a report. That report, Mr President confirmed that there were serious omissions, defects and deficiencies which required correction for the Court to become operational. Over Eighteen Million Dollars (\$18M) has been spent to date by the Ministry. The cost to remedy these defects and deficiencies was estimated at an additional Eighty-seven Million Dollars (\$87M).

Mr President, the problems identified were, inter alia -

- There was one less Courtroom than was agreed
- The Attorney's robbing room was constructed without bathroom facilities
- Leaking roof, toilets windows, leaking pipes and plumbing
- Location of the air conditioning unit, the stand-by generator and fuel tank at the main entrance to the building
- loading and unloading facility for detainees is woefully inadequate and insecure
- the parking and access to the building for the judges is very insecure and over exposed.
- Inappropriately constructed and potentially insecure holding area for detainees

- The police are unable to see all cells (which were subsequently installed) with detainees from the Station provided for them
- Insecure seals which allow the entrance of water after heavy rains

Mr. President, these problems arose during the tenure of Senator Nicholson and will have to be corrected at a cost of \$87M to the taxpayers, because of the inadequacies of the contract which he signed.

So Mr. President, you can imagine my surprise when I heard Senator Nicholson inquiring as to the status of the courthouse and demanding reasons for the delay in its opening! He more than anyone, should **know** why the opening of the Court has been delayed!

What we now have Mr. President is a building that looks beautiful from the outside but is absolutely non-functional for the purposes of a Courthouse.

None-the-less, Mr. President we are moving to ensure that the building is made suitable for its purpose, as quickly as we can.

As for the Courthouses across the island, Mr. President, the Cambridge courthouse was completed in August 2008, and construction of the Balaclava Courthouse is in its final stages. We have also signed the contract for the establishment of a shelter for victims of human trafficking and that facility is projected to be completed shortly.

The Ministry is in the process of acquiring the former National Commercial Bank (N.C.B.) property located at 52 - 54 King Street, Kingston in the area of the Supreme Court. This will facilitate the expansion and modernisation of the Supreme Court facilities and support the creation of a Justice Square.

The Ministry is seeking the relocation of the Accountant General's Office and the Post Office from Public Building West to facilitate the expansion of the Court of Appeal and the Director of Public Prosecution's Office.

During this year, we intend to rehabilitate at least 13 outstations to allow for the sitting of the Special Coroner, special sittings for

the additional RM matters when the circuit court is in the parish, and for the proposed Specialized Courts.

These outstations are located in: Claremont; Gayle; Linstead; Yallahs; Gordon Town; Porus; Santa Cruz; Savanna-la-Mar Main Court; Ramble; Cambridge; Clarks Town; Buff Bay; May Pen and Chapelton.

Mr President, Cabinet approval is being finalized for the acquisition of additional land for the Morant Bay Court and the construction of the Mandeville Regional Judicial Complex and the complex for Morant Bay is scheduled to commence in 2009/10, contingent of course on the budgetary provisions being made.

The St. Ann Regional Complex is at the preliminary planning stage. The Ministry has identified a suitable location for the Complex and we are awaiting the identification of the boundaries by the National Heritage Trust.

The Family Court in St. James is to be relocated and a new and suitable site has been identified and discussions are proceeding, subject to consultation with the stakeholders, and a valuation by the National Land Agency and private valuers.

Mr. President, the Ministry is seeking locations to house the Family Court (which has outgrown its present premises), the Traffic Court (which is a disgrace) and the Coroner's Court (which is shameful). The Jamintel building was identified but we are now advised that this building is not suitable for such a purpose.

In addition, Mr. President, with the passage of the amendments to the Coroner's Act establishing the office of the Special Coroner, we will be focusing on setting up the office at a cost of JA \$16 million.

THE CHARTER OF RIGHTS - Commitment (a)

Mr. President, in fulfilment of the commitment this Government made, this Bill entitled An Act to Amend the Constitution of

Jamaica to provide for a Charter of Fundamental Rights and Freedoms and for connected matters has been re-tabled in the House and in fact is ready for debate. As you are well aware Mr. President, the Bill seeks to entrench in the Constitution the State's guarantee of the protection of the freedoms and rights of every citizen in this Country.

Unfortunately, Mr. President, Parliament is not likely to be able to conclude the debate on this bill before we prorogue later this year and therefore the Honourable Prime Minister has advised that it would be allowed to fall off the Order Paper come the end of this legislative session, and that he would re-table it as a priority in the next legislative year.

Mr. President, we look forward to the passage of the Bill and to the other amendments to the Constitution which will be necessary to make it effective.

OFFICE OF THE SPECIAL PROSECUTOR -

Commitment (b)

Mr. President, since taking office, we tabled anti-corruption legislation to investigate and prosecute corrupt conduct and acts by public officials and those who carry out public functions. The Corruption Prevention (Special Prosecutor) Act was tabled last year and referred to a Joint Select Committee to consider and report on its findings. The Committee met several times and heard submissions from various stakeholders and is to commence clause by clause analysis of the Bill shortly. Mr. President, the Office of the Special Prosecutor will be a Commission of Parliament with the specific mandate to receive the statutory declarations from public officials and to prosecute public officials who engage in corrupt conduct. It will be an important tool in the restoration and maintenance of public trust.

THE INDEPENDENT COMMISSION OF INVESTIGATIONS – Commitment (c)

The Independent Commission of Investigations Bill will repeal the Police Public Complaints Act, and provide for the establishment of a Commission of Parliament with a specific mandate to investigate abuses of citizens by the Security Forces and Agents of the State. The Bill has been tabled and referred to a Joint Select Committee last year. The Committee has benefited from extensive consultations with stakeholders and is in the final stage of the preparation of the committee report. It is expected that the Committee will report to Parliament before the end of this legislative year.

SPECIAL CORONER – Commitment (d)

Mr. President, the Special Coroner will exercise jurisdiction, as Coroner, in relation to deaths of citizens which occur in instances which involve security forces and other agents of the State. The Bill has been passed by both Houses. The establishment of this Office Mr. President will go a far way to

ensuring expeditious resolution of these types of cases, as well as providing increased transparency and accountability of the State and its agents in these circumstances.

WHISTLEBLOWER LEGISLATION – Commitment (e)

Mr. President, a “green paper” outlining the broad concept of whistleblower legislation as it has developed internationally, identifying relevant issues and the government’s provisional views has been tabled. Public consultations were recently concluded and a Cabinet submission is being prepared to seek approval for drafting of a bill. The purpose of the Bill is to encourage citizens to give information about an act of wrongdoing or procedural breach which occurs within the organization in which that person operates by providing them with the requisite protection from prosecution and victimization.

DEFAMATION–Amendments of Law(s) – Commitment (f)

Mr. President, a Joint Select Committee to review the Defamation Report of the Task Force appointed by the Honourable Prime Minister has been named. That Committee is preparing to meet before the end of this legislative year. The law when amended, Mr President will facilitate the exposure of corrupt officials who will not then be able to use it as a shield, and the result should be a renewal of public confidence in public officials.

JUDGMENT DEBTS – payments of – Commitment (g)

Administrative procedures have been introduced by the Ministry to expedite payments within sixty (60) days of being given the judgment by the Attorney General's Department and this will be monitored to determine their effectiveness. We are on target up to January 2009.

DISPOSITION OF CASES – Commitment (h)

This establishment of Special Courts is dealt with under the Justice Reform Programme and the recruitment of additional Judges and Resident Magistrates.

RESTORATIVE JUSTICE – Commitment (i)

Mr. President, the implementation of a system of Restorative Justice has been recommended as one of the mechanisms for reduction of the case backlog as well as a means of allowing citizens to reach just resolutions of disputes. Restorative Justice focuses on mitigating the harm that wrongdoing causes to people and their relationships and seeks to restore the relationships among all who are affected: the victim, the perpetrator and the community.

Earlier this month, we observed the third “Restorative Justice Week”, on the proclamation of the Governor General. We commemorated the observance of this week with two religious

services and conducted two “re-socialization” exercises with children who have been affected by violence and other forms of abuse. These exercises were led by the Victim Support Unit of the Ministry of Justice with the objective of assisting youngsters to cope in the wake of crime and violence and conflict within their communities. We also held public panel discussions to engage the community in dialogue about the principles of restorative justice with the aim of sensitizing them on the need for community support.

Mr. President, a total of twenty-three (23) public consultations across the island have been conducted in which the views of a wide cross-section of the community were sought. Civic and religious leaders, security personnel, school representatives and ordinary citizens participated in these discussions. Their views have been considered and will be reflected in the National Restorative Justice Policy document which is now being finalized by a Committee for submission to the Cabinet.

Mr. President, this administration’s commitment to the processes of alternative dispute resolution has been

demonstrated by an increase of the subvention to the Dispute Resolution Foundation (DRF) to approximately \$19 million for expansion of their mediation services. The revised Civil Procedure Rules have made it obligatory for civil cases to be referred to mediation and therefore the demand for these services has increased. This increased funding will assist in meeting those demands.

COMMUNITY JUSTICE TRIBUNALS – Commitment (j)

Mr. President, in tandem with our thrust to institute restorative justice practices, we committed to the establishment of Community Justice Tribunals. These tribunals are to be conducted by Justices of the Peace and other legitimate community leaders who will resolve disputes between citizens that do not involve criminal offences. This new regime contemplates that matters are heard with the consent of the disputing parties and agreed settlements enforceable by the Courts.

The policy to govern the establishment and operation of these tribunals is now being developed. In order to enhance the capacity of the Justices of the Peace to serve in these tribunals, we will focus on developing and delivering specialised training through the Justice Training Institute (JTI) with competent consultant support.

We are already taking steps to establish at least four Community Justice Tribunals. The communities proposed are Granville in St. James; May Pen, Clarendon; Spanish Town, St. Catherine; and one other community to be selected. May Pen and Spanish Town already have Peace and Justice Centres, which will be used to facilitate the establishment of the Community Justice Tribunals in these communities.

We are now at the stage Mr. President where we are seeking the requisite expertise to assist in developing the framework for the establishment and operation of these Tribunals.

The Ministry is now organizing its third International Restorative Justice Conference for May of this year, with

emphasis on Community Justice Tribunals. We expect to have facilitators not only to present papers but also to train Justices of the Peace and citizens at the community level.

Mr. President, several other pieces of legislation are currently underway which will support our efforts at protecting the rights of our citizens and improving the delivery of justice. Some of these include: the Sexual Offences Bill which is currently being debated in the House. This bill will criminalize sexual offences particularly against our women and vulnerable children and provide for a Sex Offender registry so that those who prey on the vulnerable in our society will always be identifiable. Our people have been crying out for this bill for a long time and finally Mr. President, it has been delivered!

DRAFT BILLS – Commitment (k),(l),(m) & (n)

Mr. President the drafting of the Bills listed below is well advanced and should be ready in the next financial year -

- The Evidence Amendment Act to facilitate the use of Live TV Links in the courtroom to hear witness testimony while protecting them from the dangers of appearing in person;
- The Cyber Crime Bill to handle criminal activities related to the Internet and computer use and abuse;
- The Child Pornography Bill to make the production, possession, exportation, importation and distribution of child pornography a criminal offence. This Bill has now been submitted to the Legislation Committee, prior to being tabled in Parliament.
- Regulations to allow for the bringing into force of the Criminal Justice Administration (Plea Agreements and Negotiations) Act, 2005 are also being finalized for the consideration of Parliament.

Our commitment, Mr. President, has been demonstrated by the speed with which we have moved to table these Bills, all of them critical to justice reform and human rights. We have considered in Legislation Committee over forty-five (45) Bills and this is not only a considerable achievement in just sixteen (16) short months in office, but also an important indication that

we will ultimately fulfil all the commitments included in our election manifesto.

Mr. President, I will now underscore other critical issues being addressed by my Ministry for the rest of financial year 2008/2009 as well as our plans for 2009/2010.

JUSTICE SYSTEM REFORM

Mr. President, the problems affecting the justice system are well known.

We have had numerous studies, including the Justice Undertakings for Social Transformation (JUST) Report and the Justice System Reform Task Force (JJSRTF) Report. In both cases, comprehensive recommendations were made for specific improvements to the justice system. While our problems were well studied under the previous administration, no funding was identified to implement the recommendations made.

Mr. President, this is about to change. I am pleased to report that a five-year justice system transformation framework

Agenda has been delivered by the Consultant and a Submission to Cabinet for its approval is being finalized. This framework creates a vision for justice reform and sets out seven strategic objectives towards achieving that vision. We have identified discrete priorities from the wide range of reform recommendations made over the last few years. These priorities have been set in consultation with some of the key public and private sector stakeholders within the justice system, and are designed to secure the highest return on our investment.

International Donor Support

This justice reform framework will do more than provide a five-year focus for the Government of Jamaica. It creates a set of detailed plans around which our international donor partners can base their support. This will be particularly important as the reform agenda is estimated to cost J\$6 Billion over the five-year period.

The development of the reform agenda is expected to fulfil several of the prerequisites for the release of a \$33 Million

EURO programme of budget support to the Government of Jamaica. These funds are expected to shore up reforms in the areas of governance, justice and security.

Already, several other funding partners have voiced their support for justice reform. We will be launching significant donor-funded initiatives in the coming financial year.

The Canadian Government through the Canadian International Development Agency (CIDA) will be providing technical assistance and financial support to the justice reform process. Their Justice Undertakings for Social Transformation (JUST) programme last year obtained approval from the Canadian Minister for International Development. This will be in the amount of CAN\$18 million dollars over a four year period.

The Canadian Government is also teaming with the United Nations Development Programme (UNDP) to provide financial support for the implementation of several restorative justice initiatives. These will complement components of the government's social intervention strategy.

Other donor partners, including the British and American Governments and the United Nations Children's Fund (UNICEF) are now able to align their programmes to a vision for justice reform and a detailed framework for achieving that vision.

We are also challenging the private sector to come on board and give tangible support to the reform process.

There is much opportunity for collaboration. The framework identifies and costs priority initiatives that this government will lead, once Cabinet has given its approval, around seven key objectives:

- (1) **The first objective is that of ensuring the fair and timely resolution of cases.** The immediate aim is to provide the courts with the medium and long-term support needed to eliminate the problem of backlogs. By reviewing the structure and organization of the courts and modernizing court processes, the likelihood of repeating past mistakes will be reduced. There are wide-ranging initiatives planned for the Office of the Director of Public Prosecutions, which

will also have an impact on the pace at which criminal cases are prosecuted. Other activities to be undertaken over the five-year period are:

- The introduction of **automatic referral to mediation in Resident Magistrates Courts**
- The establishment of a **Regional Supreme Court** in Western Jamaica
- Expanding **Night Court facilities** at the Resident Magistrates level to all parishes
- A comprehensive **review and restructuring of the jury system**
- Strengthening the human resource support provided to judges by **introducing an expanded cadre of judicial clerks**. This will be done at the Court of Appeal and Supreme Court levels.

(2) **The second objective is to improve access to justice:** The review and expansion of the **legal aid system** is at the heart of this objective. It ties in with the Ministry's focus on restorative justice and community engagement. The intention is to ensure that our citizens gain a better

understanding of laws and the justice system. This will be achieved, *inter alia*, through the following initiatives:

- The **review and expansion of the existing legal aid system**;
- Commissioning a **mobile legal aid clinic** that can service communities across the island;
- Expanding our **website to provide wider legal information to the public**. This will include simplifying some of our forms for ease of use by non-attorneys. Those forms, and the entire Civil Procedure Code, will then be placed on our website.
- We see the need additionally to **translate some key pieces of legislation into ‘user-friendly’ language**. This will give our citizens a better understanding of their rights and responsibilities under the law.
- By the same token, we will also **review and strengthen the process by which new legislation is publicized**.

- We will be **expanding the remit of Justices of the Peace** to remove some of the burden of adjudicating more mundane matters from Resident Magistrates.
 - Our proposed **Community Justice Tribunals** will support these initiatives, providing an avenue for communities to resolve disputes that do not involve the commission of a criminal offence.
- (3) As with any transformation process, the success of this initiative will hinge on the human factor. Our third objective, Mr. President, is to **strengthen the judiciary and workforce**. Extensive training and capacity building initiatives are planned for every institution within the justice system. As such:
- We will **expand court employee training programmes** to highlight the importance of such issues as customer service and human rights
 - We will explore the introduction of a **continuing legal education programme for the bar**.

- We will be introducing a **judicial exchange programme** that allows our judges to benefit from learning opportunities in other jurisdictions.
 - We have begun and will continue to **expand the number of judges and prosecutors** serving our courts.
 - We will seek to **provide our Resident Magistrates with the same security of tenure** currently provided to High Court judges.
- (4) The fourth objective, Mr. President, is to **strengthen linkages between justice sector institutions**. The justice reform framework provides a coordinated approach to the delivery of justice. It involves strengthening all the major departments within the justice system. It will also rely on close collaboration between the Ministries of Justice and National Security. Some of the specific initiatives that will be undertaken are as follows:

- **Reviewing the structure and roles of the Ministry of Justice** to ensure better service to the Government of Jamaica.
- **Strengthening and expanding the Office of the Chief Parliamentary Counsel.** This process has already begun. When completed it will enable us to provide more timely drafting services to other Ministries and agencies.
- **Strengthening the Law Reform Unit** within the Ministry to give it a more autonomous and proactive mandate.
- Establishing a **Cross-sectoral Efficiency Savings Team** to maximise the justice sector's use of public resources.
- **Strengthening the collaboration between the Office of the Director of Public Prosecutions and the police.** This will be designed around the specific objective of improving the evidence gathering techniques of the police. It will not be designed to blur distinctions between prosecutorial and policing functions.

- We will also seek to work with the Jamaica Constabulary Force to **strengthen aspects of the Witness Protection System**. We will seek to simplify the involvement of witnesses during the pre-trial phase by introducing video-recording of interviews. There will be further amendments to the Evidence Act to protect vulnerable witnesses.
 - We will be exploring partnerships with **the Forensic Laboratory**, to improve the capacity to produce scientific evidence in a timely manner. We will also be exploring the use of DNA evidence in Courts.
- (5) The fifth objective, Mr. President, involves **establishing a sound Court infrastructure**. We have already put immediate measures in place, which I will summarise for you shortly. Plans for the improvement and rehabilitation of court infrastructure have been consolidated within the framework. The aim is not only to improve court buildings but to ensure that they are user-friendly in design. This will be achieved through:

- Developing a **Court Facilities Master Plan**. This will establish some basic standards that will be integrated into the design of every new or refurbished court room.
- (6) Mr. President, the sixth objective speaks to **implementing a social component to the delivery of justice**. ‘Justice’ as defined by the man on the street includes activities far outside of the reach of any Ministry of Justice or courtroom. This objective acknowledges that in order for us to have a successful justice system, social issues must be addressed. Here, partnerships between the institutions of justice and social programmes will be essential.
- As a key strategy, we will be working through **Peace and Justice Centres island wide**. The number of such Centres will be increased to 10. Staff will be trained to provide mediation services to community members.
 - The Peace and Justice Centres will become a hub for **providing legal information and know-how to those communities most affected by violent crime**. They

will be linked into the planned expansion of the legal aid system.

- The Centres will also become **a hub for other social programmes**, such as parenting training. The objective is to tackle those social issues that are thought to be causative factors in the breakdown of the rule of law. We are inviting partnership with international donors, the private sector and other non-government entities to make this vision a reality.
- We will be seeking to establish **four new Family Courts** over the next five years.
- The **Victim Support System will be strengthened** and laws tabled to facilitate victim compensation.
- **Youth Diversion Centres** form another critical component of this strategic area. The objective is to redirect first-time offenders from the penal system with a view to reintegrating them into society.

(7) Finally, Mr. President, we will be seeking to **strengthen public trust and confidence in the justice system**. Having undertaken all the extensive changes planned, we need to

bring the public on board. This will involve creating a strong role for public participation in the ongoing process of justice reform. It will also involve public education and communications programmes to familiarize the public with changes being made. To support these plans:

- We will be developing a joint public education strategy for the justice system. This will aim to **develop public expertise in using the justice system.** It will also **promote values such as conflict resolution**, which will reduce the demand on the courts.
- We will be introducing **codes of conduct for the courts** in order to improve judicial accountability.
- This strategic area is **linked to the planned establishment of the Office of the Special Prosecutor.** The aim is to raise public confidence in the government's ability to police its own agents.

Mr. President, with the momentum generated in the last 16 months we are confident that the improvements planned for the justice system in fiscal year 2009/2010 will be delivered.

Justice Reform Implementation Unit

The justice transformation framework Agenda sets out an institutional component that will guide the process of implementing reforms. At the core of this is a Justice Reform Implementation Unit. The Unit will be the justice reform hub within the Ministry and has the following broad objectives:

- **To coordinate government** initiatives in the justice reform process;
- **To identify and resolve major problems** in the implementation of justice reform;
- **To monitor and evaluate** all justice reform related initiatives and ensure that the objectives of the Government of Jamaica are being achieved.

We have already begun the process of setting up this Unit. In this way, we will have the capacity to put the reform

implementation in motion once the justice reform framework is approved.

Space has already been identified within the Ministry for housing the Unit. We have also initiated the process of recruiting a six-person team. They will be contracted for a four-year period with the kind assistance of the Canadian International Development Agency. The Unit should begin to assume its functions before the end of this fiscal year.

Monitoring Justice Reform

The framework further defines a monitoring and evaluation mechanism designed to ensure that momentum is maintained over the next five years. Strategies will include the convening of inter-sectoral, policy-level groups to move through any blockages that emerge.

One such group that the Ministry already benefits from is an **Advisory Council on Justice Reform**. The Council provides a necessary external perspective to the reform process. It is

envisaged that other broad-based stakeholder groups will be brought on board and that civil society will have an integral role in shaping reform initiatives.

STRENGTHENING OF THE INDEPENDENCE OF THE JUDICIARY

Mr. President one of the observations of the Justice System Reform Task Force was the issue of the independence of the judiciary. This Government is extremely aware of how important this is in the effective functioning of our democracy. To that end, we have begun the implementation of various recommendations to ensure and strengthen the independence of the judiciary.

COURT MANAGEMENT SERVICE

Mr. President, critical to this mission is the establishment of a Court Management Service (CMS). This service will be structured so that the Chief Justice will have complete autonomy in relation to human resources, finance and accounting, internal audit and statistical functions of the Courts. Cabinet gave approval in September 2008 and the Ministry of Finance and the Public Service gave approval for the creation of the various posts needed with effect from January 1, 2009. The Office of the Services Commissions will now commence recruitment of suitable personnel to staff the CMS.

Once the CMS is up and running, it will be responsible for all administrative payments, including salaries, allowances, utilities and payments to suppliers related to the Court of Appeal, the RM Courts, the Supreme Court, the Family Courts and Revenue Courts. The Ministry will however, continue to manage the capital budget for court infrastructure and to provide oversight and support for the information technology needs of the Courts.

JUSTICE TRAINING INSTITUTE (JTI)

Mr. President, one aspect of ensuring the independence of the judiciary is in the provision of training and support services. As far as capacity building is concerned, the Justice Training Institute continues to support the management of the Courts by supplying training and development programmes for court staff. In collaboration with the Chief Justice, the President of the Court of Appeal, the Victim Support Unit, the Norman Manley Law School, and the Ministry of Justice, the JTI has also started to develop special training programmes for Judges, Resident Magistrates, Clerks of Courts, Prosecutors, as well as staff in the Victim Support Unit of the Ministry.

A total of thirty-four (34) members of the court staff received Court Management training in August 2008. This was achieved through a programme conducted with technical expertise from the National Centre for State Courts. To date, the JTI also provided training to two hundred and thirty-six (236) Justices of the Peace as part of the ongoing training requirements for this group.

JTI continues to offer a Restorative Justice Training Module as a component of its Paralegal Studies Programme. It has also provided support to the Ministry in the island wide public consultations on Restorative Justice. Human Rights training has also been woven into a number of its training programmes.

Mr. President, the Justice Training Institute is therefore being repositioned to respond to the increasing demand for competent professionals as a result of the Ministry's Justice Transformation Agenda. The Institute has been registered as a tertiary level institution by the University Council of the Jamaica. It is expected that it will become a regional training entity, providing courses for Judicial Education and programmes for all categories of workers in the justice system. The Institute is to assist in strengthening the Judiciary and its institutions to achieve the initiatives included in the reform of the Justice System.

Mr. President, I am happy to inform this Honourable Senate that we have recently recruited a former prosecutor from the Office of the Director of Public Prosecutions. She is Mrs. Graham-

Allen who has served as Director of Public Prosecutions in Bermuda and Deputy Governor of the Island of Bermuda. She will now drive the agenda to achieve full accreditation of the JTI as a tertiary institution.

INDEPENDENCE OF THE PROSECUTORIAL SERVICES

Mr. President, the Jamaican Justice System Reform Task Force Report made a number of recommendations primarily directed at rationalizing the functions of the Office of the Director of Public Prosecutions (ODPP), strengthening its capacity and clarifying the relationship between the Office and the Courts.

A review of the ODPP done during the inception phase of the CIDA funded JUST Programme was completed in June, 2008. This report was laid in the Senate. The ensuing report provides an overall framework for reform and contemplates significant changes in a number of areas to allow for greater accountability, independence and efficiency in the Office of the DPP. These include;

- Improvement in the legal framework of the Office, the appointment process and duration of the mandate of the DPP
- Relationships with other components of the Criminal Justice System, including the Ministry of Justice, the Judiciary and the Police
- Modernisation of its operations to include the introduction of case management
- Absorption of the Clerks of the Court into the ODPP

Some of these proposed reforms, e.g. Case Management, Computerization can be introduced in the coming financial year, as funding has already been secured through the Canadian government. The aim, Mr. President, is to significantly improve our track record in prosecuting major crimes.

In order to strengthen the capacity of the prosecutorial services, the ODPP employed seven (7) additional Prosecutors to boost its complement and engaged eight (8) former Prosecutors to assist in the reduction of the backlog of files in that office.

We are also in the process of acquiring through the assistance of the United Kingdom Government, Prosecutors to assist in the training of young Prosecutors and Case Management to strengthen the Department.

THE OFFICE OF THE CHIEF PARLIAMENTARY COUNSEL

The Office of the Chief Parliamentary Counsel has also been the subject of a study under the JUST Inception Phase. The objective of this exercise was to take a more detailed look at the organisation of our drafting services.

Mr. President, our small team of legislative drafters has been stretched to capacity by the host of Bills developed during this past year. As we prepare to strengthen and expand the core of legislative drafters, we want to ensure that the human resource needs of the department are fully understood. The department's work processes must be designed to achieve the highest levels of efficiency. That review is still ongoing. A report is expected within the next few months.

Mr. President, it has been a common strategy in the last year to source short-term solutions while developing long-term approaches. We are thus in the process of acquiring a small team of highly specialised drafters to give hands-on support to the department over a six-month period. This is being done with the kind assistance of the Government of Canada.

This team of expert drafters will be able to push through several critical pieces of legislation needed to facilitate reforms in this and other sectors. We have also requested a deliberate process of mentorship and training to ensure that our own drafters benefit permanently from the experience.

PUBLIC EDUCATION

Mr. President, the Government values public education as a tool for informing the country about all the developments which I have mentioned, and to answer any queries that may have been triggered by changes. More importantly, we recognize it as a

tool for sensitizing our citizens to the vision of doing business differently in a fair and just society.

The priority areas of work and the wider objectives of the Ministry of Justice will be shared with the public, so that they can become totally involved in the process. We will be using a broad spectrum of communication strategies to achieve greater awareness of our plans, programmes and achievements, particularly as it relates to:

- reducing the backlog in the courts;
- introducing the National Restorative Justice Policy; and
- establishing full independence of the judiciary by increasing their autonomy

This communication strategy includes:

- Print material and special publications for mass and targeted distribution;
- The staging of community presentations;

- Print and electronic media advertising;
- Special media interviews, including sponsored radio broadcasts;
- Periodic media briefing sessions

Our citizens will be informed Mr. President as we fulfil our commitment to them to provide a fair and efficient justice system.

LEGAL AID

Mr. President, I want to touch on the issue of legal aid. This government is committed to the providing its citizens with access to justice when their rights have been violated. The Ministry of Justice therefore recognizes that a functioning legal aid system is crucial to the protection of the rights of all Jamaican citizens.

Mr. President for some time our Legal Aid System functioned by borrowing legal services. What do I mean by that? We were in serious arrears with the fees paid to legal aid lawyers. As at the 31st March, 2006 payment of \$32,642,000.00 was made to

one hundred and twenty (120) lawyers. As at the 31st January, 2009 arrears and current claims amounted to \$6.8 Million submitted by fifty-one (51) Attorneys. Mr. President I am sure you are sensitive to the cry of legal aid lawyers, and their tireless dedication to their clients for little compensation! Since then the Legal Aid Council has begun a review of fees paid to Legal Aid Lawyers, in light of current inflation. The Council has had consultation with the Advocates Association and the Jamaican Bar Association. The Advocates Association has submitted its recommendations, and those of the Jamaican Bar Association is awaited.

The Council is to expand its reach through the establishment of a Mobile Legal Aid Clinic, which will acquire demographic data that will inform the establishment of additional Legal Aid Clinics island-wide. The Council will be seeking the approval for posts required to operate the clinics, the acquisition of the mobile unit and the establishment of a base location.

Mr. President, clients for legal aid are assessed on the basis of means or more simply, their ability to pay. The Executive

Director of the Legal Aid Council makes monthly visits to the Courts to establish the level of consistency with which means tests for clients are being administered. The Council will use the information garnered to assist the formation of policy in this area.

The Council has started to implement Weekend Duty Counsel to strengthen access and increase the use of the Legal Aid system. Four Corporate Area police stations– Hunts Bay, City Central, Half-Way-Tree and Constant Spring, and the Greater Portmore Police Station are piloting this approach. The Ministry will spend approximately JA \$15 million on these pilots. Mr. President, our citizens must be afforded access to justice if they can't afford it for themselves. This government believes in that and we will deliver on that!

NATIONAL PLAN FOR CHILD JUSTICE

Mr. President, the previous administration developed a National Plan for Child Justice (NPA) which received Cabinet approval in 2006/2007. The Cabinet at the time instructed that legal

advice should be sought on the legislative changes that would be required to implement the Plan of Action. That advice has now been provided and we are presently awaiting comments from the relevant Ministries and Agencies.

The immediate task is to create 13 Diversion Centres across the island, to facilitate diversion of first time youth offenders into structured community based programmes. But, while we await the enabling legislation, we are continuing with efforts to identify and equip Diversion Centres facilities. Office furniture and computers have been provided by the European Development Fund (EDF), under the SERP III Programme, at a cost of approximately \$13 million and other activities continue to support this National Plan.

VICTIM'S CHARTER

Mr. President this administration is committed to providing for the protection of victims and vulnerable witnesses. To that end, a Victim's Charter is being developed at a projected cost of six hundred million Jamaican dollars (JA \$600M). The Charter will

comprise policies, programmes and initiatives to support victims of crime and to ensure that they receive fair and just treatment throughout the criminal justice process, while respecting the rights of the accused person. The expectation is that the victim will be more encouraged to come forward and the feelings of hurt and alienation will be reduced.

The proposal is that the Charter be expanded to include a regime for compensation to victims of other incidents such as cases of injury involving uninsured vehicles.

TRAFFICKING IN PERSONS

Mr. President we are very much concerned about certain reports which suggest that we are not doing enough about the crime of trafficking in persons (TIP).

Mr. President, nothing could be further from the truth. The Government is moving to establish shelters at strategic locations across the island starting with the first one in this fiscal year.

The operations of the shelter will require inter – ministerial collaboration to ensure that they are secure and that all required services will be available to victims.

A Trafficking in Persons Unit has been established by the Jamaica Constabulary Force and the Ministry of Justice will be seeking to educate the public about this issue.

Through the Justice Training Institute and with the instrumentality of the International Organisation for Migration (IOM) we have already trained one hundred and thirty-seven (137) staff from the various Courts, the Victim Support Unit, and the Jamaica Constabulary Force (JCF) in Anti-Human Trafficking. This training was specially targeted at victim-assistance services.

Mr. President, let me say it clearly, the Government of Jamaica views with abhorrence those who engage in this horrible crime and particularly those who abuse our women and children who are the primary victims of this offence. We will continue to do

all within our power to ensure that our people are protected and that those who engage in these crimes are brought to justice.

CLOSING

Mr. President, the challenges facing our country and our people are indeed formidable. But Mr. President, we on this side, are confident that with faith and determination whatever the obstacles, we will overcome. We have made commitments to improving the lives of our people and we intend to deliver on those commitments. We may not achieve everything in the time we would have hoped but achieve them we will. We remain resolute that the foundations on which we have built our programme of governance and the principles on which this government stand are sound. We remain committed to them and with God's help and the continued support of all well thinking Jamaicans we will achieve them.

Thank You