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# Enhancing Democracy in Jamaica: Key Issues and Strategies

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**Working Paper #01-12**

March 25, 2013

# Abstract

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This paper proposes that optimal policy-making requires democratic changes to strengthen the voice of the people so that they can effectively choose the best policy option, and provides an algebraic foundation for the proposition. It is argued that the core changes relate to improvements in *representative* and *direct* democracy given the limitations of the existing constitutional and legal framework vis-a-vis wider participation of the people in the policy-making process. The paper focuses on four strategic designs that are posited as necessary for achieving enhanced democracy and concludes that particular policies must be developed to implement the strategic designs in order to enable Jamaica to achieve its social and economic objectives.

## 1. Introduction

Jamaica is once again clamouring for new foundations for social engagement and, in particular, calling for ‘change’, good governance, and democracy. Whatever the terminology used, the high level of social turmoil that leads to changes of political leadership is rooted in citizens’ desire for a new social contract between the government and themselves, one that will give them greater access to social and economic benefits. In other words, the citizenry wants an end to the domination of the old oligarchy. The search for a new social order is as old as the Jamaican social experiment – the 370-year-old process of transforming a plantation economy and society.<sup>1</sup>

Social turmoil makes great demands and may shake up the old order, sometimes bringing down governments in the process. Such actions, however legitimate, should not be taken to represent the main basis for the creation of a new society. The turmoil that leads to a change of governing parties might appear to be enabling to the majority, but history teaches us that simply changing one set of leaders for another has not necessarily resulted in socio-economic development. Jamaica’s history instructs us that a major barrier to meaningful change is the poor scientific interpretation informing the strategic design of political initiatives. Attempts to design effective change without the guidance of reliable scientific conceptualisation and evidence stand only a minimal chance of success.

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<sup>1</sup> Transformations of the social order are found in different manifestations worldwide. See for example; Little, D. (2007). “Logics of History: Social Theory and Social Transformation” *Journal of Social History*. 41 (1) 181-5.

The aim of this paper is to establish scientific foundations for meaningful changes in the democratic framework of Jamaican society. To this end, the paper focuses on three pertinent issues. The first is the importance of democracy in the policy-making process, including the setting of national social and economic targets. The second is the need to explore representative democracy and direct democracy by focussing on the core issues of democracy and good governance. The third issue is the need to assess the existing constitutional/legal framework to determine the extent to which it adequately enables the people's voice to be heard through their political representative or through other mechanisms.

The paper also provides solutions, outlining four core strategic designs for enhancing democracy and achieving new social and economic conditions. The strategic designs show the required adjustments to the executive function, the functioning of political parties, and the actions of the people in their capacity as the "owners" of Jamaica. The paper argues that specific policy choices must be made to implement the core strategic designs for enhancing democracy in Jamaica and that this is the only way that the nation can achieve the social and economic targets that maximize social welfare.

## **2. Democracy Matters in Setting National Targets**

Jamaica is a society with valid claims of sovereignty over its territorial space; it is a demarcated geopolitical unit. As a society, its citizens have a concept of the common good, which can be broadly conceived to include a set of social and economic targets that should be achieved over some finite period.

Where the economy is concerned, the Gross Domestic Product (GDP), employment, trade, and net present value and investment are linked targets of democracy that, fortunately, are definable and measurable. By contrast, while democracy and self-generating freedom are the essence of civilized nationhood, and are the social fabric that supports the realization of economic goals, defining and measuring them is conceptually difficult. We therefore need to examine the nexus between strategic design of good governance arrangements and the achievement of social and economic goals.

Two key assumptions are posited. The first is that social and economic targets are set to maximize overall social welfare. The second is that policy makers do in fact represent the public interest and respond to the will of the society in some relevant sense. For example, the typical firm operating in Jamaica's markets is concerned to maximize the net present value from its investments; and the objective of the policymaker is to create an environment that optimises investments to yield the greatest returns to firms and to the country, typically by varying interest rates.

Since investment in one period affects investment in the next, the worse the investment performance of the economy in the past, the lower the rate of interest government will pursue in the current period in order to boost current investment. Technically, the design of effective strategic government interventions would require several conditions to hold, such as measurable target variables, a structural model of the economy, and policymakers having control of strategic instrumental variables. Depending on the assumptions used, such as ‘steady state’ (that is, steady growth) or autonomous growth, it can be shown that when government uses policy-driven investment to address the development challenges, there are multiple solutions that can be chosen, not always on a technical basis [see **Appendix 1**].

It is normal for governments – in particular, the ruling executives – to behave as if they can rank the policy options and identify the best for the society without reference to an independent legislature that embeds the will of the society. It is also common for executives to seek a ranking through devices like consultations, and then choose the perceived best. These practices do not lead to optimal decision-making. Arrow’s famous impossibility theorem is instructive in this regard.<sup>2</sup> In broad terms, the theorem states that social welfare functions that aggregate the preferences of a small group of individuals into a single social preference or decision must be dictatorial if the aggregation process satisfies a few “regularity” conditions of the Executive. This suggests that the best option is generated by a non-preferential voting democracy that involves voting based on identification of first choice from among the optima by each voter in the society. This raises fundamental questions about the adequacy of the democratic framework of such decision-making.

### 3. The Core Issues of Democracy

The conception of democracy used here relies on the role of activist citizens as the central actors in the democratic process asserting their rights as “owners” of the country and undertaking the related responsibilities of ownership. It goes beyond the traditional idea of legitimate government based on free and fair elections to include the broader contemporary interpretation that involves “consensus building among all groups, and even individuals, within a society, participation with a focus on citizen empowerment and concerns related to the interplay of actors within the realm of civil society.”<sup>3</sup>

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<sup>2</sup> Fountain, J. (2000) “Simple Graphical Proof of Arrow's Impossibility Theorem Contributors”, *New Zealand Economic Papers*, 34 (1), 89-110 pp 89.

<sup>3</sup> Ragoonath, Bishnu (2005). “*Local Democracy and Good Governance in the Caribbean: An Agenda for Regional Co-operation*,” in **Local Democracy and Good Governance in the Caribbean**, Report of the Regional Symposium held in Montego Bay, Jamaica, April 2004, Making Local Governance Work Series, #1, Commonwealth Secretariat, pp.69.

The citizens of Jamaica know themselves by their legitimate claim to a share in the sovereign territory of Jamaica and also sense themselves to be an ever-integrating cultural and ethnic whole. Both forms of identity are ultimately defined by nationally and internationally recognized rights and freedoms<sup>4</sup> to participate in the control and regulation of activity that shapes the social destiny. These rights and freedoms include, but are not limited to, protection of the right to life, freedom of movement, participation in political affairs, and the holding of public office. These rights and freedoms carry with them specific obligations or responsibilities, such as payment of taxes, voting, and participation in national arrangements to secure the territory and its citizens. Accordingly, the citizens have a primary responsibility to run the country properly – a responsibility of ownership that is sharply different from the responsibility of the Executive, which is not a responsibility of ownership. The point is that the citizen must contribute as a matter of duty. He or she has the rights and freedoms that enable contributions to the definition of the political purposes of the society, including the common economic and cultural good of all. It is this sense of rights, freedoms, and responsibilities that fuels the indignation with successive governments that are perceived to be operating outside the will of the people. The central concerns of democracy are therefore:

1. the capacity of the people to ensure that their will is expressed, and their interests adequately represented, in the law-making process through and by their elected representatives without the interference of the Executive (i.e., **representative democracy**); and
2. the capacity of, and opportunity for, the citizen to directly shape the rules by which the society operates (i.e., **direct democracy**) through:
  - a) ballot initiatives - such as referenda, petitions, etc.
  - b) opportunities for the people to inform and instruct the law-making process generally and, in particular, inform and instruct their representatives about their views.

The reason for this is the dual characteristic of the legislative function, required for a post-colonial and post-eighteenth century solution to the problem of democracy in the Caribbean.<sup>5</sup> Only through this principle of duality of legislature does the ownership of the legislature equate to the ownership of the people. The rights of the executive are the rights of “hired hands” with the responsibility to implement the laws made by the legislature which, in turn, are the laws designed by the people.

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<sup>4</sup> See Chapter III, Jamaican Constitution; for summary of the United Nations Agreements on Human Rights, see: <http://www.hrweb.org/legal/undocs.html>

<sup>5</sup> D’Agostino (2003) has identified the democratic problem in post-colonial Caribbean society as due to authoritarianism: “*In countries that had experienced long periods of colonialism, with the attendant institutions of the plantation and slavery, it is difficult to overcome deeply ingrained authoritarian legacies in order to promote and consolidate democracy.*” See D’Agostino, T. (2003) ‘Caribbean Politics’, in Richard S. Hillman and Thomas J. D’Agostino (eds) *Understanding the Contemporary Caribbean*. Ian Randle Publishers, Kingston, pp. 85–127.

But are there constitutional/legal underpinnings of this dual characteristic of the legislative function?

## 4. The Constitutional/Legal Framework

### 4.1 The Jamaica Constitution

A country's constitution is supposed to be the "social contract" or the "terms of reference" for the way in which the citizens agree to govern themselves. However, in some post-colonial countries, the constitution was drafted as part of the agreement for independence. In the case of Jamaica, the Constitution was drafted by a bipartisan joint committee of the colonial Jamaican legislature in 1962 and came into being under the Jamaica Independence Act, 1962 of the United Kingdom Parliament. There was no involvement of, or agreement by, the people in crafting the provisions of the 1962 Constitution. However, it should be noted that, for decades prior to independence, the people of Jamaica actively fought to change the socio-economic conditions and associated legal/constitutional arrangements that oppressed them and suppressed their rights as Jamaicans. Significantly, Jamaica's move from the old Representative System of Government to Crown Colony Government in 1866 was as a direct result of the Morant Bay Rebellion (1865) in which Black Jamaicans rebelled over their poor, inhumane existence.

Jamaica's legal/constitutional framework is therefore rooted in the British colonial experience and British constitutional tradition. But there are key differences between the two frameworks. In the British framework, the central role of the people is arguably embedded in "parliamentary sovereignty" since the people elect Parliament (albeit only one house of Parliament) which, in turn, derives its authority from the people.<sup>6</sup> In Jamaica, as in other Caribbean countries, "constitutional sovereignty" has replaced "parliamentary sovereignty". So we should discuss the Constitution to understand the legislative function and the role of the people as owners of the country.

Like all constitutions, the Jamaican Constitution can be seen as the "codes of rules which aspire to regulate the allocation of functions, powers and duties among the various agencies and officers of government, and define the relationships between them and the public."<sup>7</sup> Accordingly, the Constitution defines the organs of government -- the Legislature, the Executive, and the Judiciary -- as a social apparatus arising from a social agreement about behaviour and built to make the society's laws, implement these laws, interpret them, adjudicate conflicts, and determine fairness and truth in law when there is doubt. The principle of duality implies that the Constitution vests the ultimate responsibility in the people<sup>8</sup> -- in the role of final interpreters of

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<sup>6</sup> McLean (2010:3), however, has noted that the idea that the people are sovereign has gone underground in modern English constitutional writing. See McLean, Iain (2010). **What's Wrong with the British Constitution?** UK: Oxford University Press.

<sup>7</sup> Finer, S. E. (1979) *Five Constitutions*, Penguin Books, page 3.

<sup>8</sup> In the *Federalist Papers*, No.49, James Madison noted that: "*the people are the only legitimate fountain of power, and it is from them that the Constitutional Charter under which the several branches of government hold their power is derived...*"

the Constitution through clarifying amendments. To the extent that this principle holds, then the role of the people in the duality of the legislative process also raises the question of the legislative capacity of the people as owners.

The pre-independence era saw constitutional changes which sought not only to widen the franchise and the representation of the people in the Legislature but also to increase the power of the Executive. Barnett (2008) noted that “as the local political leaders prepared for responsible government the objective was to obtain a share in and eventual control of the Executive.”<sup>9</sup> He also noted the constitutional changes “involved two basic impulses, namely, the widening of the franchise so that the legislators became true representatives of the people as a whole and the vesting of executive powers and the responsibilities for the conduct of national affairs in those elected leaders.”

The 1962 independence Constitution of Jamaica effectively ended monarchical rule and consolidated the vesting of executive power by embedding the power of the Prime Minister to override any dissent of a Governor General (s.32(1)), essentially by removal from office if necessary. It should be noted that this constitutional control mechanism exists in every government in the English Caribbean [see **Appendix 2**]. All of these Constitutions have a clause detailing that the power of the Governor General/President to exercise his/her powers under the Constitution is derived from the Prime Minister or Cabinet, the exception being when he/she acts in his own deliberation/discretion or where he/she acts on the advice of some person in authority other than the Cabinet (typically, the Prime Minister or Leader of the Opposition). The power of the Prime Minister is further ingrained in the Constitution through several clauses that has effectively created “Prime Ministerial sovereignty” [see **Appendix 3**].

Given this Prime Ministerial/Cabinet dominance, we ask how far has the 1962 Constitution of Jamaica (and its later amendments) gone with specific provisions to recognize the citizenry as “owners” of the country<sup>10</sup> with overarching rights, freedoms, and legislative responsibilities to ensure proper functioning of the society and economy in the pursuit of the common good. There are provisions in the Constitution that directly or indirectly capture aspects of the dual characteristic of the legislative function, which is viewed, on one hand, as exercised by the people in their capacity as the ‘legislature at large’ meeting in their various groupings outside of the Parliamentary Legislature to form consensus on issues and, on the other, as exercised by the people through their representatives in a Legislature configured to hear the people’s will and to deliberate and make laws in that light.

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<sup>9</sup> See Barnett, Lloyd (2008). “Human Rights – The Caribbean in Retrospect and Prospect.” See <http://www.humanrights.ky/pls/portal/docs/PAGE/HRCHOME/NEWS/LECTURES/LLOYD%20BARNETT.PDF>

<sup>10</sup> In some countries, the citizen as “owner” of land is explicit in the Constitution. Article 237 of the Ugandan Constitution states: “Land in Uganda belongs to the citizens of Uganda.” Article 58 of the Vietnamese Constitution provides as follows: “The citizen enjoys the right of ownership... to land entrusted by the State for use.”

In the Constitution, some key provisions are as follows:

- a. **S.24** provides citizens with the right of assembly and association that enables them to form groups and pursue their collective interests, inclusive of the right to organize political groups and civic groups that actively engage and monitor their representatives.
- b. **S.36** recognizes the role of citizens in the election of their Members of Parliament (MPs). Note, however, that citizens typically vote along party lines and elect individuals selected by the political parties even if the individual is unwilling or unable to properly represent the people in their constituency.
- c. The powers of MPs – defined in **Chapter V (Part 2)** – include powers to make laws (**s.48**); alter the Constitution (**s.49**); and introduce Bills (**s.55**). However, the Constitution does not directly state that these powers are to be exercised on behalf of the people of Jamaica. The power to make laws, for example, is for “the peace, order and good government of Jamaica.” Indirectly, the concept of *good government* can include responsiveness to citizens and participatory governance depending on the definition used.<sup>11</sup>
- d. It should be noted that the prescribed oath of allegiance required under **s.62** of the Constitution was revised in 2002 to include explicit reference to “the people”.<sup>12</sup> Under **s.7** of the Oaths Act, the oath of allegiance now requires a Parliamentarian to: “...conscientiously and impartially discharge my **responsibilities to the people of Jamaica**. So help me God.” This replaced the original oath which required a Parliamentarian to: “...*be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, Her Heirs and Successors, according to law. So help me God.*”
- e. When MPs meet in Parliament, they conduct the business of government under the direct control of the Executive due to the parliamentary majority of the government of the day. Note that, by **s.69(2)**, “the Cabinet shall be the principal instrument of policy and shall be charged with the general direction and control of the Government of Jamaica and **shall be collectively responsible therefor to Parliament.**” Thus, it can be inferred that through their representatives in Parliament, the people have a responsibility for oversight of Cabinet decisions. This is only possible, however, if MPs are prepared to break ranks with Party positions and represent the people’s positions.
- f. There are “deeply entrenched provisions” in **s.49(3)** of the Constitution for direct involvement of the people in decision-making through a referendum. However, this can only be triggered by a two-thirds majority decision in both Houses of Parliament.

These provisions, however, must be interpreted in the context of the overarching constitutional power of the Prime Minister (detailed in **Appendix 3**) coupled with the political power of the

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<sup>11</sup> See interpretation of the “Government Effectiveness” measure in the World Governance Indicators (WGI) by Andrews, Matthews (2008). “Good Government Means Different Things in Different Countries,” *Harvard Kennedy School Working Paper No. RWP08-068*, [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1314437##](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1314437##)

<sup>12</sup> Note that in the 1962 Constitution the only direct reference to the “people” is found in the First Schedule under the “Judicial Oath:” ... *I will do right to all manner of people...*

Party Leadership which ensures that the will of the people is subordinated to the will of the ultimate decision-maker the Prime Minister/Party Leader.

Beyond these provisions, the Constitution does not go much further in recognizing the dual characteristic of the legislative function. That is, there are no specific provisions that recognize or promote, firstly, the extension, beyond routine elections, of the ownership responsibility of the people to ensure that their interests are adequately represented through their elected representatives without the interference of the Executive; and secondly, direct involvement of the people in shaping the rules that affect their lives, beyond the referendum. This is perhaps typical of any constitution born of oppression and written by those who were/are colonized under the process of oppression. Such constitutions are weak, ambivalent, or silent about political responsibility of the people in this sense. It appears that until the citizen awakens and establishes such provisions definitively through collective strategic design, the system will remain to the disadvantage of the people of Jamaica.

## 4.2 Other Legal and Political Duties/Obligations

There are other *legal* and *political* duties and obligations of the people for ensuring the proper functioning of the society and economy. Traditionally, political philosophers have defined “political obligations” as *the duty of citizens to obey the laws of the state*.<sup>13</sup> Whether the obligation to obey the laws derives from consent, contract, a natural duty, fair play, gratitude, or utility of a system of laws has been the subject of philosophical discussions for centuries. Some contemporary analysts argue that there is no general obligation for citizens to obey all the laws of their country,<sup>14</sup> while others have developed various theories to explain the obligation.<sup>15</sup> While recognizing the philosophical difficulties, we side with analysts who see the duty to obey the law as a matter of civil obligation<sup>16</sup> or associative political obligation.<sup>17</sup>

The latter is the moral duty only of a citizen or permanent resident who is a member of a polity.<sup>18</sup>

### 4.2.1 Jamaican Rights/ Obligations

Although political and legal obligations are related, they are not identical concepts. The obligation to carry out a civic duty requires citizens to do more than obey the law. While citizens, permanent residents, and visitors are subject to relevant laws within a given jurisdiction, citizens are required to go beyond the letter of the law and actively contribute to the common good. Among the obligations embedded in Jamaican laws are the following:

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<sup>13</sup> The concept of “political obligations” can be traced to views of Socrates and is grounded in the classic expressions of the contract theory of political obligation in Hobbes's *Leviathan* (1651) and Locke's *Second Treatise of Government* (1690). [See “Political Obligation,” in *Stanford Encyclopedia of Philosophy*, <http://plato.stanford.edu/entries/political-obligation/>].

<sup>14</sup> See, for example, Simmons, John (1975). *Moral Principles and Political Obligations*, NJ:Princeton.

<sup>15</sup> See, for example, Steinberger, Peter (2004). *The Idea of the State*, Cambridge: Cambridge University Press; and Gilbert, Margaret (2006). *A Theory of Political Obligation*, Oxford: Oxford University Press.

<sup>16</sup> See Parekh, Bhiku (1993). “A Misconceived Discourse on Political Obligation,” *Political Studies*, 41(2): 236–51.

<sup>17</sup> See Horton, John (2007). “In Defence of Associative Political Obligations: Part Two,” *Political Studies*, 55: 1-19.

<sup>18</sup> See “Political Obligation,” in *Stanford Encyclopedia of Philosophy*, <http://plato.stanford.edu/entries/political-obligation/> Note that there are many different interpretations of this theory.

- a) The citizen's right to vote as provided for in s.4 of The Fundamental Rights (Additional Provisions) (Interim) Act (1999).
- b) The duty and obligation to pay income tax from "all income, profit or gain," based on the Income Tax Act (s.5) and The Income Tax (Employment) Regulations. The duty and obligation to make other statutory payments that are deductible from the employees' emoluments are embodied in the Education Tax Act (s.4), the National Housing Thrust Act (s.2), and the National Insurance Contributions Act (s.4).
- c) The right to participate in the governance process of Portmore, the only Municipality in Jamaica, as provided for by the granting of a Charter under the Municipalities Act (2003). The Charter of the Municipality of Portmore enables the citizens of Portmore to participate in the governance process of the Portmore Municipality through the Portmore Citizens Advisory Council (PCAC).<sup>19</sup> Note that, in a few parishes, the Parish Development Committee (PDC) offers a similar framework for citizens to participate in the governance process of the Parish Council. However, PDCs have no legal basis to influence local government decisions.

#### **4.2.2 International Rights/Obligations**

The legal framework includes international law. The International Covenant on Civil and Political Rights (ICCPR), adopted by the United National General Assembly in 1966, conferred binding legal status on the right of individuals to participate in the processes that constitute the conduct of public affairs. The ICCPR also expressed the principle, recognized as customary international law, of the people's "permanent sovereignty of natural resources" by declaring that "all peoples may, for their own ends, freely dispose of their natural wealth and resources... ." Both Article 47 of the ICCPR and Article 25 of the Covenant on Economic, Social and Cultural Rights further state: "Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources."

With respect to the freedoms granted to a citizenry, the UN Charter is also instructive. The opening words of the UN Charter are, "We the Peoples of the United Nations locate the sovereign authority of the Member States in the will of their Peoples." Article 21 of the Universal Declaration of Human Rights (1948) explicitly recognizes that "the will of the people shall be the basis of the authority of government" and guarantees to everyone the rights that are essential for effective political participation. Under Article 20, everyone has the right to freedom of peaceful assembly and association.

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<sup>19</sup> See Charter of the Municipality of Portmore, s.7.1.

Since 1988, after adopting for the first time a resolution on “Enhancing the effectiveness of the principle of periodic and genuine elections,” the General Assembly has adopted at least one resolution annually dealing with some aspect of democracy, “not only to clarify the concept but also to elaborate on democratic principles, values, processes, institutions and mechanisms.”<sup>20</sup> In 1996, the General Assembly adopted its first explicit resolution on “Promoting and Consolidating Democracy.”<sup>21</sup> The means for consolidating democracy include: “Creating and improving the legal framework and necessary mechanisms for enabling the participation of all members of civil society in the promotion and consolidation of democracy.” Other resolutions adopted include:

- Resolution 1999/57 on “Promotion of the Right of Democracy”;
- Resolution 2000/47 on “Promoting and consolidating democracy”;
- Resolution 2001/36 on “Strengthening of popular participation, equity, social justice and non-discrimination as essential foundations of democracy”; and
- Resolution 2001/41 on “Continuing dialogue on measures to promote and consolidate democracy”.

At the Millennium Summit General Assembly of the United Nations in September 2000, Jamaica joined world leaders in committing to the Millennium Goals Declaration that embodies an unprecedented global consensus and common vision on, *inter alia*, democracy and good governance.

#### **4.2.3 Limitations of Participatory Governance**

After fifty years of independence, Jamaica lacks a strong constitutional/legal framework that recognizes and enforces the rights and responsibilities of the citizen to ensure the proper functioning of the society and economy; nor does it have a history of enforcing international agreements. The experience of Jamaica and other Caribbean societies since independence is that the Executive has been able to increasingly preside over the legislature and, correspondingly, to assert its pre-eminence over it and over the people.

“Participatory decision-making” and “consultations” with the Executive,<sup>22</sup> which appear to be features of a modern democracy, have not proven to be effective forms of participation that influence decision-making in the context of Jamaica’s current legal framework and socio-cultural realities. Such forms of participation have turned out to be an effective way to increase social preoccupation with the supreme powers and the capacity for patronage of the Executive, further diminishing the oversight of the people as Legislature. The Executive continues to make full use

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<sup>20</sup> Abdellatif, Adel M. (2003). “*Good Governance and Its Relationship to Democracy & Economic Development*,” Workshop IV. Democracy, Economic Development, and Culture, Global Forum III on Fighting Corruption and Safeguarding Integrity, Seoul 20-31, May, p.9

<sup>21</sup> UN Resolution adopted by the General Assembly A/RES/55/96 on *Promoting and Consolidating Democracy*.

<sup>22</sup> An example is the “Partnership for Transformation,” which is designed to bring together various civic groups across the nation to identify solutions to various national challenges. See *Update on the Partnership for Transformation (PFT) & National Planning Summit (NPS)*, retrieved at <http://www.opm.gov.jm/files/PartnershipForTransformation-NationalPlanningSummit.pdf>, for more information.

of the advantages of the power of implementation and of the monopoly of the legitimate means of violence. Participatory decision-making and consultation can only become effective with related changes to the legal and institutional arrangements of governance.

The legislative process is dominated by parliamentarians, with no room for public discourse about the Bills introduced in Parliament. Although any member of the Parliament can introduce a bill, the typical situation is the introduction of a bill by a Cabinet Minister after a Cabinet decision. Following the “Procedure on Bills” outlined in ss.48-64 of the Standing Orders of the House of Representatives (1964), Bills are read, debated, and voted on in the House before they go to the Senate where they are debated, amended, and voted on before finally going to the Governor General, who signs them into law. Occasionally when a Bill is at the Committee stage, the public has a chance to become involved in the deliberations if it goes to a Select Committee.<sup>23</sup>

If it is assumed that the Legislature is dual in character, then the consequence of the pre-eminence of the Executive, including its domination of the legislative function, is that the Executive is also pre-eminent over the people. This is the opposite of what is required of the culture of democracy and what the public sentiment seems to be. The sovereignty of the people can only be effectively expressed through a supervisory legislature which, in summary, is designed to do at least the following:

- ✓ oversee the work of the Executive;
- ✓ shape and enact laws;
- ✓ represent and mediate the differing interests of the various constituencies in the country, especially in relation to the sharing and allocation of economic opportunity; and
- ✓ identify, debate, and establish cross-cutting and mainstream political priorities and resource allocations to various sectors of the society and economy.

To this end, the legislative caucus of the people must configure itself to receive information from all citizens – self-interest groups, popular movements, community-based organizations (CBOs), and non-governmental organizations (NGOs) – who wish to provide information on how matters of deep concern to the society must be addressed. Currently, this is not the way the Legislature works in Jamaica; instead, the legislative function is effectively marginalized. Notwithstanding, the people know, as CLR James (1962:4) said a long time ago, that “[e]ven when they [the people] elect the government of their choice they have to remain politically alert and make it clear that they are not to be bamboozled, trifled with, or pushed around.” One can understand, then, that the consequence of the effective marginalization of the legislative function in the face

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<sup>23</sup> According to s.77(7), Standing Orders of the House of Representatives of Jamaica (1964), “Subject to any order of the House or resolution of the Committee, the **sittings of a Select Committee shall be held in public.**” Note that the Interpretation Act defines a “public place” as, *inter alia*, any place “to which the public have access.” Also, by s.77(4) of the Standing Orders, Select Committees “have the power to send for persons, papers and records.”

of this sensibility has been an increasing anger in the society with the pre-eminence of the Executive and, by extension, the choices of the Executive that do not correspond with their will.

The anger that is growing with the non-participatory practices of the Executive is destabilizing Caribbean societies. Government, as the Executive, has increasingly taken on the image of an external entity disconnected from the people and their aspirations – a “dem” that has persisted since slavery and to whom loyalty is maintained only by the most ardent and fanatical of supporters and party members. For the rest, the increasingly divisive and vitriolic charge is typically embedded in expressions such as “dem arrogant” (they are arrogant) and “dem naa ier” (they do not hear). In recent years, the trend in the Caribbean has been for a government to become a minority in terms of public approval within 6 months to a year, notwithstanding having taken power in a landslide of public hope for real change. This shortening cycle of anger reflects an absence of the options for effective democratic representation and direct participation beyond the currently scheduled elections and taxes – a quality of participation that preserves the basic majority vote principle. In Jamaica, there is neither a systematic and functional mechanism for the people to make known the will of the society outside of mass elections or riots, nor a programme to strengthen the capacity of the responsible citizen to define the best option on an informed basis.

In the light of this diagnosis, this paper proposes strategies to promote direct democracy and improve representative democracy. In this context, the main motivation for strategic design of capacity-building is that it cannot be taken for granted that persons will overcome their inhibitions and acquire the capacity for democracy on their own. The strategies suggested here seek in part to exploit the potential of available information and communication technology to promote effective democracy.

## ***5. Strategic Design - What the Executive Function Provides and should Provide***

Here, we ask whether the routine practice of government gives adequate attention to the responsibility of the citizen to ensure good governance (i.e., that their will is pursued) and, hence, to the development of the citizenry’s capability to achieve their will. In other words, does the government provide structured opportunities and an enabling framework for citizens to bolster their ability to actively pursue their political interests in a way that corresponds to the opportunities available to pursue economic interests?

Strategic design requires an appropriate concept of government as a whole, as well as a holistic or dual concept of the Legislature in particular. The Jamaican Government is a socio-political construct and agreement about a Legislature that makes the society’s laws, an Executive that implements these laws, and a Judiciary that interprets the laws, adjudicates conflicts, and determines fairness and truth in law when there is doubt. The general form of this socio-political construct is to be distinguished from the way the current incumbents, including the people,

prosecute their functions, and it is well appreciated that there are serious concerns about the capacity of the incumbents to do so effectively.

The basic issue informing strategic design to address political instability in Jamaica is the need to openly recognize and entrench the pre-eminence of the dual Legislature in executive, legislative, and popular practice. The dual Legislature comprises: i) the people at large as owners of the country; and ii) the people's representatives in their legislative capacity. The Legislature would therefore be reconfigured as the "People's House" to obtain the views and will of the people. This is necessary for national ownership and for ensuring that all citizens exercise their responsibility to shape the intent of government, including the development of an adequate constitutional/legal framework that reflects the will of the people. Accordingly, the central question is how to strengthen each of these two dimensions of the legislative whole, a question on which the rest of the paper focuses.

### **5.1 Design Issue 1: Supporting Spontaneous Popular Organisation**

The most obvious requirement is a spontaneous combustion of political activity in the interest of the people, as defined through the wishes of their relevant dual Legislature. The premium value here is chosen independence of expression of the will of members, whether from government, business, or even the political parties vying for executive power. This does not preclude adoption of programmes dedicated to capacity-building of political parties.

Traditionally, it has been taken for granted that people should take the responsibility to organize and inform themselves in order to pursue their own interests. There is no doubt that this is a bedrock principle of a successful society. Nevertheless, given the Caribbean's history, it cannot be taken for granted that Caribbean people will respond adequately to this responsibility without strategic design and supporting public policy. Participation is limited by high levels of fear and unequal distribution of the assets of society that underlie the choice to take political risks.

CLR James (1962), reflecting on the state of the Caribbean nation at the dawn of independence, observed that, in light of the people's historical experience, this proactive capacity cannot be taken for granted but must be guaranteed through arrangements that ensure that the people are "independently organized."<sup>24</sup> According to him, what matters is the habits, practices, and expectations of the people, as well as their experience of organization.<sup>25</sup> What they need is self-confidence, responsibility, knowledge, and experience. For him, "history has deprived us of that experience."<sup>26</sup> If an adequate popular response cannot be taken for granted, then the people's experience must change proactively, in which case, suitably structured education of the citizen, largely neglected over the 50 years since independence, is required.

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<sup>24</sup> James, CLR (1962). *Party Politics in the West Indies*. San Juan, T&T: Vedic Enterprises Ltd, p.4.

<sup>25</sup> Ibid, p.125-126.

<sup>26</sup> Ibid, p. 126.

Accordingly, the required policy stance is that, while citizens are responsible to take the necessary initiatives and have constitutionally protected rights of assembly and association,<sup>27</sup> they must be supported and empowered to do so. In particular, citizens must be supported to organize themselves in their own interest and to participate in the widest possible variety of popular, self-oriented group initiatives and non-executive organizations, all the way up to the People's House. All types of organisations are included here, including sports clubs, social clubs, and other clubs dedicated to outdoor activity.

Expressed differently, the required policy stance is to support and empower the citizenry in the sense of building technical and technological capacity to undertake self-oriented organisation in order to exercise routine policy control over decisions that shape and influence their current and future success. This would necessitate the following:

- ✓ dedicated policy institutions and frameworks to assist in defining the terms and conditions of operation and financing of spontaneous groups, NGOs, CBOs, and other popular group initiatives/movements (as a condition for support);
- ✓ grants to self-interest groups, popular movements, NGOs, and CBOs;
- ✓ access of self-interest groups, popular movements, NGOs, and CBOs to the dialogue of government, with special reference to the Legislature in its mode as the People's House, which for this purpose must configure itself to receive information from the people as to their will on any matter that shapes and influences their current and future success; facilitation of the focus on single issues, especially those linked to budget-neutral ballot initiatives;
- ✓ collection of appropriate data to facilitate support of popular movements, NGOs, CBOs, and spontaneous groups; and
- ✓ implementation of "e-government" strategies (i.e., strategies that use digital interaction between the government and citizens) to improve information access and provide more efficient government services to popular movements, NGOs, CBOs, and spontaneous groups.

Set in this context, the principle of the duality of the Legislature implies that, at a minimum, the representation of their members requires that spontaneous groups, NGOs, CBOs, and other popular group initiatives/movements be all organized for continuous dialogue and access to the People's House. Specifically, representation of the will of their members requires that they be coordinated by a legislative mechanism that is designed to do the following:

- ✓ oversee the work of a group's executive;
- ✓ shape and enact group procedures, bylaws, and norms of conduct;
- ✓ represent and mediate the differing interests of the various constituencies in the spontaneous groups, NGOs, CBOs, and other popular group initiatives/movements,

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<sup>27</sup> s.23 of the Constitution of Jamaica

especially as it relates to the sharing and allocation of economic opportunity and positions of power;

- ✓ identify, debate, and establish cross-cutting and mainstream group priorities and make decisions and plans about how the spontaneous groups, NGOs, CBOs, and other popular group initiatives/movements would conduct the business of government and, in that context, allocate resources to various concerns and sectors of the society and economy.
- ✓ ensure that the best candidates are put forward to contest for the opportunity to serve as representatives of the people; and
- ✓ hear/receive information from all members of a group who wish to communicate about how they think matters of concern to their group must be addressed.

These public initiatives are largely absent in Jamaica, but such programmes of structured support would strengthen the capacity of the people to exercise their responsibilities in the dual legislature, including the responsibility to amend the Constitution as necessary. Sweden has one of the most exemplary policy frameworks designed along these lines. As a result of its proactive policies, approximately 90% of the citizenry of Sweden belong to an NGO.<sup>28</sup>

One of the advantages of the rapid development of self-interest groups, popular movements, NGOs, and CBOs is that they also contribute value and employment, and often do so by leading the development of significant, traditionally neglected resources in communities. Accordingly, they develop into major suppliers of real products and services to benefit the people.

Hence, policy should be designed to ensure the following:

- ✓ deployment of technical and technological support programmes and technical capacity building to strengthen their capacity. This might include physical capital, premises, and other infrastructure programmes analogous to the support provided to economic enterprises.
- ✓ research and innovation, yielding intellectual property as appropriate, on sundry matters related to strengthening their capacity. This research might also take place in the academy. The emphasis here is on discovery of knowledge about the optimal operations of self-interest groups, popular movements, NGOs, and CBOs.

The idea of capacity building should not be rejected on the grounds that it is easier to govern an ignorant people or that the participation of the people would lead to political sabotage of the Executive. Rather, capacity building of the citizen should be accommodated as it would have the effect of improving the social utilization of nationalism, skill, and creativity to serve the social and individual good while widening the options for an improved quality of life.

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<sup>28</sup> See <http://www.sweden.gov.se/content/1/c6/11/90/45/db9700f9.pdf>

## 5.2 Design Issue 2: Strengthening the Capacity of the People

It is widely agreed that, apart from the instinctive leaders of communities, it is the people with education, employment to afford participation, and families who are the most significant contributors to successful spontaneous organizations. In this regard, recall that the duality of the Legislature requires that the legislative caucus of the people is configured for two purposes: (1) to receive information from all interested persons as to their will on matters that affect their current success and their future; and (2) to ensure that people assume the responsibility to make their will known to the legislative caucus. C.L.R James (1962:3) made compelling early observations in this regard:

“It is also a commonplace of history that the people never know exactly how to get what they want: they are not readers of books or students of politics. They do not know exactly what they want. They do not know their own strength. They do not know their real friends or mortal enemies – enemies, that is to say, of a new way of life not only for the few but for the many.”

The overall principle in these observations is the existence of many weak links in the people’s knowledge chain, and it is still pertinent today, if significantly less so than in 1962, because of citizens’ increasing access to education. Accordingly, one might replace ‘the people’ in CLR James’ statement, with ‘many among the people’.

Thus, the second central element of strategy is to strengthen the capacity of the people through education in order to address the challenges of initiating, developing, and producing social value, as well as making their will known to the legislative caucus.

The pre-tertiary educational system in Jamaica is not well designed to promote true democracy. Rather, it is arguably an instrument to promote only specific career goals, which it may not even do well, based on Caribbean Examination Council certification. It is focused primarily on preparing workers for the workplace and, in particular, to equip each person with a minimum capacity to earn a living in a self-reliant manner in the modern economy. From early childhood care and education to tertiary systems, the educational system focuses on imparting knowledge and skills in practical fields considered necessary to build the kind of human capital that contributes to the creation of economic wealth. To illustrate: at the secondary level, many students will choose Principles of Accounts over History as a matter of practicality, even though history is important to learn at a young age for its power to develop students’ inferential abilities, in particular, the ability to make conclusions from past events that will help them to reduce the incidence of repetition of the same mistakes.

The primary and secondary school curricula do not address the wider and more important challenge of developing a self-reliant, responsible, and thoughtful citizenry that is competent to participate in defining and building the desired healthy social framework and rules in which the

economy and its markets operate. A full education is required – the kind that builds a deep understanding of the history, principles, and philosophy of successful social and economic life.

The primary lesson of the human experience is that ignorance of the requirements of an excellent social fabric is not an option today. The evidence of history supports the idea that the more encompassing the education system, at all levels, the better the abilities of the citizen to operate and thrive as a driver of social success; as an achiever of personal goals without the need to resort to corruption or repression; and as a contributor to economic development. The basic challenges of the citizen in ensuring an effective legislative function are:

- ✓ knowledge of the issues, with a view to providing guidance and testimony to legislators, including:
  - information about the state of the law related to proposed actions and legislation.
  - information about bill histories, related political agendas, and opportunities to provide information to legislators in suitably designed hearings.
  - knowledge of alternative viewpoints.
  - possession of adequate and credible facts about the issues.
- ✓ adequate preparation of a definite position in the light of the knowledge of the issues;
- ✓ the making of adequate and timely arrangements for the definite position to be known to the legislators and to fellow-citizens;
- ✓ effective use of “e-democracy” (i.e., using information and communication technologies (ICTs) in political and governance activities) to improve transparency and broaden and deepen active citizen participation in the decisions, policies, and programmes; and
- ✓ lobbying for support for the position adopted.

Clearly, such challenges can best be met by suitably competent persons, and it is an appropriate concern of public policy to ensure training that delivers foundations for such preparedness. Many aspects of the training for the wider purpose of building the social fabric can be integrated into the mainstream and many can be delivered through the institutions being devised by the people in the form of self-interest groups, popular movements, NGOs, and CBOs:

- ✓ training in civic responsibility and the dual Legislature under the Constitution, on themes such as:
  - The role of the citizen and community.
  - The role of self-interest groups, popular movements, NGOs, and CBOs in the community.
  - The importance of self-interest groups, popular movements, NGOs, and CBOs for the development of the democracy and its related physical and social infrastructure.
  - The scope of activities and financing of self-interest groups, popular movements, NGOs, and CBOs.
- ✓ training in law and participatory democracy;

- ✓ training in technology and economics for community and national development;
- ✓ training in delivering effective testimony in the people's house; and
- ✓ mainstreaming of training in the basic and advanced education system, especially with a competency-based design.

All such training should utilize the new and growing opportunities for electronically supported learning and teaching (E-learning), including mobile learning technologies.

### **5.3 Design Issue 3: Configuring the Legislature**

Political parties fall into the category of self-interest groups, popular movements, NGOs, and CBOs. As such, they are subject to the same support systems as defined above, including assistance in defining the terms and conditions of their operation and financing. CLR James (1962) maintained that “in our situation the organization of a party to act independently as a social force in our backward communities is the most obvious way to fill this gaping void.” However, political parties are widely acknowledged to be special groups designed to compete in a divisive manner for political control of parliament and, hence, for executive control of the legislative function. In their current manifestation, political parties are groups organized to undertake political acts and follow principles ostensibly favouring the interests of one political party and its members.

They mobilize contest capacity and they articulate member interest, at least ostensibly so. The political party carries an aura of privacy, in that its pursuit of power is defined substantively in terms of the good of its members, but more viscerally in terms of winning elections for executive control than for achieving the common good. Political parties have evolved as a means of electing the “Prime Minister,” who in the end is the Minister of Everything and the leader of “patronage business” in an environment of unregulated political financing.<sup>29</sup> Thus, to a considerable extent, parties suppress disagreement, denying members room to express conflicting opinions and to do so freely. Party members have therefore sought little room to respect the opinions of the minority, and have evolved to serve as instruments for authoritarian rule.

Nevertheless, even in this climate of authoritarianism, to the extent that competition between political parties determines who serves in the Executive, the need for an effective dual Legislature becomes a need for the members of political parties to determine the behaviour of their own executives, and thus the choices made about how to govern the Executive of the country. That is, even in political parties, it is desirable that systems – party legislatures, as it

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<sup>29</sup> Note that in December 2010, the Electoral Commission of Jamaica (ECJ) drafted campaign financing proposals and engaged in extensive public consultations as well as discussions with the two main political parties. The issues addressed in the draft proposals are limits on campaign expenditure, permissible donors, restrictions on campaign contributions, disclosure of expenditure and contributors, monitoring and enforcement of limits on campaign expenditure and financing of campaign advertising. The proposals are expected to be tabled in Parliament before December 2011. See <http://www.eoj.com.jm/news-item-109.htm>

were – be put in place with the same objectives as for spontaneous groups, NGOs, CBOs, and other popular group initiatives/movements listed above, to:

- ✓ oversee the work of a party's executive and, when the party is in power, the national Executive;
- ✓ shape and enact party procedures, bylaws and norms of conduct;
- ✓ represent and mediate the differing interests of the various constituencies in the party, especially as it relates to the sharing and allocation of economic opportunity and positions of power;
- ✓ identify, debate, and establish cross-cutting and mainstream political priorities and make decisions and plans about how the party would conduct the business of government and, in that context, allocate resources to various concerns and sectors of the society and economy; and
- ✓ ensure that the best candidates are put forward to contest for the opportunity to serve as representatives of the people.

To these ends, a party's rule-making body must configure itself to receive information from all members who wish to address matters they consider to be of concern to the group.

Unfortunately, the system does not currently work that way. The citizen, when registered as a voter, can exercise the right and responsibility to choose the Legislature to represent his or her interests. In the pursuit of the broad social goals driving social behaviour, the voters elect persons who are put forward by political parties as being committed to do the relevant representation. It has often been argued that in the heat of the desire to win, and in the culture of the "hero and the crowd"<sup>30</sup> that has attended the rise of executive dominance over the Legislature, the citizen has become susceptible to the practice of voting for anyone the political party can assemble, including a "crapaud" (Trinidad) or a "dog wearing a hat" (Anguilla).

Some of the turmoil of the Jamaican political climate appears to derive from an expectation on the part of large numbers of citizens that the candidates put forward by political parties should be among the most qualified of a number of candidates who meet the basic requirements of candidacy – age, residency, citizenship requirements, party membership, and the like. But in the passion to punish the outgoing Executive, the electorate makes their desire to win trump their desire for quality. The outcome is a wide variety of successful candidates with backgrounds that are variously unsuited to the challenge of representation or socio-economic development.

The programme of development of civic and individual capacity being proposed here goes a long way in addressing these matters. As matters now stand, it appears that when the people's

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<sup>30</sup> See *The Hero and the Crowd in a Colonial Polity* by A. W. Singham, *Caribbean Studies*, Vol. 9, No. 4 (Jan., 1970), pp. 132-134.

representatives are selected, it is necessary to provide systematic professional support to them, as a way to improve the legislative practice on the other side of the duality. In particular, this requires that, apart from the public administration controlled by the Executive, legislators must be given:

- Special professional support, with a view to providing:
  - specialized professional recruitment, potentially partisan;
  - specialized research and transmission of information to support the design of legislation;
  - specialized training in the use of e-learning technologies and e-democracy/e-government;
  - assistance with preparation of draft legislation;
  - public relations and communications support, including with the general support staff; and
  - support for promotion of constituency issues.
- Nonpartisan professional support, with a view to providing:
  - documentation and internal research;
  - protocol management; and
  - communications.

In addition, recall that for the duality principle to be effective, the legislative caucus of the people must configure itself to receive information from all citizens, self-interest groups, popular movements, CBO, and NGOs, who wish to publish their views on relevant matters of concern to the society. This means that the self-interest groups, popular movements, CBOs, and NGOs must be able to attend the legislative caucus under appropriate rules in order to provide information about the will of their members. The practice in the US is instructive: invitations to hearings cover:

- ✓ the subject of the hearings;
- ✓ requisite forms to be filled out by prospective witnesses;
- ✓ maximum duration and time of testimony;
- ✓ written testimony;
- ✓ publicizing of hearings;
- ✓ special provisions (for, e.g., the disabled); and
- ✓ issues witnesses may address.

To be effective, these arrangements for ‘hearings’ must be routine, and must address any matters of public significance on which the legislative caucus wishes to pronounce, such as the annual budget, capital punishment, and reform of the Constitution. In the US Legislature, a hearing is “a meeting or session of a Senate, House, Joint, or Special Committee of Congress, usually open to the public, to obtain information and opinions on proposed legislation, conduct an investigation, or evaluate/oversee the activities of a government department or the implementation of a Federal

law. In addition, hearings may also be purely exploratory in nature, providing testimony and data about topics of current interest.”<sup>31</sup>

#### 5.4 **Design Issue 4: Budget Neutral Ballot Initiatives**

The principle of legislative duality implies that the final responsibility for the governing rules of the country rests with the people in their capacity as the “Legislature at large.” Thus, where a subset of the people forms the view that their interests are not adequately captured by the deliberations and actions of the legislative caucus, they must have an opportunity to seek consensus through a majority vote in the Legislature at large – the plebiscite.<sup>32</sup>

One way to achieve this is to create opportunities for direct democracy in the form of budget-neutral “ballot initiatives.” With its roots in Switzerland,<sup>33</sup> a “ballot initiative” or “popular initiative” is a process of participatory democracy that “allows individuals or groups outside of the legislative arena to draft legislation and qualify it for the election ballot by collecting a specified number of petitioned signatures.”<sup>34</sup> As a general rule, it will normally be necessary for such initiatives to be ‘budget neutral’, in the sense that they account clearly for their associated revenues and costs to implement the advocated law, if necessary, and avoid net additions to the relevant national or local budget. More generally, to be effective, ballot initiatives should be introduced in the context of the design issues raised in 1 to 3 above; and given the limited resources of the state, any ballot initiative should include financing arrangements to avoid foisting unbudgeted financial burdens on the citizenry.

In the US, the ballot initiative is rooted in the populist and progressive movements of the late 1800s.<sup>35</sup> The modern expression of the ballot initiative can be traced to the 1978 California Proposition 13 initiative that capped state property taxes.<sup>36</sup> Since then, the use of initiatives has intensified across 24 states, which have provided for such rule-making by the people in their constitutions.<sup>37</sup> Ballot initiatives can be either “direct,” where policy or legislative proposals are placed on a ballot without the scrutiny of government, or “indirect,” where policy or legislative proposals are submitted to the government for review before being placed on the ballot.

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<sup>31</sup> See <http://www.gpoaccess.gov/chearings/index.html>.

<sup>32</sup> Munro (1912) justifies such direct legislation as follows: “The first argument in favor of direct legislation rests, accordingly, upon the allegation that existing legislative methods and results are unsatisfactory to the majority of the electorate; that representatives do not properly represent.” See Munro, William (ed.) (1912), *The Initiative, Referendum, and Recall*, New York: Appleton and Co., p. 20.

<sup>33</sup> See Kobach, Kris (1993). *The Referendum: Direct Democracy in Switzerland*, Darmouth, UK: Aldershot.

<sup>34</sup> See Smith, Daniel and Caroline Tolbert (2007). “The Instrumental and Educative Effects of Ballot Measures: Research on Direct Democracy in the American States,” *State Politics and Policy Quarterly*, Vol.7, No.4, Winter p.418.

<sup>35</sup> See Gildersleeve, John (2007) *Editing Direct Democracy: Does Limiting the Subject Matter of Ballot Initiatives Offend the First Amendment*, *Columbia Law Review*. Vol.107:1437, p.1441.

<sup>36</sup> For a discussion of Proposition 13’s adoption and effects, see Peter Schrag (1998) *Paradise Lost: California’s Experience, America’s Future*, Los Angeles: University of California Press.

<sup>37</sup> Several state constitutions vests legislative power in the State legislature but also reserves law-making powers for the people. For example, in the Arizona Constitution, art. IV, pt. 1, § 1, subsec. 1 “the people reserve the power to propose laws and amendments to the Constitution and to enact or reject such laws and amendments at the polls, independently of the Legislature . . . .” Similar powers are reserved in the California Constitution art. IV, § 1: “the people reserve to themselves the powers of initiative and referendum.”

Although state constitutions and statutes impose elaborate regulatory requirements, successful initiatives cannot be vetoed by the executive, but, as with any law, the legislature may amend statutory initiatives in certain circumstances.<sup>38</sup>

The significance of ballot initiatives goes beyond the exercise of people power through direct rule-making. There is also an “educative” byproduct of the process since it encourages citizens to become more politically engaged and improve the general state of civic affairs and public discourse. For example, some researchers have noted that, with exposure to initiatives on the ballots, the number of citizens turning out to vote is likely to increase.<sup>39</sup>

Arguing that the educative effect is due to the additional political information provided to voters, Tolbert and Smith (2003) provide empirical justification for the education claims. They summarize their findings as follows:

“We find that with respect to voter turnout, civic engagement, and political efficacy, direct democracy does indeed have positive effects on citizens. Based on national survey data, our research indicates that citizens living in states with frequent exposure to ballot initiatives are more motivated to vote, more engaged and better informed about politics, and express more confidence in government responsiveness than citizens living in non-initiative states. Indeed, we even find that citizen lawmaking has a positive effect on political discussion... we find that the initiative process does have a significant effect on the attitudes and behaviors of citizens.”<sup>40</sup>

## 6. Conclusion

We have argued that democracy matters in the policy-making process and is central in setting national social and economic targets. Given the difficulty of measuring social welfare, the Executive typically ranks policy options and identifies the best for the society, without reference to an independent Legislature that embeds the will of the people. We maintain that optimal decision-making can be achieved by seeking a ranking of options through democratic devices that enable the policy-maker to choose the perceived best option. Such devices must take account of the dual characteristic of the legislative function by ensuring that the will of the people is expressed in the law-making process through and by their elected representatives, without the interference of the Executive (representative democracy), on the one hand, and that the people can directly shape the rules by which the society operates (direct democracy), on the other hand.

The role of the people in the duality of the legislative process raises fundamental questions about the constitutional/legislative framework that empowers the people to act as owners of Jamaica. The Jamaican Constitution does not place “the people” at the centre of the constitutional

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<sup>38</sup> See Gildersleeve, John (2007) *Editing Direct Democracy: Does Limiting the Subject Matter of Ballot Initiatives Offend the First Amendment*, Columbia Law Review. Vol.107:1437, p.1445.

<sup>39</sup> See Mark Smith, “The Contingent Effects of Ballot Initiatives and Candidate Races on Turnout,” *American Journal of Political Science* 45 (2001): 700-706 and Caroline Tolbert, John Grummel and Daniel Smith, “The Effects of Ballot Initiatives on Voter Turnout in the American States,” *American Politics Research* (2001) 29 (6): 625-648. See <http://www.clas.ufl.edu/users/dasmith/apr.pdf>.

<sup>40</sup> Tolbert, Caroline and Daniel A. Smith (2003). *Educated by Initiative: Direct Democracy and Civic Engagement in the American States*, pp.24-25. See [http://www.olemiss.edu/depts/political\\_science/statepolitics/conferences/2003/Papers/tolbertsmith.pdf](http://www.olemiss.edu/depts/political_science/statepolitics/conferences/2003/Papers/tolbertsmith.pdf)

arrangements and is weak in recognizing the responsibility of the citizenry to look after their own interests and carry out their civic responsibility through the legislative process. For this reason, it is necessary to pursue deliberate strategic designs for enhancing democracy and achieving new social conditions. We maintain that the core strategic designs must perform the following:

- support spontaneous popular organisation;
- strengthen the capacity of the people to actively take responsibility for the country as owners;
- configure the Legislature to effectively represent the people; and
- establish budget-neutral ballot initiatives.

It is when such deliberate policy choices to enhance democracy are made that Jamaica will be able to achieve social and economic targets that can maximize social welfare. History will be kindest to the government that makes such policy choices that allow for greater involvement of the people in the decision-making process.

## APPENDIX 1

### A Simple Illustration that Policy and Democracy Matter

The typical firm operating in Jamaica's markets is concerned to maximize the net present value from its investments, influenced by environmental factors one of which is  $i_t$ , the rate of interest. Let  $y_t$  be the aggregate net present value of economy-wide investment at  $t$ . Embedded in  $y_t$  is some optimal aggregate investment function,  $I^T$ , which characterizes the optimal path of capacity building in the economy. The objective of the policymaker is generally to minimize the deviation  $I_t - I^T$ , where  $I_t$  is the current rate of investment. It is presumed that the smaller the deviation, the larger the social welfare of the society. It is generally agreed that  $I_t$  depends on the rate of interest,  $i_t$ , which is influenced by the interventions of the policymaker.

Assume a simple but fairly realistic discrete stochastic model of investment and strategic influence:

$$1. \quad \begin{aligned} I_t &= a_{0t} - a_1 i_t + b_1 I_{t-1} + \epsilon_t, E(\epsilon_t) = 0 \\ i_t &= \beta_0 + \beta_1 I_{t-1} \end{aligned}$$

That is, the investment in one period affects investment in the next, influenced by strategic policy intervention  $i_t$ . Clearly,  $I_{t-1}$  is also exogenous, being a lagged endogenous variable. In this case, the rule is defined with a feedback component, suggesting government intervention depending on the immediate past investment achieved. The worse the investment performance of the economy in the previous period, the lower the rate of interest government will pursue in the current period in order to boost current investment. The objective is to find optimal values for the  $\beta_j$  such that the variance of  $I$  is minimized. Substituting (1.2) into (1.1) and gathering terms to get the solution (reduced) form give:

$$2. \quad I_t = a_{0t} - a_1 \beta_0 + [b_1 - a_1 \beta_1] I_{t-1} + \epsilon_t$$

A variety of assumptions can be introduced at this stage, such as 'steady state' or steady growth, or autonomous growth. The Jamaican economy has been forecasted to grow at a very moderate pace in the next year, so it might be reasonable to assume steady growth. Therefore, we can write:

$$3. \quad a_{0t} = a_{0,t-1}(1 + g)$$

with  $g$  the natural rate of growth of investment motivated by the adjustment of effective demand as the economy grows. Here,  $g$  can represent some level of policy-driven investment to address the development challenges, and might itself be the subject of further modelling. Then, we must also have:

$$4. \frac{I_t}{1+g} = I_{t-1}$$

Substituting (3) and (4) into (2), taking expected values, and rearranging give:

$$5. I_t = \frac{a_{0,t-1}(1+g)^2 - a_1\beta_0(1+g)}{(1+g) - [b_1 - a_1\beta_1]}$$

since  $E(\epsilon_t) = 0$ . Under the influence of the simple interest rate rule, the current rate of investment will depend on the rate of autonomous growth and the parameters of the policy function. Under the steady state assumption, the influence of the rate of growth disappears and the investment function becomes the special case:

$$6. I_t = \frac{a_{0,t-1} - a_1\beta_0}{1 - [b_1 - a_1\beta_1]}$$

On the other hand, if there is steady growth, the quadric in the numerator will play a significant role in influencing the path of investment, but much will still depend on the role of the policy parameters. To address the need to minimize variance, the same substitutions above yield the  $var(I)$  of investment as:

$$7. var(I) = \frac{(1+g)^2 \delta_\epsilon^2}{\{(1+g)^2 - [b_1 - a_1\beta_1]\}^2}$$

To minimize the variance of investment, we need the denominator of (7) to go to 1. That is,

$$8. 1 + 2g + g^2 - [b_1 - a_1\beta_1]^2 = 1$$

or

$$9. g^2 + 2g - [b_1 - a_1\beta_1]^2 = 0$$

If there is a steady state as distinct from steady growth, then  $g = 0$  and the condition for minimum variance becomes:

$$10. \beta_1 = \frac{b_1}{a_1}$$

In the steady growth case, the condition from (9) is more complex, being:

$$11. \beta_1 = \frac{b_1 \pm \sqrt{g(g+2)}}{a_1}$$

Clearly, (11) reduces to (10) when  $g = 0$ , otherwise there are two potential real solutions from which to choose. Substituting from (11) or (10) into (5) gives the estimate for  $\beta_0$ , once  $g$  is known. Thus  $i_t$  is identified and, therefore, as long as (1.1) is identified, the optimal level of  $I_t$  is determined and, therefore, so is the smallest deviation  $I_t - I_t^T$ . The problem for the policymaker and society, of course, is that there are two solutions but one must be chosen, not always on a technical basis.

The design of strategy in this sense clearly requires that several conditions be satisfied:

- Unique feasible and, hence, stable target values can be determined for the target variables.
- The structure of the economy and, in particular, of the system relating strategic policy instruments to target variables must be known.
- The policymakers must be able to control the strategic instrumental variables and to identify the optimal control.

Matters are different and more complex when continuity and nonlinearity in the net accumulation function are acknowledged. Even more important, to the extent that the net cash flow equation and the investment equation are to be disaggregated to fit reality, the number of policy instruments and optimal policy options increases, raising the issue of non-preferential democracy as the only way to choose among the options. Further, if the net present value is the performance criterion, then the analysis of options above is largely tractable, notwithstanding the fact that the problem of choice among mathematically equivalent optima has to be solved repeatedly. However, if the performance criterion is more complex, such as a social welfare function, then the existence, uniqueness, and stability requirements are difficult to establish in practice because a performance function or social welfare function is difficult to specify. One reason for this is the difficulty of measuring social welfare itself.

## APPENDIX 2

<b>CORE CONSTITUTIONAL PROVISION REGARDING THE POWER OF GOVERNOR GENERAL/PRESIDENT TO EXERCISE FUNCTIONS IN SELECTED CARIBBEAN COUNTRIES</b>	
<b>COUNTRY</b>	<b>CORE PROVISION IN RESPECTIVE CONSTITUTIONS</b>
Jamaica	<p>s.32(1) The Governor-General shall act in accordance with the advice of the Cabinet or a Minister acting under the general authority of the Cabinet in the exercise of his functions other than-</p> <ul style="list-style-type: none"> <li>a. any function which is expressed (in whatever terms) to be exercisable by him on or in accordance with the recommendation or advice of, or with the concurrence of, or after consultation with, any person or authority other than the Cabinet; and</li> <li>b. any function which is expressed (in whatever terms) to be exercisable by him in his discretion.</li> </ul>
Trinidad & Tobago	<p>s.80(1) In the exercise of his functions under this Constitution or any other law, the President shall act in accordance with the advice of the Cabinet or a Minister acting under the general authority of the Cabinet, except in cases where other provision is made by this Constitution or such other law, and, without prejudice to the generality of this exception, in cases where by this Constitution or such other law he is required to act-</p> <ul style="list-style-type: none"> <li>a. in his discretion;</li> <li>b. after consultation with any person or authority other than the Cabinet; or</li> <li>c. in accordance with the advice of any person or authority other than the Cabinet.</li> </ul>
Grenada	<p>s.62 (1) In the exercise of his functions the Governor-General shall act in accordance with the advice of the Cabinet or a Minister acting under the general authority of the Cabinet except in cases where he is required by this Constitution or any other law to act in accordance with the advice of any person or authority other than the Cabinet or in his own deliberate judgment.</p>
Saint Lucia	<p>s.64(1) In the exercise of his functions the Governor-General shall act in accordance with the advice of the Cabinet or a Minister acting under the general authority of the Cabinet except in cases where he is required by this Constitution or any other law to act in accordance with the advice of, or after consultation with, any person or authority other than the Cabinet:</p> <p>Provided that the foregoing provisions of this subsection shall not apply where the Governor-General is authorized to act in his own deliberate judgment in accordance with the following provisions of this Constitution- .....(see paragraphs a-f).</p>
Dominica	<p>s.62 In the exercise of his functions the President shall act in accordance with the advice of the Cabinet or a Minister acting under the general authority of the Cabinet except in cases where he is required by this Constitution or any other law to act in accordance with the advice of, or after consultation with, any person or authority other than the Cabinet:</p> <p>Provided that the foregoing provisions of this subsection shall not apply where the President is authorised to act in his own deliberate judgment in accordance with the following provisions of this Constitution-.....(see paragraphs a-f).</p>
Saint Kitts & Nevis	<p>s.56(1) In the exercise of his functions the Governor-General shall act in accordance with the advice of the Cabinet or a Minister acting under the general authority of the Cabinet except in cases where he is required by this Constitution to act in accordance with the advice of, or the recommendation of, any person or authority other than the Cabinet:</p> <p>Provided that the foregoing provisions shall not apply where the Governor-General is authorized to act in his own deliberate judgment in accordance with the following provisions- .....(see paragraphs a-i).</p>

<b>CORE CONSTITUTIONAL PROVISION REGARDING THE POWER OF GOVERNOR GENERAL/PRESIDENT TO EXERCISE FUNCTIONS IN SELECTED CARIBBEAN COUNTRIES</b>	
<b>Saint Vincent &amp; The Grenadines</b>	<p>s.55(1) In the exercise of his functions the Governor-General shall act in accordance with the advice of the Cabinet or a Minister acting under the general authority of the Cabinet except in cases where he is required by this Constitution or any other law to act in accordance with the advice of any person or authority other than the Cabinet:</p> <p>Provided that the foregoing provisions of this subsection shall not where the Governor-General is authorized to act in his own deliberate judgment in accordance with the following provisions of this Constitution- ...(see paragraphs a-e).</p>
<b>Barbados</b>	<p>s.32(1) The Governor-General shall act in accordance with the advice of the Cabinet or a Minister acting under the general authority of the Cabinet in the exercise of his functions other than-</p> <p><i>(a)</i> any function which is expressed (in whatever terms)</p> <p>to be exercisable by him on or in accordance with the recommendations or advice of, or with the concurrence of, or after consultation with, any person or authority other than the Cabinet; and</p> <p><i>(b)</i> any function which is expressed (in whatever terms) to be exercisable by him in his discretion.</p>
<b>Antigua &amp; Barbuda</b>	<p>s.80(1) In the exercise of his functions the Governor-General shall act in accordance with the advice of the Cabinet or a Minister acting under the general authority of the Cabinet, except in cases where other provision is made by this Constitution or any other law, and, without prejudice to the generality of this exception, in case where by this Constitution or any other law he is required to act-</p> <ul style="list-style-type: none"> <li>a. in his discretion;</li> <li>b. after consultation with any person or authority other than Cabinet; or</li> <li>c. in accordance with the advice of the Prime Minister or any person or authority other than the Cabinet.</li> </ul>
<b>Bahamas</b>	<p>s.79(1) The Governor-General shall, in the exercise of his functions, act in accordance with the advice of the Cabinet or a Minister acting under the general authority of the Cabinet, except in cases where by this Constitution or any other law he is required to act in accordance with the recommendation or advice of, or with the concurrence of, or after consultation with, any person or authority other than the Cabinet:</p> <p>Provided that the Governor-General shall act in accordance with his own deliberate judgment in the performance of the following functions-...(see paragraphs a-h).</p>

## APPENDIX 3

### **THE POWERS OF THE PRIME MINISTER UNDER THE JAMAICAN CONSTITUTION**

Section	Summary of Powers
69 (1)&(2)	Cabinet, selected by PM, is the principal instrument of policy and responsible to Parliament
30 (1) (c)	PM advises GG on appointment of a deputy to act during absence or illness of GG
30 (3)	PM may revoke appointed Deputy GG
32 (1)	GG mainly acts in accordance with the advice of the PM
35 (2)	13 Senators appointed by the GG with the advice of the PM
45 (1)	GG appoints a Senator to fill a vacant Senate seat with the advice of the PM
64 (4) & (5)	GG summons the two Houses in an emergency between a dissolution of Parliament and the next general election on advice of the PM
65 (1)	GG appoint members of the House of Representatives on advice of the PM
67 (2) (b)	Standing Committee of the House consisting of three members of the House appointed by the PM
70 (1)	GG appoint Ministers on advice of the PM
71 (3)	If MPs pass a resolution to revoke the appointment of the PM, the GG dissolves Parliament after consultation with PM
71 (4) (b)	GG revoke appointment of Minister on advice of PM
72(1)(2)&(3)	GG appoints an acting PM if the PM is unable to perform functions of the office on the advice of the PM, unless unable to give advice
73(1)&(3)	GG appoints a Minister if the Minister is unable to perform functions of the office on advice of the PM
77 (1)	GG may charge any Minister or member of the Senate with the responsibility for any subject or any department of government on advice of PM
78	GG appoint Parliamentary Secretaries on advice of the PM
79 (2)	GG appoints a person to hold or act in the office of Attorney-General and removes the AG on advice of the PM
81	GG appoints the Leader of Opposition where there is a vacancy on advice of the PM
82 (1)	GG appoints six members of Privy Council after consultation with the PM
83(1) (c)	GG revokes appointment of member of Privy Council after consultation with the PM
84	GG declares a member of Privy Council unable to act after consultation with the PM
85 (1)	GG appoints a person to be a provisional member of Privy Council after consultation with the PM
86 (1)	GG appoints a member of Privy Council to be the Senior Member after consultation with the PM
92 (1)	GG appoints Secretary to the Cabinet acting on recommendation of the PM
91 (2)	The Secretary to the Cabinet in charge of the Cabinet Office acts in accordance with instructions by the PM
96 (1)	GG may permit a DPP who is 60 years old to continue in office up to age 65 acting on recommendation of the PM
96 (6)	GG removes the DPP from office in accordance with advice of the PM
96 (8)	GG suspends DPP in accordance with advice of the PM
98 (1)	GG appoints Chief Justice on the recommendation of the PM after consultation with the Leader of the Opposition
99 (1)	GG appoints a Judge on advice of PM to act as Chief Justice if the office is vacant or if Chief Justice is unable to act
100 (2)	GG may permit a Judge of the Supreme Court to continue in office on advice of the PM
100 (6)	GG selects members of a tribunal in addressing the question of removing a Judge from of the Supreme Court from office on the advice of the PM
100 (8)	GG suspends a Judge referred to a tribunal on advice of the PM or Chief Justice after consultation with PM
100 (9)	GG may revoke suspension of Judge from the Supreme Court on advice of the PM
104 (1)	GG appoints President of the Court of Appeal on the recommendation of the PM after consultation with the Leader of the Opposition.

105 (1)	GG appoints an acting President of the Court of Appeal in accordance with the advice of the PM
106 (2)	GG gives permission for a Court of Appeal Judge to continue in office on the advice of the PM
106 (6)	GG selects members of a tribunal in addressing the question of removing a Judge from the Court of Appeal from office on the advice of the PM
106 (8)	GG may suspend a Judge referred to a tribunal on advice of the PM or President of the Court of Appeal after consultation with PM
106 (9)	GG may revoke suspension of Judge from the Court of Appeal on advice of the PM
111 (3)	GG appoints member to the Judicial Services Commission on the recommendation of the PM after consultation with the Leader of the Opposition
111 (4) (d)	GG removes member to the Judicial Services Commission on the recommendation of the PM after consultation with the Leader of the Opposition
111 (5)	GG may appoint an acting member of the Judicial Services Commission where there is a vacancy on the recommendation of the PM after consultation with the Leader of the Opposition
120 (2) & (6)	GG may appoint acting Auditor-General after informing the PM of the nature the recommendation in accordance with the recommendation of the Public Service Commission
121 (5)	GG appoints tribunal and selects members to address the question of removing the Auditor-General on the advice of the PM or Chairman of the Public Service Commission that there should be an investigation
124 (1) & (2)	GG appoints members of the Public Service Commission on the recommendation of the PM after consultation with the Leader of the Opposition
124 (5) (d)	GG removes a member of the Public Service Commission on the recommendation of the PM after consultation with the Leader of the Opposition
124 (6)	GG appoints an acting member of the Public Service Commission and revokes such appointment on the recommendation of the PM after consultation with the Leader of the Opposition
126 (2)&(3)	GG make appointments to the office of Permanent Secretary of the Public Service Commission on the recommendation of the Public Service Commission after consulting with the PM
128 (1)& (2)	GG make appointments to the office of the Public Service and removes such persons with the advice of the PM after consulting the Public Service Commission.
129 (1) & (2)	GG appoints members of the Police Service Commission on the recommendation of the PM after consultation with the Leader of the Opposition
129 (5) (d)	GG removes members of the Police Service Commission on the recommendation of the PM after consultation with the Leader of the Opposition
129 (6)	GG appoints an acting members of the Police Service Commission and revokes such appointment on the recommendation of the PM after consultation with the Leader of the Opposition
135 (1)	GG confer powers and impose duties on any public officer or any authority of the Government of Jamaica for the purpose of the discharge of the functions of any Commission with the advice of the Commission, subject to the consent of the PM or other Minister authorised by the PM