

The Caribbean Emergency Legislation Project

Claudia S. de Windt , Senior Legal Specialist, OAS-Department of Sustainable Development

Ron Jackson, Director ,ODPEM, Jamaica



Organization of
American States



Overview



- Scope: Prevention and Response
- Need of expedite decision making in disaster situations
- Lack of comprehensive legal-institutional framework
- Funded by WB-IDF
- Cross cutting issues: financial, technical and legal and institutional.
- Key financial issues: Planning, appropriation and execution



Development Objective

- Build legislative capacity to enhance legal and institutional framework for state of emergency and appropriation in CARICOM countries.
- Raise awareness among government decision makers and make recommendations to improve legislative channels and administrative procedures during, and immediately after, the occurrence of a natural disaster.





Countries

Antigua and Barbuda

Barbados

Belize

Dominica

Dominican Republic

Grenada

Haiti

Jamaica

St. Kitts and Nevis

St. Lucia

St. Vincent and the Grenadines

Trinidad and Tobago





Project Implementation

- Components:
 1. *Study to improve legal frameworks related to state of emergency and appropriation powers*
 2. *National and regional validation and outreach completed*
- Main Output
 - **a set of recommendations for the implementation of clear and transparent procedures triggered under a state of emergency**



Stakeholders

- National
- National Focal Points – Inter-American Disaster Mitigation Network
- Government offices agencies
 - Ministers of Finance
 - Ministry of Environment
 - Ministry of Justice
 - Offices of Disaster Preparedness and Emergency Management
- Private sector
- NGOs



Stakeholders

Regional

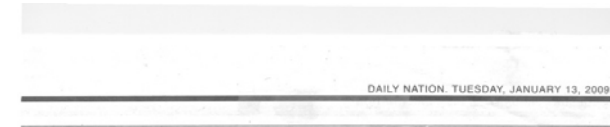
- CARICOM
- CDEMA
- UWI
- CDB
- OECS

International

- OAS
- WB
- INDM
- IFRC

Regional/International

- Steering Committee



Committee examines emergency protocols

A STEERING COMMITTEE has been convened to examine whether state of emergency protocols could be applied to the Caribbean.

The Caribbean Emergency Legislation Project will involve all the CARIFORUM states. It was launched yesterday at the Accra Beach Hotel & Resort.

The first phase of the project, engaging the member states to build legislative capacity, will last until the end of the year.

This project is being funded by the World Bank and implemented by the Organisation of American States (OAS). The aim is to help CARIFORUM in strengthening their legal and institutional frameworks for responding to disaster situations," said director of the Department



FROM LEFT: Coordinator of the Caribbean Disaster Emergency Response Agency, Jeremy Collymore; director of the Department of Sustainable Development of the Organisation of American States, Cletus Springer; and the permanent secretary in St Lucia's Ministry of Finance, Isaac Anthony, deep in conversation, ca

to be declared before they offered aid, but the committee's job was now to weigh that expectation against the cultural and political balances of the region. (CA)



National experiences: Jamaica

Legal framework

- Constitution (1962): Chapter III, Section 26 (4), (5), (6) and (7)
- Statutes: Emergency Powers Act and Disaster Preparedness and Emergency Management Act
- Other laws/instruments: e.g., Kingston and St. Andrew Cooperation Act, Town and Country Planning Act, National Solid Waste Management Act, Water Resources Act, Fire Brigade Act, National Disaster Action Plan



National experiences: Jamaica

Legal framework

Constitution

- Chapter III, Section 26(4) identifies events that trigger state of emergency (SOE):
 - state of war
 - actions that threaten public safety or deprive of supplies essential to life
 - occurrence of earthquake, hurricane, flood,
 - outbreak of pestilence of other calamity
- Governor General (GG) acts on advice of Cabinet or Minister acting under authority of Cabinet to proclaim SOE
- In force for 1 month – can be extended up to 12 by resolution & majority vote of all members of House of Representatives
- Can be revoked at any time by resolution supported by majority of the House of Representatives



National experiences: Jamaica

Legal framework

- Emergency Powers Act (EPA) 1938
 - Consistent with section 26(4) of the Constitution
 - GG can make regulations during public emergency to secure “essentials of life” of the community – securing supply & distribution of food, water, fuel, light & other services essential to public safety & life of community
 - GG can impose on *any* Government Department such powers and duties as the Governor General may deem necessary
- Disaster Preparedness and Emergency Management Act 1993.
 - Provides for Office of Disaster Preparedness and Emergency Management, National Disaster Plan
 - Gives Prime Minister power to declare local area as Disaster Area
 - Advises PM on exercise of power



National experiences: Jamaica

Institutional framework





National experiences: Jamaica

Budget appropriation and execution

Planning for the Budget begins with the development of the medium term framework and the policy targets. This is the responsibility of the Ministry of Finance and the Public Service, the central bank – the Bank of Jamaica - and the Planning Institute of Jamaica.

- Legal authority: Constitution
 - Section 115 - gives the Minister of Finance the responsibility for the preparation of annual Estimates of Revenues and Expenditures before the close of each financial year and the tabling in Parliament of those Estimates
 - Section 116- authorizes the Minister of Finance to “introduce in the House of Representatives an Appropriation Bill”.

Appropriation Bill

- contains under appropriate heads, the estimated aggregate sum proposed to be expended for the delivery of public goods and services



National experiences: Jamaica

Budget appropriation and execution

- Allocation for natural disasters can be found in the Estimates of Expenditure under the Budget Heads of the Ministry of Finance and the Public Service, the Ministry of Health and the Office of the Prime Minister.
- Financial year 2009/2010 allocations
 - \$40.0M were made indirectly under the allocations for projects to strengthen disaster risk management i.e. \$27.489M for the project Natural Hazard Management in Urban Coastal Areas and \$13.274M for the project Building Disaster Resilient Communities
 - Direct allocations of \$689.661M were made with the contribution of \$17.0M to the Caribbean Disaster Emergency Response Agency (CDERA) and \$128.811M to the Office of Disaster Preparedness & Emergency Management (ODPEM)
 - However, from the allocation of \$128.811M to the ODPEM the real direct allocation for natural disaster is \$5.0M for the purchase and storage of food supplies for relief
 - Capital allocation of \$50.0M for the National Disaster Fund, to provide for the co-ordination of relief activities.
 - Recurrent Budget of the Ministry of Health, \$54.851M is allocated to cover the operating expenses for Emergency, Disaster Management and Special Services in the Ministry of Health
 - Recurrent Budget of the Ministry of Finance and the Public Service there is an allocation for payment of the premium for Catastrophe Risk Insurance.



National experiences: Jamaica

Challenges

- absence of a National Disaster Management Policy or a comprehensive revision of the National Disaster Plan
 - Regarding the plan, financing for its key elements have proven challenging
- roles of government agencies and other stakeholders must be clearly defined (preparedness)
- need to outline clearly in legislative framework, the necessary steps to be taken before and after a state of emergency or disaster declaration
- regarding the budget appropriation, sustainable and substantive sources of funding need to be ascertained to enhance the effectiveness of Jamaica's response to natural disasters.



National experiences: Jamaica

National Workshop Recommendations

- Finally revise the Disaster Preparation and Emergency Management Act
 - Establish regulations and procedures
- Disaster reporting at the Parliamentary level
- Greater engagement between ODPEM and local government
- Establish a National Building Code
- Create an Environmental Protection Mechanism
- Revise National Disaster Plan
- Legislation for forced or mandatory evacuation
- Enhance community response for when a disaster is declared
- Review the National Disaster Fund
 - Natural contribution to a disaster funding scheme similar to the education/housing trust
 - Ensure accountability
 - Fund can be insured
- Build a sustainable fund from the private sector
 - Must be tax efficient
 - Incentive for private sector to give money
 - There must be a tax fund



Thank you!

www.oas.org/dsd

cdewindt@oas.org

rjackson@odpem.org.jm