



**International Convention on  
the Elimination of All Forms  
of Racial Discrimination**

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**Committee on the Elimination of Racial Discrimination**

**Reports submitted by States parties under article 9 of the  
Convention**

**Sixteenth to twentieth periodic reports of States parties due in 2010**

**Jamaica** \* \*\*

[9 July 2012]

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\* This document contains the sixteenth, seventeenth, eighteenth, nineteenth and twentieth periodic reports of Jamaica due on 4 July 2002, 2004, 2006, 2008 and 2010 respectively, submitted in one document. For the eighth to fifteenth periodic reports and the summary records of the meetings at which the Committee considered this report, see documents CERD/C/383/Add.1 and CERD/C/SR.1511 and 1512.

\*\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited.

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## I. Introduction

1. In accordance with article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination, Jamaica hereby submits to the Secretary-General of the United Nations, for consideration by the Committee on the Elimination of Racial Discrimination, its combined sixteenth, seventeenth, eighteenth, nineteenth and twentieth periodic reports on the implementation of the specific rights provided for under articles 2 to 7 of the Convention.
2. The report also seeks to address the suggestions and recommendations made by the Committee in its concluding observations (CERD/C/60/CO/6) following the consideration of Jamaica's combined eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth and fifteenth periodic reports in March 2002.

## II. General overview

3. The population of Jamaica at the end of 2010 was estimated at 2,705,800 with an annual growth rate of 0.3 per cent. Of this number, 1,332,700 or 49.3 per cent are males while 1,373,100 or 50.7 per cent are females.<sup>1</sup> An estimated equal number of Jamaicans live outside the country, predominantly in the United States, United Kingdom and Canada.
4. The Jamaican population is ethnically diverse, comprising predominantly people of African descent but also persons of Indian, Chinese, Lebanese and European ancestry. Based on statistics available for 2001, people of African descent account for 91.6 per cent of the entire population. The other 9.4 per cent is distributed as follows: Indians (0.9 per cent), Chinese (0.2 per cent), mixed (6.2 per cent), other (0.1 per cent), and tot represented (0.1 per cent). It is expected that more current information will become available once the report of the 2011 census is complete.
5. Racism does not manifest itself as it does in other countries. The greater challenge for Jamaica is overcoming the residual impact of slavery on the society as skin colour is sometimes approximated with opportunities for upward or social mobility. The data that is available and the policies being implemented by the Government are not aimed at addressing specific racial groups. The focus of the Government's policies and programmes is also on ensuring that measures are in place to address the needs of economically and socially disadvantaged groups, particularly those who are impoverished or living in depressed communities.
6. The Jamaican culture is very diverse. This diversity is embodied in Jamaica's motto "Out of Many One People." There are several initiatives aimed at ensuring that the cultural traditions and activities of the various ethnic groups are respected and promoted.
7. Like other countries, Jamaica has been severely impacted by the global economic recession, manifested in part by the country's return in 2010 to the International Monetary Fund (IMF) with a signing of a Standby-Agreement. Efforts are underway to conclude negotiations for a new Agreement.
8. Jamaica has also made considerable progress towards meeting international standards in a number of key social indicators, including life expectancy, near universal enrolment at the primary level, and widespread access to potable water. Jamaica also has an established tradition of democratic participation, free expression of opinion and a free

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<sup>1</sup> Economic and Social Survey of Jamaica, 2010.

press. The separation of powers among the three branches of government: the Executive, the Legislature and the Judiciary, is entrenched in the Constitution.

9. The official language of the country is English, although a dialect patois is spoken.

### **III. Implementation of the specific rights provided for under the Convention**

#### **Articles 1 and 2 - Eliminating racial discrimination and promoting understanding among all races**

10. The Charter of Fundamental Rights and Freedoms (the Charter), which replaces Chapter III of the Jamaican Constitution, provides for specific protection against discrimination on the grounds of race. Section 13 (3) (i) expressly provides that all persons enjoy the right to freedom from discrimination on the ground of being male or female or on the ground of race, place of origin, social class, colour, religion or political opinions. Section 13 also provides that Parliament shall pass no law and no organ of the State shall take any action which abrogates, abridges or infringes the rights contained in the Charter. The Charter also prescribes judicial processes to be observed in the event that there is a violation of any of the rights it establishes, where those violations are committed by the State. In addition, the Charter prohibits violations of these rights by private individuals in certain limited circumstances. Under Section 19 of the Charter, a person who alleges that any of the protective provisions is being, has been or is likely to be contravened may apply to the Supreme Court of Jamaica for redress. The Supreme Court is empowered to make orders, issue writs and give directions it deems appropriate for the purpose of enforcing the provision.

11. There are no institutional policies or laws in Jamaica that serve to encourage racial discrimination. All racial groups enjoy equal status before the law.

#### **Article 3 - Condemnation of racial segregation and apartheid**

12. In keeping with its longstanding tradition of supporting efforts aimed at eliminating racism and racial discrimination, Jamaica continues to participate in the discourse at the regional and multilateral levels devoted to the issue.

#### **Article 4 - Propaganda and racist theories**

13. The Committee, in its concluding observations on Jamaica's eighth to fifteenth periodic reports, had suggested that Jamaica considers withdrawing its reservation to article 4 of the Convention on the Elimination of All Forms of Racial Discrimination and adopt legislation, particularly in respect of article 4 (b) prohibiting racist organisations. The Government believes, as explained in the response provided under article 2, that there are sufficient measures in place under the new Charter of Fundamental Rights and Freedom which entrench and guarantee to every person fundamental rights and freedoms, regardless of race or place of origin.

#### **Article 5 - Measures to eliminate racial discrimination in all its forms**

14. As requested by the Committee, please see below information concerning the policies and programmes of the Government of Jamaica for the promotion of civil, political,

economic, social and cultural rights. All the rights elaborated below can be enjoyed by all persons, in accordance with the Constitution of Jamaica and the Charter of Fundamental Rights and Freedoms, and without distinction of any kind. The Government of Jamaica, at this juncture, does not disaggregate data on the basis of race or ethnicity.

### **Right to equal treatment before tribunals and other organs of justice**

15. The right to equal treatment before tribunals and all other organs administering justice is guaranteed under the Jamaican Constitution. Section 16 of the Charter of Fundamental Rights and Freedoms provides for the right to due process by guaranteeing to everyone the right to a fair hearing within a reasonable time by an independent and impartial court. Court proceedings are conducted in English. The Charter also provides that the person who is charged with a criminal offence shall be informed, as soon as is reasonably practicable, in a language which he understands, of the nature of the offence charged and shall be permitted to have, without payment, the assistance of an interpreter. There are no comparable provisions as regards civil litigation but this is not held as a bar to comparable assistance. All these provisions are applied without distinction as to race, colour, national or ethnic origin. Section 13(3) (g) of the Charter of Rights also provides the “right to equality before the law.”

16. Jamaica also has a legal aid system that enables persons of insufficient means to obtain Counsel in civil matters (such as constitutional matters) and criminal matters, subject to the requirements of the legislation. A person alleging, therefore, a breach of his or her constitutional rights – such as, on the grounds of discrimination – and who has insufficient means to afford legal representation, may have access to legal representation.

### **Right to security of person and protection by the State**

17. The Government is committed to efforts to ensure the right to security of person and protection by the State against violence or bodily harm. In terms of specific programmes or policies to deal with crime and violence, which continues to pose a significant challenge at the national level, it should be noted that the Government has embarked on a number of initiatives to disrupt, disarm, dismantle and prosecute organized criminal syndicates and gangs. The Government has adopted a multi-faceted approach to addressing violent crimes in communities through social intervention programmes such as the Community Renewal Programme. The Programme has an initial target of conducting social interventions in 100 vulnerable and volatile communities over the medium term (three -five years).

18. The Government is also undergoing a major modernization of its national security and law enforcement infrastructure to reduce levels of violent crime and transform the national security environment. The Ministry of National Security has begun to work with other Ministries, Departments and Agencies to develop an inter-departmental Crime Prevention and Community Safety Strategy utilizing a participatory and coherent approach that will result in the implementation of policies designed to prevent crime, reduce violence, particularly youth and gang related violence. A Crime Observatory is also in place and will be expanded. There continues to be a reduction in major crimes, including murder, over the last two years. The Government of Jamaica is also currently seeking to have Anti-Gang Legislation passed.

19. Other programmes that have made inroads in communities include the Citizens Security and Justice Programme (CSJP) which is in its second 4-year phase; and the Safe School Programme that places emphasis on addressing violence and their causes in schools.

20. Another area of focus is increased collaboration with bilateral and regional partners to reduce the availability of illicit firearms and narco-trafficking to Jamaica as well as to facilitate cross-border identification and prosecution of traffickers. Of note is the fact that

there is a regional task force on crime and security, which is responsible for law enforcement and national security in Member Countries of the Caribbean Community (CARICOM), and which is complemented by the 2011 CARICOM Declaration on Small Arms and Light Weapons. At the national level, the Government of Jamaica is working to develop a comprehensive National Small Arms Policy which will seek to (a) implement legal and administrative controls to restrict the availability and misuse of firearms, ammunition and explosives and to ensure that they are properly and safely secured; and (b) develop programmes and policies that will address supply, possession and use of illicit firearms at the community level.

21. To reduce the number of complaints of police excesses and build public confidence in and support for the police, emphasis is being placed on enhancing the training being offered to the Jamaica Constabulary Force (JCF) with a special focus on the fundamentals of ethics, use of force and human rights. This training is being provided in collaboration with human rights NGOs. The Jamaica Defence Force (JDF) has also put in place revised rules of engagement, which focus on further reducing the chances of civilian deaths when members of the Force carry out their operations. In addition, the Independent Commission (INDECOM) was established in 2010 to receive and investigate reports of abuse by security officers of the State. INDECOM operates from three locations: Kingston, Mandeville and Montego Bay, and has so far recruited 64 per cent of its key staff. Since its operationalization, INDECOM investigations have resulted in 20 police officers being criminally charged. Their cases are now before the Courts. The Independent Commission of Investigations Act, 2010 explicitly provides for the independence of INDECOM as it mandates that the Commission shall not be subject to the direction or control of any other person or authority. As a Commission of the Parliament, INDECOM reports only to the Parliament.

22. As crime affects all segments of Jamaican society, with the most vulnerable groups being women and children, reducing violence against these groups remains a priority for the Government. Of note is the Sexual Offences Act, which was passed in October 2009. This Act creates new provisions for the prosecution of rape and other sexual offences, including marital rape as well as incest. The 2004 Domestic Violence Act also broadens the categories of women protected to include not just married women but also women in common-law relationships. The Bureau of Women's Affairs (BWA), in conjunction with several NGOs, plays an important role by providing training to public and private sector workers on a range of issues, including that of sexual harassment at the workplace and domestic violence. There are also public education programmes designed to increase awareness, combat and eradicate the problem of violence against women and children. Such campaigns target schools, community-based groups and civic groups. Technical assistance is provided by bilateral and multilateral partners for the implementation of projects aimed at addressing gender-based violence.

23. To deal specifically with the issue of human trafficking, the Trafficking in Persons Act was adopted in 2007. The provisions of the Act are in keeping with the international Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. It criminalizes trafficking in persons, with particular regard to victims who are women and children, and prescribes measures to prevent and combat trafficking. A National Task Force against Trafficking in Persons (NATFATIP) was also established in 2005 comprising representatives from both governmental and non-governmental organizations, with responsibility for, inter alia:

- Increasing, through public education, awareness about trafficking in persons
- Facilitating the training of police officers, customs and immigration officials, the judiciary as well as diplomatic and consular officers

- Recommending amendments to key legislation that are likely to aid in the prevention of trafficking in persons, prosecution of offenders and enhance the provisions to protect victims; and
- Establishing protocols for intervention to help victims of trafficking

24. To enforce the law, a Trafficking in Persons (TIP) Unit was established in the Jamaica Constabulary Force. The Unit works in collaboration with the Ministry of Labour and Social Security to screen applications for work permits and to conduct follow-up investigations to deal with any breaches to the permit granted. A shelter to house victims of trafficking has also been developed.

### **Political rights**

25. As noted in previous periodic reports, the right of every citizen to take part in the conduct of public affairs directly or through freely chosen representatives is well established. The position is the same in regard to the right of every citizen to vote and to be elected through free and fair periodic elections. There is universal and equal suffrage, and voting is conducted by secret ballot.

26. An individual is guaranteed the right to participate in the electoral process and to vote once he or she meets the criteria as set out in the Representation of the People Act. Under this Act, electors are persons, aged 18 years and over, who are registered and are either Jamaican or Commonwealth citizens resident in Jamaica for a period of at least 12 months. The qualifications and disqualifications for election to Parliament are set out in Chapter V of the Constitution, in particular sections 37 to 40. These sections state, inter alia, that the elected person must be over the age of 21 and be either Jamaican or Commonwealth citizens resident in Jamaica for a period of at least 12 months. In both instances, therefore, there is no distinction other than that of nationality. Every citizen has equal access to public service. Section 13(3) (m) of the Charter also grants the right of every citizen of Jamaica who is qualified to be registered as an elector for elections to the House of Representatives, to be registered; and who is registered, to vote in free and fair elections.

### **Other civil rights**

#### **Right to freedom of movement and residence within the State & right to leave and return to one's country**

27. Section 13 (3) (f) of the Charter provides for freedom of movement. Freedom of movement is also facilitated by the Caribbean Community Act, which establishes the right to free movement of nationals within the Community. The CARICOM (Freedom of Movement of Skilled Persons) Act also facilitates free movement and the Passport Act governs the issuance of passports to facilitate the right to freedom of movement.

#### **Right to nationality**

28. Section 3 of the Constitution makes specific provision for the right to nationality. The effect is to grant Jamaican nationality to every child born in Jamaica, unless the parents are foreign diplomats or enemy aliens. Also, any child born outside of Jamaica is entitled to Jamaican citizenship if his mother or father or both parents are Jamaicans.

#### **Right to marriage and choice of spouse**

29. A person may enter into a marriage legally at 16 years of age with the consent of a parent or guardian, except in the case of a widow or widower, or at 18 years." Under the Act, marriages are solemnized by a Marriage Officer or a Civil Registrar, duly appointed by

the Minister with responsibility for such matters. Section 3 (2) of the Marriage Act states that "a marriage solemnized between persons either of whom is under the age of 16 years of age without the consent of any other person is null and void."

**Right to own property alone as well as in association with others**

30. The Charter of Rights (Sections 13 (3) (q) and 15) contains protection against the deprivation of property by the State, except in accordance with the law, which sets out the conditions for compensation. This is linked to an implied right to own property. The Property (Rights of Spouses) Act, 2004 makes provision for the division of property on the breakdown of a marriage or a common-law relationship. As a general rule, the Act provides that on the breakdown of the relationship, each spouse is entitled to one-half share of the family home. The Act is gender neutral and will benefit women in its practical application, as the deficiencies under the old law which placed women at a disadvantage in respect of entitlement to property have been removed.

**Right to inherit**

31. The Wills Act governs the right to execute a will. It provides that it is lawful for every person, in accordance with the Act, to devise, bequeath or dispose of all his real and personal estate at the time of his death. The Intestates' Estates and Property Charges Act governs the disposition of property in cases of intestacy (where the deceased did not make a will). The Inheritance (Provision for Family and Dependents) Act grants a right for qualified persons to apply for financial provisions from the deceased's estate.

**Right to freedom of thought, conscience and religion; right to freedom of opinion and expression and right to freedom of peaceful assembly and association**

32. Freedom of conscience, of expression and of peaceful assembly and association are provided for under Section 13 of the Charter. It specifically states that every person in Jamaica is entitled to these fundamental rights and freedoms, whatever his or her race, place of origin, political opinions, colour, or religion, but subject to respect for the rights and freedoms of others and for the public interest.

**Rights to work; free choice of employment; just and favourable conditions of work; protection against unemployment; equal pay for equal work; and to just and favourable remuneration**

33. While there does not exist in Jamaica any specific law dealing with the right to work, there are no legislative provisions that restrict access to employment or discriminate against persons seeking employment.

34. The National Minimum Wage Act establishes a minimum wage rate for workers. Currently, the system of minimum wages operates with two rates applicable to two distinct groups. There is a Minimum Wage for Industrial Security Guards and a National Minimum Wage for persons who are not security guards. The process of determining the level of adjustment in the minimum wage involves participation from a wide variety of organizations and groups including the Ministry of Labour and Social Security, other Government ministries and agencies, as well as private sector interests, trade unions and civic groups. Various factors such as the inflation rate and the consumer price index are analyzed and considered in the decision-making process. The Ministry of Labour and Social Security, through the Minimum Wage Advisory Commission, plays a lead role in monitoring and fixing the minimum wage.

35. Consideration is also being given to determining a 'liveable wage,' which is defined as the amount of family income needed to provide for the family's food and non-food



requirements, with sufficient allowance for savings and investments for social security, so as to enable the family to live and maintain a decent standard of human existence.

36. Through the National Minimum Wage, the National Insurance Scheme (NIS) and the commissioning of the HEART Trust/NTA to provide technical and vocational training, the Government of Jamaica has been able to pursue the International Labour Organisation's decent work agenda. Several pieces of legislation have also been enacted to, inter alia, protect the rights of workers such as those relating to the right of association with trade unions as well as those relating to maternity leave, vacation leave, the termination of employment and the physical conditions of places of work. These include the Labour Relations and Industrial Disputes Act, the Maternity Leave Act, the Employment (Equal Pay for Men and Women) Act, the Holidays With Pay Act and the Employment (Termination and Redundancy Payments) Act.

37. To ensure that employees work in safe and just conditions, several pieces of legislation such as the Employment Act and Factories Act have been enacted. Additionally, the Occupational Health and Safety (OSH) Bill, which is in an advanced stage of discussion, seeks to address safety and health issues at the workplace. To this end, the OSH Department of the Ministry of Labour and Social Security has undertaken a Voluntary Compliance Program (VCP), the objective of which is to get employers in a state of readiness for the OSH regime. Safety Inspectors from the Ministry of Labour and Social Security continue to inspect places of work with a view to identifying hazards and recommending action be taken, as is provided for under the Factories Act, which establishes the minimum standards of operation for industrial safety.

38. An Anti-Sexual Harassment Policy is under review and is expected to inform legislation to address sexual violence in the workplace. The Bureau of Women's Affairs and NGO partner Women's Media Watch are collaborating on a series of sexual harassment training seminars that are being conducted in the public sector and civil society organizations. In addition, Jamaica's first ever National Policy for Gender Equality (NPGE) was launched on 7 March 2011 and tabled in Parliament on 22 November 2011. The NPGE recognizes the serious challenges being faced by men, women, boys and girls. To this end, it contemplates temporary special measures in educational institutions in order to achieve greater balance in the representation of males and females. It embraces the concept of gender equality and partnership between men and women.

39. There are legislative measures in place to ensure that women are not discriminated against in the work place. The objective of the Employment (Equal Pay for Men and Women) Act (EPMWA), for example, is to ensure that "...no employer shall, by failing to pay equal pay for equal work, discriminate between male and female employees employed by him in the same establishment in Jamaica." Other provisions include Section 9 which gives designated officers of the Ministry of Labour and Social Security the power to enter and inspect the premises of any employer who has both men and women in his employment, and Section 6 which prevents an employee from contracting out of his/her rights as provided for by the legislation. The legislation prescribes penalties for contravention.

#### **Right to form and join trade unions**

40. Under the Labour Relations and Industrial Disputes Act ("the LRIDA"), every worker is guaranteed the right to take up membership and participate in a trade union of his or her choice. Provision is made for compulsory recognition of unions by employers through a process of poll-taking and certification. Unions and workers are permitted to engage in industrial action, including peaceful picketing, but it is unlawful for workers to engage in industrial action in essential services as listed below:

- Water services
- Electricity services
- Health services
- Hospital services
- Sanitary services
- Fire fighting services
- Correctional services
- Overseas telecommunications services
- Services connected with the loading and unloading of ships
- All the operations connected with docks or wharves
- Civil aviation services
- Services related to oil refining and the loading and distribution of petroleum

41. Compulsory arbitration has been substituted for industrial (strike) action and provision is made in the LRIDA against unfair dismissal, including as a result of taking strike action. In order to protect the rights which they guarantee, the LRIDA contains provisions which seek to dissuade contravention.

42. The LRIDA also makes it an offence for any person to prevent or deter a worker from exercising his right to be a member of a trade union and to take part, at any appropriate time, in the activities of any trade union of which he is a member. The LRIDA contains mechanisms for the settlement of disputes and the promotion of good relations between workers and their employers, including the Industrial Disputes Tribunal (IDT), to which disputes may be referred at the request of the parties or on the initiative of the Minister of Labour and Social Security. Section 13(3) (e) of the Charter also grants the right to freedom of assembly and association. That right extends to the right to form and join trade unions.

### **Right to housing**

43. The National Housing Trust, established in 1976, is mandated to increase and enhance the stock of available housing in Jamaica and provide financial assistance to contributors who wish to build, buy, maintain, repair or improve their homes. The Agency is a statutory body, primarily funded by deductions from employers, self-employed persons, employees and voluntary contributors. The NHT also provides funding for the housing construction sector, while encouraging and stimulating improved methods of production to enhance the usefulness of the funds. The NHT has provided approximately 157,000 benefits as at 31 March 2011.

44. There is a draft National Housing Policy and Implementation Plan that are intended to provide an enabling framework within which the Government of Jamaica can realize access to affordable, safe and legal housing solutions for all Jamaican by 2030. The Policy and Plan specifically seek to:

- (1) Promote a wide range of housing choices for all income levels;
- (2) Develop a framework to promote the sustainable use of resources in the housing sector;
- (3) Foster partnerships with the private sector and other providers to increase the supply of additional housing solutions to meet projected demand;

- (4) Rationalize the roles of the public sector agencies directly involved in the provision of housing;
- (5) Identify mechanisms to make land more accessible to all income groups, for housing development;
- (6) Provide a framework to support the delivery of social housing particularly for the vulnerable and disadvantaged;
- (7) Streamline the role of the housing finance sector to increase accessibility and reduce bureaucracy; and;
- (8) Establish mechanisms to reduce the impacts of natural disasters and other emergencies on human settlements.

45. A number of legislative changes have also been made in keeping with the thrust to increase access to housing. The Mortgage Insurance Act and Regulations, for example, were amended in 2008 to, inter alia, ensure the successful undertaking of the mortgage insurance operations of banks and to empower them to play a more integral role in assisting Jamaicans to acquire suitable and affordable housing solutions. Efforts are also underway to amend the Rent Restriction Act to ensure that it takes account of developments since 1944. A revised Joint Venture Policy exists that is aimed at increasing access to housing through joint ventures between the Government and the private sector whereby, inter alia, the government would either acquire privately owned land or use government land to enable the Ministry of Housing, Transport, Water and Works to undertake public-private housing ventures.

46. In respect of land tenure, it is estimated that only some 55 per cent of total land parcels in Jamaica is registered, with only 400,000 of the 750,000 parcels on the valuation roll being included in the Register Book of Titles. The remaining land parcels are subject to common law titles, which are valid in law but do not provide the same degree of certainty as to ownership. The Land Administration and Management Programme (LAMP) was established in 2000 to assist land owners to obtain surveys and Titles for their land at significantly reduced costs. LAMP has provided about 3,591<sup>2</sup> new Certificates of Titles to land owners in the seven parishes where the Programme has been implemented, namely St. Catherine, St. Thomas, St. Elizabeth, Clarendon, St. Mary, Portland and St. Ann. The parishes of St. James, Hanover, Trelawny and Westmoreland have now been declared project areas and it is expected that work will begin in the near future.

47. The quality of housing stock in Jamaica has been steadily improving at an average annual rate of 0.6 percentage point over the past decade to 70.9 per cent in 2009 compared with 65.0 per cent in 2000,<sup>3</sup> with greater numbers of people having access to water, electricity, toilet facilities and kitchens. There is also general improvement in the types of material being used to construct the outer walls of houses, namely the use of block and steel, and in the adequacy of living space. There continues, however, to be disparities among regions and across income brackets in respect of housing facilities.

#### **Right to public health, medical care, social security and social services**

48. On 1 April 2008, the Government abolished user fees from all public health facilities, except for the University Hospital of the West Indies, which is a regional institution. The universal abolition of fees came one year after user fees for children were

<sup>2</sup> Over 2,000 of these Titles are for lands not previously registered and over 1, 440 represent Titles that have been updated with the names of the current owners.

<sup>3</sup> Jamaica Survey of Living Conditions 2009.

removed. The policy is intended to improve access to health services for all Jamaican nationals resident in Jamaica. Under this policy, specific diagnostic and treatment services are exempt from fees and are provided to patients within the public health care system. Some of these services include primary surgical operations, hospitalization, dialysis, radiological services and in-patient medical supplies.

49. Questions have been raised about the sector's ability to cope with the demand and the potential for the quality of care to be undermined in respect of the infrastructure to meet this demand. Admittedly, there have been challenges since the introduction of the policy with two main criticisms being the length of time it takes to receive treatment at some health facilities and the scarcity of several prescription drugs. In response to these concerns, the Ministry of Health has increased the types of drugs available in public facilities and has extended the opening hours at some facilities.

50. The priorities of the health sector include programme areas such as mental health, oral health, emergency care, communicable diseases, nutrition and food security, and sexual and reproductive health. Priorities for the health sector are viewed from the fundamental context of maintaining health gains achieved to date. In keeping with this broad objective, particular attention will be paid to improving the quality of service delivery, strengthening surveillance systems, improving health promotion and education, expanding public/private partnerships, advancing health information systems and renewing primary health care.

51. One significant area which will be given special focus is that of mental illness. To this end, the Ministry of Health has developed a Five Year Strategic Plan (2009-2014) to drive the improvement and the implementation of mental health service across Jamaica. Some of the elements to be addressed are education, community services, child and adolescent health services and information systems. Priority attention will also continue to be given to maternal and child health and is, therefore, expected to positively impact Jamaica's achievement of Millennium Development Goals (MDGs) 4 and 5.

52. The focus on primary health care has resulted in improvements in the implementation of the national immunization programme, with the elimination of a number of vaccine-preventable diseases and the reduction in infant and child mortality. Under the Expanded Programme on Immunization (EPI), established in Jamaica in September 1977, Jamaica has been able to make significant strides towards attaining universal immunization coverage for all children. In 2011, for example, coverage of tuberculosis (BCG) was 100 per cent. There was also 92 per cent coverage for polio, diphtheria, pertussis or whooping cough and tetanus (DPT), hepatitis B and haemophilias influenza type B (HIB); and 88 per cent coverage for measles, mumps and rubella (MMR). These figures represent an improvement over the country's performance in 2009, which showed 94 per cent coverage for BCG, 91 per cent for polio, DPT, Hep B and HIB and 87 per cent coverage for MMR.

53. In respect of social security, it should be noted that provision is made for contributory and non-contributory programmes for social insurance (including pension schemes) in Jamaica. The National Insurance Scheme (NIS) is a compulsory, contributory funded social security scheme, which offers financial protection to workers and their families against loss of income arising from injury on the job, incapacity, retirement and death of the insured. The NIS also facilitates self employed persons.

54. All persons who are gainfully occupied in insurable employment are required to be registered, provided that they are between the ages of 18 and 70 (males) and 18 and 65 (females). It should also be noted that the reform of the 1976 Pensions Act has abolished the provision for payments solely to married males, paving the way for more women to fully participate in pension planning and benefit financially from pension plans. The Scheme provides benefits to approximately 90,000 pensioners.

## **Right to education and training**

### **General**

55. Jamaica has a four-tiered education system – early-childhood, primary, secondary and tertiary with children entering pre-primary from as early as 3 years old. The Government is the main provider of education with private sector participation throughout the system. The difference between attendance at public and private schools is mostly related to economic factors, with the trend most visible at the primary level, where some parents opt to have their children enrolled in private (preparatory) institutions. At the secondary level, there are far less private institutions so fewer parents are inclined to access private education at this level. With respect to education at the tertiary level, there is a varied mix of students from different countries and ethnic backgrounds enrolled in public and private institutions. Differences in attendance also appear when students specialize in particular subject areas or need other interventions because of their special needs (see subsequent paragraphs below).

56. The Ministry of Education (MOE) does not collect or disaggregate data by the racial profile, as racial discrimination in schools is not considered to be an issue for Jamaica. Within the education system, all ethnic and cultural groups are treated equally and have access to the same school curriculum. The wearing of locks by Rastafarian children, that was previously banned in schools at the primary and secondary levels, has been lifted to allow students to freely access their education.

### **Primary level education**

57. The right to education is provided for under Section 13 (k) (ii) of the Charter of Rights and Fundamental Freedoms. The Section provides that every child who is a citizen of Jamaica has a right to publicly funded tuition in a public educational institution at the pre-primary and primary levels. To this end, although there are socio-economic challenges which affect the ability of some individuals to fully access education facilities, public pre-primary and primary education in Jamaica continue to be free. Enrolment rates in public primary institutions continue to be high and were at approximately 94% for the 2010/2011 period.

58. To ensure continued universal access at the primary level, there are ongoing efforts aimed at, inter alia, providing more places, nutritional and educational material support, as well as enhancing the quality of teaching and learning in the education system. The MOE provides textbooks free of cost to primary schools.

### **Special needs**

59. There are also special education programmes and/or institutions for children who find it difficult to learn in regular school settings without specialized support services. This provision spans the first three levels of the education system. Special education makes provision for the visual and hearing impaired, the learning impaired, the gifted and talented. Its effectiveness is premised on a screening and referral system, which allows for a programme of early identification and intervention of children with special needs.

60. There is a network of approximately 10 grant aided schools with 25 satellites, which cater to children with special needs. Together they serve more than 6000 children across the island. In addition, attempts are made to integrate children in the mainstream school system where possible.

61. The following is a breakdown of special education institutions in the country:

- School for the blind

- Six schools for the mentally challenged with 21 satellites
- Three schools for the deaf with 4 satellites
- Four private schools for the deaf
- Seven government units attached to host primary schools

**Private Institutions receiving Government support**

- One school for children with autism
- School for mixed disabilities
- One school for the mentally challenged
- Three schools for children with learning disabilities

62. There is no available national data to determine the percentage of children below age 18 with disabilities. However, there are sound measures being put in place to ensure that all children with disabilities receive the best quality interventions and education possible. Among them are the Policy on Special Education, which is in its draft stage, and the Child Find and Enrichment Initiatives, which are being implemented under the Education System Transformation Programme (ESTP). The Draft Policy on Special Education addresses a range of issues related to the protection of the rights and dignity of students with special needs as well as to the access, equity and quality in the provision and delivery of programmes and services.

**Secondary level education**

63. The Government has made great strides in fulfilling its policy commitment to ensure access to at least five years of secondary education for all secondary level students by 2016 and to provide the opportunity for students to be attached to an education or training programme until the age of 18. The Career Advancement Programme (CAP) is one of the avenues by which this is being achieved. CAP is a flagship youth education programme of the MOE at the secondary level of the school system, providing students with another chance to be prepared for further education or the world of work.

64. Scholarships continue to be awarded by the Government and the private sector to provide financial support to students to access secondary level education. Students also obtain textbooks under a textbook rental programme, the payment of which is made from the subventions which the government provides to the schools.

**Technical Vocational Educational Training (TVET)**

65. There are several institutions that provide technical and vocational training for both men and women to facilitate exposure to as well as employment in a number of disciplines. Technical training is regulated and delivered largely by the Human Employment and Resource Training/National Training Agency (HEART Trust/NTA). HEART Trust/NTA integrates both formal education and non-formal skill-specific training in the programmes and centres that fall under its umbrella. These include the HEART Academies, the Vocational Training Centres (VTCs), the Vocational Training Development Institute (VTDI), the Jamaican German Automotive School (JAGAS), numerous community-based training programmes, and on-the-job training programmes for apprentices and school leavers. HEART Trust is restructuring its training system to better support the Jamaican economy. To this end, Workforce Colleges and Technical Vocational Education and Training Institutes are being established to facilitate the delivery of quality training programmes at the higher level.

### **Tertiary level education**

66. Enrolment at the tertiary level (public institutions only) was estimated at 42,300 students for the 2010/11 academic year. Once a person is qualified, there are no impediments to attaining higher education as long as he/she can afford to do so whether by accessing loans or personally underwriting the cost. Loans can be accessed through the Government's Students' Loan Bureau. There are also scholarships available for students wishing to pursue tertiary education, whether through support provided by the Government or by the private sector. During the last decade, access to tertiary level education has increased considerably due to the establishment of additional local private tertiary institutions as well as through the services being provided by offshore universities which have been granted licenses to operate in Jamaica. Community Colleges provide pre-university, general education, professional and para-professional training opportunities and teacher training institutions as well as the local and international universities provide training at the tertiary level.

### **Adult and continuing education**

67. Provision is also made for adult and continuing education, primarily through the Jamaica Foundation for Lifelong Learning (JFLL). As an agency of the Ministry of Education, the JFLL embraces the UNESCO goal of basic Education for All by 2015 and the national drive towards the achievement of universal secondary education. While the delivery of basic literacy and numeracy remains at the heart of the Foundation, it has been transformed into a lifelong learning organisation which has been partnering with other training entities and work places to meet the training needs of the labour force.

### **Other support programmes**

68. A School Feeding Programme has been in existence since 1976 to provide students with nutritional support to encourage attendance at school and to enhance their learning capabilities. The School Feeding Programme, which is totally financed by the Government of Jamaica, is an integral part of the Government's Social Safety Net Programme. The private sector has been providing assistance to schools in the provision of nutritional support to students.

69. Another important support programme is the Programme of Advancement Through Health and Education (PATH). It is a conditional cash transfer to the most needy and vulnerable in the society. The MOE has been providing nutritional support to students who are from households that are beneficiaries of the Programme that is progressively being expanded to reach more needy children, especially at the early childhood level.

### **Right to equal participation in cultural activities**

70. Jamaica boasts a framework of public cultural institutions through which cultural rights, including access to and participation in cultural activities across the nation, are encouraged and promoted. Most of these institutions have a presence in all parishes to ensure that rural communities, children and the aged, the poor and vulnerable are able to participate in cultural activities. The Ministry of Youth and Culture has overall responsibility for encouraging Jamaicans to develop an interest and to become participants in cultural activities as well as to identify, preserve and display their heritage.

71. Two primary programmes aimed at encouraging participation in cultural activities are the Culture in Education Programme (CIEP) and the National Cultural Policy, which were developed in keeping with the provisions of the Durban Declaration and Programme of Action.

**Culture in Education Programme (CIEP)**

72. This programme was developed in 2002 and allows children in schools across Jamaica to participate in cultural activities reflective of the cultural history and heritage of the country. A major focus of the Programme is to ensure the smooth integration of cultural elements into the school curriculum. In keeping with this objective, the Ministry of Education has ensured that each school has a culture agent, who is usually a senior teacher.

73. With projects such as Jamaica Day and a series of exhibitions, expositions and field trips, children and their teachers are able to access varied elements of cultural life in Jamaica. Of significance is the aspect of the Programme that promotes interaction between children and the elderly for the transfer of knowledge.

**National Cultural Policy**

74. The most important measure to protect cultural diversity in Jamaica is the National Cultural Policy (2003). With a chapter dedicated to the promotion of cultural diversity, the Policy encourages the following:

- The transfer of knowledge to Jamaican children on Jamaica's diversity
- The celebration of Jamaica's diversity in school through programmes such as Indian Arrival Day, Africa Day, Rastafari Day
- Participation in diverse celebration/commemoration of indigenous cultures, for example, Maroon celebrations
- Collaboration with countries of origin such as China and India as well as with countries in Africa to encourage cultural agreements for cooperation. To this end, there are significant activities with Ghana, Nigeria and South Africa
- The promotion of folklore and traditional knowledge as part of the curriculum of schools and in the National Festival of the Arts
- The annual celebration of National Heritage Week in October; and
- The promotion of efforts to ensure that communities such as Maroons and Rastafari exist in environments that foster their enhancement and sustain their lifestyles.

75. There is a deliberate effort through the National Cultural Policy to ensure that rural communities, children and the elderly, the poor and vulnerable have a real chance to experience these activities.

76. Many public-sponsored cultural activities are either free or require minimal access fees in order to ensure that persons are able to participate in them.

77. Professional education in culture and the arts are executed at the primary, secondary and tertiary levels.

**Right of access to any place or service**

78. There is no restriction on the right of access by any individual to any place or service intended for use by the general public.

**Article 6 -Protection and remedies against acts of racial discrimination**

79. As noted earlier, Section 19 of the Charter provides for any person who feels that his/her rights are being violated or likely to be contravened to apply to the Supreme Court (or on appeal to the Court of Appeal) for the enforcement of rights and for redress. There is



also a further appeal from the decision of the Court of Appeal to the Judicial Committee of the Privy Council.

80. Additionally and as outlined in previous periodic reports, the Office of the Public Defender, which came into effect in April 2000, is entrusted with the responsibility of protecting and enforcing the rights of Jamaican citizens where these rights may have been infringed. It is significant to note that the complainant does not have to be a citizen of Jamaica or live in Jamaica but the matter complained about must have occurred in Jamaica. It is also noteworthy that the services of the Office of the Public Defender are free of cost to members of the public.

81. In Jamaica's recent history, no cases have been brought before the courts with regard to violation of rights through racial discrimination.

## **Article 7 - Measures to combat prejudices which lead to racial discrimination and to promote understanding, tolerance and friendship**

### **Education and teaching**

82. In addition to the information provided under Article 5, the Committee should note that there are several pieces of legislation that govern the educational system in Jamaica, namely:

### **The legal and administrative Framework**

83. The Education system in Jamaica was regulated through the Education Act of 1965 (The Act). Its aim was "...to meet the needs for greater self-financing capability, a better definition of Jamaica's educational goals and the expansion of the system to meet both individual and national needs". The system has evolved in terms of its structure and its management. Article 23 (2) of the Act states: "Subject to the provisions of these Regulations, no person who is eligible for admission as a student to a public educational institution shall be refused admission thereto except:

- On the ground that accommodation is not available in that institution; or
- On any other ground, approved by the Minister either generally or in any particular case."

84. Article 33 (1) states that "The Minister may authorize assistance for such student as he may consider eligible, with a view to helping to provide in such manner as he may determine, any or all books and other educational supplies, transport, clothing, food and such other items as may be approved for the purposes of such assistance".

85. The following are the other key pieces of legislation which govern the education system in Jamaica:

- The Education Regulations, 1980 (commonly called the Education Code), an extension of the Act, prescribe the details of administration.
- The Early Childhood Commission Act, 2003 established a body called the Early Childhood Commission which has responsibility for the care and development of children from birth to eight years.

### **Management and structure**

86. Education in Jamaica is administered and delivered by the MOE through its administrative head office and six regional offices. Each regional office is staffed with education officers whose main responsibility is the supervision of schools up to the

secondary level. The decentralization of functions to the regional offices has fostered quicker response to problems at the school level, more effective monitoring and supervision of schools, and a closer relationship between schools and central administration.

### **Teachers**

87. According to the Ministry's Education Act and Education Regulations, once a teacher meets the necessary qualifications, does not violate any law and is mentally fit, there are no barriers to his or her employment in the education system. The following provides further information on the conditions under which teachers are employed. Teachers in the public system are:

- Appointed by individual school boards, subject to approval by the Minister;
- Paid by the Ministry of Education and receive salaries based on a centrally defined salary scale;
- Contractually obliged to the Ministry of Education as defined by the Education Act and Regulation as well as MOE memoranda and circulars;
- Tenured by the Central Ministry i.e. tenure in the service is continuous; however a teacher does not carry forward permanent status from one school to another;
- Granted all categories of leave - study, vacation, sick, special and casual - by the MOE;
- Centrally mandated to provide a specified number of contact teaching hours per five-day week for a defined number of days per year; and
- Registered on entering the system.

### **Management of the teaching staff**

88. The principal of the school has ultimate responsibility for the management of the teaching/learning process. The size of the schools and, therefore, principal/teacher ratio vary widely with a few schools having enrolment of over 2,500 students while some have less than 200.

89. The majority of teachers, particularly those at the primary level, have a teaching diploma but no subject-specific qualification, while those at the secondary level have subject-specific training with many having university degrees. Under the proposed licensing regime, teachers will be required to engage in continuous training in order to maintain their licence. Currently the MOE provides in-service training to meet the needs of the system.

### **Human rights education**

90. Human rights education is infused in the national curriculum at the primary and secondary levels. Much of this information is embedded in the Social Studies curriculum, which is obligatory at the primary level and which focuses on the study of people, their activities and relationships. Also, teacher guides, manuals, textbooks, and other teaching and learning materials in primary and secondary education conform to human rights principles. All levels of teacher training include human rights education. Examples of some of the specific rights addressed are "the rights of the child," "employers and employees rights and responsibilities," "consumer protection," as well as "people's rights and responsibilities and consequences related to violations of such rights." The Jamaican media and civil society have also been instrumental in sensitizing the public to the importance of respect for human rights.

91. It should also be noted that emphasis is being placed on enhancing the training being offered to security personnel in the area of human rights. This training is being provided in collaboration with NGOs and representatives of civil society.

### **Textbooks**

92. The MOE reviews all textbooks before any selection is made for inclusion on the Approved Textbook List. Textbooks are reviewed using a prepared instrument developed by the MOE. The instrument has items that focus on content, including stereotyping and cultural biases, design and production and observances of laws, values and cultural norms.

93. If a textbook is in breach, it will not be selected by the subject committee for possible inclusion on the Approved Textbook List. The publisher will be informed of the breach and asked to make the correction before the textbook can be considered for inclusion on the List. Textbooks that are selected for the primary level are distributed to all public schools across the island while at the secondary level each school has a choice from four possible titles per subject per grade.

### **Language**

94. English is the official language of the country and except for foreign language classes, all subjects are taught in English. Jamaicans also speak a dialect called patois. Although patois is not the language in which school subjects are generally delivered, it is utilized in the school's curriculum and activities in many ways, especially in cultural activities. Because of Jamaica's close proximity to Spanish speaking countries, there is an emphasis on teaching this subject in all schools, especially at the secondary level. Some schools also expose their students to the French language. At the tertiary level, students are exposed to other foreign languages such as Japanese, Portuguese and Chinese.

### **Culture**

95. As noted previously, the main entity with overall responsibility for culture in Jamaica is the Ministry of Youth and Culture. The work of the Ministry is complemented by an array of institutions including:

#### **The Jamaica Cultural Development Commission (JCDC)**

96. The JCDC is an agency of the Ministry of Youth and Culture and has responsibility for national celebratory and commemorative events such as the Independence Anniversary Celebrations, Emancipation Day, National Heritage Week, and the National Festival of the Performing, Visual, Literary, Entertainment and Culinary Arts.

97. Each year, the JCDC carries out a variety of activities, including workshops and seminars, to unearth and develop talents and other creative products in communities. Through competitions and various showcasing instruments, the JCDC is able to promote development as well as bring the finished products to general community awareness. The activities take place mainly in schools, church halls, and community centres, thereby allowing for the involvement of all communities. There is a JCDC Office in each parish in Jamaica (i.e. 14).

98. Additionally, JCDC events also target vulnerable communities. For example, there is a special category in dance targeting the visually-challenged as well as activities and cultural products that reflect the diversity of the Jamaican population.

**The Institute of Jamaica (IOJ)**

99. Founded in 1879, the IOJ is an Agency of the Ministry of Youth and Culture. It provides a framework for persons to experience the repository of cultural products created as part of the cultural history of Jamaica. The IOJ promotes participation in cultural knowledge, especially traditional knowledge. Through its museums, galleries, exhibitions and seminars, a wide cross-section of the community is able to access knowledge and awareness of past historical experiences. Each year, the IOJ has a series of exhibitions that are free to the public at its museums and in schools and libraries across Jamaica.

**The Jamaica National Heritage Trust (JNHT)**

100. This agency – a statutory body under the Ministry of Youth and Culture - is responsible for the declaration, preservation and maintenance of national sites and monuments in communities across Jamaica. By its very nature and its presence in communities, the JNHT enables citizens to experience the material heritage of Jamaica. Although some of the JNHT sites are currently part of the attractions of the heritage tourism product, many still remain accessible to the wider public. In any event, in tourist areas, these “attractions” are usually accessible at a substantially lower cost to nationals.

101. It should be noted that many of the public-sponsored activities are either free or require minimal access fees in order to ensure that most persons are able to participate in cultural activities.

**Education in culture and the arts**

102. Professional education in culture and the arts are also executed through the following:

Edna Manley College of the Visual and Performing Arts

103. With its Schools of Drama, Dance, Music and the Visual Arts, the College offers diploma and degree level programmes in the Arts, Arts in Education and Arts Management. There are also courses in film, fashion, jewellery and graphic arts.

Excelsior Community College

104. This College offers programmes in the Performing Arts, especially at the certificate and diploma level and particularly in Dance and Drama.

Northern Caribbean University

105. This University offers special programmes and courses in Music.

The University of Technology

106. This University has a Sculpture Park and a department dedicated to Cultural Studies and Entrepreneurship as well as Technology Innovations. The University also recently opened a department for intellectual property.

The University of the West Indies

107. This University offers courses through various faculties that facilitate professional training in Events Planning, Cultural Enterprise Management, Cultural Studies, and Intellectual Property Law. The University also boasts a Choir (University Singers) and a national venue (Philip Sherlock Centre for the Performing Arts), with the latter offering short courses in culture and arts.

Creative Production and Training Centre

108. This Centre offers professional training in Media and Technical Arts such as videography, lighting, voice and stage control.

School curricula

109. Additionally, all secondary schools offer courses in culture and arts, especially in Music, Art, Speech and Drama. Currently, these subjects are offered at examination level at the secondary level of education through the Caribbean Examinations Council (CXC). The arts are also taught in primary and basic schools.

110. There are also a number of cultural organisations that operate in Jamaica such as the Chinese Benevolent Association and the National Council for Indian Culture.

**Protection of moral and material interests of creators**

111. Jamaica's Copyright Act (1993/1999) gives effect to the provisions of the World Intellectual Property Organization (WIPO) Berne Convention for the Protection of Literary and Artistic Works, and the WTO Agreement on Trade-Related Aspects of Intellectual Property, in providing for automatic protection of original literary, dramatic, artistic and musical works created by citizens/ habitual residents of Jamaica or countries that are parties to these Treaties, without any requirement of registration or other formality. Under Jamaican law, copyright protection arises once the work exists in a written or recorded form. Copyright owners are duly accorded economic rights and moral rights which give them exclusive rights to permit or disallow any reproduction, distribution or adaptation of their works. Any of these acts done without the permission of the copyright owner are actionable by criminal or civil suit at the instance of the copyright owner.

112. Presently, there is no legislation specifically addressing protection of traditional knowledge of indigenous peoples or communities as whole. However, some expressions of cultural heritage and traditional knowledge can be and are protected under existing Intellectual Property laws (for example copyright, designs, trademarks) by individuals from these communities. Jamaica, as a part of the Caribbean Community (CARICOM), is currently engaged in on-going regional discussions on how best to protect traditional knowledge and cultural expressions.

**Information**

113. There are multiple television stations, subscription cable services and radio stations in Jamaica. Many are operated by the privately-owned Radio Jamaica Limited and its subsidiaries. Two other privately-owned television stations also offer services. According to 2007 figures, there are approximately 70 radio stations. There are only two state-owned media entities – the Jamaica Information Service (JIS) and the Public Broadcasting Corporation of Jamaica (PBCJ). There are also several press media.

114. The legal regime for the monitoring of content of music for air play in Jamaica is governed by the Broadcasting and Radio-Rediffusion Act 1949, the Broadcasting and Radio-Rediffusion (Amendment) Act, 1986, and the Television and Sound Broadcasting Regulations, 1996.

115. Section 12 of the Broadcasting and Radio-Rediffusion (Amendment) Act of 1986 established the Broadcasting Commission as a statutory body. The Commission, which administers the Broadcasting and Radio Re-Diffusion Act and the Television and Sound Broadcasting Regulations, makes recommendations to the Minister of Information as to which applicants should receive licenses for radio, television and subscriber services as well as the terms and conditions under which those licences should be granted. The

Commission ensures that the operations and programming of licencees meet the standards set out in law. The Commission also has the mandate to undertake or commission research on all areas relating to the electronic media in Jamaica and contributes to the discussions related to the media regulatory policy.

116. In February 2009, for example, in response to public outcry about the insidious effects of lewd sexual lyrics in certain dancehall songs aired on national radio, the Broadcasting Commission imposed a ban on the airing of those songs. A ban was also imposed on songs promoting violence, including expressions by entertainers supporting violence against gays and lesbians. The Commission acted under the powers conferred on it by Section 30 (d) of the Television and Sound Broadcasting Regulations, 1996, which provides that “No licencee shall permit to be transmitted any indecent or profane matter”.

117. The Commission’s actions were also consistent with the Constitutional provisions aimed at restricting freedom of expression in the interest of public morals. The Constitution provides in Section 22 (2) that nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of the right to freedom of expression to the extent that the law in question makes provision which is reasonably required “in the interest of public morality .... or regulating wireless broadcasting, television or other means of communication, public exhibitions or public entertainment”.

118. The powers of the Commission to suspend broadcasting licences where there is a contravention of the terms of a licence can only be exercised after written notice has been given to the licencee, and the licencee has been given an opportunity to justify its actions and has failed to comply with directions from the Commission. Suspension or cancellation can only occur after a recommendation to the responsible Minister (S22). The broadcaster must be allowed an opportunity to show cause why a licence should not be suspended or cancelled. The Minister’s decision is ultimately subject to judicial review. Further, the decision of a Minister not to grant or renew a licence can be considered by an Appeal Tribunal (S 11H). Appeals range from the Appeals Tribunal to the Court of Appeal.

119. It should be noted that the Government of Jamaica enacted the Access to Information Act in 2002, which came into effect in 2003. It gives a general right of access to official government information.

120. The promotion and protection of human rights are also advanced through the presence of a very active and vibrant civil society coalition in the country.

#### **IV. General comments**

121. As noted previously, Jamaica has been engaged in a number of programmes and activities that are in keeping with the Durban Declaration and Programme of Action, namely the Culture in Education Programme (CIEP) and the National Cultural Policy. In addition and in fulfilment of paragraph 101 of the Durban Declaration, Jamaica and other CARICOM countries spearheaded an initiative for the endorsement by the United Nations General Assembly of a project for the erection of a permanent memorial at the United Nations in New York, in acknowledgement of the tragedy and in consideration of the legacy of slavery and the transatlantic slave trade. A voluntary fund has since been established to support the project.

122. In its concluding observations (CERD/C/60/CO/6), the Committee had raised the issue of a constitutional review process to provide, inter alia, for the enactment of a Ratification of Treaties Act “to ensure the incorporation of international treaty obligations into domestic law.” The Government wishes to clarify, however, that there is presently no initiative underway to pursue a Ratification of Treaties Act. The incorporation of treaty

obligation into domestic law is done by the requisite legislation which translates, where necessary, the international obligations into domestic law. This option becomes necessary if the legislation which facilitates the implementation of the obligation does not already exist. In the specific case of the International Convention on the Elimination of All Forms of Racial Discrimination, there is no need for legislation to implement the Convention.

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