



## **Economic and Social Council**

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**Committee on Economic, Social and Cultural Rights**  
**Pre-sessional working group**

**List of issues in relation to the combined third and fourth periodic report of Jamaica (E/C.12/JAM/3-4 and Corr.1), adopted by the pre-sessional working group at its forty-ninth session (21–25 May 2012)**

**Addendum**

**Replies of Jamaica to the list of issues\***

[5 February 2013]

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\* 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. General information

### **Reply to the issues raised in paragraph 1 of the list of issues (E/C.12/JAM/Q/3-4)**

1. There is no single institution in Jamaica, other than the courts, responsible for supervising and enforcing the implementation of human rights in the State. However, several entities have been established whose roles and responsibilities are designed to enhance the promotion and protection of human rights. These include the Office of the Public Defender and the Independent Commission of Investigations (INDECOM), the Child Development Agency and the Office of the Children's Advocate.

2. The Child Care and Protection Act, 2004, established the CDA as a service provider for child development and children in need of care and protection. The Agency is mandated to develop comprehensive strategies for the implementation, coordination and regulation of national policies and programmes that promote the rights, welfare and well-being of all children. Additionally, the CDA ensures that Jamaica fulfills its international obligations as it relates to issues dealing with children. The establishment of the agency has brought a more systematic child-focused approach to dealing with children's issues.

3. The Act further provides for the establishment of the Office of the Children's Advocate as a commission of Parliament for the purpose of "protecting and enforcing the rights of children." The Office operates as an independent body with responsibility to assess and take action where State agencies, including the CDA, fail to discharge their duties in the best interest of the child.

4. The INDECOM which was established under the Independent Commission of Investigations Act is a commission of Parliament. It investigates actions by members of the security forces and other agents of the state that result in death or injury to persons or the abuse of the rights of persons and for connected matters.

5. The Office of the Public Defender is an independent commission of Parliament established under the Public Defender (Interim) Act, with the mandate to investigate any action taken where he is of the opinion that any person or body of persons has sustained injustice or suffered an infringement of his or her constitutional rights as a result of any action by any authority or officer of the State.

6. The establishment of a national human rights institution in accordance with the Paris Principles will, however, be kept under consideration. The Ministry of Justice is in the process of establishing a Human Rights Unit as part of the overall efforts to promote and protect human rights.

### **Reply to the issues raised in paragraph 2 of the list of issues**

7. Under the dualist approach practiced in Common Law (Commonwealth) countries, a treaty can only become enforceable in a local court after the treaty becomes incorporated. Where a treaty is not incorporated, it may not be directly invoked in a domestic court. There is no single piece of legislation incorporating the International Covenant on Economic, Social and Cultural Rights. Some provisions of the Covenant are contained in the Constitution and various pieces of legislation and are therefore enforceable and can be invoked before domestic courts where there is a claim of a constitutional violation or a breach of rights under the legislation in question. Section 19 of the Charter of Fundamental Rights and Freedoms (The Charter), in particular, provides the right for constitutional redress where the rights in the Charter which may be analogous to the rights in the Covenant are being violated.

8. Section 19 of the Charter provides as follows:

(1) If any person alleges that any of the provisions of this Chapter has been, is being or is likely to be contravened in relation to him, then, without prejudice to any other action with respect to the same matter which is lawfully available, that person may apply to the Supreme Court for redress.

(2) Any person authorized by law, or, with the leave of the Court, a public or civic organization, may initiate an application to the Supreme Court on behalf of persons who are entitled to apply under subsection(1) for a declaration that any legislative or executive act contravenes the provisions of this Chapter.

(3) The Supreme Court shall have original jurisdiction to hear and determine any application made by any person in pursuance of subsection (1) of this section and may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing, or securing the enforcement of, any of the provisions of this Chapter to the protection of which the person concerned is entitled.

(4) Where any application is made for redress under this Chapter, the Supreme Court may decline to exercise its powers and may remit the matter to the appropriate court, tribunal or authority if it is satisfied that adequate means of redress for the contravention alleged are available to the person concerned under any other law.

(5) Any person aggrieved by any determination of the Supreme Court under this section may appeal therefrom to the Court of Appeal.

(6) Parliament may make provisions, or may authorize the making of provisions, with respect to the practice and procedure of any court for the purposes of this section and may confer upon that court such powers, or may authorize the conferment thereon of such powers in addition to those conferred by this section as may appear to be necessary or desirable for the purpose of enabling that court more effectively to exercise the jurisdiction conferred upon it by this section.”

9. Although unincorporated human rights treaties may not be directly invoked in local courts, there is a general presumption in the common law that ambiguous words in primary and secondary legislation should be construed so as to accord with the State’s international law obligations on the basis that Parliament cannot have intended to legislate contrary to these obligations. The presumption is only displaced where there is a clear Parliamentary intention to legislate contrary to Jamaica’s international law obligations.

10. The presumption of compatibility also applies to the common law. Under this presumption, a State’s international law obligations are expected to guide the development of common law.

11. Closely related to the presumption of compatibility is the principle of legality, by which general words in primary and secondary legislation should be construed compatibly with fundamental human rights on the basis that Parliament cannot have intended, by using general words, to override such rights. Although the rights in question must already be part of domestic law, their nature and scope may be affected by customary international law or by “unincorporated” treaties. Like the presumption of compatibility the principle of legality is only displaced where there is a clear Parliamentary intention to legislate contrary to fundamental rights.

## **Article 2, paragraph 2 – Non-discrimination**

### **Reply to the issues raised in paragraph 3 of the list of issues**

12. There is no intention at this juncture to amend section 13(2) (a) of the Constitution or the Penal Code in relation to sexual orientation. The Government of Jamaica is opposed

to discrimination or violence against all individuals whether this is for reasons of gender, sexual preference or for other reasons. Further, all citizens have equal access to the law and the justice system. These rights were further reinforced with the amendment to Chapter III of the Constitution in April 2011 with a more comprehensive Charter of Fundamental Rights and Freedoms. Of note is the fact that all citizens have the right to equality before the law; the right to freedom from discrimination on the ground of being male or female, race, place of origin, social class, colour, religion or political opinions.

#### **Reply to the issues raised in paragraph 4 of the list of issues**

13. The National HIV/STI Programme (NHP) continues to conduct mass media campaigns aimed at reducing stigma and discrimination (S&D) aimed at persons living with HIV/AIDS. Training is also conducted with health care workers to reduce S&D in the health care setting thereby reducing S&D as a barrier to accessing health care services. Persons Living with HIV (PLHIV) and members of the Lesbian, Gay, Bi-sexual and Transgender (LGBT) community are also engaged by the NHP in empowerment sessions which aim to reduce their vulnerability and hence improve their capacity to accessing the required services (employment, social services, health, and education).

14. Additionally, the Ministry of Health has been working very closely with the disabilities community and the Jamaica Council for Persons with Disabilities (JCPD) to better understand the needs of the disabled and the challenges in physical access to our services. Meetings were held with the Combined Disabilities Association, the Jamaica Association for the Deaf and the Jamaica Society for the Blind. To this end, health care workers have been trained in the use of the Jamaican sign language and retrofitting of hospitals and health centres have commenced to ensure improved physical access. Ramps and rails have been corrected to international standards and elevators fitted with floor numbers in Braille among other things. Educational material on HIV/AIDS, disease prevention through mosquito control, hand washing and Reproductive health issues have been printed in Braille and distributed through the JCPD.

15. Under the **Host School Programme**, the Ministry of Education undertakes to ensure that students infected and or affected by HIV remain in schools. Measures include the provision of a “Start-up school kit” at the start of the school year. The kit includes uniforms, text books, school bags and basic financing. This is funded by the Global Fund under the Memorandum of Understanding between the Ministry of Education and the Global Fund. Further, there is an **Established Reporting Mechanism** under the ambit of the Ministry of Education, whereby reported cases of stigma and discrimination are promptly addressed. As for **Stigma Mitigation**, HIV/AIDS sensitization is conducted in schools to increase staff awareness and promote an enabling environment. The approach incorporates basic facts, universal precaution and non-discrimination.

#### **Reply to the issues raised in paragraph 5 of the list of issues**

16. Part V of the Policy specifically focuses on the Protection and General Rights of Refugees. It states that all person granted refugee status are to:

- Receive the same basic health services and basic primary education which the inhabitants of Jamaica receive;
- Seek employment ; and
- Receive a travel document which can be used for travel and identification purposes.

17. Part II (4) of the Refugee Policy which deals with the Treatment of Refugees states that: Once a person is granted refugee status, the State has a responsibility to facilitate his or her access to social and welfare services.

### **Article 3 – Equal rights of men and women**

#### **Reply to the issues raised in paragraph 6 of the list of issues**

18. The Government of Jamaica is committed to the principle of enabling women to achieve their full potential as participants in Jamaica's social, cultural and economic development. As a result, several measures have been undertaken to promote gender balance and prevent discrimination between women and men. One key gender mainstreaming strategy has been the development of the National Policy for Gender Equality (NPGE) spearheaded by the Bureau of Women's Affairs (BWA). The NPGE was approved by Cabinet on March 7, 2011 and will allow for gender to be more definitively mainstreamed in public policies, programmes, plans and projects as well as the creation of more avenues for national development. This Policy outlines implementation strategies as well as address several of the concerns of women and men through an integrated, multi-sectoral and coordinated gender mainstreaming approach.

19. This Policy will also ensure that the Government adopts a 30 per cent quota system for women in the Senate to ensure that there is a minimum level of participation in politics. The gender mainstreaming strategy incorporates a human rights based approach involving the government, private sector and civil society in order to ensure that females and males have equal access to opportunities, resources, and rewards in order to promote sustainable human and national development.

20. Further to the goals outlined above, the NPGE aims to reduce all forms of sex discrimination and promote greater gender equality and social justice. It will also strengthen institutional mechanisms and develop the skills and tools required to mainstream gender in cultural, social, economic, and political institutions, structures, and systems.

21. Additionally, the NPGE will seek to promote sustainable behaviour change in relation to gender stereotyping and improve organizational effectiveness as well as enhance the capacity of public sector entities to develop, implement and monitor gender responsive policies, programmes, plans and projects.

22. Implementation of the NPGE is also being facilitated through a thirty-two month project entitled "The Way Out: Jamaican Women's Political and Economic Empowerment" which commenced on January 10, 2011. The Way Out project is designed to support and promote the implementation of the NPGE and its gender mainstreaming goals. The project will use Alternative Dispute Resolution (ADR), specifically mediation, to ensure the sustainability of the project by mitigating the risk of conflict associated with tackling deep rooted and culturally embedded gender bias and discrimination.

23. As a collaborative and reconciliatory process, training in mediation will give women a greater voice in the policy implementation while negotiating successful change in the status quo. The DRF will be providing mediation services, curriculum and pedagogy consultation and general oversight to the project while the BWA shall oversee the execution of the project and provide resources in gender training and analysis.

24. Through the BWA, Jamaica will be establishing the Gender Advisory Council which will act as a stakeholder monitoring body. Its main objective is to give oversight to the implementation of the National Policy for Gender Equality (NPGE). This will contribute to fulfilling the mandate of mainstreaming gender considerations as a means to gender equality within a framework for sustainable socio-economic and human development.

25. Jamaica is also a participant in the United Nations' *Unite to End Violence Against Women* Campaign. The goal of the campaign is to raise public awareness and increase political will and resources, to respond and help prevent and eliminate all forms of violence against women and girls all over the world. The campaign hopes to unite governments, civil

society, women's organisations, UN entities among others with the objective of achieving five specific goals in all countries by 2015. These include the adoption and enforcement of national laws to address and punish all forms of violence against women and girls, the adoption and implementation of multi-sectoral national action plans an increased public awareness and social mobilisation.

26. The BWA is also involved in ongoing public education in the print and electronic media as well as through various workshops, seminars and public fora in order to challenge the existence of discriminatory patriarchal attitudes and stereotyping. Several such sessions have been held on an ongoing basis in schools, communities, churches and with other groupings across the country. The print media include publications in newspapers such as The Daily Observer, and The Daily Gleaner.

## II. Issues relating to the specific provisions of the Covenant (arts. 6–15)

### Article 6 – The right to work

#### Reply to the issues raised in paragraph 7 of the list of issues

##### Access to employment by Women in Jamaica

27. The latest Poverty figures which were officially released by the Planning Institute of Jamaica (PIOJ), indicated that the overall poverty rate for Jamaica was 17.6 per cent in 2010. Poverty in rural Jamaica was 23.2 per cent compared to 14.4 per cent for urban areas and 11.6 per cent for other Towns. Fourteen per cent of the households which fell below the poverty line were headed by women compared to 11 per cent for male headed households.

28. The Ministry of Labour and Social Security does not have an employment programme which specifically targets women. Employment programmes which are administered by the Ministry include the Electronic Labour Exchange (ELE), Steps to Work Programme, Special Employment and Training (SEAT) Project and overseas employment programmes. The employment opportunities obtained through the Ministry are not solely based on the location of the applicants but on the requirements of the programmes. In some instances, a conditionality of a programme may allow women from rural areas to receive more assistance than their urban counterparts.

(i) *Electronic Labour Exchange (ELE)*

29. ELE is the Government Employment Service which assists job seekers with employment opportunities. During the 2011/2012 financial year, 75 per cent of the 2,222 persons who were registered with the Electronic Labour Exchange (ELE) were female. In addition, of the 362 persons who were placed by ELE in both formal and informal employment, 228 or 63 per cent were women.

(ii) *Steps to Work Programme*

30. The Programme of Advancement through Health and Education (PATH) is the main Social Safety Net programme which provides assistance through conditional cash transfers to Jamaicans in poor households. The Steps-to-Work Programme was designed to assist working age family members and beneficiaries of PATH with employment opportunities in order to move them from welfare to work. During the 2011/2012 financial year, females comprised 3,397 (68.5 per cent) of the persons referred by Steps-to-Work Programme to other Government programmes for assistance. Eighty-four per cent of the persons referred by Steps-to-Work for entrepreneurship grants were women. Women also dominated the

Steps-to-World job savvy workshops which focus on employability skills (64 per cent), summer employment programmes, (73 per cent) and training in livestock farming (55 per cent).

(iii) *Special Employment and Training (SEAT) Project*

31. Another social intervention programme within the Ministry is the Special Employment and Training (SEAT) Project which provides training to skilled and unskilled persons aged 18-25 years. Females comprised 62.4 per cent of the persons who registered with the programme during 2011/2012.

(iv) *Overseas Programme*

32. Women also participate in the Ministry's overseas labour programmes, in particularly the Hotel Programme. Most of the hotel workers reside in the rural parishes of St. Ann, St. James, Westmoreland, Hanover and Clarendon. Of the 1,202 persons who benefitted from the hotel programme during the 2011/2012 financial year, 687 (57.2 per cent) were female. They earned US\$30,852 (46.7 per cent) of the total remittances sent to Jamaica by the hotel workers during the financial year.

**Reply to the issues raised in paragraph 8 of the list of issues**

33. According to the Statistical Institute of Jamaica (STATIN), the informal sector comprises:

- (a) All own-account workers and employers who own informal enterprises;
- (b) All employees working in enterprises with nine (9) or less employees;
- (c) All contributing family members;
- (d) All employees in jobs where no National Insurance Scheme (NIS) contribution is deducted from their wages.<sup>[1]</sup>

**(a) Socio-demographic Characteristics**

34. The average employment in the informal sector for 2011 was 420,100 or 33 per cent of the labour force. The majority of the persons employed in the sector were men (61 per cent or 257,534). The statistics suggest that most of the persons in the informal sector were in the 35 - 44 age group and 43.9 per cent of them were from the rural areas.

**(b) Industry**

35. In 2011 the Wholesale, Retail and Repairs industry had the largest number of informal workers (153,200 or 36 per cent) followed by Construction (73,200 or 17 per cent). Thirty per cent of the informal workers were classified as Service workers followed by Craft and Related Trade workers with 27 per cent. A large number of the men were classified as being in the Craft and Related Trade (40 per cent) and Machine Operators and Assemblers (16 per cent) occupational group. Women were predominantly classified as Service workers (56 per cent) and Professionals and Senior Officials and Technicians (22 per cent).

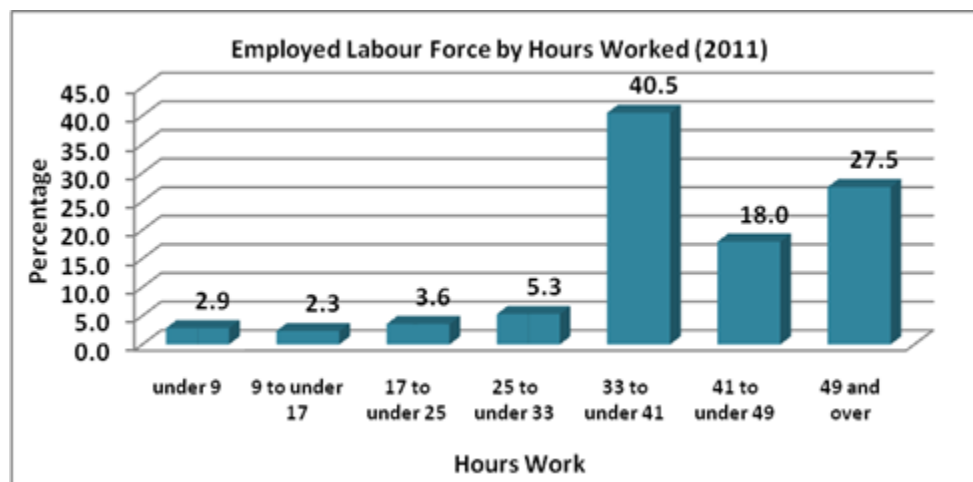
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<sup>1</sup> NIS is the national contributory pension scheme which is administered by the Ministry of Labour and Social Security.



**(c) Hours of work**

36. There is no known data on the hours worked by different categories of workers in the informal sector. However data released by the Statistical Institute of Jamaica indicated that the duration of work for most of the employed labour force ranged from 33 to 41 hours (See Figure 1). When asked why those who worked less than 35 hours chose to do so, 45.7 per cent indicated that only part-time jobs were available.

**Figure**

Source: STATIN

37. STATIN defines underemployment as “the difference between the amount of work performed by employed persons and the amount of work they would normally be able and willing to perform”. It further suggests that a person would have to work “less than 35 hours in the survey week and is able to work more hours as well as willing to work the additional hours to be classified as underemployed.

38. The data showed that 9,200 persons were considered to be underemployed. When disaggregated by sex and sector, underemployment was more dominant among men in the goods producing industry which comprise the Construction and Manufacturing sector and higher for women in the Service industry.

**(d) Earnings by different categories of workers**

39. Data on earnings in the informal sector is not readily available. However many workers in the Wholesale, Retail and Repairs industry and who work as household helpers (domestic workers) received minimum wage of \$5,000 per week in 2012. It is important to note that women comprised 55 per cent of those employed in the Wholesale, Retail and Repairs sector and 81 per cent of the Private Households with Employed Persons sector which includes household workers.

40. Other information on earnings revealed that the highest average weekly earnings were recorded in the Electricity, Gas & Water sector (\$37,485), followed by Transportation, Storage & Communications (\$27,401). Meanwhile the lowest average earnings were reported in manufacturing (\$14,377).<sup>[2]</sup>

<sup>2</sup> The data was obtained the survey of “Employment, Earnings and Hours Worked in Large Establishments” which conducted by STATIN on firms employing 10 or more persons in all

(e) **Measures to guarantee access of persons employed in the informal economy, in particular women, to basic services and social protection**

41. The National Insurance Scheme (NIS) has an ongoing public education campaign which encourages all workers including informal workers to contribute to the Scheme in order to access pension and other benefits. Persons who receive entrepreneurial grants are also encouraged to pay their benefits. The ELE also encourages jobseekers to contribute to the Scheme.

**Reply to the issues raised in paragraph 9 of the list of issues**

42. The Government of Jamaica recognizes the right of persons with disabilities to have legitimate access to the labour market. Policies have been implemented in recognition of this right as well as sensitization of employers to guide and improve workplace interactions. The National Policy for Persons with Disabilities states that a minimum of 5% of jobs in the public sector should be reserved for persons with disabilities, provided they possess the required qualifications. Most persons with disabilities are, however, unable to fill positions in the public sector due in part to a lack of the requisite qualifications.

43. The Economic Empowerment Projects have been assisting the disabled community in a number of occupational groups including farming; barbering/beauty salon; garment sales; catering/pastry making and furniture manufacturing. Between November 2008 and October 2012, over \$21M in Empowerment Grants was awarded to 612 disabled persons to undertake entrepreneurial activities in the occupations mentioned. During the same period, over 180 persons were assisted with Adaptive Aids valued at \$12.2M.

44. The National Disability Bill is intended to protect the rights of the disabled community in Jamaica. It will seek to promote, protect and facilitate the full and equal enjoyment of all fundamental rights and freedoms by persons with disabilities in areas of education and training, employment, political office and public life, health care, housing and public transportation. The most recent draft of the Bill is currently being reviewed by members of the National Advisory Board on Disability.

**Article 7 – The right to just and favourable conditions of work**

**Reply to the issues raised in paragraph 10 of the list of issues**

45. 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.

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industries excluding Agriculture, the public sector, private educational institutions and the Free Zones.

**Reply to the issues raised in paragraph 11 of the list of issues**

46. The draft Anti-Sexual Harassment Policy has been submitted for Cabinet's approval. The policy is expected to inform legislation to address sexual violence in the workplace. Efforts are being made by the Government of Jamaica to enact the legislation at the earliest opportunity.

**Reply to the issues raised in paragraph 12 of the list of issues**

47. Under the Factories Act, 1943, the Ministry of Labour and Social Security is required to conduct routine inspections of factories, docks, cargo ships docked in Jamaican ports and buildings sites in which persons are employed. To ensure that employees work in safe and just conditions, several pieces of legislation such as the *Employment (Termination and Redundancy Payments) Act* and *Factories Act* have been enacted. Additionally, the Occupational Health and Safety (OSH) Bill, which is in an advanced stage, 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 corrective actions, as is provided for under the *Factories Act*, which establishes the minimum standards of operation for industrial safety.

48. 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 Government Ministries and agencies, 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 Minimum Wage Advisory Commission plays a lead role in monitoring and undertaking consultations for the fixing of the minimum wages. Thereafter, recommendations are made to the Minister of Labour and Social Security who takes the matter to Parliament for the appropriate approval.

49. As it relates to the informal economy, the term conveys different meanings. The informal economy could refer to persons engaged in occupations such as Street Vending, Domestic Workers and other home based workers for whom it may be difficult to ensure that certain minimum standards are met. There are some occupations that once breaches of the standards are reported, the Government of Jamaica can enforce the law such as Minimum Wage for Domestic Workers. However, enforcing the health and safety standards in those circumstances, such as in someone's home for example would not necessarily be feasible. The other concept of informality relates to the underground economy. In that case, the Government is unable to exercise its mandate. All in all, while there are measures in place to enforce some standards depending on the occupation, it is difficult, in general, to regulate the informal economy.

50. As it relates to the Occupational Safety and Health Bill, it is to be noted that the Bill is being reviewed by the Office of the Chief Parliamentary Counsel and efforts are underway to ensure that the Act is enacted by the end of the first quarter in 2013.

## **Article 8 – The right to form and join trade union**

### **Reply to the issues raised in paragraph 13 of the list of issues**

51. 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. Both unions and employers have rejected the proposed amendment to allow for the right to strike. However, Unions and workers are free to engage in industrial action, including peaceful picketing.

52. Compulsory arbitration has been provided under the law to resolve such disputes in an effort to avoid industrial (strike) action. Provision is also 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.

53. 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. Provisions are also made for an 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.

54. Under the Employment (Termination and Redundancy Payments) Act, employees can be dismissed under certain conditions on the grounds of redundancy and would therefore be entitled to redundancy pay. Where those workers are unionised, the Unions usually ensure that the redundancies are genuine. If former employees are invited to take on short term contracts, they would be at liberty to do so. The Government of Jamaica has no evidence, however, that private sector unionised employees are dismissed and hired on short term contracts as a norm, and further, the unions would not allow this to occur.

### **Reply to the issues raised in paragraph 14 of the list of issues**

55. The Labour Relations and Industrial Disputes Act provides that all workers are free to join and belong or not to belong to a trade union of their choice. Workers in the Export Processing Zones (EPZs) are no exceptions. Trade Unions are at liberty to recruit members within the EPZs and to enter into collective bargaining arrangements with such employers. It is therefore not correct to state that workers in the EPZs are not allowed this privilege. They may decline to utilise it for their own reasons but there is no evidence or complaints received by the Government of Jamaica that persons in EPZs are being prevented from doing so.

## **Article 9 – The right to social security**

### **Reply to the issues raised in paragraph 15 of the list of issues**

56. There are no barriers to entry under the National Insurance Act that prevent the participation of any employed person in the National Insurance Scheme (NIS). Therefore, what is required to reduce the wide coverage gap and the existence of the large informal economy are not so much reforms of the NIS, but improved public education on the

benefits to be gained by participation in the Scheme and a unified approach to tackling the challenges presented by the informal economy.

57. Greater focus has therefore been placed on the NIS' Public Education campaign, with several initiatives having been undertaken to improve the visibility of the Scheme and to heighten public awareness of the benefits available and the processes for registration, making contributions and claiming benefits. This has seen some success in light of the number of persons who have registered to become contributors to the Scheme. Continued efforts are being made to also increase the number of persons in the Employed Labour Force who actively contribute to the NIS, as currently just 40% of those persons regularly contribute to the Scheme.

58. Additionally, the NIS has collaborated with other government entities affected by the prevalence of the informal economy to introduce initiatives to target informal operators for integration in the formal economy. This Amalgamation of Statutory Deductions Project has so far introduced joint collection of statutory deductions and joint filing of annual returns. These new procedures have been introduced to make the relevant processes simpler and more efficient for employers, and encourage compliance with the formal systems that exist.

59. Other initiatives will be undertaken in the next phase of the project to target self-employed persons for inclusion, as well as to share information among agencies in order to maximize collections of contributions and to increase the efficiency of our compliance and audit functions.

## Article 10 – Protection of the family, mothers and children

### Reply to the issues raised in paragraph 16 of the list of issues.

60. Data for Sexual offence cases are not disaggregated according to marital rape and sexual abuse of women and children in the family. The table below sets out information on the number of registered sexual offence cases as at November 2012.

**Table 1**  
**Number of registered sexual offence cases (as at November 2012)**

<i>OFFENCES</i>							
Year	Months	Buggery	Incest	Rape	Sexual/Under 16	Sexual Touching	Grand Total
2011	Dec	0	0	1	0	1	2
	Jan	3	5	74	103	5	190
	Feb	8	4	84	94	24	214
	Mar	3	2	72	82	19	178
	Apr	7	5	78	71	26	187
2012	May	8	6	88	81	28	174
	Jun	6	6	68	66	28	211
	Jul	10	2	56	55	21	144
	Aug	3	1	83	37	18	142
	Sep	5	3	66	44	8	126
	Oct	1	0	57	37	1	96
	Nov	0	0	12	10	0	22
GRAND TOTAL		54	34	739	680	179	1686

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 OFFENCES
 

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\*Please note that the figures included in this document are subject to change due to discoveries from on-going investigations.

\*\*Source: Statistics and Information Management Unit (RPLSB), the Jamaica Constabulary Force

61. Women accounted for 42.8 percent of victims of major crimes for 2011. There was a decrease from 143 in 2010 to 119 in 2011 with regards to the number of females murdered. For the year 2011 there were 786 reported cases of rape with 331 of those cases were settled. There was an 11 percent increase in the report of rape incidents and a 21 percent increase in the number of rape cases which were settled. With regard to carnal abuse in 2011, there were 730 reported cases with 365 of these cases settled. There was a 2 percent decrease in the number of reported carnal abuse cases with a 3 percent increase in the number of carnal abuse cases settled.<sup>3</sup>

62. With better reporting of crimes and the perseverance of law enforcement, convictions for sexual offences and offences against the person continue to increase. The table below highlights the convictions for sexual offences as well as offences against the person over a ten year period.

**Table 2**  
**Statistics on violence (sexual offences & offences against the person): 2002-2010**

<i>Year</i>	<i>Sexual Offences</i>	<i>Offences Against the Person</i>
2000	-	-
2001	-	-
2002	114	-
2003	-	-
2004	147	29
2005	532	-
2006	106	54
2007	107	27
2008	131	74
2009	120	113
2010	85	110

Source: Statistics and Information Management Unit (RPLSB), the Jamaica Constabulary Force

63. Efforts continue to be made by the Government of Jamaica to eliminate Gender-based Violence, including through the establishment of a multi-sectoral special committee, chaired by Senator the Hon. Sandra Falconer, Minister with responsibility for Information in the Office of the Prime Minister. The Committee is tasked with undertaking an analysis of the outstanding recommendations which have been put forward to address Gender-based Violence since 2002. They will also include issues in the National Strategic Action Plan to Eliminate Gender-based Violence (NSAP-GBV) which was developed by the Bureau of

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<sup>3</sup> Statistics sourced from the Economic and Social Survey Jamaica 2011

Women's Affairs (BWA) in 2011 following island-wide consultations with Ministries/Departments and Agencies with multiple stakeholder participation. The four priority areas stipulated are:

- (a) *Public Education & Training* - to launch long-term national campaign to improve values and attitudes;
- (b) *Shelter* – to establish shelters to facilitate victims of domestic and sexual violence as well as victims of trafficking, and greater access to legal and other services;
- (c) *Sustainable Livelihoods* – to achieve sustainable development and a higher quality of life for survivors of violence and their families; and,
- (d) *Institutional Strengthening* – to build capacity and broaden the reach of the institutions that investigate violence against women and children to improve the output of shelters and other places of safety.

#### **Reply to the issues raised in paragraph 17 of the list of issues**

64. Policy and legislative measures that have been taken to eliminate corporal punishment include:

- (a) Implementation of the Ministry of Education's policy on corporal punishment and developed associated sanctions to enforce the policy;
- (b) Implementation of the Safe School Policy; and
- (c) Green Paper with legislative proposals to abolish corporal punishment in schools. The Green Paper has been submitted to the Leader of the House for Business with a view to having the paper tabled in Parliament at the earliest opportunity.

65. Further, under the Child Care and Protection Act, corporal punishment is explicitly prohibited in settings outside the home. The matter of the prohibition of corporal punishment in general settings will be included in the CCPA review exercise schedule to commence in the 4th quarter of 2013.

#### **Article 11 – The right to an adequate standard of living**

##### **Reply to the issues raised in paragraph 18 of the list of issues**

66. The Government of Jamaica has this year (2012) moved to reaffirm its commitment to fighting poverty and deprivation in a structured way, with the pending establishment of a National Poverty Reduction Coordinating Unit within the Planning Institute of Jamaica (PIOJ). Most importantly, the Vision 2030 Jamaica – National Development Plan, launched in 2009, sets out a Poverty Reduction Plan, with which programming now needs to be aligned, going forward. The PIOJ is therefore in the process of engaging the human resources for the establishment of the Unit. The major goal is to develop a programme of priorities for each succeeding medium-term framework, that will address a critical range of social, economic and environmental factors impacting on the prevalence of poverty, facilitate consistent reduction, as well as create an appropriate monitoring and evaluation system.

67. The Jamaica Survey of Living Conditions has continued to be the instrument used to capture living standards indicators, including the prevalence of poverty. These data are reported on annually, and the series has been maintained since 1989. (See Table below).

**Table 3**  
**Incidence of poverty**

*Incidence of Poverty .....Per Adult Equivalent method 1996-2010*

Region	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
KMA	17.2	9.3	8.6	10.6	9.9	7.6	10.3	14.6	14.3	9.6	9.4	6.2	7.0	12.8	14.4
Other Towns	22.0	14.8	13.4	12.1	16.6	13.3	18.6	15.8	7.8	7.2	9.2	4.0	10.7	10.2	11.6
Rural Areas	32.8	27.4	19.5	22.0	25.1	24.1	25.5	24.2	22.1	21.1	19.8	15.3	17.0	22.5	23.2
Jamaica	26.1	19.9	15.9	17.0	18.7	16.8	19.7	19.1	16.9	14.8	14.3	9.9	12.3	16.5	17.6



68. Despite the absence of a structured poverty programme, the Government and its partners have put in place several projects, programmes and measures that address the needs of vulnerable population groups. These have focused not only on physical welfare and basic needs, but also on healthcare, basic education, food security, soft skills and empowerment; economic livelihoods and social infrastructure. The programmes include fee waivers in the public health sector; tuition fee waivers in the primary and secondary school systems; subsidized drug provision for the elderly and those with chronic illnesses; residential care and services; cash transfers to identified poor households; school feeding, economic empowerment grants for persons with disabilities, skills training and apprenticeship programmes, and other initiatives in communities islandwide. All Government-supported provisions are available to all Jamaicans, whether they are of Maroon heritage or not.

69. The largest social welfare programmes in terms of numerical reach are the Programme for Advancement through Health and Education (PATH) and the School Feeding Programme, which each offer services to approximately 400,000 persons. The School Feeding Programme has two components:

- (a) The Nutribun and Milk/Drink component with 136,000 beneficiaries; and
- (b) The Traditional/Cooked Lunch component with 175,000 beneficiaries.

70. Commodities are also purchased for 86,000 basic school children. The School Feeding Programme also provides funds intended to assist with nutritional assistance for students on the PATH programme. The Programme is funded by the Government of Jamaica and the World Bank and is aimed at delivering benefits to the most needy and vulnerable in society. Provision has been made in 2012 for 210,000 beneficiaries.

71. It should also be noted that Poor Relief services are provided by the Government to some 14,000 persons annually through the Board of Supervision, and this provision is made for both residential and outdoor poor persons. Children and the elderly are the main target groups for social welfare, while other social protection strategies, particularly human capital development, target students, youth, pregnant and lactating women and working-age members of households. Gendered policy actions have seen resources for children on PATH being remitted to the adult female of the household; additional cash bonus provided to all boys in school; and a focus on young men and women under the employment programmes.

72. Fee waivers in health and education are universal. The Ministry of Health provides health care free of cost to the user through a network of 23 public hospitals and some 323 health centres strategically placed throughout the country. These services are available and accessible to all persons without discrimination. Health centres are located within a four mile radius of where people live including in the Maroon Town district in St. James

73. Among other measures being employed by the Government of Jamaica to reduce poverty include efforts aimed at ensuring food security. As such, The Ministry of Agriculture and Fisheries is currently implementing two (2) major food security projects. These are:

(a) **The Jamaica Small Farmer Input Supplies Project (Alba Alimentos Input Supplies Project)** which was developed in response to the increasing costs for agricultural inputs and global trends in rising food prices. The overall goal of the project is to improve rural livelihoods and promote sustainable agriculture.

(b) **The European Union Banana Support Programme in Jamaica (EUBSP):** The overall objective of the European Banana Support Programme (EUBSP) is to promote sustainable development in the traditional banana growing areas of Jamaica in order to reposition the banana industry so that it can best exploit opportunities in both domestic and

international markets when funding through the Special Framework of Assistance (SFA) funding.

74. This programme is also mandated to stimulate economic development by promoting alternative agricultural and non-agricultural income generating activities for farmers, port workers and their communities in these areas in the short term and to improve their living standards in the long term. As such the component was allotted approximately €11 m of the €48 million grant fund allocated to the EUBSP for this sole purpose.

75. The EUBSP has made significant achievement in awarding of €5.53M (over J\$751M) grant fund as direct investment impacting over 100,000 individuals directly and indirectly. The programme has impacted on the socio-economic core of rural development organization and communities at large with a ripple effect at the regional level.

**Reply to the issues raised in paragraph 19 of the list of issues**

76. The policy measures put forward by the Government of Jamaica to address the housing situation in Jamaica include:

- (a) The preparation of a draft National Housing Policy and Implementation Plan;
- (b) The revision of a Joint Venture Policy to allow for a more efficient management of the process. The policy has been renamed the Housing Public Private Partnership Policy;
- (c) The amendment of the Mortgage Insurance Act and Regulations which is currently underway to increase the percentage of a mortgage loan that can be insured. When implemented, this will lower the deposit that potential purchasers will have to make and increase the number of persons who can access available solutions.

77. Further, Given that many Jamaicans are currently not home owners the Rent Restriction Act is being amended to streamline the market, to allow for, *inter alia*, a more speedy and equitable resolution of disputes between landlords and tenants, the introduction of minimum standards in the rental market and to allow for landlords to obtain a fair return on their investment.

78. In addition, The Ministry with responsibility for Housing is preparing a concept paper that will seek to address the separation of Land Titling from Infrastructure requirements. This proposal will also seek make land for housing more accessible to low income persons through an incremental approach to the installation of infrastructure works, which accounts for a significant percentage of the cost of land.

79. The Ministry has also commenced the process that will lead to the formulation of a Squatter Management Policy. A Steering Committee has been established to drive the process and a Concept document is now being prepared.

80. In terms of operational measures, it is to be noted that:

- (a) There is a National Housing Programme, which seeks to significantly increase the number of solutions provided by the public sector, through a partnership between the Ministry with responsibility for Housing, the National Housing Trust and the Housing Agency of Jamaica;
- (b) The Secondary Mortgage Market was revitalized by the Jamaica Mortgage Bank. This has led to an average two [2] percent reduction in Interest Rates for Mortgage Loans and made homeownership a reality for more Jamaicans;
- (c) The government is engaging in partnerships with civil society to increase the number of solutions available for persons in the lower income groups. For example the

JEEP/FFP project which will see approximately 1200 FFP houses constructed across the island in the first year;

(d) The Ministry of Transport, Works and Housing is actively taking steps to implement a urban upgrading programme which can be replicated across the island. A pilot project is underway in Albion, St. James and is expected to be completed in January 2013.

81. As it relates to water and sanitation, The Government of Jamaica, through the Ministry of Water, Land, Environment, and Climate Change, has embarked on a programme to review and update the 2004 Water Sector Policy Strategies and Action Plans and to prepare a Rural Water Master Plan. The main aim of the existing Water Sector Policy (2004) is to provide universal access to water by all Jamaicans. The Policy had stipulated that universal access should have been achieved by 2010. Despite this, however, the government is still working to achieve universal access within the near future.

82. In this context, it should be noted that Access to safe potable water in Jamaica is presently at 76%. In the Kingston Metropolitan Area (KMA), current access is 98%. For Major Towns, the access is 86%, and in the Rural Areas, the access is 46%.

83. Access will be increased through planned and ongoing water supply projects and programmes which are scheduled to be implemented between 2012/2015, and are intended to increase access to 85%.

84. These Projects include:

- (a) Jamaica Water Supply Improvement Project;
- (b) Kingston Metropolitan Area (KMA) Water Supply Project;
- (c) Kingston Water and Sanitation Project; and
- (d) Kingston Metropolitan Area Water Supply Improvement Project.

85. In addition to the forgoing, the Government of Jamaica, through The Ministry of Water, Land, Environment, and Climate Change/National Water Commission, with the assistance of the Inter-American Development Bank (IDB), has developed the Kingston Metropolitan Area (KMA) Water Supply Improvement Programme, whereby funds have been allocated to the Ministry to engage a Consultant to work with the Water Sector Steering Committee to achieve the following aims:

- (a) To establish current status of the data on the percentage access of the population to safe potable water,
- (b) Examine gender equality in the access and use of safe water,
- (c) Examine the impact of climate change on the access to safe water
- (d) Develop new strategies and action plans to accompany the reviewed Water Sector Policy.

86. Further, the KMA Programme, will provide funds to assist the Commission in institutional strengthening activities such as the reduction of non-revenue water, and improved operational and maintenance practices.

87. As it relates to rural areas, The Rural Water Master Plan will be spearheaded by the Rural Water Supply Limited. The aim of the Master Plan is to identify and map areas in Jamaica with poor, inadequate or non-existent water supply, prepare a GIS database, develop preliminary assessments and also prepare a strategy, timeline and ranking to commence infrastructure development.

88. In addition to the current Strategies, in 2005, work commenced on the Rural Water Programme, through funding from the Inter-American Development Bank, to implement four (4) Community Water Projects.

89. The pilot projects selected included:

- (a) White Horses/Botany Bay/Pamphret – St Thomas;
- (b) Cotterwood – St Elizabeth;
- (c) Gravel Hill – Clarendon;
- (d) Mile Gully/Warwick Castle – St Mary.

90. These Communities organized themselves into Benevolent Societies and were registered with the Department of Cooperatives. Three (3) Projects have been completed and the fourth will be completed by April 2013. Another component of this Programme, is the Rainwater Harvesting Project in Gblatore, St. Catherine. Work is ongoing to complete this project during the financial year, 2012/13. The Ministry will also be expanding on the rain water harvesting programme in the next financial year, 2013/14.

91. The above mentioned measures have in part contributed to the increase in Water consumption which rose by 5.5% according to the 2011 Economic and Social Survey. Also of note is the fact that the National Water Commission produced approximately 303050.6 megalitres of water in 2011, increasing its production level over 2010, when it produced 285093.1 megalitres. To this end, more Jamaicans have been accessing increasing levels of water and with the NWC's Life line Level of 3000 gallons per month, as a starting point, for every metered customer, the NWC is the cheapest utility providing service to Jamaicans. (Statistics from the 2011 Economic and Social Survey).

92. As Water is critical to life, health, and the economic life of the country, the Government of Jamaica is committed to the provision of universal access to safe potable water within the near future. It is to be noted that percentage access is increasing over time with the construction of major water supply projects and programmes by the ministry and the water agencies, and numerous initiatives to source funding for projects.

## **Article 12 – The right to physical and mental health**

### **Reply to the issues raised in paragraph 20 of the list of issues**

93. Among the measures taken by the Government of Jamaica to improve the situation of chronic shortage of trained health professionals, particularly in rural areas, are as follows:

(a) A systematic attempt by the Ministry of Health to audit human resource capacity and shortages for the health sector via a University of Dalhousie sponsored Human Resources in Health programme;

(b) Owing to the very tight fiscal space within which the Ministry of Health is forced to operate, the Ministry has sought to engage the Unions, particularly the Jamaica Medical Doctors' Association, in developing incentive schemes to encourage doctors to work in deep rural communities;

(c) Recruitment from Cuba under the longstanding Technical Co-operation Agreement for:

- Specialists in scarce areas for secondary care; and
- Highly trained professionals for the Primary Health Care system. These are to include nurses, doctors and dentists;

(d) Exploration of Public-Private Partnership opportunities for housing solutions to attract all categories of health professionals in areas that they would not normally accept assignment.

**Reply to the issues raised in paragraph 21 of the list of issues**

94. Family planning services are provided through a network of 316 health centres throughout the island. Special emphasis is placed on providing services to adolescents. There are no user fees and the contraceptive commodities are provided free of cost in the public sector. Clients can also access the services through the private sector. The Emergency Contraceptive Pill is available as a List 2 over the counter medication not requiring a doctor's prescription but requires dialogue with the pharmacist. Much effort is placed on education and services to prevent unwanted and mistimed pregnancies to reduce the need for abortions. A national policy for the provision of contraceptive services to minors was implemented in 2007 to facilitate improved access to services for teenagers under the age of 16 years. As it relates to abortion, it should be noted that unconditional access is illegal in Jamaica. It is acknowledged that abortions do take place and sometimes result in complications including maternal deaths. The draft Termination of Pregnancy Act proposing conditions under which abortions would be legal and facilitate training of health personnel and equipping of designated public facilities to perform these has benefitted from extensive public consultation. The draft is still under the review.

**Reply to the issues raised in paragraph 22 of the list of issues.**

95. As a State Party to the WHO Framework Convention on Tobacco Control, which Jamaica ratified on July 5, 2005, the following measures have been taken by the Government of Jamaica to reduce the direct and harmful effects of tobacco consumption:

(a) There is legislation mandating that health warnings appear on tobacco packages;

(b) The Ministry of Health has a draft Tobacco Act, which it expects to pass in the 2013/2014 financial year;

(c) There is a legislative ban on tobacco advertising, promotion and sponsorship whilst there is an administrative ban on smoking in government buildings;

(d) There is a specific excise tax on tobacco; and

(e) The National Council on Drug Abuse (NCDA) has several programmes targeting youth and communities. Among these programmes are the Wise UP- Universal Prevention Programme targeting youths aged 6 to 12 years for all substances and the Resistance Education Against Drugs (READ) Programme which is a Selective Prevention programme for children aged 5-8 years for all substances. The new NCDA initiative launched in 2012 targets children from 20 inner city schools in Kingston and St. Andrew. Other programmes instituted by the NCDA include individual and group counselling for tobacco cessation, and other substance misuse.

96. Further, a National Technical Working Group is in place and a National Focal Point has been designated to address the harmful consumption of tobacco.

97. The Ministry of Health continues, on an ongoing basis, to carry out public education campaigns on the negative consequences of substance misuse, the availability of services for substance abusers and training for stakeholders and volunteers. Currently there are no initiatives in place addressing substance abuse/tobacco use by pregnant women.

## **Articles 13 and 14 – The right to education**

### **Reply to the issues raised in paragraph 23 of the list of issues**

98. The Education Regulations make provisions for Ministerial Discretion to facilitate the re-entry of school age mothers into the education system. The Child Care and Protection Act and the Compulsory Education Policy as well as other international conventions to which Jamaica is a signatory, also protect the interest of the school-aged mother.

99. A Draft Policy for Mandatory Reintegration of School Age Mothers is expected to be submitted to Cabinet for approval at the end of February 2013 to put in place measures to ensure that adolescent mothers are not deprived of their right to education and are able to continue their studies. The policy seeks to ensure the mandatory reintegration of all school-age mothers into the formal education system. In addition, there is a Memorandum of Understanding between the Ministry of Education and the Women's Centre of Jamaica Foundation (WCJF) whereby pregnant students are referred to the 15 Women Centres available island wide for continuing education and training programmes for Adolescent Mothers.

### **Reply to the issues raised in paragraph 24 of the list of issues**

100. In an effort to improve the quality of education across system, the Ministry of Education, with the support of its agencies, is focussing its attention on strategic areas to : (i) increase access to quality education, especially at the early childhood level via the integration of basic schools into the formal education system; (ii) improve teacher training, professionalization and enhance curriculum, teaching and learning support to schools via the Jamaica Teaching Council, the National Education Inspectorate and other target initiatives at the regional level; and also improving the mechanism for identifying schools in need of textbooks, distributing and monitoring inventory; increasing access to teaching via the use of media and ICT; and providing better water and sanitation facilities via strategic partnerships with the PetroCaribe and Culture, Health, Arts, Sports and Education (CHASE) Funds.

101. Further details are provided below:

(a) The Ministry of Education (MOE) introduced new institutional arrangements to enhance quality at the school level through the creation of autonomous Regional Education Authorities (REAs). Region Six, comprising St. Catherine and Clarendon was selected as the Pilot for the establishment of the REAs;

(b) An E-Learning Project was introduced at the secondary level to enhance the teaching/learning process. The project introduced multimedia projectors, hardware and software and other Information Communication Technology to the learning environment;

(c) At the tertiary level, a Consortium of Institutions for Teacher Education (CITE) involving 10 Teachers' Colleges began developing a programme to transform teachers' colleges into degree granting institutions;

(d) The GOJ, in pursuit of its aim to ensure that all teachers are trained to the degree level by 2015, provided for a pool of funds totalling \$500 million to be used to support this effort;

(e) Some 273 primary school principals were trained in school management and leadership. A similar programme was introduced for secondary school principals delivered by the University of the West Indies (UWI);

(f) The GOJ made available \$5.0 billion from the National Housing Trust to assist with the educational transformation process. Approximately 68.1 per cent of this

amount was earmarked for construction, repairs, maintenance and to purchase school furniture and equipment;

(g) A comprehensive space audit was conducted by the Ministry of Education, which indicated that the education system (early childhood, primary and secondary) would need approximately 430 000 places by 2015 and a programme towards meeting this target was started with some 4 465 spaces created;

(h) The GOJ introduced a new programme designed to improve the quality of graduates from the secondary school system. The programme required that all secondary students must be actively involved in at least two extra-curricular or co-curricular activities to be eligible for a School Leavers Certificate;

(i) A Student Empowerment Programme, was introduced to smooth the transition for Grade nine students from All-Age and Primary/Junior High Schools to Secondary High Schools;

(j) The Safe Schools' Programme (SSP), which is being undertaken jointly by the Ministry of Education and the Ministry of National Security, continued activities aimed at reducing violence and anti-social behaviour in schools;

(k) **Jamaican Teaching Council**: Standards were drafted for licensing teachers; development of a registration web portal continued and training for final year students was conducted in all teachers colleges;

(l) **National Education Inspectorate (NEI)**: The NEI began operations and during the year some 50 inspectors were trained, 20 new inspectors hired and 165 school inspections completed. Inspection reports were published for 30 of these schools;

(m) **Department of School Services (DSS)**: Ministerial approval was obtained for the former Regional Education entities to operate together as the Department of School Services. The pilot to modernize regional operations continued in Regions 1 and 2 and was extended to Region 3. The DSS worked with 320 schools to implement NEI recommendations in school improvement plans and to develop and map business processes. A school improvement planning manual was also created to guide how schools will be resourced and supported;

(n) **National Education Trust (NET)**: A three-year Operation Plan was developed along with plans to engage a marketing/PR firm to promote the NET among the Jamaican Diaspora in selected cities internationally as a way to mobilize further funding. Access at the secondary school level was increased with the conversion of Mansfield Primary School (St. Ann) into a secondary school while, construction of Mandeville High in Manchester was deferred;

(o) **Curriculum and Special Education**: The Alternative Secondary Transitional Education Programme (ASTEP) was implemented in 220 Centres and 176 schools, with over 6000 students participating. Over 900 children in Region 2 were screened for psychological issues/ learning disabilities in the "Child Find" Screening and Transition Programme using the Grade Four Literacy results (scores of 30.0 per cent and below);

(p) **Literacy and Numeracy**: focused on improving performance and achieving universal mastery in literacy by 2015 and 85.0 per cent mastery in numeracy by 2020. As at 2011, performance in the Grade Four Literacy Test had improved to 71.0 per cent from 67.1 per cent in 2010. Under the Numeracy Strategy, an accountability matrix was developed with a three pronged approach (i.e. conceptual understanding, computation fluency and problem solving). Support materials for the National Mathematics Strategy were developed;

**Reply to the issues raised in paragraph 25 of the list of issues**

102. The tables below provide disaggregated statistical data on children and youths with disabilities.



**Table 4**  
**Enrolment in special education institutions by parish, sex and area of disability**

PARISH	<i>Blind and Visually Impaired Only</i>		<i>Deaf &amp; Hearing Impaired Only</i>		<i>Learning Disabilities Only</i>		<i>Mentally Disabilities Only</i>		<i>Multiple Disabilities</i>		<i>Subtotal</i>	
	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female
Kingston	1	-	-	-	10	7	15	9	40	20	66	36
St. Andrew	103	47	114	109	79	30	332	186	204	126	832	498
St. Thomas	2	1	-	-	21	6	2	2	-	3	25	12
St. Ann	-	-	31	9	35	11	110	59	11	10	161	89
Trelawny	-	-	-	-	17	1	1	2	-	-	18	3
St. James	1	-	20	21	33	13	13	5	-	2	67	41
Westmoreland	-	-	-	-	-	-	25	12	53	14	78	26
St. Elizabeth	-	-	10	8	-	-	-	-	2	1	12	9
Manchester	-	-	3	-	12	12	72	41	13	5	100	58
Clarendon	-	-	3	1	6	4	35	27	11	4	55	36
St. Catherine	4	2	3	-	13	13	225	112	14	18	259	145
Total	111	50	184	148	226	97	830	455	348	203	1699	953
Grand Total		161		332		323		1285		551		2652

Source: Ministry of Education

PARISH	<i>Physical Disabilities</i>		<i>Autism</i>		<i>Attention Deficit Hyperactivity Disorder</i>		<i>Speech &amp; Language Disabilities</i>		<i>Other Disabilities</i>		<i>Grand Total</i>	
	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female
Kingston	6	8	16	-	2	-	6	4	-	-	96	48
St. Andrew	38	28	100	19	27	10	71	49	11	11	1079	615
St. Thomas	-	-	2	-	-	-	2	-	-	-	29	12
St. Ann	-	-	6	1	2	1	6	-	-	-	175	91
Trelawny	1	-	3	-	-	-	3	-	-	-	25	3
St. James	-	-	-	-	-	-	-	-	-	-	67	41
Westmoreland	-	-	2	1	6	-	-	-	-	-	86	27
St. Elizabeth	-	-	-	1	-	-	-	-	-	-	12	10
Manchester	6	6	8	1	9	3	7	1	153	-	283	69

	<i>Physical Disabilities</i>			<i>Autism</i>	<i>Attention Deficit Hyperactivity Disorder</i>		<i>Speech &amp; Language Disabilities</i>		<i>Other Disabilities</i>		<i>Grand Total</i>	
Clarendon	23	20	7	1	1	-	12	5	22	13	120	75
St. Catherine	33	28	57	11	19	5	56	48	32	14	456	246
Total	107	90	201	35	66	19	163	107	218	38	2454	1242
Grand Total		197		236		85		270		256		3696

Source: Ministry of Education

103. Legislative and other measures to promote, protect and fulfil the right to education of persons with disabilities include:

- (a) The 2000 National Policy on Disabilities;
- (b) The National Disabilities Bill which is in its 10<sup>th</sup> draft;
- (c) The 1988 Education Regulation;
- (d) The 1988 Early Childhood Regulation;
- (e) The 2003 Early Childhood Act;
- (f) The Child Development Act; and
- (g) A Draft Special Education Policy which is awaiting to be tabled in Parliament.

104. New measures have been introduced to help children with special needs. These include the availability of diagnostic and therapeutic services which was increased with the construction of two new centres in the parishes of Manchester and St. Ann. Another such centre is slated for Sam Sharpe Teachers' College in St. James.

105. 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.

## Article 15 – Cultural rights

### Reply to the issues raised in paragraph 26 of the list of issues

106. In recognition of the importance of protecting and promoting the cultural right, the Government of Jamaica, through the National Cultural Policy, encourages and promotes awareness of Jamaica's history and cultural expressions. An overview of the work of some of the key entities as well as the Cultural Policy is provided below.

107. **The National Cultural Policy** specifically calls for the transfer of knowledge to Jamaican children on Jamaica's historical background and promotes the participation of children in recognizing and commemorating events such as Emancipation Day (August 1), Heroes Day (October 17), Jamaica Day (last Friday in February) and Africa Day (May 25);

108. **The Jamaica Cultural Development Commission (JCDC)**, an agency of the Ministry of Youth and Culture, is tasked with promoting cultural programmes and activities throughout the island. The JCDC is also tasked with encouraging and organizing the annual independence celebrations as well as other festivities marking occasions of national interests, which include the celebration of Emancipation Jubilee and Emancipation Vigil on the 31st July and 1st August, and National Heritage Week (every third week in October). Through a series of cultural competitions (dance, speech and music), the JCDC is also able to increase awareness about Jamaica's rich cultural history at the parochial and community levels by collaborating with civil society groups. The activities take place mainly in schools, church halls, and community centres, thereby allowing for the participation of all communities. There is a JCDC Office in each of the fourteen parishes in Jamaica;

109. **The Institute of Jamaica (IOJ)**, also an agency of the Ministry of Youth and Culture, has responsibilities for several museums and libraries in Jamaica, including the African Caribbean Institute of Jamaica /Jamaica Memory Bank (ACIJ/JMB). The ACIJ/JMB has a reference collection of approximately 6000 volumes and an audio-visual collection of over 300 videotapes and over 4000 audiotapes pertaining to African retention in Jamaica and the wider Caribbean, and is widely used by secondary and tertiary students. The IOJ also stages a series of exhibitions and seminars highlighting various events in Jamaican history. These events are free to the public;

110. **The Jamaica National Heritage Trust (JNHT)** is a statutory body under the Ministry of Youth and Culture with a legal mandate to protect and preserve the nation's heritage. This agency is responsible for the declaration, preservation and maintenance of national sites and monuments in communities across Jamaica. In addition, the JNHT assists community groups in protecting their heritage through the establishment of Heritage Foundations and provides information to the public on Jamaica's material cultural heritage. The majority of Jamaica's national heritage sites are accessible to the general public as they are either free or require minimal fees to access them. Consideration is currently being given to the use of Jamaica's National Heritage sites in the teaching of the school curriculum. Included in the list of sites that the Jamaica National Heritage Trust is tasked with managing, is the Seville Heritage Park, where an annual heritage exposition is held for viewing by the general public. The Park houses a Great House which consists of a library and a museum showcasing Taino, European and African artefacts; a replica of a slave hut; a Taino village; and ruins and graves of Europeans and slaves. The site also contains the burial remains of three slaves. There is an annual wreath laying ceremony during the Emancipation Jubilee celebrations at the Seville Heritage Park in honour of those buried on the site.

111. There are several other heritage sites associated with the Trans-Atlantic Trade. Some of these sites were major ports of entry for the enslaved Africans such as the Kingston Harbour, Port Royal, Falmouth and Black River. On March 25, 2007, an ancestral funeral rites ceremony was held in observance of the 200th anniversary of the abolition of the Trans-Atlantic Trade in Africans, at the Kingston Harbour. This ceremony was organized by the Jamaica National Bicentenary Committee, which was established to commemorate the Bicentenary. In the case of Black River, the Bicentenary Committee unveiled a plaque and storyboard at the Black River Market in St. Elizabeth, in memory of 133 Africans who were thrown overboard the *Zong* in 1781 while *en route* to the Black River port.

112. In addition, several monuments honouring those who fought against slavery and the transatlantic slave trade have been erected. As part of the bicentenary activities, the St. James Freedom Monument was erected by the Jamaica National Heritage Trust. Most of the participants, whose names and sentences are etched on the Monument, were previously categorized as criminals or rebels, instead of freedom fighters, and were subjected to Court Martial. Of those convicted, 312 were executed; others were whipped and/or imprisoned. It is also noted that an obelisk on the University Campus of the West Indies, Mona, was built as a memorial to the enslaved Africans. Engraved on the obelisk are the names of Africans on record that might have lived at the Papine enslaved African village at the time of emancipation. Several other notable heritage sites include Accompong where the Accompong Maroon Festival is held every year on January 6 to celebrate the signing of the peace treaty between the Maroons and the British and the founding of the town.

113. **Jamaica Intellectual Property (JIPO)** - With a view to protecting instruments of traditional knowledge (tk), traditional cultural expressions (tc) and genetic resources (gr),

the Jamaica Intellectual Property Organisation<sup>4</sup> has undertaken work at the regional and international level to identify and create measures that can be used to exert some form of control over the use by third parties of intangible property which is associated with tk, tc and gr. A Caribbean Working Group has been created with the mandate to undertake, with the assistance of WIPO, research, fact-finding and consultation (with local and indigenous communities, government officials, non-government organisations, users and other relevant stake-holders) in order to develop the harmonized framework for review by Caribbean Member States.

114. The Ministry of Youth and Culture is complemented by the **Ministry of Education** in its public awareness efforts on the issue of slavery and the slave trade. This is done in a variety of ways, including through the *Culture in Education Programme* (CIEP), which places culture as a context, content and methodology for learning. Among other things, the CIEP:

- (a) Encourages the study of, reflection on, and use of national images, symbols, heroes, as well as participation in commemorative and celebratory events marking local and national achievements;
- (b) Promotes cultural learning in all subjects; and
- (c) Promotes and encourages visits by the school community to heritage sites and places of historic and cultural interest, cultural institutions, particularly museums and galleries, performing arts and sports activities.

115. The CIEP requires that each school appoints a culture agent who is responsible for overseeing the implementation of the programme. Children from as early as grade 4 (age 9) are exposed to the issue of slavery on the social studies curricula. The exposure becomes more intense at the grades 10 and 11 level (ages 15 -17) for students who have chosen to undertake history in the Caribbean Examination Council exams.

116. It should also be noted that various tertiary level institutions, such as the University of the West Indies, offer heritage based degree courses. The Mico Teachers' College also exposes students to black history through a museum on black heritage. In addition, the Bethlehem Teachers' College has a course on Maroon studies.

117. For the commemoration of the International Day of Remembrance of the Victims of Slavery and the Transatlantic Slave Trade, the Ministry of Foreign Affairs and Foreign Trade in collaboration with the Institute of Jamaica staged an exhibition that recounted the legacy of slavery and the slave trade.

118. As for the Maroons, it should be noted that the Act which established the Jamaica National Heritage Trust deals with the preservation of sites of memories and places of historic interest such as the Maroon communities of Accompong and Nanny Grove in Moore Town. Further, by the mandate of the National Heritage Trust and Institute of Jamaica, the Government of Jamaica has been able to establish museums, for example in Accompong, Moore Town and Charles Town. In addition, the National Cultural Policy seeks to preserve and promote cultural heritage and the safeguarding of sites of memories. Work done by the JCDC in these areas include; the staging of cultural performances and

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<sup>4</sup> JIPO is a statutory body mandated to provide a central focal point for the administration of Intellectual Property (IP) in Jamaica and has the mandate of administering the following intellectual property systems in Jamaica – Copyright and Related Rights, Trade Marks, Geographical Indications, Industrial Designs, Patents, Layout-Designs (Topographies), New Plant Varieties, Traditional Knowledge and Cultural Expressions.

competitions with the aim of preserving culture and heritage. With regard to the Maroon community, these include annual celebrations in Accompong on 6 January, in Charles Town on 26 June, and in Moore Town on National Heroes Day, in October.

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