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Report of the Working Group on the Universal Periodic Review

Jamaica

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review*

* The present document was not edited before being sent to the United Nations translation services.

On 8 November 2010, Jamaica presented its report under the Universal Periodic Review to the 9th session of the Working Group of the Human Rights Council. During the interactive dialogue several recommendations were made, many of which were accepted by the Government of Jamaica, including those it considers have already been implemented or are in the process of being implemented.

The Government of Jamaica hereby presents its response to those recommendations that it had declared would have required further consideration before the formal adoption of the report by the Human Rights Council. These recommendations are contained in paragraphs 100.1 – 100.23 of document A/HRC/16/14.

Jamaica underscores the fact that being a non-party to an international human rights treaty does not diminish the importance of the country's commitment to promoting and protecting human rights.

- (a) **Sign and ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (ICESCR) as soon as possible, to allow individual complaints of alleged violations of such rights to be heard by CESCR**

Jamaica recognises the aspirational goals of the Optional Protocol and is committed to providing the framework for the achievement of the economic, social and cultural rights embodied in the Covenant. However, Jamaica is not in a position to sign and ratify the Protocol at this time.

- (b) **Sign and ratify the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment; adjust national criminal legislations accordingly; translate the Convention into domestic legislation to address the crime of torture; ratify the Optional Protocol to the Convention; revise domestic laws to include the provisions of CAT**

Jamaica is reviewing the Convention against Torture with a view to taking a decision on ratification. It is reiterated, however, that the Jamaican Constitution expressly prohibits torture, inhuman or degrading punishment or other such treatment. Therefore, there is specific constitutional redress against torture. In addition, there are provisions for offences such as assault occasioning bodily harm, wounding with intent and unlawful wounding which are covered under the Offences against the Persons Act.

- (c) **Accomplish progressively human rights voluntary goals, as set up by Human Rights Council resolution 9/12, including the ratification of CAT**

The Government of Jamaica recognizes that the voluntary goals elaborated in Human Rights Council Resolution 9/12 are in keeping with Jamaica's own human rights commitment and its obligations as a party to 7 of the 9 core international human rights instruments. In those instances where it is not a party, appropriate domestic legislation, grounded in the Constitution of Jamaica, is in place to effectively ensure the protection of the rights of each citizen.

However, the Government will continue to review those instruments that it has not yet ratified.

- (d) **Consider ratifying the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women and establish an overall strategy to eliminate all harmful practices constituting discrimination against women**

The Government of Jamaica takes its obligations under the Convention on the Elimination of All Forms of Discrimination against Women very seriously and is working towards adopting an overall strategy to eliminate all harmful practices constituting

discrimination against women. This is borne out by the many pieces of domestic legislation which have been adopted towards this end. The Government of Jamaica is also keeping under constant review legislation and policy initiatives designed to eliminate all forms of gender discrimination, as evidenced by the recent launch of the National Policy for Gender Equality.

The issue of the ratification of the Optional Protocol is the subject of ongoing deliberations as part of the broader consideration of the review of Jamaica's international human rights obligations.

(e) Sign and ratify the International Convention for the Protection of All Persons from Enforced Disappearance

Jamaica attaches importance to the objective underpinning this Convention and has consistently supported the resolution adopted by the United Nations General Assembly on the Convention. Against this background, the matter is being considered with a view to taking a decision on ratification.

(f) Accede to the United Nations Convention relating to the Status of Stateless Persons of 1954 and to the Convention on the Reduction of Statelessness of 1961

Jamaica attaches importance to the objectives underpinning these Conventions and will keep them under review with the aim of taking a decision on ratification.

(g) Accede to the Rome Statute of the International Criminal Court

Jamaica supports the principles which underpin the Rome Statute to the International Criminal Court, particularly as regards the issue of impunity and bringing to account the perpetrators of the most serious offences. As such, Jamaica is actively considering the legal and constitutional implications of the Statute to which it has been a signatory since 2000.

(h) Consider adapting domestic legislation to international standards and instruments in the field of refuge and asylum; establish adequate regulations regarding asylum seekers and refugees in order to promote and protect their rights and to find durable solutions, as stipulated in international law

As noted in Jamaica's national report to the Working Group, a refugee policy was adopted by the Government of Jamaica in 2009. The Policy establishes procedures for managing the refugee status determination and appeals process. Efforts are underway to implement enabling legislation.

With respect to durable solutions, under the Refugee Policy, once an asylum seeker is granted refugee status, he or she is entitled to live and work in Jamaica.

(i) Improve its cooperation with the United Nations treaty bodies by making it a priority to submit its future reports on time

Jamaica accepts this recommendation and has consistently demonstrated its willingness to cooperate with the mechanisms of the UN human rights system, including UN treaty bodies. The importance attached to the process is reflected not only in the efforts made to provide the reports as requested, but in the distinction with which individual Jamaicans have served on several of these bodies over the years.

At the same time, it is important to recognise that there are human and resource constraints that impede the timely submission of reports by many developing countries. This is not indicative of a lack of genuine interest or desire by the Government to abide by

the reporting schedule but a reflection of the real challenges faced by small developing countries like Jamaica.

Despite these challenges, the Government remains committed to improving its reporting record and will work towards addressing this issue in due course. This process has already seen the submission, since 2009, of outstanding reports under the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic and Social Rights (ICESCR), and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Jamaica's ICCPR report will be considered by the Human Rights Committee in July 2011 while the CEDAW report is scheduled to be considered next summer.

Work is already underway, in some instances far advanced, with respect to completing other outstanding human rights reports under other treaties. These include the Convention on the Elimination of Racial Discrimination, the Convention on the Rights of the Child, and the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

- (j) **Adopt and implement, in the short term, the project of a constitutional amendment on the Charter on Rights and Freedoms, bearing in mind the extensive legislative work that has been carried out in this regard**

Jamaica remains committed to advancing the process for the adoption of A *Charter of Rights and Freedoms (Constitutional Amendment) Bill* which seeks to provide for more comprehensive and effective protection of the fundamental rights and freedoms of all persons in Jamaica. To this end, the Government will work to ensure the timely implementation of this recommendation.

- (k) **Consider the possibility of establishing, in accordance with the Paris Principles and based on the good practices of other countries, a national human rights institution accredited by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights**

While there is no single institution in Jamaica dealing with the issue of human rights, several entities have been established whose portfolio responsibilities significantly provide for and enhance the promotion and protection of human rights. These include, as elaborated in the UPR Report, the Office of the Public Defender and the Independent Commission of Investigations (INDECOM).

- (l) **Establish a national commission for women's and children's affairs**

Institutional mechanisms already exist for advancing the special concerns of women and children. These are the Bureau of Women's Affairs (BWA) and the Child Development Agency (CDA), respectively, whose mandates provide for the protection and promotion of the human rights of both women and children.

The Bureau of Women's Affairs, which was established in 1974, is charged with the responsibility of ensuring that women are empowered to achieve their full potential as individuals and contributors to national development. The Bureau is in the process of establishing a National Gender Advisory Commission and has launched the National Policy on Gender Equality which is expected to more definitively mainstream gender in public policies, programmes and plans as well as create more opportunities for redress regarding offences committed against women and girls. The Bureau continues to keep under constant review legislation and policy initiatives that are designed to eliminate all forms of gender discrimination.

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 fulfils its international obligations as it relates to issues dealing with children. The establishment of the Agency has reduced the level of fragmentation and brought a more systematic child-focused approach to dealing with children's issues.

The Act further provided 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.

The work of the CDA and the BWA is complemented and supported by a network of non-governmental organizations and civil society groups which target and address the specific concerns of children and women.

The Government is committed to providing the support necessary to ensure that these institutions are adequately resourced to meet the needs of their constituents.

- (m) Identify needs in terms of strengthening necessary capacities to overcome the current shortcoming of the normative and institutional framework for the promotion and protection of human rights, and request appropriate technical assistance, including for the establishment of a national human rights institution**

Jamaica accepts this recommendation and continues to give priority attention to ensuring that the necessary normative and institutional framework is in place for the promotion and protection of human rights. Efforts are already underway to advance justice sector reform and review domestic legislation to ensure they conform to international human rights obligations.

Notwithstanding these efforts, external cooperation will be required to support national initiatives. As previously indicated, specific areas requiring technical assistance and international cooperation concern structured multi-sector consultations, human rights related training, including human rights education, as well as the strengthening of local entities.

- (n) Establish an independent commission of inquiry into the events surrounding the Tivoli Gardens incident in May 2010**

The Government of Jamaica acknowledges the importance of dealing with this matter in a way that ensures strict accountability by any agent of the State that has broken the law.

As previously reported, the Public Defender is undertaking an investigation into the events of May 2010. A final decision on the establishment of a Commission of Inquiry will be taken after the Public Defender completes his investigation and presents his report.

- (o) Fulfil its commitments to build improved detention facilities & intensify efforts aimed at improving living conditions in prisons, putting an end to the detention of children in police stations and accelerating the adoption of measures to protect children in juvenile correctional facilities**

Jamaica accepts this recommendation. The Government is actively pursuing efforts for the construction of new prison facilities, including the issue of privatization of prisons.

It should, nevertheless, be pointed out that the Government's ability to undertake these initiatives may be constrained in the short-term by the severe economic and financial condition facing the country. In the interim, repairs have been effected to a number of cells, dormitories and prison facilities in order to improve the living conditions of inmates.

The Government is also developing a new regime for the management of juveniles in the care of the State. An existing facility is being renovated which will become the new Metcalfe Street Remand Centre for Boys. The project is near completion and will have a capacity to house two hundred and eight (208) male juveniles as well as alleviate the problem of housing juveniles in police lock-ups.

To further improve living conditions in prisons, regular sanitization of facilities is undertaken to reduce the risk of infections. Searches are also conducted regularly to minimize the possession and use of offensive weapons by juvenile offenders. In addition, new fire plans and drills are being implemented in all adult and juvenile facilities.

The Government will continue to use its best endeavour to address the situation in prisons and lock-ups. This is an area which will require international support and assistance.

- (p) **Reinforce legal protections against discrimination to include sexual orientation and gender identity as prohibited grounds for discrimination; Initiate or join public campaigns so as to encourage tolerance towards homosexual, bisexual and transsexual persons & start a public information campaign to combat discrimination based on sexual orientation**

Sexual orientation remains a sensitive issue. However, the Government will endeavour to take the necessary steps to address the concerns of all individuals.
