



**Convention on the Elimination
of All Forms of Discrimination
against Women**

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**Committee on the Elimination of Discrimination
against Women
Fifty-second session**

Summary record of the 1047th meeting

Held at Headquarters, New York, on Friday, 13 July 2012, at 10 a.m.

Chair: Ms. Pimentel

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Combined sixth and seventh periodic reports of Jamaica

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The meeting was called to order at 10.15 a.m.

Consideration of reports submitted by States parties under article 18 of the Convention (continued)

Combined sixth and seventh periodic reports of Jamaica (CEDAW/C/JAM/6-7; CEDAW/C/JAM/Q/6-7 and Add.1)

1. *At the invitation of the Chair, the members of the delegation of Jamaica took places at the Committee table.*

2. **Ms. Falconer** (Jamaica) said that her country faced new challenges posed by globalization and the economic and financial crises. However, there was great pride in the recent election of a woman prime minister, which provided an opportunity to improve gender equality in political leadership; indeed, women held several other senior positions. Implementation of the Convention would be supported by the new national policy for gender equality, which included provisions for a 30 per cent minimum of women on public boards, commissions and the Senate. A gender advisory council would be established to oversee that policy and the Bureau of Women's Affairs, in partnership with civil society, would continue to encourage more women to enter representational politics.

3. Although the small Jamaican economy, with its dependence on trade and huge per capita debt, had suffered shocks that had undermined national development, and despite price increases in foodstuffs and basic commodities, women's lives had been improved through programmes that had strengthened the social safety net, provided universal health care and made education free up to the secondary level.

4. In education, Jamaican women had outpaced men in all areas, except engineering and agriculture at the tertiary level, and girls outperformed boys at the secondary level. The Government would redouble efforts to advance gender equality in the labour market to translate those advances into gains in pay, promotion and participation in leadership and decision-making.

5. Concerned at the level of violence against women and girls, the Government would undertake initiatives and enact further legislative reforms to build on efforts to realize women's rights and combat sexual harassment and other offences, trafficking in persons, cybercrimes and child pornography. Special training in

gender-based violence would be given to the officers of the Centre for the Investigation of Sexual Offences and Child Abuse, who in turn trained cadets at the Jamaica Police Academy and elsewhere. Access to legal aid services would be improved for the poor.

6. As part of the long-term Vision 2030 development plan, the gender sector plan would take gender differentials into account in policies, developmental strategies and programmes, particularly as they related to women, children, persons with disabilities, the elderly and rural households, who were among the most marginalized and vulnerable in society.

7. The Government of Jamaica was committed to promoting decent work for domestic household workers and would ratify the relevant International Labour Organization convention. The Labour Relations and Industrial Disputes Act of 1975 had been amended, allowing for conciliation and resolution of cases brought by domestic workers, and other legislation would be reviewed. Household workers could seek redress through referral to the Industrial Disputes Tribunal for final adjudication, without the intervention of a union.

8. Rural women, who had an integral role to play in food security, reducing poverty and achieving the Millennium Development Goals, would be empowered through access to credit, income-generating activities, access to technology and skills-training, encouraging them to lead and manage national agricultural and rural development organizations. They would become equal partners with men, bolstered by education in gender issues for rural women's groups provided by the Bureau of Women's Affairs, and policies and programmes would be guided by better sex-disaggregated data collected in the sector. Reform of the health sector had ensured that rural women would have improved access to health and there had already been improvements in fertility rates and life expectancy.

9. The Government had implemented cash grants in the areas of health and education for the most vulnerable families, with special provisions for pregnant and lactating mothers. This Programme of Advancement through Health and Education (PATH) had been expanded in 2008 in response to the economic and global challenges, and was complemented with training opportunities,

entrepreneurial grants and credit. Most of the families that received PATH benefits lived in rural areas and were headed by women.

10. Maternal mortality continued to be a priority for the Government, which acknowledged it would not achieve the Millennium Development Goal in that regard. The Government would redouble its efforts through improved access, surveillance, quality of care and education.

Articles 1 to 3

11. **Ms. Ameline** said that she would like to know what the time frame was for ratification of the Optional Protocol to the Convention, which the Government of Jamaica had been promising for many years, and what were the reasons for the delay. While pleased by the withdrawal of the reservation with respect to article 9, she wanted to know if a similar withdrawal was being discussed with respect to article 29. She would also like to know if Jamaica had considered adopting a human rights instrument which was in line with the Paris Principles.

12. Despite the Committee's recommendations, the Jamaican Charter of Fundamental Rights had not included an exhaustive definition of discrimination. She would like to know if the apparently limited legal scope of the Charter maintained discriminatory measures such as those concerning marital rape, whether the Charter was strictly applied and if its introduction would lead to a systematic review of the discriminatory provisions that remained in certain laws. She was interested in the nature of any mechanism to review discriminatory legislation and would like to know if such work was carried out by the Government, the judiciary or the legislature. Recognizing efforts made in training and awareness-raising, she would like information on what measures were foreseen to make the justice system more effective, in the light of delays and problems in access to justice.

13. **Ms. Neubauer**, referring to national machinery, policy and plans for gender equality, and in the light of the concluding comments of the previous report, wanted to know if the budget for the Bureau of Women's Affairs had been increased or not, and what proportion of the national budget was allocated to the Bureau and to what extent its resources came from international development partners. She was interested

in knowing if the positioning of the Bureau within the office of the Prime Minister would give it more authority, political recognition and visibility, and more power to influence decisions.

14. She wanted to know why the national policy for gender equality had taken so long to implement, after its announcement in 2006, and why the Government advisory council had not been established. She was interested in knowing whether the thematic working group to guide gender components of the long-term Vision 2030 Jamaica plan was operational and how it related to the mandate of the Bureau of Women's Affairs. Given the fact that women's machinery had been decentralized, she wanted to know if the related responsibilities had been delegated to specific personnel as additional tasks or as exclusive priorities.

15. **Ms. Falconer** (Jamaica) said that the Optional Protocol would be ratified in short order. The positioning of the Bureau of Women's Affairs in the office of the Prime Minister showed the country's commitment in the field, and guaranteed that the proper protection and promotion of women's rights would be improved.

16. **Mrs. Webster** (Jamaica) said that funding for the Bureau had been increased only slightly because of economic circumstances but that it would be increased in the following annual budget. Resources would be allocated to ministries and agencies so that they could also address issues of gender. International development partners augmented the Bureau's budget in the areas of health, education and violence against women.

17. **Ms. Falconer** (Jamaica) said that, regarding delays in gender policy adoption, the Planning Institute of Jamaica had previously lacked sex disaggregated data but that would be corrected with an improved mandate and inputs from the Statistical Institute of Jamaica

18. **Mr. Francis** (Jamaica) said that it was acknowledged that the reference to discrimination in the Charter of Rights was only to male or female, but that the Charter was to be interpreted liberally as complying with the object and purpose of article 1 of the Convention, as supported by past decisions of the Judicial Committee of the Privy Council.

19. There was no single body to review what might be considered discriminatory laws but different

ministries could make submissions to the cabinet for it to decide on related policy before changes to wording were processed all the way to the Governor-General for assent.

20. **Ms. Falconer** (Jamaica) explained that implementation of the policy on gender equality had been delayed because the political party that supported it had been out of office. Concerning the lack of coordination among ministries and agencies entrusted with gender mainstreaming, the new Government's joined-up approach to administration would work through clusters of areas to ensure coordination at the policy level while avoiding waste and duplication.

21. **Mrs. Webster** (Jamaica) added that the Bureau of Women's Affairs had given its input on gender matters in all matters related to planning. There had been specific thematic groups involving the Bureau and women's non-governmental organizations that had worked on various areas. It was not true that there was a lack of coordination regarding gender policies.

22. **Ms. Falconer** (Jamaica) said that thanks to the commitment of the Prime Minister, the Bureau was working with all departments, agencies and ministries in a consultative approach that brought together non-governmental organizations and the private sector.

23. **Ms. Neubauer** wanted to know, regarding the coordination mechanism that brought together the gender focal points in the relevant ministries and agencies, if there were regular meetings at which decision-making powers could be exercised.

24. **Ms. Popescu** said that she would like to know if the Convention had been invoked during court cases. Regarding access to justice, in the light of the matters of concern to the Committee and its recommendations made in 2008 and the fact that the head of the delegation had said that victims of sex offences had historically had poor access to justice, she wanted to know what measures had been taken or were planned by the Government to correct that state of affairs.

25. **Ms. Bareiro-Bobadilla** insisted that the inclusion of the simplified definition of gender discrimination in the Charter of Rights did not mean that the spirit of article 1, which ran through the entire Convention, had been respected.

26. The predominant role of the Bureau of Women's Affairs in the Vision 2030 plan and its enormous mandates were of concern, in the light of its limited

financial and human resources; it would not be able to guarantee gender mainstreaming in public policies if it continued to receive new mandates.

27. **Ms. Simms** (Jamaica), responding to the question on focal points, said that their level of authority and ability to influence decisions would be taken carefully into consideration.

28. **Mrs. Webster** (Jamaica) clarified that the focal points were senior officials, some at the level of director. Their tasks were treated as high-level priorities.

29. **Mr. Francis** (Jamaica) said that there had been no specific case in which the Convention had been invoked. However, provisions of the Convention had been included in local legislation under which cases had been brought. Issues of delays and lack of access to justice were being addressed through the justice reform programme, and related infrastructure questions were also being considered.

30. **Ms. Falconer** (Jamaica) said that not only in Jamaica were there problems of access to justice, especially for the poor. Efforts such as the work of public defenders and legal aid clinics, along with other creative means, would continue to address the issue, in cooperation with the country's citizen partners.

31. **Ms. Neubauer** said that in addition to training ministerial officials on how to adequately implement gender mainstreaming, it was important for the officials acting as gender focal points to have decision-making power and to meet regularly. Was that the case and were those officials able to give priority to their role as gender focal points?

32. **Ms. Popescu** said that it would be useful to know the number of court decisions that had invoked the Convention. The Committee had expressed concerns in its previous concluding observations (CEDAW/C/JAM/CO/5) regarding the need to improve access to justice for women, particularly for victims of sexual offences. She was curious to know what measures had been undertaken or were planned to improve that situation.

33. **Ms. Bareiro-Bobadilla** said that it was troubling that the State party's interpretation of article 1 of the Convention had led it to believe that the prohibition against discrimination on the basis of being "male or female" contained in its Charter of Fundamental Rights and Freedoms fully accorded with article 1 of the

Convention and that no definition of discrimination based on sex was needed. Article 1 could not be interpreted in that way and the resulting non-discrimination provision had omitted indirect discrimination. An erroneous interpretation of the article could impact policy development, since all of the other articles of the Convention related to article 1.

34. Noting that the Bureau of Women's Affairs had a very broad mandate but a very small budget and staff, she expressed the concern that it was difficult for the Bureau to ensure gender equality in public policy without adequate resources.

35. **Ms. Simms** (Jamaica) said that, in the past, officials who served as focal points did not have the authority to make changes within their ministries. The importance of giving them that level of authority was recognized by her Government.

36. **Ms. Webster** (Jamaica) said that the gender mainstreaming policy was a high priority for her Government. Senior ministerial officials served as gender focal points and had decision-making power within their ministries. High-level meetings had been held to explain the gender mainstreaming policy to senior officials, who were supportive and enthusiastic in their response.

37. **Mr. Francis** (Jamaica) said that within Jamaica's dualist system the Convention had to be invoked in domestic law for its provisions to become invoked directly in a court of law. Where there had been no cases in which the Convention had been invoked, relevant provisions of the Convention had been included in some laws. It was therefore possible for a case to be brought on the basis of those provisions. In the common law system, justices could consider Convention provisions when interpreting a law, even when it did not incorporate them, unless the Parliament had enacted a law that expressly prohibited them from doing so.

38. The Ministry of Justice was carrying out a reform programme to improve access to justice by reducing the case backlog; increasing the number of resident magistrates and judges; and adding an additional location for the Supreme Court in another part of the island.

39. With respect to the interpretation of article 1 of the Convention, the cases taken up by the Judicial Committee of the Privy Council indicated that justices

should not be tied to the exact wording when interpreting the Constitution and should interpret it liberally, taking into consideration the provisions of international human rights law on which Jamaica's Constitution was based.

40. **Ms. Falconer** (Jamaica) said that the Government sought to improve access to justice for the poor by paying for public defenders and for members of the Jamaican legal fraternity and the Jamaican Bar Association to provide legal services to poor citizens through a legal aid clinic.

Articles 4 to 6

41. **Ms. Bareiro-Bobadilla** said that she was interested to know whether special temporary measures being considered by the State party would target rural, immigrant women, women with disabilities or other vulnerable groups of women? Special temporary measures should also be undertaken to ensure that women's participation in the labour market and their political participation reflected their high level of education.

42. **Ms. Arocha Dominguez** said that the Committee had previously noted deeply rooted patriarchal attitudes and stereotypes in Jamaica and had recommended that a climate conducive to changing discriminatory cultural practices be developed. While abundant information had been provided in the report with regard to education and special programmes, there was no assessment of the impact of those programmes. The measures described in the report did not appear to be a part of a unified strategy to change educational patterns. It would be useful to get the delegation's assessment of the Fresh Start programme described in the report. Information was also needed on how the Government was addressing the issue of multiple discrimination.

43. **Ms. Pires** said that, despite the State party's efforts to combat trafficking in persons, Jamaica was still a source, transit and destination country for sex trafficking and forced labour and had been recently downgraded to the Tier 2 Watch List by the United States Department of State. There were also reports of internal trafficking of Jamaican women from rural areas to urban centres. Despite this, the number of cases where traffickers were prosecuted remained in the single digits. She wished to know whether the cases that were prosecuted involved internal or transnational

trafficking, how they had been decided and whether the pending cases had resulted in convictions. What were the main obstacles to the successful prosecution of traffickers? According to the State party's report, women appeared to be particularly vulnerable in gang-controlled areas. What measures were being undertaken to help them? How were the victims identified and how were the cases investigated? Did the victims receive legal aid and psychosocial services? Was data being collected on trafficking and was there a registry of victims of trafficking? What measures were being undertaken to deal with internal trafficking?

44. The lack of funding had been cited in the report as the reason that the only Government shelter had not been put into operation. Were there plans to increase the budget for anti-trafficking work? Noting that an interministerial committee had been established to oversee work related to trafficking, she was interested to know whether it intended to draft a national plan of action to combat trafficking.

45. Further clarification was needed regarding how prostitution was criminalized. Noting the State party's observation that poverty made women more vulnerable to trafficking, she asked what measures had been undertaken to address root causes and what specific steps had been taken to reduce demand for commercial sex.

46. **Ms. Bareiro-Bobadilla** said that it was regrettable that the Committee's earlier recommendations on the issue of gender-based violence had not been implemented. Extending an invitation to the Special Rapporteur on violence against women had been under consideration for six years despite it being a simple but relevant measure.

47. Fundamental data on how social violence affected women and on the relationship of victims to victimizers remained unavailable. For example, no statistics were available on how many wives had been killed by their husbands. The Gender Equality Observatory for Latin America and the Caribbean did not have the data either, because it had not been provided by the State party. She was also concerned that Jamaica's legislation sometimes included important provisions only to invalidate them. One such example was the 2009 law on marital rape which recognized the crime only when the husband had a sexually-transmitted disease or when the spouses were

either separated or in the process of dissolving their marriage.

48. **Ms. Falconer** (Jamaica) said that the national policy for gender equality sought to achieve a 30 per cent rate of participation by women in politics. The statistics cited in the report demonstrated that the Government was committed to the policy and that incremental progress had been made. Special temporary measures were being considered targeting the labour market and education. Women were poorly represented in decision-making bodies in the private sector and the Government, together with the Private Sector Organization of Jamaica, was working to change that. The 51% Coalition campaign advocated representation by women on the boards of public and private institutions that was proportional to the number of women in the general population.

49. Women had equal access to education in Jamaica and were outpacing men at the tertiary education level. Women who could not afford education had access to Government student loan programmes and assistance from constituency development funds run by some members of parliament.

50. She noted that, although patriarchal attitudes and stereotypes in Jamaica were changing, sexual harassment was still an issue and some men still believed that they were in charge. It was inaccurate to say that Jamaican society was a patriarchal society, however, considering the number of women who were heads of household or in politics.

51. The Fresh Start Programme promoted integrity, law and order and respect for human life and sought to change the attitudes of Jamaicans through community development work and a public education programme. The latter sought to revive strong family values in order to build strong communities and a strong country. The Broadcasting Commission had been successful at removing music that was damaging to women from the country's airwaves by instituting a system of fines and taking away the operating licences of radio stations that did not comply with its regulations.

52. Multiple discrimination was not a problem in Jamaica, though small groups of people did hold discriminatory views. There had been some problems with acceptance of homosexuality, but Jamaica was not a homophobic nation, as had been demonstrated by the current Prime Minister's landslide victory in spite of her having taken a controversial position on the

possibility of including a homosexual member in her Cabinet. Discussions had also taken place between the Minister and lesbian and gay groups in Jamaica on way to change the views of the small number of people who held homophobic views. The main way to do that was through education.

53. The Government recognized that trafficking in women was a problem and that the country faced major challenges in combating it. A Cabinet-level committee had been established to find additional funds in order to train police officers to identify and assist victims of trafficking and to put the Government shelter into operation. It was important to protect the victims of trafficking to enable them to testify against perpetrators, since their unwillingness made it difficult to prosecute trafficking-related crimes. The planned amendment of the Evidence Act would allow victims to submit a video recordings of their testimony. Anti-gang legislation had been adopted and a task force had been created to deal with gang activity and to dismantle gangs.

54. **Mr. Francis** (Jamaica) said that conviction rates were low but a special prosecutor had been assigned the role of chief prosecutor for trafficking cases. A multitude of factors contributed to the low number of convictions, including victims being unwilling to testify, suspects absconding after being released on bail or changing their attorneys frequently to frustrate the legal process.

55. Shelters had been given the Government's guidelines concerning the psychosocial support that should be provided to victims, including access to counsellors, medical support and adequate accommodations. The Government was under the legal obligation to provide legal assistance to trafficked persons, as set out in section 10 of the Trafficking in Persons Act. The Trafficking-in-Persons Task Force had outlined a work plan for the coming year with regard to protection, prevention and prosecution.

56. Under the Towns and Communities Act, prostitution was illegal and punishable by a penalty of no more than 30 days imprisonment in default of payment of a fine. The Sexual Offences Act contained provisions concerning prostitution and imposed additional penalties in section 23.

57. **Ms. Falconer** (Jamaica) said that the Government would consider having the Special Rapporteur on violence against women come to Jamaica.

58. Jamaica was a trans-shipment zone for the drug trade, and its small economy could not beat the drug dealers, who had great financial capacity, at their game without extraterritorial assistance. The Minister of National Security was in the process of reviewing the national security policy and meeting with his counterparts in other countries to find ways to combat drug trafficking.

59. The police had not previously collected gender-disaggregated data owing to limited resources. All Government ministries and departments had been instructed that data needed to be gender-disaggregated going forward.

60. Although the marital rape provisions in the Sexual Offences bill could have been more progressive, the vote reflected the beliefs of the legislators. The bill was subject to review every five years.

61. **Ms. Jahan** said that the report did not make clear how many missing children became victims of trafficking. Had there been a study of the reasons why children were going missing in large numbers and of ways to prevent that from happening? How effective was the Ananda Alert, the nationwide child abduction alert system?

62. Noting that sexual harassment in the workplace and in society in general was a long-standing concern, she could not understand what had prevented the Government from adopting relevant legislation, which would be more effective than a policy and could be invoked in court decisions. The Caribbean Community model legislation on sexual harassment was available to the Government. How soon might that legislation be enacted?

63. **Ms. Ameline** said that an investment in gender equality was also a social, democratic and economic investment which increased a country's competitiveness. Special temporary measures that increased the political participation of women and promoted wage equality were indispensable in complementing longer-term investments into education. Sexual violence and inequality had a great economic cost and needed to be assessed when formulating special policies. In that connection, she was interested to know whether it was possible to give priority treatment to court cases involving violence against women.

64. **Ms. Pires** said that a clarification was needed on the respective roles of the Trafficking-in-Persons Task Force and the interministerial committee. Was the work plan drafted by the task force a national work plan? Did the delegation have any information concerning measures being undertaken to address the root causes of prostitution and women's vulnerability to trafficking?

65. **Ms. Falconer** (Jamaica) said that sometimes children were reported missing when they had gone to stay with friends or relatives as a result of insufficient parental oversight. The Ananda Alert very effective and had been recently reassigned to the Ministry of Youth, Sports and Culture, where it would be under the direct responsibility of the Child Development Agency. No statistics were available for the number of missing children who had become victims of trafficking.

66. The Minister of Justice had recently given his commitment to assist with the process of translating the sexual harassment policy into legislation. The speaker gave her own commitment as a member of the Cabinet to personally follow-up on the matter and bring a sexual harassment bill to the Cabinet subcommittee on legislation before the end of the next legislative year.

67. **Mr. Francis** (Jamaica) said that there was no formal process for fast-tracking court cases involving gender-based violence. There was a backlog of cases throughout the criminal justice system and cases of violence against women were often handled as standard assault cases. A protection order could be issued by the court, as an interim measure, in cases of domestic violence but applied only to spouses, former spouses or persons living in the household.

68. **Ms. Falconer** (Jamaica) said that Jamaica was ahead of many other countries in terms of political participation of women. However, the Government could not dictate who people should vote for and could only encourage the political parties to promote female candidates and give women the tools necessary to participate. Women, who were often heads of household or the chief earners, could not participate as easily in the political process as men. It was also harder for women to raise campaign funds than for men, which could change with campaign finance reform.

69. The Government's Trafficking-in-Persons Task Force would work hand-in-hand with the

interministerial committee, which intended to review the plan and complement the task force's work.

Articles 7 and 8

70. **Ms. Pires** noted that the high level of participation by women in Jamaica's legal system had not automatically translated into greater sensitivity to women's issues and said that while political participation was high in nominated positions in the Cabinet and the Senate, women were not well represented in elected positions in Parliament. More information was needed concerning women's representation in local government assemblies. The use of special temporary measures, in particular the adoption of the 30 per cent quota during the elections in 2016, was encouraged. She was curious to know whether the Prime Minister would introduce such quotas, given her track record of promoting women's rights and her affiliation with the majority party. Were there plans to introduce gender quotas for leadership positions within political parties? She wished to know what measures had been undertaken to address sexism with a view to changing people's mindsets. Were there any programmes to raise awareness of the impact women could make in decision-making positions? She was interested to know whether political violence a deterrent to women's participation in politics and what steps were being taken to address it if that was the case.

71. **Ms. Falconer** (Jamaica) said that the Government could not dictate quotas to political parties, which had their own constitutions. It was also harder for women to participate in politics, making quotas unrealistic. In a democracy, people voted for the candidates of their choice. The only option was to change mindsets through public education programmes and give women the tools and the support they needed to participate. A number of organizations, such as Jamaica Women's Political Caucus, worked at the community level to bring women into the political process and to provide them with training.

72. Sexism was a factor on the campaign trail in some areas where men objectified women and did not believe that women could represent them. It was a challenge for women to solicit funds for their campaigns because they had to approach men with requests for money, as they were most often the heads of organizations.

73. Women accounted for a quarter of the candidates in the last round of local elections, which was the greatest number of women candidates thus far.

74. Recent elections had been violence-free and democratic, leading the Carter Center to conclude that it did not need to participate in Jamaican elections. Twelve general elections had been held since the country gained its independence, always bringing about a peaceful transfer of power.

75. **Ms. Pires** said that she found it difficult to understand why an amendment of electoral law with regard to quotas was not an option. One way to introduce quotas was to have women stand in particular constituencies for a particular party. Another option was to implement the so-called "zebra system", where parties were asked to place women in winnable positions and in specific positions on the party lists in order to deliver the 30 per cent result, leaving it to the electorate to choose their candidates.

76. **Ms. Bareiro-Bobadilla** asked whether a constitutional limitation existed that prohibited the use of gender quotas for political parties. Latin American and Caribbean countries that had implemented such quotas well had seen great success in bringing women into the political process. Her own research indicated that there was no constitutional restriction on quotas in Jamaica.

77. **Ms. Rasekh** said that the delegation had stated that Jamaica was no longer a male-dominated society. What was then the reason why women had difficulties raising funds for their political campaigns?

78. **Ms. Falconer** (Jamaica) said that it would be difficult, if not impossible, to impose quotas on the election process or require political parties to hold women-only races. Political parties wanted to win elections and would pick women candidates only if they were the better candidates. The Government needed to make sure that Jamaican women had the necessary resources and tools to become those better candidates.

The meeting rose at 1 p.m.