



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

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**Committee on the Elimination of Racial Discrimination**

**Combined twenty-first to twenty-fourth reports  
submitted by Jamaica under article 9 of the  
Convention, due in 2016\***


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## Introduction

1. In accordance with Article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination, the Government of Jamaica hereby submits to the Secretary-General of the United Nations, for consideration by the Committee on the Elimination of Racial Discrimination, its combined 21st, 22nd and 23rd Periodic Reports on the implementation of the specific rights provided for under Articles 1 to 7 of the Convention. In particular, the report describes the measures put in place by the Government of Jamaica to address the suggestions and recommendations made by the Committee in its concluding observations (document CERD/C/JAM/CO/16-20) following the consideration of Jamaica's combined 16th–20th periodic report in September 2013, as well as providing information on progress achieved in the implementation of the various other provisions of the Convention since Jamaica's last review.

2. The preparation of the report was spearheaded by the Ministry of Foreign Affairs and Foreign Trade. In preparing the report, the Ministry worked in close collaboration with Government Ministries, Departments, and Agencies responsible for implementing or overseeing various provisions of the Convention, primarily through an inter-ministerial mechanism. Input was also received from the Office of the Public Defender, an independent Commission of Parliament tasked with investigating complaints that are lodged by persons aggrieved by the State or a statutory body. No inputs were received from civil society organisations despite a public call for submissions.

## General overview of Jamaica

3. As at 2016, Jamaica's population was estimated at 2,728,864. Of this number, approximately 49.5 per cent are males while about 50.5 per cent are females. The official language of the country is English, although a local patois, often called Jamaican Creole, is also widely spoken.

4. The Jamaican population is ethnically and racially diverse. While persons of African descent constitute the predominant racial group, the Jamaican population also includes persons of Indian, Chinese, Arabic and European ancestry. Based on estimates available for 2011, the racial/ethnic breakdown of the population is as follows: Blacks (92.1%), mixed race (6.1%), East Indian (0.8%), other (0.4%), unspecified (0.7%).<sup>1</sup>

5. Jamaica has no population that is considered as indigenous given that pre-Columbian indigenous tribes were exterminated during the period of colonisation.

6. The 2011 census indicates that Jamaica's population is predominantly Christian, with Muslims, Hindus, Bahá'is, Rastafarians and Jews comprising about one percent of the population. Approximately 21 percent of Jamaicans are not affiliated with any religion or denomination.

7. In light of the ethnic diversity, the Jamaican culture is very diverse. Jamaica's motto "Out of Many, One People" reflects the existing racial harmony despite the diversity. Jamaica is a melting pot of ideas, cultures, and religions and this cultural diversity is reflected in the country's cuisine, music and other areas. This respect for Jamaica's racial makeup is reinforced throughout the education system starting, in particular, at the primary school level (ages 6–12). Nationwide, there are several initiatives aimed at ensuring that the cultural traditions and activities of the various ethnic groups are respected and promoted, including annual heritage and other cultural celebrations that emphasise the contributions of various ethnic groups. This has led to a situation where Jamaicans are quite proud of their diverse heritage.

8. The sense of racial harmony permeates ethnic groups, social classes, urban and rural populations. Nonetheless, the challenge of overcoming the residual effect of slavery on the

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<sup>1</sup> 2011 Population and Housing Census, Jamaica.

society in equating skin colour with opportunities for upward or social mobility remains, and is being combated through public education.

9. In addition to the traditional racial or ethnic groups in Jamaica, there are expatriate communities of European or Latin American descent, as well as refugees and asylum seekers from diverse backgrounds.

10. Jamaica's constitution provides a non-discrimination framework in relation to, *inter alia*, race and national origin. There is no evidence to suggest that, in practice, there are any policies or actions by State entities or private individuals that directly or indirectly disenfranchise any specific racial or ethnic group, or persons of any specific national origin. Furthermore, policies implemented by the Government to address specific social issues benefit all Jamaican citizens, regardless of racial or ethnic background. The prohibition of discrimination also extends to immigrant or expatriate groups, as well as refugees.

11. One feature of the racial debate in Jamaica is the notion that racism pervades the economic relationships and uneven distribution of wealth. Class intersects with race and power and commentators often make reference to the chronic underdevelopment of groups, which have historically been black. Classism, therefore, tends to be a far more prevalent phenomenon than racism. The absence of overt racism and racial discrimination in formal systems and structures in Jamaica explains the fact that there are no formal structures or mechanisms specifically established for their elimination.

## **Part I**

### **General measures of implementation**

#### **Article 1**

##### **Application of Convention**

12. There are no institutional policies or laws in Jamaica specifically prohibiting racial discrimination. Nonetheless, all Jamaicans regardless of race, ethnicity or other characteristic enjoy equal status before the law. This is entrenched in the Charter of Fundamental Rights and Freedoms (the Charter), which replaces Chapter III of the Jamaican Constitution. The Charter contains a stand-alone prohibition of discrimination. Section 13(3)(i) provides that everyone has the right to be free from discrimination on the grounds of, *inter alia*, race, place of origin, social class, colour, religion or political opinions. Furthermore, there is no legislation or policy that encourages or deliberately contributes to discrimination on the basis of colour, descent, or national or ethnic origin.

13. In general terms, there are no legal provisions for differential treatment based on citizenship or immigration status, with citizens and non-citizens entitled to access social services on the same conditions. While there are certain benefits restricted for non-citizens such as employment rights, in that they would generally require a work permit, these are applied equally regardless of national origin.

#### **Article 2**

##### **Eliminating racial discrimination and promoting understanding among all races**

14. The Convention requires the enactment of specific legislation to eradicate racial discrimination. It has been Jamaica's position that there is presently no need to enact specific legislation that prohibits racial discrimination as required by the Convention. Among the reasons for this position that Jamaica previously raised with the Committee, is the fact that the Constitution already provides for equality before the law (section 13(3)(g)) and freedom from discrimination on the grounds of race, place of origin, social class, colour, religion and political opinion (section 13.3(i)). These obligations apply to natural and juristic persons pursuant to section 13(5) of the Constitution. Section 13(2)(b) also stipulates that Parliament shall pass no law and no organ of the State shall take any action

which abrogates, abridges or infringes those rights except where it is demonstrably justified in a free and democratic society to do so.

15. The right to freedom from discrimination articulated in the Constitution would apply in respect of the enjoyment of all the specific rights referred to in the Convention, and in particular, to those in Article 5, which have generally been provided for in several pieces of legislation. Given that the Constitution of Jamaica, which includes the Charter of Fundamental Rights and Freedoms, is the supreme law of Jamaica, any other law that is inconsistent with the Constitution is null and void to the extent of the inconsistency.

16. The Constitution goes on to prescribe judicial processes to be observed in the event that there is a violation of any of the rights it establishes, where those violations are committed by the State or natural or juridical persons. Under Section 19 of the Charter, a person who alleges that any of the protective provisions is being, has been, or is likely to be contravened may apply to the Supreme Court of Jamaica for redress. The Supreme Court is empowered to make orders, issue writs and give directions it deems appropriate for the purpose of enforcing the provision.

17. Given the provisions of the Constitution, any legislation that promotes, creates or perpetuates racial discrimination would be contradictory and therefore, null in that respect. The Jamaican Government has not, therefore, enacted any legislation that is meant to promote racism whether directly or indirectly, and in no way sponsors or supports racial discrimination.

18. In light of the above, the Government of Jamaica believes that there is adequate legal protection against racial discrimination in the enjoyment of the rights specified in Convention.

#### **National Human Rights Institution (NHRI)**

19. As part of its general thrust to continuously improve the promotion and protection of human rights of all Jamaican citizens and residents in Jamaica, the Government of Jamaica is actively pursuing the establishment of a National Human Rights Institution (NHRI). The Ministry of Justice collaborated with the Commonwealth Secretariat and the United Nations Development Programme (UNDP) in relation to the pre-establishment phase of the Institution and received capacity-building and other support in this regard.

20. Efforts to establish the NHRI will take into account the six criteria outlined in the Paris Principles that must be satisfied. These are:

- (a) Mandate and competence: a broad mandate based on universal human rights standards;
- (b) Autonomy from Government;
- (c) Independence guaranteed by statute or constitution;
- (d) Pluralism including through membership and/or effective cooperation;
- (e) Adequate resources; and
- (f) Adequate powers of investigation.

21. While the NHRI has not yet been established, Jamaica has an extensive network of independent institutions that are mandated to protect the rights of Jamaicans in various spheres, such as the Office of the Children's Advocate (OCA), the Independent Commission of Investigations (INDECOM), and the Office of the Public Defender (OPD).

22. Further details on the NHRI are provided in Part II.

### **Article 3**

#### **Condemnation of racial segregation and apartheid**

23. There is no segregation in sectors in Jamaica, including housing, education and healthcare. All Jamaicans are free to choose their schools, residential communities, and

health facilities etc., subject to aptitude (in the case of educational institutions) and financial circumstances. Public and private schools, therefore, host students from varied ethnic, national, cultural and religious backgrounds.

24. In keeping with its long-standing tradition of supporting efforts aimed at eliminating racism and racial discrimination, Jamaica continues to participate in the discourse at the regional and multilateral levels devoted to the issue. In fulfilment of paragraph 101 of the Durban Declaration, Jamaica and other Caribbean Community (CARICOM) Member States spearheaded an initiative for the endorsement by the United Nations General Assembly of a project for the erection of a Permanent Memorial at the UN Headquarters in New York, in acknowledgement of the tragedy and legacy of slavery and the transatlantic trade in Africans. The Permanent Memorial to Honour the Victims of Slavery and the Transatlantic Slave Trade at the United Nations was unveiled on 25th March 2015, which marks the Day designated by the UN General Assembly as the International Day of Remembrance of the Victims of the Transatlantic Slave Trade. The Memorial is dubbed “The Ark of Return”.

## **Article 4**

### **Propaganda and racist theories**

25. The Government believes, as explained above, that there are sufficient measures in place which entrench and guarantee to every person his/her fundamental rights and freedoms, regardless of race or place of origin. These guarantees are applicable to persons, whether citizens or non-citizens, and also minority ethnic or racial groups.

26. Jamaica continues to maintain reservations about prohibiting “dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination” pursuant to Article 4(a) of the Convention, on the basis that such a prohibition could infringe the constitutional guarantee of freedom of expression. Nonetheless, Jamaica has taken steps to address incitement to commit acts of violence, including racially motivated violence through an Amendment to the Offences against the Person Act (inserting a new section 18A) which prohibits production, sale and performance etc. of material that promotes violence against any group. Further information on the amendment is provided below, in Part II.

## **Article 5**

### **Measures to eliminate racial discrimination in all its forms**

27. Below is information concerning the policies and programmes of the Government of Jamaica for the promotion of civil, political, economic, social and cultural rights of all citizens and residents. Rights listed are enjoyed by all persons, in accordance with the Constitution of Jamaica, and without discrimination of any kind. The Government of Jamaica, at this juncture, does not disaggregate data on the basis of race or ethnicity.

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

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

29. Jamaica also has a legal aid system that enables persons of insufficient means to obtain counsel in civil matters (such as constitutional matters) and criminal matters, subject to the requirements of the legislation. A person alleging, therefore, a breach of his or her constitutional rights – such as, on the grounds of discrimination – and who cannot afford legal representation, may have access to legal representation through the legal aid service available island-wide. Efforts have also been made in recent times to improve the accessibility to legal aid through the introduction of mobile legal aid clinics that visit communities across Jamaica. The availability of legal aid enhances efforts to ensure access by persons of all races, ethnicities and national origins to a fair trial.

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

30. The Government is committed to efforts to ensure the right to security of person and protection by the State against violence or bodily harm. The right to security of person is protected by Section 13(3) (a) in the Charter of Fundamental Rights and Freedoms, which affords protection to “the right to life, liberty and security of the person and the right not to be deprived thereof except in the execution of the sentence of a court in respect of a criminal offence of which the person has been convicted.” The *Offences against the Person Act*, which criminalises and punishes acts of violence, aims to safeguard the security of each individual resident or temporarily located in Jamaica, by ensuring protection from harm, whether from others or from the State.

31. While Jamaica is currently experiencing high levels of homicides and other violent crimes, the Government of Jamaica has embarked on a number of initiatives to address the crime situation, including social intervention programmes, as well as efforts to disrupt, disarm, dismantle and prosecute organised criminal syndicates and gangs. The Government is also undergoing a major modernisation of its national security and law enforcement infrastructure to reduce levels of violent crime and transform the national security environment.

32. Crime affects all segments of Jamaican society, including all races and classes. There is no evidence to suggest that any racial, ethnic or national group is being disproportionately affected by crime and violence. Reducing violence against the most vulnerable groups, especially women and children, remains a priority for the Government. Crimes against all persons, once reported, are investigated regardless of the race or ethnicity of the complainant.

33. Efforts are ongoing to sensitise members of the security forces on their responsibility to protect the human rights of the individuals with whom they come in contact. In this regard, emphasis is being placed on enhancing the training being offered to the Jamaica Constabulary Force (JCF) with a special focus on the fundamentals of ethics, use of force and human rights. This training is being provided in collaboration with human rights NGOs. In 2011, the Jamaica Constabulary Force also developed a series of policies aimed at enhancing the professionalism of its members and intensifying their awareness of the JCF’s human rights obligations and responsibilities to all citizens and visitors within Jamaica. One such policy was the JCF Diversity Policy, which has become institutionalised within the Force over the last seven years. In defining diversity, the Policy states that “this is a concept that recognises individuals and groups from a broad spectrum of demographic and philosophical differences. It includes the acceptance of persons without prejudice and discrimination, irrespective of their religion, ethnicity, sexual orientation, class, colour, creed or political ideology.”

34. Since the introduction of the policy, all members of the JCF have been sensitised on the elements of the Policy. Furthermore, training in the various aspects of the Diversity Policy forms part of the curriculum for new JCF recruits. As a result of the efforts within the Jamaica Constabulary Force, all members are aware of their obligation to treat all individuals fairly and equitably, irrespective of the particular demographic grouping to which they belong. This principle is also reinforced through ongoing training and sensitisation, lectures, and daily deployment briefings. The outcome has been heightened awareness and compliance in the JCF.

### **Political rights**

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

36. An individual is guaranteed the right to participate in the electoral process and to vote once he or she meets the criteria as set out in the Representation of the People Act. Under the Representation of the People Act, electors are persons, aged eighteen (18) years and over, who are registered and are either Jamaican or Commonwealth citizens resident in Jamaica, for a period of at least twelve (12) months. The qualifications and disqualifications for election to Parliament are set out in Chapter V of the Constitution, in particular sections 37 to 40. These sections state, inter alia, that the elected person must be over the age of twenty-one (21) and be either Jamaican or Commonwealth citizens resident in Jamaica, for a period of at least twelve (12) months. In both instances, therefore, there is no distinction other than that of nationality.

37. Every citizen has equal access to public service. The aforementioned Act is underpinned by Section 13(3) (m) of the Charter, which also grants the right of every citizen of Jamaica who is qualified to be registered as an elector for elections to the House of Representatives, to be registered; and who is registered, to vote in free and fair elections. Section 13 (3) (b) of the Charter also provides persons in Jamaica with the right to freedom of observance of political doctrines. In relation particularly to Local Government/Municipal elections, Section 103 A (1) and the Eighth Schedule of the Representation of the People Act as amended by the Local Governance Act, gives persons the right to participate and stand for election by outlining the qualifications for persons to be elected as Councillors, and further outlining the law enabling persons (electors) to vote in Local Government elections. These rights are guaranteed to all citizens.

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

38. Section 13 (3) (f) of the Charter provides for freedom of movement, which is the right of every citizen of Jamaica to enter Jamaica and of every person to move around freely, to reside in any part and to leave Jamaica. The *Passport Act* governs the issuance of passports to facilitate the right to leave the country and accords every citizen of Jamaica the right to be granted a passport and not be denied or deprived thereof, except by due process of law. In practice, the *Passport Act* is given full effect and no one is denied these rights by virtue of race or ethnicity. The right of freedom of movement within and out of the country is also guaranteed to refugees and migrants, with refugees, in particular, provided with UNHCR travel documents to facilitate overseas travel.

### **Right to nationality**

39. Section 3 of the Constitution makes specific provision for the right to nationality. The effect is to grant Jamaican nationality to every child born in Jamaica, unless the parents are foreign diplomats or enemy aliens. Also, any child born outside of Jamaica is eligible for Jamaican citizenship if his mother or father or both parents are Jamaicans. No distinctions are made on the basis of race or ethnicity, in law or in practice.

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

40. A person can enter into a marriage legally at 16 years with the consent of a parent. Persons 18 years and older and widows or widowers can legally enter into a marriage without the consent of others. Under the *Marriage Act*, marriages are solemnized by a Marriage Officer or a Civil Registrar, duly appointed by the Minister with responsibility for such matters. Section 3 (2) of the *Marriage Act* states that "a marriage solemnised between persons either of whom is under the age of 16 years of age is void." No exceptions regarding marriage are made on the basis of race or ethnicity.

41. Jamaican law also recognises what is referred to as ‘common law marriage’ as a spouse is defined under the Property (Rights of Spouses) Act as a single man who has cohabited with a single woman as if he were her husband for a period of not less than five years and vice versa.

42. In practice, interracial marriages and relationships are common in Jamaica, as evidenced by the 6.1 percent of the population considered as of mixed heritage, in addition to the large majority of Jamaicans who, though identifying predominantly as Black, have varied ancestral roots. In fact, several ethnicities or races often exist within one extended family unit.

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

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

#### **Right to inherit**

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

45. The Acts do not make specific provisions for race, and are understood to apply to all persons regardless of racial or ethnic makeup.

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

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

47. In keeping with these provisions, the Jamaican society as a whole is accepting of the numerous faiths existing within the country, including Christianity, Hinduism, Islam, Baha’i faith and Rastafarianism, as well as various religions based on Judeo-Christian traditions and indigenous religions based on Christian and African religious beliefs and practices. There is no evidence to suggest that religious persecution is practiced by State agents or individual citizens.

48. In April 2017, the Prime Minister of Jamaica issued an official apology in Parliament on behalf of the Government for a 1963 operation in Coral Gardens, St. James, which resulted in the deaths of three Rastafarians and the imprisonment of several others. As part of the compensation package, approximately J\$10 million (about US\$78,740) will be designated for the establishment of a Trust Fund for survivors of the Coral Gardens incident and land will be donated for developing a Rastafarian heritage site in Pinnacle, St. Catherine.



49. The Jamaica Council for Interfaith Fellowship, an NGO that includes representatives from the Christian, Hindu, Rastafarian, Bahá’i, Jewish and Muslim faiths, continues to hold events to educate the public about religious diversity and tolerance. The Council has a mandate of seeking to preserve religious freedom for persons of different ideological and religious beliefs, as well as those not affiliated with any religious groups.

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

50. There are no legislative provisions that restrict access to employment or discriminate against persons seeking employment. Provisions made for protection from racial discrimination in the Jamaican Constitution are relevant to this matter.

51. Jamaica enacted the Employment (Equal Pay for Men and Women) Act, 1975, which seeks to ensure that male and female workers receive equal pay for equal work done. Additionally, Jamaica enacted the National Insurance Act and its supporting Regulations and the Minimum Wage legislation, which also offer protection for workers generally including domestic workers. The Minimum Wage legislation prohibits the payment of remuneration below the national threshold. The National Insurance Act and its supporting Regulations provide protection for qualified pregnant domestic workers to receive a benefit during the period of confinement, and for qualified workers generally including domestic workers, to receive a pension.

52. Debate on the Occupational Safety and Health (OSH) Bill commenced in the House of Representatives in February 2018. When enacted, the new legislation will remove some of the obstacles that prevent implementation of the International Labour Organisations’ Domestic Workers Convention, which Jamaica ratified in 2016. Furthermore, the Government of Jamaica is also pursuing amendments to the Labour Officers (Powers) Act, 1956 (LOPA), which will enhance the capacity of Labour Officers to perform their functions. It should be pointed out that Labour Officers are mandated to ensure compliance with labour laws.

53. The Government of Jamaica has not received any reports from workers, including domestic workers, of racial discrimination in Jamaica at this time, and while the evidence does not suggest racial discrimination in terms of access to employment, equality of wages, working conditions etc., the Government of Jamaica believes that the expected legislative improvements will strengthen the protection framework for all Jamaicans of all races, ethnicities and national origins.

**Right to form and join trade unions**

54. Section 13(3) (e) of the Charter grants the right to freedom of assembly and association. That right extends to the right to form and join trade unions.

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

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

57. The LRIDA also makes it an offence for any person to prevent or deter a worker from exercising his right to be a member of a trade union and to take part, at any appropriate time, in the activities of any trade union of which he is a member. The LRIDA contains mechanisms for the settlement of disputes and the promotion of good relations between workers and their employers, including the Industrial Disputes Tribunal (IDT), to

which disputes may be referred at the request of the parties or on the initiative of the Minister of Labour and Social Security.

### **Right to housing**

58. Access to housing in Jamaica is facilitated mainly through the Ministry with responsibility for housing, the National Housing Trust (NHT), the Jamaica Mortgage Bank (JMB), the Housing Agency of Jamaica Ltd. (HAJ), as well as numerous private developers. Housing solutions are equally accessible to all, regardless of race and gender once all other eligibility criteria are met. The Government, through the NHT and HAJ, has been pursuing several solutions to make home ownership more accessible, particularly among the poorer social classes, including persons living in informal settlements. Since 2013, approximately 11,500 housing units have been completed. Plans are also in place for the delivery of over 20,000 new solutions during the next four years. Several other initiatives are outlined below.

59. The NHT and the JMB are the two (2) principal public sector institutions involved in housing financing. The NHT is a contributory mortgage scheme, mandatory for all persons employed in Jamaica that can be accessed by its contributors; however, it also provides interim financing mainly for housing developments for low to middle-income earners. This ensures that all Jamaicans can have access to reasonable and affordable housing solutions across the class or race spectrum.

60. The establishment of the National Housing Trust in 1976 reflects a revolutionary approach to the provision of housing for Jamaicans. It has its history in a Government land reform programme dating back to the 1960s, which was an attempt to correct the historical deprivation of land ownership of the Black population by slave masters and landholders. The National Housing Trust was established initially to provide financing to facilitate land acquisition, but has since evolved, and is now involved in housing construction and the provision of serviced lots.

61. Jamaica's development, inclusive of the housing sector, is being charted by Vision 2030 Jamaica through the Ministry with responsibility for housing. As the island's first long term National Development Plan, Vision 2030 Jamaica aims to position Jamaica to achieve developed country status by 2030. Vision 2030 Jamaica recognises that housing is an important component of the economic and social development of the country. It is an important part of national infrastructure and pivotal to social development, national competitiveness and economic growth. The Plan embodies the concept that shelter represents a broad continuum of affordable and appropriate housing options related to the income of target groups. It is envisioned that by the year 2030, every Jamaican will be living in a well-constructed dwelling unit that is safe, sanitary and affordable and in an inclusive and aesthetically-pleasing community. Vision 2030 Jamaica reflects the inclusive development paradigm of the United Nations that integrates the standards and principles of human rights – participation, non-discrimination and accountability.

### **Policies, legislations and programmes**

62. The Government of Jamaica is currently developing a national housing policy to:

- (a) Enable the Government of Jamaica (GOJ) to meet its vision of providing access to affordable, safe and legal housing solutions to Jamaicans;
- (b) Provide an enabling framework within which the GOJ can realise its vision for the construction industry by 2030;
- (c) Give strategic direction to the housing sector;
- (d) Promote a wide range of housing choices for all income levels.

63. Consultations are ongoing towards finalising the Draft National Housing Policy and Implementation Plan.

64. A number of legislative changes have also been made in keeping with the thrust to increase access to housing:

(i) The Mortgage Insurance Act (1960) was amended in 2014 to allow for lower deposits (as low as 3%) of the cost of the property, making mortgages more accessible to the average Jamaican in their quest to acquire a house and relieve them of the burden of a high down payment;

(ii) The Rent Restriction Act (1944; last amended in 1983) is currently being reviewed. The primary objective of the review is to reconcile the interests of landlords and tenants in an effort to ensure that neither is disenfranchised. The review also seeks to provide up-to-date and effective regulations. It will provide clear guidelines as to the roles and obligations of tenants and landlords within the rental sector. This will ensure that all persons regardless of race or ethnicity have their rights protected.

65. Plans are being made to develop a National Squatter Management Policy and Implementation Plan. To this end, a Secondary Analytical Research on Squatting was completed in July 2014; this research was conducted to inform the squatter policy. Between 2010 and 2015 socio-economic surveys were conducted of 4,224 households (predominantly in informal settlements), comprising 11,915 persons, with a view to addressing their housing situation.

66. The Land Administration and Management Project (LAMP) Phases I and II continued to promote the efficient use of land resources for citizens by facilitating increased access to secure tenure. The Land Administration and Management Programme (LAMP), is a Government initiative to help all owners of land in Jamaica obtain Certificates of Title for their land and to update the information on existing Land Titles. Another component to LAMP Phase II is the implementation of a payment plan where the land owner is facilitated in making payment incrementally or through a financial institution. This will further assist beneficiaries in accessing the Titles in a non-discriminatory manner. LAMP is now operating in 13 parishes, and has issued approximately 8,020 new titles since the inception of the programme, including more than 4,422 new titles from 2013 to present.

67. The Participatory Slum Upgrading Programme (PSUP) is a regional programme that was initiated by United Nations-Habitat (UN) in collaboration with the African Caribbean and Pacific (ACP) States. The Programme, which is financed by the European Commission, is designed to improve urban development strategies, as well as to upgrade and prevent the formation of slums at the local, national and regional levels.

68. Other initiatives being implemented by the Government of Jamaica will also help to improve access to housing, such as the Housing Microfinance Loan Programme, which facilitates access to loans for low income households; an increase in value of mortgage loans by the National Housing Trust; home grants and low interest rates for the lowest earning contributors to the National Housing Trust, as well as 100 percent financing on housing units built by the NHT for qualified contributors to the Trust.

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

69. The Government of Jamaica, despite challenging economic circumstances, is committed to enhancing its human capital through the impartial provision of social services to all Jamaicans.

70. On 1 April 2008, the Government abolished user fees from all public health facilities, except for the University Hospital of the West Indies, which is a regional institution. The universal abolition of fees came one year after user fees for children were removed. The policy is intended to improve access to health services for all Jamaican nationals. Under this policy, specific diagnostic and treatment services are exempt from fees and are provided to patients within the public health care system. Some of these services include primary surgical operations, hospitalisation, dialysis, radiological services and in-patient medical supplies.

71. Admittedly, there have been challenges since the introduction of the policy with two main concerns being the length of time it takes to receive treatment at some health facilities and the scarcity of several prescription drugs. In response to these concerns, the Ministry of Health has extended the opening hours at some public facilities and is working to improve

the infrastructure at community health clinics. The Ministry has also increased the types of drugs available in public facilities, and has partnered with private pharmacies for the dispensing of drugs to public patients. It should be noted, nonetheless, that the challenges faced in the health sector do not disproportionately affect persons of any particular racial or ethnic group.

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

73. The Enabling Environment and Human Rights Technical Working Group (EEHR TWG), established in January 2014 as an independent advisory body of policy experts, development partners and key thinkers in Sexual Reproductive Health and Human Rights issues, provides guidance in the development of strategies and interventions focused on reducing human rights violations and stigma and discrimination. It seeks to strengthen and coordinate the collaboration between all agencies and civil society organisations advocating for a supportive environment that is founded on a human rights framework. The technical working group seeks to ensure a coordinated national response to reducing stigma and discrimination and promoting human rights for all Jamaicans, irrespective of health status, race, class, sexual orientation and disabilities. Its primary focus concerns engaging policy makers, civil society organisations, faith-based organisations, service providers, the vulnerable and marginalised, people living with HIV (PLHIV) and others in the review of relevant legislation and policies, and advocating for legislative change in order to reduce stigma and discrimination and gender-based violence, against all Jamaicans. Representation is drawn from Government, civil society organisations, University, faith-based organisations and development partners.

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

75. All persons who are gainfully occupied in insurable employment are required to be registered, provided that they are between the ages of 18 and 70 (males) and 18 and 65 (females). The Scheme currently provides benefits to approximately 90,000 pensioners of various ethnic backgrounds.

## **Right to education and training**

### **General**

76. Jamaica has a four-tiered education system – early-childhood, primary, secondary and tertiary – with children entering pre-primary from as early as 3 years old. The Government is the main provider of education with private sector participation throughout the system. The difference between attendance at public and private schools is mostly related to economic factors, with the trend most visible at the primary level, where some parents opt to have their children enrolled in private (preparatory) institutions. At the secondary level, there are far less private institutions so fewer parents are inclined to access private education at this level. With respect to education at the tertiary level, there is a varied mix of students from different countries and ethnic backgrounds enrolled in public and private institutions.

77. The Ministry of Education, Youth and Information (MOEYI) does not collect or disaggregate data by the racial profile, as racial discrimination in schools has not been reported to be an issue for Jamaica. Within the education system, all ethnic and cultural

groups are treated equally and have access to the same school curriculum. Additionally, over the years, the Government has actively sought to ensure respect for diversity within the education system including through lifting restrictions that previously existed on the wearing of locks by children of the Rastafarian faith. Where schools are deemed to be in breach of these guidelines, aggrieved individuals have recourse to the Ministry of Education, Youth and Information.

### **Primary level education**

78. The right to education is provided for under Section 13 (k) (ii) of the Charter of Rights and Fundamental Freedoms. The Section provides that every child who is a citizen of Jamaica has a right to publicly funded tuition in a public educational institution at the pre-primary and primary levels. This is also extended to non-citizens resident in the country. To this end, although there are socio-economic challenges which affect the ability of some individuals to fully access education facilities, public pre-primary and primary education in Jamaica continue to be free. Gross enrolment rates in public primary institutions continue to be high and were at 96.9% for the 2014 period.

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

### **Secondary level education**

80. The Government made great strides in fulfilling its policy commitment to ensure access to at least five years of secondary education for all secondary level students by 2016 and to provide the opportunity for students to be attached to an education or training programme until the age of 18. Secondary education is available to all Jamaicans tuition free and persons of all races, ethnicities and national backgrounds may benefit equally from this provision.

### **Tertiary level education**

81. The gross enrolment rate of the tertiary age cohort (18–24 years) is approximately 28.5 per cent. Every Jamaican, regardless of race or ethnicity is free to access tertiary education. Once a person is qualified, there are no impediments to attaining higher education as long as he/she can afford to do so whether by accessing loans or personally underwriting the cost.

82. Loans can be accessed through the Government's Students' Loan Bureau. There are also scholarships available for students wishing to pursue tertiary education, whether through support provided by the Government or by the private sector. During the last decade, access to tertiary level education increased considerably due to the establishment of additional local private tertiary institutions, as well as through the services being provided by offshore universities which have been granted licenses to operate in Jamaica. Community Colleges provide pre-university, general education, professional and para-professional training opportunities, and teacher-training institutions as well as the local and international universities provide training at the tertiary level.

83. Jamaica's tertiary institutions feature a wide mixture of citizens from varied ethnic groups, as well as non-nationals. In fact, recent years have seen an increasing trend in non-Caribbean students, as institutions make a greater effort to court international students in order to increase the diversity of their student population.

### **Adult and continuing education**

84. Provision is also made for adult and continuing education, primarily through the Human Employment and Resource Training Trust (HEART Trust/NTA). This serves to ensure that educational opportunities are available to the highest number of Jamaicans possible. As an agency of the Ministry of Education, the HEART Trust/NTA embraces the national drive towards the achievement of universal secondary education, as well as to equip persons with vocational and other skills required to pursue employment opportunities.

**Right to equal participation in cultural activities**

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

86. Two primary programmes aimed at encouraging equal participation in cultural activities are the Culture in Education Programme (CIEP) and the revised culture policy entitled, “National Policy on Culture and Creative Economy of Jamaica 2017–2027: Towards the Enhancement and Promotion of Brand Jamaica”. Both initiatives were developed in keeping with the provisions of the Durban Declaration and Programme of Action. These will be explored in more detail below under Article 7.

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

87. There is no restriction on the right of access by any individual to any place or service intended for use by the general public. Transportation, public and private educational institutions, hotels, restaurants, cinemas and parks, etc. are fully accessible to all persons regardless of race, skin colour and nationality, subject to the universally applicable entrance fees or other requirements.

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

88. Section 19 of the Charter provides for any person who feels that his/her rights are being violated or likely to be contravened to apply to the Supreme Court (or on appeal to the Court of Appeal) for the enforcement of rights and for redress. Section 19(2) also allows any person authorised by law or permitted by special leave of the Court or any civil or public organisation to initiate an application in the Supreme Court on behalf of any person whose rights have been allegedly breached. There is also a further appeal from the decision of the Court of Appeal to the Judicial Committee of the Privy Council as provided by Section 110 of the Jamaican Constitution.

89. Where a matter has been brought before any competent national Court or Tribunal, that Court or Tribunal may make the necessary orders, including the payment of compensation or any other declarative order, in respect of any person whose rights or freedoms have been breached.

90. Additionally and as outlined in previous periodic reports, the Office of the Public Defender through the Public Defender (Interim) Act, which came into effect in April 2000, is entrusted with the responsibility of protecting and enforcing the rights of persons or groups of persons where these rights may have been infringed by the State. The complainant need not be a citizen of Jamaica or live in Jamaica, but the matter complained about must have occurred in Jamaica. The services of the Office of the Public Defender are free of cost to all members of the public. The Office of the Public Defender has reported receiving no complaints about violations of rights on the basis of race.

91. The Government of Jamaica has engaged in public sensitisation and awareness-raising to enable citizens to be aware of their rights and restore confidence in the justice system. The existing entities that are in place to facilitate investigation into human rights violations will be further enhanced by a National Human Rights Institution. The institution will be established in accordance with the Paris Principles and will provide a forum where aggrieved persons may lodge complaints of rights violations by the State.

## Article 7

### Measures to combat prejudices which lead to racial discrimination and to promote understanding, tolerance and friendship

#### Education

92. Public schools are required to observe the provisions of the Constitution as it relates to the non-discrimination provisions. The horizontal application of the Charter of Rights and Freedoms now means that private schools are similarly bound as regards students and parents. Uniforms and standardised dress codes within schools are generally enforced, with some few exceptions – agreed by parents and school administrators – based upon constitutionally-protected fundamental rights and freedoms. It is the convention in Jamaica, for example, for young males to wear hair closely clipped to the scalp, and to be clean-shaven when they begin to grow facial hair (i.e. as in the military). Hence, boys are often not permitted to wear their hair long, in braids or in other similar styles. The restrictions apply equally to all boys of any racial or ethnic origin, and, therefore, are not discriminatory in its application. Some schools also prescribe metric length of hair to enhance uniformity, which is considered an important part of discipline and ethos in schools.

93. Nonetheless, while many public schools insist on a specific hair length for male students, this is not the case for students from Rastafarian and other faiths. Both Muslim and Rastafarian students have been allowed to groom their hair according to the dictates of their religion. Rules and regulations developed at the school level are in tandem with the policies of the Ministry and the Jamaican Constitution’s provision for the right to freedom of religion. Therefore, Rastafarians and members of other faith as students in public schools have been able to express their beliefs without fear of discrimination.

94. School rules fall within the purview of local School Boards. The Ministry of Education, Youth and Information (MOEYI) does not have jurisdiction, except to intervene in issues of constitutionality or breach of other laws and regulations. School Boards are inclusive in composition, including a student representative at the secondary level. School rules often reflect the school community’s standard of what is and is not appropriate for students at the particular institution, and usually express exemptions based on religion or health. Traditionally, exemptions based on “heritage” or “ethnicity” or “culture” are not promoted, given the importance of establishing school culture and identity as the predominant culture and identity, and thereby removing distinctions that may otherwise divide a student body, or expose an individual or group of students to discrimination by their peers.

95. Human rights education is infused in the national curriculum at the primary and secondary levels. Much of this information is embedded in the Social Studies, Religious Education, Health and Family Life Education, Civics and Guidance curricula, which is obligatory at the primary level and which focuses on the study of people, their activities and relationships. In Social Studies and Civics, the history and culture of religious, racial and ethnic minority groups living in Jamaica, are topics/themes that are explored. Emphasis is placed on the Maroons, Rastafarians and persons of Indian, Chinese and Middle-Eastern descent, but there is no emphasis on languages spoken by them. While the category of foreign citizens (including refugees and asylum seekers) are not treated discreetly in depth, extended learning activities are incorporated in the various curricula to focus attention on these groups.

96. Additionally, teacher guides, manuals, textbooks, and other teaching and learning materials in primary and secondary education conform to human rights principles. All levels of teacher training include human rights education. The Jamaican media and civil society have also been instrumental in sensitising the public to the importance of respect for human rights.

**Textbooks**

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

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

**Language**

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

**Culture**

100. As noted previously, the main entity with overall responsibility for culture in Jamaica is the Ministry of Culture, Gender, Entertainment and Sport. The work of the Ministry is complemented by an array of institutions outlined below. Additionally, there are a number of cultural organisations that operate freely in Jamaica such as the Chinese Benevolent Association and the National Council for Indian Culture. Activities hosted by these two institutions tend to attract a wide range of Jamaicans, of varied racial descent. In May 2016, the Chairman of the Indian Council was appointed as one of the Commissioners of the Jamaica Cultural Development Commission as part of the Government's commitment to safeguarding and promoting the traditions of the various cultural groups in Jamaica. The Minister with responsibility for culture also announced a grant to be given to the Indian Council for assistance with hosting an annual cultural activity for the preservation of Indian culture in Jamaica.

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

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

102. In its celebrations, particularly those related to national heritage, the JCDC makes an effort to promote cultural products that reflect the diversity of the Jamaican population.

**The Institute of Jamaica (IOJ)**

103. Founded in 1879, the IOJ is an Agency of the Ministry of Culture, Gender, Entertainment and Sport. It provides a framework for persons to experience the repository of cultural products created as part of the cultural history of Jamaica. The IOJ promotes participation in cultural knowledge, especially traditional knowledge. Through its museums, galleries, exhibitions and seminars, a wide cross-section of the community is able to access knowledge and awareness of past historical experiences.



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

104. This agency – a statutory body under the Ministry of Culture, Gender, Entertainment and Sport – is responsible for the declaration, preservation and maintenance of national sites and monuments in communities across Jamaica. By its very nature and its presence in communities, the JNHT enables citizens to experience the material heritage of Jamaica.

### **Culture in Education Programme (CIEP)**

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

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

### **The National Policy on Culture and Creative Economy of Jamaica 2017–2027: Towards the Enhancement and Promotion of Brand Jamaica**

107. The 2003 National Culture Policy is being revised (see paragraph 86) to create the National Policy on Culture and Creative Economy of Jamaica 2017–2027: Towards the Enhancement and Promotion of Brand Jamaica. In compiling the draft revised document, the Government undertook national consultations and diverse stakeholders participated in the process, including cultural communities, cultural and creative practitioners, private sector, non-governmental organisations, educational institutions and special interest groups (persons with disabilities, women, and unattached youth). There are distinct chapters dedicated to the promotion of cultural diversity namely (1) Culture for Promotion of Social Health and National Well-being; (2) Culture for Nation Building, Pride and Civic Engagement; (3) Culture, National Symbols and Consolidation of National Cultural Identity; (4) Culture, Education and the Ritualisation of Memory; (5) Culture and the Promotion of National Treasures; and (6) Culture in Education. The chapters cover a number of policy positions to include the following:

- Ensure greater inclusiveness of vulnerable groups whose potential in the area of culture and creative industries is extremely valuable;
- Ensure that national symbols are given a place of prominence by promoting within educational institutions and the wider community, the celebration of significant events related to various people who came, such as Indian Arrival Day, Hosay, Chinese New Year etc.;
- Declare and develop appropriate sites of memory related to the various communities, for example, Pinnacle in St. Catherine with respect to the Rastafarian community and Watt Town in St. Ann for Revivalists; and
- Visits to museums and heritage sites/sites of memory and sites of national collections, as part of the structured school programme and as indicators used in the assessment of schools' performance (from pre-primary/basic to tertiary) in fulfilment of the goal of promoting knowledge of culture, heritage and traditions among children and youth, and wider society. The Culture Passport programme which was re-branded by the MCGES is among the primary tools and initiatives developed to support how Jamaicans engage the diverse cultures of the island.

### **Information**

108. Regulation 30 (b) of the Television and Sound Broadcasting Regulations, prohibits the transmission of any “any statement concerning or comment upon race, colour, creed, religion or sex of any person which is abusive or derogatory.” The Children’s Code for Programming also prohibits language “used to abuse or denigrate”. In this context, the

Public Broadcasting Corporation of Jamaica (PBCJ) has played a key monitoring role in ensuring respect for fundamental rights and freedom of all from discrimination, and has sought to reinforce the media's responsibility in the promotion of tolerance, including through investigations into the use of racial slurs. The Public Broadcasting Corporation of Jamaica has also developed its own manual to encourage self-monitoring by the media, while the Code of Practice for Jamaican Journalists and Media Organisations, published by the Press Association of Jamaica in keeping with Television and Sound Broadcasting Regulations, provides for the following in Section 12:

(a) The media should avoid prejudicial or pejorative reference to a person's race, colour, political opinion, religion, gender, sexual orientation or to any physical or mental disability/challenge;

(b) The media should avoid publishing details of a person's race, colour, religion, sex or sexual orientation, unless these are directly relevant to the story. Both the PBCJ and the Press Association of Jamaica play a key role, therefore, in setting standards for appropriate conduct by journalists in preventing discrimination against any racial or ethnic group.

## **Part II**

### **Implementation of recommendations of the Committee**

#### **Broad reservation to the Convention**

109. The Committee recommended that Jamaica should re-examine its "broad and vague" reservation to the Convention. The basis of Jamaica's reservation is that it will not accept any obligation that goes beyond the constitutional limits or any judicial processes beyond those prescribed under the Constitution. Since nothing contained in or done pursuant to any law can exceed the powers conferred by the Constitution of Jamaica, any legislative enactment implementing any provision of the Convention, even without the reservation, must be able to withstand constitutional scrutiny. Jamaica's reservation should be interpreted to mean that Jamaica will comply with its obligations under the Convention and is not averse to introducing judicial processes, to the extent that such steps are not prohibited by the Constitution.

110. Furthermore, the reservation of itself does not prevent Jamaica from complying with the core obligations of the Convention, which is to eliminate all forms of racial discrimination, nor has it prevented Jamaica from taking steps to implement the provisions of the Convention. Jamaica's Constitution prohibits racial discrimination and inequality of any form. As such, Jamaica believes there is no immediate need to revisit the reservation.

#### **Absence of legislation on racial discrimination**

111. As indicated above, Jamaica's Constitution already provides for equality before the law (section 13(3)(g)) and freedom from discrimination on the grounds of race, place of origin, social class, colour, religion and political opinion (section 13.3(i)). These obligations apply to natural and juristic persons pursuant to section 13(5) of the Constitution and, therefore, provide broad protections against racial discrimination. Jamaica's position, therefore, is that there is presently no need to enact specific legislation that prohibits racial discrimination as required by the Convention. Further information on this position is provided in Part I (Article 2).

#### **Independent national human rights institution**

112. The Government of Jamaica is currently actively pursuing the establishment of a National Human Rights Institution (NHRI) for the protection and promotion of human rights. The Commonwealth Secretariat was approached to facilitate and provide technical assistance in the development of the NHRI. Initial consultations were held between the

Government of Jamaica and the Commonwealth Secretariat in July 2014 and a concept paper developed to map the way forward in establishing a NHRI by expanding the role and functions of an existing entity. The Ministry of Justice began collaborating with the UNDP in January 2015 in relation to the Ministry's pre-establishment phase of a National Human Rights Institute (NHRI).

113. Cabinet (the Executive branch of Government) approved the establishment of the Institution, in principle, in 2015. A further Cabinet Submission is to be made shortly regarding the legislative amendments to be undertaken to give effect to the NHRI, through the expansion of the Office of the Public Defender.

### **Court cases on racial discrimination**

114. The Ministry of Justice has engaged in public sensitisation and awareness to enable citizens to be aware of their overall rights, including access to redress, where rights have been violated. The ability to respond to any violations will be enhanced with the establishment of the NHRI.

### **Implementation of article 4 of the Convention**

115. Jamaica continues to maintain reservations about prohibiting "dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination or incitement to such acts [of violence]" pursuant to Article 4(a) of the Convention on the basis that such a prohibition could infringe the constitutional guarantee of freedom of expression.

116. Nonetheless, steps have been taken to address incitement to commit acts of violence, including racially motivated violence. Of note is the amendment to the Offences against the Person Act (inserting a new section 18A) which was made as a consequential amendment in the Criminal Justice (Suppression of Criminal Organizations) Act, 2014. This amendment is relevant in addressing the Committee's concerns. The provision states that:

18A.-(1) A person shall not produce, record, sell, import, perform in public, circulate or play a recording of, an audio, visual or audio-visual communication that (a) promotes the killing of or other serious acts of violence against any other person or category or group of persons; or (b) seeks to promote, encourage or facilitate the criminal activity of a criminal organization.

### **Absence of disaggregated data**

117. The Jamaican society operates on the basis of a common identity among all Jamaicans, irrespective of racial or ethnic origin. In keeping with this principle, socio-economic data is not disaggregated by race. Instead, it is generally disaggregated by sex and age.

### **Asylum seekers and refugees**

#### **Protection and general rights**

118. In addition to the rights and full legal protection that every person is entitled under the Constitution and laws of Jamaica, a refugee is given formal written recognition of refugee status which will entitle him/her to:

- Receive the same basic health services and basic primary education which the inhabitants of Jamaica receive from time to time;
- Seek employment; and
- Receive the travel document referred to below.

**Refugee documents or other identity cards**

119. Refugees and asylum seekers are currently issued with passports in keeping with the requirements of The Refugee Policy 2009, Part V Paragraph 17. Persons granted refugee status can apply for a UNHCR Convention Travel Document (non-machine readable), which is issued gratis.

120. In cases where persons were given temporary immigration residency status in Jamaica, this allows such persons a standard of living that would be above or commensurate with Refugee Status. In such cases, the persons' national passports would be endorsed with the relevant immigration status and visas. As such, these persons would not be required to obtain the Refugee Identity Document.

**Exemption from work permits**

121. Refugees and asylum seekers are entitled to seek employment, as stated in the Refugee Policy 2009, Part V Paragraph 16. The Ministry of Labour and Social Security was advised of the provisions of the Refugee Policy 2009 and asked to give consideration to the waiving of all work permit requirements for persons who have been granted Refugee Status. This process has not been completed.

**Screening of asylum seekers pending repatriation**

122. Refugees and asylum seekers are effectively screened to verify their individual protection needs prior to repatriation. This is done in conformance to the Refugee Policy 2009 Part II Paragraph 4, which provides for the Policy to be applied to persons applying for refugee status without discrimination as to race, gender, religion, nationality or political opinion. The Policy also provides that No person applying for refugee status may be removed from Jamaica until his/her application has been finally determined. According to the Refugee Policy, the refugee determination process will involve three phases: initial screening; Eligibility Committee and, where necessary, the Refugee Review Body.

123. Due note is taken of the concern emanating from reports that immigration officers failed to effectively screen Haitian Nationals who arrived in the State party in February 2013, prior to their repatriation. The basis of this concern, however, cannot be verified as reports exist at the Passport, Immigration and Citizenship Agency (PICA), to support a procedure which involved the interviewing, photographing and finger printing of Haitian nationals who arrived in large numbers. Of particular note is the arrival of Haitians in the aftermath of the 2010 earthquake, and the fact that the maximum security prison in Haiti was destroyed during that catastrophe. The result of this is that the prisoners escaped and were living among the other members of the society. As a security measure, in relation to that reality, steps were taken by the Government of Jamaica to employ varying screening methods to include interviewing, photographing and fingerprinting of all Haitian arrivals.

124. Additionally, the screening method employed by Jamaica through the completion of the Preliminary Determination Form and the Refugee Determination Form by asylum applicants, and a subsequent review of the case by an active Eligibility Committee, would allow appropriate screening of the protection needs of the applicants.

**Involvement of civil society**

125. As stated throughout the Report, there is no evidence in Jamaica of significant problems of racial discrimination and as such, civil society organisations tend to prioritise other pressing social issues. In relation to the promotion of ethnic harmony, however, there are non-governmental organisations, such as the Chinese Benevolent Society and the National Indian Council, that seek to foster same among Jamaicans of distinct racial and ethnic heritage through their cultural festivals and other activities, most of which are open to the general public.

**Ratification of other treaties (ILO)**

126. Since the ratification of ILO Convention No. 189 (2011) in 2016, Jamaica has been working assiduously to implement same through amending local legislation to ensure compliance with the Convention's provisions on the treatment of domestic workers.

127. As stated previously, the Government of Jamaica has no evidence of reports being made by workers generally, including domestic workers, of racial discrimination in Jamaica.

**Follow-up to Durban Declaration and Programme of Action**

128. In fulfilment of the implementation of the Durban Declaration and Programme of Action (DDPA), Jamaica and other CARICOM countries spearheaded the initiative for the adoption by the UN General Assembly of a resolution designating 25 March as an annual International Day of Remembrance of the Victims of Slavery and the Transatlantic Slave Trade. Jamaica, along with CARICOM countries, also led the initiative for the erection of a Permanent Memorial at the UN in acknowledgement of the tragedy and in consideration of the legacy of slavery and the transatlantic slave trade. These initiatives aimed to give effect to aspects of the Durban Declaration aimed at countering the legacy of slavery and contributing to the restoration of the dignity of the victims of slavery and the slave trade. At the national level, the Jamaica National Bicentenary Committee was established to mark the 200th anniversary of the abolition of the Trans-Atlantic Slave Trade.

129. Consistent with the Durban Declaration and Programme of Action, the Government of Jamaica remains committed to enforcing anti-discrimination provisions in Jamaica's legislative framework, and ensuring that legislation, policies and programmes do not directly or indirectly result in racial discrimination, or discrimination on the basis of ethnicity or national origin. The Government is also committed to implementing mechanisms, as necessary, to ensure that the fundamental human rights of all Jamaicans and residents in Jamaica are protected.

130. The aforementioned Culture in Education Programme and the National Cultural Policy (paragraphs 86 and 107) have also been developed in keeping with the principles of the DDPA.

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