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Summary record of the 2839th meeting

Held at the Palais Wilson, Geneva, on Thursday, 20 October 2011, at 10 a.m.

Chairperson: Ms. Majodina

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The meeting was called to order at 10 a.m.

Consideration of reports submitted by States parties under article 40 of the Covenant
(continued)

Third periodic report of Jamaica (continued) (CCPR/C/JAM/3; CCPR/C/JAM/Q/3; CCPR/C/JAM/Q/3/Add.1; HRI/CORE/1/Add.82)

1. *At the invitation of the Chairperson, the delegation of Jamaica took places at the Committee table.*
2. **The Chairperson** invited the delegation of Jamaica to continue its replies to the follow-up questions on the first part of the list of issues (CCPR/C/JAM/Q/3) raised by Committee members at the previous meeting.
3. **Mr. McCook** (Jamaica) said that remedies for violations of fundamental rights were generally sought before the Supreme Court in accordance with article 19, paragraph 1, of the Charter of Fundamental Rights and Freedoms. Article 19, paragraph 4, of the Charter provided that the Supreme Court could refuse to exercise its powers and refer the case to another court or authority if it considered that adequate means of redress were or had been made available to the person concerned under any other law.
4. He reaffirmed that Jamaica did not intend to re-accede to the Optional Protocol to the Covenant. It would provide detailed written information on the mandate and financial and human resources of the bodies in charge of monitoring human rights in different areas at a later date.
5. The Quarantine Act was not considered to cause harm to people living with HIV/AIDS in Jamaica. Above all, the Act aimed to prevent public health risks at the island's points of entry by boat or by plane. It had been suggested that the law on public health be amended so that HIV/AIDS would not viewed as a contagious disease.
6. There had been no cases of police harassment or lynching of lesbians, gays, bisexuals, transgender persons or sex workers, and there was no official policy discriminating against such persons, whose presence was becoming ever more visible in Jamaican society.
7. Through the Bureau of Women's Affairs, the Government was taking steps to encourage political parties to appoint more women as representatives. Following discussions held in March 2011 within the Human Resources Committee of the Cabinet and with the Prime Minister concerning the National Gender Policy, it had been decided to implement a quota system in the Senate, where members were appointed and not elected. Education, awareness-raising and consultation campaigns were under way so that political parties and civil society could understand and accept the quota system. Furthermore, non-governmental organizations (NGOs) had recently carried out research on the representation of women at high levels of decision-making.
8. The prohibition of gender discrimination in the Charter of Fundamental Rights and Freedoms was broader in scope than in the previous version of the Constitution, as it was not limited to acts of discrimination committed by Government bodies. It was possible to invoke the Charter of Fundamental Rights and Freedoms for gender equality issues in employment, promotion, and the termination of work contracts.
9. A sexual harassment policy was being drawn up and the Government also intended to adopt a law. Several human resources officials, other professionals employed by the Government and private institutions had done training or awareness-raising courses on sexual harassment.

10. The most recent statistics from the Ministry of Education revealed that the enrolment rate in primary school was higher for boys than for girls. Measures were being taken to remedy the situation; however, it should be noted that those figures were reversed in secondary schools.

11. Steps had been taken to train police officers and officials from State bodies on the rights of cohabitating same-sex couples, including couples who had been granted civil union status abroad. No measures had been put in place to deal with the issue of same-sex unions in Jamaica. The police regularly received training on the rights of citizens guaranteed by Jamaican law. The International Red Cross Committee also organized training courses on human rights for police and defence forces.

12. The Office of the Public Defender was continuing its investigation into the events that had taken place in west Kingston, in May 2010, during the state of emergency. An investigation was also being led by the Bureau of Special Investigations and the Independent Commission of Investigations (INDECOM). No deadline had been set for either investigation. Upon completion of the investigations, a report would be submitted to the Office of the Director of Public Prosecutions for consideration and a final decision on the complaints filed. It should also be noted that the coroner's inquest was still under way.

13. The investigation into the killings in 2009 was also still under way.

14. The investigations conducted by INDECOM since it had started its activities had resulted in criminal proceedings against 12 police officers. Their case was currently before the courts, which showed the independence of INDECOM.

15. Under common law there was a presumption of compatibility between the international instruments on human rights ratified by Jamaica and domestic law. It meant that all ambiguous terms found in the legislation or Constitution had to be interpreted in a manner that respected Jamaica's international obligations, on the basis that the Parliament could not have intended to frame laws that would contradict the State's international obligations. The principle of legality was closely related to the presumption of compatibility. The general terms found in the laws and regulations, including the Constitution, had to be interpreted in a manner consistent with the observance of fundamental human rights. The nature and scope of the rights set forth in domestic legislation could be influenced by customary international law or treaties that were not incorporated into domestic legislation.

16. He was unable to provide an example of a judgement referring to provisions of the Covenant or to the Committee's jurisprudence. However, he pointed out that in order to hand down a decision, the judge had to consider the prosecutor's comments which could include references to provisions of the Covenant or to the Committee's jurisprudence, and would be persuasive authority. That practice was used particularly for cases of human rights guaranteed by the Constitution, although the judge was not required to accept the prosecutor's comments.

17. No death sentence had been carried out in Jamaica since 1998. When the Governor-General of Jamaica granted pardons, on the advice of the Privy Council, the death sentence was commuted to life imprisonment. Following the decision handed down in 1994 by the Judicial Committee of the Privy Council in the case of *Pratt and Morgan v. Attorney General of Jamaica*, in which it was considered that the five-year time period between the issuing of the death penalty and the execution of the sentence constituted inhuman or degrading treatment, all death sentences were automatically commuted to life imprisonment once five years had elapsed.

18. With regard to corporal punishment and flogging in particular, the Jamaican Government had provided complete answers in its written replies to the list of issues.

19. The Public Defender was competent to investigate any action taken by a State body or agent in the exercise of their duties that he believed constituted or might constitute a violation of the rights of a person or organization guaranteed by the Constitution. The Public Defender could not, however, investigate action against which the complainant was lodging or had lodged an appeal before the national courts; similarly, he could not order or conduct civil or criminal proceedings. INDECOM was responsible for leading investigations or inspections concerning State bodies, investigating any allegations of violations of the rights of citizens by security forces, preserving the evidence and submitting a report to the competent authorities on action to be taken. INDECOM was required to provide the evidence to the Director of Public Prosecutions and to offer assistance when the Director decided to initiate proceedings involving a case it was investigating. The Director of Public Prosecutions took account of the investigations conducted by INDECOM or the Public Defender in deciding whether to initiate proceedings, but was not bound by them. Article 94 of the Constitution guaranteed the independence of the Director of Public Prosecutions and stipulated that it was not subject to the control or direction of any body.

20. The Charter of Fundamental Rights and Freedoms annulled the effect of the decision handed down in the case of *Pratt and Morgan v. Attorney General of Jamaica*. Article 13, paragraph 8 (a), of the Charter expressly provided that the execution of a death sentence imposed after the Charter had entered into force could not be considered as contrary to the Constitution by reason of the length of time between the passing of the sentence and the execution of the sentence. Paragraph 8 (b) of the same article provided that the application of the death sentence could not be considered as contrary to the Constitution by reason of the physical conditions under which the person was detained pending the execution of the sentence.

21. All persons sentenced to death had 18 months to file a complaint with an external organization, including a human rights body. Their case could subsequently be examined by the Governor-General under article 91 of the Constitution.

22. There was no law dealing specifically with torture. However, when taken together, various legislative provisions referring to specific offences clearly prohibited any act of torture. The question of signing the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment was under discussion.

23. **Sir Nigel Rodley** requested confirmation of the fact that article 13, paragraph 8, of the Charter of Fundamental Rights and Freedoms could not be applied retroactively and that the decision handed down in the case of *Pratt and Morgan v. Attorney General of Jamaica* would continue to apply to any person who had been sentenced to death before the entry into force of the Charter in April 2011. He enquired whether persons to whom the jurisprudence in the case of *Pratt and Morgan v. Attorney General of Jamaica* applied and whose penalty was commuted to life imprisonment after five years had elapsed had been removed from death row.

24. **Mr. Lallah** said that, according to the information available to the Committee, the Director of Public Prosecutions often took a great deal of time to initiate proceedings, particularly in cases involving police officers. He asked whether, in spite of the constitutional provision guaranteeing the complete independence of the Director of Public Prosecutions, it was possible for the courts to carry out a judicial review of that official's actions.

25. The Charter of Fundamental Rights and Freedoms did not prohibit gender discrimination, but rather discrimination "on the ground of being male or female". Its entry into force was without doubt too recent for the courts to have developed jurisprudence on the matter, but one might wonder how that provision would be interpreted regarding

persons of indeterminate sex and whether there was a risk that such persons would be excluded from the protection against discrimination set out in the Charter.

26. **The Chairperson** thanked the Committee members for their additional questions and invited them to move on to the second part of the list of issues.

27. **Ms. Waterval** said that she would address questions 14 to 18 of the list of issues. The State party indicated in paragraph 82 of its written replies that the use of corporal punishment was still legal but that it was limited to the family and to “specific levels of the education system”. It was necessary to know what those levels were. The delegation had indicated that corporal punishment was prohibited in State childcare facilities. She asked whether the prohibition also applied in private facilities. She also enquired whether the policy paper regarding the abolition of corporal punishment in schools mentioned in the State party’s written replies (para. 83) had the status of a law or whether it was simply a policy paper without any real legal significance, and what other measures the State party planned to adopt in order to abolish all forms of corporal punishment in all situations.

28. Statistics on the number of victims of ill-treatment by the police who had received compensation would be useful, as well as details regarding the measures adopted to guarantee that the police officers in question were suspended from their duties throughout the investigation. The very high rate of domestic violence in the State party was another cause for serious concern and she would welcome comments on measures adopted to remedy the situation, particularly to ensure that the relevant legislation was applied effectively. She invited the delegation to indicate whether it was true that the country now had only one shelter for victims of domestic violence and that the Government had committed itself to establishing others. Information on the measures taken to train and improve awareness among all judges and law enforcement officials on the issue of domestic violence would be helpful.

29. According to the information available to the Committee, refugees in the State party were not issued with identity documents or official documents attesting to their refugee status, which prevented them from exercising certain civil rights. It also appeared that there were no remedies available for rejected asylum seekers. She asked the delegation to indicate whether measures were being taken to remedy those problems.

30. **Mr. Salvioli** asked how many shelters for victims of trafficking existed in the country and how many people were currently being housed in them. Given the scale of the problem in the State party, it was surprising that only seven people had been arrested and tried for acts relating to trafficking from 2007 to 2010. It would be interesting to know whether the various training and awareness-raising programmes implemented in 2010 and aimed at the police force, customs and immigration services, judges and prosecutors had had any impact on the number of trafficking cases brought to court.

31. The situation described in the Amnesty International report on the state of emergency in Jamaica was extremely worrying. It mentioned other violations of enforced disappearances and extrajudicial executions, including the cases of Dale Anthony Davis and Andre Smith, arrested in May 2010; the former had not been seen again since his arrest and the latter had been found dead. He asked whether an investigation had been launched to shed light on those events and, in the affirmative whether anyone had been tried and convicted. He also enquired how the State party planned to follow up on the recommendation made by the Special Rapporteur on torture (A/HRC/16/52/Add.3), urging it to better protect persons deprived of liberty from torture and ill-treatment. He asked whether the State party planned to incorporate the Standard Minimum Rules for the Treatment of Prisoners, the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment or the Basic Principles for the Treatment of Prisoners, adopted by the United Nations in 1990, into its domestic law. It would also be useful to

know whether the legislation relating to the state of emergency included any provisions guaranteeing arrested persons the right to request that the lawfulness of their detention should be reviewed by a judicial authority.

32. Article 11 of the Covenant provided that no one should be imprisoned merely on the ground of inability to fulfil a contractual obligation. He wanted to be sure that imprisonment for debt, which was contrary to the article, was not allowed in the State party. He also asked whether there was an independent and effective body responsible for examining the legality of detention and, if so, whether the delegation could provide examples of cases in which arbitrary detention had been terminated as a result of the action of that body. It seemed that the judicial authorities did not always exercise due diligence when handling complaints of ill-treatment by detainees. It would be interesting to know the numbers of such complaints and how many had resulted in investigation, prosecution and conviction. As far as psychiatric facilities were concerned, he would welcome information about the mechanisms in place to ensure periodic review of the situation of detainees.

33. He would like to know what measures were taken by the State party to combat homophobia and promote the rights of homosexuals, bisexuals and transgender people in the media, particularly television. He would also like to know how the Maroons participated in political life and whether their participation was greater now than in the past.

34. **Mr. Thelin** said that he would focus on questions 23 to 26 and 29 of the list of issues. Concerning prison conditions, he asked whether the State party was considering making greater use of non-custodial measures, such as conditional release and electronic tagging to help reduce the rate of overcrowding, which was extremely high. The fact that juveniles and adults were not systematically held in separate detention facilities exposed minors to greater risks of violence and abuse. While efforts had been made to improve the situation, he wished to know how soon it would be possible to guarantee separate facilities in all circumstances. It would be useful to have statistics on the total number of minors currently held in detention in order to assess the real needs in terms of capacity. He noted with concern that the Child Care and Protection Act of 2004 allowed for the detention of minors who were considered “uncontrollable”. He sought clarification concerning the criteria and procedure under which the “uncontrollable” character of minors was established and concerning the guarantees provided by law to prevent abuse. With regard to the fire that had killed seven inmates in the Armadale Juvenile Correctional Centre (question 25), perhaps the delegation could explain what stage the proceedings had reached, including whether the police officers implicated in the inquiry had been charged and when they were expected to be tried. It was also important to know whether the families of victims had received compensation and, if so, what amount, or whether they would not receive compensation until after the end of the criminal proceedings. According to paragraph 137 of the written replies, the State party had implemented more than 60 per cent of the recommendations in the Keating report on the reform of children’s homes and places of safety. It would be interesting to know what was the scope of the other recommendations and whether the Government expected to be able to implement them by the end of 2012, as recommended in the Report.

35. In its reply to question 26 on the excessive delays in the administration of justice, the State party indicated, among other things, that the number of judges had been increased. It would be useful to know how many additional judges had been appointed and what was the current number of active judges vis-à-vis the backlog of cases, both civil and criminal. In the event of a refusal to prosecute by the Director of Public Prosecutions, could victims initiate civil or criminal proceedings themselves?

36. Regarding the legal aid system, it was important to be able to compare the number of lawyers registered with the Legal Aid Council — 300 according to paragraph 70 (d) of the State party’s report — with the number of applications for legal aid submitted.

According to some NGOs, it often happened that the defendant was not assisted by counsel, including in cases involving serious criminal offences. Finally, regarding the dissemination of information on the consideration of the State party's third periodic report, he asked to what extent and by what means the Committee's concluding observations would be disseminated to lawyers, judges, magistrates and prosecutors. He welcomed the steps that the State party had taken to involve NGOs in the preparation of the third periodic report and encouraged the promotion of their greater participation in the future.

37. **The Chairperson** thanked the Committee members for their questions and proposed that the meeting should be suspended so as to allow the Jamaican delegation to prepare its responses.

The meeting was suspended at 11.10 a.m. and resumed at 11.40 a.m.

38. **Mr. McCook** (Jamaica) said that the non-retroactivity of the law was a well-established principle of legal practice in Jamaica, which applied to amendments to the Constitution under the Charter of Fundamental Rights and Freedoms and their effects. On the basis of that principle, judgements rendered before the entry into force of the Charter could not be altered in accordance with its provisions. Inmates whose death sentences had been commuted to life imprisonment did not remain on death row; they served their sentences under the same conditions as other persons sentenced to life imprisonment. The Director of Public Prosecutions was fully independent in all matters relating to the institution and conduct of criminal proceedings, but it was the courts that ultimately decided how the law should be applied.

39. It was true that the Charter of Fundamental Rights and Freedoms — which replaced chapter III of the Constitution — did not explicitly ban discrimination based on “sex”, but enshrined the right not to be discriminated against “on the ground of being male or female”. He did not see how that posed a problem, or why the provision might give rise to conflicting interpretations of the State party's international obligations. He was somewhat surprised by Mr. Lallah's comments concerning possible legal action involving persons of indeterminate sex. In any event, the Charter had been adopted only recently, and thus there was not yet any relevant case law. The matter would be discussed further, but it could be assumed that the wording of the Charter was explicit enough to guarantee the protection of the persons in question.

40. **Ms. Turner** (Jamaica) said that in Jamaica there was no law governing the granting of refugee status and the protection of refugees. However, the authorities had made considerable efforts to strengthen the legal framework applicable to asylum and to adopt a national policy on the matter. In recent years, refugee status had been granted to foreigners arriving individually or collectively in the country. Rejected asylum seekers could lodge an appeal with a special mechanism. In terms of identity documents, as a member of the Caribbean Community (CARICOM), Jamaica issued travel documents to foreigners who had obtained refugee status. Those documents carried a registration number, the last name and place of birth of the holder, his or her country of origin and a recent photograph.

41. **Mr. McCook** (Jamaica) said that the Paper on Safe School Policy was intended to discourage the use of corporal punishment but that such punishment was still legal since the Paper had no legal force. A law banning corporal punishment had yet to be adopted, even though the aforementioned strategy represented an important step in that direction.

42. As for information on compensation awarded to individuals who had taken legal action against the State for ill-treatment by police officers, the delegation could provide the Committee with a compilation of all the complaints filed and how they had been followed up. Generally speaking, all officials under investigation were suspended from duty.

43. With regard to prison overcrowding and prison conditions, issues that Jamaica had had the opportunity to discuss with the Special Rapporteur on the question of torture and as part of the universal periodic review, it should be noted that the policy of building new prisons could not be implemented because of limited resources. Although it was unlikely to solve the problem of prison capacity, some steps had been taken to renovate a number of institutions. The Jamaican Government was also working to end the practice of detaining juvenile offenders in police cells. The new Metcalfe Street Remand Centre for Boys, with a capacity of 208 beds, and a detention centre for girls were now operational. Jamaica was also paying greater attention to the recommendations on juvenile justice made by other United Nations bodies dealing with human rights. For that reason it had taken steps to ensure that girls were not detained in the same prisons as boys, that minors were not held with adults and that prisoners awaiting trial were separated from convicted prisoners. Every effort would be made to implement the recommendations. Regarding the death of seven girls in the fire at the Armadale Juvenile Correctional Centre, the Government must ensure that the authorities had the necessary resources to discharge their duties. It would be unwise, as suggested by one Committee member, to require that such cases should be handled within a specified time frame. As to the amount of compensation awarded to victims' families, the relevant data would be provided to the Committee in due course, but he could already indicate that the first instalment of compensation had been paid by the State, which had immediately acknowledged its responsibility, regardless of the outcome of criminal proceedings under way. Jamaica had spared no effort in following up on the recommendations contained in the Keating report on the reform of children's homes and places of safety. However, it would find it difficult to achieve the objectives set before 2012 given the limited financial resources at its disposal.

44. In order to deal with the backlog of over 400,000 cases to be tried, the authorities ran a programme to recruit new judges. A number of measures, including technological ones, had been introduced to ensure greater efficiency in the handling of cases. A new division had been established within the Supreme Court to promote better access to justice. Important steps had been also taken to strengthen the powers of justices of the peace to deal with matters within their sphere of competence. With regard to legal aid, the Ministry of Justice, the Bar Association and other legal professionals had begun discussions on ways to increase the number of lawyers in the country.

45. Steps had been taken to incorporate the Covenant in training programmes for police officers and to promote the teaching of human rights in schools. NGOs were actively involved in raising public awareness of human rights, as were the media. On the subject of domestic violence, there was a Victim Support Unit with branch offices in all local authorities. Additional data on the number of persons who received support would be transmitted to the Committee at a later date. Lastly, the Maroons were full citizens, and there were no obstacles to their participation in Jamaica's political, economic and social life. If they were the target of discrimination, the authorities would immediately take the necessary action to stop it.

46. **Mr. Lallah** thanked the delegation for its replies and said that by imposing on the State the obligation to promote and respect human rights, and on all Jamaicans the duty to respect the fundamental rights of others — which was more unusual — the Charter of Fundamental Rights and Freedoms provided an efficient way of giving full effect to article 2 of the Covenant and to improving the protection of all rights in connection with the dignity of the person. He understood that it was too early to answer the question of how the courts interpreted the provisions of new chapter III of the Constitution in cases involving persons of indeterminate gender. He had asked the question because, according to some reports, those people had been the victims of discrimination. He also wanted to stress the need for States parties to ensure that minority groups were not considered by people as an easy target for insults and that appropriate steps were taken to safeguard their physical

integrity. Pursuant to the Covenant States parties should find the best means of protecting sexual minorities and of avoiding their marginalization. Lastly, he said that the delegation's replies to questions on the status of refugees in Jamaica were fully satisfactory.

47. **Mr. Flinterman** said he was pleased that the Government of Jamaica continued to accord priority to combating violence against women and girls, an issue which came under the scope of the Covenant (arts. 2, 3, 6, 7 and 26), insofar as such violence could be considered a form of discrimination. Noting the high number of reported rape cases, he expressed surprise that only half of them had been elucidated and asked what sentences had been imposed on the perpetrators. It would also be useful to know whether women who fell pregnant as a result of rape were entitled to have an abortion. In other words, was there an exception to the prohibition of abortion for medical reasons under Jamaican law? If that was not the case, perhaps the State party might take up the matter in Parliament. The delegation had indicated that people practising illegal abortions had been subject to criminal penalties. It would be interesting to know, in due course, what penalties had been imposed on them. The Committee had been informed that despite the prohibition against abortion, it was possible to pay for abortion in private clinics, which was somewhat worrying. Did the delegation have any comments to make in that connection?

48. **Mr. Thelin** asked whether Jamaica was considering taking alternative measures to deprivation of liberty to address the problem of prison overcrowding. Under the Child Care and Protection Act of 2004 it was possible to detain minors who were considered to be "uncontrollable", details of how the authorities interpreted that phrase would be welcome.

49. Concerning question 26 of the list of issues, the delegation had not indicated whether individuals were entitled to bring a private prosecution or, alternatively, a civil lawsuit. The delegation had also failed to comment on his remark concerning the dissemination of the Committee's concluding observations to the legal profession in order to encourage national courts to refer to the Covenant.

50. **Mr. Salvioli** said that not all his questions had been answered, particularly those on the number of persons prosecuted for ill-treatment or torture, and he hoped that the Committee would receive written information on the subject. He also asked whether it was true, as he had understood, that the decisions of the Director of Public Prosecutions could be challenged only before that authority. He also asked when the families of victims of the events at Armadale would be granted effective reparation and whether criminal charges had been brought for acts of violence against homosexuals, particularly acts committed by law enforcement officials. Lastly, he would like to know what the definition of torture was under Jamaican law.

51. **Mr. Neuman** thanked the delegation for its comprehensive replies, especially regarding the usefulness of the Charter of Fundamental Rights and Freedoms in combating gender-based discrimination based in the private sector. However, since on that matter the wording of the Charter was vague, it would be useful to draft a law clearly stating the relevant obligations of employers and rights of employees.

52. **Mr. McCook** (Jamaica), after noting that the questions and comments by Committee members would be conveyed to the Government, said that abortions were allowed if the life or safety of the mother was threatened, but that there was no provision for the termination of a pregnancy resulting from rape. With regard to alternative measures to deprivation of liberty, he had already mentioned the possibility of broadening the range of existing measures and of making use of the judicial institutions at a lower level, including justices of the peace. As for the dissemination of information relating to the Covenant among members of the legal profession, they were already showing a strong commitment to and interest in all means of ensuring a better defence for their clients. The

delegation would nevertheless take note of the Committee's recommendation on the subject.

53. There was no specific law on torture or definition of torture, although there were various laws describing acts which constituted torture. However, Jamaica was currently considering the possibility of acceding to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. The suggestion to draft a law against gender-based discrimination would be transmitted to the Government. Since the Charter had just been adopted, all related laws and regulations would require further consideration.

54. The Government would submit in writing additional information on the questions that it had been unable to answer during the dialogue with the Committee, in particular: data on convictions and imprisonment; the definition of "uncontrollable" children or, otherwise, the relevant case law; the status of the investigations mentioned; common law remedies; the possibility of appealing against the decision of the Director of Public Prosecutions not to bring legal action; events at the Armadale Correctional Centre; the number of complaints filed for homophobia.

55. **The Chairperson** invited the head of the Jamaican delegation to make his closing statement.

56. **Mr. McCook** (Jamaica) said that the delegation had been supported by a team coordinated by the Multilateral Organizations Department of the Ministry of Foreign Affairs and the International Department of the Office of the Attorney General, which had enabled it to answer the Committee's questions, sometimes in real time, in consultation with other agencies such as the Bureau of Women's Affairs. Some of the replies had been too detailed to be presented orally to the Committee, which was why they would be submitted in writing.

57. The Jamaican delegation had been surprised by the remarks of some members which seemed to imply that the composition of the delegation showed a lack of commitment to human rights by the Government. It was the third time in 2011, since the universal periodic review and the report of the Special Rapporteur on the question of torture, that the Permanent Mission of Jamaica was appearing before human rights bodies, and never before had it been insinuated that the absence of special experts from the country showed a lack of commitment. Jamaica, a small developing country subject to various constraints imposed by the agreement with the International Monetary Fund, which required it to make budget cuts, particularly for foreign travel, chose to make full use of its representations in the country, especially when they were specially accredited as was the case of Geneva. He was the Permanent Representative of Jamaica to all the specialized agencies of the United Nations in Geneva, including those dealing with human rights. He had an enthusiastic team which maintained constructive cooperation with the relevant Jamaican institutions. The Committee wanted answers from the Government of Jamaica, and the delegation was empowered to provide them on the Government's behalf.

58. Given the broad scope of the report, the replies had come from various institutions. In drafting the report, the delegation had been helped by the lead attorney of the Office of the Attorney General, the Ministry of Foreign Affairs and other institutions. Ideally, representatives of all those bodies should have been present, but that had been not possible due to budgetary constraints. The best solution had therefore been to establish a team in Kingston to help draft the report and the requisite replies. The delegation had tried to set up a video link to facilitate real-time consultations with experts in Kingston, without success. It had therefore found other ways of communicating with them, in order to get the specific information to supplement the replies prepared by the delegation in accordance with instructions received from the capital. It seemed that all intergovernmental institutions had to make savings and use existing resources as effectively as possible, for example by

making greater use of information technology and communication for meetings and consultations. He was confident that the Committee recognized the fact that the Jamaican Government was represented by a duly accredited delegation, which had established the best possible means to communicate with the capital and conduct a dialogue with the Committee.

59. **The Chairperson** thanked Mr. McCook for his closing statement, the Government of Jamaica for presenting its third periodic report and written replies to the list of issues, and the delegation for its presence and clear and informative oral replies. The Committee wished representatives from the capital to be present so that, in accordance with article 68 of its rules of procedure, it could fulfil its mandate, as defined in article 20 of the Covenant, and that the State party could benefit fully from its dialogue.

60. The Committee hoped that the debate that had just taken place would improve the lives of citizens of Jamaica and the situation of human rights there. He noted the positive developments that had taken place in the country, including the recent adoption of the Charter of Fundamental Rights and Freedoms which, nonetheless, contained provisions that were not compatible with the Covenant. The establishment of INDECOM was also a positive development in the fight against the excessive use of force by security forces, although it should have greater powers to effectively fulfil its mandate.

61. Many concerns had been also raised. It seemed that discrimination, whether based on social or economic status, sexual orientation, disability or HIV/AIDS was the cause of many human rights violations in Jamaica, for which not only political but also practical measures should be adopted. Extrajudicial killings and the absence of investigations into the killings allegedly carried out by law enforcement officials that strengthened the culture of impunity in the country, were equally matters of concern, as were the rights of the child, especially in places of detention. Finally, the Committee had taken note of the fact that Jamaica did not intend to ratify the Second Optional Protocol to the Covenant. The Committee requested the Government of Jamaica to reconsider its position on that issue and enforce the moratorium on the death penalty.

62. *The Jamaican delegation withdrew.*

The meeting rose at 12.50 p.m.