



**International Covenant on
Civil and Political Rights**

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Item 5 of the agenda

**Consideration of reports submitted by States parties
under article 40 of the Covenant**

**List of issues in relation to the fourth periodic report of
Jamaica**

Addendum

Replies of Jamaica to the list of issues*

[Date received: 30 September 2016]

* The present document is being issued without formal editing.

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Issue 1

Please indicate the timeframe and the progress made for the establishment of a National Human Rights Institution in accordance with the Paris Principles, with the necessary adequate financial and human resources.

1. Since the submission of Jamaica's report in March 2015, the Ministry of Justice undertook consultations relating to the governance structure of the proposed National Human Right Institution (NHRI) including its mandate, scope, duties, powers, funding, immunity and reporting obligations within the context of the Paris Principles. Approval has been given by the Cabinet for the establishment of the Institute, in principle. The Ministry of Justice is now finalising an additional Cabinet Submission related to the legislative changes required for formal establishment of the NHRI. These legislative changes seek to expand the role of the current Office of the Public Defender.

Issue 2

Please provide information about the existence or development of a permanent institutionalized mechanism or body to coordinate Government engagement with the international and regional human rights mechanisms aimed at implementing recommendations and carrying out reporting.

2. The Ministry of Foreign Affairs and Foreign Trade serves as the executive secretariat for an Inter-ministerial Committee aimed at facilitating report and follow-up on Jamaica's Human Rights obligations. The Ministry coordinates the data collection process, convenes and services the meetings of the Committee and oversees the completion of State Party reports. The Committee was originally established with the approval of the Cabinet to enhance compliance with reporting obligations pursuant to the Universal Periodic Review and the ICCPR. Its scope is, nonetheless, currently being expanded to include reporting and follow-up under all human rights treaties to which Jamaica is party.

3. Members include representatives from various ministries, including the Ministry of Justice, the Attorney General's Chambers, the Ministry of National Security, the Ministry of Culture, Gender, Entertainment and Sport, as well as a number of other Ministries and Agencies with responsibility for areas falling within the scope of human rights treaties. The aim of the Committee is to improve collaboration and coordination in data collection, and to improve the timeliness and quality of the State Party reports.

Issue 3

Further to the request of the Ministry of Justice to include human rights training, including the ICCPR, in the training schedule of the Continuing Legal Professional Development Training, please provide information about how this has impacted on the way in which the domestic courts have given effect to the Covenant in their considerations and judgements (State party report, para. 67).

4. Under Jamaica's judicial system, the provisions of international treaties must be incorporated into local law for them to have effect. Most of the rights envisioned by the ICCPR are protected in the Jamaican Constitution, the Charter of Fundamental Rights and Freedoms, and various pieces of domestic legislation. It is on the basis of these provisions in local law that the courts have continued to make judgements.

Issue 4

Given that Jamaica withdrew from the Optional Protocol to the Covenant and that it has stated that it is unable to re-accede, please indicate what measures have been taken to ensure that individuals who allege that their human rights under the Covenant have been violated, have access to an effective remedy (State party report, para. 70).

5. Individuals who allege that their rights have been violated under the Covenant have recourse to a number of institutions that they may apply for justice. While the Covenant cannot be directly invoked in domestic courts, most of the provisions are contained in the Jamaican Constitution, the Charter of Fundamental Rights and Freedoms, and various pieces of domestic legislation. Any allegations of violations of those rights contained in domestic legislation may, therefore, be adjudicated through the local courts.

6. Section II of the Jamaican Constitution provides the right for constitutional redress where those rights that are analogous to the rights also provided for in the Covenant are violated. Aggrieved individuals thus have recourse to the Supreme Court. Individuals also have a right to submit an appeal to the Court of Appeal if they reject the determination of the Supreme Court. The Judicial Committee of the Privy Council, which is Jamaica's highest Court, sits in London and hears appeals from the Court of Appeal.

7. Additionally, aggrieved individuals may pursue further remedy through the Organisation of American States by submitting petitions to the Inter-American Commission on Human Rights.

Issue 5

5.1 Please inform the Committee of the measures that have been put in place to promote the inclusion of persons with disabilities.

8. In keeping with the mandate of the Government to realise its goal of ensuring that "Jamaicans are empowered to achieve their fullest potential" (VISION 2030 Goal #1), the Ministry of Labour and Social Security has formulated a national strategy of providing an enabling environment for persons with disabilities through the Jamaica Council for Persons with Disabilities (JCPD).

9. To fulfill this mandate, the Disabilities Act was passed in the Parliament in October 2014 to provide a legislative framework for the protection of the rights of persons with disabilities in Jamaica.

5.2 Please provide information about the status of implementation of the Disabilities Act (2014) and the number of cases that the Jamaica Council for Persons with Disabilities has taken up to date.

10. Many changes are required at the infrastructural and institutional levels to facilitate the implementation of the Disabilities Act, and so the following activities are being pursued in response to the mandate of the Act:

- A new structure for the Jamaica Council for Persons with Disabilities (JCPD) to position the agency within the Ministry of Labour and Social Security as one of a body corporate. This will allow for the effective implementation and monitoring of the Disabilities Act. A draft structure for the JCPD is being reviewed for finalisation along with the implementation of phased staffing.

- The development of Codes of Practice to guide the public on appropriate ways of interacting with and accommodating persons with disabilities. Regulations are also being developed that will inter alia contain prescribed forms which are required for the effective operation of the legislation. Island-wide stakeholder’s consultations were held and the information to guide the drafting of the Codes and Regulations collated. The Ministry of Labour and Social Security is currently in the process of drafting the supporting documents to be included in the Regulations. In respect of the Codes of Practice, the Terms of Reference are being finalised to engage two consultants to facilitate the development of two Codes, namely, Employment and Education and Training. The World Bank will fund this activity.
 - The establishment of a Disabilities Rights Tribunal to adjudicate complaints of discrimination against persons with disabilities and other breaches of the Act. A draft structure is being reviewed for finalisation. The Ministry of Labour and Social Security has also been working with Jamaica’s regional and bilateral partners on improving disability legislation and enforcement.
 - The development of a three-year Communication Plan in response to the need for public awareness. This Plan has specially designed strategies to assist critical stakeholders and the general public in understanding disabilities and the Disabilities Act while providing information to persons with disabilities about their rights and responsibilities under the Act. Implementation of the Plan has commenced with the following activities:
 - Creation of a JCPD Accessibility Brochure;
 - Production of a Fact Sheet and Brochure on the Disabilities Act (2014);
 - Preparation for a Mini Media Campaign about the Act, which is set to begin by the end of October 2016; and
 - Preparation of an easy-to-read version of the Act.
 - Creation of an Inter-Ministerial Partnership to provide accessible technologies to enhance the learning of children who are blind and those who have intellectual disabilities.
 - Conducting of two (2) major surveys on persons with disabilities as part of the IDB/GOJ Technical Cooperation Project “Support to Improving the Lives of Persons with Disabilities”. These are the Knowledge Attitudes Behaviour and Practices (KABP) Survey to determine society’s understanding of attitudes, behaviour and practices towards persons with disabilities and a Socio-Economic Survey of Persons with Disabilities which confirmed the vulnerability of persons with disabilities and the reality of poverty within the group. Both surveys have been shared in various ways with the disability sector partners and will be shared more widely over time with the wider public and private sector stakeholders.
11. A commitment has been made by the Government of Jamaica and the disability sector to ensure the following for the period 2016-17:
- An accessibility audit of all the offices of the Ministry of Labour & Social Security island-wide to be completed on a phased basis. This would become the best practice for other Ministries to follow.
 - Increased awareness and sensitisation of Ministers, Ministries, Agencies and Departments and the public on the Disabilities Act and related matters.
 - Review of the current National Apprenticeship programme/strategy to ensure the inclusion of persons with disabilities.

- Draft of a coordinated social support services strategy for review and consideration for implementation.

Cases of Discrimination

12. The JCPD has not yet been established as a body corporate. This means that at present, the JCPD does not have the legal authority to formally investigate cases of discrimination and there is no formal reporting of discrimination.

Issue 6

6.1 Please indicate steps to amend the laws to prohibit discrimination on the basis of sex, sexual orientation and gender identity and decriminalize sexual relations between consenting adults of the same sex.

13. There is no indication of an intention by the Parliament of Jamaica to amend the laws, given that there is no legal discrimination against persons on the basis of their sexual orientation. Furthermore, the Charter of Fundamental Rights and Freedoms guarantees certain fundamental rights and freedoms to “all” persons by virtue of their inherent dignity as human beings. In keeping with this, the Government of Jamaica does not tolerate violence and discrimination against any groups or persons.

6.2 Please provide information about the specific outcome of the Diversity Policy developed by the Jamaica Constabulary Force (JCF) (State Party report, paras. 73-79) and what steps will be taken to prevent acts of violence into reported hate crimes against the LGBT population.

14. In 2011, the Jamaica Constabulary Force 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 five years. Since the introduction of the policy, all members of the JCF have been sufficiently sensitised on the elements of the Policy. Training in the various aspects of the Diversity Policy forms part of the curriculum for new JCF recruits.

15. All members of the JCF are fully aware of their obligation to treat all individuals fairly and equitably, irrespective of their sexual orientation, religion, gender identity, ethnicity, class, colour, creed or political ideology. 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.

16. Overall, the end result is that the Diversity Policy has positively transformed the attitude and behaviour of members of the JCF in dealing with diverse groupings such as the LGBT population.

17. On the matter of preventing violence against the LGBT population, the JCF through the efforts of the Community Safety and Security Branch, will continue to take its message of tolerance and respect for diversity to the various communities across the country.

6.3 Please indicate what has been done to put an end to incitement to violence and mob violence against the LGBT population. In line with the Committee's previous concluding observation, please indicate the steps taken to investigate reported cases of harassment, discrimination or violence against persons on the basis of the person's sexual orientation and gender identity in the fields of health, education, employment and housing (CCPR/C/JAM/CO/3, para. 8).

18. All reports of violence perpetrated against all persons, including the LGBT population, are given equal treatment by the JCF. Acts of violence are criminal offences under the Offences against the Persons Act, and are investigated expeditiously and vigorously, with the aim of bringing the perpetrators to justice.

19. On the matter of putting an end to mob violence against the LGBT population, the JCF through the efforts of the Community Safety and Security Branch, continues to advocate tolerance and respect for diversity in the various communities across the country.

Issue 7

7.1 Please provide information about the implementation of the National Workplace Policy on HIV/AIDS and the progress made on the National Integrated Strategic Plan for Sexual Health and HIV, which inter alia aims to reduce stigma and discrimination.

20. As a part of the implementation of the National Workplace Policy on HIV and AIDS, the Ministry of Labour and Social Security is now building the capacity of key officers in legal literacy within various departments on how to interpret and apply the Policy.

21. As it relates to the National Integrated Strategic Plan on Sexual and Reproductive Health and HIV 2015-2019 (NISP), this was finalised in 2015. Currently the NISP is being costed with a view to seeking and mobilising funds for its full implementation. As part of its Enabling Environment and Human Rights strategic priority, the National integrated response views the promotion and protection of human rights as integral to the creation of a supportive environment for all Jamaicans to access SRH information, goods and services in a discrimination-free environment. The planned Strategic Outcome is: strengthened policy and legal framework for sexual and reproductive health and HIV prevention, treatment and care services.

22. On the issue of stigma and discrimination, the four-year plan (NISP) of multi sector public and civil society implementing partners will pursue interventions targeting individuals, communities, institutions and seeking to establish an enabling policy and legal framework that addresses stigma effectively. Additionally, the interventions will address key drivers of HIV-related stigma including lack of knowledge, fear, cultural norms and practice, and increase accountability to and enforcement of human rights standards.

7.2 Please provide information about steps to pass the Occupational Health and Safety Act to prevent discrimination against HIV-positive persons in the workplace (State party report, para. 81).

23. Further progress has been made on the Occupational Health and Safety (OSH) legislation and it is expected that in short order, it will be forwarded for the consideration of the Legislation Committee of Cabinet. The Committee will advise Cabinet as to whether it recommends the Bill for tabling in Parliament. The OSH Bill also contains provisions which prohibit discrimination against a worker on the basis of real or perceived HIV positive status. It is also intended for the National Workplace Policy on HIV and AIDS to inform regulations to be appended to the OSH legislation. As part of the proposed OSH legislation, sanctions will be implemented for entities that fail to recognise the regulations.

24. With respect to addressing HIV and AIDS as a workplace issue, the Ministry of Labour and Social Security in conjunction with the Ministry of Health, has been able to source funding for a legal literacy consultancy. The objective of the consultancy is to educate relevant officers especially within the Ministry, on how to assist persons in accessing redress within the existing legal framework.

7.3 Please provide information about the impact of the National HIV-related Discrimination Reporting and Redress System (NHDRRS) including data on the number of cases successfully handled by the NHDRRS (State party report, para. 82).

25. The National HIV-Related Discrimination Reporting and Redress System (NHDRRS) has been operational since 2009. Redress through the System can range from sensitisation, referral/counselling, to legal action based on the complainants' expectation. Educational sessions when requested by complainants can be done in the communities in which they live or their workplaces, and general sensitisation is conducted in workplaces and communities to mitigate stigma and discrimination.

26. Of the complaints lodged to the NHDRRS in 2014-15, 56% contained issues of Breach of Confidentiality of private health information, causing inter alia harassment, verbal abuse and shaming. The Jamaican Network of Seropositives (JN+), as custodians of the reporting system, continues to pursue the implementation of the mechanism with public and civil society partnerships. To extend the reach and achieve the scope in numbers of cases, additional Reporting officers have been assigned the South East & Southern, Western and North East regional health areas and capacity among civil society partners will be built in motivational interviewing and paralegal studies. Additionally, the NHDRRS is a principal partner in a collaboration of Caribbean Vulnerable Communities Coalition (CVC), the Jamaica AIDS Support for Life (JASL) and the Jamaica Forum for Lesbians, All-Sexuals and Gays (JFLAG) to establish a Civil Society Discrimination Observatory to record and monitor not only HIV-related discrimination, but all types of stigma and discrimination in Jamaica, providing better monitoring and follow-up of cases to provide more accurate national data on discrimination and assist with policy advocacy and monitoring.

27. Strengthened community systems in reporting and redress will further improve the referral and redress framework and mechanisms in Jamaica. A Redress Directory was finalised in 2015, and has been developed to provide a comprehensive list of partners that can assist with providing redress particularly in HIV-related cases. To further strengthen and sustain the national focus and gain greater authority to push for redress, the NHDRRS Advisory Group has been subsumed as a semi-autonomous Sub-Committee of the National Enabling Environment and Human Rights Technical Working Group.

28. A 2015 review of the reported cases compiled by the Jamaican Network of Seropositives shows that reports to the NHDRRS have fallen precipitously from a high of fifty (50) reported cases in 2005 to nine (9) reported cases in 2015. The Jamaican Network of Seropositives (JN+) as custodians of the reporting system have reported that lower demand for the system among PLHIV and affected populations and audiences is on account of loss of international funding support for the NHDRRS to hire additional reporting field officers. In 2016, the Ministry of Health provided funding support through USAID funds to reduce stigma and discrimination for JN+ to hire additional field officers.

29. The System was also instrumental in the revision of a nursing school's entry requirement which included the results of health-related blood tests, including an HIV test. The intervention resulted in the school's removal of HIV testing from their entry requirements.

30. Hiring additional staffing for the NHDRRS will build upon the achievement to secure formal arrangement for third party agency case management and redress. In 2015, JN+ secured formal arrangements between the NHDRRS and various regulatory and investigation bodies to utilise the services of these organisations to review cases, investigate and address instances of HIV-related discrimination. The Agreements articulated investigation and case management roles with the Pay and Conditions of Employment (PCEB) Unit of the Ministry of Labour and Social Security; The Investigation and Enforcement Branch of the Ministry of Health; The Dispute Resolution Foundation; and the Office of Public Defender within the Ministry of Justice. These agencies were incorporated into the NHDRRS Advisory Group.

31. Between 2005 and 2015 a total of two-hundred and sixty-two cases were collected by the NHDRRS. Forty-eight (48) are recorded as receiving some degree of redress. Data to evidence status of cases is unverified by the NHDRRS Advisory Group. However, from a review commissioned by the National Family Planning Board in 2015, JN+ reported that 14 (of 51) cases remain active from 2008; 16 (of 26) from 2009; 7 (of 13) from 2010; 9 (of 19) from 2011; 11 (of 28) cases remain active from 2012 to 2014. However, of the nine cases reported and documented in 2015, all have been resolved; eight of these achieved partial redress. The improvement in 2015 may be on account of established formal investigation and case management protocols among the aforementioned regulatory bodies and agencies.

Issue 8

8.1 Please provide information about the results of efforts to change entrenched stereotypical attitudes with regard to traditional gender roles and to increase the number of women in decision-making positions in the public and private sectors through the implementation of new practical initiatives.

32. The practice of gender stereotyping continues to be addressed by the Government of Jamaica (GoJ) through efforts by the Ministry of Education, Youth & Information. The Ministry's New Standards Curriculum and Health and Family Life Education (HFLE) Programmes, as well as public education programmes are conducted in partnership with other stakeholders including civil society. The Ministry's curriculum and HFLE programmes are student-centred and facilitate a non-discriminatory learning environment and life-skills based approach to address negative gender stereotyping.

33. The National Policy for Gender Equality (NPGE) was approved by Cabinet in 2011. The NPGE promotes a vision of "a society in which women and men have equal access to socially valued goods and are able to contribute to national development, towards the achievement of gender equality". The GoJ through its National Gender Machinery, the Bureau of Gender Affairs (BGA) continues to mainstream gender through the implementation of the NPGE. It provides the framework for a more comprehensive and coordinated approach to fully integrate gender in every area of national life and is geared towards achieving equal treatment for women and men through equal visibility, equality of opportunity, equal access to all resources, and equal participation in all areas of public and private life.

34. The BGA in collaboration with the media regulatory body, the Broadcasting Commission of Jamaica (BCJ), has always been a part of a comprehensive and integrated national monitoring strategy to address the growing concerns around portrayal of stereotypes especially those related to violence in general, and sexual violence, particularly, in the media. Since 2013, the BCJ has introduced measures aimed at reducing discrimination and promoting a balanced and non-stereotyped portrayal of women and girls. A new broadcast policy has been drafted and will take into account vulnerable audiences, as well as address the negative portrayal of women and girls. Findings from

stakeholder consultations with the Jamaica Broadcasting Commission continue to highlight the need for renewed and rigorous enforcement and monitoring of media output and programming standards. It is anticipated that with the BGA's involvement in this monitoring strategy, it will encourage more support from media personnel in addressing the issue of sexual and gender-based violence. Stakeholder consultations are ongoing through the BCJ thematic fora "Media Regulation in the Information Age" to address gaps and challenges in the portrayal of more gender-sensitive and gender-aware audio-visual media content.

Leadership & Decision-making

35. In May 2014, a Private Member's Motion was approved for a Joint Select Committee to consider and make recommendations to address women's under-representation in Parliament, local authorities and other positions of leadership. The Committee is expected to identify specific practical measures to correct the systematic gender inequalities which result in women's under-representation in Parliament and local authorities, in the organs of political parties and on public boards; including through the use of "temporary special measures" that would work effectively in the Jamaican political culture and Westminster System, given the objectives of gender equality in political leadership and decision making.

36. The composition of the Jamaican Parliament reflects increased participation of women in decision-making at the highest level where females represent 19 per cent of the Lower House, 18 per cent of the Cabinet and four female ministers were named inclusive of Jamaica's first female Minister of Foreign Affairs and Foreign Trade. In addition, 40 per cent of the Ministries have female Permanent Secretaries; the first female political ombudsman was appointed in 2015 and the first female Public Defender appointed in 2016.

37. The GoJ's appointment of members to fifty-two (52) Cabinet Approved State Boards indicates that there is an increase in the number of women in decision-making and leadership positions. In 2012, while men accounted for 69 per cent of Cabinet Approved Government Boards, women accounted for 31 per cent. In 2016, men accounted for 63 per cent and women 37 per cent. This reflects a 6 percent increase in the participation of women with men's participation decreasing by 6 percent in 2016.

Schools Education Programme

38. The GoJ, through the Bureau of Gender Affairs, targets male and female students at the secondary level through the Schools Education Programme (SEP). The SEP facilitates sensitisation and awareness-raising on a range of gender-specific issues to serve as a 'springboard' to subsequent participation in leadership and decision-making processes.

8.2 Please provide information on any temporary special measures that the State party has implemented in order to give effect to the provisions of the Covenant (State party report, para. 108).

39. No such temporary special measures have yet been put in place.

Issue 9

9.1 Please provide information about the status of the comprehensive legislation to prevent and address sexual harassment.

40. The primary objective of the Draft Sexual Harassment Bill is to provide a framework for addressing the issues of sexual harassment in Jamaica by identifying what constitutes sexual harassment, the persons by and against whom it may be committed, and

the actions that may be taken against the offenders. The Sexual Harassment Bill was tabled in December 2015 and has been made a priority for the legislative schedule to be debated in Parliament in 2016.

9.2 Further to the efforts to combatting gender-based violence and gender discrimination, please provide information about the impact of such policies (State party report, paras. 131-137).

41. The Ministry of National Security coordinates the Jamaica Crime Observatory - Integrated Crime & Violence Information System (JCO-ICVIS) which was developed in 2011, to facilitate the provision of data at the community level. The JCO-ICVIS captures data on violent crimes such as sexual assaults, murders, shootings, robberies, and fatal shootings. Data is disaggregated by sex, and domestic violence related murders are also captured. This has enabled stakeholders to develop a broader understanding of the prevalence of gender-based violence across the country.

42. Under the UNiTE to End Violence against Women campaign, public service announcements featuring local celebrities have helped to raise levels of awareness among the general public around the impact of domestic violence. The HeForShe campaign launched in Jamaica in July 2016 will enhance efforts to address domestic violence by targeting men and boys to become agents of change in the fight for gender equality. The campaign involves strategic partnerships with Ministries, Departments and Agencies, civil society organisations and faith-based organisations.

9.3 Please provide information about the level of training of the staff in the Victim Support Unit, the Police, and the existence of adequate shelters for victims of gender-based violence, including domestic violence.

43. Under the Domestic, Sexual and Gender-based Violence Project, training is provided to police personnel and front-line responders to effectively recognise, deal with and respond to victims of rape, sexual harassment and domestic violence. In 2000, a Domestic Violence Intervention Training Programme was implemented in Jamaica. The Programme began with the development of a training manual and also involved a “train the trainers” programme. The selected trainers were then mandated to conduct training programmes for the police and other frontline responders to community problems of domestic, sexual and gender-based violence and abuse, on an ongoing basis.

44. Jamaica, with the largest police force in the English-speaking Caribbean, had as a target, the training of over 7,000 frontline workers. Notwithstanding the challenges faced due to the lack of adequate funding, the training programme continues the efforts to deliver on the stated mandate.

45. Within the Victim Support Division, the Overcomers in Action Programme is a group counselling programme that provides healing and restoration to females who have been abused sexually, physically and/ or emotionally. This group intervention is open to all females who have been abused. It is conducted by professional counsellors who are trained in group therapy. Crisis intervention services and training are also provided as well as advocacy (referrals) on behalf of victims.

46. Plans are in train to employ psychologists in the Victim Support Division to offer specialised services such as psychoanalysis to determine the type of gender-based violence and psychiatric care needed to provide support to victims.

Shelters

47. The Government of Jamaica works along with a number of non-governmental organisations to provide assistance and support to women in abusive relationships. Currently, a non-governmental organisation, Woman Inc., assists with providing shelter for victims of gender-based violence. The Government is committed to the establishment of a minimum of three regional emergency shelters within the next two to three years. Other alternatives will also be explored, such as transitional housing facilities, safe homes, emergency safe spaces, and confidential private accommodation. Inter-ministerial discussions have also commenced for the establishment of a National Shelter Committee to create a robust shelter strategy for victims and survivors of gender-based and other forms of violence.

9.4 Please provide information about investigations and prosecutions into cases of violent and deliberate killing of women (femicide/feminicide) and clarify whether such acts are criminalized in the penal code.

48. In 2015, 116 (or 9.6%) of murder cases involved the killing of women and girls. For the period January 1, 2016 to June 9, 2016, 46 (or 8.9%) of the recorded murders involved females. Of the 116 female murders in 2015, 77 (or 66%) were cleared up by the police and the offenders brought to justice. While these are criminal acts committed against women, there is no evidence of deliberate femicide in Jamaica's context. The Jamaican penal code does not provide for femicide as a distinct crime.

Issue 10

10.1 Please provide information about the result of the legislation review in relation to sexual and reproductive rights, maternal mortality and abortion as well as the progress of such a review, if it exists. What steps have been taken to articulate a policy for safe reproductive healthcare services?

49. Following a Cabinet directive, significant steps have been taken to revise the National HIV/AIDS Policy and develop a comprehensive Sexual and Reproductive Health Policy. Using evidence from a strong island-wide (13 Parishes) stakeholder consultations has strengthened the revision process. A revised National HIV/AIDS Policy is anticipated to further evolve the policy and legal framework for sexual and reproductive health and HIV prevention, treatment and care services and is reflected as one of the main outputs of the Integrated Sexual and Reproductive Health and HIV National Integrated Strategic Plan 2014-2019 (NISP).

50. In 2005, the Abortion Policy Review Advisory Group was established. Among its mandates was the articulation of a policy for the provision of safe reproductive health services in Jamaica with special emphasis on safe abortions. The Abortion Policy Review Advisory Group submitted its final report in 2007 for consideration. After the change in Administration in 2007, the government established a Joint-select Committee of Parliament to review submissions on the Report. A final decision is pending on the recommendations of the Report.

10.2 Has the State party considered reviewing and amending, as necessary, the country's abortion laws?

51. While recognising that permitting abortions is not required for States to be considered as conforming to the Covenant, consideration has been given to reviewing the country's abortion laws. In 2005, at the request of the then Minister of Health, the Abortion Policy Review Advisory Group was established to realise two specific objectives:

- To articulate a policy for the provision of safe reproductive health services in Jamaica with special emphasis on safe abortions.
- To draft recommended amendments to the existing Offences against the Person Act in support of termination of pregnancy for medical and humanitarian reasons, for e.g., statutory rape.

52. As noted in 10.1 above, a final decision is pending on the recommendations of the Report of the Abortion Policy Review Advisory Group.

10.3 Please indicate what steps have been taken to ensure that reproductive health services are available and accessible to all women and girls as per previous concluding observations (CCPR/C/JAM/CO/3, para. 14).

53. The Programme for the Reduction of Maternal and Child Mortality (PROMAC), launched by the Ministry of Health in 2013, is one of the steps taken to improve access of all women and girls to reproductive health services. Through public and civil society collaboration and partnership, improved access by women and girls to reproductive health services is articulated in the objectives of the PROMAC as listed below:

- To reduce the incidence of neonatal deaths due to lack of access to high dependency care;
- To reduce the incidence of maternal deaths due to lack of access to emergency obstetric care;
- To improve the quality of management of high risk pregnancies at both tertiary and primary care levels;
- To improve the population's health seeking behaviour regarding maternal and child health;
- To enhance public awareness and understanding of health care processes and patients' rights and;
- To strengthen the institutional capacity of the Ministry of Health and Regional Health Authorities.

54. PROMAC forms part of a more robust suite of special measures and key national initiatives that have been undertaken in Jamaica. These are outlined below:

- Sectoral plans were developed for health, education, and poverty reduction, among other areas,
- A joint select committee was convened in 2014 to review and make recommendations for the amendment to the Sexual Offences Act. A submission was made regarding immunity for health/social workers in relation to providing access to reproductive health services for minors, as well as revising the age of consent for medical services.
- The National Family Planning Board, with funding from UN Women undertook a 12-month pilot project to improve awareness of HIV and sexual reproductive health of adolescent girls and young women through empowerment and the reduction of gender inequalities.
- For the 2015-2016 period, a Gender Empowerment Pilot Project was implemented by UN Women and the National Family Planning Board, to inspire hope and provide tools to young women and their male partners to assist them in making positive decisions regarding their sexual and reproductive health and avoid repeat pregnancies.

- Launch of the Sexual Reproductive Health Unit at the Victoria Jubilee Hospital in 2008 with an adolescent reproductive health clinic to address the care of pregnant adolescents.
 - National Strategic Action Plan to Eliminate Gender Based Violence (NSAP-EGBV) (2013). This plan is being revised to include current statistics.
55. The establishment of civil society organisations such as:
- Jamaica Network of Rural Women Producers - Provides an opportunity for rural women producers to network. They have also organised training in sexual and reproductive health, addressing HIV and violence against women (VAW).
 - Quality of Citizenship Jamaica (QCJ) - Founded in January 2013, it empowers, educates and advocates for lesbian, bisexual women and transgender persons. QCJ does research on issues including health and well-being for the community it serves and works on issues of autonomy, sexual and reproductive health, sexual and physical violence.
56. Three (3) agencies associated with the gender movement in Jamaica, Woman Inc., WMW Jamaica (formerly Women's Media Watch) and Eve for Life includes sensitisation among their service offerings to improve access of all women and girls to reproductive health services. Additionally, the Women's Centre of Jamaica continues to provide support to teenage mothers. Incidentally, Eve for Life targets one of the vulnerable populations of women, those living with HIV and survivors of violence against women. They work with girls mainly, as young as 6 years old, although the target is females 13 – 24 years of age.

Issue 11

11.1 Please provide information about the mandate and work, including any conclusions or recommendations, of the National Commission of Inquiry, which started its work in 2014, aimed at investigating the circumstances surrounding the State of Emergency of May 2010 related to the incidents in West Kingston/Tivoli Gardens.

57. After Cabinet received the Public Defender's Interim Report, it accepted his recommendation that there be a Commission of Enquiry into the events in Western Kingston of May 2010. The Commission was mandated to, *inter alia*, determine whether atrocities were committed by members of the security forces in their quest to capture Tivoli Gardens strongman, Christopher "Dudus" Coke, who was wanted by the US government; (ii) whether, and under what circumstances, state officials and law enforcement officers came under gunfire attacks during May 2010 in incidents connected to the attempts by law enforcement officers of Jamaica to arrest Coke and (iii) whether individuals in the Tivoli Gardens Community were especially armed to repel any law enforcement effort to capture him.

58. The Commission served as a forum for aggrieved individuals to recount their experiences to the nation. The Enquiry also provided a platform for demonstrating the accountability of the security forces. A third outcome of the Enquiry is that it was a mechanism for trying to resolve grievances against the State and contributing to the delivery of justice in Jamaica.

59. In its report, submitted to the Governor-General in early June 2016, the Commission made a number of recommendations, among which are the following:

- The Government should apologise to aggrieved residents and examine compensation issues.

- Criminal investigations should be opened in a number of fatal shootings during the security forces operations in West Kingston as instances of extra-judicial killings and police excesses were discovered.

60. At the same time, the Commission ruled on the possibility that Coke had been tipped off about his possible arrest in advance giving him time to fortify his enclave and ruling out the likelihood of a soft detention. It noted that there was also time for supporters of Coke to mobilise their own forces against the legitimate security forces, adding that such fortification of a residential community in a Commonwealth State is unprecedented.

61. The Commission also remarked on the alarming nature of the deteriorating security situation in West Kingston prior to the police operation, adding that it required urgent counter measures given that the rule of law and the security of the State were under serious threat. Additionally, the Commission expressed concern about the death of members of the security forces during the operations and other attacks on security personnel and police units and infrastructure.

62. In response to the findings of the Commission, the Jamaica Defence Force and the Jamaica Constabulary Force have undertaken to review the conduct of their members during the operations. In fact, the JCF pledged to set up an Independent Administrative Review Panel to examine the conduct of each of the officers named and is also in the process of seeking donor aid to fund a comprehensive review and redrafting of its Human Rights, Use of Force and Firearms Policies.

63. The entire report and its recommendations are currently being considered by a sub-committee of Cabinet. To date, a decision has been taken for the Government to offer an apology to the people of West Kingston in keeping with the recommendations of the Commission. A compensation committee is also to be established in short order.

11.2 Please indicate any steps taken to dismantle the ‘garrison’ structures with a view to improving the security situation.

64. In keeping with its philosophy of Community Based Policing, the JCF continues to promote police-community partnerships to address crime and violence in ‘garrison’ communities. Since 2014, the JCF has undertaken island-wide implementation of Proximity Policing both as a philosophy and an operational strategy, aimed at having the police embedded in these volatile communities and thus improving their response to citizens’ needs.

65. The policy has also seen the placement of police posts in these troubled communities; dedicated foot patrols and static presence; and the deployment of mobile patrols in small defined geographical space or ‘hot spots’ which puts the patrol in easy reach of citizens who may require the services of the police. Proximity policing also acts as deterrent to offenders and signals a commitment by the police to protect vulnerable members of the community.

66. The report of the West Kingston Commission of Enquiry has recommended dismantling of garrisons, a consideration which is being reviewed by an Ad Hoc Committee of the Cabinet.

Issue 12

12.1 Please also provide information about the level of resources allocated to, and the mandate of, the Independent Commission of Investigations (INDECOM) set up with a view to carrying out independent and effective investigations into alleged cases of extrajudicial killings and assaults by law enforcement personnel.

67. INDECOM was established in 2010, with a mandate to investigate actions by agents of the state, including the police, Jamaica Defence Force soldiers, and correctional officers, which result in the death, abuse of rights, or injury to persons. The Commission has a budget of approximately J\$300 million, which is mostly consumed by salaries and operational expenses.

12.2 Please provide information about the outcome of its work.

68. INDECOM has played an invaluable role in reducing cases of extrajudicial killings and police excesses. In 2015, 98 police killings were recorded. This represents a 16-year low and is 15 percent less than the 129 recorded in 2014, and 42 per cent less than the 258 recorded in 2013.

12.3 Please provide information about the status of the review by the Joint Select Committee of Parliament in 2015 of the Independent Commission of Investigations Act.

69. Arising from the report of the Joint Select Committee, a submission has been made to Cabinet with recommendations to amend the Independent Commission of Investigations Act. The amendment will seek to establish a non-executive oversight board to help INDECOM manage its corporate affairs. The Committee agreed, however, that the oversight body should not interfere with the daily operations of INDECOM.

Issue 13

13.1 Please provide information about the results of the measures taken to improve the treatment of persons deprived of liberty, in particular steps taken to lower overcrowding in places of detention.

70. Acts of torture are forbidden by law and if reported or detected, are investigated with a view to laying criminal or departmental charges against members of the Jamaica Constabulary Force, in particular.

71. To reduce over-crowding in police lock-ups, the JCF is making a strong effort to place offenders promptly before the courts and where applicable, bail is offered or recommended.

72. The Department of Correctional Services (DCS) has intensified the Reclassification initiative as one of its strategies to enhance the rehabilitation process and reduce overcrowding in the two (2) maximum security facilities. Accordingly, a number of inmates are being reclassified and transferred from higher security correctional centres to lower security centres. In 2015, a total of Eight Hundred and Twenty-Four (824) inmates were reclassified.

73. Further, the Government is in the process of expanding the low and medium security correctional facilities as another strategy to reduce overcrowding. Accordingly, a new block to house Three Hundred and Fifty (350) inmates was constructed at Tamarind Farm Adult Correctional Centre. This will create additional housing for reclassified inmates.

13.2 Please provide information about the outcome of the review of the detention system carried out by the Sub-committee which has been led by the Ministry of National Security and Justice (State party report, para. 161).

74. Releasing its report in April 2015, the Subcommittee recommended that mandatory bail be granted to people detained for several offences, including possession of up to half-a-pound of marijuana. The Subcommittee also proposed that a system of cautions be introduced, as well as greater use of non-custodial sentencing options. In order to address the recommendations, the Minister of Justice appointed a committee to review same.

13.3 Please provide information about the implementation of the measures outlined in the Administration Policy for Persons Deprived of Liberty.

75. As at August 11, 2016, the incarcerated population stood at Three Thousand Four Hundred and Fifteen (3,415) adult males, One Hundred and Forty (140) adult females, One Hundred and Seventy-four (174) boys and Forty One (41) girls.

Below is information on the implementation of various areas of the Policy:

Suicide and Self-Harm

76. Since March 2013, Correctional Officers and civilian staff working with inmates and children within the institutions have been benefitting from training in the management of suicide/self-harm prevention. Upon admission, inmates and children are interviewed using the suicide/self-harm tool in keeping with the Standard Operational Procedures as it relates to inmates/children Self Harm and Suicide Management/Prevention as outlined in the Staff Handbook.

77. Since the implementation of the Administration Policy for Persons Deprived of their Liberty, the DCS has established a Suicide/Self Harm Monitoring Facility at the Rio Cobre Juvenile Correctional Centre which became operational in January 2016. The facility accommodates boys on correctional orders who manifest suicidal tendencies and are deemed to be at risk of suicide/self-harm.

Unfit to Plead

78. The DCS has embarked on a collaboration programme to assist the mentally ill/unfit to plead inmates some of whom have been languishing in the institutions for many years. As at August 11, 2016 the number of unfit to plead inmates stood at One Hundred and Eight (108). The DCS, in collaboration with the Legal Aid Council, is in the process of having the unfit to plead cases reopened and placed before the Court. The DCS also submits on a monthly basis the list of unfit to plead inmates who remain in custody.

Procedures Concerning Special Categories of Persons Deprived of Their Liberty

Children in Conflict with the Law

79. The DCS continues to promote the dignity and worth of the children in its care in keeping with Article 40 of the UN Convention on the Rights of the Child. Children on remand are separated from convicted children; as well as males from females. Since 2014, the DCS ceased housing children in adult facilities and remains committed to maintaining this practice.

Children on Correctional Orders

80. Upon admission all information relevant to each child is recorded. Parents/guardians are notified. Children are risk assessed to determine their particular needs. Medical and psychological assessments are done; and a case management system developed for each child inclusive of a treatment plan for rehabilitation. All children are engaged in a menu of academic/vocational programmes, life skills training as well as recreational activities all geared towards equipping each child with the requisite skills and attitudes to become productive law abiding citizens.

81. South Camp Juvenile Correctional and Remand Centre for girls, in particular, has a diverse programme of rehabilitation activities to include yoga and performing arts. Emphasis is placed on psycho-social interventions especially for children who are victims of sexual abuse, abandonment and other traumatic experiences. Pregnant girls are exposed to prenatal and postnatal treatment, and their babies are given special care.

Infirm and Disabled Inmates Deprived of Liberty

82. Infirm inmates and those with disabilities are placed within the medical areas of the major adult institutions. Specially trained Correctional Officers and Medical Orderlies supervise this category of inmates. There are approximately One Hundred (100) Medical Orderlies, some of whom have been trained as physician assistants at the University of the West Indies, Mona Campus.

Attorney's Visit to Persons Deprived of Liberty

83. The DCS makes provision for Attorneys-at-Law to visit their clients in view but out of earshot of the Correctional Officers.

Infrastructure Expansion to Improve the Conditions of those Deprived of Liberty

84. A new block to house Three Hundred and Four inmates (304) is being constructed at one (1) of the medium security facilities for men. The facility is near completion and will house medium risk inmates in an environment more conducive for rehabilitation.

85. Further, construction and retrofitting works are being carried out at the South Camp Facility to allow for the relocation of the inmates and staff from Fort Augusta Adult Correctional Centre for women to a separate part of the South Camp Facility.

13.4 Please also provide further information about the use of alternative non-custodial sentences used to alleviate the problem of overcrowding in prisons (State party report, para. 172)

86. Concerted efforts are being made by the Probation Department within the Department of Correctional Services (DCS) to recommend to the Courts, community based orders, as a sentencing option for offenders. Hence, reducing the number of offenders deprived of liberty.

87. Below are statistics on Non-Custodial Orders issued between January and December 2015:

<i>Order</i>	<i>Number</i>
Probation Order	1272
Supervision Order	36
Community Service Order	563
Suspended Sentence with Supervision	290

<i>Order</i>	<i>Number</i>
Parole	101
Licence	4
Aftercare Statutory Supervision	2
Voluntary Supervision	107
Total	2375

Issue 14

14.1 Please indicate the number of cases successfully brought before the Courts under anti-torture provisions in domestic law such as those within the Constitutional framework, and steps taken to define torture as a separate offence in the criminal legislation to comply with article 7 of the Covenant.

88. There is no legislation or common law provision in Jamaica that governs torture as a separate or distinct offence. There are however provisions under the Offences against the Person Act for the prosecution of offences such as assault, occasioning bodily harm, wounding with intent, shooting with intent, unlawful wounding, inflicting grievous bodily harm, and causing grievous bodily harm with intent.

14.2 Please also provide information about any results stemming from the implementation of the Memorandum of Understanding (MOU) between the Office of the Public Defender and the Jamaica Constabulary Force which sets out a framework to reduce some of the delays of constitutional breaches by members of the Jamaica Constabulary Force (JCF).

89. At present, there is no formal Memorandum of Understanding (MOU) between the Office of the Public Defender and the JCF. However, on September 12, 2014, by way of a letter to the Public Defender from the Commissioner of Police, an arrangement was put in place whereby liaison officers were appointed at the various Area Headquarters within the JCF, to whom the officers within the Office of the Public Defender could direct their queries. This arrangement remains in place currently.

90. The Director of Investigations at the Office of the Public Defender (OPD) has reported significant improvement in communication between the OPD and the JCF due to the liaison officers as well as improved responsiveness on the part of the JCF to queries and requests made by the ODP. The OPD is reporting the current situation to be notably different from what existed a few years ago, which was plagued with numerous delays.

Issue 15

15.1 Please provide information about the number of persons currently on death row as well as details of their sentences.

91. As at 13 June 2016, there was only one (1) inmate on death row. However, the inmate has been on death row for approximately five (5) years and as such, it is expected that his sentence will be automatically commuted to life imprisonment, consistent with the ruling in the Pratt and Morgan case (1994). The effect of this case is that individuals who have spent more than five years on death row cannot be executed.

15.2 Please respond to reports that the conditions of those on death row remain inhumane.

92. While Jamaica admittedly has a challenge with overcrowded and outdated prison facilities, efforts are underway to continually improve the conditions under which all inmates are kept.

15.3 Please provide details on any procedures for commuting sentences from death row to life terms for persons already sentenced. Please also provide information about any steps taken to ratify the Second Optional Protocol to the Covenant.

93. In the Pratt and Morgan case referred to in 15.1 above, the Privy Council ruled that in any case in which execution takes place more than five years after sentence, there will be strong grounds for believing that the delay is such as to constitute “inhuman or degrading treatment” and therefore unconstitutional. The effect of this case is that individuals who have spent more than five years on death row generally have their sentences commuted automatically.

94. As it relates to the Second Optional Protocol to the Covenant, Jamaica is not considering ratification at this time.

Issue 16**16.1 Please provide information about the results of the work of the National Rapporteur on Human Trafficking since its establishment in March 2015.**

95. The Office of the National Rapporteur on Trafficking in Persons (ONRTIP) currently has a staff complement of two (2): the National Rapporteur and the Human Trafficking Officer. On January 04, 2016, the ONRTIP engaged the services of a Human Trafficking Officer who assists the National Rapporteur with information gathering and research initiatives, and analysis, among other tasks.

96. The ONRTIP, despite its limited resources has embarked on a number of activities geared at developing a better understanding of the sphere of activity surrounding the issue of trafficking in persons in Jamaica. These activities range from attending human trafficking-driven raids/operations to meeting with various stakeholders in the fight against trafficking in persons and training sessions.

97. The ONRTIP also conducted a number of interviews with key government stakeholders in the fight against trafficking in persons, such as the Jamaica Constabulary Force, Child Development Agency, and the Passport and Immigration Agency. The purpose of such interviews was to gain an understanding of the different roles and functions of such entities as it relates to anti-trafficking in persons initiatives as well as the challenges being faced in this regard, with a view to make recommendations for improvement and greater effectiveness.

98. The Office also prepared its first annual report. This report focused primarily on a survey of the state of affairs with respect to human trafficking and current efforts being made to tackle it for the period January 1, 2015 –December 31, 2015. The report also reviewed local research and their findings in relation to the scale of human trafficking in Jamaica and made recommendations to bolster Jamaica’s efforts to combat trafficking in persons.

16.2 Please indicate the number of persons that have been prosecuted for trafficking of persons under the Trafficking in Persons (Prevention, Suppression and Punishment) Act (2007).

99. For the period April 2015 – March 2016, thirty (30) TIP-related investigations were launched in Jamaica. Since the enactment of the Trafficking in Persons (Prevention, Suppression and Punishment) Act in 2007, four (4) human traffickers have been convicted, the latest two being in June 2016. Three (3) other human-trafficking cases, involving five accused persons, are currently before the Home Circuit Court. In 2015, the government prosecuted nine (9) trafficking cases against 14 alleged traffickers.

100. In total, fourteen (14) persons have been prosecuted under the Act since 2007.

16.3 Please provide information on how victims of trafficking who may be in need of international protection are provided with an opportunity to seek asylum and enjoy the corresponding rights and services.

101. Victims of trafficking are not wont to pursue asylum. Residency requests can, however, be accommodated under the Trafficking In Persons (Prevention, Suppression and Punishment) Act 2007, which provides for an immigration regime that allows non-national victims to be granted authorisation to stay in Jamaica for a period of time. A Standard Operating Procedure for the Granting of Temporary Immigration Status to Trafficking in Persons Victims has been developed to facilitate a seamless immigration process for victims. The Standard Operating Procedure is part of a Victim Protection Protocol, which has established guidelines for the protection of both national and non-national victims of trafficking.

Issue 17

17.1 Please provide information about the impact of the efforts made to implement the Government's 'justice reform agenda' that aims at addressing the reported case backlog, the reform of the justice system (including its resource constraints) as well as the enhancement of access to an effective legal remedy (State party report, paras. 173-178).

102. A number of justice reform measures have been undertaken by the Ministry of Justice in recent times. These include the amendment to the Evidence legislation, Jury Act, enactment of Committal Proceedings, Criminal Justice Administration Act, Criminal Justice Plea Negotiations Act, etc. Reform of the justice system, including efforts to reduce case backlog, is ongoing, and is given specialised attention by the Justice Reform Implementation Unit of the Ministry of Justice. A statistician has been employed in the Courts to collect, quantify and analyse the data from the Courts and to prepare an accurate data capture mechanism to measure the distinction between the current caseload, and those cases that have been before the Courts for longer than is reasonable. He will also ensure that regular and accurate reports on Court statistics are provided.

103. The removal of certain offences from the remit of the Court through the amendment to the Dangerous Drugs Act, has seen a 72% reduction in the number of new marijuana offences from 8,284 in 2014 to 2,285 in 2015. Additionally, the amendment to the Criminal Records (Rehabilitation of Offenders) Act saw a total of 71 offenders being qualified to have their offences automatically expunged.

17.2 To what extent have the projects and pilot programmes and provision of pro-bono legal services had a positive effect on the enhancement of speedy and fair trials? Please provide information on steps to amend the Legal Aid Act.

104. The Legal Aid Clinic has taken on a number of highly publicised homicide cases, where public sentiment against the defendants has been high. This has helped to enhance access of these individuals to a fair trial, especially as lawyers assigned to such cases must have at a minimum, ten years seniority. As the demands for legal representation are great, the provision of legal aid and *pro bono* services has helped to make justice more accessible, especially to persons from poor backgrounds, and more persons are guaranteed a fair trial. Additionally, the Government has amended the tariffs and fees applicable to legal aid attorneys. This is expected to impact the willingness of attorneys to offer their services to the Legal Aid Clinic.

105. The Government of Jamaica is in the process of reviewing the Legal Aid Act to provide for the assignment of legal aid attorneys to all categories of defendants. Currently, assistance is not provided to persons charged with money laundering and drug trafficking offences. The Amended Act will seek to remedy this. The relevant Department of the Ministry of Justice is in the process of resubmitting the proposed amendments for the review of the current Minister, in order to ensure that the proposed amendments align with the policy direction of the new political administration.

Issue 18

Please provide information about the number of inquests made by the Coroner's Court in addressing issues of excessive use of force by law enforcement personnel and specify the number of prosecutions carried out by the Director of Public Prosecutions concerning extrajudicial killings since the previous consideration by the Committee in 2011.

106. The Court's sole special coroner is generally handling 300-400 cases at any given time. Nonetheless, the disposal rate of the Coroner's Court by way of public inquest is approximately thirty cases per year. Despite the sharp fall in extrajudicial killings mentioned above, the number of cases to be addressed has exceeded the capacity of the Coroner's Court to ensure timely processing.

107. The number of fatalities in 2015 is 15 per cent less than the 129 police killings recorded in 2014 and 42 per cent less than the 258 recorded in 2013. As at end (August) 2015, there were just under 100 officers before the courts on various charges.

Issue 19

19.1 Further to the current review and revision of the Child Care and Protection Act (CCPA) (State party report, para. 182), please provide information about the timeframe for its amendment, in particular its paragraph 24, which would remove the possibility of incarcerating a child on the basis of beyond parental control.

The proposal for the amendment of the Child Care and Protection Act (CCPA) is currently under review. The next step is to make a submission to Cabinet for approval of the amendments for enactment. It is anticipated that the amendments to the CCPA will be completed during the 2016/17 fiscal period, which would include the amendments to Section 24 that would remove the possibility of a child being incarcerated for being beyond parental control.

19.2 Please provide information about the number of persons that have been issued correctional orders under CCPA paragraph 24 over the past two years.

108. The number of children receiving Correctional Orders under the CCPA paragraph 24 which refers to Uncontrollable Behaviour has been significantly reduced. Currently, only three (3) children are serving such order, one (1) at South Camp Juvenile Correctional and Remand Centre (SCJCRC) for girls and two (2) at Rio Cobre Juvenile Correctional Centre (RCJCC) for boys. A total of six (6) children were placed on Correctional Orders for Uncontrollable Behaviour over the past two (2) years.

Issue 20

20.1 Please provide information about steps that have been introduced to remove minors from police lock-ups and to provide alternative arrangements to detention in line with the Covenant.

109. In general, children are not kept in police lock-ups except in extreme cases, and only as a last resort, for the minimum period necessary. In such instances and as approved or directed by the Child Development Agency (CDA), children are kept exclusively at designated police facilities consistent with its Child Interaction Policy and Procedures (CIPP) which was developed in November 2015.

110. Information communicated by the Department of Correctional Services (DCS) reveals that all the children who were previously being housed at Adult Correctional and Remand Centres within the DCS have been transferred to Correctional/Remand Centres specifically designated for children.

111. Additionally, the Courts have significantly reduced the numbers of Correctional Orders that are given to children who come in conflict with the law. In previous years, a number of children were given Correctional Orders, mostly for uncontrollable behaviour. However, as mentioned under Paragraph 19, there has been a decrease in the number of such orders, which has significantly reduced the juvenile population.

112. The Child Development Agency continues to work with the Jamaica Constabulary Force in overseeing children held in lockups, examining the conditions under which they are being held and taking steps to ensure that provisions of detention as outlined in the CCPA are being adhered to. Where a child who is deemed as being in need of care and protection is found to be held at the police station, the CDA is generally contacted by the police to assist with placement of that child in a child care facility. Also, if the CDA Officers identify such a child on their visits to the police stations, arrangements are promptly made for his/her removal to a child care facility.

20.2 Please provide disaggregated data on the number of children detained in police lockups.

113. As at June 12, 2016, there were nine (9) children in the custody of the police island-wide. All nine children were male. The data shows the following:

114. Voluntary Supervision A breakdown of the children in custody by age shows:

- Two (2) 17-year olds;
- Two (2) 16-year olds;
- Four (4) 15-year olds; and
- One (1) 14-year old.

20.3 Please provide information about the status of the Child Diversion Policy and its implementation.

115. The Child Diversion Policy was published in February 2015 and adopted in May of that same year. The development of the Policy is part of the overall justice reformation project, and its aim is to provide an alternate means of addressing issues relating to children between the ages of 12-17, who by their actions, have to come before the formal criminal justice system. The goal is to increase the use of diversionary mechanisms that protect the rights of children consistent with international legal instruments and protocols for the treatment, rehabilitation and reintegration of child offenders, and the prevention of reoffending. A Child Diversion Bill is being drafted in furtherance of the Policy. This Bill seeks to create the legislative framework for diverting children found to be in conflict with the law and provides for diversion options. It further seeks to amend several existing pieces of legislation such as the Child Care and Protection Act, and the Corrections Act in order to align the provisions contained therein referencing children with the child diversion measures.

116. The Bill is still in the drafting stage; but in the interim, steps are being taken to effectively carry out the terms of the Policy and its implementation. The EU has provided financing assistance to support the implementation of the Policy, and pursuant to that, there are certain indicator objectives to be met in order to satisfy the funding criteria and access the related funds.

Issue 21

21.1 Please provide information about the framework for implementation of the recommendations of the Keating Report on reform of children's homes and places of safety which have not yet been implemented but have been earmarked for future implementation (State party report, para. 179).

117. The Government has made strides in addressing all relevant recommendations advanced in the Keating Report. The Child Development Agency is currently implementing Phase II of III of its child case management system which is designed to bring well-needed automation of the child protection sector. This system will allow for electronic interfacing with other stakeholders operating in the child protection sector and is aimed at drastically improving the decision-making outcomes for children and will enhance capacity to measure outcomes.

118. The Ministry of Education, Youth and Information with the support of the Child Development Agency will be carrying out an extensive review of the residential child care facilities. This review is directed at the overall improvement of the child care residential sector for children in need of care and protection. It will identify areas for modernisation and determine the type of support that is needed for the residential child protection sector to be in a better position to improve the outcomes for a well-looked-after child.

21.2 Please also provide information on the steps taken to compensate all the families of the victims of the fire at the Armadale Juvenile Correctional Centre. In this respect, please provide details as to the number of cases for which the Government has accepted liability (State party report, para. 186).

119. The Government has indicated formally that it has accepted liability for all the former wards who were housed in the Dormitory that caught fire in May 2009. All the deceased wards were in that Dormitory, and so by extension, the Government has accepted liability for their demise.

120. The processing of payments has commenced, with the most recent disbursement made to one (1) of the survivors (a former ward) in April 2016. The process of compensation is ongoing and is being treated with priority. The Government remains in constant dialogue with the Attorneys of the victims' families/survivors to arrive at amicable compensation settlements.

121. The deceased victims are to be compensated through the Personal Representatives of their estates, while the surviving victims are to be compensated directly.

Issue 22

Please specify the impact of the safe school policy on the promotion of non-violent forms of discipline as alternatives to corporal punishment (State party report, para. 141). What are the steps taken to prohibit corporal punishment of minors in educational institutions and family settings?

122. The Safe School Policy is currently under review. Six (6) regional consultations were conducted and it was recommended that the revised policy include the removal of corporal punishment from all public schools. Currently, there is a national standards curriculum training being conducted with over 12, 000 teachers. A part of the strategy in this area is to expose the teachers to alternatives to corporal punishment. A full document was also developed and issued to schools as it relates to alternatives to corporal punishment. Additionally, a number of public education initiatives have been conducted on corporal punishment geared towards parents, guardians and teachers.

123. The Ministry has also developed The School Security and Safety Policy Guidelines – these are a collection of standards and guidelines introduced to the public school system in 2008 with the stated objective of developing and engendering “a culture of security and safety in the leadership and general population of all schools”.

124. In March 2015, 109 Deans of Discipline attended and participated in a special training over a two-week period which was done in partnership with the Jamaica Constabulary Force. Among the areas featured in part one of the training were, safe encounter or defensive tactics, statement writing, report writing, basic investigative techniques and review of the roles and responsibilities of the School Resource Officer (SRO).

Issue 23

Please provide information about the steps taken to improve national implementation of the Access to Information Act, including on training of access officers and national awareness-raising efforts.

125. The Government of Jamaica has taken several steps to improve implementation of the Access to Information Act. Chief among these has been sensitisation for the public and training for the relevant public officials. Activities included:

126. Access to Information Sensitisation Workshop for High School Students, which was conducted at several high schools across the country;

127. Sensitisation sessions for graduate teacher trainees;

128. Promotion of the International Right to Know Day/Week through expos in public centres, and through the print and other media;

129. Training of relevant information officers through workshops and observership programmes.

130. Additionally, throughout the Jamaican Government Service, new recruits and existing staff are periodically sensitised about how to implement the Act.

Issue 24

24.1 Please provide information about the status of the efforts to regulate civil society organizations, including human rights NGOs, as well as framework governing their financial reporting.

131. In 2013, a motion was moved in Parliament for the regulation of civil society organisations and lobby groups. The matter was later submitted to the Internal and External Review Committee of the House of Representatives for its consideration. To inform its deliberations on the matter, the Committee heard presentations from seven (7) civil society organisations. The Committee's report has not been finalised, however, given delays caused by the change in the political administration in March 2016.

132. Non-profit organisations, including NGOs, have previously been granted tax exemptions; however, given the recent process of tax reform in Jamaica influenced by an IMF programme, the Ministry of Finance and the Public Service streamlined its policy for granting exemptions. A very clearly defined process (detailed in 24.2 below) was established for eligible charities to continue to secure exemptions.

133. The Charities Act establishes an Authority that will consider applications for charitable status and monitor charities. Effective December 24, 2013, the Department of Cooperatives and Friendly Societies (DCFS) was designated as this Authority. In keeping with their financial reporting obligations, registered charities must file annual returns and audited financial statements with the Authority.

24.2 Please also indicate what the practice has been regarding the implementation of the Charity Act, in particular in relation to the registration of human rights NGOs whose focus is to undertake advocacy work.

134. The process of registering charities began in January 2014. Non-profit organisations now have to register under the Act in order to be liable for waivers and tax relief under the following as per Schedule 3: the Customs Act, the General Consumption Act, the Income Tax Act, the Property Tax Act, the Stamp Duty Act and the Transfer Tax Act. Registration is carried out through the Department of Co-operatives and Friendly Societies.

135. Charities are also required to submit their articles of incorporation, constitution or rules, depending on the type of society, as well as their financial statements. Newly registered charities must submit audited financial statements within a year of operating as a registered charity, while existing ones are expected to submit their statements, along with the registration form and other documents, and their financial records for the previous year.

24.3 Please indicate if investigations have taken place due to incitement to threats, harassment and attacks against human rights defenders.

136. Checks made with the various investigative formations within the Jamaica Constabulary Force show that no cases of threats, harassment and attacks against human rights defenders are currently under active investigation. In any event, such attacks are considered offences against the person and once reported or detected, the matter will be thoroughly investigated and the offender prosecuted.

Issue 25

25.1 **Please provide information on whether domestic legislation for the protection of refugees has been enacted, and detail the number of registered refugees in Jamaica.**

137. The Government of Jamaica, in keeping with its commitment to ensure Jamaica's adherence to its obligations under the 1951 Convention Relating to the status of Refugees and the 1967 Protocol, developed a Refugee Policy in 2009. The Policy makes provision for the treatment of persons applying for refugee status to be considered without discrimination as to race, religion, nationality, political opinion or gender. It also makes provision for persons to be treated in a manner consistent with internationally recognised human rights standards. Additionally, the policy includes a condition stipulating that no person applying for refugee status may be removed from Jamaica until their application has been finally determined, except for persons to whom the exclusion clauses of the Convention apply.

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

- a) Receive the same basic health services and basic primary education which the inhabitants of Jamaica receive from time to time;
- b) Seek employment; and
- c) Receive the travel document referred to in Paragraph 5.2. of the Refugee Policy 2009 under Protection and General Rights.

139. The Policy is currently being amended to strengthen its impact. At the time of seeking approval for the amended policy, approval for the issuance of drafting instructions for the development of the relevant legislation will also be sought.

140. The Passport, Immigration and Citizenship Agency (PICA) reported that over the past three years, a total of thirty three (33) persons have been granted refugee status. Of that total, at least ten (10) have either been resettled to a third country or returned home.

25.2 **Please inform the Committee on the measures taken with regards to prevent statelessness by amending discretionary provisions of the Jamaican Nationality Act, and reducing the costs associated with naturalization procedures, so as to become accessible to refugees in Jamaica who meet the "length of stay" requirement in line with Committee's general comment No. 17.**

141. The potential harm associated with the discretionary provision of the National Act has not been elucidated and articulated to the Ministry of National Security to the extent that would trigger either a policy change and/or legislation amendment on the matter.

142. On the part of the Ministry of National Security, there is the concern that joining the process of Refugee Status acquisition with naturalization will create an impetus that increases the number of refugee applications. That is, if it is felt that refugee status is a direct pathway to becoming a citizen by naturalization, then it is an incentive that will encourage an increase in refugee applications even when such claims are non-existent. This could overwhelm Jamaica's capacity to process applications for refugee status.

25.3 Please inform the Committee concerning the access of unaccompanied minors to the refugee status determination procedure.

143. Unaccompanied minors are not eligible for refugee status in Jamaica, and in accordance with the Refugee Policy (2009), such minors would be referred to the Child Development Agency for supervision and care pending repatriation to their home country or countries.

Issue 26

Please provide information about legislative and other steps taken to remedy discrimination and address inequalities faced against minorities such as Maroons and Rastafarians.

144. The Government of Jamaica has taken several steps to prevent or remedy perceived discrimination against minority groups such as the Maroons and Rastafarian communities. The Jamaican Constitution provides that there shall be no discrimination on the basis of race, sex, religion, etc. While there is no specific legislation prohibiting discrimination against any indigenous or religious groups, the provisions of the constitution are applicable to all Jamaican citizens and residents.

145. In 2014, the Government of Jamaica amended the Dangerous Drugs Act where possession of less than two ounces of marijuana was decriminalised. Additionally, special provisions were made for the Rastafarian community whereby adherents to the Rastafarian faith will also be permitted to smoke marijuana for sacramental purposes in locations registered as places of Rastafarian worship. Persons 18 years or older who are adherents to the Rastafarian faith, or Rastafarian organisations, may apply for authorisation to cultivate the plant for religious purposes, as a sacrament. The amendments also allow other special privileges to Rastafarians. The Rastafarian community was actively involved in discussions leading to the amendment of the Act.

146. The Government of Jamaica has sought to accommodate concerns raised by the Rastafarian community from time to time. Concerns were recently raised, for example, about land in Pinnacle, St. Catherine, deemed to be ancestral lands, but slated for development by private owners. The Government has committed to acquiring and developing at least six (6) lots from the property for the establishment of a Rastafarian heritage site and national monument. Through the Ministry of Culture, Gender, Entertainment and Sport, the Government of Jamaica also lends support to many events for the Rastafarian community, including visits of high-level officials, among others. In this context, protocolar and other logistical assistance was rendered to the community during the visit to Jamaica by Prince Ermias Sahle-Selassie, grandson of the late Emperor Haile Selassie, in late April of this year.

147. In respect of the Maroons, autonomy granted to Maroon communities under the British colonial government has been respected by the Jamaican Government since independence in 1962. The Government of Jamaica has supported the maroon community in celebrating their heritage and identity through dedicating funds for assisting with Maroon celebrations.

Issue 27

- 27.1 Please provide information on arrangements made to disseminate the Covenant, the text of the third periodic report, the concluding observations, so as to increase awareness among the judiciary, legal and administrative authorities, as well as law enforcement officials, lawyers and academics.**

148. The Government of Jamaica will continue its efforts at ensuring that the Convention and other documentation are available to the relevant stakeholders. The Ministry of Foreign Affairs and Foreign Trade routinely disseminates the concluding recommendations or observations from treaty bodies to relevant ministries, departments and agencies, including the Ministries of Justice and National Security, for onward dissemination to their constituent agencies, including their law enforcement and judicial arms.

- 27.2 Please also provide more information on the involvement of civil society and non-governmental organizations in the preparation process of the fourth report (CCPR/C/JAM/CO/3, para. 26).**

149. Jamaica's Fourth Periodic Report was prepared within the context of the UPR/ICCPR Steering Committee, a multi-sectoral body involving several ministries, departments and agencies, as well as representatives of civil society organisations.
