



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

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**Committee on the Elimination of Discrimination
against Women
Thirty-sixth session**

Summary record of the 745th meeting (Chamber B)

Held at Headquarters, New York, on Friday, 11 August 2006, at 10 a.m.

Chairperson: Ms. Belmihoub-Zerdani

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In the absence of Ms. Manalo, Ms. Belmihoub-Zerdani, Vice-Chairperson, took the Chair.

The meeting was called to order at 10.05 a.m.

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

Fifth periodic report of Jamaica
(CEDAW/C/JAM/5; CEDAW/C/JAM/Q/5/ and Add.1)

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

2. **Ms. Bailey** (Jamaica) said that the Government's commitment to the enhancement and protection of human rights was reflected in the fact that a special human rights unit had been established within the Ministry of Justice in 2001. With regard to the Convention, Jamaica was expected to accede to the Optional Protocol in the short term.

3. She described gender equality and women's rights initiatives that had emerged through the Government's cooperation with women's organizations, NGOs, faith-based organizations, civil society and the opposition party. Although the issue of violence against women, including human trafficking and sexual abuse, had been addressed through new legislation and public education campaigns, reported cases of violations had continued to provide impetus for decisive action. Dialogue among stakeholders had centred on legislative lobbying and review, public education, and sexual and reproductive health and rights. Increased attention to issues confronting women and children was due in no small measure to the recent appointment of the first female prime minister of Jamaica. Despite such progress, women continued to be underrepresented at the highest levels because of entrenched gender ideologies and concepts of leadership.

4. The achievement of the goals of the Convention hinged on legal reform: delays in the adoption of amendments to existing legislation on women's rights were attributable to the fact that Parliament had focused its attention and resources on other pressing matters of national concern, especially crime. The legislative process itself also hampered the speedy passage of important laws. Bills were systematically

referred to a joint parliamentary committee for discussion and scrutiny by the public and special interest groups. For example, the Charter of Rights and Freedoms (Constitutional Amendment) Bill, a package of amendments to prohibit gender discrimination, had been subjected to intense and protracted debate over several parliamentary sessions. Nevertheless, legislation pertaining to domestic violence, child care and protection, the property rights of spouses and maintenance had been enacted since 2004, and action was pending on laws of domestic and international scope governing, among other questions, offences against the person, incest and evidence.

5. Labour force participation rates remained consistently lower for women, even though there had been a gradual decline in the gender gap. Besides being underrepresented in the labour market, women were clustered in low-paying jobs in low-status sectors, and employment patterns tended to reflect the distinct gender differences that had led to gender stereotyping. However, thanks to the greater participation of women in higher education, the number of women in the professional, official and technical category had almost doubled between 1994 and 2003. Within that category, many of the jobs were accorded low levels of remuneration and men tended to fill decision-making positions.

6. Restricted participation in the capital market must be viewed in relation to the increasing feminization of poverty and the number of female-headed households. The Government had responded to that phenomenon by setting up special programmes aimed at the protection of vulnerable population groups.

7. All primary and secondary health facilities were equally accessible to men and women. It was gratifying to be able to report that the maternal mortality rate had dropped from 111 deaths per 100,000 live births to 95 between 2000 and 2005. Policy guidelines and other measures relating to sexual and reproductive health, with a special focus on young people and adolescents, were being developed. An HIV/AIDS treatment and prevention programme had been formalized to develop a comprehensive policy framework with a view to protecting the rights of those living with HIV/AIDS and reducing discrimination through advocacy and public education.

8. Regrettably, the disaggregated data on rural women requested earlier by the Committee were not

readily accessible. It was, however, possible to state that women in rural areas comprise 62 per cent of the population. A number of rural women's groups had organized economic activities in agriculture and related enterprises, credit and loan facilities had been established, and some line ministries had created special programmes for the empowerment of rural women. Moreover, a gender perspective had been incorporated into the national water management programme to ease the burden imposed on rural women and children by the scarcity of drinking water.

9. Gender mainstreaming efforts had met with varying levels of success. Political will and commitment at the institutional and individual levels were needed to ensure successful implementation. The national gender policy was therefore expected to facilitate a systematic approach to gender mainstreaming.

10. In conclusion, she said it was clear that Jamaica had made some progress in achieving gender equality during the period under review but that major obstacles persisted. While education had improved the quality of life of Jamaican women, it had not enhanced their social status or led to greater power-sharing. It was self-evident that education should be promoted as a means for transforming traditional gender ideologies and dismantling patriarchal structures and systems.

11. The Government favoured close monitoring of the implementation of the Convention, through the engagement of the public, NGOs and women's organizations. Consideration was being given to the formation of a support group of persons familiar with the Convention to assist in the preparation of periodic reports and follow-up. The Government remained firm in its intention to fulfil its obligations under the Convention and to develop an informed strategic agenda of gender mainstreaming aimed at disrupting the imbalanced relations of power between men and women and reshaping hierarchical structures and systems.

Articles 1 to 6

12. **Ms. Patten** commended the efforts of the Jamaican Government to promote women's rights, in particular its commitment to ensuring the accession of Jamaica to the Optional Protocol. She looked forward to receiving further details on the time frames envisaged for such ratification, and for the enactment

of the proposed Charter of Rights. Priority must be given to ensuring that women had access to constitutional remedies. It was to be hoped that the proposed Charter would contain a definition of discrimination that was in line with the provisions of article 1 of the Convention and would provide protection against direct and indirect discrimination, including discrimination committed by the judiciary, public authorities, organizations, enterprises and private individuals. She enquired about the nature and content of training offered to the members of the judiciary and law enforcement officials, including the extent to which the judiciary was acquainted with the Convention and general recommendations of the Committee, and asked whether the Convention had been invoked directly in the courts of Jamaica.

13. The unavailability of gender-disaggregated data in a number of areas hampered the functioning of the institutional machinery and impinged on a government's ability to effectively design and implement policies that promoted the interests of women. Furthermore, pursuant to general recommendation No. 9, States parties had been urged to make every effort to ensure that their competent national services compiled statistics in such a way that the data could be easily disaggregated according to gender. She therefore suggested that the Government of Jamaica should review its data-collection methodology and statistical systems to enhance the reliability of data relating to the economic, cultural and social development of women.

14. **Mr. Flinterman** asked whether the ratification of the Optional Protocol would require review by the Joint Parliamentary Committee. If so, the process might be further delayed. He welcomed the drafting of the Charter of Rights Bill, and asked whether it already included a definition of discrimination against women. If not, did the Government of Jamaica intend to incorporate such a definition into legislation implemented under the Charter?

15. Referring to paragraph 44 of the report, which stated that the absence of the word "sex" in section 24(3) of the Constitution prevented persons from invoking constitutional remedies for discrimination occurring on the basis of sex, he asked the delegation to clarify the nature of the above-mentioned constitutional remedies. He had assumed that the prevailing system of common law ensured that any

person could seek recourse under ordinary legal provisions.

16. With further reference to the constitutional and legislative framework, he drew attention to the response given under question 2 in document CEDAW/C/JAM/Q/5/Add.1, and asked for further information regarding the view that section 13 of the Constitution operated as a preamble and did not create rights. That view contradicted an earlier decision of the Privy Council to the effect that section 13 bestowed certain rights. He therefore wished to know how constitutional provisions could be construed as having no legal effect.

17. In terms of legal recourse, he asked to what extent women had availed themselves of legal aid assistance for filing claims of gender-based discrimination and whether other dispute settlement procedures existed for that purpose. While welcoming the current process of comprehensive legislative review, he stressed the importance of setting a specific time frame for the completion of reforms, as required under article 2 of the Convention.

18. **Ms. Dairiam** supported Mr. Flinterman's views on the need to undertake the necessary legal reforms in order to eliminate discrimination against women without delay. The Committee was concerned that reforms to improve the protection of women's rights competed with other issues for attention, particularly since such protection should be considered a matter of national interest. Public campaigns had proved effective in garnering high-level support for the speedy ratification of the Optional Protocol, and she therefore wondered whether the Bureau of Women's Affairs intended to use that strategy to raise awareness of the need for legal reform.

19. It was her impression that gender mainstreaming efforts had not led to substantial progress since the initial thrust in 1992. She was therefore curious to know what measures had been envisaged to ensure that the national gender policy would achieve the desired objective. She also wished to know whether the mandate and functions of the Bureau of Women's Affairs had been clearly defined in that regard, how much influence the Bureau had in enforcing the adoption of gender mainstreaming strategies within the public sector, and whether it was structurally equipped to coordinate gender mainstreaming. In addition she requested further details on the physical capacity of the

Bureau in terms of staffing and resources and on the professional rank of its director.

20. **Ms. Arocha Domínguez** acknowledged the disadvantages experienced by small Caribbean countries, such as Jamaica, in terms of the limited scope of their mechanisms for the advancement of women, largely because of financial limitations. She shared the interest of the previous speaker in the potential capacity of the Bureau of Women's Affairs to provide the required guidance throughout the national administration and promote awareness of gender issues in local and rural communities. Had any subordinate bodies been established to play such a role? Furthermore, she asked about coordination between the Bureau of Women's Affairs and the Gender Advisory Committee, and the latter's achievements since its establishment in 2004.

21. **Ms. Boxill** (Jamaica), responding to questions on the definition of discrimination, said that discrimination was addressed in general terms in section 24 of the Jamaican Constitution. The absence of the word "sex" meant that the section did not strictly apply to gender discrimination. The proposed amendments would bring the section into line with article 1 of the Convention.

22. With regard to section 13 of the Constitution and the apparent contradiction in the interpretation of its effect, she said that it granted all persons equal rights and treatment under the law. To her knowledge, the issue of discrimination against women had never been tested in the courts, and it was therefore a matter of speculation how such a case would be viewed by the courts. The need for clarity made the amendment to section 24 all the more relevant and urgent.

23. The Charter had been subject to much controversy, which had delayed the process of its adoption, but the provisions relating specifically to gender discrimination had been unanimously approved. The Joint Select Committee had issued its report, and the process was expected to advance smoothly towards completion with due regard to the statutory deadlines imposed by law.

24. Constitutional remedies were generally applied to violations of the rights guaranteed under the Constitution; such claims could not however be brought before the constitutional court until ordinary remedies had been exhausted.

25. **Ms. Macaulay** (Jamaica) said that the Convention had not been invoked in Jamaican courts because it could not be applied before it had been incorporated into national legislation. It was also unfortunate that, despite their extensive training, members of the judiciary did not receive specific instruction relating to gender discrimination. However, recent discussions had led to widespread recognition that the training programmes for legal officers should cover the Convention and other international instruments.

26. In practice, legal aid was offered only to defendants, male or female, who were charged with serious felonies. Nevertheless, women could seek redress before a Public Defender, who was impartial and directly accountable to Parliament.

27. With reference to the pace of reform, she pointed out that public participation in the debate was valuable and vital, not only in terms of the democratic process, but also with respect to people's awareness and sense of ownership. Although legislation to fight crime and terrorism had been given priority, to the detriment of bills pertaining to the protection of women's rights, it could not be denied that women had much to gain from an improvement in personal security. Moreover, women's organizations were vigilant and would keep a constant check on the Government to ensure that legislation relating to the advancement of women would not be delayed indefinitely.

28. **Ms. Webster** (Jamaica) said that efforts to promote gender mainstreaming had started in earnest in 1999 as a result of a gender management system that was established with assistance from the Commonwealth Secretariat. Since then, a number of gender mainstreaming initiatives had been pursued, focusing on raising awareness among the population at large, and the public sector, in particular. Despite great strides made in the area of sensitization, there had been some fragmentation in gender mainstreaming. The Gender Advisory Committee and the Bureau of Women's Affairs were currently engaged in a number of multisectoral strategies to identify and correct lapses. A major effort had been made to develop training programmes and educational tools for distribution to schools, churches and other institutions, and to mobilize women to serve in rural communities.

29. Admittedly, the Bureau of Women's Affairs, consisting of 18 staff members, did not have adequate

capacity to fulfil its entire mandate, but it had formed partnerships and liaisons with a number of Government bodies and agencies to promote gender mainstreaming and sensitization, as well as outreach activities. Apart from the efforts of the Bureau itself, the Statistical Institute of Jamaica, which had received technical assistance from regional agencies, and the Planning Institute of Jamaica were working assiduously to improve data collection and gender mainstreaming. She agreed that the process of improving data collection methodology could be expedited, and assured the Committee that the Government recognized the value of gender-disaggregated data in policy formulation and implementation.

30. **Ms. Bailey** (Jamaica) said that the main mandate of the Gender Advisory Committee since its establishment in 2004 was the development of the national gender policy, the drafting of which, following broad-based consultations held throughout the country, was near completion. The next phase would involve determining the national mechanisms needed to implement the policy. The process presented an opportunity to make recommendations for strengthening the capacity of the Bureau of Women's Affairs.

31. **Ms. Ingleton** (Jamaica), with reference to the ratification of the Optional Protocol, said that a draft Cabinet submission would be made in September, and that the remaining process was expected to be completed by the end of 2006.

32. **Ms. Patten** pointed out that the report had not described any special temporary measures to target discrimination against women. Jamaican women were noticeably absent from decision-making positions and were largely clustered in low-paid jobs. Policies and programmes to improve the situation of women could not be construed as temporary special measures within the meaning of article 4, paragraph 1. She drew attention to general recommendation No. 25, which provided a clarification of temporary special measures and their use in achieving substantive equality for women. The general recommendation also urged States parties to provide information on the reasons for their failure to adopt temporary special measures. The pursuit of de facto equality required the adoption of effective strategies to overcome underrepresentation of women and the redistribution of resources and power between men and women. Temporary special measures provided the means to accelerate equal participation of

women in all fields of endeavour and would be extremely useful in overcoming the gender stereotyping prevalent in Jamaica. She therefore urged the Government to take article 4, paragraph 1, in conjunction with general recommendation No. 25, into account. She hoped that temporary special measures would be adopted during the next reporting period.

33. **Ms. Gabr** drew attention to paragraph 65 of the report, which stated that gender stereotyping had a strong and pervasive influence in Jamaican society, an issue that had been raised in the Committee's concluding comments during the consideration of the previous combined report, in the responses to the list of questions, and during the oral statement presenting the fifth periodic report. There was general agreement on the impact of stereotyping and negative traditional attitudes on women's dignity and role in society. The election of a woman as prime minister had been a positive development in that regard. Through the Bureau of Women's Affairs, the Government was actively engaged with the media and civil society, among others, in altering perceptions and eradicating gender stereotyping. However, since additional measures were required for the achievement of real progress, she asked the delegation to inform the Committee of any comprehensive measures that were envisaged to eliminate gender stereotyping. She was convinced that the prevalence of such attitudes had a direct link to violence against women and looked forward to the early adoption of appropriate legislation on that question and also with respect to impunity and the punishment of incest.

34. She hoped that the concluding comments of the Committee would be transmitted to Parliament in order to reinforce the need to adopt legislation that seriously tackled the undermining of women and all forms of violence against women.

35. **Ms. Shin** posed a number of questions on the effectiveness of legislation and measures adopted by the Government under articles 5 and 6 to change the patriarchal culture and traditions that contributed to the alarming incidence of violence against Jamaican women. First, she wished to know what steps had been taken to counteract the glorification of violence against women, as promoted in much popular music. Secondly, she asked about the nature and application of the Charter and Code for Children and Programming, which was intended to address the harmful content of electronic mass media, and how effective it had been.

Thirdly, she wondered whether community policing had helped to reduce domestic violence.

36. It had formerly been a requirement of some legal systems that, in cases of sexual violence brought to trial, judges had to inform jurors that rape victims might make untruthful statements. She asked if that was a requirement in Jamaica. If so, she believed that the Government should take appropriate action to discontinue it.

37. With regard to tourism and prostitution, she expressed concern that the Caribbean was often promoted as a destination for sex tourism. She asked whether any steps were being taken to depict Jamaica in a more positive light, and whether the person who paid for sexual favours was considered an offender in the same way as the prostitute.

38. **Ms. Bailey** (Jamaica) said the Government was aware that gender stereotyping lay at the core of existing inequalities between men and women. Extensive measures had been adopted, focusing on reorienting the agents of influence in the society, primarily in the education system and teacher training, family education, and through monitoring the perceptions promoted through the mass media. The churches and judiciary also played a role in sensitization programmes.

39. It had been recognized that structural changes based on a multisectoral approach were of paramount importance, and it was that spirit which guided the work of bodies such as the Gender Advisory Committee, and that had led to the recognition of the need to adopt a national gender policy.

40. **Ms. Macaulay** (Jamaica) said that the common law provision for judges to warn jurors still existed but that the proposed legal reforms would eliminate it. She clarified that soliciting for sex, and not prostitution itself, was an offence. Regrettably, the fact that men were not usually charged for frequenting prostitutes was due to negative cultural views about sex, and there had been no lobbying efforts to charge men who were clients of prostitutes.

41. The passage of amendments to the Incest (Punishment) Act, 1948 and the Offences Against the Person Act, 1864 were expected to modernize those laws, bringing them into line with current realities. The amended laws would clearly signal that the relevant offences would incur stiffer penalties than in the past.

She took the opportunity to present statistics that showed the extent to which the amended Domestic Violence Act, 1995 had already yielded tangible results in providing coverage and protecting victims.

42. **Ms. Boxill** (Jamaica) explained that the guidelines established under the Charter and Code relating to broadcasting had the force of law. The Women's Media Watch, for one, had lodged complaints about programmes whose content were in breach of the guidelines.

43. **Mr. Flinterman**, following up on the issue of the interpretation of section 13 of the Constitution, said that he had been pleased by the liberal interpretation of the Privy Council but was somewhat dismayed by the narrow interpretation given by the Government. He believed that on the basis of constitutional legal principles of interpretation, it was possible to read a definition of discrimination on the basis of gender into that section. In the absence of a court ruling to the contrary, it was up to the Government to uphold its own interpretation of the section concerned. He invited the delegation to provide further comments on the matter.

44. Likewise, he was curious to know whether the provision would be in line with article 1 of the Convention after the introduction of the word "sex" into the definition of discriminatory in section 24 (3) of the Constitution, as proposed by the bill under consideration. He doubted whether that would be the case, since he was not convinced that the definition also included "indirect" discrimination.

45. As had been stated, under the dualist legal system of common law, provisions of international instruments could not be invoked unless they had been incorporated into domestic law. However, it was also understood that in all countries it was the responsibility of the judiciary to interpret domestic law in terms that were compatible with the international obligations of States parties. It was therefore of utmost importance that the training of members of the judiciary should include knowledge of the Convention. He was therefore gratified to hear that training seminars along those lines were under way.

46. He had noted the explanation provided by the delegation, concerning the system of legal aid, but he nevertheless wondered whether the Government would not favourably consider the granting of legal aid for

women to lodge complaints that would allow them to seek the protection of their rights through the courts.

47. **Ms. Dairiam**, commenting on the pattern of impunity with respect to acts of violence against women, welcomed the proposed amendments, which should help to remedy the situation. However, the legal system in Jamaica to a certain extent appeared to encourage impunity by creating barriers for women to file complaints or seek remedies.

48. She was not entirely satisfied with the reasons so far presented for the delays in the process of legal reform and would be interested to know to what extent women participated in the discussions of the Joint Parliamentary Committee. She further asked the delegation to provide examples of temporary special measures that would be available under the new gender policy.

49. **Ms. Shin** reiterated her concern over the phenomenon of sex tourism, because she regarded the issue as an extension of gender stereotyping that degraded women. She wondered whether the Government had considered engaging in cooperation with the Governments of the countries in which the tourists originated.

50. **Ms. Boxill** (Jamaica) said that she concurred with the wider interpretation of section 13 of the Constitution. In order to put the matter of discrimination beyond doubt, the amendment had been proposed to include gender expressly as grounds for the prohibition of discrimination. The provision would have even wider application than at present. The new Charter of Rights would protect women against discrimination in both the public and private spheres, since it would apply not only to State action against citizens but also to actions between individuals.

51. The existing Legal Aid Act not only governed criminal cases but also applied to civil and constitutional matters. However it had so far been implemented on a phased basis owing to a lack of resources, and there was every intention to extend the coverage of legal aid. She underscored the fact that the Public Defender had a special responsibility to deal with issues and complaints pertaining to human rights and was therefore equipped to handle complaints filed by victims of gender discrimination. She drew attention to the definition of the word "discriminatory", as stated in section 24 (3), and reiterated that the intention was to retain the substance of that provision,

while extending the grounds for discrimination to include gender.

52. She agreed with Mr. Flinterman on the need for the judiciary to be aware of the obligations of the State and to act accordingly, even if the provisions of the international instrument had not been incorporated into domestic law.

53. **Ms. Macaulay** (Jamaica) said that it might be desirable to follow the civil law system by imposing mandatory training for lawyers wishing to qualify as judges.

54. She believed that the Government should attempt to encourage the political parties to accelerate the pace at which the legal reforms were processed. She was certain that no one would wish to limit the input of the public in the discussions of the joint committee. Women's groups and a number of individual women had actively participated in the past and had proposed important recommendations for further consideration. The Bureau of Women's Affairs intended to continue its training and public education on the need for legal reform. Work was being conducted in improving the sensitization of law enforcement officers and medical staff and in reviewing the entire justice system to reinforce understanding of what constituted domestic violence or a sexual or other offence against women.

55. **Ms. Bailey** (Jamaica) informed the Committee that over the past two years work had been carried out with regard to a national gender policy, and discussions would be held on the required infrastructure, resources and training to develop a cadre of personnel with the skills and understanding to implement gender mainstreaming throughout all sectors targeted by the policy. She was confident that temporary special measures would be adopted to realize the objectives of that process.

56. **Ms. Ingleton** (Jamaica) stated categorically that the Government of Jamaica did not condone or support sex tourism. In the preparations leading up to the Cricket World Cup in 2007, much emphasis would be placed on discouraging sex tourism, which was basically an imported phenomenon.

Articles 7 to 9

57. **Ms. Popescu** encouraged Jamaica to continue to promote gender equality and political participation of women in public life since women remained grossly

underrepresented in the public and private spheres. The election of a woman as prime minister and the track record of highly placed women in international organizations were testimony to the abilities of Jamaican women to qualify for prominent positions.

58. She asked what measures and actions had been taken by the Gender Advisory Committee and the Bureau of Women's Affairs to increase the participation of women in public life and their political empowerment. She was also interested in knowing whether there were educational programmes, particularly targeting men, dealing with the sharing of domestic responsibilities and the need to support the advancement of women. She also asked about the portrayal of women as role models in the media.

59. In addition, she wondered whether rural women had decision-making capacity within their communities, and what efforts the Government or the Bureau had made to encourage them to rise to leadership positions. Furthermore, she asked how the Government encouraged political parties to promote women among their ranks, and stressed the importance of the adoption of temporary special measures to enhance the political participation of women in public life.

The meeting rose at 1 p.m.