



International Covenant on Civil and Political Rights

Distr.: General
4 September 2023

Original: English
English, French and Spanish only

Human Rights Committee

List of issues prior to submission of the fifth periodic report of Jamaica*

A. General information on the national human rights situation, including new measures and developments relating to the implementation of the Covenant

1. Please provide information on any significant developments in the legal and institutional framework within which human rights are promoted and protected that have taken place since the adoption of the Committee's previous concluding observations.¹ Please indicate the steps taken during the reporting period to ensure the rights of individuals to effective remedy, and indicate whether the State party intends to reaccede to the Optional Protocol to the Covenant. Please also provide information on any significant developments with regard to the national mechanism for reporting and follow-up, including measures taken to establish a clear mandate to coordinate the engagement of the Government with human rights mechanisms and to follow up on their recommendations in consultation with civil society.

B. Specific information on the implementation of articles 1 to 27 of the Covenant, including with regard to the previous recommendations of the Committee

Constitutional and legal framework within which the Covenant is implemented (art. 2)

2. With reference to the previous concluding observations (paras. 6 and 8),² please provide information on any steps taken during the reporting period to establish a national human rights institution in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). Please also provide information on measures taken to give full effect to the provisions of the Covenant in national legislation and to raise awareness of the Covenant among judges, lawyers, prosecutors and the general public, and provide examples of cases in which the Covenant has been invoked or applied by national courts.

Anti-corruption measures (arts. 2 and 25)

3. Please report on the legal and institutional frameworks in place and measures taken during the reporting period to prevent and combat corruption effectively, particularly involving politicians and political parties, high-level public officials, judges and prosecutors, and law enforcement officials. Please provide statistical information on the number of

* Adopted by the Committee at its 138th session (26 June–26 July 2023).

¹ [CCPR/C/JAM/CO/4](#).

² Unless otherwise indicated, paragraph numbers in parentheses refer to [CCPR/C/JAM/CO/4](#).



investigations, prosecutions and convictions in cases of corruption over the past eight years. Please describe the mandates of the State party's anti-corruption bodies, including the Integrity Commission, and the steps taken to ensure their independence and efficacy in fighting corruption.

Non-discrimination (arts. 2, 19, 20 and 26)

4. In the light of the Committee's previous concluding observations (paras. 14 and 16), please report on measures taken to ensure that the laws prohibiting discrimination are in accordance with international standards, and to adopt comprehensive anti-discrimination legislation that: (a) provides for full and effective protection against direct, indirect, structural and intersectional discrimination in all spheres, including in the private sphere; (b) contains all the grounds prohibited under the Covenant, including sexual orientation, gender identity, marital status, disability and health status; and (c) provides effective remedies in judicial and administrative proceedings for victims of discrimination. Furthermore, please report on steps taken or planned to repeal sections 76, 77 and 79 of the Offences against the Person Act and to decriminalize same-sex consensual relations. Please provide statistical and disaggregated data on complaints of discrimination received during the reporting period, along with an indication of the basis of discrimination, the characteristics of the victims, the nature of investigations conducted and their outcome, and any redress provided to victims.

5. Please discuss the efforts made, including any awareness-raising campaigns, to combat and prevent hate crimes, hate speech and other acts of discrimination, stigmatization and violence, particularly against women, persons with disabilities, ethnic and ethno-religious communities and persons living with HIV/AIDS, and on the basis of a person's real or perceived sexual orientation or gender identity, as well as measures taken to combat and prevent their social stigmatization and social exclusion.

6. With reference to the Committee's previous concluding observations (paras. 18 and 20), please: (a) report on any legislative amendments made to protect against discrimination based on health status and to ensure better protection of persons living with HIV/AIDS, including vulnerable segments of the population, such as lesbian, gay, bisexual and transgender persons, and women and girls who have contracted HIV, especially as a result of rape and sexual violence; and (b) provide information on measures taken to implement the National Workplace Policy on HIV/AIDS, including information on the financial and human resources allocated, and to ensure the adequate functioning of the National HIV-related Discrimination Reporting and Redress System. Please comment on reports of the lack of prompt and effective investigations into cases of violence against lesbian, gay, bisexual and transgender persons, and provide information on the investigation, prosecution and punishment of perpetrators.

Gender equality (arts. 3 and 26)

7. In the light of the Committee's previous concluding observations (para. 22), please provide statistics on women's representation within the private and public sectors and describe measures taken to ensure women's meaningful participation in all forms of decision-making. Please include information on: (a) measures taken to effectively address and eliminate gender stereotypes regarding the roles and responsibilities of women and men in the family and society; (b) progress made to achieve substantive equal opportunities for men and women in social, political and economic life and to eliminate the gender pay gap; and (c) the implementation of the National Policy for Gender Equality, including the financial resources available for its implementation and how the input of stakeholders is being coordinated.

Violence against women and domestic violence (arts. 2, 3, 6, 7 and 26)

8. With reference to the Committee's previous concluding observations (para. 24), please discuss measures taken to address all forms of violence against women and girls, including domestic violence, and inform the Committee about any training that has been provided to judges, prosecutors, police and other public officials dealing with domestic violence and any measures taken to raise awareness among the public on domestic violence and related gender issues. Please include: (a) information on any amendments made to the

Sexual Offences Act and the Domestic Violence Act to increase protection for women and girls and for men and boys against sexual and other forms of violence; and (b) information, disaggregated by gender, age and type of offence, on the numbers of complaints, investigations, prosecutions, sentences, penalties and protection orders concerning cases of domestic violence during the reporting period, and on the availability of shelters and other services for victims of such violence. Please also provide information on the implementation of the Sexual Harassment (Protection and Prevention) Act and on measures in place to ensure protection against sexual harassment, including in public spaces.

Voluntary termination of pregnancy and sexual and reproductive rights (arts. 2, 3 and 6)

9. In the light of the Committee's previous concluding observations (para. 26) and the report on follow-up to the concluding observations,³ and bearing in mind paragraph 8 of the Committee's general comment No. 36 (2018) on the right to life, please provide information on the progress in and results of any review of legislation that may have been conducted in relation to sexual and reproductive rights, maternal mortality and abortion, especially related to the decriminalization of voluntary termination of pregnancy, including in cases of pregnancy resulting from rape and incest and where the pregnancy is not viable. Please include information on measures taken to guarantee the availability and accessibility of sexual and reproductive health information and services and affordable forms of contraception, including emergency contraception, throughout the State party, including information on: (a) any education and awareness-raising programmes, especially youth-friendly programmes, and their substantive impact; and (b) any training provided for health-care providers. Please inform the Committee about the progress made towards ensuring that reproductive health services are available and accessible to all women and girls, including girls under the age of 16 years, especially in rural areas, including by providing information about measures taken to improve monitoring and data, and statistics on access to health care among women and girls.

State of emergency (art. 4)

10. In view of the Committee's previous concluding observations (para. 28), please provide information on steps taken to review its laws on state of emergency and bring them into full conformity with article 4 of the Covenant. In particular, please inform the Committee about the application of such legislation during the reporting period, particularly in response to violent crime, and whether any such measures derogated from the State party's obligations under the Covenant. If so, please indicate whether the measures were strictly required by and proportional to the exigencies of the situation and were limited in duration, geographical coverage and material scope, and describe the mechanisms for the oversight of the measures and restrictions, including oversight of a judicial nature.

Right to life (art. 6)

11. Please provide information on: (a) the State party's legal framework on the use of force and firearms by law enforcement officials, including during demonstrations, and whether the relevant laws are aligned with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement; (b) steps taken to clarify the mandate and role of the Independent Commission of Investigations to ensure effective and independent investigation of law enforcement personnel; and (c) the number of complaints received, investigations conducted, prosecutions initiated and sentences and penalties imposed during the reporting period concerning excessive use of force by law enforcement officials.

12. Please respond to allegations of unnecessary and disproportionate use of force by State agents, particularly during joint activities by the military and the police, that has resulted in extrajudicial killings. In that regard, please provide information on the status of investigations into those responsible for extrajudicial killings and other arbitrary deprivation of life during the exercise of public security duties, and measures taken to ensure that the victims' families

³ CCPR/C/131/2/Add.1.

have access to justice and appropriate reparations, including with regard to the incidents in West Kingston/Tivoli Gardens in 2010. Please include information on the implementation of the recommendations contained in the 2016 report of the West Kingston Commission of Inquiry, specifically with regard to providing victims with remedies, strengthening accountability for the use of force and dismantling garrisons.

13. Taking into account the Committee's previous concluding observations (para. 36), please report on any progress made towards abolishing the death penalty and on the remaining barriers to its abolition. Please inform the Committee about any steps taken: (a) to ratify the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty; and (b) to ensure that permanence on death row does not amount to cruel, inhuman or degrading treatment or punishment.

14. Please provide information on the legal framework and policies in place to combat the escalating rates of crime, including homicide and violence, particularly gang and vigilante violence. In that regard, please provide information on practical measures taken to ensure the effective protection of life and of public safety, especially in zones of special operations. Please provide statistical, disaggregated information on the number of cases of gang and vigilante violence, including homicides; on the investigations conducted, convictions secured against perpetrators and sanctions imposed; and on the remedies provided to victims.

Prohibition of torture and cruel, inhuman or degrading treatment or punishment (art. 7)

15. With reference to the Committee's previous concluding observations (para. 34), please report on any steps taken to prevent, investigate and punish all acts of torture and cruel, inhuman or degrading treatment. Please include information on: (a) any amendments to criminal law, in accordance with article 7 of the Covenant, to ensure that all acts of torture are prohibited and sanctioned with penalties commensurate with the gravity of the crime; (b) measures taken to provide remedies to persons who claim to have been subjected to torture or ill-treatment by State officials; and (c) the provision of human rights training to law enforcement officials, in particular training on the prohibition of torture and ill-treatment. Please also provide statistical information on the number of complaints received concerning torture or ill-treatment, on investigations, prosecutions, convictions and sanctions, and on the remedies provided for victims and their families.

Right to liberty and security of person and treatment of persons deprived of their liberty (arts. 6, 7, 9 and 10)

16. In the light of the Committee's previous concluding observations (para. 32) and the report on follow-up to the concluding observations, please provide information on the capacity of the prison system and the number of prisoners, and on efforts to address overcrowding and improve the material conditions, including sanitation, food supply and access to medical care, in all places of detention. Please indicate all the measures that are in place to ensure full respect for the fundamental procedural safeguards for detained persons, including the right to have prompt access to a lawyer, the right to be brought promptly before a judge and the right to regular judicial review of their detention. Please report on the legislative and other measures taken to put in place a system to detain accused persons separately from convicted persons, and to reduce the use and duration of pretrial detention, including by increasing the use of non-custodial alternative measures to pretrial detention. In this regard, please include statistical data on the number of pretrial detainees and the actual application of alternative measures for the past eight years.

Elimination of slavery, servitude and trafficking in persons (arts. 2, 7, 8, 24 and 26)

17. Please report on legislative and other measures taken, including training for law enforcement officials, judges, prosecutors and related personnel, to prevent and combat trafficking in persons, including trafficking for the purposes of sexual and labour exploitation. Please include information on the investigations, prosecutions and convictions of perpetrators, specifying the severity of the penalties imposed and whether they are of a criminal or an administrative nature, and on the provision of protection, including shelters, and redress to victims. In that regard, please inform the Committee about any investigations, prosecutions,

convictions and sanctions concerning government employees suspected of complicity in trafficking offences. With reference to the Committee's previous concluding recommendations (para. 38), please report on: (a) the activities carried out by the Office of the National Rapporteur on Trafficking in Persons and their impact, and the human and financial resources provided to it; and (b) whether any provisions are in place to ensure that individuals who are victims of trafficking are not returned to a country where there are substantial grounds for believing that they would be at a real risk of irreparable harm.

Treatment of aliens, including migrants, refugees and asylum-seekers (arts. 7, 9, 12, 13 and 24)

18. With reference to the Committee's previous concluding observations (para. 40), please report on measures taken to ensure that all persons applying for international protection in the State party have access to fair and efficient asylum procedures, protection against refoulement and an appeals mechanism with suspensive effect against negative decisions on asylum. In particular, please: (a) provide information on steps taken to establish clear and accessible procedures to apply for asylum or refugee status, and a consistent system to provide protection and assistance to refugees and asylum-seekers; (b) describe the mechanisms and criteria applicable before the extradition, expulsion or deportation of foreign nationals from the State party in order to evaluate and verify the risk of being their subjected to torture or other serious human rights violations upon their return; and (c) report on steps taken to improve the identification of persons in need of international protection at the border, and to provide refugees with identification cards.

Access to justice, independence of the judiciary and right to a fair trial (arts. 2 and 14)

19. With reference to the Committee's previous concluding observations (para. 42), please describe measures taken: (a) to reform the justice system to ensure fair trials, including any steps taken to strengthen its legal aid capacity; and (b) to reduce delays in the administration of justice and to address the backlog of cases. Please also provide information on steps taken to ensure the independence of the judiciary and of the public prosecution, and to ensure that judges, prosecutors and other legal professionals can carry out their functions in a safe and independent manner and free from intimidation, undue interference from other branches of government, obstacles, harassment, reprisals and criminal acts.

Rights to freedom of expression and freedom of association (arts. 19, 20 and 22)

20. Please provide information about legal and practical measures taken to guarantee full and effective protection of the rights to freedom of expression and freedom of association, indicating any difficulties encountered in implementing these measures. Please respond to reports of restrictions on media freedom through the banning of music and television broadcasts that are deemed to glorify or promote criminal activity, violence, drug use, fraud or weapons, and provide information on the mandate of the Broadcasting Commission of Jamaica and the steps taken to ensure its independence and impartiality. Please also provide information on the legal framework in place to protect human rights defenders and journalists from harassment, intimidation and verbal and physical attacks, and on practical measures taken to protect their safety and integrity as they conduct their activities, including information on recorded cases of attacks on human rights defenders and threats against them, and on prosecutions, convictions and sanctions as a result of such acts.

21. In the light of the Committee's previous concluding observations (para. 48), please provide information on measures taken to address obstacles in the implementation of the Access to Information Act and to enhance the implementation of laws on access to information, including by training information officers, conducting public information campaigns and establishing an accessible complaints mechanism. Please also inform the Committee about steps taken to eliminate barriers for non-governmental organizations to register as legal entities under the Charities Act, including steps taken to ensure non-discrimination in the consideration and granting of charitable status to non-governmental organizations and to ensure that the Charities Act is not used to obstruct or delimit the work of human rights defenders.

Right of peaceful assembly (art. 21)

22. Bearing in mind the Committee's general comment No. 37 (2020) on the right of peaceful assembly, please discuss the compatibility of the Public Order Act with the Covenant and the Constitution, particularly with regard to the provisions of the Act establishing: (a) the requirement that assembly organizers submit an application the authorities for a permit at least 24 hours before planned events; (b) the grounds upon which the authorities may restrict assemblies; and (c) fines and imprisonment to be imposed for non-compliance with the law. Please also discuss whether, during the reporting period, the use of force by law enforcement officials when policing assemblies has consistently been in compliance with the fundamental principles of legality, necessity, proportionality, precaution and non-discrimination.

Rights of the child (arts. 23, 24 and 26)

23. In the light of the Committee's previous concluding observations (paras. 44 and 46) and the report on follow-up to the concluding observations, please indicate: (a) whether amendments to the Child Care and Protection Act have been adopted to ensure its full and effective implementation in accordance with the Covenant, including amendments to remove the possibility of incarcerating a child for being "beyond parental control"; and (b) whether steps have been taken to guarantee adequate support to children in conflict with the law, including the development of programmes on conflict resolution, and to ensure coordination and oversight of the child protection sector. Please provide information on measures taken to guarantee that children are deprived of liberty only as a measure of last resort and for the shortest possible period of time, and on alternative arrangements to detention that are in place, including disaggregated statistical data on the number of children in detention and the number of children subject to alternative arrangements to detention.

24. Please provide information on measures taken to prevent and combat violence against children, including sexual abuse and exploitation, especially in rural areas, including information on the investigation, prosecution, conviction and sanctioning of perpetrators and the provision of protection, including shelters, and redress to victims. Please report on steps taken to prohibit, prevent and punish corporal punishment in all settings and to promote non-violent forms of discipline as alternatives to corporal punishment, including any awareness-raising campaigns conducted.

Rights of minorities (art. 27)

25. With reference to the concluding observations of the Committee on the Elimination of Racial Discrimination,⁴ please provide information on steps taken to reconsider the State party's approach with regard to Indigenous Peoples, giving due account to the principle of self-identification, and on the extent to which the State party has engaged in an open and inclusive dialogue with Maroon and Taino communities. Furthermore, please provide information regarding legislative and other measures taken and/or envisaged to ensure the promotion and protection of the rights of these communities and to obtain their effective and informed participation in decisions that affect them, particularly concerning land rights and the use of natural resources. In particular, please inform the Committee about steps taken to prevent and address the health impact of bauxite mining activities and to ensure that the necessary measures are in place to protect the rights of the communities affected to life, personal integrity, private life and health.

⁴ CERD/C/JAM/CO/21-24, paras. 19 and 20.