



JAMAICANS FOR JUSTICE

NGO REPORT

On the implementation of the International Covenant on Economic, Social and Cultural Rights

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I. Introduction

1. The Committee has long recognized the important contribution which can be made by civil society in the provision of information concerning the status of the Covenant within States parties. The Committee was the first treaty body to provide non-governmental organizations (NGOs) with the opportunity to submit written statements and make oral submissions dealing with issues relating to the enjoyment or non-enjoyment of the rights contained in the Covenant in specific countries.
2. Therefore, Jamaicans for Justice is pleased to submit its report on the implementation of the articles 6 to 14 of the Covenant. The report seeks to address the related issues outlined by the third and fourth period report by the State of Jamaica as well as the recommendations from the concluding observations on Jamaica's Second Periodic Report.
3. Founded in 1999, Jamaicans for Justice (JFJ) is a non-profit, non-partisan, non-violent citizens' rights action organization. The organisation's mission is to bring fundamental changes in Jamaica's judicial, economic, social and political systems in order to improve the present and future lives of all Jamaicans.
4. It has been JFJ's belief since its inception that every citizen deserves respect, freedom and the right to enjoy a peaceful existence. The organization has devoted its advocacy and education efforts towards the protection of rights of the most vulnerable and underprivileged such as the mentally ill, children in state care, prisoners, gays and lesbians and people suffering from HIV/AIDS. The members of these groups often have limited or diminished capacity to protect their own interests and rights.
5. JFJ operates under a vision that seeks to attain a Jamaica where the human rights of all are ensured, where there is equal opportunity for all citizens to realize their full potential, enjoy a sense of well-being as well as a respect for the Jamaican culture.

General overview: Legal Framework and Socio-economic situation of Jamaica

II. Legal Framework

6. The Constitution of Jamaica 1962 is the supreme law. Jamaica is a dualism state based on the English Common Law system. In other words, international and national law do not operate in the same sphere. For dualists, international law regulates the relations between states whereas national law regulates the rights and obligations of individuals within states. In order to be able to claim the Covenant in front of a court, it has to be transposed into the domestic laws.
7. However, the state actors and lawmakers in Jamaica have a legal duty to comply with the terms of the international human rights conventions that Jamaica has ratified. The State is required to put the necessary legal and administrative mechanisms in place to adequately protect all people and to provide them with access to just and effective remedies.
8. Recently, Jamaica has enacted a Charter of Rights. The Charter of Fundamental Rights and Freedoms¹ was given Royal Assent on 8 April 2011. Although the Charter is a step in the right direction, there are many gaps within the provisions that, in our view, require amendments and/or challenges through litigation. Most notably the Charter fails to effectively protect the fundamental rights of all persons of Jamaica, thereby undermining the inherent dignity of all persons. In many respects the Charter sets out limitations to the promotion and protection of constitutional rights in a manner inconsistent with the Covenant.
9. Further, the Charter includes certain provisions that are not in line with the Covenant and which undermine the rights of citizens. In particular, the Charter (1) does not include the right to health care, or health facilities; (2) fails to protect from discrimination on the grounds of health status, mental or physical disability, sexual orientation, or language; (3) and is not reader friendly. The Bill is drafted in archaic language that is difficult for the layperson to understand and does not conform to more modern constitutions in other jurisdictions.
10. With the flawed provisions in the Charter of Rights and the failings of the current system of justice, the State is failing to provide equal protection of the law to all persons under Jamaican jurisdiction of Jamaica. It is particularly worrying that the most vulnerable elements of society are the least protected (including also,

¹ It can be consulted: http://www.jis.gov.jm/special_sections/Bills%20&%20Acts/cab.htm

children, women, and individuals from socio--economically depressed communities). Extreme poverty and social exclusion constitute a violation of human dignity. The Jamaican government has to promote the human rights of the poorest, and to put an end to extreme poverty. It is essential for Jamaica to foster participation by the poorest people in the decision-making process and to combat extreme poverty.

III.Socio-economic Framework

11. Some of the difficulties that will be highlighted in this document are notably the financial crisis, public debt, legal gaps, certain traditions and cultural attitudes in Jamaica. They are serious impediments to the full enjoyment by women, girls and boys of their rights under the Covenant. A culture of violence in Jamaica has created a climate where members of the society are unable to enjoy the economic, social and cultural rights, in particular women and children.
12. Jamaica is a small island developing state (SIDS) and has recently been classified by the World Bank as an Upper-middle Income² with a Gross National Income of US\$3,976 to \$12,275. The population of Jamaica is estimated at 2.7 million. Up to the early 1970s, Jamaica experienced significant economic growth, but a series of events triggered a period of recession and left the country on a low-growth path that has persisted.
13. Jamaica has been faced with an increasing array of external and internal shocks³ which have negatively impacted on the economic growth and social development of the country. In addition, these shocks have increased the depth of the challenges that ordinary Jamaicans, especially the most vulnerable groups, must face in attempting to fulfil their human development potential.⁴
14. Moreover, Jamaica has many serious economic problems, including a sizable merchandise trade deficit, large-scale unemployment and underemployment, and a debt-to-GDP ratio of over 130%. Consequently, the high debt has led to under investment in public infrastructure, education, and crime reduction strategies. It also erodes the confidence of private investors. Jamaica's onerous debt burden--

² Country and Lending Groups: <http://data.worldbank.org/about/country-classifications/country-and-lending-groups>

³ External shocks such as erosion of Trade preferences, increased competition and liberalized trading environments and the steady increase in oil prices. Internally, the country has been beset by severe increases in crime and violence and has seen a steady erosion of traditional core values, attitudes and practices.

⁴ UN Report on Jamaica; www.jm.undp.org/files/CCA-_Jamaica_3-final-unct.pdf

the fourth-highest per capita--is the result of government bailouts of ailing sectors of the economy, most notably the financial sector in the mid-to-late 1990s.⁵

15. The country's economy is heavily dependent on services, which now account for more than 60% of GDP. Jamaica continues to derive most of its foreign exchange from tourism, remittances, and bauxite/alumina.⁶ Remittances account for nearly 15% of GDP and are equivalent to tourism revenues. Remittances dipped during the global crisis, but have recovered and are near where they were before the global economic downturn. Three of Jamaica's four bauxite/alumina firms suspended operations in 2009 due to falling demand amid the global economic downturn. Only one of the three has restarted operations. Inflation was 12.6% in 2010 and 9.6% in 2009 (est.).⁷
16. The age structure is as follows: **0-14 years:** 30.1% (male 438,888/female 424,383); **15-64 years:** 62.3% (male 882,548/female 904,242); **65 years and over:** 7.6% (male 97,717/female 120,602) (2011 est.). The population growth is estimated at 0.714% (2012 est.) As for the birth rate is estimated at 18.89 births/1,000 population (2012 est.).⁸

IV. Specific Rights of the Covenant

Articles 6, 7 and 9: right to work, conditions of work and social security

The Charter of Rights

17. The current Charter provides no provision to protect people suffering from underemployment; low remuneration; poor working conditions; exploitation, discrimination, and violation of rights; lack of representation and dialogue; lack of work security and professional mobility; lack of access (physical, technological, and informational); and lack of social security provisions. Further, the Government has taken no action or instituted any program to assist persons with disabilities to gain access to the workplace.⁹

⁵ US Department of State; <http://www.state.gov/r/pa/ei/bgn/2032.htm>

⁶ <https://www.cia.gov/library/publications/the-world-factbook/docs/notesanddefs.html#2046>

⁷ Ibid.

⁸ Ibid.

⁹ Pursuant to Art 13(3)(i) of the Charter of Fundamental Rights and Freedoms, the right to freedom from discrimination is expressed on the grounds of: (i) Being male or female; (ii) Race, place of origin, social class, colour, religion or political opinions. There is no general inclusive clause that takes into account any other grounds for discrimination. In our view, the categorisation of the right to freedom from discrimination, as stated in the Government's response, fails to protect the rights of all persons under Jamaican jurisdiction, particularly in regard to the protection from discrimination on the basis of sexual orientation and disability. This is particularly felt by members of the LGBTI community,

Unemployment

The percentage of unemployment in Jamaica¹⁰

2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
15.9	15	11.5	11.3	9.9	11	11.4	12.9	12.4	12.7

18. An alarming number is the unemployment rate among youth. In fact, the unemployment rate for people between the ages of 15 and 24 is at 27.1%. The male are at 22.5% and the female are at 33.1% (2009).¹¹

Acceptable Conditions of Work

19. The law provides for a standard 40-hour workweek and mandates at least one day of rest per week. Work in excess of 40 hours per week or eight hours per day must be compensated at overtime rates. The law does not prohibit excessive compulsory overtime, and some employees, notably security guards, are regularly required to work 12-hour shifts.¹²

20. The Ministry of Labour's Industrial Safety Division (ISD) sets and enforces industrial health and safety standards, mainly through factory inspections. Insufficient staffing in the Ministries of Labour, Finance, National Security, and Public Service contribute to difficulties in enforcing workplace regulations. The ISD conducts inspections, investigated accidents, warned violators, and gave them a time period in which to correct the violation.

21. The law provides workers with the right to remove themselves from dangerous work situations without jeopardy to their continued employment if they are trade union members or covered by the Factories Act. The law does not specifically protect other categories of workers in those circumstances.¹³

Gender Equality

the mentally ill, those living with (HEALTH) HIV/AIDS, members and residents of

depressed socio-economic communities, and persons with disabilities.

¹⁰ US State Department Report. <https://www.cia.gov/library/publications/the-world-factbook/>

¹¹ Ibid.

¹² U.S. Department of State, 2010 Human Rights Report: Jamaica, <http://www.state.gov/j/drl/rls/hrrpt/2010/wha/154511.htm>

¹³ U.S. Department of State, 2010 Human Rights Report: Jamaica, <http://www.state.gov/j/drl/rls/hrrpt/2010/wha/154511.htm>

22. The Government of Jamaica launched the Jamaica National Policy for Gender Equality (NPGE) on March 8, 2011. The policy aims to “reduce all forms of gendered discrimination and promote greater gender equality and social justice.” While the implementation of this policy is a step in the right direction, it still remains that women and children are the poorest and most vulnerable section of the population.
23. We also wish to underline the efforts made by the Bureau of Women’s Affairs (BWA), reporting to the minister of development, which oversaw programs to protect the legal rights of women. Unfortunately, these programs have limited effect.¹⁴
24. In fact, women comprise 43.2% of the labour force and are concentrated in the lowest paying sectors of the economy. Unemployment among women is almost two times that of men. Females in the 14-24 age range have an unemployment rate of 33.1%, as opposed to 22.5% for males in the same age category.¹⁵ Female headed households are larger and consume 17% less than male headed households.¹⁶ Most of the thousands of female household workers are among the working poor, earning a minimum wage of JA\$4500/week (approximately US\$52/week)¹⁷ and are without any form of social protection such as health insurance or support of labour unions and where the cost of life is high. The poverty rate is especially very high among women who head single-parent households.
25. Women continue to face more challenges than men in respect to credit, real estate and other property issues. For example, women only occupy 20% of agricultural lands and continue to face discrimination in agricultural work due to it still being considered a “man's domain.” As such, rural women and their families are among the poorest segment of the population, and female agricultural workers often face inhumane working conditions.¹⁸ The disadvantage faced by women has been noted by the Rural Agricultural Development Authority, who found that the roles of women in the agricultural industry are gender specific and result in women earning lower wages than men.

¹⁴ U.S. Department of State, 2010 Human Rights Report: Jamaica, <http://www.state.gov/j/drl/rls/hrrpt/2010/wha/154511.htm>

¹⁵ Economic and Social Survey of Jamaica. (2009).

¹⁶ Survey of Living Conditions (SLC) (2009).

¹⁷ Jamaica Gleaner, (January 26, 2011), 10 per cent increase in minimum wage; <http://jamaica-gleaner.com/gleaner/20110126/lead/lead3.html>

¹⁸ Women’s Resource & Outreach Centre (WROC). (2011)

26. Research conducted by Women's Resource and Outreach Centre (WROC)¹⁹ in collaboration with the Canadian International Development Agency (CIDA) (2008) showed that while women have made significant strides in educational and professional development, they only comprise 16% of members of private sector boards and 33% of public sector boards. While the Employment (Equal Pay for Men and Women) Act (EPMWA)²⁰ is an important step in the attainment of equality between women and men, current practices continues to be at odds with the policy. For example, women working in higher income brackets continue to receive lower wages than their male counterparts despite the fact that they have comparable or higher levels of education levels.²¹

Sexual Harassment

27. There is no legislation that addresses sexual harassment, and the BWA reported that it has become a "disturbing problem." There are anecdotal reports of sexual harassment of women by the police as well as in the workplace, but few statistics are available. The BWA and NGOs such as Woman Inc. and Women's Media Watch believed that women often do not report such incidents because there are no legal remedies.²²

Prohibition of Child Labor and Minimum Age for Employment

28. The law protects children from exploitation in the workplace and stipulates that every citizen has a duty to report child abuse. The minimum age for employment is 15 years, and the law prohibits the employment of children under age 13 in any type of work.²³ Children between 13 and 15 years are permitted to engage in "light work," as defined by the Ministry of Labour, which will not disrupt their education or be harmful to their health. The Ministry's Child Labour Unit was responsible for monitoring and controlling child labour.

29. The Child Development Agency (CDA)²⁴ is responsible for carrying out investigations of abuse. According to CDA officials, resources to investigate

¹⁹ The Women's Resource and Outreach Centre Limited is a non-governmental organization based in Kingston, Jamaica, whose mission is to promote gender equality and the empowerment of women and youth through social, economic and advocacy programmes.

²⁰ Enacted 1 December 1975.

²¹ Women's Resource & Outreach Centre (WROC). (2011)

²² U.S. Department of State, 2010 Human Rights Report: Jamaica, <http://www.state.gov/j/drl/rls/hrrpt/2010/wha/154511.htm>

²³ Child Care and Protection Act, 2004, section 33 and 34

²⁴ The Child Development Agency became an Executive Agency on June 1, 2004 and is a merger of the Children Services Division, the Adoption Board and the Child Support Unit. The Agency has

exploitive child labour are insufficient. Children under the age of 12 peddle goods and services, beg on city streets, and work on plantations, farms, and construction sites, as well as in gardens, shops, and markets.

30. According to Marva Ximinies, the director of the Child Labour Unit in the Ministry of Labour and Social Security, there are currently about 16 000 Jamaican children that are forced to engage in some form of economic activity and just over 7000 are engaged in more hazardous work, which includes prostitution, the production of pornographic material and child slavery. The majority of Jamaica's child workers are found in the agriculture, market vendor, forestry and fishing, as mentioned above.

Social Security Protection

31. As it was mentioned in the Recommendations by the Committee in 2001, social security in Jamaica doesn't provide for universal coverage and excludes a considerable portion of the disadvantaged and marginalized groups in society, including older persons, single parents and persons with disabilities.

Articles 10, 11 and 12: protection of the family, adequate standard of living and health

Institutions

32. The CDA is mandated to develop comprehensive strategies, policies and programmes to promote the rights and well-being of children. However, it does not have a recourse mechanism to address rights violations. In respect to the Bureau of Women's Affairs, while it is an important institution advancing the rights of women, it provides no recourse mechanism for rights violations.
33. Although the Office of the Public Defender²⁵ is essentially seen as the organization closest to the definition of a national human rights institution, its

statutory responsibility for children who are in need of care and protection i.e. those abused, neglected or abandoned as well as for children who are experiencing behavioural problems.

²⁵ Pursuant to Section 13 (1)(a)(ii) of the Public Defender (Interim Provisions) Act, "the Public Defender shall investigate any action taken where he is of the opinion that any person or body of persons has suffered, is suffering or is likely to suffer an infringement of his constitutional rights as a result of any action taken by an authority or an officer or member of that authority." The Public Defender is, thus, authorized to investigate maladministration by public authorities after which, the following recommendations may be made to an officer of the public authority under investigation: (a) that the action which was the subject matter of the complaint be reviewed;

mandate and capacity (it is comprised of one (1) public defender and a small support staff) would not satisfy the framework, scope and competence of a national human rights institution.²⁶

34. Although the new Charter provides that “all persons are under a responsibility to respect and uphold the rights of others recognized in the charter,” aside from the courts, there is no recourse available to those whose rights have been violated by private actors.
35. In other words, despite claims that legislative and institutional steps are being taken to curtail human rights violations, in reality, the government continues to fail to honour its obligations to safeguard and protect the human rights of its all persons under Jamaican jurisdiction.

Women and Violence

36. We wish to express our concerns regarding the violence that Jamaican women are suffering. There is a worrying trend of violence against women in Jamaica and figures reflect high levels of this violence.
37. Police statistics indicated that in 2009, a total of 503 women were victims of carnal abuse, 672 were raped, 163 women were victims of shootings, 160 were murdered, and 1,162 were victims of robbery.²⁷ NGOs believe the actual numbers were much higher, but no other statistics were available.²⁸
38. Additionally, the reproductive health survey published by the Ministry of Health in 2009, shows that approximately 20 per cent of girls ages 15-19 years old reported having been forced into sexual intercourse at some stage of their lives.²⁹

(b) the alteration of an enactment, rule or regulation which causes or may cause injustice or infringement of constitutional rights; (c) that compensation be made to the complainant.

²⁶ The Jamaica Gleaner. (18 April 2010). Public Defender Cleans House. Available via <http://jamaica-gleaner.com/gleaner/20100418/lead/lead5.html>

²⁷ The Jamaica Gleaner, (November 27, 2010) Grange moves to shelter battered women, <http://jamaica-gleaner.com/gleaner/20101127/lead/lead4.html>

²⁸ U.S. Department of State, 2010 Human Rights Report: Jamaica, <http://www.state.gov/j/drl/rls/hrrpt/2010/wha/154511.htm>

²⁹ The Jamaica Gleaner, (November 27, 2010) Grange moves to shelter battered women, <http://jamaica-gleaner.com/gleaner/20101127/lead/lead4.html>

Domestic Violence

39. The Domestic Violence Act 1996 was amended in order to give women the possibility of applying through the court system for a protective order (section 3(1)). However, enforcement of this protection is not sufficiently ensured by legislation. It is evident that without an adequate means to enforce a protective order, the order is without teeth and therefore fails to offer women the protection from violence that is so desperately needed in those circumstances.
40. Social and cultural norms perpetuate violence against women, including spousal abuse. The 2009 Sexual Offences Act criminalizes spousal rape, but only in certain circumstances. Violence against women is widespread, but many women are reluctant to acknowledge or report abusive behaviour, leading to wide variations in estimates of its extent. The law prohibits domestic violence and provides remedies including restraining orders and other no custodial sentencing. Breaching a restraining order is punishable by a fine of up to J\$10,000 (approximately \$114 US) and six months' imprisonment. Police are generally reluctant to become involved in domestic issues, which led to cases not being pursued vigorously when reported.
41. Domestic Violence and other forms of gender-based violence require legislative protections that provide effective safeguards from the alleged violence. The Government of Jamaica should implement a national plan of action to combat domestic violence. Further legislation should be implemented to assist and ensure that women who are able to obtain orders granting protection are able to properly enforce them. In this regard a national policy would address the issues relating to enforcement of the legislation enacted to protect women in these circumstances.
42. The Bureau of Women's Affairs is in the process of developing a Protocol for combating gender-based violence. Although the protocol is in its draft form, we are concerned by their not having collaborated with many of those organizations, both inside and outside of the government, involved in combating gender-based violence. Currently, the BWA operated crisis hotlines and managed a public education campaign to raise the profile of domestic violence, while the NGO Woman Inc. operated the only official shelter in Jamaica.³⁰

³⁰ U.S. Department of State, 2010 Human Rights Report: Jamaica, <http://www.state.gov/j/drl/rls/hrrpt/2010/wha/154511.htm>; www2.ohchr.org/english/bodies/.../CEDAW-C-JAM-Q-6-7-Add1.pdf; Special Rapporteur on Torture, Manfred Nowak made particular mention within his report to the shortcomings of the Domestic Violence legislation, in regards to the enforcement of protective orders.

Crisis Shelter

43. Woman Inc. is a voluntary, non-profit organization, founded in 1984. It functions as an emergency temporary residence for women in crisis. The location is kept confidential to protect the safety of the women. The cases are usually abused women, incest, rape, or temporary homelessness due to domestic violence. In many cases small children and babies are involved. The victims are generally seen at the Crisis Centre, the cases assessed and then sent to the Shelter.³¹
44. Unfortunately, due to limited funding, the women can only stay for a short time. This situation puts the women in danger and often forces them back to the situation that they escaped.
45. The Government of Jamaica espoused its commitment to bringing the country's legal framework into compliance with the provisions of CEDAW. However, the Government of Jamaica's response to the List of Issues merely sets out the legislation that exists to address equality between men and women without particularizing the societal responses to ensure equality between men and women. Therefore, while women appear to be making important strides, there remain significant barriers to their attaining full equality before the law and in the social, economic, and political sphere. Much of this is rooted in the deeply entrenched patriarchal system prevalent in Jamaican society.

Trafficking of Persons

46. The 10th Annual Trafficking of Persons Report by the US State Department describes Jamaica as "a source, transit, and destination country for women and children subjected to trafficking in persons, specifically conditions of forced prostitution and forced labour."³² As such, we were pleased to note the Government's recent ratification of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography.³³
47. Statistics on the prevalence of sex tourism and trafficking is difficult to ascertain as there is no formal tracking system in place. Perhaps more accurately, the Government is unable to provide comprehensive data on the prevalence of sex tourism and trafficking in the country. According to a study of the Jamaican sex tourism and trafficking industry by Shared Hope International, there were

³¹ http://www.ngocaribbean.org/?page_id=462

³² US Dept. of State. (2010). Trafficking in Persons Report, 2010. Available via <http://www.state.gov/g/tip/rls/tiprpt/2010/index.htm>

³³ 26 August 2011

approximately 20,000 individuals connected with the sex industry in 2004.³⁴ Many of these persons are children. It is widely believed that many of the 1,859 children that went missing in 2009 were caught up in the trafficking industry.³⁵

48. According to *Hear the Children's Cry*³⁶, between January and June of 2011, 1,144 children were reported missing. However, because of a lack of investigative resources, we are not sure how many were abducted and forced into human trafficking and prostitution.

49. A study by Ricketts and Dunn for the National Task Force against Trafficking in Persons found that trafficking victims were 79.3% females between the ages of 18 to 24.³⁷ The reasons that led to persons becoming involved in the sex trade were: 27.3% - Poverty and unemployment; 22.1% - desire for a better job; and, 20.8% - inadequate financial support for children.

50. We are concerned about the lack of laws, policies or programmes to address explicitly the proliferation of sex tourism and its consequences which include the sexual exploitation and prostitution of women and children and the spread of sexually transmitted diseases. In particular, we are alarmed that school drop-out rates have increased as young girls are induced to leave school to enter the sex trade, sometimes even with the consent and encouragement of parents who benefit from their earnings.

Disability

51. The definition used to describe persons with a disability is an important factor in the discrimination experienced by these individuals. The *National Policy for Persons with Disabilities*³⁸ defines a disability as, "any restriction or lack of ability to perform an activity in the manner or the range considered normal for a human being. Such restriction or lack of ability must be as a result of impairment." This definition is severely lacking, and we call upon the Jamaican government to implement a definition that is much more inclusive, such as the definition used in the UN Convention on the Rights of Persons with Disabilities: "Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with

³⁴ Shared Hope International. (2007). Demand: A Comparative Examination of Sex Tourism and Trafficking in Jamaica, Japan, the Netherlands, and the United States. Available via <http://www.sharedhope.org/Portals/0/Documents/DEMAND.pdf>

³⁵ US Dept of State. (2010).

³⁶ Local Jamaican NGO defending the rights of children

³⁷ Ricketts and Dunn. (2007). Human trafficking for sexual exploitation and forced labour in Jamaica. National Task Force against Trafficking in Persons, Ministry of National Security, Government of Jamaica.

³⁸ <http://www.mlss.gov.jm/pub/index.php?artid=26>

various barriers may hinder their full and effective participation in society on an equal basis with others.”

52. The current Charter also provides no provision to protect against discrimination on the grounds of disability. According to the Statistical Institute of Jamaica (STATIN) (2001), there are 163,206 persons (6.3%) living with a disability over the age of five years in Jamaica, of which 36,088 are male and 127,118 are female. With women reporting 3.5 times more disabilities than men, they also experience a higher level of exclusion due to their gender coupled with their disability.
53. There is currently only one hospital in Jamaica to be a mental hospital, Bellevue Hospital, and the conditions are poor. According to consultant psychiatrist at the University Hospital of the West Indies, Dr Wendel Abel, "the pattern has been that people are admitted involuntarily for years, separated from their family and community and when you look at it, the very nature of admitting persons to an institution and keeping them there for years really constitutes a violation of their fundamental human rights. We have people locked away for years and their human rights, their fundamental human rights are taken away."³⁹ There are also times where the institution is forced to send patients to general hospitals since there is not enough space.
54. Moreover, the conditions of the different homes for disabled people are currently inhuman and degrading. We have seen many cases of patient half-naked on the floor, another patient lying on the corridor in his urine-soaked pants.⁴⁰ A few institutions have had amid of accusation of abuse and neglect to their patients, such as Golden Age Home⁴¹.
55. Children are also affected by the lack of protection against discrimination on the basis of disability. According to UNICEF, while a majority of children living with one or more forms of disability are in the 5 – 14 age group and thus are of school-age, only about 10% attend formal classes.⁴² This has lifelong effects on the ability of children to adequately provide for themselves once they reach adulthood. We wish to stress that many disable children are placed in State care

³⁹ The Jamaica Observer, August 15, 2011, Sue Them! – Abel urges Bellvue patients to take Gov't to court, Read more: http://www.jamaicaobserver.com/news/SUE-THEM---Abel-urges-Bellevue-patients-to-take-Gov-t-to-court_9450944#ixzz1owHuiHXs

⁴⁰ The Jamaica Gleaner, (April 5 2011), They are Babies, <http://jamaica-gleaner.com/gleaner/20110405/lead/lead1.html>

⁴¹ The Jamaica Gleaner, (April 17, 2011) Golden Age Action Tomorrow, jamaica-gleaner.com/gleaner/20110417/lead/lead2.html

⁴² UNICEF. (2006). *Situation Analysis on Excluded Children in Jamaica*. http://www.unicef.org/jamaica/resources_3950.

facilities with non disabled children. According to CDA reports, this situation leads to abuse from the caregivers and the other non disable children.⁴³

Child Protection

56. The protection of Jamaican children from violence, abuse and exploitation in all its forms is one of the biggest challenges facing the nation. The high rate of crime and violence plaguing the Jamaican society has had a devastating impact on children. Between 2006 and October 2009, over 5,600 persons were murdered in Jamaica. From 2006 to 2008, 230 children under age 17 were murdered.⁴⁴
57. According to Ministry of Health data, in 2007 and 2008, over 11,100 cases of sexual assault, stab wounds, gunshots or blunt force injury were treated in emergency rooms across the island's hospitals among persons aged 0-19. That means 17 children and adolescents were treated for violence-related injuries every day for two years. Sexual crimes against children are rampant, with girls primarily the victims. In 2006, children and adolescents made up an alarming 78 per cent of all the sexual assault/rape cases admitted to public hospitals. In the same year, girls under 16 accounted for 32 per cent of all sexual assaults in Jamaica.⁴⁵
58. According to the Office of the Children's Registry (OCR), the number of reports of child abuse received has grown by more than 1000 per cent between the registry's establishment in 2007 and 2011 when it received the highest number of reports in a one-year period, which is 7000 cases.
59. Children regularly have their right to education and leisure activities disrupted because of violence in their communities and school closures due to civil disturbances; and boys continue to underachieve, making them more vulnerable to exploitation, violence and participation in gang activities.
60. These multiple threats undermine the survival, well-being and future prospects of thousands of Jamaican children, effectively denying them their childhood. None of Jamaica's development goals can be attained if childhood continues to be threatened as it is now.⁴⁶
61. Poverty and neglect has led to a growing number of street and working children in Jamaica. High rates of migration, partly a response to social and economic conditions, have contributed to weaker family and community support systems.

⁴³ JFJ has requested the cases of abuse of children in the hands of the State caregivers according to the Access to Information Act

⁴⁴ <http://www.unicef.org/jamaica/violence.html>

⁴⁵ Ibid

⁴⁶ Ibid

Many children are left in the care of older siblings or are left alone under the informal supervision of family members or neighbours who do not live with them. As a result, there is often no adult supervision or guidance for these children and the only parental support is through cash remittances and packages of food and clothing sent from overseas⁴⁷.

Children in State Care Facilities

62. Children in the custody of the State continue to be subjected to inhumane and degrading treatment, to be at risk of physical, psychological, emotional and sexual abuse and to be deprived of their basic rights to protection and care⁴⁸. The best interests of the child still remain a major concern. JFJ wishes to point out that the Report of the Special Rapporteur on Torture highlighted the physical and psychological suffering by the youth in places of safety⁴⁹.
63. Another factor of trauma for the youth in places of safety is the fact that many youth are not classified according to their cause of detention. In fact, the situation for persons with mental disabilities, held together with other detainees rather than in separate psychiatric institutions where they could receive adequate medical attention, is a concern⁵⁰.
64. The Department of Correctional Services issued a Standing Order on February 18, 2008 that indicated that psychological services were to be provided for wards at every correctional centre. The order reads: "A psychologist shall be assigned to each Juvenile Centre for psychological care of the Wards. The psychologist shall have sessions with the wards at least once per week."⁵¹
65. However, this ruling is not followed. According to the co-founder of the mental health support group Mensana, Carol Narcisse, Jamaica is still "in serious breach of the right of the mentally ill to appropriate health and appropriate services based on their disability".⁵² Children in places of safety have experienced trauma within the family environment and have no other means of receiving care and protection. Unfortunately, the quality of living conditions and services offer in places of safety are usually substandard. The amount of psychologists and social workers remains very low.

⁴⁷ http://www.unicef.org/jamaica/children_1568.htm

⁴⁸ Art. 3, 23, 37 UNCRC

⁴⁹ Special Rapporteur Report, 2010, para. 61

⁵⁰ Special Rapporteur Report, 2010, para. 71

⁵¹ J.N. Spence-Jarrett, *Commissioner of Corrections Standing Order: Standard Operational Procedures for the Control and Restraint of Disruptive Wards Within the Department of Correctional Centres*, 3, (February, 18, 2008) on file with author.

⁵² The Jamaica Observer, February 6 2011, Mental Health Shame, http://www.jamaicaobserver.com/news/Mental-health-shame_8337363

66. Eight (8) years after the Keating Commission⁵³, we maintain our claim that a lot still have to be done to improve the State's childcare system and more particularly, the welfare of the children, despite the establishment of the Child Development Agency. Children in the custody of the State, continue to be subjected to inhumane and degrading treatment, to be at risk of physical, psychological, emotional and sexual abuse and to be deprived of their basic rights to protection and care.
67. The Jamaican government needs to develop strategies to help psychology interventions which will ensure the rights of our children. To fulfill their responsibilities, the government needs to ensure adequate investments and address the quality and relevant issues in places of safety. The government has a responsibility to protect the children.
68. Moreover, we wish to voice our concern that the Jamaican government has yet to change the 1958 Children (Adoption) Act as the Committee voiced its concern in its recommendations in 2001. In fact, the Act allows adoption of female children by males only under specially justified circumstances.

Adequate standard of living

Water and Housing

69. Ironically in a country whose name means 'land of wood and water', some 35.3% of rural households use only untreated water sources (JSLC 2009), experience poor sanitation, and women spend hours walking long distances to secure potable water. Numerous examples of region without or with little water can be found in Jamaica, such as Quebec⁵⁴, St Catherine North Western.⁵⁵ More than half of the population have access to the basic amenities of piped water (56%) and an unshared water closet (63%) and live in households with more than one person per habitable room (50.4%); Crowding Index (1.4, CI 1.37-1.49). There is also a problem of informal (or squatter) settlements in Jamaica. This unplanned housing leads to lack of basic amenities including lack of potable water and poor waste disposal conditions.⁵⁶

⁵³ In December 2002, the Prime Minister of Jamaica, the most Honorable P.J. Patterson, Q.C., P.C., M.P, mandated that a review of all Children's Homes and Places of Safety in the island. To this end, the Honorable Minister of Health, the Honorable John Junor, convened a Review Committee in January 2003, to carry the examination; www.jamaicansforjustice.org/docs/Keating%20Report.pdf

⁵⁴ The Jamaica Gleaner, (May 7 2011), No Water Running Down Zion Hill, <http://jamaica-gleaner.com/gleaner/20110507/news/news7.html>

⁵⁵ The Jamaica Observer, (September 19, 2010), We want water, Bobby, http://www.jamaicaobserver.com/news/We-want-water---Bobby_7976063

⁵⁶ Aben News, (May 14th, 2010) In a Time of Crisis Jamaica Must Look for Opportunities, <http://www.abengnews.com/2010/05/14/in-a-time-of-crisis-jamaica-must-look-for-opportunities/>

Health

HIV/AIDS

70. Individuals with HIV/AIDS face discrimination due to the common misperception linking the disease to homosexuality. This causes many affected individuals to either avoid treating their illness or face serious repercussions in the community. There are no laws protecting individuals with HIV/AIDS from discrimination. NGOs have received credible reports of severe stigma and discrimination against adults and children living with HIV/AIDS. Despite the Ministry of Labour's implementation of a program to reduce the stigma relating to HIV/AIDS in the workplace, there have been reports that healthcare workers often neglected patients with HIV/AIDS.⁵⁷
71. HIV/AIDS is currently the leading cause of death among men and women in the 15-44 age group. We are particularly concerned that the overall mortality rate for persons infected with HIV/AIDS is 60 per cent, largely because they do not have access to affordable medicines, treatment and care. We are also concerned that the prevalence of HIV infection among girls in their late teens is twice that of older women according to UNAIDS, which attributes this phenomenon to young women participating in the sex tourism trade.
72. We are also concerned that almost 10 per cent of all reported AIDS cases were youth under 19 years old, and that 20 per cent of reported case were in the 20 to 29 age group.⁵⁸
73. Women are also disproportionately disadvantaged in health matters. The male to female infection ratio for HIV/AIDS in the 10-19 age group is 1:2.84, which is largely due to the fact that women are not sufficiently empowered to negotiate safe sex. The population must be more educated and encouraged to demonstrate more responsible sexual behaviour.⁵⁹ We wish to voice our concern about the lack of sexual education and use of contraception largely due to religious beliefs.
74. Moreover, international human rights law has slowly progressed in recent years to better ensure that people of all sexual orientations and gender identities can exercise their human rights.⁶⁰ However, as enacted by Parliament, the Jamaican

⁵⁷ US State Department Report. (2010). p. 23.

⁵⁸ According to Ministry of Youth, Sports and Culture in 2010

⁵⁹ The Jamaica Observer, (December 1, 2011), More effective HIV/AIDS prevention message needed, <http://www.jamaicaobserver.com/news/More-effective-HIV-AIDS-prevention-message-needed>

⁶⁰ See The Yogyakarta Principles: The Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity, available at <http://yogyakartaprinciples.org/>; See also CESCR, General Comment No. 14 (2000): The right to the highest attainable standard of health (article 12 of the

Charter of Fundamental Rights and Freedoms entrenches discrimination against same sex relationships and effectively reinforces the criminalization of sexual activities between consenting adults of the same sex.⁶¹

75. This rise in criminalization and homophobia in Jamaica often means that the proportion of homosexuals who contract HIV/AIDS remains very high, as many are simply too traumatized or afraid to seek treatment, or even to carry condoms to protect themselves⁶². Further, the criminalization of consensual sexual activity prevents individuals from freely seeking health care (including HIV prevention), seeking legal advice and/or protection as a result of such discrimination, and leads to verbal and physical abuse.
76. However, we wish to highlight the fact that the Honorable Prime Minister, Portia Simpson-Miller courageously said she would not continue Mr Golding's ban on gays in the cabinet, and would allow a parliamentary vote on a colonial law against the "abominable crime of buggery".⁶³

Teenage pregnancies

77. We are concern with the rising incidence of teenage pregnancies, leading to higher mortality rates related to abortion of unwanted pregnancies and to higher drop-out rates for girls who leave school to take care of their babies.
78. According to a UNICEF report,⁶⁴ teenagers account for roughly 20% (1 in 5) of all national births. Official figures from the Registrar General's Department (RGD) revealed 7,596 of the 30,819 live births in 2008 were to girls between 12 to 19 years of age. This is due to issues such as forced sex, transactional sex, early sexual encounters, low use of contraceptives, and an overall lack of information on safe and responsible sex. The resulting teenage pregnancies not

International Covenant on Economic, Social and Cultural Rights), U.N. Doc. E/C.12/2000/4, (11/8/00), para. 18.

⁶¹ The Charter deliberately retains the "buggery law," which criminalizes sexual relations between consenting adults of the same sex. Sections 76 and 77 of the *Offences Against the Person Act* criminalize acts of heterosexual and homosexual buggery: Section 76: Whosoever shall be convicted of the abominable crime of buggery, committed either with mankind or with any animal, shall be liable to be imprisoned and kept to hard labour for a term not exceeding ten years. Section 77: Whosoever shall attempt to commit the said abominable crime, or shall be guilty of any assault with intent to commit the same, or of any indecent assault upon any male person, shall be guilty of a misdemeanour, and being convicted thereof, shall be liable to be imprisoned for a term not exceeding seven years, with or without hard labour.

⁶² United Kingdom. 3 May 2011. Home Office; http://www.irb-cisr.gc.ca:8080/Publications/PubNDP_CDN.aspx?id=5031

⁶³ The Economist, (Jan. 7th, 2012), Go Sista, <http://www.economist.com/node/21542404>

⁶⁴ UNICEF. (2006). Situation Analysis on Excluded Children in Jamaica Update 2006. http://www.unicef.org/jamaica/resources_3950.htm

only put the health of the mother at risk, but they also face exclusion from educational and professional opportunities (only 34% of teenage mothers returned to school after giving birth).

79. Young women between 15 and 24 years with low educational attainment and low socio-economic status are more likely to become pregnant and have one child more than the country's average (3.4 and 3.5 children per woman, respectively), as shown by data from the National Family Planning 2008 Reproductive Health Survey.
80. The data also show that this group accounts for the highest number of first pregnancies, and is likely to have completed only four of the seven years of secondary education. According to The Planning Institute of Jamaica (PIOJ), Trelawny, Hanover, St James, and Westmoreland are the parishes which have the highest numbers of pregnant teen dropouts. "Although, the country's overall birth rate has declined over the past two decades, pockets of high growth remain among teenagers and poorer folk," said Toni-Shae Freckleton, demographer at the PIOJ.⁶⁵
81. There are programs that aim to assist teenage mothers get back to their education, such as those operated by the Women's Centre which provides continuing education for girls who become pregnant while still at school and return to school after the birth of their babies. Approximately 1500 teen mothers voluntarily register in the programme each year. While this is a much needed and commendable program, its survival is threatened by its reliance on government funding. In August 2011, the Government decided to cut funding to the Centre, which would have effectively cut support to 500 teenage mothers,⁶⁶ public outcry caused the Government to reverse its decision and restore monies to the program.⁶⁷

⁶⁵ The Gleaner (April 4, 2011) Too many children? <http://mobile.jamaica-gleaner.com/gleaner/20110404/news/news7.php>

⁶⁶ Jamaica Observer. (18 August 2011). Budget cut leaves pregnant teens in the cold: Women's Centre hit by government expenditure cuts. <http://www.jamaicaobserver.com/news/Pregnant-teens-abandoned-Women-s-Centre-hit-by-government>

⁶⁷ Jamaica Observer. (19 August 2011). Money to be restored to programme for pregnant teens.

<http://www.jamaicaobserver.com/news/Money-to-be-restored-to-programme-for-pregnant>

-teens_9477094#ixzz1WMmNeVau

82. Traditional perspectives on sexual relations exacerbate the attitude toward teenage pregnancy. Non-medical abortion is not an option to women in Jamaica, and those who perform them are at risk of criminal prosecution.⁶⁸ This is entrenched in the newly enacted Charter of Fundamental Rights and Freedoms, which purposely retains old abortion laws under S. 13(12)(c). Thus, teenage girls, face a serious challenge if they engage in sexual relations and end up pregnant as a result.
83. As a result, we are also concerned that clandestine abortion is the cause of a large number of deaths due to infections and complications from procedures performed under unsanitary conditions by untrained personnel and that it is one of the leading factors in the high maternal mortality rate in Jamaica.

Articles 13 and 14: education

Promoting Quality Education

84. The Jamaican education sector faces serious challenges in its efforts to provide quality learning opportunities for children up to age eighteen. Despite high levels of enrollment in primary and secondary schools, at each of the major transition points in the education system, a substantial number of children are insufficiently prepared to access the level ahead of them.⁶⁹
85. Over 98 per cent of children 6-14 years old are enrolled in school (99.9 per cent for boys and 95.7 per cent for girls). The school life expectancy is about 14 years. The male is about 13 years. As for the female it is 15 years.⁷⁰
86. The vast majority of Jamaica's school children who are enrolled in public schools are being denied the higher quality education provided in private schools, based on the socio-economic status of their families. Across the island, children contend with inadequate learning material, lack of infrastructure, outdated curricula, didactic teaching methodologies and other challenges that prevent children from learning in a child-friendly environment.⁷¹

⁶⁸ Section 72 of the Offences Against the Person Act (The Act); Abortions are only granted under extenuating circumstances (i.e. if the life of the mother is at risk).

⁶⁹ http://www.unicef.org/jamaica/promoting_quality_education.html

⁷⁰ <https://www.cia.gov/library/publications/the-world-factbook/geos/jm.html>

⁷¹ http://www.unicef.org/jamaica/promoting_quality_education.html

87. The incidence of violence by and against students, insufficient parental involvement in the activities of schools, poor parenting skills and the lack of interest on the part of some parents in the academic lives of their children, further negatively impacts on the performance of students.
88. We are concerned about the situation of boys in the State party, where serious problems exist such as increasing rates of school drop-out, juvenile criminality and delinquency, a high suicide rate, drug addiction and unemployment among the youth. According to anthropologist Dr. Herbert Gayle, if Jamaica was able to improve access to education for male residents of the inner city, it could have an impact on reducing crime and violence.⁷² Without the meaningful education of Jamaican men, Gayle says crime and other social ills would persist. "Uneducated men rely heavily on their primitive brain and this implies more violence and endless gang war, fragile masculinities, murder/suicides as women out-manipulate them, poor fathering of children and fractured communities," Gayle noted.⁷³
89. The advantageous position in which Jamaican women seem to find themselves concerning education is reflected in UNICEF data, which shows that between 2004 and 2008, the literacy rate among Jamaican males, aged 15 to 24 years, was 92 per cent compared to 98 per cent for females in the same age group.
90. Secondary school enrolment between 2005 and 2009 was 75 per cent for males compared to 79 per cent for females. For the same period, there was 88 per cent attendance for males and 92 per cent for females.
91. And as the sexes advance through the education system, males are increasingly absent. Up to recently, the ratio of females to males at the UWI, Mona, for example, was 8:2.⁷⁴

Corporal Punishment

⁷² The Jamaica Observer, August 7, 2011, Primitive male = more violence, http://www.jamaicaobserver.com/news/Primitive-male---more-violence_9262671

⁷³ Ibid

⁷⁴ Ibid

92. It is of particular concern that the Government of Jamaica has not eliminated all forms of corporal punishment in schools. In 2010, while commending the banning of corporal punishment in schools, the Special Rapporteur on Torture noted that there were no legal provisions banning corporal punishment in the domestic sphere. He was concerned that the use of corporal punishment appeared to be deeply entrenched in Jamaican society.⁷⁵
93. Despite the Government's assertion in their response that corporal punishment is limited to specific levels of the Jamaican school system, reports of abuse continue to be widespread ranging from tape being placed on a child's mouth, having to stand up on one leg for a prolonged period in the sun, and beatings.⁷⁶

⁷⁵ United Nations Human Rights Council. (11 Oct. 2010). Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak. A/HRC/16/52/Add.3. p. 15.

⁷⁶ Hear the Children's Cry. (2011).

V. List of Recommendations

The State party should:

Legal Framework

1. Amend its laws with a view to prohibiting discrimination on the basis of sex, sexual orientation and gender identity. The State party should also decriminalize sexual relations between consenting adults of the same sex. In this regard, the State party should send a clear message that it does not tolerate any form of harassment, discrimination or violence against persons for their sexual orientation, and should ensure that individuals, who incite violence against homosexuals, are investigated, prosecuted and properly sanctioned;⁷⁷
2. Sign and ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights;
3. Establish an independent national human rights institution, and provide it with adequate financial and human resources, in line with the Paris Principles (General Assembly resolution 48/134, annex);⁷⁸
4. Strengthen its efforts to increase the participation of women in decision-making positions in the public and private sectors through the implementation of new practical initiatives⁷⁹:
 - a.) Incorporating the principle of equality between women and men in the domestic legal system and adopting appropriate laws prohibiting discrimination against women;
 - b.) Provide effective forms of redress for women victims of discrimination by establishing tribunals and other public institutions to ensure the effective protection of women against discrimination;
 - c.) Clearly outline and inform the public on an implementation timetable and plan, and strengthen the framework for the effective implementation of the Jamaica National Policy for Gender Equality (NPGE);

⁷⁷ Recommendations Human Rights Committee, Consideration of reports submitted by States parties under article 40 of the Covenant, Oct. 17 – Nov. 4 2011: Recommendation 8

⁷⁸ Recommendations Human Rights Committee, Consideration of reports submitted by States parties under article 40 of the Covenant, Oct. 17 – Nov. 4 2011: Recommendation 5

⁷⁹ Recommendations Human Rights Committee, Consideration of reports submitted by States parties under article 40 of the Covenant, Oct. 17 – Nov. 4 2011: Recommendation 13

- d.) Establish an oversight/advisory committee for the implementation of the NPGE and include Jamaican women's organizations.
 - e.) Review and revise the Charter of Fundamental Rights and Freedoms using a gender perspective.
 - f.) Undertake the necessary research of the Jamaican electoral process in order to make the necessary constitutional and legal changes to advance women's participation in the political process.
5. Adopt a comprehensive approach to preventing and addressing gender discrimination and sexual harassment in all its forms and manifestations. In this regard, the State party should improve its research and data collection methods to establish the magnitude of the problem, its causes and consequences on women;⁸⁰

Article 7 (Conditions of work)

- 6. Ensure elimination of all acts of discrimination against women by persons, organizations or enterprises;
- 7. Provide effective mechanisms to stop child labour;

Article 9 (Social security)

- 8. Provide protection and universal coverage to include disadvantaged and marginalized groups in society, including older persons, single parents and persons with disabilities;

Article 10 (Protection of the family)

- 9. Provide effective forms of redress for women victims of discrimination by establishing tribunals and other public institutions to ensure the effective protection of women against discrimination;
- 10. Implement policy that requires the police and other state agents to take appropriate action to protect women seeking assistance and protection from domestic violence perpetrators;
- 11. Immediately undertake awareness-raising measures and sensitisation of, in particular, the judiciary, law enforcement officers and prosecutors, as well as teachers, health-care and social workers and the media on domestic and sexual violence, legislation and provisions;
- 12. Amend the Sexual Offences Act in order to criminalize marital rape in all circumstances;

⁸⁰ Recommendations Human Rights Committee, Consideration of reports submitted by States parties under article 40 of the Covenant, Oct. 17 – Nov. 4 2011: Recommendation 18

13. Allocate more consistent resources to the Bureau of Women's Affairs to carry out awareness raising, education and prevention programs;
14. Ensure that all relevant government departments collect and publish disaggregated data and statistics on violence against women and girls;
15. Immediately ensure the implementation of the obligations under the Protocol to the Convention on the Rights of the Child on the Sale of Children;
16. Intensify its efforts to identify victims of trafficking and ensure the systematic collection of data on trafficking flows from, to and in transit through its territory. The State party should train its police officers, border personnel, judges, lawyers and other relevant personnel in order to raise awareness of this phenomenon and the rights of victims. Furthermore, the State party should ensure that all perpetrators of trafficking in persons are investigated, prosecuted, and if convicted, adequately sanctioned, and should guarantee that adequate protection, reparation and compensation are provided to the victims. Prevention and rehabilitation programmes for the victims should also be established;⁸¹
20. Strengthen its efforts to combat gender-based violence and to ensure that cases are dealt with in an appropriate and systematic manner by, inter alia, investigating, prosecuting and punishing the perpetrators. It is encouraged, in particular, to increase the training of the staff in its Victim Support Unit and the Police on violence against women, including sexual abuse and domestic violence. Furthermore, the State party should provide adequate shelters for victims of gender based violence including domestic violence;⁸²

Article 11 (Adequate standard of living)

21. Take concrete steps to improve the housing situation of thousands of Jamaicans that are still living in terrible conditions with no running water or electricity.

Article 12 (Health)

22. Provide funding to public education regarding contraceptives, disabled people, HIV/AIDS, violence and sexual orientation⁸³;
23. Full assessment (physical, mental, psychological) of every child that enters into or is in the Child care system and development of a care plan to address any issues;
24. Amend its abortion laws to help women avoid unwanted pregnancies and not to resort to illegal abortions that could put their lives at risk. The State party

⁸¹ Recommendations Human Rights Committee, Consideration of reports submitted by States parties under article 40 of the Covenant, Oct. 17 – Nov. 4 2011: Recommendation 22

⁸² Recommendations Human Rights Committee, Consideration of reports submitted by States parties under article 40 of the Covenant, Oct. 17 – Nov. 4 2011: Recommendation 19

⁸³ Recommendations Human Rights Committee, Consideration of reports submitted by States parties under article 40 of the Covenant, Oct. 17 – Nov. 4 2011: Recommendation 9

should take concrete measures. Furthermore, the State party should ensure that reproductive health services are available and accessible to all women and girls;⁸⁴

Article 13 and 14 (Education)

25. Allocate more resources to the education system;
26. Take practical steps to put an end to corporal punishment in all settings by passing the bill that seeks to repeal the Flogging Regulations Act and the relevant provisions of the Crime (Prevention of) Act. The State party should encourage non-violent forms of discipline as alternatives to corporal punishment, and should conduct public information campaigns to raise awareness about its harmful effects.⁸⁵

⁸⁴ Recommendations Human Rights Committee, Consideration of reports submitted by States parties under article 40 of the Covenant, Oct. 17 – Nov. 4 2011: Recommendation 14; Abortion Policy Review Advisory Group. (2007). Final Report. Available via:

http://www.japarliament.gov.jm/attachments/375_Abortion%20Policy%20Review%20Advisory%20Group%20Final%20Report.pdf

⁸⁵ Recommendations Human Rights Committee, Consideration of reports submitted by States parties under article 40 of the Covenant, Oct. 17 – Nov. 4 2011: Recommendation 20

VI. List of Questions

Legal Framework

1. Please provide information on the availability of remedies for individuals claiming violations of their rights contained in the Constitution and the Covenant. Please provide information of the access to justice for people that are vulnerable and economically challenged.
2. Please indicate if Jamaica has any intentions on signing and ratifying the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights

Article 6 (Right to work)

1. The current statistics show that there is an alarming high rate of unemployment among youth. What are the concrete measures that will be taken to improve the labor market besides the *Youth Entrepreneurship Program*
2. What are the concrete steps that will be taken in order to stop the fact that for years, it is mostly women that are unemployed and they have in positions that less remunerated?

Article 7 (Conditions of work)

3. Please provide information on the implementation of the National Gender Policy and the impact in improving the status of women.
4. There is currently no legal protection regarding sexual harassment. What are the concrete steps taken to eliminate all forms of sexual harassment and to pass a bill in that effect?
5. What are the concrete steps that will be taken and resources that will be provided to protect disable people and to include them in work places?

6. What are the concrete steps and resources that are being aloud to combat the persistent problem of child labor?

Article 9 (Social security)

7. Please provide the concrete steps that are taken to assure that social security protects the ones that are socially and economically disadvantage?

Article 10 (Protection of the family)

8. Please indicate if you intend to revise the definition adopted by the Charter of Fundamental Rights and Freedoms to include sexual orientation, disabilities and gender identity as illegitimate grounds for discrimination.
9. There is currently only one (1) women's shelter in Jamaica and it has limited space and resources. What are the concrete measures and resources that are planed to be given to built other women shelters across the country?
10. What are the current resources – people and budget - that are offered to combat traffic of people?
11. What are the current resources – people and budget – that are offered to address the proliferation of sex tourism, especially the young girls that are forced into it?
12. There is a high incidence of sexual violence against women and girls in Jamaica. We are very concerned about sexual violence especially affecting young children in spaces where they should be protected such as at schools, State homes, buses, etc. Please provide information on the concrete measures and resources to combat all forms of violence, to promote reporting to the police and to investigate cases of sexual violence including rape, prosecute perpetrators and punish with appropriate penalties.
13. Please indicate if there is a provision that stipulates that fathers are entitled to paternity leave
14. Please indicate how many people work for the Office of the Children's Advocate
15. Please indicate if there is a sex offender registry

Article 11 (Adequate standard of living)

16. Since the last Report in 2001, the housing situation is still a major concern where thousands of people are still living in shantytowns without electricity and running water. What are the concrete measures that will be taken to change the situation in a long term?

Article 12 (Health)

17. According to the current statistic, women are still dying from illegal abortions. We are concerned that clandestine abortion is the cause of a large number of deaths due to infections and complications from procedures performed under unsanitary conditions by untrained personnel and that it is one of the leading factors in the high maternal mortality rate. What does the state party intend to do to address this situation?
18. HIV/AIDS is still the leading cause of death among men and women in the 15-44 age group. Sexual education is almost non-existent and contraceptives are still very taboo. How will Jamaica ensure the provision of education on sexual and reproductive health, and to facilitate access to contraceptives for everyone? Moreover, how will Jamaica ensure the access to medicines, treatment and care, as well as measures to protect the population from HIV/AIDS?
19. The treatment for HIV/AIDS people is still expensive. How does the state party intend to make it more affordable?

Article 13 and 14 (Education)

20. According to the current legislation in Jamaica, corporal punishment is still lawful in homes and schools. What are the concrete steps taken to eliminate all forms of corporal punishment and to pass a law in that effect?
21. Annex I of the State Report, there is a chart showing the enrolment by educational institutions and gender 2007-2008. There is a huge gap between the numbers of males enrolled at the primary level compared to females. How does the state party explain such a disparity? What will be done to address it?