



GOVERNMENT OF JAMAICA

WRITTEN RESPONSES:

CONSTRUCTIVE DIALOGUE WITH THE COMMITTEE ON THE RIGHTS OF PERSONS WITH DISABILITIES

8th – 10th MARCH 2022

United Nations, Geneva

1. **Article 29 – What steps are being taken to repeal discriminatory provisions in laws that restrict persons with disabilities in registering/participating in electoral processes? Examples: Art. 40 of the Constitution, Persons with Disabilities Act, Mental Health Act, Representation of the Peoples Act?**

Noted.

2. **Article 17 – in the State’s report there was reference to an approach to place young girls who are susceptible to abuse or have multiple unplanned pregnancies on birth controls, please indicate whether this was done with the knowledge and permission of these young girls, and if their representative organisations were consulted? Is it compulsory? Were they engaged? Did they agree? Or done without their consent?**

Young girls at risk are often seen after they become pregnant. For these cases, the health sector has a mandatory reporting system as the Child Protection and Family Services Agency (CPFSA) must be notified. With respect to administering birth controls, this is done with the knowledge and consent of the young women and their parents/guardians, who are required to sign the relevant documents. They are given a special contraceptive that prevents pregnancy for 3 to 5 years.

3. **Article 31 - COVID19 is a long-term public health emergency, much larger than those caused by natural disasters. Are there any effective disaggregated data which is to be used as evidence based development of public policy post-COVID19 for persons with disabilities.**

Efforts to strengthen the quality of data through improved registration and targeted data collection activities continue, for example, disability registry, proposed social registries, affiliated institutional registries. The Annual Jamaica Survey of Living Conditions examines disabilities at the household level, with the capacity to explore cross-tabulations with demographic and other variables. In addition, the 2022 Population and Housing Census will capture important data on disabilities.

It should also be noted that specific research has been initiated regarding access to post-secondary and tertiary education for persons with disabilities, as well as to explore issues of gender-based violence experienced during the pandemic. Work is to be initiated on a study of female labour force participation which will include persons with disabilities. The Government is also in the process of reviewing the Beneficiary

Identification System (BIS) used to identify eligible households for social assistant support.

4. *What measures are there to ensure that healthcare providers are acting in a manner based on the free and informed consent of the person with a disability?*

With respect to Article 16, there is a range of options to obtain consent from the disabled community for treatment including:

- Visually impaired persons - the form is read to them and they are asked to place their mark which is witnessed or their next of kin signs on their behalf.
- Bilateral amputees - the next of kin signs on their behalf.
- Persons with mental disorders - If they are deemed competent by a psychiatric professional then they are allowed to sign their own consent form. On the other hand, if they are not deemed such, their next of kin consents and signs on their behalf.

Further, the Ministry of Health and Wellness has noted the deficiencies in its consent form and is taking decisive steps to address this by including features to make it more user friendly to persons with disabilities.

5. *In the 2010 report of the Special Rapporteur on Torture, he observed that detainees were forced to sleep on the floor; detention conditions were poor. What steps have been undertaken to rectify this situation?*

It should be noted that there is a difference between a remandee and a detainee. It should be noted that both inmates and remandees are provided with bunks, mattresses and are not required/forced to sleep on the floor. This is in all 10 institutions (7 adults and 3 juveniles).

6. *People with psychosocial disabilities are being detained; please explain what measures are being pursued to ensure that the provisions of the CRPD related to such persons are being upheld, and to ensure that they are not being detained against their will?*

See Answer above re detainees vs. remandees. For further clarity, the Department of Correctional Services (DCS) only holds persons that have been placed on remand by the courts – meaning that the DCS acts based on the judicial instructions. It is therefore evident that their individual rights are upheld and they are placed on remand pending psychiatric evaluation.

While on remand they are treated with the requisite medication and are subject to psychiatric evaluation, that is, to inform whether they are fit to give evidence or to be tried or not. This report is sent to the Court. The Court, upon attaining the report, will in turn schedule when the individual is to return to Court to conclude the judicial matter. In light of this, the DCS does not detain persons against their will per se but according to the law.

7. *What procedural measures does the State have in place to ensure that law enforcement officials, including members of the judiciary are sensitive to the issues affecting persons with disabilities and that members of the disabled community are encouraged to participate and become members of the law enforcement/judiciary/etc.?*

The enshrined constitutional rights, laws and policies guide law enforcement officials, including members of the judiciary, in their conduct and engagement with the general public.

In 2017, the Judiciary developed guidelines issued through a booklet entitled 'Accessibility Guidelines for Court Employees'. It was widely disseminated to Judges and Court staff on general procedures and best practices for the treatment of persons with disabilities who are seeking the services of the Court. The Court Administration Division continues to sensitize staff and judges of the requirements of the guidelines.

In respect of encouraging persons within the disabled community to become members of the Judiciary, the Judiciary remains an equal opportunity employer.

The Jamaica Constabulary Force (JCF) has a Diversity Policy that seeks to address differences relating to politics, religion, sexual orientation, ethnicity, and others. There is also the *JCF Police Public Interaction Policy & Standards Operating Procedures (SOPs)*.

JCF policies and SOPs will also be revised in keeping with the *Disabilities Act*, which came into effect in February 2022.

Further, differently challenged persons (physically, mentally, visually impaired; deaf, 'dumb') who access JCF services are given special services such as interpreters, sign language experts, ramps to access buildings, etc.

The Force Orders also contains a list of agencies that officers can contact for assistance or advice when dealing with persons with disabilities.

8. Do Persons with Disabilities have legal aid support when accessing court or legal services?

The Legal Aid Council provides legal assistance to vulnerable groups including persons suffering from a physical and/or mental disability.

The Council also offers assistance through the provision of hearing aids and any other form of expert assistance required by persons who are physically challenged in order to advance their defence.

In addition, the Mobile Justice Units operated by the Legal Aid Council are equipped to accommodate persons with physical disabilities and this assistance is provided through the operation of these Units. The Council's offices are also equipped to accommodate persons with disabilities.

Further, the aforementioned *Disabilities Act* has amended the *Legal Aid Act* to specifically provide for legal assistance to persons with disability appearing before the Disabilities Rights Tribunal. (See Section 51 of the *Disabilities Act*)

Section 17A of the Legal Aid Act now provides:

"A person with a disability who intends to enforce an award of the Disabilities Rights Tribunal under the Disabilities Act, shall be entitled to legal aid."

9. Explain the measures taken to improve the accessibility of Courts to Persons with Disabilities – including the accessibility of Court documents.

Some court houses are currently designed to ensure accessibility for persons with disabilities. The work continues to ensure that this is the standard across all court houses in the country.

Additional to this, the Judiciary currently has an arrangement with the Jamaica Association for the Deaf (JAD), which they engage to provide interpretation services to persons with disabilities who are before the Court and require such services.

10. Can you address the number of cases of gender-based violence crimes against Women with Disabilities and Children with Disabilities in the Courts?

The Judiciary does not maintain statistics disaggregated by gender or disability; as such, we are unable to provide a response to this question.

11. Response to Question regarding the provision for students on the autism spectrum

The 2021 school census reports that there are one hundred and sixteen (116) students in the mainstream whose diagnosis indicate that they are on the Autism spectrum. There are provisions in place to ensure that these students receive support in the mainstream. These are:

- Special Needs Coordinators –who work with schools, staff and parents to provide technical expertise in curriculum modification, appropriate strategies to be employed by teachers as well as provide sensitization on Autism to school mates and parents. They are also in the process of establishing support groups in each Region for parents of students with Autism. They also identify students and make referrals for formal diagnosis when the needs arise.
- Shadows are provided to help with managing physical and behavior needs in order for these students to have greater access to the curriculum.
- The Government also facilitate placement in private institutions and the fees are paid by the Ministry of Education and Youth (MOEY) for some students on the spectrum.

12. Response to Question regarding access to tertiary institutions/universities in Jamaica by Persons with Disabilities

Data collected from nine (9) tertiary institutions in Jamaica indicate that there are currently one hundred and ninety-eight (198) students with disabilities accessing higher education programmes. Some institutions indicate that the number may be higher but only students who disclose their disabilities in order to access Accommodations have been accounted for. The institutions include Universities, Community Colleges and Teachers' Colleges.