



**Discrimination and Threats of Gorilla War Against Indigenous Maroons in Jamaica,
including the encroachment and theft of Indigenous lands for Bauxite Mining, and
Destruction to the Biodiversity and Ecology of Treaty Protected Lands**

**Jamaica's Noncompliance with Obligations under the
International Convention on the
Elimination of All Forms of Racial Discrimination**

An Alternative Report
Submitted to the Committee on the Elimination of Racial Discrimination,
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I. Reporting Organizations

This issue-oriented alternative report is submitted jointly to the Committee on the Elimination of Racial Discrimination (Committee) by the Indigenous Accompong Maroon people organized as a republic government with an incorporation within the territory of Jamaica styled as the “Sovereign State of Accompong¹,” which is supported by the Accompong Development Foundation, a non-governmental organization which encourages the social and economic mobility of the Accompong Maroons in Jamaica.

II. Executive Summary

We welcome the report of the Jamaican government while emphatically rejecting majority of its content. Firstly, Article 18 of The Vienna Convention on the Law of Treaties expressly outlines that a State is obliged to refrain from acts which would defeat the object and purpose of a treaty when: (a) it has signed the treaty or has exchanged instruments constituting the treaty subject to ratification, acceptance or approval, until it shall have made its intention clear not to become a party to the treaty; or (b) it has expressed its consent to be bound by the treaty, pending the entry into force of the treaty and provided that such entry into force is not unduly delayed. The Government of Jamaica continues to engage in discriminatory tactics and Human Rights violations by purposely avoiding its obligations to the Maroon Treaty agreement even though Jamaica became a responsible party to the 1738 Treaty of Peace and Friendship with the British Crown pursuant to the 1962 Constitutional obligations under the Order in Council now protected by Jamaica’s Sovereign Head of State; His Majesty King Charles III.

Secondly, the designation that the island of Jamaica was categorized as ‘terra nullis’ is discriminatory and false as Indigenous people inhabited the island prior to the colonial conquest and still keep our own ancient tribal systems. Thirdly, we emphatically reject the report claiming that there are no indigenous people currently inhabiting Jamaica. This alternative report spotlights how Jamaica's continuing violations of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) through its discriminatory legal system perpetuates violence, discrimination, and injustices against the Accompong Maroons, including the crisis of encroachment and theft of Indigenous lands for bauxite mining which has caused major destruction to the biodiversity and ecology of Treaty protected lands.

The Indigenous Accompong Maroons face a very dire situation as our lands are being escheated and encroached upon for bauxite mining by the Jamaican government which has created situations that are serious, urgent, and that present a risk of harm that is irreparable in nature. The environmental degradation and impact to the Cockpit Country rainforest by mining above our ancient water tables and aquifers that provide fresh drinking water and irrigation for farmers livelihood, coupled with threats to the

¹ Over a period of about eighty years between 1655 and 1738-39, a motley band of a few thousand people in Jamaica engaged in a guerrilla war against the British. Their bravery, consummate skill and cunning minds made them so unbeatable that they finally compelled the British government to offer them a peace treaty to the Cockpit Country lands and recognition of state freedom and sovereignty. These legendary people were the Maroons. The First of the Maroons were the indigenous inhabitants of the Caribbean, named "indians," in error, by Columbus. The Taino's, Arawaks, Caribs, Moors and other African descendants all amalgamated to create what is known today as the Accompong Maroons.

The Full Maroon Council for the Sovereign State of Accompong are all Indigenous Maroons raised in Cockpit Country Native Villages and have 285 years of combined experience in tribal governments, nonprofit management, domestic violence and sexual assault advocacy (both individual crisis and systems and grassroots social change advocacy at the local, statewide, regional, national and international levels), and other social service experience. Accompong’s philosophy is that violence against the Maroons is rooted in the colonization of indigenous nations and the lack of local recognition by the Jamaican State to protect the descendants of First peoples having indigenous peoples rights as ratified under International law. (www.stateofaccompong.org)

environment that may result in harm to the life or health of the population, or the way of life of Maroons in their ancestral territories, and threats to our health have caused the Accompong Maroons in Cockpit Country to make this alternative report so as to bring attention to the discriminatory policies of the Jamaican government.² No relocation efforts are made for displaced Maroons caused by bauxite mining.

Jamaica is failing to uphold its obligations to protect indigenous people under ICERD Articles 2 (obligation to eliminate racial discrimination in all its forms); 5 (right to security of the person and protection against violence, as well as safe and adequate housing); and 6 (effective protection and remedies against racial discrimination).

III. Issue Summary

A. Discrimination Against Indigenous Maroons

Discriminations and violence against Accompong Maroons is at unprecedented levels in Jamaica, and it is one of the most egregious manifestations of the discriminatory legal system in the country. On January 6th, 2022 a Jamaica Constabulary Force off duty officer shot and killed a Accompong Maroon during what is said to be an altercation during the 284th Maroon Treaty celebration. This incident required the sympathy of the Government of Jamaica so as to maintain good diplomatic relationship and to dispel any foul play. The Accompong Maroons have concluded that discrimination against the Maroon culture took place after multiple invitations were extended to Jamaica for partnership on the 2022 Treaty celebration to no avail. Instead there was public confusion between the Ministry of Culture and the Office of the Prime Minister whether to promote or deny support for the annual celebration.³ Unfortunately, just a few weeks after this tragedy the Prime Minister of Jamaica, Andrew Holness irresponsibly stated that Jamaica is a unitary sovereign state and not one inch of Jamaica will go anywhere under his watch. He further alluded that there was no other sovereign on the island and that the Accompong Maroons have become a separatist group and this would lead to a gorilla war.⁴ Prime Minister Andrew Holness went a step further by making a public pronouncement that no Jamaica state entity, business or person should engage to help or assist anyone claiming indigenous rights.⁵ These threats have created a divide amongst the Jamaican populous as indigenous people are now in fear of claiming their Maroon Identity and heritage due to stress, duress and coercion of the Jamaican government.

Significant areas of constitutional law, policy, and practices fail to meet the Jamaica's obligations under the ICERD, particularly Articles 2, 5, and 6, and other human rights instruments with respect to protection of indigenous people from violence and ensuring nondiscrimination and equality under constitutional law. The UN Declarations on the Rights of Indigenous Peoples affirm the rights of indigenous people to enjoy protection against all forms of violence and discrimination.⁶ Jamaica's domestic law explicitly acknowledges the Jamaican government as a constitutional monarchical society with the British Crown and King as its Head of State. The 1962 Independent Parliament charter granted by then Her Majesty Queen Elizabeth II created a political trust responsibility that was passed to the new

² See, <https://jamaica-gleaner.com/article/focus/20220424/susan-koenig-impact-bauxite-mining-limestone-ecosystems-jamaica>

³ See, <https://jamaica-gleaner.com/article/news/20220105/police-warn-against-maroon-event-accompong>

⁴ See, <https://www.jamaicaobserver.com/news/holness-blasts-maroons-rejects-idea-of-sovereignty/>

⁵ See, <https://jamaica-gleaner.com/article/esponsored/20220110/prime-ministers-guerrilla-reference-inappropriate-councillor>.

⁶ UN Declaration on the Rights of Indigenous Peoples, Article 22, and American Declaration on the Rights of Indigenous Peoples, Article 7.

Jamaican-led government. The 1738 Maroon Treaty is still in force via the savings clause of the Jamaican constitution in-order to safeguard the freedoms and territorial birthrights of the Indigenous Maroons.⁷

The level of discrimination against the Indigenous Accompong Maroons is quite concerning as Jamaica is a signatory to the UN Declaration on the Rights of Indigenous Peoples but have yet to formally ratify these rights and duties into domestic legislation. This discrimination has become very political as the Accompong Maroons are being stalled in the Supreme Court of Jamaica on an Injunction to halt all mining, roadwork or infrastructure activities by mining companies in the Cockpit Country Maroon territory until the proper delegation of authority to ownership of Maroon Treaty lands is confirmed by court declaration and until the mining company and the Government of Jamaica are found liable for the environmental destruction that has occurred since the start of mining operations. The Accompong Maroons of Cockpit Country do not believe that there is any justice to be found in the local venue as bauxite mining, regardless of the environmental impact, is seen by the Government of Jamaica as an important revenue stream towards Jamaica's Gross Domestic Product (GDP). The Maroon Cockpit Country Boundary was redefined by Jamaica to facilitate bauxite mining because the Maroon boundary, which also takes in Trelawny and St Elizabeth, would amount to US\$3 billion in losses or 100 million tonnes of bauxite, while the Jamaica Bauxite Industry boundary that was selected by Prime Minister, Andrew Holness in Parliament showed losses estimated at US\$0.30 billion or 10 million tonnes compared to the Maroon Boundary.⁸ After multiple court proceedings to have an injunction request heard before the Supreme Court we do not believe that the Jamaican Supreme Court will remain impartial, render justice and grant relief to the Indigenous Maroons.

In the meantime, however, the violence has been initiated against the Indigenous Maroon people by the Jamaican government by illegally issuing bauxite mining leases on ancestral lands causing destruction to sacred cultural areas and indigenous farming lands affecting the economic and social mobility of the Indigenous Maroons of Cockpit Country. The following outline offers a disturbing picture of violence against indigenous Maroons;

B. Murder and violence against Indigenous Maroons in Jamaica

1. The bodies of two persons — a male and female — were discovered at their home, which is located near the Three-finger Jack monument (old Maroon territory) in Eleven Miles, St Thomas on Thursday, April 14th 2022. The deceased man has been identified as an indigenous Maroon, and the female was his wife who also was a Maroon. The bodies discovered in by a friend, who visited their roadside hut to bring them food and water. Upon closer inspection he realized that the two Maroons were inside their house, dead. Police suspect that the couple was murdered. This case remains unsolved with no remedy. The friend said that the Maroon before being murdered told him that he would be relocating his Maroon State Law Sovereign Heritage Foundation site due to works being done on the new Southern Coastal Highway. The road, which is under construction, is close to were the Maroons inhabited.⁹ This particular Maroon individual is known for his 'stone art' erected in the vicinity of the Three Finger Jack monument. As a proclaimed indigenous Maroon he had bravely and eruditely objected to the roadwork taking place directly beside the historical and ancestral land he inhabited.¹⁰ The murder of another indigenous Maroon without any accountability or proposed justice for the victims families has caused the Accompong Maroons to believe that Jamaica has failed the indigenous inhabitants and turns a blind eye to injustices due to the economic value of Maroon lands and Jamaica's geopolitical position in the region.

⁷ See, Clause 4 of the Jamaican Constitution, 1962 Order in Council.

⁸ See, <https://jamaica-gleaner.com/article/news/20141024/bauxite-price-tag-put-cockpit-country-0>

⁹ See, <https://jis.gov.jm/first-two-tranches-of-southern-coastal-highway-to-be-completed-by-march-2023/>

¹⁰ See, <http://jamaica-star.com/article/news/20220805/highway-project-borrows-%E2%80%98three-finger-jack-%E2%80%99s-honour>

C. Outline of Maroon Discrimination in the Supreme Court of Jamaica

2. Without due process the Government of Jamaica made an unlawful claim to be the owner and administrator of the Maroon lands, by surreptitiously changing the legal status of the Maroon private estate, by the act of annexing the Maroon lands in 2022, two hundred and eighty four years after the 1738 Treaty under the “Natural Resources Conservation Authority Act.” (Hereinafter “NRCA Act”), which was published in the Jamaican Gleaner newspaper on March 17th, 2022 declaring ownership to the Maroon lands by the Government of Jamaica.¹¹ This action and implicit claim by the Government of Jamaica through its agents and assigns is in direct conflict with the Maroon ownership and possessory right to ancestral lands, being embedded within Article 3 of the 1738 Maroon Treaty. These lands were never ceded back to the British Crown and therefore without a memorandum of understanding Jamaica is violating international law.

3. The Government of Jamaica is under a constitutional obligation to honor the Maroon Treaty with the British Crown, King Charles III as the current Head of State. Jamaica currently remains a constitutional Monarchy and Article 4 of the 1962 Jamaican Constitution preserves the 1738 Maroon Treaty agreement. Further, the 2011 Charter of Fundamental Rights and Freedoms (Constitutional Amendment) Act, Section 13 (1)(b) which unequivocally speaks to the preservation of fundamental rights for generations is being ignored to avoid preserving the rights of the Accompong Maroons in Jamaica. This is an essential point because the Maroon land title is expressed to be in force in perpetuity whereby the Accompong Maroons are entitled by virtue of our inherent dignity as persons inhabiting Jamaica to seek redress for Constitutional violations. Section 13 (2)(b) of said Constitutional Amendments state “Parliament shall pass no law and no organ of the State shall take any action which abrogates, abridges or infringes those rights. The Cockpit Country Protected Area receiving legal backing via the NRCA Act without consultation with the Cockpit Country Maroons abrogates, abridges and infringes upon the indigenous rights and title of the Accompong Maroons.

D. Urgency for CERD Committee Alternative Report

4. Minister of Mining for Jamaica Robert Montague returned to Parliament in September 2021 to announce a resumption of the Bauxite Levy regime in a new agreement struck with Concord Resources Ltd a company located in London. Concord Resources Ltd bought out New Day Jamaica Ltd the owners of Noranda Bauxite. In 2018, New Day Jamaica Ltd. and the Government of Jamaica struck up a partnership called “Noranda Jamaica Bauxite Partners II;

5. To facilitate that 2018 partnership agreement back in 2017 Jamaica had dropped the Bauxite Levy arrangements. The taxation Levy system was scrapped because the Government of Jamaica wanted to share in the profits of New Day’s mining operation in which it became the 51% shareholder with Noranda 49%;

6. For the Governments of Jamaica’s’ 51% – Noranda 49% partnership enterprise called “Noranda Jamaica Bauxite Partners II,” created in 2018, Jamaica also proposed to annexed 8335 hectares of land from the north eastern Cockpit Country and designated that parcel of land, Special Mining Lease Area (SML)173;

7. The Government of Jamaica through the Prime Minister’s declaration of a “Cockpit Country Protected Area Boundary” (CCPA) announced in Parliament on November 21, 2017 started the contention and discontent;

¹¹ See, <https://jamaica-gleaner.com/article/news/20220317/cockpit-country-protected-area-gets-legal-backing#:~:text=The%20Cockpit%20Country%20Protected%20Area,by%20Prime%20Minister%20Andrew%20Holness.>

8. The area designated SML173 breaches the Maroon Treaty Property Title rights, as was recommended by the team of Commissioners that were contracted by Jamaica's Cabinet Sub Committee established back in 2008 to study, and finally determine by consensus the boundary of Cockpit Country;

9. The Government of Jamaica took European Union (EU) money in 2019 to establish a permanent and sophisticated boundary markers around an area contrived by Jamaica's Prime Minister of the day, called "Cockpit Country Protected Area Boundary" (CCPA). This CCPA is in direct contravention to the Maroon Treaty Title rights as the Government of Jamaica is unlawfully making a claim to the Maroon lands without first exercising the proper consultation and due diligence process as required by statutory law under NRCA Act 5 (1)(b) stating "The Minister may, on the recommendation Authority after consultation with the Jamaica National Heritage Trust), by order published in the Gazette designate - (b) any area of land or water as a protected area in which may be preserved any object (whether animate or inanimate) or unusual combination of elements of the natural environment that is of aesthetic, educational, historical or scientific interest.

10. The Government of Jamaica has not consulted the Cockpit Country Maroons regarding the erroneous claims purported against the Maroon property protected by the British Crown who quit claimed interest to the Cockpit Country via the Maroon Treaty Title Clause and as such the Government of Jamaica is in violation of the Jamaican constitution. This Act by Jamaica through its agents and assigns are in direct contravention and violation of the strict letter of the Jamaican Constitution pursuant to Section 13 (2) (b) which states "Parliament shall pass no law and no organ of the State shall take any action which abrogates, abridges or infringes those rights;

11. The Government of Jamaica in its haste to strike a profit-sharing deal called, "Noranda Jamaica Bauxite Partners 11" with New Day Jamaica Ltd., broke its own regulatory protocol in 2018. It gave a mining lease to "Noranda Jamaica Bauxite Partners 11," to mine SML173 without carrying out the required Environmental Impact Assessment (EIA), or receiving a mining Permit from the National Environmental Protection Agency (NEPA), all of which are prerequisites to issuing a Lease/License for mining. More importantly the Government of Jamaica did not contact or consult with the true owners and beneficiaries to the superior title to the fee simple absolute interest to all those lands expressed in the Maroon Treaty, which carries right of survivorship to the entire Maroon estate;

12. Noranda Jamaica Bauxite Partners 11, started to mine SML173 in March of 2019 and had to be warned by NEPA, the Government of Jamaica's regulatory agency/arm to secede, to stop the mining or be faced with legal action for breaches of mining without a Permit. The Cockpit Country Maroons via its Central Government also made public objections against the objectionable claims and contractual engagements which involved the mining and degradation of the ecological environment of the Maroon territory, which were captured on International news platform "VICE NEWS" in a two part documentary (first part aired in April 2021 and second part aired April 2022) titled "Jamaica for Sale" which has gone onto win "Best Reporting In Any Medium On International Environmental Issues" on April 22nd, 2022.

13. The residents living in and around SML173 who heard in May, 2019 about the degradation and mining out of their livelihoods, immediately began to launch protest demonstrations. Street protests were held in the affected communities, in front of the Parliament of Jamaica, and Maroon relatives in the Diaspora demonstrated before the United Nations and the Jamaican Embassy in New York City;

14. In the year 2020 Noranda's consultant Conrad Douglas and Associates started submitting the Environmental Impact Assessment Report for SML173. NEPA received and reviewed several iterations of the EIA study, and rejected them on five (5) different occasions, because reportedly it was a poor document that did not address the Terms of Reference set by NEPA for the study;

15. A town hall meeting was held on Television Jamaica (TVJ) in early 2021, to publicly review the EIA document by a panel of academic experts from different disciplines covered by the study. All panelists publicly and unanimously rejected the EIA report again;

16. The Maroons learned that the government's profit-sharing arrangement was not going well and Jamaica risked loss of money under the agreement it signed back in 2018 with New Day Jamaica Ltd;

17. Jamaica's Minister of Transport and Mining, Robert Montague in May 2021 said in parliament, "The Government has revised the agreement for mining in the Cockpit Country (Maroon Territory). According to him, "the modifications include the removal of 6,000 hectares of land, which are adjacent to the Cockpit Country, from the original Special Mining Lease 173 (SML 173);"

18. Jamaica's announcement of withdrawal from 6000 hectares created suspicion among residents of being a PR stunt. When the information circulated its impact began to divide the inhabitants of the affected communities along lines of who was spared from mining and who would be mined out;

19. Now that New Day Jamaica Ltd. is taken over by Concord Resources Ltd., Jamaica got the opportunity to renegotiate its agreement, which included a revamping of its profit-sharing arrangement, and a return to the Bauxite Levy system of revenue generation;

20. Ironically Conrad Douglas & Associates have now submitted another EIA report, maybe the 6th iteration of the study document. This is now being considered/ reviewed by NEPA and it is as at the date of this statement published on their website for the public. NEPA wants to come back to stakeholders and affected communities with their new take on the EIA which recommends mining proceed in SML173;

21. However, confusion is developing in the matter currently as the Government of Jamaica seems ready to renege on a commitment given by the Minister of Mining in Parliament in May 2021, to withdraw from 6000 hectares of land in SML173. This time the Government of Jamaica has placed its own agency (NEPA) into submission. NEPA is under pressure from the Government of Jamaica to give a Permit to the new partner in Noranda Jamaica Bauxite Partners 11. Authorizing mining in the 6000 hectares of land Jamaica withdrew from SML173 in May 2021.

22. The Government of Jamaica through the Prime Ministers Office called for an audience and invited all the Maroon Chiefs in Jamaica excluding Chief Richard Currie and the Accompong Maroons to sit and discuss Cockpit Country on January 21st, 2022. It is important to note that only the Accompong Maroon Government (Sovereign State of Accompong) has the delegation of authority to make claim to and negotiate terms in matters related to the Cockpit Country territory.

23. Exactly three weeks later the Government of Jamaica granted the mining permit to Noranda to begin mining operations on the Cockpit Country boundary line which is directly and indirectly affecting Maroons domiciled in and around the affected areas due to dust from the red mud lakes created from extracting bauxite alumina.

24. Bauxite Companies in Jamaica are well known for environmental degradation as many river pollutions and bauxite dust year after year has caused many health issues to the point that some inhabitants of the Cockpit Country area affected by bauxite operations have died from adverse effects from respiratory problems and contamination to food and water.

25. Irreparable harm to the environment, biodiversity and ecology due to the partial or total loss of farming lands from bauxite operations is a gross Human rights violation. The concerns of the residents of Cockpit Country were also captured during the verbatim minutes of the Mandatory Public Meeting Report by the Environmental Impact Assessment for the Proposed Mining of Bauxite in the Special

Mining Lease 173 (SML 173) Area conducted on December 8th, 2020.¹² This report captured the admission of breaches and violations that had caused the Noranda and Government of Jamaica mining operations to have been shut down and also highlights the biodiversity and rare species of animals, insects and plants that would be affected.

IV. Jamaica's Broad Reservation to the Convention

The Accompong Maroons saw that the Committee recommended that Jamaica should re-examine its "broad and vague" reservation to the Convention. We completely agree with the Committee on this recommendation and would like to highlight the critical component for indigenous people to become prosperous in Jamaica if the Government of Jamaica accepts its international duties to which it is a party. The fundamental issue is that Jamaica has not locally ratified any legislature on the Declaration on the Rights of Indigenous Peoples and therefore Jamaica manipulatively in its own interest chooses when and who it wishes to grant rights to, while accepting certain international aid and monies as a signatory to the UN Charter. As stated earlier in this report Jamaica claims there is no indigenous people, yet the Parliament of Jamaica with its members the President of the Senate and House Speaker officially recognized the ascendancy of the new Accompong Maroon Chief, Richard Currie to the Office of Chief in April 2021.¹³ To add insult to injury recently Jamaica proclaimed that there was the first Taino Chief since 500 years to also be in Jamaica. If these official public pronouncements speak to recognizing Indigenous people it begs an answer to the question; why does Jamaica continue to declare there are no indigenous people inhabiting the island? Since the Accompong Maroons voiced our disapproval with mining operations and started to invoke our birthrights the Government of Jamaica categorically made statements against the Accompong Maroons on our stance as being a sovereign and indigenous people. Hypocritically, Prime Minister, Andrew Holness himself declared on January 6th, 2019 on his official Facebook page and published in Jamaica Information Service (Official Government Organization) that the Accompong Maroons won a Peace Treaty against the British and were sovereign people. Prime Minister Holness also made references to the Cockpit Country being Maroon territory. The British High Commissioner to Jamaica both in 2019 and 2020 without any ambiguity or reservation reaffirmed the 1738 Peace Treaty in Accompong Town on the days of the Maroon Treaty celebration. He emphatically stated that the Accompong Maroons are a Sovereign people and that the agreement with the Maroons now rested with the Government of Jamaica.¹⁴ The Jamaica Information Service officially recorded this recognition.¹⁵ Due to Accompong Maroon Government challenging the atrocities and discrimination against our people the Prime Minister of Jamaica advised government entities and the private sector to cut ties and funding to any group on the island claiming Indigenous/sovereign rights. He also claimed that not one square inch of Jamaica will be ceded to any sovereign group under his tenure. The Jamaican national news papers initiated its propaganda machine to perpetuate psychological discrimination against Maroons by creating cartoon images depicting Accompong Chief Richard Currie as a gangster to the public.¹⁶

The basis of Jamaica's reservation is that it will not accept any obligation that goes beyond the constitutional limits or any judicial processes beyond those prescribed under the Constitution. Since nothing contained in or done pursuant to any law can exceed the powers conferred by the Constitution of

¹² See, https://www.nepa.gov.jm/sites/default/files/2020-12/Verbatim%20Minutes_Mandatory%20Public%20Meeting%20Report.pdf

¹³ See <https://jis.gov.jm/pod/photo-chief-currie-pays-courtesy-call-on-president-and-speaker-of-the-house-of-representatives/>

¹⁴ See <https://stateofaccompong.org/recognition>

¹⁵ See <https://jis.gov.jm/speeches/keynote-address-by-the-most-honourable-andrew-holness-on-mp-prime-minister-at-the-sovereign-state-of-accompong-281st-celebration-of-the-signing-of-the-treaty-with-the-british-and-the-birthday-of-capt/>

¹⁶ See https://m.facebook.com/gleanerjamaica/photos/a.118774021611045/2221477211340705/?dl_redirect=1

Jamaica, any legislative enactment implementing any provision of the Convention, even without the reservation, must be able to withstand constitutional scrutiny. Jamaica's reservation should be interpreted to mean that Jamaica will comply with its obligations under the Convention and is not averse to introducing judicial processes, to the extent that such steps are not prohibited by the Constitution.

The Accompong Maroon government would like highlight that this broad reservation stance does not allow Jamaica to Constitutionally avoid the Indigenous Maroon rights as the 1738 Peace and Friendship treaty via the savings clause in Jamaica's Constitution (Article 4) obligates Jamaica to adhere to his international responsibilities. By violating the Treaty rights Jamaica inherently take part in Human right violations.

To prove this point to CERD we simply have to look to the Constitutional protections under 13 (1)(b), of the 2011 Charter of Fundamental Rights and Freedoms (Constitutional Amendment) Act regarding status as a person separate and apart from being solely identified as a Jamaican citizen. Most Indigenous people of Jamaica identify themselves as Maroons due to the amalgamation of the bloodlines lineage tracing back to the First Peoples called Taino's by the colonist. Section 13 (1)(b) states that "all **persons** in Jamaica are entitled to preserve for themselves and future generations the fundamental rights and freedoms to which they are entitled by virtue of their inherent dignity as **persons** and as citizens of a free and democratic society." The Accompong maroons declare that the 1738 Maroon Treaty enshrined certain political doctrines which have survived to this day as it relates to ownership and authority over the Maroon estate. The Indigenous Maroon customs, culture and traditions are constitutionally protected under 13 (3)(b) of said Charter which states "the right to freedom of thought, conscience, belief and **observance of political doctrines**. It is the political doctrine of the Accompong Maroons to uphold their fiduciary duty to maintain superior title to the beneficial interest of the fee simple absolute to the Maroon estate, more particularly described as Cockpit Country, and protected under 13 (3)(q) of said constitutional charter of Jamaica. Therefore, Jamaica is perpetuating Human Rights violations by purposefully discriminating against Indigenous Rights which should be available under the fundamental right to self identify as indigenous people pursuant to Article 9 and 33 of the UN Charter on the Declaration on the rights of Indigenous people. Article 5 of said charter is also being violated as the Indigenous peoples are not being allowed the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the Jamaican State.

The Indigenous Accompong Maroons are the heirs of the Maroon lands being destroyed by government mining operations. The Accompong Maroons have a Birthright claim via succession through a privity of blood tracing back over 600 years. The Accompong Maroons have Amended and Ratified on March 21st, 2022 a Constitution that was first Adopted in 2004 and entered into the Jamaican Public Records through the Office of the Registrar General Department (Hereinafter Maroon Constitution").¹⁷ The Allodial property rights that are derived from the 1738 Maroon Treaty are being administered under the Maroon Constitution. The Maroon Treaty at least secured a freehold estate in 1738. The beneficiaries to the title embedded within the 1738 Maroon Treaty remain organized as a body politic holding the Maroon Property in Allodium; creating an estate held by absolute ownership without recognizing any superior to whom any duty is due on account thereof, as defined in Black's Law Dictionary, 4th Edition, page 100;

According to the World Directory of Minorities and Indigenous Peoples (WDMIP), the Maroons of Jamaica are Indigenous Peoples. Under the heading "Jamaica" and the subheading "Maroons", the WDMIP states: "The largest early single exodus of Africans away from slavery came when the British invaded Jamaica in 1655 and expelled the Spanish. A large number of Africans escaped into the hills and

¹⁷ See <https://stateofaccompong.org/constitution>

mountains and linked up with the indigenous Taino, thereby laying the foundations for the formation of the Maroon settlements.”¹⁸

The development of the National Strategy and Action Plan on Biological Diversity in Jamaica¹⁹ (hereinafter “NSAP on BDJ”) highlighted the international and local status of the Maroons domiciled in Jamaica on page 56 of the official government document. The NSAP on BDJ was made possible by financial resources received from the Global Environment Facility and the Government of Jamaica. The funding was accessed through and with the support of the United Nations Development Programme, the implementing agency; and the Natural Resources Conservation Authority (now the National Environment and Planning Agency), the executing agency.

On page 56 of the NSAP on BDJ the report expressed that “**The Maroons of Jamaica have received statehood status within Jamaica and consequently have independent status.**” The report further states “They are a discrete tribe and would therefore be considered as both tribal people and indigenous people as defined by the Convention on Biodiversity (CBD). The Maroons have also been designated as indigenous people by UNESCO. They, along with other Jamaicans, possess traditional knowledge on the use of herbal medicines and utilize plants in ceremonial events. In addition, the Maroon communities qualify for the rights of indigenous peoples based on recent jurisprudence from the Inter-American Court of Human Rights (IACHR);”

Etymologically, “Maroon” is said to derive from cimarrón, itself based on an Arawakan/Taino word samara, meaning “arrow”, signifying the ongoing action or flight of an arrow. Some of the “Free negros” as identified in the 1738 Maroon Treaty who labored alongside the Taino’s in Spanish mines and on sugar plantations and collaborated with them, seemed to have adopted this understanding of the term cimarron, engendering a tradition of marronage.

Marronage, then, defined the existence and experiences of Africans and First Nation Peoples wherever they were enslaved or attempts were made to conquer and enslave them. Maroon communities existed in Africa, from among those who fled raiders for captives or escaped from coffles along what were called “interior slave routes;” dotted the fringes of plantation America, from Brazil to Florida, from Peru to Texas: were found in the Great Dismal Swamp, straddling North Carolina and Virginia, in the Bas de Fleuve region of Louisiana, in San Lorenzo de los Negros, in Veracruz on the Caribbean coast of Mexico, across the Caribbean and in Latin America, especially in Palmares Brazil, where they are known as mocambos or quilombos. Marronage, then, defined the existence and experiences of Africans and First Nation Peoples wherever they were enslaved or attempts were made to conquer and enslave them.

Maroon communities represented an unwavering threat to Europeans. They resisted the ideological premise of slavery and were targeted by European militaries to be destroyed. Yet the resistance of the Maroons never wavered. This is the spirit of marronage - the uncompromising abhorrence for repressive regimes. This cultural and religious stance by the Accompong Maroons to preserve ancestral rights from being violated by the government of Jamaica has created a chaotic environment based on inflicting fear and subversive tactics against our people.

As Indigenous Peoples, the Maroons have rights under The United Nations Declaration of the Rights of Indigenous People (UNDRIP), an international instrument adopted by the United Nations to enshrine (according to Article 43) the rights that “constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world”. The UNDRIP, protects collective rights that may not be addressed in other human rights charters that emphasis individual rights, and also safeguards the individual rights of Indigenous Peoples such as the Accompong Maroons inhabiting the island know called Jamaica.

¹⁸ See <https://www.refworld.org/docid/4954ce122d.html>

¹⁹ See <https://www.cbd.int/doc/world/jm/jm-nbsap-v2-en.pdf>

Under the declaration, to which the Jamaica is a signatory, “Indigenous Peoples ... are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular rights based on their indigenous origin or identity. Indigenous Peoples have the right of self-determination. They have the right to be different, to consider themselves different, and to be respected as such. This is Constitutionally protected by section 13 (1)(a) and (1)(c) of the 2011 Charter of Fundamental Rights and Freedoms Act. Therefore, Jamaica should not continue to be able to have a broad reservation to the convention. Jamaica should be made aware of their multiple violations of Human Rights and the magnitude of such violations within the family of nations.

The United Nations General Assembly declared: “Indigenous Peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development. In exercising their right to self-determination, they have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.” Article 5 of the declaration states: “Indigenous Peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their rights to participate fully, if they so choose, in the political, economic, social and cultural life of the State.” Article 10 is clear: “Indigenous Peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous Peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.” The global recognition of the Jamaican Maroon and Cockpit Country prior to 1962 establishment of the Jamaican government is indivisibly part of our intrinsic self identity. This celebration of identity has been observed as an Accompong tradition on or around the 6 of January every year for the past 284 years.

Analogous to the rights expressed in the UNDRIP instrument of authority, states have ratified international human rights treaties that obligate them to respect the rights of individuals and certain groups. Some have also ratified International Labor Organization Convention No. 169 (ILO 169), which deals exclusively with the rights of indigenous and tribal peoples. The rights of Maroon individuals and collectivities are also protected under these instruments.

A. Maroon Rights Under Article 27 of the UDRIP.

Territorial rights are interrelated with rights to autonomy and self-government and both are related to Maroon rights guaranteed by the Maroon treaty. From the Cockpit Country Maroon perspective, the historical Maroon treaty is a sacred covenant by which they exchanged a cessation of hostilities for political, territorial, and cultural autonomy. The Maroon treaty stands as a testament to the struggle of their most powerful ancestors and set immutable boundaries within which they can exist and prosper as free peoples;

The Honorable Mark Golding, then Minister of Justice under the Portia-Simpson Miller Administration made a presentation in Maroon territory on behalf of Jamaica at the 6th Annual International Maroon Conference which was held on Sunday, June 22, 2014 regarding “The Importance of the legal recognition of Maroon rights.” Senator Golding stated that “A respect for indigenous knowledge, cultures and traditional practices aid in the sustainable development of our country. At the highest level, the Prime Minister demonstrated respect for the Maroons by addressing the Accompong Maroon Conference in 2012 (this is confirmation of state recognition by Defendants), at which members of the Windward Maroons were present. As a signatory to the United Nations Declaration on the Rights of Indigenous Peoples, Jamaica recognizes the need for the protection of indigenous people whose unique cultures and traditions strengthen the multifarious nature of humanity;”

Golding, who is also a lawyer affirms that “the two treaties signed by the Maroons and the British Government in 1738 and 1739 gave legal recognition to Maroons. Those treaties brought to an end some 80 years of war during which the Maroons, using superior knowledge of and adaptability to the environment and immense military skill, brought a leading global power of that age to the bargaining

table. Indeed, the Maroons' strategic thinking, courage and communication, and your great and courageous leaders, are legendary;" Golding affirms that "the Maroon Treaties provide the legal foundation for their special status under the law. Since independence, the Government of Jamaica has recognized and affirmed the rights of the Maroons, which are underpinned by the UN Declaration on the Rights of Indigenous Peoples. Articles three, four and five of that Declaration speak to the right to self-determination which allows for the free pursuit of economic, social and cultural development. Article four (4) provides for the right for self-government in matters relating to local affairs, as well as ways and means for financing autonomous function;"

Golding continues his affirmation stating "There is therefore no doubt that you have the right to pursue economic development in the best interest of your community. I must commend you for the leadership you have sustained throughout the years. This is indeed a legacy that was nurtured out of the clauses of the treaty and set you apart as a self-governing indigenous group that is also entitled to all the rights and privileges for all Jamaicans. These articles also protect the "right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions." Under these protections, indigenous peoples are empowered to keep their culture alive;"

Finally Golding states for the record "the rights of indigenous and tribal peoples regarding traditional lands are well-established in international law, and are increasingly being recognized in national laws and by national courts. The International Labour Organization (ILO) Convention (No. 169) concerning Indigenous and Tribal Peoples in Independent Countries, which was adopted on 27 June 1989, entered into force on 5 September 1991), applies to Good Governance, Rule of law and Human Rights, which are among my priorities as Minister of Justice. These precepts are, I suggest, of importance in supporting the growth, development and protection of the rights within the Maroon communities."²⁰

V. Objections to Jamaica's CERD Report

1. We emphatically reject Jamaica's CERD report at ¶ 5 claiming that there are no indigenous people still inhabiting Jamaica and for some reason the descendants have not survived to this day. We are who our ancestors were without a doubt or contradiction, and unless the Government of Jamaica as a creature of the law holds more power than the Creator of the Universe to prove otherwise then Jamaica should immediately change its discriminatory approach towards Accompong Maroons.
2. We emphatically reject Jamaica's CERD report at ¶ 14 that there is presently no need to enact specific legislation that prohibits racial discrimination as required by the Convention. Even though Section 13(2)(b) of the Jamaican Constitution stipulates that Parliament shall pass no law and no organ of the State shall take any action which abrogates, abridges or infringes those rights except where it is demonstrably justified in a free and democratic society to do so, Jamaica has not justifiably shown why the Accompong Maroons are being discriminated against their person and property by government officials with impunity.
3. We emphatically reject Jamaica's CERD report at ¶ 18 that there is adequate legal protection against racial discrimination in the enjoyment of the rights specified in Convention. The Cockpit Country territory has never been listed as an asset on the books of Jamaica until corporate mining interest approached Jamaica. Evidently because Jamaica has refused to officially recognize the legal relationship with the Accompong Maroons on paper there is a board reservation by Jamaica creating a grey area as to who is legally responsible for the Maroon agreement. Countless times the British Crown and its British High Commissioner to Jamaica reaffirm that the Government of Jamaica is now responsible for the Treaty relationship. Hence the immediate need for modern legislation so as to avoid the purposeful discrimination and propaganda warfare instituted to maintain a divide amounts the Maroon communities so as to forcefully assimilate the indigenous people as Jamaican citizens.

²⁰ See <https://stateofaccompong.org/indigenous-rights>

4. We emphatically reject Jamaica's CERD report at ¶ 25 where the Government of Jamaica believes, as challenged throughout this Alternative report, that there are sufficient measures in place which entrench and guarantee to every person his/her fundamental rights and freedoms, regardless of race or place of origin. These guarantees are not applicable to all persons, whether citizens or non-citizens, minority, ethnic or racial groups. As recent as last year in August 2021 a young Maroon girl who also identifies as a "Rastafarian" (a religious belief) was peppered sprayed innocently in a vehicle as a bystander due to police force being used to open a taxi man's door. The young girl started to defend her rights and was swiftly arrested and taken to the police station whereby she was then trimmed of her dreadlocks being a religious and indigenous hairstyle. There was absolutely no reason to cut her hair and not only humiliate this unfortunate young Maroon girl but also traumatize her for the rest of her life due to discriminatory tactics by the Jamaican State. No one was ever held accountable for the police officers' actions who cut the Maroon girl's hair. To this day the girl nor her family or tribal people have yet to receive any closure for the gross disrespect that took place and continues across the island to Indigenous descendants.
5. We emphatically reject Jamaica's CERD report at ¶ 43 where it states that the Charter (Sections 13 (3) (q) and 15) contains protection against the deprivation of property by the State, except in accordance with the law, and sets out the conditions for compensation therein. It further states that the provisions are equally applicable to persons, regardless of their race. This is completely false and misleading as it relates to the Accompong Maroons who are being deprived of their lands in the Cockpit Country territory that has been illegally approved by Jamaica for mining operations. The conflict of interest is that Jamaica is a 51% shareholder in the Bauxite company mining and destroying the ecology and biodiversity of Cockpit Country lands which is forcibly removing Maroons from their farming lands and their homes due to hazardous chemicals associated with the mining operations. This is a human rights violation at its core.
6. We emphatically reject Jamaica's CERD report at ¶ 47 that there is no evidence to suggest that religious persecution is practiced by State agents or individual citizens. This is false as one example has been previously mentioned above with the religious persecution of the Rastafarian Faith by forcibly cutting the dreadlocks, a religious and indigenous hairstyle practiced by those having ancestral connections to their spiritual man within. Further to this there is the example of the attempt by Jamaica under the Andrew Holness-led Administration to purposely sabotage and try to cancel the ancient and religious pilgrimage to Accompong Town on January 6, 2022. A high presence of Police authorities and military forces were present close to Accompong Town with the sole purpose of turning back people from attending the event especially those individuals who are Maroons but also hold Jamaican Citizenship status also. The Accompong Maroons considered this action by the Prime Minister as a religious persecution from practicing our Maroon traditions and customs and faith.
7. We emphatically reject Jamaica's CERD report at ¶ 95 stating that emphasis is placed on the Maroons, Rastafarians and persons of Indian, Chinese and Middle-Eastern descent, as it relates to Human rights education being infused in the national curriculum at the primary and secondary levels. This is very much incorrect as it relates to the Accompong Maroons in specific. Other Maroon communities and their leaders are recognized and exalted as national Heroes of Jamaica yet knowledge of the most important Maroon leader, Captain Chief Cudjoe as signatory of the 1738 treaty is purposefully removed from the Jamaican curriculum and a false propaganda of being race traitors is supported by the Jamaican government so as to continue the deprivation of rights under the color of law and forcefully assimilate the Accompong Maroons over time until Jamaica can hold a referendum to remove the British Crown as Head of State and become a republic. Much of this information is not embedded in the Social Studies, Religious Education, Health and Family Life Education, Civics and Guidance curricula. It is not obligatory at the primary level for children to focus on the study of the Accompong Maroon people, their activities and relationships.

VI. Recommended Questions to Jamaica

1. In its CERD report at ¶ 5, Jamaica states it has no population that is considered as indigenous given that pre-Columbian indigenous tribes were exterminated during the period of colonization. Considering that there is an obvious Peace and Friendship Treaty that was signed in 1738 with the British-led government, and Jamaica since 1962 annually acknowledges the Maroon Treaty celebration, why then has Jamaica under the Andrew Holness led administration redefined and reduced the hectares of the Cockpit Country boundary when those lands are not titled under Jamaica and are known to be Maroon lands?²¹
2. Why did the Cockpit Country Boundary change in 2017 in Parliament after the agreed 2013 Boundary definition by the Jamaican Government funded Biodiversity report was accepted by the stakeholders, and why after 280 years of legal recognition has the Andrew Holness led Administration made pronouncements to publicly discriminate against the Accompong Maroons by cutting off assistance and funding after monies for Indigenous people and Cockpit Country was requested by Jamaica from International aid and is now available?²²
3. The Government of Jamaica has obligations under International and its own domestic laws to safeguard the freedoms and fundamental rights of persons other than Jamaican citizens inhabiting the island from human rights violations on and off tribal lands. What are some of the best practices the Government of Jamaica is using to restore relations with the Accompong Maroons and with respect to Cockpit Country whose lands are being mined for Bauxite and Rare Earth Elements (REEs)?²³
4. With all the abundant and rich historical information about the Accompong Maroons in Jamaica why did the Minister of National Security, Dr. Horace Chang make such a discriminatory statement that “There is no such thing as Maroon lands in Jamaica,”? also on national radio he supported unsanctioned operations by corrupt Jamaica Constabulary Officers who harassed, extorted and intimidated Accompong Maroons with government issued high powered rifles; These are cases that cry out for prosecution in order to stop perpetrators from continuing to act with impunity. What steps are being taken by the Minister to apologize for such a discriminatory statement that has caused human rights violations by police officers against Maroons and hold more perpetrators of these crimes accountable in order to provide indigenous descendants justice and to restore safety to them?²⁴
5. Why was the Accompong Maroons and their Chief Richard Currie purposely left out of a political meeting involving the Maroon Communities and the Government of Jamaica; following said meeting why was the green light given for a lease to begin Bauxite mining in Cockpit Country without the true landlords being the Accompong Maroons consulted prior to such approval, and by what delegation of authority was this lease approval granted?
6. Why was the Accompong Maroons and popular Maroon grammy award winning reggae singer Buju Banton denied entry into another well known Maroon territory by the Jamaican Constabulary Force and the Jamaica Defense Force which constitutionally violated the fundamental rights and freedoms of movement during a Maroon election and ceremonial process

²¹ See, <https://jis.gov.jm/pm-holness-announces-boundaries-cockpit-country/>

²² See, <https://www.jamaicaobserver.com/news/cockpit-country-setback/amp/>

²³ See, <https://www.cockpitcountry.com/boundarySML-SEPL.html>

²⁴ See, <https://twitter.com/nationwideradio/status/1425593223192489984?lang=en>

under the guise of national security concerns to Jamaica?²⁵ And what are the national security concerns?

7. As a signatory to the UNDRIP when does Jamaica intend to ratify the rights of indigenous people into domestic legislation before the move for Jamaica to become a republic? and if the answer is no, what assurances can Jamaica provide to ensure the history, culture, rights and ancestral lands for indigenous Maroons are preserved for their posterity?

VII. Suggested Recommendations

We respectfully request that the Committee consider the following recommendations in drafting its Concluding Observations following Jamaica's periodic review session:

1. Improve the relationship between Jamaica and the Accompong Maroons who have incorporated as the Sovereign State of Accompong and currently have a Treaty relationship with the Head of State for Jamaica which relationship survives pursuant to the savings clause (Article 4) of the 1962 Order in Council, Jamaican Constitution.
2. Improve Jamaica's law to: (a) remove systemic discriminatory barriers, whether in law, policy, or practices, that fail to protect the Accompong Maroons against violence; (b) ensure that Accompong Maroons can enjoy the increased protections that apply to other recognized tribes within the Jamaican jurisdiction; and (c) Ratify a new agreement with the Accompong Maroon nation (similar template to the American Indian nations and the United States) to ensure modern recognition since the 1738 Treaty, so as to preserve indigenous lands from encroachment and environmental destruction from bauxite mining and ensure recognition of their inherent sovereign power to exercise full jurisdiction over all their people and territories which predate the 1962 incorporation of the Jamaica.
3. Provide consistent, non-competitive base funding and technical assistance, relevant to the area of concern, to the Sovereign State of Accompong, including their law enforcement, judicial, and criminal justice systems, in sufficient, equitable amounts and by appropriate means to ensure equal protection and meaningful justice for all Accompong Maroon victims of racial discrimination.
4. Provide the Indigenous Maroons with proper representation in the Jamaican Parliament so that there is a representative that may speak directly on the issues and concerns facing the indigenous people of Jamaica so as to avoid the escalation of future conflicts .
5. Bring the Accompong Maroon government to the table with DADA Holdings and the Prime Minister of Jamaica to find the most trilaterally beneficial way forward for all stakeholders.
6. Fully and effectively implement domestic laws to recognize the indigenous Maroon identity and land title rights, and their use of their Accompong Maroon Identification Cards in business and commerce with the Jamaican State.²⁶
7. Ratify UNDRIP and the Convention on the Elimination of Discrimination against indigenous people into domestic law and, in considering this action, engage in meaningful consultation with the Sovereign State of Accompong and Accompong Maroon organizations that may be impacted by such an action.

²⁵See, <https://www.dancehallmag.com/2022/05/10/news/buju-banton-barred-from-entering-maroon-settlement.html>

²⁶ See, <https://stateofaccompong.org/citizenship>