



Human Rights Council
Working Group on the Universal Periodic Review
Thirty-sixth session
4–15 May 2020

Compilation on Jamaica

Report of the Office of the United Nations High Commissioner for Human Rights

I. Background

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the periodicity of the universal periodic review. It is a compilation of information contained in reports of treaty bodies and special procedures and other relevant United Nations documents, presented in a summarized manner owing to word-limit constraints.

II. Scope of international obligations and cooperation with international human rights mechanisms and bodies^{1, 2}

2. The United Nations country team noted that Jamaica was a State party to most core international human rights instruments.³ However, the ratification of others was still pending.⁴ It was recommended that Jamaica consider acceding to outstanding international human rights treaties, including optional protocols.⁵ In October 2016, Jamaica ratified the International Labour Convention (ILO) Domestic Workers Convention, 2011 (No. 189).⁶

3. The United Nations country team also noted that some treaty body reports remained outstanding. Human rights treaties had not been fully incorporated in national laws and some legislation was in conflict with the State's human rights obligations.⁷

4. The United Nations country team recommended that Jamaica consider issuing an open standing invitation for visits of international and regional special procedure mandate holders.⁸

5. The Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families expressed regret that the State had not submitted a reply to its list of issues, despite numerous formal and informal requests to do so. The Committee considered that the State had failed to comply with its obligations under article 73 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.⁹



III. National human rights framework¹⁰

6. The United Nations country team noted that the State did not have a national human rights institution, although it had announced its intention to create one.¹¹ There was no effective human rights protection system with a complaints mechanism in place, and the Government was not questioned or held accountable for its human rights performance by any national entity. The Minister of Justice had submitted a proposal in 2017 to draft legislation concerning a national human rights institution. However, the process was at a stalemate and was not being given due consideration by the Government.¹²

7. Two treaty bodies and the United Nations country team recommended that Jamaica establish a national human rights institution and provide it with a full mandate and independence in line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).¹³ The Committee on Migrant Workers added that the national human rights institution should be given investigative powers relating to all issues concerning the human rights of migrant workers and members of their families, regardless of status, and to conduct unannounced visits to all places where migrant workers and members of their families might be deprived of their liberty.¹⁴

8. The Human Rights Committee recommended in 2016 that Jamaica consider establishing by executive directive or other mandatory means a permanent governmental mechanism with a clear mandate to coordinate the engagement of the Government with human rights mechanisms and to follow-up on their recommendations in consultation with civil society.¹⁵ The Office of the United Nations High Commissioner for Human Rights (OHCHR) noted in 2018 that the Government had approved the formal establishment and institutionalization of the Interministerial Committee on Human Rights as the official national entity for reporting and follow-up to the United Nations human rights mechanisms.¹⁶ The United Nations country team reported that the interministerial committee was currently considering establishing a database for human rights reporting and tracking, to facilitate and expedite timely reporting to treaty bodies and through the universal periodic review.¹⁷

IV. Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Cross-cutting issues

1. Equality and non-discrimination¹⁸

9. The Human Rights Committee noted that the Charter of Fundamental Rights and Freedoms did not protect all persons against all forms of discrimination and that the right to freedom from discrimination failed to prohibit discrimination on grounds such as sexual orientation, gender identity, marital status, disability and health status.¹⁹ It recommended that Jamaica amend its laws and enact comprehensive anti-discrimination legislation to prohibit all forms of discrimination, and that the saving clauses in the Charter of Fundamental Rights and Freedoms relating to the Offences against the Person Act and Sexual Offences Act be removed where they obstructed the amendment of legislation that enhanced the rights of women or any other group.²⁰ The United Nations country team recommended that Jamaica decriminalize same-sex sexual acts and enact protective legislation for lesbian, gay, bisexual, transgender and intersex persons.²¹ The Human Rights Committee made similar recommendations.²²

10. Despite some positive developments, the Human Rights Committee noted with concern reports of incidents of discrimination, harassment and violent attacks against lesbian, gay, bisexual and transgender persons and the alleged failure of the State to prevent and investigate such attacks.²³ The United Nations country team made similar observations.²⁴ The Human Rights Committee recommended that Jamaica ensure that cases

of violence against lesbian, gay, bisexual and transgender persons were thoroughly investigated, that the perpetrators were prosecuted, and if convicted, punished with appropriate sanctions, and that the victims had access to effective remedies.²⁵ With regard to discrimination and stigma against lesbian, gay, bisexual, transgender and intersex persons in the health sector, the United Nations country team recommended that Jamaica provide guidance to and raise awareness among health professionals, health-service providers, security forces and legal operators in order to provide services with dignity and respect for all populations, including lesbian, gay, bisexual, transgender and intersex persons.²⁶

11. The Committee on Migrant Workers recommended that Jamaica intensify efforts to combat racism and xenophobia, including by prosecuting perpetrators and conducting awareness-raising campaigns, and provide assistance to victims.²⁷

2. Development, the environment, and business and human rights²⁸

12. The United Nations country team noted that Jamaica had advanced its climate change adaptation and mitigation agenda through the development of policy instruments and key documents and the implementation of actions at the national and local levels. The State had also advanced its focus on climate change mitigation through renewable energy and energy-efficient investments.²⁹ The United Nations country team recommended that Jamaica continue to implement recommendations from the Third National Communication and other climate change policy instruments, advance sustainable forms of energy and implement climate-related policies and programmes, including the targets of its nationally determined contributions.³⁰

13. A group of special procedure mandate holders urged the Government to ratify the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement) as a matter of priority.³¹

B. Civil and political rights

1. Right to life, liberty and security of person³²

14. The United Nations country team noted that Jamaica had one of the highest homicide rates in the world. The main causes of violence and insecurity were rooted in social and economic inequalities. During 2018 and 2019, Jamaica had declared a state of public emergency, which was still ongoing in parts of 6 out of the 13 parishes in the country, raising human rights concerns about arbitrary arrests and the conduct of its security forces.³³ The Act on Zones of Special Operations had been enacted in July 2017 to tackle the security situation in communities with high criminality rates, but the available analysis questioned its effectiveness.³⁴ The United Nations country team recommended that Jamaica ensure that human rights were fully protected and that due process was respected during the security operations by the police and security forces, and encouraged more training and human rights education for law enforcement authorities. It also recommended that the Government ensure that detention was used as a matter of last resort and for the shortest appropriate period and that fair trial rights were fully respected for all citizens, especially women and children.³⁵

15. While noting the de facto moratorium on executions since 1988, the Human Rights Committee noted with regret that Jamaica did not intend to abolish the death penalty, and noted with concern that the conditions on death row remained inhuman.³⁶ It recommended that the State consider abolishing the death penalty and acceding to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, and ensure that the death-row regime did not amount to cruel, inhuman or degrading treatment or punishment.³⁷

16. Expressing concern at reports of torture and ill-treatment or excessive use of force by the police or security forces,³⁸ the Committee recommended that the State amend its criminal law to ensure that all acts of torture were prohibited and sanctioned with penalties commensurate with the gravity of the crimes, and guarantee that allegations of torture and

cruel, inhuman or degrading treatment were investigated by an independent authority, that the perpetrators of such acts were prosecuted and, if convicted, punished with penalties commensurate with the gravity of the crime, and that the victims received adequate compensation.³⁹

17. The Committee recommended that Jamaica expedite its efforts to reduce overcrowding in places of detention, including by resorting to alternatives to imprisonment, and improve conditions of detention, particularly with regard to sanitary conditions and access to medical care. The Committee also recommended that Jamaica adopt legislation governing pretrial detention and put in place a system to detain accused persons separately from convicted persons.⁴⁰

2. Administration of justice, including impunity, and the rule of law⁴¹

18. The United Nations country team noted that the judicial system faced several challenges. Significant case backlogs hindered judicial due process, while legal aid services for people in need of assistance were underdeveloped, understaffed and underresourced.⁴² The Human Rights Committee made similar observations,⁴³ and recommended that the State pursue the reform of its justice system to ensure speedy and fair trials, including providing adequate budgetary allocations and human resources and strengthening its legal aid capacity for any case in which the interests of justice so required.⁴⁴ The United Nations country team recommended that the Government ensure respect for fair trial rights and due process during the implementation of the zones of special operations.⁴⁵

19. The Human Rights Committee expressed concern that the legislation on states of emergency did not meet the standards of article 4 of the International Covenant on Civil and Political Rights.⁴⁶ The Committee recommended that Jamaica fully implement the recommendations contained in the 2016 report of the West Kingston Commission of Inquiry into the circumstances surrounding the state of emergency of May 2010 related to incidents in West Kingston/Tivoli Gardens, including providing victims with a remedy, strengthening accountability for the use of force and dismantling garrisons.⁴⁷ The Committee also recommended that Jamaica clarify the mandate and role of the Independent Commission of Investigations to ensure effective and independent investigation of law enforcement personnel and to avoid conflicts of mandate with other organs of the State.⁴⁸

20. OHCHR reported in 2017 on a review conducted by the Office of the Public Defender. In the report of the review, published in 2015, the Office had declared that events in Coral Gardens in 1963 had constituted a violation of the human rights of Rastafarians. The Office had further found that, following the incident, Rastafarians had suffered “discrimination, denigration and scorn”. The Office’s recommendations had included that the Government issue an apology to those who had been directly involved in the Coral Gardens events and that it establish a Rastafari cultural centre and a trust fund of 10 million Jamaican dollars to pay reparations to the survivors of the incident. In 2017, the Prime Minister, Andrew Holness, had announced that the Government would compensate the victims of the events.⁴⁹

21. The Human Rights Committee and the United Nations country team noted the significant reduction in the number of children incarcerated on correctional orders for being “beyond control”, but expressed concern about reports that there were still children serving such orders.⁵⁰ The United Nations country team recommended that the Government accelerate its efforts to promote and disseminate the Child Justice Guidelines and immediately repeal the provisions of the Child Care and Protection Act, which authorized such incarceration.⁵¹ The Human Rights Committee made similar recommendations.⁵²

3. Fundamental freedoms⁵³

22. The Human Rights Committee expressed concern about the reports of obstacles in the implementation of Access to Information Act (2004).⁵⁴ It recommended that the State take measures to enhance full implementation of the Act, including training officers, conducting public information campaigns and establishing an accessible complaint mechanism.⁵⁵

23. The Committee also expressed concern about reports that some human rights non-governmental organizations had faced obstacles in registration under the Charity Act and about reports of incitement to threat, harassment and attacks against human rights defenders.⁵⁶ It recommended the State ensure that consideration and granting of charitable status to non-governmental organizations was done on a non-discriminatory basis and did not obstruct or delimit the work of human rights defenders. It also recommended that the State take all measures necessary to protect the rights of human rights defenders to freedom of expression, association and peaceful assembly.⁵⁷

24. The United Nations Educational, Scientific and Cultural Organization (UNESCO) encouraged the Government to assess the system of licensing of the broadcasting sector to ensure that the process was transparent and independent.⁵⁸

4. Prohibition of all forms of slavery⁵⁹

25. The United Nations country team noted the establishment of the National Task Force against Trafficking in Persons and of the Anti-Trafficking in Persons Unit in the Jamaica Constabulary Force, the development of a database and the drafting of a policy to combat trafficking in persons. Those measures had resulted in increased visibility and improved efforts by the Government to address trafficking in human beings in Jamaica. However, further work was required to meet the minimum standards for the elimination of trafficking in persons.⁶⁰

26. Two treaty bodies and the United Nations country team welcomed the appointment of a National Rapporteur on Trafficking in Persons, in 2015.⁶¹ The two treaty bodies also welcomed the National Action Plan to Combat Trafficking in Persons (2015–2018).⁶² It was recommended that Jamaica allocate adequate human and financial resources to the Office of the National Rapporteur on Trafficking in Persons,⁶³ and step up the implementation of the National Action Plan.⁶⁴ Concerns were raised about the lack of studies, analyses and disaggregated data available to assess the extent of trafficking in the State.⁶⁵ It was recommended that Jamaica intensify the systematic collection of disaggregated data, step up campaigns aimed at preventing trafficking in migrant workers and protecting them from labour and sexual exploitation, improve the training of law enforcement officials, provide adequate assistance, protection and rehabilitation services to all victims of trafficking, and strengthen mechanisms for investigating cases of sexual exploitation, particularly sex tourism and trafficking in persons, and for prosecuting and punishing offenders.⁶⁶

27. The Human Rights Committee recommended that the State ensure that victims of human trafficking were not returned to a country where there were substantial grounds for believing that they would be at a real risk of irreparable harm.⁶⁷

28. The United Nations country team recommended strengthening efforts to combat child trafficking for the purposes of sexual exploitation and forced labour, and to ensure that acts of trafficking in persons are investigated effectively and perpetrators are brought to justice.⁶⁸ The ILO Committee of Experts on the Application of Conventions and Recommendations made similar recommendations and requested the Government to intensify its efforts to ensure the provision of appropriate services, including legal, psychological and medical services, to child victims of trafficking and commercial sexual exploitation, including child sex tourism, to facilitate their rehabilitation and social integration.⁶⁹

5. Right to privacy

29. The United Nations country team noted the Government's intention to further refine draft regulations with regard to identification and registration.⁷⁰ It recommended that the Government ensure that the bill on national registration and identification was in conformity with the State's obligations under the International Covenant on Civil and Political Rights.⁷¹

C. Economic, social and cultural rights

1. Right to work and to just and favourable conditions of work⁷²

30. The ILO Committee of Experts recalled that it had requested the Government to amend section 6 (4) of the Trade Union Act in order to ensure that penalties were not imposed on workers for their membership and participation in activities of an unregistered trade union. It noted the Government's indication that the issue was being examined and expressed the hope that the law would be amended in the near future.⁷³ It also urged the Government to amend its legislation in order to ensure that if no union reached the required threshold to be recognized as a bargaining agent, unions were given the possibility to negotiate, jointly or separately, at least on behalf of their own members.⁷⁴

31. The Committee also referred to the provisions of the Jamaica Shipping Act (1998), under which certain disciplinary offences were punishable with imprisonment (involving an obligation to perform labour under the Prisons Law). It urged the Government to take the necessary measures to ensure that the amendments of the Shipping Act were adopted so as to bring the legislation into line with the ILO Abolition of Forced Labour Convention, 1957 (No. 105).⁷⁵

2. Right to an adequate standard of living⁷⁶

32. The Committee on Migrant Workers welcomed the State's efforts to combat poverty and inequality, and the implementation of Vision 2030 Jamaica, the national human development plan.⁷⁷ The United Nations country team noted that poverty reduction, sustainable livelihoods, income and social security had been identified as strategic areas of focus within the plan. However, children, adolescents and youth and populations in rural areas continued to experience poverty levels that were above the national average.⁷⁸ The United Nations Children's Fund (UNICEF) noted that a quarter of the children lived in poverty in Jamaica, and that while children enjoyed some social protection from the State, a large number of deserving children still fell outside of the targeting mechanism.⁷⁹

33. The United Nations country team highlighted the approval in 2017 of the National Policy on Poverty and National Poverty Reduction Programme, which sought to eradicate extreme poverty in Jamaica by 2022, and the development of the Social Protection Strategy.⁸⁰ It recommended that Jamaica expedite implementation of a multidimensional approach to poverty measurement (including among children) and strengthen implementation of the approved strategies and policies.⁸¹

34. The Committee on Migrant Workers recommended that Jamaica invest in sufficient social protection systems to ensure that poverty, other social factors or discrimination did not force people into situations of precarious labour migration, and that it promote decent work opportunities for people at home.⁸²

3. Right to health⁸³

35. The Human Rights Committee expressed concern at the high levels of maternal mortality resulting from unsafe abortions and the lack of official data on the number of clandestine abortions and their linkage to high maternal mortality. It reiterated its concern at the general criminalization of abortion in the Offences against the Person Act, including in cases of pregnancies resulting from rape, incest and fatal fetal abnormality.⁸⁴ It recommended that Jamaica, as a matter of priority, amend its abortion legislation to help women address unplanned pregnancies and not resort to illegal abortions that could put their lives at risk.⁸⁵

36. The United Nations country team noted that the legal environment, which restricted access to sexual and reproductive health commodities and services among adolescents aged 16 years and below, was an obstacle and propagated the vulnerability of adolescents to HIV and other sexually transmitted infections and to unplanned pregnancies, contributing to the consistently high rates of teenage pregnancies in the country.⁸⁶ The Human Rights Committee raised similar concerns.⁸⁷ The United Nations country team recommended that

the Government remove legal penalties for health workers who deliver services to adolescents.⁸⁸

37. The Human Rights Committee expressed concern at the persistence of discrimination and stigmatization of people living with HIV/AIDS and the high proportion of girls aged 15 to 19 years infected with the virus. While welcoming the adoption of the National Integrated Strategic Plan for Sexual Health and HIV (2014–2019) and the National Workplace Policy on HIV/AIDS, the Committee was concerned with the lack of an enabling legislative framework to ensure their effective implementation.⁸⁹ It recommended that Jamaica amend its legislation to include protection against discrimination based on health status and to ensure better protection of people living with HIV/AIDS.⁹⁰

38. The United Nations country team expressed concern about the proposal of a joint select committee to include the “wilful transmission of sexually transmitted diseases including HIV” in the Offences against the Person Act.⁹¹ It recommended that the Government withdraw that proposal and ensure that the assessment of risk, harm and proof of HIV infection in cases of actual transmission was informed by the latest scientific and medical evidence related to HIV.⁹²

4. Right to education⁹³

39. UNESCO noted that the right to education was not comprehensively enshrined in the Constitution,⁹⁴ and that the main education law – the Education Act (1965) – did not enshrine education as a right.⁹⁵ The National Education Strategic Plan (2011–2020) highlighted the need for a compulsory education policy for youth aged 3 to 18 years; however, such a policy still needed to be adopted, as education was compulsory for only six years.⁹⁶ UNICEF noted that most children had access to publicly funded education, but that many were affected by poverty and its attendant effects, resulting in less than desired participation, lack of progress, chronic underperformance and, in some cases, even failure to complete their education, particularly at the upper secondary level among boys, and at schools located in lower socioeconomic communities in rural and urban areas.⁹⁷ The United Nations country team referred to a recommendation by UNESCO that the Government ensure that the standards of education were equivalent in all public educational institutions of the same level, and that the conditions relating to the quality of the education provided were also equivalent.⁹⁸ UNESCO recommended that Jamaica constitutionally enshrine the right to education for all within its territory, and amend its legislation in order to ensure compulsory education for at least nine years and free education for at least 12 years.⁹⁹ The United Nations country team recommended that Jamaica ensure adequate monitoring of the policy for the reintegration of adolescent mothers and introduce penalties for school leaders who breach the policy and deny girls the right to their education.¹⁰⁰

40. UNESCO stated that in May 2019, a draft special education policy that focused on the promotion of inclusive education had been submitted for Cabinet approval.¹⁰¹ The United Nations country team noted that, given inconsistencies in data, there was a need for an urgent assessment to find out how many children and youth with disabilities were in the education system.¹⁰² Currently, curriculum considerations included alternative educational options for youth with special needs, but often offered in a segregated context.¹⁰³ The United Nations country team referred to a recommendation by UNESCO that the Government provide inclusive education and strengthen measures to enhance public education campaigns to address negative social attitudes towards children and young people with disabilities.¹⁰⁴

D. Rights of specific persons or groups

1. Women¹⁰⁵

41. The United Nations country team reported that gender equality remained a challenge in Jamaica. Women were a significant component of the labour force, but earned significantly less than their male counterparts. They frequently occupied positions that were precarious, lower-paid and/or less secure. Persistent gender stereotyping, gender-based

violence, and a lack of disaggregated data by gender and of resources all contributed to perpetuating gender inequality.¹⁰⁶

42. The Human Rights Committee recommended that Jamaica strengthen its efforts, including through public awareness-raising campaigns on gender, to promote gender equality and female participation in decision-making positions in public and political life; consider adopting measures to facilitate balance in parenting and childcare, so as to allow women to seek and occupy higher decision-making positions; and take the appropriate temporary special measures necessary to increase the number of women in decision-making positions in public and political life.¹⁰⁷ The United Nations country team recommended that the Government undertake a full and thorough review of legislation in Jamaica with a view to eliminating or reforming laws that continued to enshrine different forms of direct or indirect discrimination against women.¹⁰⁸

43. The United Nations country team reported that gender-based violence was prevalent.¹⁰⁹ Rape and other types of sexual violence were the most underreported crimes due to various factors including backlog of court cases, biased law enforcers, lack of investigation technology, poor access to medical care and referral services, and the reluctance of victims for fear of stigma.¹¹⁰ The Cabinet had in 2018 approved the 10-year National Strategic Action Plan to Eliminate Gender-based Violence.¹¹¹ The United Nations country team recommended that the Government ensure adequate resources for the implementation of the National Strategic Action Plan; improve front-line first responders' capacity to provide appropriate and gender-responsive services; and institute national campaigns to decrease stigma and bring the problem of gender-based violence out of the private sphere and into the public sphere as a public health emergency.¹¹²

44. The United Nations country team also noted that in 2017, the Government reopened the review of the Sexual Offences Act (2009) and three related acts (the Child Care and Protection Act, the Domestic Violence Act and the Offences against the Person Act).¹¹³ The United Nations country team recommended that the Government encourage the House of Representatives to approve the amendments to the Sexual Offences Act with a view to criminalizing all marital rape, with no restrictive conditions and within a clear time frame. It also recommended that the Government encourage the reporting of domestic and sexual violence against women and girls and ensure that all such acts were effectively investigated, victims and witnesses were protected, and perpetrators were prosecuted and sentenced within a reasonable time frame.¹¹⁴

45. The Committee on the Elimination of Discrimination against Women recommended in 2017 that Jamaica provide, in its subsequent periodic report, information on further action taken to adopt the sexual harassment bill.¹¹⁵ The Human Rights Committee made a similar recommendation.¹¹⁶ OHCHR reported in 2018 that the Government of Jamaica had adopted a sexual harassment bill to establish a sexual harassment tribunal to hear complaints.¹¹⁷

2. Children¹¹⁸

46. The Human Rights Committee expressed concern that corporal punishment remained lawful in the home and in schools, and that it continued to be practised and was widely accepted in society.¹¹⁹ It recommended that the State take practical steps, including legislative measures, where appropriate, to put an end to corporal punishment in all settings.¹²⁰ UNESCO stated that while the Government seemed to be in favour of prohibiting corporal punishment, no law or policy had been adopted to officially prohibit it.¹²¹ It reported that in June 2019, the Cabinet had approved the National Plan of Action for an Integrated Response to Children and Violence.¹²² UNICEF noted that approximately 80 per cent of Jamaican children experienced some form of psychological or physical violence administered as discipline.¹²³

47. The Committee on Migrant Workers commended the State for its efforts to protect the rights of the children of Jamaican migrants remaining behind. It expressed regret, however, that under the Immigration Restriction (Commonwealth Citizens) Act, children under the age of 16 years who were dependants of a prohibited immigrant were considered prohibited immigrants.¹²⁴ It recommended that the State amend the Immigration Restriction

(Commonwealth Citizens) Act to protect the children of prohibited immigrants, including unaccompanied children.¹²⁵

48. The ILO Committee of Experts urged the Government to take the necessary measures to ensure that the list of types of hazardous work prohibited for persons under the age of 18 years and the list of light work permitted for children were adopted and included in the regulations of the Occupational Safety and Health Act. It also urged the Government to ensure the adoption of the provisions of the Act which would enable labour inspectors to enforce appropriate sanctions, strengthen the capacity and expand the reach of the labour inspectorate in monitoring child labour in the informal economy.¹²⁶

49. The ILO Committee of Experts also stated that the Sexual Offences Act did not appear to prohibit the use of a person under the age of 18 years for the purpose of prostitution, and requested the Government to take the necessary measures to ensure that its legislation contained that prohibition. It also noted that children were used in Jamaica as drug couriers and for selling drugs and urged the Government to take the necessary measures to ensure the adoption of provisions prohibiting the involvement of children in illicit activities and the drug industry, and to ensure that the offence was punishable with sufficiently effective and dissuasive penalties.¹²⁷

3. Persons with disabilities¹²⁸

50. The United Nations country team noted that the implementation code and regulations of the Disabilities Act (2014) remained a work in progress. There was much work to be done in order to make real progress on attaining Sustainable Development Goal 10 and implementing the Convention on the Rights of Persons with Disabilities. Financial resources provided had been found to be limited in supply and geographical spread.¹²⁹ The Human Rights Committee expressed concern that persons with disabilities continued to face challenges, including access to public buildings and services.¹³⁰ In its recommendations, the United Nations country team stated that there was a need for greater awareness and enforcement of the Disabilities Act and increased advocacy for combating discrimination in policies and programmes, enforced retrofitting of Government buildings to ensure physical accessibility, an employment policy in both the public and private sector, and improved quality of education.¹³¹ The Human Rights Committee recommended that the State ensure access for persons with disabilities to effective remedies in case of violation of their rights.¹³²

51. The Committee on the Rights of Persons with Disabilities requested Jamaica to explain the efforts taken to repeal all derogatory language related to disability in laws and policies, such as “insane” and “of unsound mind”.¹³³ The Government responded that the Mental Health Act was being reviewed with an emphasis on safeguarding the human rights of “persons with mental disorders or disabilities”.¹³⁴

4. Migrants, refugees and asylum seekers¹³⁵

52. The Committee on Migrant Workers noted that Jamaica, as primarily a country of origin for migrant workers and members of their families, had made some progress in protecting the rights of its nationals abroad, but that it faced difficulties in terms of protecting the rights of nationals on their return.¹³⁶ The Committee expressed concern that several laws on migration were obsolete and that the State had not harmonized them with the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. In particular, the Deportation (Commonwealth Citizens) Act, the Aliens Act (Cap. 9) and the Immigration Restriction (Commonwealth Citizens) Act criminalized irregular immigration.¹³⁷ The Committee recommended that Jamaica undertake legislative reform to repeal obsolete legislation, and that it decriminalize irregular immigration and take the steps necessary to ensure that its national policies and laws did not adversely affect the human rights of migrant workers and members of their families.¹³⁸

53. The Committee expressed regret that under section 9 of the Aliens Act, detention of irregular migrants was not an exceptional measure of last resort. It also regretted reports about the practice of the detention of migrant workers apprehended in international waters.¹³⁹ It recommended that Jamaica amend the Aliens Act to include alternatives to

detention for migration-related administrative infractions and measures to ensure that detention was used only as an exceptional measure of last resort; ensure due process in all detention procedures within the State's jurisdiction, including in international waters; and ensure that family members and children were not detained on the basis of their immigration status or, in the case of children, their parents' status, and adopt alternatives to detention that allowed children to remain with family members and/or guardians.¹⁴⁰

54. The Committee recommended that Jamaica effectively investigate all cases of excessive use of force and other human rights abuses of detained migrants and provide on a regular basis mandatory human rights training for all law enforcement officials, with a view to preventing such violations.¹⁴¹

55. The Committee expressed concern about discriminatory provisions in section 4 of the Immigration Restriction (Commonwealth Citizens) Act, which listed prohibited immigrants, and in section 6 of the Aliens Act, which prescribed the eligibility criteria for entry and prohibited entry to persons with disabilities.¹⁴² It recommended that Jamaica take all necessary legislative and policy measures to ensure that all documented and undocumented migrant workers, and members of their families, both documented and undocumented, living within the territory of the State or subject to its jurisdiction, enjoyed without discrimination the rights recognized by the International Convention on the Protection of the Rights of All Migrants Workers and Members of Their Families.¹⁴³

56. The Human Rights Committee recommended that Jamaica enact legislation on the protection of the rights of refugees and asylum seekers, provide refugees with identification cards and facilitate access to asylum procedures for such persons in order to protect them from being returned to a country where there were substantial grounds for believing that they would be at a real risk of irreparable harm.¹⁴⁴

Notes

- ¹ Tables containing information on the scope of international obligations and cooperation with international human rights mechanisms and bodies for Jamaica will be available at www.ohchr.org/EN/HRBodies/UPR/Pages/JMIndex.aspx.
- ² For relevant recommendations, see A/HRC/30/15, paras. 119.1–119.3, 120.1–120.19, 121.1–121.19 and 121.21–121.23.
- ³ United Nations country team submission for the universal periodic review of Jamaica, para. 14. See also CMW/C/JAM/CO/1, para. 32.
- ⁴ United Nations country team submission, para. 14.
- ⁵ *Ibid.*; CMW/C/JAM/CO/1, paras. 14–15; and CCPR/C/JAM/CO/4, para. 12.
- ⁶ United Nations country team submission, para. 14, and CMW/C/JAM/CO/1, para. 32.
- ⁷ United Nations country team submission, para. 14.
- ⁸ *Ibid.*
- ⁹ CMW/C/JAM/CO/1, para. 3.
- ¹⁰ For relevant recommendations, see A/HRC/30/15, paras. 118.2–118.8 and 119.4–119.16.
- ¹¹ United Nations country team submission, para. 9.
- ¹² *Ibid.*, para. 20.
- ¹³ *Ibid.*; CMW/C/JAM/CO/1, para. 23; and CCPR/C/JAM/CO/4, para. 6.
- ¹⁴ CMW/C/JAM/CO/1, para. 23.
- ¹⁵ CCPR/C/JAM/CO/4, para. 8.
- ¹⁶ OHCHR, “Highlights of results”, *OHCHR Report 2018*, p. 18.
- ¹⁷ United Nations country team submission, para. 14.
- ¹⁸ For relevant recommendations, see A/HRC/30/15, paras. 119.17–119.18, 120.20, 121.24, 121.27–121.41 and 121.56.
- ¹⁹ CCPR/C/JAM/CO/4, para. 15.
- ²⁰ *Ibid.*, para. 16.
- ²¹ United Nations country team submission, para. 24.
- ²² CCPR/C/JAM/CO/4, para. 16.
- ²³ CCPR/C/JAM/CO/4, para. 17.
- ²⁴ United Nations country team submission, para. 10.
- ²⁵ CCPR/C/JAM/CO/4, para. 18.
- ²⁶ United Nations country team submission, para. 24.
- ²⁷ CMW/C/JAM/CO/1, para. 35.

- 28 For relevant recommendations, see A/HRC/30/15, paras. 118.22–118.23.
- 29 United Nations country team submission, para. 46.
- 30 Ibid.
- 31 Letter dated 15 July 2019 from working groups, special rapporteurs and independent experts addressed to the Permanent Representative of Jamaica to the United Nations Office and other international organizations in Geneva. Available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24722>.
- 32 For relevant recommendations, see A/HRC/30/15, paras 119.20, 119.22–119.26, 119.28–119.29, 121.3 and 121.42–121.51.
- 33 United Nations country team submission, para. 8.
- 34 Ibid., para. 18.
- 35 Ibid., para. 30.
- 36 CCPR/C/JAM/CO/4, para. 35.
- 37 Ibid., para. 36.
- 38 Ibid., para. 33.
- 39 Ibid., para. 34.
- 40 Ibid., para. 32.
- 41 For relevant recommendations, see A/HRC/30/15, paras. 119.20, 119.45–119.47 and 120.26.
- 42 United Nations country team submission, para. 9.
- 43 CCPR/C/JAM/CO/4, para. 41.
- 44 CCPR/C/JAM/CO/4, para. 42.
- 45 United Nations country team submission, para. 19.
- 46 CCPR/C/JAM/CO/4, para. 27.
- 47 Ibid., para. 28.
- 48 Ibid., para. 30.
- 49 OHCHR, “After more than half a century, a community receives justice”, 26 May 2017.
- 50 CCPR/C/JAM/CO/4, para. 43, and United Nations country team submission, para. 32.
- 51 United Nations country team submission, paras. 31–32.
- 52 CCPR/C/JAM/CO/4, para. 44.
- 53 For relevant recommendations, see A/HRC/30/15, paras. 121.20 and 121.47.
- 54 CCPR/C/JAM/CO/4, para. 47.
- 55 Ibid., para. 48.
- 56 Ibid., para. 47.
- 57 Ibid., para. 48.
- 58 UNESCO submission for the universal periodic review of Jamaica, para. 11.
- 59 For relevant recommendations, see A/HRC/30/15, paras. 119.41–119.43.
- 60 United Nations country team submission, para. 28. See also www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3963606.
- 61 CMW/C/JAM/CO/1, para. 64; CCPR/C/JAM/CO/4, paras. 3 and 37; and United Nations country team submission, para. 28.
- 62 CMW/C/JAM/CO/1, paras. 11 and 64, and CCPR/C/JAM/CO/4, para. 37.
- 63 CCPR/C/JAM/CO/4, para. 38.
- 64 United Nations country team submission, para. 29. See also www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3963606.
- 65 CMW/C/JAM/CO/1, para. 64.
- 66 Ibid., para. 65. See also CCPR/C/JAM/CO/4, para. 38, and www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3963606.
- 67 CCPR/C/JAM/CO/4, para. 38.
- 68 United Nations country team submission, para. 29.
- 69 See www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3963447.
- 70 United Nations country team submission, para. 19.
- 71 United Nations country team submission, para. 19.
- 72 For relevant recommendations, see A/HRC/30/15, para. 119.49.
- 73 See www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3959610.
- 74 See www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3958002.
- 75 See www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3963731.
- 76 For relevant recommendations, see A/HRC/30/15, paras. 118.18–118.19 and 119.49–119.53.
- 77 CMW/C/JAM/CO/1, para. 8.
- 78 United Nations country team submission, para. 33.
- 79 UNICEF, *Situation Analysis of Jamaican Children – 2018*, (Kingston, 2018).
- 80 United Nations country team submission, para. 34.
- 81 Ibid., para. 35.
- 82 CMW/C/JAM/CO/1, para. 63.

- ⁸³ For relevant recommendations, see A/HRC/30/15, paras. 118.1, 118.21 and 119.54–119.57.
- ⁸⁴ CCPR/C/JAM/CO/4, para. 25.
- ⁸⁵ *Ibid.*, para. 26.
- ⁸⁶ United Nations country team submission, para. 37.
- ⁸⁷ CCPR/C/JAM/CO/4, para. 25. See also UNICEF, *Situation Analysis*.
- ⁸⁸ United Nations country team submission, para. 38.
- ⁸⁹ CCPR/C/JAM/CO/4, para. 19.
- ⁹⁰ *Ibid.*, para. 20.
- ⁹¹ United Nations country team submission, para. 17.
- ⁹² *Ibid.*
- ⁹³ For relevant recommendations, see A/HRC/30/15, paras. 119.58–119.59.
- ⁹⁴ UNESCO submission, para. 1.
- ⁹⁵ *Ibid.*, para. 3.
- ⁹⁶ *Ibid.*, para. 9.
- ⁹⁷ UNICEF, *Situation Analysis*.
- ⁹⁸ United Nations country team submission, para. 43.
- ⁹⁹ UNESCO submission, para. 10.
- ¹⁰⁰ United Nations country team submission, para. 38. See also UNESCO submission, para. 10.
- ¹⁰¹ UNESCO submission, para. 9.
- ¹⁰² United Nations country team submission, para. 40.
- ¹⁰³ *Ibid.*, para. 41.
- ¹⁰⁴ United Nations country team submission, para. 43. See also CRPD/C/JAM/Q/1, para. 21.
- ¹⁰⁵ For relevant recommendations, see A/HRC/30/15, paras. 118.9–118.15, 119.19, 119.31–119.33, 120.21–120.22, 121.25–121.26 and 121.52.
- ¹⁰⁶ United Nations country team submission, para. 12. See also CCPR/C/JAM/CO/4, para. 21.
- ¹⁰⁷ CCPR/C/JAM/CO/4, para. 22.
- ¹⁰⁸ United Nations country team submission, para. 17.
- ¹⁰⁹ *Ibid.*, para. 11.
- ¹¹⁰ *Ibid.*, para. 11.
- ¹¹¹ United Nations country team submission, para. 22. See also OHCHR, “UN human rights in the field”, in *OHCHR Report 2018*, p. 243.
- ¹¹² United Nations country team submission, para. 23. See also *ibid.*, para. 26; CEDAW/C/JAM/CO/6-7/Add.1, paras. 5–32; and letter dated 26 April 2017 from the Committee on the Elimination of Discrimination against Women to the Permanent Representative of Jamaica to the United Nations Office and other international organizations in Geneva (available at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCEDAW%2fFUL%2fJAM%2f27292&Lang=en).
- ¹¹³ United Nations country team submission, para. 16. See also CCPR/C/JAM/CO/4, para. 24.
- ¹¹⁴ United Nations country team submission, para. 17. See also letter dated 26 April 2017 from the Committee on the Elimination of Discrimination against Women to the Permanent Representative of Jamaica to the United Nations Office and other international organizations in Geneva.
- ¹¹⁵ Letter dated 26 April 2017 from the Committee on the Elimination of Discrimination against Women to the Permanent Representative of Jamaica to the United Nations Office and other international organizations in Geneva.
- ¹¹⁶ CCPR/C/JAM/CO/4, para. 24.
- ¹¹⁷ OHCHR, “UN human rights in the field”, in *OHCHR Report 2018*, p. 243.
- ¹¹⁸ For relevant recommendations, see A/HRC/30/15, paras. 118.20, 119.27, 119.30, 119.34–119.37, 119.44, 120.24 and 121.53–121.55.
- ¹¹⁹ CCPR/C/JAM/CO/4, para. 45.
- ¹²⁰ *Ibid.*, para. 46.
- ¹²¹ UNESCO submission, para. 9.
- ¹²² *Ibid.*
- ¹²³ UNICEF, *Situation Analysis*.
- ¹²⁴ CMW/C/JAM/CO/1, para. 54.
- ¹²⁵ *Ibid.*, para. 55.
- ¹²⁶ See www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3963309.
- ¹²⁷ See www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3963447.
- ¹²⁸ For relevant recommendations, see A/HRC/30/15, paras. 119.60–119.62.
- ¹²⁹ United Nations country team submission, para. 27.
- ¹³⁰ CCPR/C/JAM/CO/4, para. 13.
- ¹³¹ United Nations country team submission, para. 27. See also CCPR/C/JAM/CO/4, para. 14.
- ¹³² CCPR/C/JAM/CO/4, para. 14.
- ¹³³ CRPD/C/JAM/Q/1, para. 3.

- ¹³⁴ CRPD/C/JAM/RQ/1, para. 9.
¹³⁵ For relevant recommendations, see A/HRC/30/15, para. 120.25.
¹³⁶ CMW/C/JAM/CO/1, para. 5.
¹³⁷ *Ibid.*, para. 12.
¹³⁸ *Ibid.*, para. 13.
¹³⁹ *Ibid.*, para. 36.
¹⁴⁰ *Ibid.*, para. 37.
¹⁴¹ *Ibid.*, para. 39.
¹⁴² *Ibid.*, para. 28.
¹⁴³ *Ibid.*, para. 29.
¹⁴⁴ CCPR/C/JAM/CO/4, para. 40.
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