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Summary record of the 7th meeting

Held at the Palais Wilson, Geneva, on Thursday, 2 May 2013, at 10 a.m.

Chairperson: Mr. Kedzia

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Combined third and fourth periodic reports of Jamaica

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The meeting was called to order at 10 a.m.

Consideration of reports

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant *(continued)*

Combined third and fourth periodic reports of Jamaica (E/C.12/JAM/3-4 and Corr.1; E/C.12/JAM/Q/3-4 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Jamaica took places at the Committee table.*
2. **Mr. McCook** (Jamaica), introducing his country's combined third and fourth periodic reports (E/C.12/JAM/3-4 and Corr.1), said that Jamaica had suffered from the global economic downturn and the passage of Hurricane Sandy in 2012 and was undertaking economic reforms to reduce debt and set the stage for economic growth. He stressed the need for technical and capacity-building assistance.
3. Highlighting various actions by which Jamaica had demonstrated its commitment to the protection and promotion of human rights, he said some of the policies, programmes and measures being implemented by his Government to improve the lives of its citizens included the Programme of Advancement through Health and Education (PATH), which provided cash grants to the neediest and most vulnerable; the National Insurance Scheme, which protected workers and their families against loss of income; the Jamaica Social Investment Fund, which implemented community-based social development and poverty reduction programmes; and the National Housing Trust, established to improve access to affordable housing.
4. He outlined a series of measures to aid vulnerable groups, including women, children and the disabled, such as the Tackling Child Labour through Education (TACKLE) project and the Children Support Task Force to promote public awareness of issues relating to child protection, care and development. A national strategic plan of action to eliminate gender-based violence was being prepared, and the Centre for Investigation of Sexual Offences and Child Abuse had been strengthened and expanded. A sexual harassment policy was in the pipeline, and a draft law outlawing discrimination against the disabled was expected to be brought before Parliament during the current legislative year.
5. His Government intended to establish a multisectoral Gender Advisory Council to guide the implementation, monitoring and evaluation of the National Policy for Gender Equality in conjunction with the Bureau of Gender Affairs. A six-month public education campaign had been launched in March 2013 to support the National Policy's implementation. While Jamaica had no minimum quotas for the representation of women in Parliament or on public-sector boards, women were represented in the Government, including in some key positions. A stated objective of the National Policy for Gender Equality was to increase women's representation in local and central government and public enterprises to at least 30 per cent.
6. Turning to other issues, he said that planned and ongoing water supply projects and programmes were expected to increase to 85 per cent the proportion of people with access to safe water, and any remaining areas would be mapped to determine how to achieve universal access. A draft food and nutrition security policy awaiting Cabinet approval would improve food supply, especially to low-income and vulnerable groups. Jamaica's cultural policies recognized the diversity of the population and underscored people's right to engage in cultural expression. The National Development Plan – Vision 2030 presented Jamaica as a place of choice to live, work, do business and raise a family.

7. **Mr. Ribeiro Leão** (Country Rapporteur) said that, while the State party had made considerable progress in safeguarding and promoting economic, social and cultural rights, many challenges remained. He requested detailed information on the Covenant's impact on the internal legal order, including examples of judicial decisions citing the Covenant. He asked whether the State party intended to modify article 13 (2) (a) of the Constitution to include sexual orientation, state of health and other personal conditions in the list of prohibited grounds for discrimination, or to modify the Penal Code to decriminalize same-sex sexual relationships between consenting adults.

8. Expressing concern at the high rates of unemployment among women and young people, he enquired about the effectiveness of measures to improve the access of women, especially those in rural areas, to employment in the formal economy, and of measures to reduce the gap between men's and women's remuneration. He requested additional information about the employment of people with disabilities, the impact of changes in the minimum wage and the impact of the National Insurance Scheme.

9. Citing an array of statistics on poverty in Jamaica, he requested disaggregated statistical data on the implementation of national poverty eradication programmes, including measures to ensure that the poorest and most marginalized groups benefited from such programmes. What was done to ensure that Maroons had the same level of access to basic services as the rest of the population? What steps were taken to provide adequate housing to disadvantaged and marginalized groups, in particular rural populations, the disabled and households headed by women?

10. On the issue of education, he said that it was important for the State party to meet its obligations with regard to preschool education, in which the private sector currently played a substantial role. He requested information on steps taken to ensure that teenage mothers were not deprived of their right to education. He asked for additional information on measures to protect and promote the right to participate in cultural life.

Articles 1 to 5

11. **Mr. Tirado Mejía**, commending the State party for a comprehensive and well-documented report, asked what policies Jamaica had for maintaining ties with its nationals living abroad, and whether statistics were available on those emigrants' education levels.

12. Available statistics, in particular those produced by Transparency International, indicated that Jamaica had high levels of corruption. He asked what measures the Government was taking to tackle the phenomenon.

13. While establishing the Gender Advisory Council was a laudable step, it was worrying to see that women seemed to suffer disproportionately from unemployment. What action was being taken to address the problem?

14. He asked whether legislation was being contemplated to decriminalize same-sex sexual relationships between consenting adults, and what was being done to dispel lingering negative attitudes towards homosexuality.

15. He requested additional information on the draft law on discrimination against the disabled.

16. **Ms. Bras Gomes** said that it would be useful to include state of health in the list of prohibited grounds for discrimination. She asked whether the State party planned to enact framework legislation banning discrimination.

17. Regarding the protection of refugees, she said that, while Jamaica had a sound system in place, the lack of a consistent approach to providing refugees with identification documents prevented them from accessing a range of rights. Also, the approach to

screening Haitian refugees to identify their protection needs prior to repatriation seemed inconsistent.

18. Referring to paragraph 19 of the replies to the list of issues (E/C.12/JAM/Q/3-4/Add.1) on a quota system for the Senate, she asked whether there were any plans to increase the 30 per cent figure stipulated in the National Policy for Gender Equality.

19. **Ms. Ravenberg** noted that, according to paragraph 12 of the replies to the list of issues, the State party did not intend to amend section 13 (2) (a) of the Constitution regarding sexual orientation or the corresponding provision in the Penal Code. How, then, did it plan to reduce violence and discrimination based on sexual orientation?

20. **Mr. Mancisidor**, noting that the State party had in the past repeatedly stated to the Committee that it did not intend to decriminalize same-sex sexual relationships between consenting adults, said that such a stance appeared to contradict other statements by the State party to the effect that it opposed all forms of discrimination on the basis of sexual orientation or preference. He asked the delegation to comment on the matter.

21. **Mr. Abashidze** noted that, under the common law system followed in Jamaica, the courts could not apply international treaties ratified by the State until special legislation had been adopted to incorporate them into national law. Jamaica had taken an active but fragmented approach to incorporating economic, social and cultural rights in national law, and he wished to know to what extent that had been achieved and whether there were any impediments to the application of those rights in court proceedings. He also wondered about the hierarchy of the various instruments used for that purpose, including the Constitution, sectoral legislation, the Charter of Fundamental Rights and Freedoms and the various strategic plans and action plans.

22. **Mr. Sadi** asked why the Government had not been able to submit its periodic report on time. He encouraged the delegation to consult the Committee's general comment No. 3 on the nature of States parties' obligations and general comment No. 9 on the domestic application of the Covenant. He asked if the Government was willing to consider ratifying the Optional Protocol to the Covenant and suggested that doing so might serve as an impetus to correct some of the shortcomings in the national legal system. He urged the State party to establish a national human rights institution in line with the Paris Principles, and to provide human rights education that included information on economic, social and cultural rights. Corruption and the high crime rate in the country were both hindering the enjoyment of economic, social and cultural rights. He asked why it had taken the State party so long to establish the Gender Advisory Council.

Articles 6 to 9

23. **Ms. Shin** commended the Government's efforts to promote greater representation of women in decision-making positions but expressed concern that women in the country were underpaid and underemployed even though they were generally more highly educated than men. She therefore wished to know if the Government was taking steps to eliminate stereotypes about gender roles in society. She welcomed the Government's commitment to adopt a policy on sexual harassment but also emphasized the need for a law that prohibited and punished sexual harassment and established measures to protect victims.

24. **Ms. Cong** asked how many elderly persons currently received benefits under the National Insurance Scheme and the PATH programme, and whether the delegation could provide a time frame for the extension of social security benefits to cover elderly persons, single mothers, persons with disabilities and persons employed in the informal economy.

25. **Ms. Bras Gomes** noted that there were two minimum wages in Jamaica, one for industrial security guards and another for all other workers. She wished to know why that

was necessary and how often the minimum wage was revised to take into account changes in the cost of living. According to information before the Committee, labour inspections were limited to businesses operating within the formal economy, which was worrying because many rights violations occurred in the informal economy. She requested further information on the efforts to include persons employed in the informal economy in the National Insurance Scheme. She asked the delegation to give its assessment of the progress achieved under the PATH programme and to provide further information about the recent workshop on unemployment insurance.

26. **Mr. Martynov** asked to what extent the Covenant rights were reflected in the Charter of Fundamental Rights and Freedoms adopted in April 2011. He requested data on the number of persons who had received vocational training, disaggregated if possible by year and by the trainees' gender and age, and on the dynamics of social security coverage, disaggregated at least by year. He also urged the Government to include in its next periodic report disaggregated data on labour force trends in relation to employment for persons with disabilities.

27. **The Chairperson** reminded the delegation of the letter the Committee had sent to the State party in 2012 establishing criteria to be followed when introducing austerity measures in the context of the economic and financial crisis.

28. **Mr. Abdel-Moneim** expressed surprise at the high unemployment rate in the country, given its small population and relatively strong economy. He also wondered why the Government would introduce structural reform measures such as the removal of subsidies and price controls in the light of the high inflation rate. It would seem that such measures would achieve neither stability nor the fulfilment of economic, social and cultural rights, and he invited the delegation to comment on that issue.

The meeting was suspended at 11.30 a.m. and resumed at 11.55 a.m.

Articles 1 to 9 (continued)

29. **Mr. McCook** (Jamaica) said that the statistical data requested would have to be submitted at a later time, but that his delegation would endeavour to answer the Committee's other questions at the current meeting.

30. **Mr. Francis** (Jamaica) said it was true that international treaties ratified by Jamaica could not be directly applied in the courts unless their provisions had been incorporated into national legislation. However, under the principles of compatibility and legality, if there was any ambiguity about a piece of legislation the courts could base their interpretation of it on treaties that had not been incorporated, unless the Parliament had clearly intended to legislate against a provision in an international treaty. Also, some of the Covenant provisions had been incorporated into national law, and individuals could therefore directly bring related claims before the courts.

31. **Mr. McCook** (Jamaica) said that his delegation had nothing to add to the Government's already stated positions regarding discrimination on the basis of sexual orientation and the decriminalization of certain related acts.

32. **Mr. Francis** (Jamaica) said that the Covenant did not specify how States parties should give effect to its provisions, and that his Government therefore did not believe it necessary to include certain rights like the right to health in the Charter of Fundamental Rights and Freedoms, as they were dealt with in other legislation. His Government's understanding was that the reference to discrimination on the basis of sex in article 2 of the Covenant referred only to an individual's status as a male or female.

33. **Mr. McCook** (Jamaica) said that the State party had taken a state-of-the-art approach to its dealings with the Jamaican diaspora, first through the Returning Residents

Facilitation Unit, which had later been replaced by the Jamaicans Overseas Department in the Ministry of Foreign Affairs and Foreign Trade. It held regular conferences to engage members of the diaspora and encourage them to become involved in the nation's development.

34. **Ms. Thomas Edwards** (Jamaica) said that conferences were held every two years on diaspora issues, and that the next one was scheduled for 17 to 19 June 2013. Diaspora bonds and the Jamaica Diaspora Foundation encouraged members of the diaspora to invest in the country. The Jamaican diaspora was estimated to include about 2 million people in Europe and 2 million to 3 million in North America.

35. **Mr. McCook** (Jamaica) said that measures such as special customs allowances had been introduced to facilitate the return of members of the diaspora to Jamaica. The reason the Returning Residents Facilitation Unit had been replaced by the Jamaicans Overseas Department in the Ministry of Foreign Affairs and Foreign Trade was to expand the Government's approach so as to focus not only on returnees but also on those persons who remained abroad. His Government was confident that its approach was addressing the concerns of the members of the diaspora.

36. **Mr. Francis** (Jamaica) said that Jamaica possessed a legislative framework establishing institutional structures and reporting obligations designed to tackle corruption, and reported to a number of international bodies specializing in the matter. In particular, public servants were required to report their income and assets on an annual basis to the Commission for the Prevention of Corruption, which was able to forward cases to the Office of the Director of Public Prosecutions for further action. Parliamentarians were also required to declare their income and assets, and could be subject to prosecution if they failed to do so, while the Contractor-General was responsible for monitoring public authority contracts. A more comprehensive anti-corruption bill was under consideration that would establish a special prosecutor responsible for all prosecutions of cases of corruption.

37. **Mr. McCook** (Jamaica) said that, since a new approach to women's employment had recently been implemented, it would be best to address questions about female employment in the following periodic report. When no disaggregated data had been provided in the report that was because no such data were available, although there were plans to introduce measures to ensure that data were disaggregated at the time of collection.

38. **Ms. Thomas Edwards** (Jamaica) said that special attention had been given to support for businesses led by women or where women dominated, and that progress had been made in that regard. Business training was the mainstay of the Jamaican approach to improving levels of female employment, since it provided a way of changing social attitudes while helping women to establish new businesses.

39. **Mr. McCook** (Jamaica) noted that the lack of economic growth in Jamaica removed the option of using growth to tackle unemployment generally and the gender disparity in employment rates in particular. In the area of education, however, women were experiencing such success that measures under consideration for the tertiary education sector were targeted at improving the participation of men, rather than women, and it was hoped that the number of qualified persons in Jamaica would be reflected in increased employment figures.

40. **Ms. Thomas Edwards** (Jamaica) said that there were disparities in the application of the refugee policy and that procedures should be standardized. In order to acquire refugee status, an individual who had arrived in Jamaica needed to declare a fear of persecution in his or her country of origin, and the case was then considered by the Ministry of Foreign Affairs and Foreign Trade. Once refugee status had been granted, the individual enjoyed the same rights as a Jamaican citizen and was automatically issued a travel document bearing his or her name and identification number.

41. In recent months, a number of Haitians had arrived in Jamaica in unseaworthy boats while attempting to sail to other countries. None of those individuals had declared a fear of persecution in Haiti, so they were considered economic migrants, rather than refugees, and Jamaica was therefore under no obligation to admit them to the country. Her country adhered fully to the Convention relating to the Status of Refugees.

42. **Mr. McCook** (Jamaica) said that quotas for women in leadership positions were viewed as providing a baseline. Whereas members of the Senate were appointed, members of the House of Representatives were elected, and although efforts were made to encourage more women to run for office, it was up to the electorate to choose its representatives. Women had a significant contribution to make and, despite the fact that the Prime Minister of Jamaica was a woman, further steps were needed to ensure that there was no impediment to women achieving their ambitions to play a leading role.

Articles 10 to 12

43. **Mr. Tirado Mejía** said that Jamaica, like many of its neighbours, experienced high levels of violence in society. He wished to know what measures were in place to address that problem, in particular with regard to the impact of deaths and injuries on the health budget. Noting that the level of access to adequate levels of drinking water was poor, he asked how the Government was addressing that problem through water, sanitation and waste management policies.

44. Information before the Committee indicated that both HIV/AIDS and the related issue of drug addiction were serious problems in the State party. He asked what policies the Government was pursuing to address drug addiction and whether it was considering a new approach to drug use and drug trafficking that went beyond the traditional method of repression and law enforcement to focus on prevention and treatment.

45. **Ms. Shin** said that it was important to focus on the role of men in the family, and asked what measures were being introduced to target men's attitudes to family responsibilities such as childcare and housework. She asked whether domestic violence was defined in law as a crime and how the violent behaviour of perpetrators was tackled. She also requested more information on education about teenage pregnancy, in particular, how men and boys were targeted by efforts to reduce the phenomenon.

46. **Ms. Cong** asked for more information on the review of abortion law and whether it was taking into consideration the problem of teenage pregnancy. Furthermore, was the State party prepared to collate statistics on abortion?

47. **Ms. Bras Gomes** asked whether the Maternity Leave Act of 1979 was still adequate, or whether it needed to be updated; whether the delegation could provide information on paternity and parental leave entitlements; whether the draft National Housing Policy and Implementation Plan had been adopted; and what lessons could be learnt from the failed inner-city housing programme. She expressed concern at the inadequate provision of mental health care and asked whether patients at mental health facilities ever had their cases reviewed.

48. **Mr. Sadi** asked what measures were being taken to combat trafficking in persons and whether the State party had considered a regional approach to the issue.

Articles 13 to 15

49. **Mr. Marchán Romero** asked whether the State party was considering updating its core document. He requested information on the ethnic composition of Jamaica, including information on ethnic groups of African and other origin. The recognition of the Maroons and Rastafari as indigenous groups was commendable and further information on the

Maroons, including their status, the privileges they enjoyed and population figures, would be appreciated. With reference to the Committee's general comment No. 17 on the right of everyone to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he or she was the author, he asked for information on how it was ensured that communities with traditional knowledge were able to administer themselves the material benefits resulting from literary and artistic products.

50. **Mr. Kerdoun**, noting the progress achieved in primary school enrolment, asked for information on additional measures to facilitate access to education for all children, including examples, and requested data on adult illiteracy disaggregated by sex. Alternative sources indicated that only 10 per cent of children with disabilities received a formal education; could the delegation confirm whether that was indeed the case? Furthermore, he asked whether there was a gap between women and men in the school system; whether private schools, particularly at primary level, were bound by a State curriculum or were free to choose their own; whether compulsory education would be extended to cover secondary as well as primary education; whether higher education students were required to finance their own studies in full or simply to pay registration costs; and whether the delegation could indicate the level of aid received from key donor bodies in the field of education in comparison to the State education budget.

51. **Mr. McCook** (Jamaica) said that his country had submitted its combined report as part of a commitment made during the universal periodic review process to prioritize treaty body reporting requirements. It was important to note that States parties had multiple responsibilities in relation to human rights bodies and that the preparation of national reports took considerable time and effort. The Committee's call for Jamaica to ratify the Optional Protocol to the Covenant was noted.

52. The question of establishing a single human rights body in Jamaica had been raised in a number of forums. Such a body was not viewed as indispensable to the promotion and protection of human rights in his country, which was ensured by national legislation and a number of Government agencies. At present, Jamaica was focusing on specific human rights issues, but if the consolidation of efforts could add to the protection and promotion of human rights, it would be considered.

The meeting rose at 1 p.m.