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Committee on Economic, Social and Cultural Rights Fiftieth session

Summary record (partial)* of the 8th meeting

Held at the Palais Wilson, Geneva, on Thursday, 2 May 2013, at 3 p.m.

Chairperson: Mr. Kedzia

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* No summary record was prepared for the rest of the meeting.

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The meeting was called to order at 3.10 p.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; HRI/CORE/1/Add.82)

1. *At the invitation of the Chairperson, the delegation of Jamaica took places at the Committee table.*
2. **Mr. McCook** (Jamaica) said that the Broadcasting Commission had taken specific steps to guarantee singers' freedom of expression while protecting the rights of the persons referred to in their musical compositions.
3. **Mr. Francis** (Jamaica) said that the adoption of a sexual harassment policy currently under review by the Cabinet was a top priority in the coming parliamentary year.
4. **Mr. McCook** (Jamaica) said that Maroon communities enjoyed the same access to water as the rest of the population and were connected to the national water supply system.
5. **Ms. Thomas Edwards** (Jamaica) said that the Maroons enjoyed the same rights as other Jamaicans. There were no precise statistics on the share of Maroons who made up the 90 per cent of Jamaicans of African descent.
6. **Mr. McCook** (Jamaica) said that the social structure did not lend itself to drawing distinctions along community lines, and all parts of society had played a role in the development of the country and in shaping the national identity. Moreover, measures to improve rural housing conditions had recently been taken.
7. **Mr. Francis** (Jamaica) said that, under section 31 of the Education Act, the Ministry of Education could take the steps necessary to permit a student who had been pregnant to continue her education in her former school or another educational institution. The Act also provided that arrangements could be made to enable students who had been excluded from school for pregnancy to sit examinations.
8. A bill on persons with disabilities provided for the fundamental rights and freedoms of such persons and the establishment of two institutions responsible for receiving complaints, namely the Jamaica Council for Persons with Disabilities and a tribunal to protect the rights of persons with disabilities. The Council was entrusted with engaging in dialogue with the relevant departments about issues of concern to persons with disabilities such as improved living conditions and the tribunal with hearing complaints about the violation of rights under the law on persons with disabilities, including civil, political, economic, social and cultural rights.
9. **Ms. Thomas Edwards** (Jamaica) said that no specific date had been set for the creation of an advisory council on gender equality. In addition, one minimum wage level had been set for security staff who were most vulnerable to unfair wage practices and another for all other employees under the Minimum Wage Act. The minimum wage was re-evaluated every year by the Minimum Wage Advisory Commission.
10. **Mr. Francis** (Jamaica) said that a bill on work health and safety, which covered the formal and informal sectors and provided for labour inspectors, would be submitted for adoption during the coming parliamentary year. The national legislation on health insurance provided that all persons could sign up for the national health insurance scheme by purchasing a national insurance stamp card, which were sold at all post offices.

11. **Ms. Thomas Edwards** (Jamaica) said that the Programme of Advancement through Health and Education, funded by the Government, the Inter-American Development Bank and the World Bank, was a success, as was shown by the increase in the number of children enrolled in school and infants in health centres.
12. **Mr. McCook** (Jamaica) said that the Government had adopted a holistic approach to tackling crime and violence, in particular by allocating 2 million Jamaican dollars for building the capacity of security forces and expediting legal procedures for punishing certain crimes.
13. Comprehensive efforts were being made to combat drug trafficking at the regional and international level and to raise awareness among users about the adverse effects of drugs on their health.
14. **Mr. Francis** (Jamaica) said that the Domestic Violence Act provided that complainants — a violent offender's spouse or children — could apply to the courts to grant a protection order or an occupation order that gave the victims the right to live in the household residence. In addition, the Act specified criminal penalties for the violation of those orders.
15. Much progress had been made in combating HIV/AIDS since 2006 under a wide range of programmes and plans.
16. **Ms. Thomas Edwards** (Jamaica) said that the Government had enacted the Trafficking in Persons (Prevention, Suppression and Punishment) Act in 2007 and set up an anti-trafficking task force responsible for prevention and awareness-raising. Training programmes had also been set up, particularly for the police, and a care centre had been inaugurated in 2012. No person involved in trafficking in persons had been convicted, as it was very difficult to get victims to come forward with evidence. There was no coordinated regional policy for such trafficking, despite International Organization for Migration efforts to get the Caribbean Community to hold a meeting on the issue.
17. **Mr. Francis** (Jamaica) added that the law had been amended to provide for remote witness testimony.
18. **Ms. Thomas Edwards** (Jamaica) said that the number of teenage mothers had decreased from 112 in 1994 to 72 to date. A women's outreach centre provided day-care services and carried out a policy that was aimed at boys and girls alike.
19. **Mr. Francis** (Jamaica) said that the Advisory Committee on Abortion, which included various members of civil society, the medical profession, women's groups, religious organizations and lawyers, was responsible for making recommendations for amendments to the law on abortion.
20. **Ms. Thomas Edwards** (Jamaica) said that the literacy rate currently stood at 91 per cent.
21. **Ms. Bras Gomes** said that, in the experience of the Committee, States with a specific anti-discrimination legal framework were more effective in addressing the problem than those with rules contained here and there in various laws and regulations. A national human rights institution in keeping with the Paris Principles must be independent and able to check that all laws that were introduced were in conformity with international standards; they must also provide for effective remedies. She wished to know how the benefits granted to voluntary contributors to the national insurance scheme differed from those of other contributors. Noting with surprise that there were two different minimum wages, she asked whether both were sufficient to lead a decent life. She also asked about the effectiveness of the Programme of Advancement through Health and Education and its prospects once it ceased being funded by official development assistance.

22. **The Chairperson**, speaking as a member of the Committee, commended the State party for the adoption of the Charter of Rights and Freedoms, which replaced chapter III of the Constitution. Nevertheless, the law seemed to lack balance, as the provisions relating to civil and political rights were very precisely worded, whereas economic and social rights were somewhat neglected, which was a matter of concern for the Committee.

23. In the light of his experience as a specialist in constitutional law and general comment No. 20 concerning non-discrimination in economic, social and cultural rights, he considered that it would be better to have an open-ended list of prohibited grounds for discrimination. Such grounds could be included directly in the Constitution, which would make it possible to avoid having to turn to the Constitutional Court for an interpretation.

24. **Mr. McCook** (Jamaica) said that to do so would run the risk of including controversial items in the Constitution that might run contrary to its consensual nature, which seemed to be a common trend in fundamental law.

25. **Mr. Francis** (Jamaica), referring to the general comment No. 9 on the domestic application of the Covenant, in particular to the obligation of States parties to give effect to the rights recognized therein by all appropriate means, said that the rights referred to under the Covenant that were not set out in the Constitution were protected under other laws or regulations. General comment No. 20 and paragraph 2 of article 2 of the Covenant stated that the list of prohibited grounds of discrimination was illustrative and non-exhaustive. While he understood the Committee's concern, he considered that Jamaica was not yet ready to include all the prohibited grounds for discrimination in its Constitution.

26. **Mr. McCook** (Jamaica) said that the consumer price index had started to decrease and increases in the minimum wage were being considered based on criteria set by the Minimum Wage Advisory Commission, as was indicated in paragraph 34 of the periodic report under consideration. The situation was not optimal, but nor were economic trends. The State of Jamaica would have to find the wherewithal to ensure the long-term sustainability of the Programme of Advancement through Health and Education, but it still needed the support of official development assistance for the time being. Voluntary national health scheme contributions were an extra source of benefits for those who made such contributions.

27. **Mr. Abdel-Moneim** noted that, contrary to what had been indicated in one of the previous documents of the State party, growth and economic activity did not necessarily help to defeat unemployment, even if the International Monetary Fund currently stated otherwise. For the effect of growth and economic activity on employment depended on whether they were capital- or labour-intensive, with emphasis placed more often on capital. Nevertheless, paragraph 28 of the core document (HRI/CORE/1/Add.82) submitted by the State party in 1997 gave good grounds for hope.

28. **Mr. McCook** (Jamaica) said that there was still every reason to be optimistic in 1997. In 2013, there was in fact growth and unemployment. Nevertheless, Jamaica was strongly committed to promoting employment and had put in place robust job creation programmes. The national economy had changed considerably, with the agriculture and manufacturing sectors shrinking and giving way to the tourist industry, which currently made up 60 per cent of the economy. The current challenge was to expand growth sectors so that Jamaicans could enjoy their economic, social and culture rights in the long term.

29. **Ms. Shin** asked whether domestic violence was considered to be a criminal act and what safeguards were in place to prevent such violence. She wished to know whether judges had the power to require offenders to undergo appropriate training programmes and therapy. The delegation should also indicate if there were sexual education programmes for boys and girls that dealt with unsafe sex and mechanisms to prevent teenage pregnancy.

30. **Mr. Ribeiro Leão** (Country Rapporteur), referring to paragraph 136 of the periodic report under consideration, asked for clarification on the number of local agricultural producers who have been forced to leave their farms and the reasons for leaving. Turning to paragraph 160 of the report, he would like to know why some households owned dwellings without owning the land on which they were built and what problems that caused.

31. **Mr. Francis** (Jamaica) said that the Domestic Violence Act provided for imprisonment in the event that protection orders were violated. Article 18 stated that the courts could recommend that either or both parties should participate in various forms of counselling.

32. **Mr. McCook** (Jamaica) said that sex education courses were taught in the schools by guidance counsellors. As in many other countries, farmers in Jamaica left farming because they were unable to adapt to the new economic conditions that came with the opening of markets, which had affected all sectors. Although Jamaica produced and exported foodstuffs, it remained a net importer in that area. His Government focused much attention on traditional and indigenous knowledge and was deeply committed to the protection of the rights of indigenous peoples, which it recognized, respected and defended at the international and regional level.

33. **Mr. Ribeiro Leão** said that the State party was meeting the considerable challenges before it in a determined and very encouraging manner.

34. **Mr. McCook** (Jamaica) reaffirmed his Government's commitment to economic, social and cultural rights; the achievement of those rights on an equal footing with other fundamental rights would enable the country to attain social harmony.

35. **The Chairperson** commended the delegation on its dialogue with the Committee. The Committee had completed its consideration of the combined third and fourth periodic reports of Jamaica; its concluding observations would be adopted at the end of the fiftieth session, on Friday, 17 May 2013.

The discussion covered in the summary record ended at 4.50 p.m.