

Jamaica

Mid-term

Implementation

Assessment



*Promoting and strengthening
the Universal Periodic Review*
<http://www.upr-info.org>

Introduction

1. Purpose of the follow-up programme

The second and subsequent cycles of the review should focus on, inter alia, the implementation of the accepted recommendations and the development of the human rights situation in the State under review.

A/HRC/RES/16/21, 12 April 2011 (Annex I C § 6)

The Universal Periodic Review (UPR) process takes place every four and half years; however, some recommendations can be implemented immediately. In order to reduce this interval, we have created an update process to evaluate the human rights situation two years after the examination at the UPR.

Broadly speaking, *UPR Info* seeks to ensure the respect of commitments made in the UPR, but also, more specifically, to give stakeholders the opportunity to share their opinion on the commitments. To this end, about two years after the review, *UPR Info* invites States, NGOs, and National Institutions for Human Rights (NHRI) to share their comments on the implementation (or lack thereof) of recommendations adopted at the Human Rights Council (HRC) plenary session.

For this purpose, *UPR Info* publishes a Mid-term Implementation Assessment (MIA) including responses from each stakeholder. The MIA is meant to show how all stakeholders are disposed to follow through on, and implement their commitments. States should implement the recommendations that they have accepted, and civil society should monitor that implementation.

While the follow-up's importance has been highlighted by the HRC, no precise directives regarding the follow-up procedure have been set until now. Therefore, *UPR Info* is willing to share good practices as soon as possible, and to strengthen the collaboration pattern between States and stakeholders. Unless the UPR's follow-up is seriously considered, the UPR mechanism as a whole could be adversely affected.

The methodology used by *UPR Info* to collect data and to calculate index is described at the end of this document.

Geneva, 30 May 2013



Follow-up Outcomes

1. Sources and results

All data are available at the following address:

<http://followup.upr-info.org/index/country/jamaica>

We invite the reader to consult that webpage since all recommendations, all stakeholders' reports, as well as the unedited comments can be found at the same internet address.

6 stakeholders' reports were submitted for the UPR. 15 NGOs were contacted. 1 UN agency was contacted. The Permanent Mission to the UN was contacted. No National Human Rights Institution (NHRI) does exist.

3 NGOs responded to our enquiry. The UN agency did not respond. The State under Review did not respond to our enquiry either.

The following stakeholders took part in the report:

1. **NGOs:** (1) Global Initiative to End All Corporal Punishment of Children (GIEACPC) (2) Jamaicans for Justice + WOMAN Inc. (JFJ)

IRI: 60 recommendations are not implemented, 21 recommendations are partially implemented, and 5 recommendations are fully implemented. No answer was received for 60 out of 151 recommendations and voluntary pledges (full list of unanswered recommendations is available at the end of this document).



2. Index

Hereby the issues which the MIA deals with:

rec. n°	Rec. State	Issue	IRI	page
37	Algeria	Rights of the Child, Technical assistance	not impl.	page 26
110	Algeria	NHRI, Technical assistance	not impl.	page 27
113	Algeria	Detention conditions, Rights of the Child	not impl.	page 23
8	Argentina	Disabilities, International instruments	not impl.	page 10
93	Argentina	International instruments, Women's rights	not impl.	page 12
102	Argentina	Asylum-seekers - refugees	not impl.	page 9
29	Australia	Justice	partially impl.	page 15
12	Azerbaijan	Treaty bodies	partially impl.	page 10
17	Azerbaijan	Women's rights	partially impl.	page 22
20	Azerbaijan	Women's rights	-	page 24
28	Azerbaijan	Public security	not impl.	page 15
58	Belgium	Extrajudicial executions, Justice	partially impl.	page 17
116	Belgium	Human rights education and training, Sexual Orientation and Gender Identity	not impl.	page 21
23	Brazil	Rights of the Child, Trafficking	not impl.	page 25
27	Brazil	Impunity	not impl.	page 15
90	Brazil	International instruments, Torture and other CID treatment	not impl.	page 11
43	Canada	Disabilities, Rights of the Child, Women's rights	partially impl.	page 8
45	Canada	International instruments	not impl.	page 16
59	Canada	Human rights violations by state agents	partially impl.	page 17
74	Canada	Justice	not impl.	page 14
112	Canada	Detention conditions	not impl.	page 21
115	Canada	Sexual Orientation and Gender Identity	not impl.	page 21
15	Chile	Women's rights	-	page 22
48	Chile	Special procedures	not impl.	page 10
32	China	Right to health, Rights of the Child	partially impl.	page 7
19	Colombia	Rights of the Child, Women's rights	partially impl.	page 24
33	Colombia	Right to health, Women's rights	not impl.	page 25
10	Costa Rica	Human rights education and training	not impl.	page 7
13	Costa Rica	Technical assistance, Treaty bodies, Women's rights	not impl.	page 21
85	Costa Rica	International instruments, Torture and other CID treatment	not impl.	page 11
31	Cuba	Right to education, Right to health	not impl.	page 7
52	Ecuador	Detention conditions, Rights of the Child	-	page 26
101	Ecuador	International instruments, Justice	not impl.	page 12
54	France	Civil society, Women's rights	not impl.	page 26
60	France	Extrajudicial executions, Human rights violations by state agents	partially impl.	page 18



rec. n°	Rec. State	Issue	IRI	page
56	Germany	Disabilities,Rights of the Child	partially impl.	page 8
100	Germany	International instruments	not impl.	page 12
51	Ghana	Detention conditions	not impl.	page 16
69	Ghana	Rights of the Child,Women's rights	fully impl.	page 26
5	Haiti	International instruments,Rights of the Child	not impl.	page 9
105	Haiti	NHRI	not impl.	page 27
41	Hungary	Civil society,UPR process	partially impl.	page 10
65	Hungary	Detention conditions,Extrajudicial executions	partially impl.	page 19
66	Hungary	Torture and other CID treatment	partially impl.	page 19
148	Jamaica	International instruments	-	page 13
149	Jamaica	ESC rights - general,Technical assistance	not impl.	page 28
150	Jamaica	International instruments	not impl.	page 13
151	Jamaica	International instruments,Women's rights	not impl.	page 13
46	Malaysia	Human rights education and training	partially impl.	page 8
18	Mauritius	Detention conditions,Rights of the Child	not impl.	page 23
106	Mauritius	NHRI	not impl.	page 27
2	Mexico	International instruments,Rights of the Child	fully impl.	page 9
53	Mexico	Detention conditions,Rights of the Child,Torture and other CID treatment	partially impl.	page 17
104	Mexico	Other	fully impl.	page 26
4	Moldova	International instruments,Rights of the Child	not impl.	page 9
21	Moldova	Human rights education and training,Rights of the Child,Women's rights	fully impl.	page 24
49	Moldova	Special procedures	not impl.	page 10
83	Moldova	International instruments,Torture and other CID treatment	not impl.	page 11
1	Morocco	International instruments,Rights of the Child	fully impl.	page 9
78	Morocco	Public security,Technical assistance	not impl.	page 20
114	Namibia	Asylum-seekers - refugees	not impl.	page 9
62	Netherlands	Extrajudicial executions,Human rights violations by state agents	not impl.	page 18
76	Netherlands	Human rights violations by state agents	not impl.	page 20
117	Netherlands	Sexual Orientation and Gender Identity	not impl.	page 21
9	Nicaragua	International instruments	not impl.	page 10
22	Norway	Women's rights	not impl.	page 25
26	Norway	Justice	not impl.	page 14
103	Norway	Treaty bodies	partially impl.	page 13
6	Panama	Disabilities,International instruments	not impl.	page 9
91	Panama	International instruments,Women's rights	not impl.	page 12
80	Portugal	International instruments,Torture and other CID treatment	not impl.	page 11
67	Slovakia	Human rights violations by state agents	partially impl.	page 19
84	Slovakia	International instruments,Torture and other CID treatment	not impl.	page 11
16	South Africa	Women's rights	-	page 22
3	Spain	International instruments,Rights of the Child	not impl.	page 9
7	Spain	Disabilities,International instruments	not impl.	page 10



rec. n°	Rec. State	Issue	IRI	page
64	Spain	Extrajudicial executions, Human rights violations by state agents, Impunity	not impl.	page 19
68	Spain	Human rights violations by state agents	not impl.	page 19
92	Spain	International instruments, Women's rights	not impl.	page 12
98	Spain	Enforced disappearances, International instruments	not impl.	page 12
63	Sweden	Extrajudicial executions, Human rights violations by state agents, Torture and other CID treatment	partially impl.	page 18
82	Sweden	International instruments, Torture and other CID treatment	not impl.	page 11
47	Turkey	Human rights education and training	partially impl.	page 7
24	United Kingdom	Justice	not impl.	page 14
30	United Kingdom	Justice	partially impl.	page 16
61	United Kingdom	Extrajudicial executions, Human rights violations by state agents	partially impl.	page 18
111	United Kingdom	Justice	not impl.	page 20
25	United States	Justice	not impl.	page 14
50	United States	Extrajudicial executions, Special procedures, Torture and other CID treatment	not impl.	page 16
75	United States	Justice	not impl.	page 20
81	United States	International instruments, Torture and other CID treatment	not impl.	page 11

3. Feedbacks on recommendations

ESC Rights

Recommendation n°10: *Consider expanding human rights education in the school programme so that it includes the main international human rights instruments, and consider strengthening and expanding the human rights education programmes for law enforcement officials and military personnel (Recommended by Costa Rica)*

IRI: *not implemented*

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Recommendation n°47: *Continue to enhance the training being offered to security personnel, with a special focus on the fundamentals of ethics, the use of force and human rights (Recommended by Turkey)*

IRI: *partially implemented*

Jamaicans for Justice + WOMAN Inc. (JFJ) response:

There has been no implementation of Human Rights Education in schools by the Government. Jamaicans for Justice (JFJ) provides the only programme of human rights education given in schools. It is delivered to less than 2% of the children in High schools. A human rights training course for Jamaica Constabulary Force (JCF) recruits is being jointly delivered by JFJ, the Independent Jamaican Council for Human Rights (IJCHR) and Amnesty International (AI), Jamaica Chapter. The sessions are facilitated by the Police Training School and form part of the core curriculum delivered to the recruits. All recruits receive information on human rights principles so as to enhance the police's awareness of their special role in respecting, upholding and defending citizens' rights.

Recommendation n°31: *Continue implementing programmes and measures to ensure the enjoyment of quality health and education services for the whole of its population (Recommended by Cuba)*

IRI: *not implemented*

JFJ response:

Serious concerns remain about the effective delivery of quality health care in public institutions.

Recommendation n°32: *Continue to take measures to improve its health-care service, especially to guarantee the right of children to healthy growth (Recommended by China)*

IRI: *partially implemented*

JFJ response:

Some support for children's health and education needs is provided to indigent persons through the Program of Advancement through Health and Education (PATH), the amount provided is, however, not adequate to cover all the needs.



Recommendation n°43: *Adopt targeted policies and programmes to offer protections for the most vulnerable in society, including women, children and persons with disabilities, and to eliminate discrimination against them* (Recommended by Canada)

IRI: *partially implemented*

JFJ response:

There are not specific programmes or policies to eliminate general discrimination. It is included in the law that no one is allowed to discriminate others but it still happens in Jamaica. Examples of programmes to combat discrimination:

- The Government of Jamaica, through the Bureau of Women's Affairs, continues to spearhead a process to re-orient the various agents of influence in the society with regard to gender stereotypical roles and perceptions.
- HIV/AIDS is a considerable and growing challenge to the Jamaican society, to the extent that it is now being formally regarded as a crosscutting developmental issue, and therefore worthy of a specific policy approach.
- The Ministry of Labour and Social Security introduced a social safety net arrangement entitled Programme for Advancement through Health and Education (PATH). PATH represents a consolidation of the Food Stamp, Poor Relief and Public Assistance schemes. Under this programme, the needy in various categories such as elderly persons, young children, families and pregnant and lactating women are provided with grants to assist them in meeting basic day-to-day expenses.

Recommendation n°46: *Explore the possibility of upgrading equipment and providing human rights education and training for police and other law enforcement personnel in the effort to improve the security situation and to further restore public confidence, in support of the police and other security forces in the country* (Recommended by Malaysia)

IRI: *partially implemented*

JFJ response:

Upgraded equipment for using non-lethal force is to be provided to the police under bilateral cooperation agreements with the USA and UK governments. Human rights education and training for police is provided by NGOs. There remains serious public distrust of the operations of the Jamaica Constabulary Force (JCF).

Minorities

Recommendation n°56: *Establish adequate services and opportunities for children with disabilities* (Recommended by Germany)

IRI: *not implemented*

JFJ response:

Not implemented Large numbers of children with disabilities are unable to access appropriate services and opportunities from the Government.

Recommendation n°102: *Consider adapting domestic legislation to international standards and instruments in the field of refuge and asylum* (Recommended by Argentina)

IRI: *not implemented*

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Recommendation n°114: *Establish adequate regulations regarding asylum seekers and refugees in order to promote and protect their rights and to find durable solutions, as stipulated in international law* (Recommended by Namibia)

IRI: *not implemented*

JFJ response:

No enabling legislation simply a refugee Policy. There continue to be frequent news reports of Haitian refugees being returned to Haiti without even the benefit of a hearing on their requests for asylum.

International Instruments

Recommendation n°1: *Consider ratifying the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography* (Recommended by Morocco)

IRI: *fully implemented*

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Recommendation n°2: *Consider ratifying the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography* (Recommended by Mexico)

IRI: *fully implemented*

JFJ response:

Jamaica has signed but not yet ratified the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

Recommendation n°3: *Ratify CRC-OP-SC* (Recommended by Spain)

IRI: *not implemented*

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Recommendation n°4: *Ratify CRC-OP-SC in order to pay special attention to the protection of children* (Recommended by Moldova)

IRI: *not implemented*

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Recommendation n°5: *Ratify CRC-OP-SC which has already been signed by Jamaica* (Recommended by Haiti)

IRI: *not implemented*

JFJ response:

Jamaica has yet to ratify.

Recommendation n°6: *Consider ratifying the Optional Protocol to the Convention on Persons with Disabilities* (Recommended by Panama)

IRI: *not implemented*

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Recommendation n°7: *Ratify OP-CRPD, currently before Parliament (Recommended by Spain)*

IRI: *not implemented*

JFJ response:
Not yet ratified

Recommendation n°8: *Become a party to OP-CRPD (Recommended by Argentina)*

IRI: *not implemented*

JFJ response:
Jamaica has not become a party.

Recommendation n°9: *Continue harmonizing its domestic legislation with its international human rights obligations (Recommended by Nicaragua)*

IRI: *not implemented*

JFJ response:
No action taken

Recommendation n°12: *Take practical steps to fulfil its reporting obligations to various treaty bodies (Recommended by Azerbaijan)*

IRI: *partially implemented*

JFJ response:
Some progress has been made in this area with the submission of reports on the ICCPR, the ICESCR, CEDAW, and to the Committee on the Rights of the Child

Recommendation n°41: *Implement the recommendations of this universal periodic review session with the involvement of civil society and non-governmental organizations (Recommended by Hungary)*

IRI: *partially implemented*

JFJ response:
An ad hoc committee of Government ministries and Civil Society representatives has been established by the Ministry of Foreign Affairs to monitor the implementation of the UPR recommendations. The committee has not met for the past four months but serves as a useful point for information sharing.

Recommendation n°48: *Continue assessing invitations to human rights special procedures as a measure to strengthen cooperation in areas to be determined by the authorities (Recommended by Chile)*

IRI: *not implemented*

JFJ response:
There have been no further visits by human rights special procedures.

Recommendation n°49: *Consider extending invitations to all United Nations special procedures on a case-by-case basis, in order to benefit from this mutually enriching cooperation, exchange of experience and expertise and opportunities for future progress (Recommended by Moldova)*

IRI: *not implemented*

JFJ response:

None extended that we are aware of.

Recommendation n^o80: *Sign and ratify the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment* (Recommended by Portugal)

IRI: *not implemented*

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Recommendation n^o81: *Become a party to CAT* (Recommended by United States)

IRI: *not implemented*

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Recommendation n^o82: *Ratify CAT* (Recommended by Sweden)

IRI: *not implemented*

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Recommendation n^o83: *Ratify CAT and adjust its national criminal legislation accordingly* (Recommended by Moldova)

IRI: *not implemented*

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Recommendation n^o84: *Ratify CAT and duly translate the Convention into its domestic legislation to address the crime of torture* (Recommended by Slovakia)

IRI: *not implemented*

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Recommendation n^o85: *Consider acceding to CAT and the Optional Protocol thereto, while bearing in mind its domestic legislation* (Recommended by Costa Rica)

IRI: *not implemented*

JFJ response:

Jamaica is reviewing the Convention against Torture with a view to taking a decision on signing and ratification. The Government reiterated, however, that the Jamaican Constitution expressly prohibits torture, inhuman or degrading punishment or other such treatment.

Recommendation n^o90: *Accomplish progressively human rights voluntary goals, as set up by Human Rights Council resolution 9-12, including the ratification of CAT* (Recommended by Brazil)

IRI: *not implemented*

JFJ response:

The Government of Jamaica recognized that the voluntary goals elaborated in Human Rights Council Resolution 9/12 are in keeping with Jamaica's own human rights commitment and its obligations as a party to 7 of the 9 core international human rights instruments. It claimed that in those instances where it is not a party, appropriate domestic legislation, grounded in the Constitution of Jamaica, is in place to effectively ensure the protection of the rights of each citizen. JFJ would strongly contend that this is NOT so and many human rights obligations of the state go unfulfilled and unaddressed because of deficiencies in accountability mechanisms including failure to document, analyse and correct breaches of fundamental rights and freedoms.



Recommendation n°91: *Consider ratifying the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women* (Recommended by Panama)

IRI: *not implemented*

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Recommendation n°92: *Sign and ratify OP-CEDAW* (Recommended by Spain)

IRI: *not implemented*

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Recommendation n°93: *Become a party to OP-CEDAW* (Recommended by Argentina)

IRI: *not implemented*

JFJ response:

Not done. As at March 2013 Jamaica has not acceded to the Optional Protocol to the Convention of Elimination of all Forms of Discrimination against Women. Continued failure of the state to ratify the CEDAW Optional Protocol is evidence of the lack of political will or the authoritative powers of the Bureau of Women's Affairs (BWA) to influence the decision to do so. At a local seminar, early in 2012, the Executive Director of the BWA was queried on the extent to which the BWA had made progress in securing GOJ signature to the CEDAW – OP, whereupon the response was “ that will be up to the NGOs to pursue. We have done all we are going to do about it” (CUSO –meeting-Jamaica Conference Center February 9, 2012)

This is yet another signal that either the BWA doesn't have the authoritative power to influence the Ministries responsible or there is no longer the will to do so. It is possible that the inaction is a combination of both, coupled with the lack of priority ascribed to signing of this critical document, as commitment to the CEDAW proscribes. On a BWA brochure for CEDAW (updated February 17, 2009) it is clearly stated “The Government of Jamaica plans to sign the Optional Protocol in the short term”.

From the NGO perspective this status is not only unacceptable, it is now inexcusable.

Recommendation n°98: *Sign and ratify the International Convention for the Protection of All Persons from Enforced Disappearance* (Recommended by Spain)

IRI: *not implemented*

JFJ response:

The Government has neither signed nor ratified this Convention

Recommendation n°100: *Accede to the United Nations Convention relating to the Status of Stateless Persons of 1954 and to the Convention on the Reduction of Statelessness of 1961* (Recommended by Germany)

IRI: *not implemented*

JFJ response:

No Accession

Recommendation n°101: *Accede to the Rome Statute of the International Criminal Court* (Recommended by Ecuador)

IRI: *not implemented*

JFJ response:

No Accession

Recommendation n^o103: *Improve its cooperation with the United Nations treaty bodies by making it a priority to submit its future reports on time* (Recommended by Norway)

IRI: *partially implemented*JFJ response:

Some progress has been made in this area with the submission of reports on the ICCPR, the ICESCR, CEDAW, and to the Committee on the Rights of the Child

Recommendation n^o148: *Jamaica recognises the aspirational goals of the Optional Protocol and is committed to providing the framework for the achievement of the economic, social and cultural rights embodied in the Covenant. However, Jamaica is not in a position to sign and ratify the Protocol at this time.* (Recommended by Jamaica)

IRI: -

JFJ response:

Has not signed or ratified

Recommendation n^o150: *Regarding the legislative framework, Jamaica affirmed its commitment to bringing the country's legal framework into compliance with the provisions of CEDAW.* (Recommended by Jamaica)

IRI: *not implemented*JFJ response:

Not done

Recommendation n^o151: *The Government of Jamaica recognizes that the voluntary goals elaborated in Human Rights Council Resolution 9/12 are in keeping with Jamaica's own human rights commitment and its obligations as a party to 7 of the 9 core international human rights instruments. In those instances where it is not a party, appropriate domestic legislation, grounded in the Constitution of Jamaica, is in place to effectively ensure the protection of the rights of each citizen. However, the Government will continue to review those instruments that it has not yet ratified.* (Recommended by Jamaica)

IRI: *not implemented*JFJ response:

The Government of Jamaica recognized that the voluntary goals elaborated in Human Rights Council Resolution 9/12 are in keeping with Jamaica's own human rights commitment and its obligations as a party to 7 of the 9 core international human rights instruments. It claimed that in those instances where it is not a party, appropriate domestic legislation, grounded in the Constitution of Jamaica, is in place to effectively ensure the protection of the rights of each citizen. JFJ would strongly contend that this is NOT so and many human rights obligations of the state go unfulfilled and unaddressed because of deficiencies in accountability mechanisms including failure to document, analyse and correct breaches of fundamental rights and freedoms and to conduct appropriate reviews and take action to correct deficiencies.

Justice

Recommendation n^o24: *Implement the recommendations of the Jamaican Justice System Reform Task Force report and provide the justice system with adequate resources and structures to do this effectively* (Recommended by United Kingdom)

IRI: *not implemented*

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Recommendation n^o25: *Implement a comprehensive policy to address serious deficiencies in the judiciary and in the security forces, as recommended by the Jamaican Justice System Reform Task Force* (Recommended by United States)

IRI: *not implemented*

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Recommendation n^o26: *Implement the conclusions of the reports on justice and police reform in a most systematic and efficient way* (Recommended by Norway)

IRI: *not implemented*

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Recommendation n^o74: *Implement the recommendations of the Jamaican Justice System Reform Task Force Report to ensure a modern justice system that is efficient, accessible, accountable, fair and able to deliver timely results* (Recommended by Canada)

IRI: *not implemented*

JFJ response:

The Justice System Reform Process has had significant setbacks in the past two years. Most of the recommendations remain unimplemented. Pilot projects on Alternative Dispute Resolution and Child Diversion in the justice system have been implemented and appear to be gaining some traction but massive problems in the delivery of justice and the provision of sufficient resources and structures to permit effective operation of the justice system and implementation of the reforms remain. The Justice reform process is significantly challenged for resources and has had NO significant impact on the delivery of Justice or respect for human rights. Remandees can spend years in custody pending a trial because of the huge backlogs in the courts.

As recently as April 2013 it was reported that "Easter term [of the Supreme court] opened...with 583 cases to be tried, according to figures from the Office of the Director of Public Prosecutions. Of that number, 558 are cases traversed from the recently concluded Hilary Term. Only 25 cases of the 583 are new. The bulk of the cases, 341, are murders". In addressing the number of cases, [Chief Justice Z] McCalla said that the challenges facing the legal system have been "documented and articulated" over the years, noting that "meaningful" intervention was needed."



Recommendation n°27: *Continue to pursue police and justice reforms aimed at reducing crime and impunity, while fully respecting human rights (Recommended by Brazil)*

IRI: *not implemented*

JFJ response:

The process of Police Reform has stalled with the Ministry of National Security disbanding the oversight committee for the reform of the Jamaica Constabulary Force (JCF). The JCF continues to kill more than 200 persons every year - a rate of 7-8 persons/100,000 killed by police. This is a higher homicide rate than that of most European countries. The JCF also continues to incarcerate large number of persons, without charge for periods significantly longer than provided for under local or international law.

The Justice reform process is significantly challenged for resources and has had NO significant impact on the delivery of Justice or respect for human rights. Remandees can spend years in custody pending a trial because of the huge backlogs in the courts. As recently as April 2013 it was reported that "Easter term [of the Supreme court] opened...with 583 cases to be tried, according to figures from the Office of the Director of Public Prosecutions. Of that number, 558 are cases traversed from the recently concluded Hilary Term. Only 25 cases of the 583 are new. The bulk of the cases, 341, are murders". In addressing the number of cases, [Chief Justice Z] McCalla said that the challenges facing the legal system have been "documented and articulated" over the years, noting that "meaningful" intervention was needed."

Recommendation n°28: *Speed up its efforts to effectively combat criminal networks (Recommended by Azerbaijan)*

IRI: *not implemented*

JFJ response:

The police estimate that gang-related violence in so-called "garrison communities", where tribalist politics in Jamaica flourish, and where the ruling gangs have for years acted under the patronage of one or other of the political parties, account for up to 70% of all murders in Jamaica. These political connections make it difficult for progress in reducing violence.

Despite this, legislation to address Gang Violence has yet to be tabled in the Jamaican Parliament. All solutions articulated by the JCF speak to rights abrogating tactics, including denial of bail, mandatory sentences and criminalizing more and more behaviours, rather than addressing the socio-economic and cultural factors leading to the high rate of violence and criminality. Legislation to combat the organized criminal activity known as the 'Lottery Scam' was only just passed though the contribution of that activity to violence and criminality has been well documented locally and internationally.

Recommendation n°29: *Work to ensure that the Independent Commission of Investigations receives appropriate resourcing and support to enable it to effectively perform its functions (Recommended by Australia)*

IRI: *partially implemented*

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Recommendation n°30: *Give the new Independent Commission of Investigations the necessary political support and operational resources to fulfil its mandate (Recommended by United Kingdom)*

IRI: *partially implemented*

JFJ response:

Significant support both financial and political have been provided to the Independent Commission of Investigations (INDECOM) by successive governments and that agency appears to be gaining the trust of the Jamaican Population and support from the political directorate. The courts need to provide their ruling in a significant challenge by the Police to the powers of that agency (ruling outstanding for more than a year from the Supreme Court).

There also needs to be some amendments to the law to clarify aspects of the powers of INDECOM. The challenge now is to have effective prosecution of the cases that they have investigated.

Recommendation n°45: *Enhance the training and oversight of police to ensure compliance with domestic and international standards and human rights norms (Recommended by Canada)*

IRI: *not implemented*

JFJ response:

Process of implementation of Reform of the training and oversight of the police has stalled - see [response to recommendation n°] 27

Recommendation n°50: *Address the concerns raised by the Special Rapporteur on Torture and other Cruel, Inhuman and Degrading Treatment or Punishment and those raised by the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions (Recommended by United States)*

IRI: *not implemented*

JFJ response:

Minimal action on the recommendations of the two Special Rapporteurs. In particular the recommendations regarding conditions of detention particularly for juveniles have been ignored. The recommendation of the Special Rapporteur on torture that a policeman who threatened his team be disciplined was ignored and instead the policeman was promoted.

Recommendation n°51: *Take steps to reduce overcrowding in the prisons by imposing alternative sentences, where possible (Recommended by Ghana)*

IRI: *not implemented*

JFJ response:

Unfortunately, the government of Jamaica has not taken the appropriate steps to correct the situation. The need to find alternative solutions rather than imprisonment for adults and juveniles remains largely unaddressed. In the end, it would cost less to the Jamaican government by finding alternative solutions. Moreover, we need more facilities. The current overcrowding and poor living conditions remain a severe problem and are a gross disrespect of the dignity of prisoners. On November 2012, the Parliaments' Public Administration and Appropriations Committee (PAAC) have lamented the overcrowding at two of the main maximum-security prisons.



Officials told this committee that the Tower Street Adult Correctional Centre has a population of 1,656, which is way above its limit of 850.

It was also disclosed that the St. Catherine Adult Correctional Centre, which was built to accommodate 850 inmates, has a population of 1,201.

Recommendation n°53: Ensure that the new detention centres, which will be established in accordance with the auditing mentioned in the national report, comply with international standards, in particular regarding separation of minors from adults and the prohibition of corporal punishment (Recommended by Mexico)

IRI: partially implemented

JFJ response:

See [recommendations n°] 18 and 52. There continues to exist a problem of inhumane living conditions and overcrowding in prisons and police holding cells. Serious attention needs to be given to strengthening the constitutional protections against arbitrary and prolonged detention in inhumane conditions and thereby commitments made by the Government of Jamaica to build proper detention facilities should be kept.

Initiative to End All Corporal Punishment of Children (GIEACPC) response:

Jamaica has fulfilled this recommendation in respect of prohibition of corporal punishment detention centres. Corporal punishment in the penal system was ruled unconstitutional in Jamaica in 1998 and the Child Care and Protection Act 2004 prohibited corporal punishment in children's institutions, but provisions for whipping and flogging remained on the statute book. In February 2013, Jamaica enacted the Law Reform (Flogging and Whipping) (Abolition) Act 2013 which, together with the Obeah (Amendment) Act 2013 and the Larceny (Amendment) Act 2013, ensures that law reform to prohibit corporal punishment as a sentence for crime and as a disciplinary in penal institutions is now complete. However, corporal punishment remains lawful in schools and in the home.

Recommendation n°58: Conduct thorough investigations into all allegations of extrajudicial executions, and ensure that those responsible are punished in accordance with the seriousness of the crimes committed and that witnesses are protected from any possible reprisals (Recommended by Belgium)

IRI: partially implemented

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Recommendation n°59: Take all necessary measures to ensure accountability for unlawful use of force and extrajudicial killings by police officers, including diligent criminal investigation, prosecution and punishment of perpetrators (Recommended by Canada)

IRI: partially implemented

JFJ response:

The establishment of INDECOM has improved significantly the investigation of allegations of extra judicial executions. The prosecution of these cases remains perfunctory and substandard and impunity persists. Witnesses continue to be



threatened by police or their agents in cases of allegations of extrajudicial killings and are afraid to come to court or change their statements.

Recommendation n°60: Take the necessary measures to prevent the excessive use of force by security forces and investigate all cases in which such excessive use of force has led to death, as well as bring to justice and punish appropriately all perpetrators of extrajudicial executions (Recommended by France)

IRI: partially implemented

JFJ response:

Investigation has improved but prosecution and punishment are entirely unsatisfactory and impunity persists. In three recent high profile cases followed by JFJ (R . M. Scarlett, H. Henry and I. Lloyd) the prosecution was done by mainly junior prosecutors who appeared largely unprepared, failed to protect witnesses from intimidation, failed to bring all relevant evidence to court and all cases were either dismissed or the policemen found not guilty. In another case (M. Scarlett) the Director of Public Prosecutions opted not to prosecute despite the fact that a Coroner's jury had found two policemen guilty of Murder. In that instance the decision not to prosecute was NOT communicated to the victim's family or attorneys.

Recommendation n°61: Promote greater accountability for the failure of police officers to comply with professional standards of conduct, and carry out full, impartial and independent investigations where the use of force results in the killing of civilians (Recommended by United Kingdom)

IRI: partially implemented

JFJ response:

Investigations by INDEDCOM appear to comply with international standards. Accountability for the use of force by members of the JCF remains very questionable and there has been only one conviction of a policeman for murder in the past three years. This in the face of more than 800 civilians having died at the hands of the police in that same time period.

Recommendation n°62: Ensure effective investigation, prosecution and sanctioning of members of the police who use excessive force or are responsible for unlawful killings (Recommended by Netherlands)

IRI: not implemented

JFJ response:

The latest statistics on extrajudicial shootings by the police show minimal improvement. The Minister of National Security has yet to keep his promise to citizens and hold the police accountable for their actions. There is still a failure to punish the policemen for fatal shootings. Moreover, there is a need for more transparency from the JCS and Ministry of National Security and the data needs to be more available to the public.

Recommendation n°63: Ensure that all allegations of unlawful killings, ill treatment or excessive use of force by police forces are investigated and that perpetrators are brought to justice (Recommended by Sweden)

IRI: partially implemented

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Recommendation n°66: *Ensure the investigation of all allegations of ill treatment and excessive use of force, and bring the perpetrators to justice* (Recommended by Hungary)

IRI: *partially implemented*

JFJ response:

See [responses to recommendations n°] 58-62.

Recommendation n°64: *Establish a system of effective and transparent accountability to investigate, prosecute and punish those responsible for alleged police abuses and, in particular, possible extrajudicial executions, in order to avoid the perception of impunity and overcome the worrying disenchantment of public opinion regarding the acts of the security forces in their fight against crime* (Recommended by Spain)

IRI: *not implemented*

JFJ response:

See [responses to recommendations n°] 58-62. The present judicial system, in its entirety, fails to deliver timely and fair justice for all. The court system is slow and suffers from a chronic lack of resources. Cases may take years to make it way through all the stages of jurisdiction to completion. Other negative factors have to do with the lack of political and judicial, will and the lack of management skills, to effect comprehensive reform of the justice system, leading to a distrust of the formal justice systems within communities and civil society.

Recommendation n°65: *Ensure continuous reporting to the public on the status of investigations of cases of arbitrary detention and of extrajudicial killings, and ensure the provision of adequate resources and independent administrative structures for the justice system* (Recommended by Hungary)

IRI: *partially implemented*

JFJ response:

INDECOM provides important reports and updates to the public on the status of its investigations - primarily into extrajudicial killings. No information, not even raw numbers, is provided by the state on arbitrary detention. The Court Management System was established to manage the justice system. It has severe resource constraints.

Recommendation n°67: *Ensure due investigation and prosecution, in accordance with international standards, of all allegations of ill treatment or excessive use of force by law enforcement personnel, including through the establishment and empowerment of its Independent Commission of Investigations, and provide sufficient compensation to the victims or their families* (Recommended by Slovakia)

IRI: *partially implemented*

JFJ response:

INDECOM is established and functioning. Prosecutions remain an area of great weakness. Compensation settlement is slow and most victims cannot afford the process needed to make claims.

Recommendation n°68: *Carry out appropriate, independent, effective and transparent investigations into the deaths that occurred between 24 and 28 March 2010 in West Kingston during police operations, make public the outcomes of such investigations,*

and bring to justice the perpetrators of human rights violations (Recommended by Spain)

IRI: *not implemented*

JFJ response:

This has NOT been done. The Public Defender's report on his investigations has been stalled for more than a year with repeated failure to provide the report. The Parliament will give no deadline for the submission of the Interim Report from the Office of the Public Defender despite having sent assistance to enable the completion of the report. The Ministry of Security has refused to say whether it has requested the footage taken by a surveillance plane during the operation. This surveillance, provided by the Government of the United States was used to assist the operation conducted by the JCF and JDF. NO attempt has been made to expedite the investigation of the deaths nor the production of the report nor the bringing to justice of the perpetrators of human rights violations.

Recommendation n°75: Strengthen respect for human rights within the security forces while vigorously investigating and prosecuting alleged human rights abuses, in order to restore the people's faith in both the judiciary and law enforcement (Recommended by United States)

IRI: *not implemented*

JFJ response:

See recommendations 24-27

Recommendation n°76: Establish a procedure to review decisions by the Director of Public Prosecution regarding the prosecution of police officers for unlawful killings (Recommended by Netherlands)

IRI: *not implemented*

JFJ response:

Not done.

Recommendation n°78: Reflect on ways and means to address the obstacles and challenges that still affect Jamaican society, in particular the high rate of violent crime and worsening security problems and the country's extreme vulnerability to natural disasters and global economic instability, within a framework of close cooperation with the international community (Recommended by Morocco)

IRI: *not implemented*

JFJ response:

Not aware of any significant reflection or enhanced cooperation.

Recommendation n°111: Establish an independent commission of inquiry into the events surrounding the Tivoli Gardens incident in May 2010 (Recommended by United Kingdom)

IRI: *not implemented*

JFJ response:

NOT DONE



Recommendation n°112: *Fulfil its commitments to build improved detention facilities (Recommended by Canada)*

IRI: *not implemented*

JFJ response:
NOT DONE

SOGI

Recommendation n°115: *Reinforce legal protections against discrimination to include sexual orientation and gender identity as prohibited grounds for discrimination (Recommended by Canada)*

IRI: *not implemented*

JFJ response:

Jamaicans for Justice (JFJ) and Jamaica Forum for Lesbians, All-Sexuals and Gays (J-FLAG) deplore that the Charter of Fundamental Rights and Freedoms continues to fail to protect from discrimination on the grounds of sexual orientation. Also, there are no laws covering all forms of gender discrimination.

Recommendation n°116: *Initiate or join public campaigns so as to encourage tolerance towards homosexual, bisexual and transsexual persons (Recommended by Belgium)*

IRI: *not implemented*

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Recommendation n°117: *Start a public information campaign to combat discrimination based on sexual orientation (Recommended by Netherlands)*

IRI: *not implemented*

JFJ response:

The Government has neither initiated, nor joined campaigns to encourage tolerance towards homosexual, bisexual and transsexual persons. All activities in this regard have been undertaken by NGOs and individuals. More recently, the University of Technology, following a horrific beating of an alleged homosexual on its campus has begun a campaign at the University encouraging tolerance. There have been NO statements by Government Ministers and/or Technocrats calling for tolerance.

Women & Children

Recommendation n°13: *Address appropriately the challenges identified by treaty bodies' reports, particularly those relating to gender equality, the rights of the child and the elimination of violence against women, and consider requesting technical*



assistance from OHCHR in order to duly implement treaty bodies' recommendations
(Recommended by *Costa Rica*)

IRI: *not implemented*

JFJ response:

Challenges identified by treaty bodies reports often not addressed at all, far less appropriately. We are unaware of the GOJ requesting any technical assistance from the OHCHR to implement treaty bodies recommendations.

Recommendation n°15: *Continue strengthening the institutions and preventive policies relating to gender issues and discrimination against women* (Recommended by *Chile*)

IRI: -

JFJ response:

The women's human rights movement at the International level, has succeeded in broadening the concept of human rights to include violations against women that are gender-based (i.e. because the victim is a woman), whether committed by state or private actors. Thus, such behaviour as rape in custody, and domestic violence, are now considered human rights violations by the international community. This means that governments bear responsibility to protect women from, and respond appropriately to; these violations. We strongly urge Government to set up a focal legal person or entity to accelerate human rights legislation, especially legislation affecting women, and also to focus on Government's compliance with international treaties, especially treaties like CEDAW.

The Bureau of Women's Affairs also needs a permanent Legal Advisor/Gender Specialist whose focus will be on CEDAW and state obligations to CEDAW.

We recommend that Government should seek to develop legislation against Sexual Harassment.

Recommendation n°16: *Implement further policies to ensure gender equality throughout society and strengthen the promotion of the rights of women* (Recommended by *South Africa*)

IRI: -

JFJ response:

Our recommendation is that Government should act decisively to identify those amendments ("All persons shall have the right to freedom from discrimination on the ground of (i) sex, that is to say male or female; (ii) race, place of origin, social class, colour, religion or political opinions.") which are non-controversial and which may be relevant to their international commitments such as CEDAW, and enact those amendments, with bipartisan support.

Recommendation n°17: *Continue the measures to increase women's participation in public and political life* (Recommended by *Azerbaijan*)

IRI: *partially implemented*

JFJ response:

Despite passage of National Policy on Gender Equality (NGPE), and commitment to at least 30% of women in the Senate, there has been no binding measure taken to



address the wider issues of increased participation of women in decision-making. Statistics over the past decade, however, reveal a vastly increased number of women candidates running in elections but limited numbers actually gaining elected positions. It is noted that although larger numbers of women are competing to be political representatives, their successes are limited. The reasons why the Government is not making use of temporary special measures is:

1. Gender equity is not seen as a priority – the problems of crime, violence, poverty, political tribalism and social instability take precedence and the effect of gender inequity on these problems is not properly analysed and considered.
2. Women's groups, which must take the lead in advocating for gender equity measures, have not been able to move the agenda in this regard.

The Bureau of Women's Affairs has been involved in programmes aimed at economic empowerment at the local level, but has not mobilised women across the society to lobby for policies and practices necessary to move gender equity forward. Nongovernmental organizations (NGOs), such as the Association of Women's Organisations in Jamaica (AWOJA) are resource starved and, therefore, unable to complete the necessary groundwork of sensitising women, as well as men, about the relationship between gender inequality and the problems that affect their daily lives, like poverty and violence – though these groups have tried and managed to generate advocacy about issues such as gender based violence. Government initiatives aimed at influencing policy at the highest level, like the establishment of a Social and Gender Equity Committee about a decade ago and, more recently, the formation of the National Gender Equity Committee, have not moved further than the discussion stage, and they have not seen political decision-making as paramount among the areas for gender equalization. Civil society recognizes, however, that united lobbying from interested groups is necessary to move forward.

Recommendation n°18: Further intensify the already laudable steps being taken to improve the conditions of juvenile detention (Recommended by Mauritius)

IRI: not implemented

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Recommendation n°113: Intensify efforts aimed at improving living conditions in prisons, putting an end to the detention of children in police stations and accelerating the adoption of measures to protect children in juvenile correctional facilities (Recommended by Algeria)

IRI: not implemented

JFJ response:

This remains an issue of grave concern. Despite the building of one Juvenile detention facility [...] Juveniles in Jamaica continue to be held together with adults in adult prisons, remand centers and police lock ups (holding cells). Juveniles in need of care and protection, those on remand and those convicted of criminal offenses are comingled with each other and with adults. Conditions of detention of juveniles in police holding cells and detention centers fail to comply with international standards. The facilities lack activities for the children. These children are not provided with bare minimum standards of education and protection and are subject to abuses and are often kept in substandard, inhuman and degrading conditions. There is NO facility for detaining Juvenile Females separately from adults so this sub population of Juvenile



detainees is subject to abuses of their rights as children and as females. There have been several incidents in the past six months of self harm, attempted suicide and successful suicide (one case) occurring among Juvenile detainees. The Prison officers are not given adequate training in care and custody of juveniles - a matter complained of publicly by the Warders Association. The conditions of detention do NOT respect the dignity of prisoners, more so the rights of Juveniles. This matter needs serious, immediate and urgent attention.

Recommendation n°19: *Continue implementing further plans and programmes to reduce levels of violence against women and girls* (Recommended by Colombia)

IRI: *partially implemented*

JFJ response:

See [responses to recommendations n°]13-18 and 91.

Recommendation n°20: *Continue its efforts to eliminate violence against women* (Recommended by Azerbaijan)

IRI: -

JFJ response:

As of September 2011 the government has not provided a shelter for victims of Domestic Violence. The NGO Woman Incorporated {Woman Inc} remains the only organization to provide a Crisis Center for psychological counseling services and a Shelter for Women {and their children} who are victims of physical and sexual violence. As the one and only facility of its kind in Jamaica, the shelter is situated at a confidential location in the capital city of Kingston. Therefore women who reside in rural communities have no access to shelter services, nor do those who may live or visit on the North Coast and the Western side of Jamaica. Having established and maintained the shelter for over 23 years through various fundraising efforts The NGO organization {Woman Inc} continues to experience severe financial constraints with limited resources and even though the NGO receives a small subvention from the Government, since the mid-nineties, with a current input of 1/5 {one fifth} of the annual operating budget, the GOJ subvention is woefully inadequate.

Recommendation n°21: *Consider additional awareness-raising campaigns concerning domestic violence cases* (Recommended by Moldova)

IRI: *fully implemented*

JFJ response:

An Inter-Agency Campaign on Violence Against Women and Girls, which involved a collaborative approach among several agencies such as the Bureau of Women's Affairs, Woman Inc. Crisis Centre, SISTREN Theatre Collective, Fathers Incorporated and Women's Media Watch was undertaken. Funding was received from the UN agencies as well as from the Canadian International Development Agency (CIDA) and the Netherlands Government.

The campaign focused on work with the police; conveying the message of domestic violence and sexual abuse through dramatic presentations. The production of videos with strong messages on incest and domestic violence are also a form of awareness-raising campaigns. These films, entitled "Hope Deferred" and "Starting Over," were produced by the BWA and were shown on national television so receiving wide



viewership. Videos have also been made available to be shown in schools, churches and in support of community outreach efforts.

Recommendation n°22: *Ensure prompt and effective investigation of gender-based violence and that alleged perpetrators are prosecuted* (Recommended by Norway)

IRI: not implemented

JFJ response:

There is no mechanism in place that effectively captures data on the number of complaints, prosecutions, convictions and sentences imposed in cases of Domestic Violence (DV) and this is one of the gaps for which an analysis needs to be conducted so that measures can be implemented. Given that DV is not treated as a crime it is very difficult to capture the data as the information outlining the offence will not state DV. Criminal charges in summary offences of assault or wounding as a result of domestic dispute often are not disaggregated.

Recommendation n°23: *Further strengthen efforts to prevent and combat trafficking in persons and the sexual exploitation of children* (Recommended by Brazil)

IRI: not implemented

JFJ response:

The Child Care and Protection Act is the only law in Jamaica which explicitly prohibits trafficking or sale of children. The relevant section (Section 10) merely states that no person shall sell or participate in trafficking of any child. It does not define trafficking even though this is its first and only usage in any law in Jamaica. Jamaica's efforts to limit trafficking in persons were downgraded by the US State Department in 2012. Regarding Trafficking victims the discussion {and delays} for the opening of a Shelter for Trafficking victims continues, {and the contract for the TIP Pilot shelter operations {for women} has been delayed for more than 7 (seven) months with severe financial constraints

cited by the GOJ. {The lack of the shelter being in full operations has severely hampered the process for police identification and rescue measures, and by extension, hampers efforts for victim assistance/response as well as prosecution}.

Recommendation n°33: *Continue implementing actions aimed at reducing maternal mortality from indirect causes* (Recommended by Colombia)

IRI: not implemented

JFJ response:

Abortion law reform has not taken place in Jamaica. Under ss 72 and 73 of the Offences against the Person Act, procuring an abortion is a criminal offence. Criminalization of abortion and in effect protection of the right to life of the unborn child is one that is now entrenched in the Constitution of Jamaica by virtue of section 13 (12) of the Charter of Fundamental Rights and Freedoms (Constitutional Amendment) Act 2011.

This constitutional protection of laws which criminalize abortion poses a major if not insurmountable challenge for abortion law reform efforts in Jamaica. Abortion law reform has not taken place in Jamaica. Under ss 72 and 73 of the Offences against the Person Act, procuring an abortion is a criminal offence. Criminalization of abortion and in effect protection of the right to life of the unborn child is one that is



now entrenched in the Constitution of Jamaica by virtue of section 13 (12) of the Charter of Fundamental Rights and Freedoms (Constitutional Amendment) Act 2011.

This constitutional protection of laws which criminalize abortion poses a major if not insurmountable challenge for abortion law reform efforts in Jamaica.

Recommendation n°37: Request technical and financial assistance from relevant United Nations institutions to reactivate the innovative hospital project concerning the ill treatment of children, which has been suspended owing to a lack of resources (Recommended by Algeria)

IRI: *not implemented*

JFJ response:

This programme remains dormant and ill treatment of children remains a major concern, with inadequate support and counselling services and child protection being provided by the state.

Recommendation n°52: Supervise conditions in youth correctional facilities and guarantee that it complies with the Law on Child Care and Protection, in order to determine the progress made at the national level (Recommended by Ecuador)

IRI: -

JFJ response:

Conditions remain abysmal - see [recommendation n°]18. Of special concern is the plan the government is making to close the Female prison at Fort Augusta which houses adults and juveniles and move BOTH populations into another facility rather than separating them as required by local and international law.

Recommendation n°54: Establish, in cooperation with civil society, a detailed strategy with a view to eliminating harmful cultural practices and discriminatory stereotypes against women (Recommended by France)

IRI: *not implemented*

JFJ response:

See [response to recommendation n°]18 as regards deficiencies in the protection of Juvenile girls in detention centers.

Recommendation n°69: Establish within the Police Service a domestic violence and victims support unit (Recommended by Ghana)

IRI: *fully implemented*

JFJ response:

The Ministry of Justice in Jamaica has set up a Victims Support Unit. Victims Support Unit is committed to the best interests of victims of crime by actively supporting them, identifying their needs and advocating their rights.

Other

Recommendation n°104: Adopt and implement, in the short term, the project of a constitutional amendment on the Charter on Rights and Freedoms, bearing in mind

the extensive legislative work that has been carried out in this regard (Recommended by Mexico)

IRI: *fully implemented*

JFJ response:

The amendment of the Charter of Fundamental Rights and Freedoms was made in 2011. As reported to the UN Human Rights Committee reviewing the compliance with the International Covenant on Civil and Political Rights the Charter fails to effectively protect the fundamental rights of all persons of Jamaica, thereby undermining the inherent dignity of all persons. The Charter includes certain provisions that are not in line with the ICCPR and which not only undermine the rights of citizens but in some cases criminalize the exercise of fundamental freedoms. In particular, the Charter:

- (1) does not oblige judges to consider international human rights instruments when interpreting the Bill;
- (2) does not include the right to health care, or health facilities;
- (3) makes protected rights subject to existing laws, by retaining pre-existing forms of punishment that are in breach of constitutional safeguards prohibiting torture and inhuman and degrading punishment such as the death penalty, and flogging;
- (4) fails to protect from discrimination on the grounds of health status, mental or physical disability, sexual orientation, or language;
- (5) contains several specific exceptions which fail to consider that new circumstances or societal views may arise in the future. (e.g. Clause 13 (12) preserves existing laws relating to sexual offences, obscene publications or the life of the unborn by stating that these laws do not infringe any rights in the proposed Charter);
- (6) is not reader friendly: the Bill is drafted in archaic language that is difficult for the layperson to understand and does not conform with more modern constitutions in other jurisdictions.

Recommendation n°105: *Consider the possibility of establishing a national human rights institution accredited by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (Recommended by Haiti)*

IRI: *not implemented*

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Recommendation n°106: *Give due consideration to the establishment of a national human rights institution in accordance with the Paris Principles (Recommended by Mauritius)*

IRI: *not implemented*

JFJ response:

Not done. Weaknesses in the office of the Public Defender shown by its failure to provide the report of its investigation into the deaths during the security forces operations in 'Tivoli Gardens' in March 2010, have remained unaddressed by the State

Recommendation n°110: *Identify needs in terms of strengthening necessary capacities to overcome the current shortcomings of the normative and institutional framework for the promotion and protection of human rights and request appropriate*



technical assistance, including for the establishment of a national human rights institution (Recommended by Algeria)

IRI: not implemented

JFJ response:

Jamaica accepted this recommendation and said that, external cooperation will be required to support national initiatives in specific areas concerning structured multi-sector consultations, human rights related training, including human rights education, as well as the strengthening of local entities. JFJ is not aware of any efforts to get such assistance from the international community in order to overcome the existing shortcomings they identified

Recommendation n°149: Jamaica stressed its commitment to promote and protect human rights and requested help to do so. (Recommended by Jamaica)

IRI: not implemented

JFJ response:

NGOs working on the promotion and protection of human rights have seen very little in the way of concrete steps taken to support this pledge and get the necessary help to do so.

Methodology

A. First contact

Although the methodology has to consider the specificities of each country, we applied the same procedure for data collection about all States:

1. We contacted the Permanent Mission to the UN either in Geneva (when it does exist) or New York;
2. We contacted all NGOs which took part in the process. Whenever NGOs were part of coalitions, each NGO was individually contacted;
3. The National Institution for Human Rights was contacted whenever one existed.
4. UN Agencies which sent information for the UPR were contacted.

We posted our requests to the States and NHRI, and sent emails to NGOs and UN Agencies.

The purpose of the UPR is to discuss issues and share concrete suggestions to improve human rights on the ground. Therefore, stakeholders whose objective is not to improve the human rights situation were not contacted, and those stakeholders' submissions were not taken into account.

However, since the UPR is meant to be a process which aims at sharing best practices among States and stakeholders, we take into account positive feedbacks from the latter.

B. Processing recommendations and voluntary pledges

Stakeholders we contact are encouraged to use an Excel sheet we provide which includes all recommendations received and voluntary pledges taken by the State reviewed.

Each submission is processed, whether the stakeholder has or has not used the Excel sheet. In the latter case, the submission is split up among recommendations we think it belongs to. Since such a task is more prone to misinterpretation, we strongly encourage stakeholders to use the Excel sheet.

If the stakeholder does not clearly mention neither that the recommendation was “fully implemented” nor that it was “not implemented”, UPR Info usually considers the recommendation as “partially implemented”, unless the implementation level is obvious.



UPR Info retains the right to edit comments that are considered not to directly address the recommendation in question, when comments are too lengthy or when comments are defamatory or inappropriate. While we do not mention the recommendations which were not addressed, they can be accessed unedited on the follow-up webpage.

C. Implementation Recommendation Index (IRI)

UPR Info developed an index showing the implementation level achieved by the State for both recommendations received and voluntary pledges taken at the UPR.

The **Implementation Recommendation Index (IRI)** is an individual recommendation index. Its purpose is to show an average of stakeholders' responses.

The *IRI* is meant to take into account stakeholders disputing the implementation of a recommendation. Whenever a stakeholder claims nothing has been implemented at all, the index score is 0. At the opposite, whenever a stakeholder claims a recommendation has been fully implemented, the *IRI* score is 1.

An average is calculated to fully reflect the many sources of information. If the State under Review claims that the recommendation has been fully implemented, and a stakeholder says it has been partially implemented, the score is 0.75.

Then the score is transformed into an implementation level, according to the table below:

Percentage:	Implementation level:
0 – 0.32	Not implemented
0.33 – 0.65	Partially implemented
0.66 – 1	Fully implemented

Example: On one side, a stakeholder comments on a recommendation requesting the establishment of a National Human Rights Institute (NHRI). On the other side, the State under review claims having partially set up the NHRI. As a result of this, the recommendation will be given an *IRI* score of 0.25, and thus the recommendation is considered as “not implemented”.

Disclaimer

The comments made by the authors (stakeholders) are theirs alone, and do not necessarily reflect the views, and opinions at UPR Info. Every attempt has been made to ensure that information provided on this page is accurate and not abusive. UPR Info cannot be held responsible for information provided in this document.

Uncommented recommendations

Hereby the recommendations which the MIA does not address:

rec. n°	Recommendation	SMR	Response	A	Issue
11	Continue cooperating with international human rights mechanisms to strengthen its institutional capacity in the defence and promotion of human rights	Nicaragua	Accepted	2	General
14	Continue to address gender inequality	Bangladesh	Accepted	2	Women's rights
34	Continue to strengthen education cooperation with international educational organizations	China	Accepted	2	Right to education
35	Continue implementing the country's strategies and plans for socioeconomic development, particularly with a view to reducing poverty	Cuba	Accepted	2	Development, Poverty
36	Share its experience and expertise, through multiform and multisectoral cooperation, with the countries of the region that are well behind in achieving Millennium Development Goals, noting that Goals 1 and 2 have been implemented and that Goals 5 and 7 are in the process of being implemented by Jamaica	Haiti	Accepted	1	Development
38	Consider requesting technical assistance from OHCHR to prepare and implement an appropriate policy that is human-rights-centred to prevent and combat violence	Panama	Accepted	3	Technical assistance
39	Ask the major industrialized economies to help promote and protect human rights in the country, both by reducing greenhouse gas emissions to - safe - levels that are consistent with the full enjoyment of human rights, and by funding adaptation measures to help the country cope with those changes that are already taking place	Maldives	Accepted	1	Other
40	Continue to develop and implement strategies to counter the negative impacts of climate change in cooperation with and with assistance from the international community	Bangladesh	Accepted	2	Environment, Technical assistance
42	Call upon the international community, in particular the bilateral partners of Jamaica, to offer all the necessary development support and cooperation to Jamaica for the implementation of the universal periodic review recommendations in country-driven and country-owned approaches, as forcefully stressed by the Honourable Minister	Mauritius	Accepted	1	Technical assistance, UPR process



44	Prioritize the implementation of the recent legal reforms to eliminate discriminatory provisions against women in compliance with CEDAW	Hungary	Accepted	4	International instruments, Women's rights
55	Take measures to eradicate traditional stereotypes of women, especially through educational programmes that promote gender equality and women's rights	Netherlands	Accepted	4	Women's rights
57	Enhance the facilities, services and opportunities for children and persons with disabilities	Trinidad & Tobago	Accepted	4	Disabilities, Rights of the Child
70	Establish more shelters for women victims of violence	Norway	Accepted	5	Women's rights
71	Step up the implementation of legislative, policy and administrative measures aimed at combating gender-based violence and sexual harassment	Malaysia	Accepted	4	Women's rights
72	Further adopt and implement policies and measures aimed at preventing and punishing discrimination and violence against women, including sexual violence	Brazil	Accepted	4	Women's rights
73	Continue to undertake awareness-raising and prevention campaigns aimed at addressing gender-based violence and discrimination against women	Slovenia	Accepted	2	Women's rights
77	Provide all enforcement officials with proper sensitivity training in relation to sexual orientation, gender identity and HIV-AIDS	Slovenia	Accepted	5	HIV - Aids, Sexual Orientation and Gender Identity
79	Sign and ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights as soon as possible, to allow individual complaints of alleged violations of such rights to be heard by CESCR	Portugal	Rejected	5	ESC rights - general, International instruments, Treaty bodies
86	Sign and ratify CAT and OP-CAT	Spain	General Response	5	International instruments, Torture and other CID treatment
87	Become a party to CAT and OPCAT	Argentina	General Response	5	International instruments, Torture and other CID treatment
88	Ratify CAT and OP-CAT	Ecuador	General Response	5	International instruments, Torture and other CID treatment
89	Ratify both CAT and OP-CAT, and revise its domestic laws to include the provisions of CAT	Maldives	General Response	5	International instruments, Torture and other CID treatment
94	Ratify OP-CEDAW and establish an overall strategy to eliminate all harmful practices constituting discrimination against women	Morocco	General Response	5	International instruments, Women's rights



95	Ratify OP-CEDAW	Turkey	General Response	5	International instruments, Women's rights
96	Ratify OP-CEDAW	Trinidad & Tobago	General Response	5	International instruments, Women's rights
97	Abide by CEDAW and ratify OP-CEDAW	Ecuador	General Response	4	International instruments, Women's rights
99	Become a party to CED	Argentina	No Response	5	Enforced disappearances, International instruments
107	Consider the establishment of a national human rights institution based on the good practices of other countries	Panama	General Response	3	NHRI
108	Establish a national human rights institution in line with the Paris Principles	South Africa	General Response	5	NHRI
109	Establish a national commission for women's and children's affairs	Ghana	General Response	5	Rights of the Child, Women's rights
118	Consider ratifying all outstanding international human rights instruments, and update domestic legislation to bring it into line with the provisions of these international treaties	South Africa	Rejected	3	International instruments
119	Ratify international human rights standards to which it is not yet a State party	Nicaragua	Rejected	5	International instruments
120	Sign and ratify the First Optional Protocol to the International Covenant on Civil and Political Rights, from which Jamaica withdrew in 1997	Spain	Rejected	5	CP rights - general, International instruments
121	Sign the Second Optional Protocol to ICCPR	Portugal	Rejected	5	Death penalty, International instruments
122	Consider reaccession to ICCPR-OP 1, as well as the ratification of the Second Optional Protocol to ICCPR, with a view to entirely abolishing capital punishment	Slovakia	Rejected	3	CP rights - general, Death penalty, International instruments
123	Become a party to ICCPR-OP 1 - withdrawn in 1997 - and ICCPROP 2	Argentina	Rejected	5	CP rights - general, Death penalty, International instruments
124	Consider extending a standing invitation to all special procedures of the Human Rights Council	Latvia	Rejected	3	Special procedures
125	Issue a standing invitation to all special procedures mandate holders of the Human Rights Council	Brazil	Rejected	5	Special procedures
126	Abolish, definitively and as soon as possible, the death penalty	France	Rejected	5	Death penalty



127	Abolish the death penalty and accede to the Second Optional Protocol to the International Covenant on Civil and Political Rights	Belgium	Rejected	5	Death penalty, International instruments
128	Abolish all provisions in the Penal Code allowing capital punishment, and declare a moratorium on all executions	Norway	Rejected	5	Death penalty
129	Repeal all national legislation implying the application of the death penalty and declare a de jure moratorium, commute all death sentences to prison sentences, and ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights	Spain	Rejected	5	Death penalty, International instruments
130	Eradicate the death penalty as a type of punishment from the legal system after wide consultation with countries which recently took the same step	Hungary	Rejected	5	Death penalty
131	Accede to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aimed at abolishing the death penalty, and take all necessary steps to remove the death penalty from Jamaica's justice system	Australia	Rejected	5	Death penalty, International instruments
132	Reconsider the withdrawal from the Optional Protocol to the International Covenant on Civil and Political Rights, and, taking into account that death sentences have not been implemented since 1988, declare a moratorium with a view to abolishing capital punishment	Mexico	Rejected	3	Death penalty, International instruments
133	Introduce a de jure moratorium on the execution of the death penalty, for as long as that penalty is not abolished	Belgium	Rejected	5	Death penalty
134	Adopt a de jure moratorium on executions with a view to abolishing the death penalty	Italy	Rejected	5	Death penalty
135	Establish a moratorium on executions with a view to abolishing the death penalty, and support the United Nations General Assembly resolution on a moratorium on the use of the death penalty	Portugal	Rejected	5	Death penalty
136	Consider the possibility of formalizing a moratorium on all pending executions with a view to commuting them and to eventually abolishing the death penalty	Argentina	Rejected	3	Death penalty
137	Increase the age of criminal responsibility	Trinidad & Tobago	Rejected	5	Justice, Rights of the Child
138	Repeal all provisions that criminalize same-sex activities between consenting adults	Netherlands	Rejected	5	Sexual Orientation and Gender Identity
139	Repeal sections 76, 77 and 79 of the Offences against the Person Act, which criminalize same-sex male intercourse	United States	Rejected	5	Sexual Orientation and Gender Identity



140	Decriminalize consensual sexual relations between adults of the same sex, and abolish all legal provisions discriminating against homosexual, bisexual or transsexual persons	Belgium	Rejected	5	Sexual Orientation and Gender Identity
141	Decriminalize sexual activity between consenting adults of the same sex, and address hate crimes on the grounds of sexual orientation and gender identity, as a matter of urgency	Slovenia	Rejected	5	Sexual Orientation and Gender Identity
142	Decriminalize consensual same-sex relations between males, investigate all incidents and acts of violence suspected of being motivated on the grounds of sexual identity, and take all necessary measures to ensure the full enjoyment of human rights by lesbian, gay, bisexual and transgender persons, as stipulated by the principle of non-discrimination established under international human rights law and articulated in the Yogyakarta principles	Sweden	Rejected	5	Sexual Orientation and Gender Identity
143	Include in the Charter of Rights Bill, currently before Parliament, a specific prohibition of discrimination on the grounds of sexual orientation and repeal all legal provisions criminalizing consensual relations between adults of the same sex, and combat this type of discrimination through awareness-raising campaigns and education programmes in school	Spain	Rejected	5	Human rights education and training, Sexual Orientation and Gender Identity
144	Repeal all legal provisions constituting discrimination against lesbian, gay, bisexual and transgender persons	France	Rejected	5	Sexual Orientation and Gender Identity
145	Remove legislation which discriminates against individuals on the basis of their sexual orientation or gender identity	Australia	Rejected	5	Sexual Orientation and Gender Identity
146	Ensure the protection of defenders of the rights of lesbian, gay, bisexual and transgender persons, and take measures to ensure that lesbian, gay, bisexual and transgender persons can fully and freely exercise their rights without fear of attack or reprisal	United States	Rejected	4	Human rights defenders, Sexual Orientation and Gender Identity
147	It declared the Government's firm commitment to gender mainstreaming and indicated that a range of policy initiatives were being undertaken, including the formulation of a national policy for gender equality.	Jamaica	Voluntary Pledge	4	UPR process, Women's rights

A= Action Category (see on [our website](#))
 SMR = State making recommendation

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