

**Submission by the United Nations High Commissioner for Refugees**  
**for the Office of the High Commissioner for Human Rights' Compilation Report -**  
**Universal Periodic Review:**

**JAMAICA**

**I. BACKGROUND INFORMATION**

Jamaica, a country in the northern Caribbean, is a State party to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol* (hereinafter referred to jointly as the *1951 Refugee Convention*). Jamaica has also acceded to the *1961 Convention on the Reduction of Statelessness (1961 Convention)*, but is not yet a party to the *1954 Convention relating to the Status of Stateless Persons (1954 Convention)*. As a neighbour to Haiti and Cuba, Jamaica is vulnerable to mass arrivals (mainly from Haiti, but also from Cuba). The northern Caribbean, in general, serves as a route for human smugglers, and there is a smuggling route through Jamaica.

The Government of Jamaica, in collaboration with UNHCR and NGOs continues to conduct, on an *ad hoc* basis, refugee status determinations when applicants come forward. Based on information available to UNHCR, as of 1 January 2014, Jamaica hosts one asylum-seeker and 22 refugees. The majority of the population of concern is comprised of Haitian nationals. There are no reports of stateless persons in the country.

**II. ACHIEVEMENTS AND BEST PRACTICES**

The adoption by the Government of a National Refugee Policy in 2009, strengthening the pre-existing *ad hoc* framework for the determination of refugee status, is a positive model for other States and territories in the region. Despite the lack of a legislative framework for asylum, Jamaica has provided refugees with protection in the past including granting asylum to refugees arriving in the country individually as well as during periods of 'large-scale influx'. Further, most long-staying refugees in Jamaica have now met the 'length of stay' requirements that would qualify them to apply for naturalization, which would constitute the most appropriate durable solution.

UNHCR welcomes the ratification by Jamaica, as the first Caribbean Community (CARICOM) <sup>1</sup> Member State, of the *1961 Convention on the Reduction of Statelessness* in February 2013. Regarding birth registrations, UNHCR commends the success of the compulsory Child

---

<sup>1</sup> The CARICOM currently has 15 member states and 5 associate members. For the full list, please visit: [http://www.caricom.org/jsp/community/member\\_states.jsp?menu=community](http://www.caricom.org/jsp/community/member_states.jsp?menu=community)

Registration Initiative by the Registrar General's Department (RGD), in which birth registration and an initial copy of the birth certificate is provided free of cost to mothers right after giving birth. This initiative has captured more than 98 per cent of the country's births.

With regard to supporting long-staying refugees, the Government sets a positive example for other countries in the region, through its practice of having designated social workers employed by the Ministry of Labour and Social Security who provide follow-up, counselling and facilitation in access to education and health to some of the Haitian long-staying refugees. UNHCR collaborates closely with these social workers, including by providing financial assistance to meet urgent humanitarian needs of refugees identified by the State social workers. The social workers are playing a critical role in the integration of refugees in Jamaica.

UNHCR commends the passage of Jamaica's 2007 *Trafficking in Persons (Prevention, Suppression and Punishment) Act*. The Act provides important legal rights for trafficking victims, including reasonable protection from future harm, assistance with obtaining replacement nationality, and immunity from criminal liability for immigration-related offenses.

Lastly, UNHCR welcomes the Government of Jamaica's active participation in the May 2013 "Regional Conference on the Protection of Vulnerable Persons in Mixed Migration Flows – Promoting Cooperation and Identification of Good Practices" which was jointly organized by UNHCR and IOM in The Bahamas, as well as the active participation in the sub-regional conference for the Caribbean region organized in the Cayman Islands in September 2014, in the context of 30<sup>th</sup> anniversary of the Cartagena Declaration on Refugees. Participants discussed, amongst other issues, opportunities for enhanced regional cooperation and partnership in order to respect international and regional protection standards and improve the management of mixed migration movements throughout the Caribbean region.

### **III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS**

#### **Issue 1: Protection of Asylum-Seekers and Refugees**

Jamaica ratified the *1951 Refugee Convention* in July 1964 and the *1967 Protocol* in October 1980. The Government reinforced the national refugee protection system with the adoption of a Refugee Policy in 2009, thereby strengthening the pre-existing *ad hoc* framework for the determination of refugee status. Jamaica had the opportunity to implement the policy in 2013 with the arrival of two boats carrying Haitian undocumented nationals. Jamaica has however not yet developed any domestic implementing legislation for the protection of refugees or the granting of asylum under the international refugee instruments.

In this context, UNHCR welcomes the recommendation by the UN Human Rights Committee that *the State party should enact legislation on the protection of the rights of asylum-seekers and refugees. Furthermore, it should ensure that asylum-seekers and refugees are provided with recognized identification cards to ensure equal access to social and economic opportunities in the State party.*<sup>2</sup> At the end of its session in May 2013, the UN Committee on

---

<sup>2</sup> UN Human Rights Committee, Concluding observations of the Human Rights Committee, 103<sup>rd</sup> session, CCPR/C/JAM/CO13, 17 November 2011, paragraph 12, available at:

Economic, Social and Cultural Rights also recommended that *the State party adopt national legislation for the protection of economic, social and cultural rights of asylum-seekers and refugees.*<sup>3</sup>

UNHCR recommends that the Refugee Policy includes the possibility for unaccompanied minors to have access to the eligibility procedures for refugee status in Jamaica. Article 20(e) of the Refugee Policy explicitly states that unaccompanied minors shall be returned to their country of origin or residence.<sup>4</sup> In the absence of additional safeguards, this may undermine the principle of *non-refoulement*.<sup>5</sup>

Jamaica is one of two States in the Caribbean region to issue Convention Travel Documents to recognized refugees. However, the Government has not transitioned to machine-readable Convention Travel Documents, as per the International Civil Aviation Organization (ICAO) requirements. Regular identity documentation and civil status for recognized refugees should also be improved. The lack of documentation for refugees creates obstacles in exercising a wide range of social and economic rights.<sup>6</sup> For example, refugees do not need to obtain work permits to be able to work in Jamaica. However, employers are not aware of this fact, which could have a negative impact on refugee's ability to find employment.<sup>7</sup>

Under the framework of the Refugee Policy, UNHCR will continue to provide targeted support to Jamaica's Passport, Immigration and Citizenship Agency (PICA) to further strengthen the national asylum procedure, including through the development of the capacity of relevant officials and the assessment of asylum claims.

### **Recommendations:**

UNHCR recommends that the Government of Jamaica:

---

[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fJAM%2fCO%2f3&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fJAM%2fCO%2f3&Lang=en)

<sup>3</sup> UN Committee on Economic, Social, and Cultural Rights, Concluding observations on the combined third and fourth periodic reports of Jamaica, adopted by the Committee at its 50th session: 17 May 2013, E/C.12/JAM/CO/3-4, paragraph 10a, available at:

[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fJAM%2fCO%2f3-4&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fJAM%2fCO%2f3-4&Lang=en)

<sup>4</sup> National Authorities, *Jamaica: Refugee Policy of 2009*, 2009, available at: <http://www.refworld.org/docid/500000def.html>

<sup>5</sup> Article 33 of the 1951 Convention relating to the Status of Refugees: No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

<sup>6</sup> UN Committee on Economic, Social, and Cultural Rights, Concluding observations on the combined third and fourth periodic reports of Jamaica, adopted by the Committee at its 50th session: 17 May 2013, E/C.12/JAM/CO/3-4, available at:

[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fJAM%2fCO%2f3-4&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fJAM%2fCO%2f3-4&Lang=en)

<sup>7</sup> UN Committee on the Elimination of Racial Discrimination, Concluding observations on the combined sixteenth to twentieth periodic reports of Jamaica, adopted by the Committee at its 83rd session, paragraph 12, 29 August 2013, CERD/C/JAM/CO/16-20, available at: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fJAM%2fCO%2f16-20&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fJAM%2fCO%2f16-20&Lang=en)

- Develop, enact and implement legislation consistent with accepted international standards, which would include conducting fair and expeditious procedures for status determination, including appeals, and guaranteeing the rights of all recognized refugees in Jamaica;
- Ensure the issuance for refugees of documents or other ID cards, since the lack of documentation creates obstacles in exercising a wide range of rights guaranteed to refugees;
- Ensure that refugees are treated in the same manner as permanent residents including by informing employers that refugees do not need a work permit to take up employment;
- Establish procedures for identifying and appropriately channeling cases of unaccompanied children who express fear of return to their home country and who should be given access to the refugee status determination procedures; and
- Facilitate access to asylum procedures for persons who have expressed a fear of returning to their country of origin and ensure *non-refoulement* of all persons in need of international protection.

## **Issue 2: Address challenges in the context of mixed migration**

As other countries in the region, Jamaica faces a complex phenomenon of mixed migratory movements across the Caribbean. It is crucial that Jamaica as a country of destination and/or transit – further strengthen its capacity to appropriately manage these movements with a coordinated approach. There is a need for cooperation among countries in the region in data collection and analysis, protection-sensitive entry systems, reception arrangements, mechanisms for profiling and referral, differentiated processes and long-term solutions.

The trafficking of persons, particularly women and children, is of major concern for UNHCR since a coordinated approach to prevent and protect trafficking victims has not been fully developed in the region. Concerning Jamaica specifically, UNHCR acknowledges the State ratified the Palermo Protocol in 2003. Moreover, in 2007, Jamaica passed the *Trafficking in Persons (Prevention, Suppression and Punishment) Act*. However, UNHCR encourages the development of tools to fully implement the law, such as specific policies and protocols for protecting victims of trafficking, especially if the victim is an unaccompanied child.

Although the Government may grant a temporary authorization for the victim to remain in Jamaica, the legislation does not refer to the right of trafficking victims to seek asylum. The law is not explicit in the types of international protection that might apply to some trafficking victims brought to Jamaica from other countries. The issue has been brought to the attention of the Government of Jamaica previously. In 2011, the UN Human Rights Committee urged the Government of Jamaica to “(...) intensify its efforts to identify victims of trafficking and ensure the systematic collection of data on trafficking flows from, to and in transit through its territory. The State party should train its police officers, border personnel, judges, lawyers and other relevant personnel in order to raise awareness of this phenomenon and the rights of victims.”<sup>8</sup> In 2013, the UN Committee on Economic, Social and Cultural Rights reiterated the

---

<sup>8</sup> UN Human Rights Committee, Concluding observations of the Human Rights Committee, 103<sup>rd</sup> session, CCPR/C/JAM/CO13, 17 November 2011, paragraph 22, available at:

importance of protecting the rights of the victims.<sup>9</sup> There also is a need to further strengthen the preparedness of Jamaica and review national contingency planning efforts for large-scale influxes in close collaboration with relevant UN agencies and civil society members.

### **Recommendations:**

UNHCR recommends that the Government of Jamaica:

- Enhance dialogue and consultation with UNHCR regarding mixed migratory movements experienced by the country, including through consultations on individuals or groups of undocumented migrants detected in Jamaica;
- Ensure that victims of trafficking who may be in need of international protection are provided with an opportunity to seek asylum and enjoy the corresponding rights and services; and
- Design a contingency plan in case of future large-scale influxes of migrants or refugees.

### **Issue 3: Prevention of Statelessness**

UNHCR welcomes Jamaica's accession to the *1961 Convention* on 9 January 2013. Under Chapter two of the Jamaican Constitution, persons born in Jamaica (*jus solis*)<sup>10</sup> and persons born outside of Jamaica to Jamaican parents have an automatic right to Jamaican citizenship (*jus sanguinis*).<sup>11</sup> Applications for Jamaican Citizenship are done in different categories. These include applications for citizenship: descent,<sup>12</sup> marriage,<sup>13</sup> naturalization,<sup>14</sup> registration (Commonwealth),<sup>15</sup> and registration (Minor).<sup>16</sup>

---

[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fJAM%2fCO%2f3&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fJAM%2fCO%2f3&Lang=en)

<sup>9</sup> UN Committee on Economic, Social, and Cultural Rights, Concluding observations on the combined third and fourth periodic reports of Jamaica, adopted by the Committee at its 50th session, paragraph 23, 17 May 2013, E/C.12/JAM/CO/3-4, available at:

[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fJAM%2fCO%2f3-4&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fJAM%2fCO%2f3-4&Lang=en)

<sup>10</sup> Article 3B(1) of the Constitution establishes that "Every person born in Jamaica shall become a citizen of Jamaica -a. (...) b. on the date of his birth, in the case of a person born on or after the sixth day of August 1962".

<sup>11</sup> Article 3C of the Constitution set forth that "Every person born outside Jamaica shall become a citizen of Jamaica -a. (...) b. on the date of his birth, in the case of a person born on or after the sixth day of August, 1962, if, at that date, his father or mother is a citizen of Jamaica by birth, descent or registration by virtue of marriage to a citizen of Jamaica".

<sup>12</sup> By law, all persons born outside of Jamaica, who have a claim to Jamaican citizenship by descent, whether through parents or grandparents, are required to formally apply for the Certification of Jamaican Citizenship, Applying for Jamaican Citizenship: <http://jis.gov.jm/faqs/applying-for-jamaican-citizenship/>

<sup>13</sup> Non-Jamaicans wishing to obtain Jamaican Citizenship by virtue of marriage to a Jamaican should apply in writing to the Passport Immigration and Citizenship Agency (PICA) if applying in Jamaica, or through the Jamaican High Commissions/Consulates if overseas, Applying for Jamaican Citizenship: <http://jis.gov.jm/faqs/applying-for-jamaican-citizenship/>

<sup>14</sup> A person may be granted naturalization if: He/she has lived in Jamaica for a minimum of five (5) years immediately preceding submission of the application, and if He/she is of good character and be financially solvent, Applying for Jamaican Citizenship: <http://jis.gov.jm/faqs/applying-for-jamaican-citizenship/>

<sup>15</sup> A Commonwealth Citizen who has resided legitimately in Jamaica for at least five consecutive years, and is of good character, may make an application for registration as a Jamaican citizen, Applying for Jamaican Citizenship: <http://jis.gov.jm/faqs/applying-for-jamaican-citizenship/>

<sup>16</sup> Under the Jamaican Nationality Act, the minor of any citizen of Jamaica may apply to be registered as a citizen of Jamaica by a parent or guardian, Applying for Jamaican Citizenship: <http://jis.gov.jm/faqs/applying-for-jamaican-citizenship/>

While Article 4(2) of the Nationality Act provides a general safeguard for children who would otherwise be stateless, including foundlings, the language is overly broad and discretionary.<sup>17</sup> Therefore, the Government of Jamaica should be encouraged to reform its Nationality Act to incorporate sufficient safeguards to prevent statelessness in accordance with Article 2 of the 1961 Convention.<sup>18</sup>

Furthermore, most Haitian long-staying refugees in Jamaica have now met the “length of stay” requirements that would qualify them to apply for naturalization. A solution is still out of reach for many due to prohibitively high costs associated with naturalization procedures. The Government should facilitate access to naturalization as a durable solution by waiving or reducing fees normally associated with naturalization for refugees, especially those without sufficient financial resources, in light of their special status in line with article 34<sup>19</sup> of the 1951 Convention.

### **Recommendations:**

UNHCR recommends that the Government of Jamaica:

- Eliminate the legal gap in the Jamaican Nationality Act concerning the grant of nationality in the case of foundlings; and
- Waive or reduce naturalization fees for refugees in accordance with Article 34 of the 1951 Convention.

### **Issue 4: Accession to the 1954 Convention Relating to the Status of Stateless Persons**

Jamaica is encouraged to accede to the *1954 Convention*. In 2011, at the Human Rights Council session adopting the outcome of the UPR on Jamaica, the Government of Jamaica stated that it attached importance to the objectives underpinning the 1954 Convention and that it would review the instrument with the aim of taking a decision on accession.<sup>20</sup> CEDAW also recommended that Jamaica *consider acceding to the 1954 Convention*.<sup>21</sup>

The *1954 Convention* is an important instrument to ensure non-discrimination in the enjoyment of human rights by stateless persons. Accession to the *1954 Convention* establishes a framework to ensure enjoyment of human rights by stateless persons. The Convention establishes an internationally recognized status for stateless persons. It also recognizes a

---

<sup>17</sup> Article 4(2) of the Jamaican Nationality Act states that “The Minister may, in such special circumstances as he thinks fit, cause any minor to be registered as a citizen of Jamaica.”

<sup>18</sup> Under Article 2 of the 1961 Convention, “A foundling found in the territory of a Contracting State shall, in the absence of proof to the contrary, be considered to have been born within that territory of parents possessing the nationality of that State”.

<sup>19</sup> Article 34 of the 1951 Convention: “The Contracting States shall as far as possible facilitate the assimilation and naturalization of refugees. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings.”

<sup>20</sup> Human Rights Council, 16<sup>th</sup> session, Report of the Working Group on the Universal Periodic Review, Jamaica, Addendum A/HRC/16/14/Add.1, at par. f.

<sup>21</sup> Committee on the Elimination of Discrimination against Women, Concluding observations (2012), CEDAW/C/JAM/CO/6-7. 52<sup>nd</sup> session, 13 July 2012, paragraph 34 available at:

[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/JAM/CO/6-7&Lang=En](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/JAM/CO/6-7&Lang=En)

number of key rights such as freedom of religion; freedom of association; access to courts; freedom of movement; identity documentation and; internationally recognized travel documents.

**Recommendation:**

UNHCR recommends that the Government of Jamaica:

- Accede to the *1954 Convention relating to the Status of Stateless Persons*.

**Human Rights Liaison Unit  
Division of International Protection  
UNHCR  
September 2014**

## ANNEX

### Excerpts of Concluding Observations and Recommendations from UN Treaty Bodies and Special Procedures' Reports

#### - Universal Periodic Review:

#### JAMAICA

We would like to bring your attention to the following excerpts from UN Treaty Monitoring Bodies' Concluding Observations relating to issues of interest and persons of concern to UNHCR with regards to Jamaica.

#### **Committee on the Elimination of Racial Discrimination**

[Concluding observations \(2013\) CERD/C/JAM/CO/16-20, 83<sup>rd</sup> Session](#)

23 September 2013

12. While welcoming the adoption of a national refugee policy in 2009, the Committee expresses concern at the information received that asylum-seekers and refugees lack identity documentation to ensure the effective enjoyment of their rights, and that employers are often unaware of the fact that they do not need a work permit to take up employment. It is also concerned by reports that immigration officers failed to effectively screen Haitian nationals who arrived in the State party in February 2013 prior to their repatriation (art.5).

#### **The Committee recommends that the State party:**

- (a) Take effective measures to issue asylum-seekers and refugees with refugee documents or other identity cards which are recognized in the State party to ensure that their rights are fully guaranteed in practice;**
- (b) Ensure that employers are aware of the fact that refugees do not need a work permit to take up employment; and**
- (c) Ensure that all asylum-seekers and refugees are effectively screened for their individual protection needs prior to repatriation, including in cooperation with the United Nations High Commissioner for Refugees.**

#### **Committee on Economic, Social and Cultural Rights**

[Concluding observations \(2013\) E/C.12/JAM/CO/3-4, 50<sup>th</sup> Session](#)

10 June 2013

10. While the Committee welcomes the adoption of the National Refugee Policy in 2009 to strengthen the framework for the determination of refugee status, it regrets that legislation protecting the rights of asylum-seekers and refugees has not yet been adopted. The Committee is further concerned that refugees are not issued with identification documents except for the Convention Travel Document, which is not well-known in the State party and creates obstacles in enjoying a wide range of economic and social rights. It also notes that while refugees do not need a work permit to take up employment, employers are often unaware of this fact (art.2).



**The Committee recommends that the State party:**

- (a) Adopt national legislation for the protection of economic, social and cultural rights of asylum-seekers and refugees;**
- (b) Provide asylum-seekers and refugees with recognized identification cards to ensure their enjoyment of economic, social and cultural rights in the State party; and**
- (c) Take effective measures to ensure that employers are aware of the fact that refugees do not need a work permit for employment in the State party.**

23. While the Committee welcomes the efforts made by the State party to combat trafficking in persons, including the adoption of the Trafficking in Persons Act in 2007 and the establishment of the National Taskforce against Trafficking in Persons within the Ministry of National Security in 2005, it expresses concern at the prevalence of trafficking in persons for sexual exploitation and forced labour. It is further concerned at low levels of investigations, prosecutions and convictions for such cases, as well as the lack of prevention and protection mechanisms for victims, including rehabilitation schemes (art.10).

**The Committee urges the State party to intensify its efforts to combat trafficking in persons, including by:**

- (a) Systematically collecting information on trafficking flows through the territory of the State party;**
- (b) Investigating, prosecuting and adequately sanctioning perpetrators of trafficking in persons;**
- (c) Ensuring that victims are provided with adequate protection and reparation, and establishing prevention and rehabilitation programmes for victims; and**
- (d) Training law enforcement officials, judges and other relevant personnel to raise awareness of this phenomenon and the rights of victims.**

**Committee on the Elimination of Discrimination against Women**

**[Concluding observations \(2012\) CEDAW/C/JAM/CO/6-7, 52<sup>nd</sup> Session](#)**

13 July 2012

23. While noting the enactment of the Trafficking in Persons (Prevention, Suppression and Punishment) Act, 2007, the Proceeds of Crime Act, 2007, the Cybercrime Act, 2010 and the Child Pornography (Prevention) Act, 2010, as well as the recent establishment by the Cabinet of an inter-ministerial committee to oversee measures to reduce trafficking in persons, the Committee is concerned about the reportedly high incidence of transnational and internal trafficking and sexual exploitation of women and girls and the apparent low rate of prosecutions and convictions of perpetrators. The Committee regrets the limited data on transnational and internal trafficking and sexual exploitation and the inadequate measures to support victims of such violations. It is concerned that increased levels of poverty heighten the vulnerability of women and girls to trafficking and sexual exploitation and that insufficient economic measures are in place to discourage and prevent the trafficking and sexual exploitation of women and girls.

**24. The Committee recommends that the State party:**

- (a) Strengthen measures to prevent and effectively respond to incidents of transnational and internal trafficking and sexual exploitation, including through**

awareness-raising initiatives, the prosecution and punishment of offenders, and the establishment of specific support and rehabilitation programmes for victims;

(b) Systematically gather and analyze sex-disaggregated data and information on trafficking and sexual exploitation, including prostitution;

(c) Strengthen measures aimed at addressing the conditions (for example, poverty and high unemployment) that make women and girls more vulnerable to trafficking and may also drive them into prostitution;

(d) Enhance support services for victims of trafficking and sexual exploitation, including alternative employment opportunities, to facilitate the reintegration into society of women and girls who wish to leave prostitution.

33. The Committee welcomes recent initiatives undertaken by the State party to benefit refugee women and girls, including: (a) the adoption, in 2009, of a national refugee policy that strengthens the pre-existing ad hoc framework for the determination of refugee status; (b) the introduction of a compulsory child registration initiative in 2007 and a bedside registration procedure aimed at capturing all births occurring in the country; and (c) the enactment of the Trafficking in Persons (Prevention, Suppression and Punishment) Act, 2007, which is aimed at protecting women and children. However, the Committee is concerned about the lack of a strategy or contingency planning for mass influxes of migrants and refugees, the inadequacy of services for refugees, particularly Haitian migrants and, with regard to the latter, the lack of protection from forced repatriation in the light of the moratorium on forced returns to Haiti following the earthquake in 2010. The Committee is also concerned that the State party has not acceded to the international conventions on refugees and statelessness.

**34. The Committee urges the State party to develop a gender-sensitive national strategy or contingency planning for mass influxes of migrants and refugees, ensure adequate services and documentation for refugees in line with international obligations concerning non-discrimination and gender equality, and discontinue their forced repatriation, particularly in the case of Haitian migrants. The Committee recommends that the State party consider acceding to the 1954 Convention relating to the Status of Stateless Persons (...).**

#### Technical Assistance

44. The Committee encourages the State party to consider seeking cooperation and technical assistance, including from international sources, in the development and implementation of a comprehensive programme aimed at the implementation of the above recommendations and the Convention as a whole. The Committee also calls upon the State party to strengthen further its cooperation with specialized agencies and programmes of the United Nations system, including the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women), the United Nations Statistics Division, the United Nations Development Programme, the United Nations Children's Fund, the United Nations Population Fund, the World Health Organization, the *Office of the United Nations High Commissioner for Refugees* and the Office of the United Nations High Commissioner for Human Rights.

#### Human Rights Committee

[Concluding observations \(2011\) CCPR/C/JAM/CO/3, 103<sup>rd</sup> Session](#)

17 November 2011

12. While welcoming the adoption of a National Refugee Policy in 2009, the Committee regrets the lack of legislation on asylum and refugee protection. The Committee further regrets that refugees are not issued with identification cards except for the Convention Travel Document, which is not well known in the State party and creates obstacles for them in the equal exercise of a wide range of social and economic rights. (arts. 2 and 26)

**The State party should enact legislation on the protection of the rights of asylum seekers and refugees. Furthermore, it should ensure that asylum seekers and refugees are provided with recognized identification cards to ensure equal access to social and economic opportunities in the State party.**

15. The Committee expresses its concern at incidents of threats, violent assaults and killings of human rights defenders in the State party. (arts. 6, 9 and 19)

**The State party is urged to take immediate action to ensure effective protection of human rights defenders whose lives and security are under threat due to their professional activities. In this regard, the State should always ensure the prompt, effective, thorough, independent, and impartial investigation of threats, violent assaults and murders of human rights defenders and, when appropriate, prosecute and institute proceedings against the perpetrators of such acts and provide compensation to the victims or members of their families.**

22. The Committee takes note of the enactment of the Trafficking in Persons Act in 2007 and the establishment of the National Taskforce against Trafficking in Persons in 2005, the Committee is concerned at the prevalence of trafficking in persons for sexual exploitation and forced labour. The Committee is particularly concerned at the low level of investigations, prosecutions and convictions in this area, and at the lack of prevention and protection mechanisms for victims, including rehabilitation schemes (art. 8).

**The State party should intensify its efforts to identify victims of trafficking and ensure the systematic collection of data on trafficking flows from, to and in transit through its territory. The State party should train its police officers, border personnel, judges, lawyers and other relevant personnel in order to raise awareness of this phenomenon and the rights of victims. Furthermore, the State party should ensure that all perpetrators of trafficking in persons are investigated, prosecuted, and if convicted, adequately sanctioned, and should guarantee that adequate protection, reparation and compensation are provided to the victims. Prevention and rehabilitation programmes for the victims should also be established.**