Home Office
UK Border Agency

JAMAICA

COUNTRY OF ORIGIN INFORMATION (COI) REPORT

COI Service

15 January 2013

SECURING OUR BORDER CONTROLLING MIGRATION

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Preface

i This Country of Origin Information (COI) report has been produced by the COI Service, UK Border Agency (UKBA), for use by officials involved in the asylum/human rights determination process. The report provides general background information about the issues most commonly raised in asylum/human rights claims made in the United Kingdom. The main body of the report includes information available up to 21 December 2012. The report was issued on 15 January 2013.

ii The report is compiled wholly from material produced by a wide range of external information sources and does not contain any UKBA opinion or policy. All information in the report is attributed, throughout the text, to the original source material, which is made available to those working in the asylum/human rights determination process.

iii The report aims to provide a compilation of extracts from the source material identified, focusing on the main issues raised in asylum and human rights applications. In some sections where the topics covered arise infrequently in asylum/human rights claims only web links may be provided. It is not intended to be a detailed or comprehensive survey. For a more detailed account, the relevant source documents should be examined directly.

iv The structure and format of the report reflects the way it is used by UKBA decision makers and appeals presenting officers, who require quick electronic access to information on specific issues and use the contents page to go directly to the subject required. Key issues are usually covered in some depth within a dedicated section, but may also be referred to briefly in several other sections. Some repetition is therefore inherent in the structure of the report.

v The information included in this report is limited to that which can be identified from source documents. While every effort is made to cover all relevant aspects of a particular topic it is not always possible to obtain the information concerned. For this reason, it is important to note that information included in the report should not be taken to imply anything beyond what is actually stated. For example, if it is stated that a particular law has been passed, this should not be taken to imply that it has been effectively implemented unless stated. Similarly, the absence of information does not necessarily mean that, for example, a particular event or action did not occur.

vi As noted above, the report is a compilation of extracts produced by a number of information sources. In compiling the report no attempt has been made to resolve discrepancies between information provided in different source documents though COI Service will bring the discrepancies together and aim to provide a range of sources, where available, to ensure that a balanced picture is presented. For example, different source documents often contain different versions of names and spellings of individuals, places and political parties, etc. reports do not aim to bring consistency of spelling but to reflect faithfully the spellings used in the original source documents. Similarly, figures given in different source documents sometimes vary and these are simply quoted as per the original text. The term ‘sic’ has been used in this document only to denote incorrect spellings or typographical errors in quoted text; its use is not intended to imply any comment on the content of the material.

vii The report is based substantially upon source documents issued during the previous two years. However, some older source documents may have been included because

they contain relevant information not available in more recent documents. All sources contain information considered relevant at the time this report was issued.

viii This report and the accompanying source material are public documents. All reports are published on the UKBA website and the great majority of the source material for the report is readily available in the public domain. Where the source documents identified are available in electronic form, the relevant weblink has been included, together with the date that the link was accessed. Copies of less accessible source documents, such as those provided by government offices or subscription services, are available from COI Service upon request.

ix Reports are published regularly on the top 20 asylum intake countries. Reports on countries outside the top 20 countries may also be produced if there is a particular operational need. UKBA officials also have constant access to an information request service for specific enquiries.

x In producing this report, COI Service has sought to provide an accurate, up to date, balanced and impartial compilation of extracts of the available source material. Any comments regarding this report or suggestions for additional source material are very welcome and should be submitted to COI Service as below.

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INDEPENDENT ADVISORY GROUP ON COUNTRY INFORMATION

xi The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to make recommendations to him about the content of the UKBA's COI material. The IAGCI welcomes feedback on UKBA's COI reports and other COI material. Information about the IAGCI's work can be found on the Independent Chief Inspector's website at http://icinspector.independent.gov.uk/country-information-reviews

xii In the course of its work the IAGCI reviews the content of selected UKBA COI documents and makes recommendations specific to those documents and of a more general nature. A list of the reports and other documents which have been reviewed by the IAGCI or the Advisory Panel on Country Information (the independent organisation which monitored UKBA's COI material from September 2003 to October 2008) is available at

xiii Please note: it is not the function of the IAGCI to endorse any UKBA material or procedures. Some of the material examined by the Group relates to countries designated or proposed for designation to the Non-Suspensive Appeals (NSA) list. In such cases, the Group's work should not be taken to imply any endorsement of the decision or proposal to designate a particular country for NSA, nor of the NSA process itself. The IAGCI can be contacted at:

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Background Information

1. GEOGRAPHY

1.01 Jamaica is an island in the Caribbean Sea and lies south of Cuba. The country has an area of 10,991 sq km. Kingston is its capital and the island is administratively divided into three counties and 14 parishes. Jamaica's total population was estimated to have reached 2,889,000 by July 2012. Life expectancy at birth was estimated in 2012 to be 71.8 years for males and 75.2 years for females. The official language of Jamaica is English, and Jamaican Patois (Patwah) is widely spoken. (CIA World Factbook, updated 1 August 2012) **[4a]**

Further information on the geography of Jamaica can be found at the US Library of Congress website: Country Studies - Caribbean-Islands

1.02 Public holidays in Jamaica for 2012 and 2013 are as follows:

	2012	**2013**
New Year's Day	1 Jan	1 Jan
Ash Wednesday	22 Feb	13 Feb
Good Friday	6 Apr	29 Mar
Easter Monday	9 Apr	1 Apr
Labour Day	23 May	23 May
Emancipation Day	1 Aug	1 Aug
Independence Day	6 Aug	6 Aug
National Heroes' Day	15 Oct	17 Oct
Christmas Day	25 Dec	25 Dec
Boxing Day	26 Dec	26 Dec

Source: WordTravels: Public holidays in Jamaica **[23]**

MAPS

1.03 The following map is reproduced from the 'ReliefWeb' website of the UN Office for the Coordination of Humanitarian Affairs, accessed 26 July 2012 (original source: Central Intelligence Agency) **[15]**:

1.04 Some other useful maps are available on the website 'Map of Jamaica':

Administrative map: http://www.map-of-jamaica.co.uk/large-political-jamaican-map.htm

Physical map: http://www.map-of-jamaica.co.uk/physical-map-of-jamaica.htm

Road map: http://www.map-of-jamaica.co.uk/large-road-map-jamaica.htm

(Maps on this website are copyright of GEOATLAS.com ® 2004 © Graphi-Ogre)

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2. ECONOMY

2.01 The CIA World Factbook's Jamaica page, updated 25 October 2012, noted:

'The Jamaican economy is heavily dependent on services, which now account for nearly 65% of GDP. The country continues to derive most of its foreign exchange from tourism, remittances, and bauxite/alumina. Remittances account for nearly 15% of GDP and exports of bauxite and alumina make up about 10%. The bauxite/alumina sector was most affected by the global downturn while the tourism industry was resilient, experiencing an increase of 4% in tourist arrivals. Tourism revenues account for roughly 10% of GDP, and both arrivals and revenues grew in 2010, up 4% and 6% respectively.

'Jamaica's economy faces many challenges to growth: high crime and corruption, large-scale unemployment and underemployment, and a debt-to-GDP ratio of more than 120%. Jamaica's onerous public debt burden is the result of government bailouts to ailing sectors of the economy, most notably to the financial sector in the mid-to-late 1990s.

'The Simpson-Miller administration faces the difficult prospect of having to achieve fiscal discipline in order to maintain debt payments, while simultaneously attacking a serious

crime problem that is hampering economic growth. High unemployment exacerbates the crime problem, including gang violence that is fueled by the drug trade.' **[4a]**

2.02 The World Bank observed on its page 'Jamaica Overview', accessed 30 October 2012:

'Jamaica's most pressing [economic] challenge is the country's debt, which is currently estimated at 139.7% of GDP...

'Jamaica has lost four decades without achieving significant growth ... The Jamaican economy is expected to grow at 1-2% over the medium term...

'The unemployment rate in Jamaica is at about 14.3% in 2012 with youth unemployment significantly higher. However, among Jamaica's assets are its skilled labor force and strong social and governance indicators.' **[19c]**

2.03 The GDP (gross domestic product at constant prices) growth rate for the 2010-2011 fiscal year was estimated at 1.2 per cent, this followed negative economic growth in the previous two years. The average rate of inflation for 2011 was 7.2 per cent, down from over 11 per cent in 2010. (World Bank) **[19a]**

2.04 The Bertelsmann Foundation observed in their Jamaica Country Report 2012 published in April 2012:

'The government's own policy commitment to reduce poverty is at risk of not being honored, especially in light of the country's slow recovery from the effects of the global economic crisis. The corrupting influences of the nexus between political and economic actors and organized crime constrain the efficient and effective use of state resources. These are resources which would otherwise be available for the creation of adequate social infrastructure and social safety nets and contribute to the growth of the economy.

'[According to] the 2010 Survey of Living Conditions ...in 2009 some 16.5% of the population lived below the poverty line, higher than 12.3% of the population in 2008.' **[39b]**

2.05 The Bank of Jamaica estimated that, in 2010, remittances from Jamaican nationals living abroad amounted to over US $1,966 million. (IOM, 2010) **[53a] (p35)**

2.06 The currency is the Jamaican Dollar (=100 cents), abbreviated as J$ or JMD. The rate of exchange on 30 November 2012, as quoted by xe.com, was £1 (sterling) = 146.2 JMD. **[18]**

2.07 In 2009 the average annual wage, across all sectors of the economy, was J$16,083. The national minimum wage per hour was J$112.50 in 2011. **[1a]**

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3. HISTORY

See also Annex A: Chronology of major events

PRIOR TO 1990

3.01 Europa World Online recorded in its Jamaica Country Profile, accessed 9 November 2012:

'Jamaica, a British colony from 1655, was granted internal self-government in 1959, and full independence, within the Commonwealth, was achieved on 6 August 1962. Jamaica formed part of the West Indies Federation between 1958 and 1961, when it seceded, following a referendum. The Federation was dissolved in May 1962. The two dominant political figures after the Second World War were Sir Alexander Bustamante, leader of the Jamaica Labour Party (JLP), who retired as Prime Minister in 1967, and Norman Manley, a former Premier and leader of the People's National Party (PNP), who died in 1969. The JLP won the elections of 1962 and 1967 but, under the premiership of Hugh Shearer, it lost the elections of February 1972 to the PNP, led by Michael Manley, the son of Norman Manley. Michael Manley advocated democratic socialism and his Government put great emphasis on social reform and economic independence.' **[5a] (Historical Context)**

3.02 The same source related:

'The early 1970s were marked by escalating street violence and crime, with gang warfare rife in the deprived areas of Kingston … In June 1976 the government declared a state of emergency which remained in force until June 1977.' There was high unemployment, severe economic stagnation and, in 1979, violent demonstrations against the Government took place'… [A] general election took place in February 1989, the PNP secured an absolute majority of the seats in the House of Representatives and Michael Manley…again became Prime Minister.' **[5a]**

1990 – APRIL 2010

3.03 Europa World Online related:

'In 1991, the Minister for Mining and Energy, Horace Clarke and the Deputy Prime Minister, Percival Patterson resigned from office amid opposition allegations of corruption and misconduct … In March 1992 Manley announced his resignation, owing to ill health, from the premiership and from the presidency of the PNP. Patterson was elected as Manley's successor by members of the PNP, and was appointed Prime Minister…

'An electronic voter registration system was installed in 1996 and new electoral rolls were finally completed in late 1997 … At a general election in March 1993 Patterson's PNP secured 52 of the 60 seats in the House of Representatives. A general election was held in December 1997, at which the PNP won a majority of seats in the House of Representatives. Patterson, who was subsequently sworn in as Prime Minister for a third consecutive term…announced plans for Jamaica to become a republic within five years … In 1998 and 1999 there were many public protests against police actions and a deepening economic crisis, several of which resulted in riots.

'In a general election held on 16 October [2002], the PNP was re-elected for a fourth consecutive term … At his inauguration, Patterson became the first Jamaican Prime Minister to swear allegiance to the people and Constitution of Jamaica, rather than to the British monarch…In July 2004 the Privy Council abolished Jamaica's mandatory death sentence for convicted murderers … In October [2004] the armed forces and the police launched 'Operation Kingfish', an intelligence-based task force intended to reduce the ever-rising crime rate. The initiative was particularly targeted at dismantling the estimated 13 major criminal networks on the island, which were thought to be responsible for much of the crime.

'In January 2005, after more than 30 years in the post, Seaga retired as leader of the JLP [Jamaica Labour Party] and as a member of Parliament. He was succeeded as party leader in the following month by Bruce Golding. In February 2006 Patterson was succeeded as leader of the PNP by Portia Simpson Miller.' **[5a] (Domestic Political Affairs)**

3.04 Freedom House noted in its 2010 Freedom in the World report for Jamaica, that in March 2006 Portia Simpson Miller, who had recently won the leadership of the PNP, became Prime Minister. 'Her victory was heralded as a major advance for the role of women in Jamaican politics, but her government foundered due to poor economic growth and the fallout from Hurricane Dean … In parliamentary elections held in September 2007, the JLP won 33 seats in the House of Representatives, ending the 18-year rule of the PNP, which took 27 seats. Opposition leader Bruce Golding became the new prime minister [on 11 September 2007]…' **[32a]**

3.05 Europa World Online continued:

'In his inaugural speech Golding stated that anti-corruption measures and justice system reform would be priorities of the new Government…

'In November 2007 the Cabinet approved the drafting of legislation to create an Office of the Special Prosecutor, which would investigate high-level acts of corruption in the public and private sectors, and an independent commission to examine allegations of excessive use of force and of abuse by members of the security forces … The high level of violent crime continued to be a significant matter of concern for the Government in 2008 and 2009. In November 2008 the House of Representatives voted in favour of retaining the death penalty, a decision later approved by the Senate … The Golding administration also revealed that the judicial system would be reformed and additional judges would be appointed to expedite the trials of violent criminals…

'The Government, struggling with a liquidity crisis, imposed an unpopular fuel tax in April 2009, precipitating small-scale protests throughout the island. Further taxes were announced in December, including a new levy on staple food items, which resulted in a more vociferous response from the opposition and the public, forcing the Government to rescind the food duty and replace it with a luxury goods tax and an increase in income tax for high earners.' **[5a] (Domestic Political Affairs)**

3.06 The Telegraph reported on 11 September 2009 that John Terry, a British Honorary Consul in Jamaica, had been murdered in what was widely believed to have been a homophobic attack. **[31a]**

MAY 2010 – SEPTEMBER 2011

3.07 It was reported on 23 June 2010 that Christopher 'Dudus' Coke, leader of the 'Shower Posse' gang which 'controlled' the Tivoli Gardens area of Kingston, had been arrested. (BBC News, 23 June 2010) **[21f]** In August 2009, United States authorities had officially sought Coke's extradition, having charged him with organising deals involving marijuana and crack cocaine and funnelling the profits along with illegal weapons back to Jamaica. The Shower Posse gang was also believed to have been responsible for numerous murders. The Jamaican government initially opposed extradition, arguing that it was based on flawed evidence. According to BBC News, 'Prime Minister Bruce Golding is said to have relied on Mr Coke to turn out the vote at election time in the Tivoli Gardens district he represents in parliament, and which the Shower Posse controls.' (BBC News, 23 June 2010) **[21e]**

3.08 BBC News reported:

'When the Jamaican government bowed to heavy US pressure and announced in May [2010] that it would extradite Mr Coke, the Shower Posse and [Coke's] supporters attacked police stations in Tivoli Gardens.

'The assault prompted the declaration of a state of emergency [in the parishes of Kingston and St. Andrew] and the biggest mobilisation of the security forces in Jamaican history. Hundreds of soldiers were deployed to help the capital's police force sweep through Tivoli Gardens and surrounding areas in search of Mr Coke.

'The troops fought pitched battles for several days with heavily-armed gunmen, who barricaded the streets. Thousands of people were trapped in the area and the clashes resulted in the deaths of more than 70 people.

'Despite the assault, Mr Coke was able to escape and went on the run. He was eventually arrested nearly four weeks later by policemen…on the outskirts of Kingston.' **[21e]**

3.09 A Human Rights Watch (HRW) press release of 4 June 2010 recounted, 'The joint police and military operation on May 23, 2010, touched off three days of violence. The dead included three members of the security forces. Officials and media reports said that the security forces encountered an armed, organized opposition by Coke supporters.' **[59c]** HRW stated that the security forces operation 'may have involved extrajudicial executions', and called for an official investigation. **[59c]** The State of Emergency, imposed on 23 May 2010, was lifted on 22 July following Coke's extradition to the US. It was reported that 4,181 people had been detained under the State of Emergency; most of those were reportedly 'processed' and released within hours. (The Gleaner, 21 July 2010) **[34d]** Coke pleaded guilty to drug trafficking and gun running charges in a US court in August 2011 and was sentenced to 23 years imprisonment. (BBC News, 8 June 2012) **[21c]**

3.10 A commission of enquiry into the government's handling of the Coke's extradition request concluded in June 2011 that Prime Minister Golding 'had acted "inappropriately", but not "criminally", in his involvement in the extradition request. It was also critical of the JLP's [the ruling Jamaica Labour Party's] behaviour in the affair, asserting that the party should have distanced itself from the affair, but it stopped short of accusing any of those involved of misconduct.' (Europa World, accessed 9 November 2012) **[5a] ('The Dudus Affair')**

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4. RECENT DEVELOPMENTS

SEPTEMBER 2011 – DECEMBER 2012

4.01 As recorded by Europa World, accessed 9 November 2012:

'Prime Minister Golding announced his intention in late September 2011 to stand down as premier and leader of the JLP by November. He cited the criticism he had received over his involvement in the Dudus affair as one of the main reasons for his resignation ... An election for his successor as party leader and premier was scheduled to be held at the JLP's party conference in November; however, by mid-October Andrew Holness,

the Minister of Education, had emerged as the clear frontrunner. Following Golding's formal resignation as head of government on 23 October [2011], Holness was installed as his successor ... Although elections were not constitutionally due until December 2012, Holness indicated that a ballot would be held by the end of the year [2011].' **[5a] (Recent developments: defeat of the JLP)**

4.02 [I]n early December 2011 Prime Minister Holness announced that a general election would be held on 29 December. The [People's National Party – PNP] won an overwhelming victory, gaining 41 of the 63 seats in the House of Representatives. The [Jamaica Labour Party's - JLP's] legislative representation was reduced to 22 seats, 10 fewer than in the previous parliament ... The PNP leader, Portia Simpson Miller, previously Prime Minister in 2006–07, was sworn into office on 5 January 2012. Her Cabinet, announced the following day, contained a mixture of experience and youth ... The new Government made clear its intention to adopt the Caribbean Court of Justice as its final appellate court, instead of the London-based Privy Council. In a further indication of the administration's desire to loosen ties with the United Kingdom, one of Simpson Miller's first announcements in office was to declare her intention to replace the Queen as head of state with an elected President. (Europa World) **[5a] (Recent developments: defeat of the JLP)**

4.03 On 6 August 2012 Jamaica celebrated the 50th Anniversary of its independence. (BBC News, 6 August 2012) **[21i]**

USEFUL SOURCES FOR CURRENT INFORMATION

4.04 A list of sources with weblinks is provided below, which may be useful if additional up to date information is required to supplement that provided in this report. The full list of sources used in this report can be found in Annex E – References to source material.

BBC News (regular news/reports): http://www.bbc.co.uk/search/news/jamaica

The Gleaner: http://jamaica-gleaner.com/

The Jamaica Observer: www.jamaicaobserver.com

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5. CONSTITUTION

5.01 Europa World Online, accessed on 15 April 2011, recorded, 'The Constitution came into force at the independence of Jamaica on 6 August 1962. Amendments to the Constitution are enacted by Parliament, but certain entrenched provisions require ratification by a two-thirds' majority in both chambers of the legislature, and some (such as a change of the head of state) require the additional approval of a national referendum.' **[5e] (Constitution)**

5.02 A new Charter of Fundamental Rights and Freedoms was adopted in April 2011, to replace Chapter III of the Jamaican Constitution. (Amnesty International, 9 September 2011) **[3g]** The Charter prohibits discrimination based on race, gender ('being male or female'), place of origin, political opinion, religion or colour. **[50a] (Article 13(3)i)**

5.03 A copy of the Constitution can be accessed on the Ministry of Justice website at: http://moj.gov.jm/node/741 **[7d]** The Charter of Fundamental Rights and Freedoms

(Constitutional Amendment) Act. 2011), is available on the Supreme Court of Jamaica website at http://supremecourt.gov.jm/constitution **[50a]**

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6. POLITICAL SYSTEM

6.01 As stated in the US State Department 2011 Human Rights Report, released on 24 May 2012: 'Jamaica is a constitutional parliamentary democracy.' **[8a] (Executive summary)** 'The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic elections held on the basis of universal suffrage ... All citizens age 18 and over have the right to vote by secret ballot.' **(Section 3)**

6.02 Jamaica has a bicameral parliament consisting of the Senate or Upper House and the House of Representatives. Europa World Online, accessed 15 November 2012, noted that, 'Legislative power is vested in the bicameral Parliament: the Senate, with 21 appointed members, and the House of Representatives, with 63 elected members. Thirteen members of the Senate are appointed by the Governor-General on the advice of the Prime Minister and eight on the advice of the Leader of the Opposition. Members of the House of Representatives are elected by universal adult suffrage for five years (subject to dissolution).' **[5c] (Constitution and Government)**

6.03 Europa further noted, 'The Prime Minister is appointed from the House of Representatives by the Governor-General, and is the leader of the party that holds the majority of seats in the House of Representatives. The Cabinet is responsible to Parliament ... The Governor-General acts, in almost all matters, on the advice of the Cabinet.' **[5c] (Constitution and Government)**

6.04 The Bertelsmann Foundation's Jamaica Country Report 2012, published in April 2012, observed:

'Reforms of the electoral system, such as the enactment of the independent Electoral Commission of Jamaica in 2006 and stricter procedures on election day before and during national and local elections, have significantly reduced the influence of electoral fraud and violence.' **[39b]**

Further information on the House of Representatives can be found on the Interparliamentary Union website at http://www.ipu.org/parline-e/reports/2159.htm **[26b]**; further information about the Senate is available at http://www.ipu.org/parline-e/reports/2160_A.htm **[26c]**

See also Section 14: Political affiliation

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Human Rights

7. INTRODUCTION

7.01 The US State Department 2011 Human Rights Report: Jamaica (USSD Report 2011), released on 24 May 2012, provided the following overview:

'Jamaica is a constitutional parliamentary democracy. On December 29 [2011], the opposition Peoples National Party (PNP) won 42 of the 63 seats in the House of Representatives, and PNP leader Portia Simpson Miller was sworn in as prime minister on January 5, 2012 … International election observers deemed the elections transparent, free and fair, and without violence. During the year there were instances in which elements of security forces acted independently of civilian control.

'The most serious human rights problems in the country were alleged unlawful security force killings, instances where cases involving the violation of rights were not resolved in a timely way, and poor prison and jail conditions, including abuse of detainees and prisoners.

'Other human rights problems included an overburdened judicial system and frequent lengthy delays in trials, violence against and sexual abuse of children, violence and discrimination against women, trafficking in persons, and violence against persons based on their suspected or known sexual orientation.

'The government took some steps to punish members of the security forces who committed abuses, but there were other instances where no arrests or prosecutions occurred, providing impunity for police who committed crimes.' **[8a]**

7.02 The Amnesty International Report 2012: (covering events of 2011), also highlighted a number of concerns, including that 'Hundreds of people in inner-city communities were the victims of gang murders or police killings … Attacks and harassment of lesbians, gay men and bisexual and transgender people were reported ... High levels of armed gang violence, mainly in marginalized inner-city communities, remained a concern.' **[3e]**

7.03 The Bertelsmann Foundation noted in their Jamaica Country Report 2012 published in April 2012:

'Under the country's constitution, citizens of all ethnic groups have the same civil rights, although factors of race, class, sexual orientation and gender often prevent the equitable exercise of these rights by all social classes.

'The situation in respect of women as a vulnerable group is...complicated and worsened as a result of the highly sexualized environment and culture in Jamaica ... Incidents of sexual harassment and abuse, rape and incest are...frequently treated lightly and not as serious offences. Awareness within the security forces (particularly the police, but less so the army) through specialized training of women's rights as human rights, along with the establishment of the Center for the Investigation of Sexual Offences and Abuse, has brought some improvement in the treatment of women and women's own attempts to seek redress from abuses.

'Certain communities of persons, including the poorest and most vulnerable groups such as young, black, unemployed men, and the disabled still suffer from their limited

ability to pay for the required legal defense, which is a major constraint on their ability to seek redress. **[39b]**

7.04 An Amnesty International report, Public security reforms and human rights in Jamaica, dated 21 July 2009, had noted, 'People in Jamaica's inner cities have for decades been caught between the reign of fear exercised by criminal gangs and violent policing. Far-reaching reforms to the police and the justice system have begun. **[3d]**

7.05 Jamaica is party to most of the principal United Nations human rights treaties. The United Nations Treaty database (accessed in September 2012) noted that these included:

- International Convention on the Elimination of All Forms of Racial Discrimination (CERD), date of accession 4 June 1971;
- International Covenant on Economic, Social and Cultural Rights (CESCR), date of accession 3 October 1975;
- International Covenant on Civil and Political Rights (CCPR), date of accession 3 October 1975;
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), date of accession 19 October 1984;
- Convention on the Rights of the Child (CRC), date of accession 14 June 1991; the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (CRC-OP-AC), date of accession 25 May 2000; Jamaica has also 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;
- Convention on the Rights of Persons with Disabilities, date of accession 30 March 2007. **[12a]**

7.06 Jamaica has not acceded to the UN Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). **[12a]** The UN Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak, undertook a mission to Jamaica in February 2010 and published a report on 11 October 2010. **[99a]** A copy of this report can be accessed at: http://www2.ohchr.org/english/bodies/hrcouncil/docs/16session/A-HRC-16-52-Add3.pdf

7.07 A new Charter of Fundamental Rights and Freedoms, which was adopted in April 2011, to replace Chapter III of the Jamaican Constitution, prohibits discrimination based on race, gender, place of origin, political opinion, religion or colour. **[50a] (Article 13(3)i)** A copy of the Charter is available at: http://supremecourt.gov.jm/constitution **[50a]**

7.08 The UN Special Rapporteur noted in a report of 11 October 2010 that 'The Office of the Public Defender was established in 1999 to replace the Office of the Ombudsman. The Public Defender may investigate and give recommendations concerning any complaints of injustice as a result of any action taken by an authority or an officer of member of such authority, or where any person has suffered, is suffering or is likely to suffer an infringement of their constitutional rights as a result.' **[99a] (p7)** The Public Defender's responsibilities and powers are set out in the Public Defender (Interim) Act of March

2002, a copy of which is at:
http://www.moj.gov.jm/laws/statutes/Public%20Defender%20(Interim)%20Act.pdf

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8. CRIME

8.01 As stated in the Freedom House report of 22 August 2012, Freedom in the World 2012:

'…Jamaica struggled with high levels of crime, sluggish economic growth, and a public sector in need of major reform. In 2009, an all-time high of 1,682 homicides were reported. Over half of these were gang related, and only 21 percent were resolved in court. The situation improved slightly in 2011, after police crackdowns on gang violence; according to police statistics, the murder rate during the first three months of the year fell 44 percent from their rate over the same period in 2010. The government also established a commission, the Independent Investigation of Commissions, to investigate incidents of civilian shootings, though local human rights organizations have expressed doubt whether the organization will have the resources it needs to function effectively.

'Long-standing relationships between elected representatives and organized crime, in which criminal gangs guaranteed voter turnout in certain neighborhoods in exchange for political favors and protection, received special scrutiny in recent years as the U.S. government pressed for the extradition of alleged drug trafficker Christopher "Dudus" Coke.' **[36c]** (See Section 3: May 2010 – September 2011)

8.02 The Jamaica Constabulary Force, on their website accessed 30 November 2012, provided the following data on reported cases of crime for 2009 to 2011:

	2011	2010	2009
Murder	1,125	1,442	1,683
Shootings	1,327	1,517	1,666
Rape	748	704	701
Carnal abuse	654	732	592
Robbery	3,043	2,851	3,024
Break-ins	3,433	3,783	3,795
Larceny	375	382	510

According to the same source, 497 illegal firearms were recovered by the police in 2011. **[75a]**

8.03 The Bertelsmann Foundation commented in its Jamaica Country Report 2010, dated 30 April 2011:

'A greatly improved network of highways connecting urban and rural centers has facilitated the rapid movement of criminal elements into rural areas. Organized criminal networks associated with drug and/or gun trafficking dominate some of these communities. The phenomenon known as political tribalism emerged in the 1960s as 'garrison communities' increasingly became centers of political violence manipulated by politicians of both parties to their advantage, and it continues to be a major factor.

However, politically-motivated violence is less frequent in comparison to violence related to drug and gun trafficking. Some garrison communities still constitute a kind of 'state within the state,' in which drug and gun trafficking play a dominant role. Local party leaders, many of whom are alleged to have connections with criminal networks and the drug trade, rule these communities. The emergence of transnational and regional networks, and their interconnectedness with local organized-crime networks, hampers the ability of the law-enforcement agencies to implement crime-control responses that both respect human rights and are effective. During the period under review [2007-2009], 15 out of Jamaica's 60 constituencies were classified as garrison constituencies (although to differing degrees).' **[39a]**

8.04 The Bertelsmann Foundation, in their Jamaica Country Report 2012 published in April 2012, observed, 'The emergence of transnational and regional networks, and their interconnectedness with local organized-crime networks, hampers the ability of law enforcement agencies to implement crime control responses that both respect human rights and are effective.' **[39b]**

8.05 Amnesty International's Submission to the UN Universal Periodic Review: Ninth session of the UPR Working Group of the Human Rights Council, November-December 2010, published on 19 April 2010, recorded:

'A raft of so-called 'anti-crime' bills – including extension of police powers of arrest, increases in bail periods and minimum sentences for gun-related crimes – were tabled in the Parliament in 2008. National human rights organizations have questioned the constitutionality of some of the bills' provisions and expressed concerns that the proposed extra police and judicial powers could breech human rights obligations and standards, including the principle of proportionality and individualisation of restrictions on human rights, the principle of presumption of innocence and fair trial standards.' **[3f]**

8.06 The US Army Logistics University website, accessed on 17 May 2011, recorded:

'Operation Kingfish is a multinational task force (Jamaica, U.S., United Kingdom, and Canada) for coordinating investigations leading to the arrest of major criminals. From its October 2004 inception through December 2006, Operation Kingfish launched 1,378 operations resulting in the seizure of 56 vehicles, 57 boats, one aircraft, 206 firearms, and two containers conveying drugs. Kingfish was also responsible for the seizure of over 13 metric tons of cocaine (mostly outside of Jamaica) and over 27,390 pounds of compressed marijuana. In 2006 Operation Kingfish mounted 870 operations, compared to 607 in 2005. In 2006, through cargo scanning, the Jamaican Customs Contraband Enforcement Team seized over 3,000 pounds of marijuana, ten kilograms of cocaine, and approximately $500,000 at Jamaican air and seaports.' **[13a]**

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GANG VIOLENCE

8.07 An Amnesty International report of 21 July 2009, entitled Jamaica: 'Public security reforms and human rights in Jamaica', observed:

'According to a government source…criminal gangs are thought to be active and responsible for 80 per cent of all major crimes in the country. Most victims of violent crime live in deprived and excluded inner-city areas where unemployment rates are high

and access to basic services – water, electricity and security of housing tenure – are often poor. Some of these neighbourhoods have been neglected by the state for years, and many have effectively become the fiefdoms of gang leaders. Criminal gangs not only control communities through fear and violence, they also control access to what few services are available. Many are 'garrison communities' where the ruling gangs have for years flourished under the patronage of one or other of the political parties. **[3d] (p5-6)**

'In his State of the Nation speech in January 2009, the Minister of National Security acknowledged the special vulnerability of those living in communities controlled by gangs: 'I dare to say that if you are not a member of a gang, or are not associated with gangs; if you do not live in an area with gang members, then you have a greater probability of not being affected by violence. **(p8-9)**

'Families and sometimes entire communities have been forced to flee their homes and seek refuge as a result of threats and violence from gangs. Sometimes the threats are triggered by conflict between rival political factions; sometimes they are the result of criminal activities.' **[3d] (p9)**

8.08 In a report of September 2010 for the Small Arms Survey of the Graduate Institute of International and Development Studies in Geneva, Glaister Leslie observed:

'Intelligence suggests that there are 268 active gangs in Jamaica, a five-fold increase in prevalence compared to the 1998 estimate of 49 active gangs … There are approximately 12 organized crime groups on the island; estimates in 1998 were that there were 7 highly organized gangs … While there is no validated estimate of the overall number of gang members in Jamaica, some observers have claimed that gang membership could be as high as 20,000, with estimates for Kingston ranging from 6,000 to 10,000 … More recent studies yield more conservative figures... **[92a] (p18)**

'…the government struggles to contain gangs that, along with their various allies, appear better armed, better resourced, and more effective. **(p2)**

'…there is a dense social web connecting highly organized, transnational gangs to [some other] loosely organized gangs whose activities are often indistinguishable from broader community and interpersonal violence. **(p2)**

'…contemporary gangs in Jamaica have their roots in the organized political violence of the 1940s. Though the political facilitation of crime has declined since the country's bloodiest national elections in 1980, it remains an enduring – though less overt – force. The persistent facilitation of gang activity by politicians continues to hinder targeted violence reduction efforts, despite the government's vociferous public condemnation of crime and violence and official support of both punitive and social approaches to violence reduction.' **[92a] (p2-3)**

8.09 According to the same report:

'Beginning in the 1960s, politicians in densely populated inner-city areas of Kingston began arming groups with guns instead of the sticks and stones that had characterized earlier political violence. They charged each group of men, or 'military crop', with the defence of its own area; these groups then answered to a single leader, called an 'enforcer' or 'don' … Dons ensured party loyalty in inner-city areas and politicians depended on them to deliver key votes. In return, dons depended on the politicians for patronage, such as jobs via public works programmes and public housing. Further,

political parties allowed these dons to operate with impunity in their locales, enabling them, in effect, to become the rule of law in some instances. **[92a] (p12-13)**

'While political patronage towards certain gangs persists, the number of garrison communities has declined and most gang-related violence is no longer primarily political. **(p13)**

'…beginning in the 1980s, gangs increasingly became involved in more organized forms of crime, as the drug trade…became a more frequent and lucrative source of income than political patronage. **(p13)**

8.10 The Small Arms Survey report further noted:

'An identifiable leadership, a formal hierarchy, assigned roles, specific territory, activities that increase cohesiveness, and formalized roles and rituals usually define a highly organized gang. Loosely organized gangs usually have no identifiable leadership or consistent leader. There is very little cohesive activity in these gangs… **[92a] (p15)**

'Another typology of Jamaican gangs separates large gangs that are heavily involved in international drug-trafficking – referred to as organized crime groups, 'posses', or 'yardies' – from smaller, local, loosely organized groups called youth gangs … These more notorious international drug dealing 'posses' and 'yardies', which generally have an adult membership, tend to overshadow Jamaican youth gangs, which are reported to have members between the ages of 12 and 15 … Unlike youth gangs, organized crime groups actively seek to corrupt local institutions, attempt to establish exclusive hegemony in communities in which they operate, and have an entrepreneurial intent – as distinguished from simply being concerned with intangibles such as turf and respect… **(p15)**

'A third typology distinguishes 'area gangs' from 'corner gangs'. Area gangs dominate entire communities or neighbourhoods.' **[92a] (p15)**

8.11 Refer to the Small Arms Survey report for further detailed information on the structure and activities of Jamaican crime gangs: http://www.smallarmssurvey.org/fileadmin/docs/B-Occasional-papers/SAS-OP26-Jamaica-gangs.pdf

8.12 It was reported on 31 October 2012 that the police had detained about 100 men in an operation aimed at preventing a gang feud in Spanish Town (near Kingston) from escalating. (BBC News, 31 October 2012) **[21d]**

See also Section 4: Recent developments and Section 9: Security forces

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9. SECURITY FORCES

9.01 The US State Department 2011 Human Rights Report: Jamaica (USSD Report 2011), released on 24 May 2012, noted:

'The JCF [Jamaica Constabulary Force] has primary responsibility for internal security and is assisted by the Island Special Constabulary Force. The Jamaica Defence Force (JDF) is charged with national defense, maritime narcotics interdiction, and JCF

support. The JDF routinely conducted joint patrols and checkpoints in conjunction with the JCF. As the minister of defense, and outside of a state of emergency, the prime minister is the approval authority for all JDF operations in support of the JCF. The Ministry of National Security exercises the prime minister's authority for oversight of the JCF and JDF.' **[8a] (Section 1d)**

POLICE (JAMAICA CONSTABULARY FORCE AND ISLAND SPECIAL CONSTABULARY FORCE)

9.02 The website of the Ministry of National Security, accessed in April 2011, advised that the JCF had a strength of 8,441 personnel. Further, 'The Island Special Constabulary Force (ISCF) is the first reserve to the regular Police Force. Approximately…58 percent of the personnel are deployed in Kingston and St. Andrew. Its members supplement the regular force in all facets of policing including the detection and investigation of major breaches of the Road Traffic Act. The strength of the ISCF is 1,386.' **[74a]**

9.03 The USSD Report 2011 noted:

'The JCF is headed by a commissioner who delegates authority through the ranks to constables. The force maintains divisions focusing on community policing, special response, intelligence gathering, and internal affairs.

'The JCF continued a community policing initiative to address the long-standing antipathy between the security forces and many poor inner-city neighborhoods. Through the Community Safety and Security Branch, during the year the JCF conducted targeted training of 5,609 officers, 778 of whom were deployed in 360 communities island-wide. The branch trained community safety officers and assigned JCF personnel to targeted schools as resource officers to stem school violence. These officers also served as liaisons between the students, faculty, parents, and police. The government bolstered these efforts through public education and by nominating deputy divisional commanders with responsibility to introduce community policing to all the communities within their division. All JCF officers were required to take a 'graduated response' before the use of lethal force when possible. Officers were also required to take an annual refresher course on the use of nonlethal equipment.' **[8a] (Section 1d)**

Extra-judicial killings

9.04 The USSD Report 2011 stated:

'While the government or its agents did not commit politically motivated killings, there were numerous accounts alleging that the government's security forces or its agents committed arbitrary or unlawful killings.

'According to official statistics, there were 236 killings involving police during the year [2011]. Human rights monitors indicated that many killings by police were unreported, with police meting out the justice they see as unavailable through the judicial system. In most shooting incidents, police alleged that the victims were carrying firearms and opened fire on them. In many cases, however, eyewitness testimony contradicted the police accounts. In other cases, allegations of 'police murder' were suspect, because well-armed gangs trafficking in weapons and narcotics and running lottery scams controlled many inner-city communities and were often better equipped than the police force.

'Violent crime remained a serious concern, and on many occasions the JCF employed lethal force in apprehending criminal suspects.' **[8a] (Section 1a)**

9.05 The USSD Report 2011 noted further:

'In August 2010 the government created INDECOM to investigate actions by members of the security forces and other agents of the state that result in death or injury to persons or the abuse of the rights of persons. INDECOM gradually was replacing the JCF's BSI as the main investigator of incidents involving fatal shootings by police. The BSI and INDECOM conducted administrative and criminal investigations into all incidents involving fatal shootings by police. The BSI, unable to keep up with its caseload, had a backlog of 841 cases with approximately 37 full-time and nine part-time investigating officers. During the year the BSI completed 308 investigations and forwarded 88 cases to the DPP [Director of Public Prosecutions].

'INDECOM received 236 reports of fatal shootings by police officers, completed 92 investigations, and sent two to the DPP for further prosecution. INDECOM opened 724 cases for investigation and had a backlog of 632 cases at year's [2011] end. INDECOM cited lack of resources to perform forensic analysis and identification of security personnel involved in incidents as major obstacles faced in its investigations of police killings. Rulings from the DPP on cases involving security forces were issued on average 27 months after the final submission of files from the BSI or INDECOM. At year's end INDECOM awaited rulings from the DPP on 40 cases. INDECOM also expressed concern that agents of the state concealed their identities in interaction with the public, including incidents of killings by security forces. A report released in August [2011] discussed how this anonymity contributes to the lack of accountability.

'All JCF officers were required to take a "graduated response" before the use of lethal force when possible. Officers were also required to take an annual refresher course on the use of nonlethal equipment.' **[8a] (Section 1d)**

9.06 Amnesty International noted in their 2012 Report, published on 24 May 2012:

'The number of people killed by the police between January and June [2011] fell by 32 per cent compared to the same period in 2010. However, several people were killed in circumstances suggesting that they may have been extrajudicially executed.

'Nobody was held accountable for alleged unlawful killings and enforced disappearances carried out under the 2010 state of emergency…

'A Special Coroner charged with examining cases of fatal shootings by the police was appointed in February [2011]. However, because of the very limited resources assigned to his office, he lacked the capacity to deal effectively both with the backlog of cases and with the high number of new cases.' **[3e]**

Torture

9.07 The UN Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, following his mission to Jamaica in February 2010, stated in his report of 11 October 2010:

'The Special Rapporteur did not find that torture, in the classical sense of deliberately inflicting severe pain or suffering as a means of extracting a confession or information, constitutes a major problem in Jamaica. He did find, however, a general atmosphere of violence and aggression in almost all police stations, as well as discriminatory practices

against detainees. At police stations, the overall conditions reflected a complete disregard for the dignity of detainees. **[99a] (Summary)**

'[The Special Rapporteur] found a considerable number of cases where persons were subjected to different degrees of beatings as a form of punishment, which could amount to torture. **[99a] (Conclusions)**

'The conditions in police stations can generally be regarded as inhuman and the treatment arbitrary. **[99a] (p10)**

'Police lock-ups are designed for only very short time of detention, but in practice, these cells are used as pre-trial detention facilities, holding detainees suspected of crimes for up to four or five years in absolutely appalling conditions. Detention for several weeks or even months in these conditions amounts to inhuman and degrading treatment. **[99a] (Conclusions)**

'Torture is not defined in criminal legislation in Jamaica, nor is Jamaica a party to the [UN] Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. This might explain why during the mission, the Special Rapporteur observed that the term 'torture' was not part of the Jamaican lexicon. However, its absence in the law does not mean that it does not exist in practice.' **[99a] (Summary)**

9.08 The UN Special Rapporteur noted that there were constitutional and legislative provisions criminalising torture and other ill-treatment:

'Article 17(1) of the Constitution prohibits the use of torture or inhuman or degrading punishment or other treatment. However, article 17(2) provides that punishment prescribed by other laws shall not be held to be inconsistent with the prohibition in section 17(1) as long as it concerns punishment that was legal at the time the Constitution was drafted … There are several legislative provisions prohibiting the excessive use of force, although the only explicit prohibition of torture is found in the Constitution. For example, section 22 of the Offences against the Person Act (1864) criminalizes the infliction of serious bodily harm to another person … The Constabulary Force Act (1935) governs the general treatment of persons deprived of their personal liberty. This includes treating them with kindness and humanity and not using harshness or unnecessary restraint towards them.' **[99a] (p5-6)**

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Arbitrary arrest and detention

9.09 According to the USSD Report 2011:

'The law permits the arrest of persons "reasonably suspected" of having committed a crime. While the law prohibits arbitrary arrest, security forces performed "cordon and search" operations and enforced curfews, during which they detained persons and took them into custody. A new anticrime bill passed during the year [2011]extended the time the security forces can legally hold persons from 48 to 72 hours before charging or releasing them. However, police sometimes reportedly held individuals for as long as five weeks.' **[8a] (Section 1d)**

The same source noted:

'Although the law requires police to present a detainee in court within a reasonable time period, in practice authorities sometimes remanded suspects for psychiatric evaluation, some for as long as three years when their cases were 'lost in the system.' Magistrates were required to inquire at least once a week into the welfare of each person listed by the JCF as detained, but few did so in practice, especially in the busy Kingston/St. Andrew corporate area.' **[8a] (Section 1d)**

See Section 11: Arrest and detention – legal rights

Corruption in the police

9.10 According to a report published in September 2010 by the Small Arms Survey at the Graduate Institute of International and Development Studies, Geneva:

'Accused of rampant corruption and characterized by one of the highest rates of police killings in the Americas, few members of the security forces receive any support from the communities in which they serve … In February 2010, the recovery of more than 10,000 rounds of illegal ammunition from one inner-city community – more than recovered in any single year since 2004 – and the discovery that the stash came entirely from the national police armoury – only served to bolster residents' claims of police corruption and complicity in Jamaica's spiralling murder rate.' **[92a] (p1-2)**

9.11 The USSD 2010 Report stated:

'The JCF Anti-Corruption Branch (ACB), headed by a British police officer hired as assistant commissioner of police, has responsibility for addressing corruption in the force, and some improvements were noted, such as a public awareness campaign including a 1-800-CORRUPT initiative and advertising. Police personnel are required to sign five-year contracts with renewal contingent upon good conduct. While it is rare that police personnel are charged or convicted, they can be barred from reenlisting whenever there is information that they are not efficient or effective in carrying out their duty with integrity. Between January and December [2011], the ACB arrested 64 police personnel and charged 40 of them. Authorities did not permit 70 police officers to reenlist and dismissed nine police officers for corruption. However, suspicions of corruption and impunity within the force remained, despite a notable increase in the number of arrests of officers for corruption. **[8a] (Section 4)**

'According to JCF records, 146 police officers, or 40 percent of the 362 officers who took voluntary lie-detector tests during the year, did not pass or complete the test. The assistant police commissioner did not say whether the officers who failed would be disciplined in any way. However, during the year officials retired two officers and denied reenlistment to 72 officers for corruption or ethics reasons. In addition authorities dismissed 11 officers for corruption, charged 39 other officers with corruption, and charged 19 citizens with corrupting JCF staff.

'The JCF continued a community policing initiative to address the long-standing antipathy between the security forces and many poor inner-city neighborhoods. Through the Community Safety and Security Branch, during the year [2011] the JCF conducted targeted training of 5,609 officers, 778 of whom were deployed in 360 communities island-wide … The government bolstered these efforts through public education and by nominating deputy divisional commanders with responsibility to introduce community policing to all the communities within their division.' **[8a] (Section 1d)**

9.12 Amnesty International stated in their Annual Report 2012: 'The implementation of police reform continued. In April [2011], the police stated that, of the 124 recommendations for reform proposed by a panel of independent experts in June 2008, 53 had been implemented and 65 were in advanced stages of delivery. **[3e]**

See also Section 8: Crime and Avenues of complaint, below

Avenues of complaint

9.13 The UN Special Rapporteur noted in the report of his mission to Jamaica in February 2010 published on 11 October 2010:

'There are three different bodies in Jamaica mandated to receive and investigate complaints regarding police misconduct: the Police Public Complaints Authority, the Bureau of Special Investigations and the Office of Professional Responsibility. The Bureau of Special Investigations and the Office of Professional Responsibility are institutions within the Jamaican Constabulary Force, while the Police Public Complaints Authority is a State-funded independent body. The Authority and the Bureau of Special Investigations will be replaced by the Independent Commission of Investigation, created under the Independent Commission of Investigation Act (2009). However, there is no clear time frame for when the Commission will start its work.

'The Police Public Complaints Authority is an independent, non-police agency tasked with investigating all allegations of misconduct by the Jamaican Constabulary Force. The investigative staff is made up solely of civilian personnel. The role of the Authority is to appraise the investigations and decide whether the police acted unlawfully. When the Authority considers that a criminal offence may have been committed, it reports the case to the Director of Public Prosecutions for further action.

'According to the Independent Commission of Investigation Act, a person may submit a complaint to the Independent Commission of Investigation regarding the conduct of a member of the security forces or any specified official which (a) resulted in the death of or injury to any person or was intended or likely to result in such death or injury; (b) involved sexual assault; (c) involved assault or battery by the member or official; (d) resulted in damage to property or the taking of money or of other property; (e) although not falling within any of the preceding paragraphs, is in the opinion of the Commission of a grave or exceptional nature… the Act also requires police officers to report any such incidents within 24 hours, and forthwith if the incident resulted in the death of or injury of a person.' **[99a] (p7)**

'The Special Rapporteur was concerned about the narrow scope of offences to be investigated by the Independent Commission of Investigation. Only allegations of misconduct of a 'grave and exceptional nature' are investigated by the Commission, leaving victims vulnerable to a subjective and discretionary interpretation of these terms.' **[99a] (Conclusions)**

9.14 Amnesty International recorded in their Annual Report 2012, relating to events of 2011: 'The Independent Commission of Investigations (INDECOM), established in August 2010 to investigate abuses by the security forces, received resources to recruit and train additional investigators. However, debate continued over whether INDECOM has the power to charge police officers, highlighting the need to clarify and strengthen its powers in law.' **[3e]**

9.15 According to the USSD 2011 Report, 'When prisoners raise allegations of abuse by correctional officers, the charges are first reviewed by corrections officials, then by an inspector from the Ministry of National Security, and finally by the police. Authorities file charges against correctional officers for abuse if evidence is found to support the allegations. However, official complaints and investigations were infrequent.' **[8b] (section 1c)**

See also Section 20: LGBT persons: State protection

ARMED FORCES

9.16 Jane's Sentinel Country Risk Assessments – Jamaica (Armed Forces), dated 6 February 2009, reported that:

'The Jamaica Regiment (comprising two regular Infantry Battalions and one reserve unit), the Jamaican Defence Forces Air Wing and Jamaican Defence Forces Coast Guard are all responsible for the defence of Jamaica. The Infantry and National Reserve is the main wing of the Jamaican Defence Forces (JDF) and supports the police in maintaining law and order and assisting with infrastructure projects and emergency relief.

'The Jamaican Armed Forces are governed by the constitution of Jamaica and by the Defence Act of 1962. Commissions are granted by the governor general, who is the constitutional representative of the Queen as head of state. The Prime Minister is titular Minister of Defence with formal powers of command under the Defence Act. However, there is no substantive defence ministry, and matters of budget and administration are handled by the Ministry of National Security. Promotions and establishment are agreed by the Defence Board, which is made up of the Prime Minister as Minister of Defence, the Minister of National Security, the Chief of Staff, and the permanent secretary in the Ministry of National Security.' **[87e]**

Military service

9.17 War Resisters' International, in their Jamaica Country Report, accessed in September 2012 and last amended in April 1998, confirmed that conscription (or obligatory military service) does not exist and that there is no legislation providing for conscription. **[84a]**

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10. JUDICIARY

10.01 Europa World Online, accessed on 9 April 2011, advised:

'The judicial system is based on English common law and practice. Final appeal is to the Judicial Committee of the Privy Council in the United Kingdom, although in 2001 the Jamaican Government signed an agreement to establish a Caribbean Court of Justice to fulfil this function.

'Justice is administered by the Privy Council, Court of Appeal, Supreme Court (which includes the Revenue Court, the Gun Court and, since 2001, the Commercial Court), Resident Magistrates' Court (which includes the Traffic Court), two Family Courts and the Courts of Petty Sessions.' **[5h]**

Europa World noted that the People's National Party (PNP) government under Prime Minister Portia Simpson Miller, which took office in January 2012, 'made clear its intention to adopt the Caribbean Court of Justice as its final appellate court, instead of the London-based Privy Council.' **[5j]**

10.02 The US State Department 2011 Human Rights Report: Jamaica (USSD Report 2011), released on 24 May 2012, observed:

'Trials in many cases were delayed for years, and other cases were dismissed because files could not be located or had been destroyed. Some trials suffered as a result of antiquated rules of evidence as well as from lack of equipment for collecting and storing evidence. For example, drug evidence collected in an arrest had to be stored in its entirety; samples or photographs were not acceptable. Storage facilities were inadequate and understaffed, and evidence went missing, deteriorated in the warehouse, or could not be located when needed. In October [2011] the justice minister stated that endemic corruption in the legal system resulted in long delays in investigations and in cases coming to trial.

The resident magistrate's courts, which handle more than 90 percent of the cases in the court system, continued operation of a night court to reduce the backlog of cases. The Supreme Court used mediation through the Dispute Resolution Foundation as an alternative to traditional trials. This alleviated some of the civil case backlog in that court. The resident magistrate's courts also used alternative dispute resolution in limited cases.' **[8a] (Section 1e]**

10.03 Amnesty International stated in a Submission to the UN Universal Periodic Review, dated 19 April 2010:

'In an attempt to address the justice system's multiple weaknesses, in 2006 the government set up the Jamaican Justice System Reform project to undertake a comprehensive review of the justice system and to develop strategies and mechanisms for its modernization. In June 2007, the Justice System Reform Task Force issued a detailed set of recommendations which, if implemented, could significantly improve access to justice for victims of criminal violence and human rights violations. According to a statement made by the Minister of Justice in November 2009, the implementation of over 70 of the 200 recommendations has been initiated.' **[3a]**

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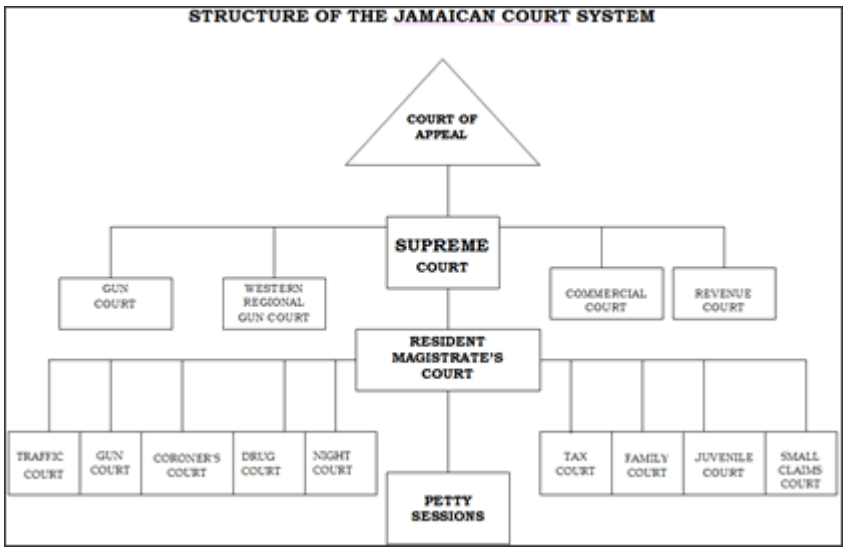
ORGANISATION

10.04 The website of the Ministry of Justice, accessed on 12 April 2011, provided the following information on the structure of the courts:



The Court of Appeal: 'Appeals against decisions from both the Supreme Court and the Resident Magistrate's Court are heard in the Court of Appeal. It consists of the President of the Court of Appeal and six Judges of Appeal. The Chief Justice is an ex-officio member… The Chief Justice and the President of the Court of Appeal are appointed by the Governor General on the recommendation of the Prime Minister after consultation with the Leader of Opposition.'

Supreme Court: 'The Supreme Court has unlimited jurisdiction in civil and criminal matters. It consists of the Chief Justice, a Senior Puisne Judge and at least twenty other Puisne Judges. Puisne Judges must be Attorneys-at-law of at least ten years standing. Judges of the Supreme Court are appointed by the Governor General on the recommendation of the Judicial Services Commission. They have jurisdiction to hear applications regarding breaches of fundamental rights and freedom as provided for under the Constitution … This Court exercises important supervisory functions over tribunals … The Circuit Court is the criminal jurisdiction of the Supreme Court that is convened in Parishes for the proper administration of justice.'

Resident Magistrate's Court: 'There is a Resident Magistrate's Court for every Parish… This Court presides over both civil and criminal matters …The Resident Magistrate's Court has limited jurisdiction in both civil and criminal matters; the amounts and the extent of the jurisdiction of this court is provided for in the Judicature (Resident Magistrate's) Act … The Resident Magistrate's Court has no power to hold a trial for certain criminal offences including murder, treason and rape, however in such cases a Preliminary Examination or enquiry into the charge is held.'

Petty Session: 'The Petty Session Court is presided over by Justices of the Peace. The Justices of the Peace Jurisdiction Act confer various powers on the Justice of the Peace including the power to issue warrants consequent on non-obedience to summons. A Resident Magistrate has the power of two Justices of the Peace.' **[47b]**

INDEPENDENCE

10.05 The Bertelsmann Foundation observed in their Jamaica Country Report for 2012:

'Generally the judiciary is viewed as independent and free from both unconstitutional intervention by other institutions and from corruption. A significant body of jurisprudence

exists, and legal education is increasingly being made available (although it is very expensive) through a diverse group of educational institutions.

'Mechanisms do exist for the judicial review of legislative and executive acts, as do channels of appeal. Weaknesses in court administration are well-documented.

'In 2009...the independence of the judiciary was called into question because of the state's handling of an extradition request by the United States for an alleged criminal [Christopher Coke]. The Jamaican prime minister himself announced that Jamaica would not sign the extradition request; it was only signed after he announced on state television that he would allow it. This evident overstepping of members of the executive into judicial matters suggests that the judiciary is not entirely independent, though the surprise registered by representatives of civil society and the legal profession at this act suggests that this is not typical.' **[39b]**

10.06 As mentioned above, the Chief Justice and the President of the Court of Appeal are appointed by the Governor General on the recommendation of the Prime Minister after consultation with the Leader of Opposition; Judges of the Supreme Court are appointed by the Governor General on the recommendation of the Judicial Services Commission. Resident Magistrates are appointed by the Governor General and the Judicial Services Commission. (Ministry of Justice) **[47b]**

FAIR TRIAL

10.07 The USSD Report 2011 noted:

'Most trials are public and adjudicated by a lone judge. More serious criminal offenses are tried with juries in circuit court and at the Supreme Court level.

'The constitution provides that defendants are presumed innocent and have the right to counsel and to confront witnesses against them. Legal Aid attorneys were available to defend the indigent, except those charged with certain offenses under the Money Laundering Act or Dangerous Drugs Act and in the case of offenses in which the defendant is not liable to incarceration. The Office of the Public Defender (OPD) may bring cases on behalf of persons who claim to have had their constitutional rights violated, but the OPD cannot appear in court on their behalf. Although the OPD contracted with private attorneys to represent indigent clients, funds were insufficient to meet demand, and such attorneys sometimes requested payment from clients.

'There is an independent and impartial civil judiciary process. Complainants may bring human rights abuse cases for civil remediation to the courts, but awards can be difficult to collect.' **[8a] (Section 1e]**

Legal Aid

10.08 The Ministry of Justice website, accessed 11 October 2012, confirmed that a legal aid system is administered by the Legal Aid Council. A copy of the Legal Aid Act, as amended in 2002, appears on the Ministry of Justice website at: http://www.moj.gov.jm/sites/default/files/laws/Legal%20Aid%20Act.pdf **[7a]**

Witness protection

10.09 According to the USSD Report 2011, 'Some criminal trials were dismissed because witnesses failed to come forward as a result of threats, intimidation, or murder. Some of

those who came forward qualified for the witness protection program, but many either refused protection or violated the conditions of the program. According to the JCF [Jamaica Constabulary Force], no participant in the witness protection program who abided by the rules of the program was ever killed.' **[8a] (Section 1e)**

10.10 Eligibility criteria for witness protection are set out in the Justice Protection Act 2001, a copy of which appears at:
http://www.oas.org/juridico/spanish/mesicic2_jam_justice_protection_act.pdf
This Act confirms that whether a particular individual is granted protection is at the discretion of the Witness Protection Unit in the Ministry of National Security and Justice. **[51a]**

RELEVANT LEGISLATION

10.11 The texts of the Criminal Justice (Administration) Act and the Criminal Justice (Reform) Act can be accessed on the Lexadin website:
http://www.lexadin.nl/wlg/legis/nofr/oeur/lxwejam.htm **[14]**

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11. ARREST AND DETENTION – LEGAL RIGHTS

11.01 The UN Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, following his mission to Jamaica in February 2010, stated in his report dated 11 October 2010:

'With regard to procedural safeguards, the Constitution provides for the right to be informed of the reasons for arrest 'as soon as reasonably practicable' (section 15(2)); the right to be brought before a court 'without delay' (section 15(3)(b)); be tried within a 'reasonable time' (section 15(3)(b)); and the right to have a case reviewed by an impartial tribunal after six months for persons detained during a period of public emergency (section 15(6)). **[99a] (p6)**

'According to the Constabulary Force Act, a person may be detained 'upon reasonable suspicion that he is in the course of committing or has committed or is about to commit an offence' (art. 50(B)). The Act also provides some safeguards that also apply for arrests based on warrants, including the right to be immediately informed of the reason for the arrest or detention and the right to be taken forthwith before a justice of the peace, who will determine whether there are reasonable grounds for arrest and detention (art. 50(F)(2)). According to section 50(G)(1) of the Constabulary Force Act, 'forthwith' denotes within 12 hours. If the justice of the peace considers that the arrest or detention is required in the interest of justice, he can order that a person be remanded for 24 hours, after which the detainee is taken before a resident magistrate. A resident magistrate, however, never reviews the legality of an arrest per se. **(p6)**

'For cases concerning detention when there is intent to hold an identification parade, section 63(A) of the Judicature (Resident Magistrates) Act applies. According to the Resident Magistrates Act, a magistrate is to make enquiries at least once a week into each person detained pending an identification parade. At that time, the magistrate may extend the remand period or order that the person be taken before a court within 24 hours. However, there are no limits in the legislation to the time either an adult or a juvenile may be held in custody pending an identification parade. **(p6)**

'According to the Bail Act (2000), any detained individual has the right to bail immediately upon detention at a police station. If an individual is not charged within 24 hours, a determination on bail is made by the justice of the peace or a resident magistrate (section 3(2)). Where individuals are charged with murder, treason or treason-felony, bail may only be granted by the resident magistrate (section 3(4)). In most other cases, a police officer can decide on bail.' **[99a] (p6-7)**

11.02 The US State Department 2011 Human Rights Report: Jamaica, released on 24 May 2012, noted:

'The law permits the arrest of persons "reasonably suspected" of having committed a crime ... A new anticrime bill passed during the year [2011] extended the time the security forces can legally hold persons from 48 to 72 hours before charging or releasing them.' **[8a] (Section 1d]**

The same source continued:

'Arrests normally require warrants signed by a police officer of the rank of station sergeant or higher; however, arrests may be made without warrants. Police often used the warrant as the first step in an investigation to search for evidence. The law requires detained suspects to be charged or released within 72 hours of arrest, unless a justice of the peace or a resident magistrate grants a special waiver.

'If a detainee requests access to counsel, the law requires police to contact duty counsel (a private attorney who volunteers to represent detainees at police stations and until cases go to trial) under the Legal Aid Program; however, authorities continued to wait until after detainees had been identified in a lineup before contacting duty counsel for them. There was a functioning bail system, and detainees were provided with prompt access to family members. A constitutional amendment passed during the year ensures legal assistance if someone does not have sufficient means to pay for legal representation and provides that a civil organization may initiate an application on behalf of a detainee or a mentally ill person.' **[8a] (Section 1d]**

See also Section 9: Arbitrary arrest and detention

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12. PRISON CONDITIONS

12.01 The International Centre for Prison Studies (ICPS) recorded in their Prison Brief for Jamaica (updated to December 2011) that there were 12 prison establishments in operation across Jamaica, of which eight were for adults and four were juvenile facilities. As of 2009, 11.4 per cent of the total prison population comprised pre-trial detainees, or remand prisoners; 4.2 per cent of all prisoners were female and 6.0 per cent were juveniles, under the age of 18. **[25a]**

12.02 The US State Department 2011 Human Rights Report: Jamaica (USSD Report 2011), released on 24 May 2012, stated:

'Prisons and detention centers were severely overcrowded and presented serious threats to life and health. The UN special rapporteur on torture in a 2010 report called

the conditions of detention "appalling" and in some cases "inhumane," although it did not find instances of torture. The government could not protect the physical safety of prisoners. With a maximum rated capacity of 4,402 inmates, the corrections system contained approximately 4,000 adult inmates, including at least 200 women. Another 366 juveniles remained in detention in juvenile-only facilities. However, there was considerable overcrowding, since rated capacity reflected both high- and low-security facilities, some capacity was unusable due to staffing shortfalls, and most inmates were held in high-security facilities. Although the law prohibits the incarceration of children in adult prisons in most cases, approximately 60 juveniles were held in adult jails. At least 14 prisoners died in detention during the year.' **[8a] (Section 1c)**

[Note: In the absence of information to the contrary, it is assumed that most of the 14 deaths referred to above were from natural causes – COIS]

12.03 The USSD Report 2011 further noted:

'Detainees were not clearly separated according to their different stages of criminal procedure. Persons detained without charges, remandees, and convicted persons were held together in the same facility and often shared cells.

'The government failed to protect the physical safety of prisoners. For example, on April 4, an inmate plucked out the eye of another prisoner awaiting transfer … Suicide also remained a problem. Over the course of two weeks in September, prison authorities at the same institution in Spanish Town failed to prevent two inmates from hanging themselves with electrical cord.

'Overcrowding and poor living conditions remained severe problems. At the St. Catherine Adult Correctional Institution in Spanish Town, inmates shared dark, unventilated, and dirty cells. Designed to hold 800 inmates, the facility held 1,200.

'The Tower Street Adult Correctional Center, located in downtown Kingston, held approximately 1,500 inmates, exceeding the 800-person maximum capacity for which the facility was built.

'Cells in some facilities had little natural light, inadequate artificial light, and poor ventilation. Hunt's Bay lock-up held prisoners in a cage-like structure open to the elements and the gazes of passers-by. Detainees, crowded in numbers of up to six persons per cell, mixed with garbage and urine. Potable water generally was available, but detainees were required to provide their own containers to carry water.

'The women's prison, Fort Augusta, with at least 200 inmates, had no indoor water supply.

'Conditions at the juvenile lock-ups were poor.

'Throughout the system medical care was poor, primarily a result of having only three full-time doctors and one full-time nurse on staff. Four part-time psychiatrists cared for at least 225 diagnosed mentally ill inmates in 12 facilities across the island.

'Reports of physical abuse of prisoners by guards continued, despite efforts by the government to remove abusive guards and improve procedures.

'Although prisoners were able to make complaints to the Public Defender's Office without censorship, and representatives were mostly able to enter the detention centers and interview prisoners without hindrance, official complaints and investigations were infrequent.

'The government allowed private groups, voluntary and religious organizations, local and international human rights organizations, and the media to visit prisons and monitor prison conditions, and such visits took place during the year.' **[8a] (Section 1c)**

12.04 The UN Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, following his mission to Jamaica in February 2010, stated in his report dated 11 October 2010:

'The Special Rapporteur was particularly concerned at the conditions of detention in police stations, reflecting a complete disrespect for the human dignity of detainees and prisoners, made worse by a general atmosphere of violence and aggression from both the police and detainees. In correctional facilities, the conditions differed significantly between facilities, although they were generally better than in police stations.

'The conditions found at the Horizon Remand Centre were better than in the police stations, but were still extremely harsh, despite the fact that remand detainees are supposed to be presumed innocent until found guilty. In addition, although Horizon was only at 58 per cent of its capacity, with 609 detainees, there were several human rights concerns, including a lack of water, sometimes for a number of days. Additionally, as in police stations, the Special Rapporteur received many allegations of arbitrary treatment of detainees by warders … On 8 February 2010, disturbances broke out at Horizon as a result of frustration with the conditions of detention and treatment by the warders.

'The Special Rapporteur visited [correctional] facilities [i.e. prisons] that demonstrated a broad spectrum of conditions, ranging from fairly poor to those that could be considered best practices.

'Homosexuals detained at St. Catherine and Tower Street correctional centres were held in the 'vulnerable persons unit' as a protective measure. However, their separation led to a loss of privileges of a punitive character, such as work and recreation, including the use of the library and playing field.' **[99a] (p10-12)**

Regarding correctional facilities for women, children and 'persons with mental disabilities', the Special Rapporteur reported:

'The conditions at the detention facilities for children and women were generally better than those for adult males.

'Children and juveniles in need of care and protection, uncontrollable juveniles and those in conflict with the law are often held together without distinction. The lack of separation makes it extremely difficult, if not impossible, to address the individual needs of children, be it in terms of protection or rehabilitation.

'The Special Rapporteur witnessed two opposite ends of the spectrum in the conditions of detention [for children] in the places visited.

'Detention facilities for women were generally more open and offered better conditions than those for men. There was a strict separation of male and female detainees.

'Persons with mental disabilities deprived of their liberty are not held in a separate psychiatric institution, but detained in a special wing of different correctional centres.' **[99a] (p12-14)**

(Refer to the Special Rapporteur's report for a full account of his findings at specific facilities: http://www2.ohchr.org/english/bodies/hrcouncil/docs/16session/A-HRC-16-52-Add3.pdf)

See also Section 20: LGBT persons: Treatment by, and attitudes of, state authorities

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13. DEATH PENALTY

13.01 Jamaica retains the death penalty (Amnesty International) **[3e]**, although the organisation Hands Off Cain, on its website accessed 10 August 2012, listed Jamaica as 'Abolitionist de facto'. **[17a]** According to the Amnesty International Report 2012, no death sentences were handed down and there were no executions in 2011. Seven people remained on death row at the end of 2011. **[3e]**

13.02 Amnesty International noted in a Public Statement of 17 March 2011, '…Jamaica has rejected a wide range of recommendations made by many states regarding the death penalty, including to establish a moratorium on executions, to commute all death sentences to prison sentences and to abolish the death penalty.' **[3b]**

13.03 The UN Special Rapporteur noted in his report of 11 October 2010 that, under the Offences against the Person Act, the death penalty may be applied in Jamaica for capital murder when the victim is a public official, witness or juror. It may also be imposed for murder in the course of robbery, burglary or sexual violence. **[99a] (p7)**

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14. POLITICAL AFFILIATION

14.01 According to the Bertelsmann Foundation's Jamaica Country Report 2012, published in April 2012 (Bertelsmann 2012 Report):

'Jamaica's political system has alternated between high and moderate levels of consensual and tribal politics. Ideological polarization and confrontation were severe between the two parties in the 1970s. The problems peaked in 1980, when approximately 800 people died during the year's elections.

'The phenomenon known as political tribalism emerged in the 1960s as garrison communities increasingly became centers of political violence, manipulated by politicians of both parties to their advantage, which continues to be a major factor. However, politically motivated violence is less frequent in comparison to violence related to drug and gun trafficking.' **[39b]**

FREEDOM OF POLITICAL EXPRESSION

14.02 The Freedom House report, Freedom in the World 2012, released 22 August 2012, confirmed that 'The constitutional right to free expression is generally respected.' **[32c]**

14.03 Bertelsmann 2012 Report noted, 'Jamaicans enjoy universal suffrage and the right to campaign for elected office, but there are some constraints on the principle of equality of access to leadership faced by women and citizens from lower socioeconomic groups in general. There are no restraints on free and fair elections except in garrison constituencies, where a dominant political party can intimidate dissenters.' **[39b]**

FREEDOM OF ASSOCIATION AND ASSEMBLY

14.04 The US State Department 2011 Human Rights Report: Jamaica (USSD Report 2011), released on 24 May 2012, reported, 'The law provides for freedom of assembly and association, and the government generally respected these rights in practice.' **[8b] (Section 2b)**

14.05 The Bertelsmann 2012 Report qualified this: 'The Jamaican constitution does guarantee freedom of association and assembly. These laws are generally enforced, but it is not always possible to discern the extent to which security forces (the enforcement agency) have used transparent or non-discriminatory criteria in evaluating requests for permits to associate and/or assemble.' **[39b]**

OPPOSITION GROUPS AND POLITICAL ACTIVISTS

14.06 The USSD Report 2011 stated:

'The relative lack of violence and intimidation in the December [2011] elections was notable, especially because in past elections voters living in "garrison communities," inner-city areas dominated by one of the two major political parties, often faced substantial influence and pressure from politically connected gangs and young men helping one political party by intimidating supporters of the opposing political party. Unlike in the past, however, civil society activism and pressure from the private sector, churches, and civic watchdogs made it difficult for either party to continue past practices of intimidation, lack of transparency, and back-room deals.

'There were no reports of political prisoners or detainees.' **[8a] (Section 1e)**

14.07 The Bertelsmann 2012 Report observed:

'Thus there are as of yet no laws which require political parties to be formally registered or to fulfill certain criteria.

'...the two major parties do receive substantial funds from both local and foreign private sector interests with frequent allegations over sources being "illegal," without having to report publicly on either amounts or sources. This results in some constraints on the fairness of elections with regard to campaigning and media access. Smaller parties, which do exist, are not able to campaign "on a level playing field," and the party with the largest contributions dominates the media, and therefore can support a campaign with much greater outreach.' **[39b]**

See also Section 8: Crime

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15. FREEDOM OF SPEECH AND MEDIA

MEDIA FREEDOM

15.01 The Bertelsmann Foundation's Jamaica Country Report 2012, published in April 2012, stated:

'The constitution guarantees freedom of expression and these laws are enforced. However, there is an old libel law still in force that members of the media claim is injurious to their freedom to report, particularly on the actions and activities of politicians, public servants or highly placed private sector interests. This law is now the subject of intense debate between parliament, political leaders of the main parties as well as small parties, members of the judiciary and some leadership within broader civil society. The Access to Information Act is enforced and is effective, and is also increasingly being used by the media to get information on government contracts which are suspected to have breached government procurement procedures. The structure of the media system does provide for a plurality of opinions, but this may be affected by the power of media network owners, such that the diversity and range of perspectives that would be properly reflective of Jamaican society may, at times, be superseded by views of the business and political elite. Journalists' attempts at self-censorship are not well-established or evenly spread across the media environment.' **[39b]**

15.02 The US State Department 2011 Human Rights Report: Jamaica (USSD Report 2011), released on 24 May 2012, confirmed:

'The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. An independent press, generally effective judicial protection, and a functioning democratic political system combined to ensure freedom of speech and of the press. The independent media were active and expressed a wide variety of views without restriction. Broadcast media were largely state owned but open to pluralistic points of view.

'The Press Association of Jamaica (PAJ) continued to advocate reforms to defamation and libel laws ... Although the government was reviewing these laws, the PAJ criticized the slow speed and extent of this review process. According to the PAJ, officials used existing laws to prevent critical information from reaching the public. A PAJ representative said that the threat of libel or slander prosecutions forces journalists to ensure that they have hard evidence in hand before they can take controversial matters to the public sphere, noting that a corrupt environment might make such evidence difficult if not impossible to obtain. The PAJ also advocated repealing the Official Secrets Act, asserting that it "runs counter to the Access to Information Act." Parliament enacted "whistle-blower" legislation to help the media expose corruption.' **[8a] (Section 2a)**

15.03 The organisation Reporters Without Borders, in its 'Press Freedom Index 2011-2012', dated 25 January 2012, ranked Jamaica 16th out of 179 countries. **[27b]** The same organisation's 'Press Freedom Barometer 2011' had noted that 'Jamaica has a very honourable record in freedom of expression and media safety, only slightly diminished by the occasional physical assault … A few isolated confrontations were reported during elections that brought Golding to power, in September 2007, between journalists and militants of the two main parties…' **[27a]**

INTERNET

15.04 The USSD Report 2011 confirmed, 'There were no government restrictions on access to the Internet or credible reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the expression of views via the Internet, including by e-mail.' **[8a] (Section 2a)**

ACADEMIC FREEDOM AND CULTURAL EVENTS

15.05 According to the USSD Report 2011, there were no government restrictions on academic freedom in 2011. **[8a] (Section 2a)**

15.06 The same report noted, 'With respect to cultural events, the Jamaica Broadcasting Commission sought to regulate and limit the dissemination of certain popular music deemed inconsistent with public morality' **[8a] (Section 2a)**

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16. HUMAN RIGHTS INSTITUTIONS, ORGANISATIONS AND ACTIVISTS

16.01 The US State Department 2011 Human Rights Report: Jamaica, released on 24 May 2012, reported:

'A number of domestic and international human rights groups and other international bodies generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views.

'The government cooperated with a number of domestic NGOs, including Jamaicans for Justice, to present its report to the Universal Periodic Review by the UN Human Rights Council in October [2011].

'The Public Defender's Office provides services on behalf of those who charged that their constitutional rights were violated. The office contracted private attorneys to bring suits against the government on behalf of private citizens.' **[8a] Section 5)**

16.02 The Bertelsmann Foundation noted in its Jamaica Country Report 2012, published in April 2012:

'Jamaica has a long history and awareness of the importance of civic and community activities and groups. A fairly wide range of interests is represented across groups, but given the extremes of wealth and poverty and high levels of social exclusion in society, just a few players dominate the centers of power and decision-making ... During the period under review...a coalition of key civil society organizations and their leaders has emerged ... The "Jamaica Civil Society Coalition" includes the private sector, human rights' groups, environmental and women's organizations, umbrella groups of churches and the media. There have been occasions on which organized political power has attempted to undermine the work of the coalition as the latter has attempted to curtail the dominance of strong interest groups and to develop a more inclusive, democratic governance process, to be able to mediate between society and the political system.' **[39b]**

See Section 7 Human Rights: Introduction for further information on the Public Defender's Office

17. CORRUPTION

17.01 Transparency International's Corruption Perceptions Index 2011, published on 1 December 2011, ranked Jamaica 86th out of 183 countries, where 1st was the least corrupt. A country's CPI score reflects perceived levels of public-sector corruption, based on the results of up to 13 surveys amongst business people and country analysts; it ranges between 10 (highly clean) and 0 (highly corrupt). Jamaica's CPI score in 2011 was 3.3, the same score as for 2010. **[28a]**

17.02 The US State Department 2011 Human Rights Report: Jamaica (USSD Report 2011), released on 24 May 2012, observed:

'The law provides criminal penalties for official corruption, but the government did not implement the law effectively. The Office of the Contractor General's (OCG) 2010 annual report stated that the OCG concluded 10 special investigations into a number of public sector procurement and contract award issues. The OCG reported nine to Parliament and referred six investigations to the DPP [Director of Public Prosecutions], attorney general, and other agencies, but no criminal charges had been levied at the time of the report. The OCG reported a consistent pattern with abuses related to conflicts of interest, breaches of duty on the part of accounting and accountable officers, breaches of duty on the part of boards of directors, and a seeming disregard for the applicable laws and regulations. The OCG also reported challenges to its statutory authority and credibility.

'The Corruption Prevention Act requires many government officials to file financial declarations; however, reports indicated that more than 5,000 civil servants failed to file or filed late or incomplete financial declarations required under the act. The DPP has the authority to identify noncompliant officials and send their cases to the Magistrate's Office, but the government did not levy any fines on officials during the year. The Ministry of Justice and the Attorney General's Office have overall responsibility to combat official corruption, but various other ministries are responsible for their own investigations. The OCG can investigate but not prosecute official corruption involving government contracts

'Despite provisions in the Access to Information Act to promote transparency, media accounts indicated that access to information was sometimes categorically denied. The act contains no sanctions or penalties to discourage lack of response to applications.' **[8a] (Section 4)**

17.03 Freedom House, in its report Freedom in the World 2012, released on 22 August 2012, added that 'Government whistleblowers who object to official acts of waste, fraud, or abuse of power are not well protected by Jamaican law...' **[32c]**

See also Section 9: Corruption in the police

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18. FREEDOM OF RELIGION

18.01 The US State Department International Religious Freedom Report 2011, released 30 July 2012 (US Religious Freedom Report 2011), stated:

'The constitution and other laws and policies protect religious freedom and, in practice, the government generally respected religious freedom. The government did not demonstrate a trend toward either improvement or deterioration in respect for and protection of the right to religious freedom. **[8d] (section 1)**

'Parliament may act to recognize a religious group; however, registration is not mandatory. Recognized groups receive tax-exempt status and other privileges, such as the right of their clergy to visit members in prison.

'Religious schools are not subject to any special restrictions, nor do they receive special treatment from the government. Most religious schools are affiliated with either the Catholic Church or Protestant denominations; there is also at least one Jewish school and at least two schools run by the Islamic Council of Jamaica.' **[8d] (section II)**

18.02 The US Religious Freedom Report 2011 noted that, with regard to the Rastafarian community:

'A Rastafarian sect, the Church of Haile Selassie I, has sought religious incorporation for 14 years without success. The church's most recent hearing before a parliamentary joint select subcommittee was in February 2010. Some in parliament maintained the church should be denied incorporation because it uses marijuana, which is illegal, in religious services. The church, however, claimed this was not the case and that it used legal herbs.

'Members of the Rastafarian community continued to complain that law enforcement officials unfairly targeted them; however, it was not clear whether such complaints reflected discrimination on the basis of religious belief or were due to the group's alleged illegal use of marijuana as part of Rastafarian religious practice. **[8d] (section II)**

'Rastafarians alleged that the overwhelmingly Christian population discriminated against them, although there are signs of increasing acceptance. Rastafarians alleged that elements of their religion, such as wearing dreadlocks and smoking marijuana, presented serious barriers to their ability to find employment and achieve professional status in the official economy.' **[8d] (Executive summary)**

18.03 The US Religious Freedom Report 2011 provided the following religious demography for Jamaica, based on the 2001 Census:

'Church of God, 24 percent; Seventh-day Adventist, 11 percent; Pentecostal, 10 percent; Baptist, 7 percent; Anglican, 4 percent; Roman Catholic, 2 percent; United Church, 2 percent; Methodist, 2 percent; Jehovah's Witnesses, 2 percent; Moravian, 1 percent; Brethren, 1 percent; unstated, 3 percent; and "other," 10 percent. The category "other" included 24,020 Rastafarians, an estimated 5,000 Muslims, 1,453 Hindus, approximately 350 Jews, and 279 Baha'is. The census reported 21 percent claimed no religious affiliation.' **[8d] (section I)**

18.04 The Bertelsmann Foundation noted in their Jamaica Country Report 2012 published in April 2012:, 'There is separation of church and state. There are particular religious denominations which, acting as interest groups, have had an influential role in decision-making with regard to laws and public discussions on abortion, lifestyle choices and capital punishment.' **[39b]**

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19. ETHNIC AND ANCESTRAL GROUPS

19.01 The US State Department 2011 Human Rights Report: Jamaica (USSD Report 2011), released on 24 May 2012, observed:

'Maroons, descendants of slaves who escaped to the mountainous interior in the 17th and 18th centuries, considered themselves a group apart and maintained some African traditions distinct from those of the larger society. There were major infrastructural needs that the Maroons believed the central government neglected. Formal education was not available in Maroon communities beyond the junior high school level, and unemployment rates were high. Many young Maroons left the region for employment elsewhere; this migration and the influx of popular island-wide culture threatened the communities' culture.' **[8a] (Section 6)**

19.02 The Bertelsmann Foundation, in its Jamaica Country Report 2010, dated 30 April 2011, noted:

'Under the country's constitution, citizens of all ethnic groups have the same civil rights, although race, class, sexual orientation and gender factors often prevent the equitable exercise of these rights by all social classes. Jamaicans accept and support the nation-state as legitimate. The greatest historical injustices in Jamaica's history were slavery and colonialism, both of which have left a residue of racism. However, despite distinct racial and social tensions, there is no acute conflict between ethnic groups or between groups whose ancestors suffered under slavery, racism and colonialism, on the one hand, and groups whose ancestors profited from them, on the other … Jamaica stresses that all its citizens are equal within the scope of the national identity regardless of their background… Still, the cultural forms of expression of the black African majority are not adequately recognized. Such recognition only comprises occasional special tributes to religious and cultural traditions and historic public figures.' **[39a]**

19.03 According to the Bertelsmann Foundation's 2012 Jamaica Country Report, published in April 2012, "Social and economic status, which is closely aligned with one's complexion (ethnicity), continues to affect the extent to which a significant part of the population can participate in society. **[39b]**

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20. LESBIAN, GAY, BISEXUAL AND TRANSGENDER PERSONS

20.01 The US State Department 'International Travel Information' – Country Specific Information: Jamaica, updated 17 November 2011, reported: 'Harassment, threats, and acts of violence have been targeted at homosexuals in Jamaica. Government officials have been known to make derogatory comments toward homosexuals, and discrimination on the basis of sexual orientation is widespread. It has been reported that police do not always investigate reports of harassment, threats, or violence targeted on the basis of sexual orientation of the victim.' **[8h] (Special Circumstances: Attitudes towards homosexuals)** The National report submitted [by the government] in accordance with paragraph 15 (a) of the annex to Human Rights Council resolution 5/1* [Universal Periodic Review (UPR)] – Jamaica, dated 20 August 2010, stated, 'The Government of Jamaica respects the right of all individuals and does not condone discrimination or violence on [sic] against any person or group because of their sexual orientation.' **[99d] (p6)**

20.02 In October 2011 the Jamaica Forum for Lesbians, All-Sexuals and Gays (J-FLAG), Women for Women (in Jamaica), Heartland Alliance for Human Needs & Human Rights, International Gay and Lesbian Human Rights Commission (IGLHRC), AIDS-Free World (AFW) and George Washington University Law School submitted a report to the UN Human Rights Committee entitled 'Human Rights Violations of Lesbian, Gay, Bisexual, and Transgender (LGBT) people in Jamaica: A Shadow Report.' This, referred to below as the 'Shadow Report of 2011 to the UN Human Rights Committee', stated:

'The human rights situation of Lesbian, Gay, Bisexual, and Transgender (LGBT) people in Jamaica is dire. The Jamaican government recently amended its Constitution, adding a new Charter of Fundamental Rights and Freedoms (Charter). However, the Charter does not contain protection against discrimination on the basis of sexual orientation or gender identity.

'Jamaica retains colonial legislation criminalizing same-sex sexual conduct. 'Jamaican politicians publically engage in homophobic speech, which fosters an atmosphere of intolerance towards LGBT people within the Jamaican population. Violence and discrimination against LGBT individuals is common and widespread. Often the police, the Jamaican Constabulary Force ("JCF"), are complicit in these crimes. **[10] (Executive Summary)**

20.03 The Jamaica Forum for Lesbians, All-Sexuals and Gays (J-FLAG) stated in a website article of 10 December 2012:

'Today, J-FLAG celebrates its 14th year working to promote the human rights of lesbian, gay, bisexual and transgender Jamaicans ... We have noted progress, which demonstrates our ability as a people to respect our friends, families, classmates and co-workers, among other people, who are lesbian, gay, bisexual or transgender. This progress was reinforced by studies, which show that one in five Jamaicans now respects and/or accepts the rights of LGBT Jamaicans and would support an addendum to the Charter of Rights to include non-discrimination on the basis of sexual orientation.

'Other notable progress includes:

- Minister of Health, Hon. Fenton Ferguson's recent statement that Jamaica should repeal the buggery law
- A willingness by politicians from both political parties in the Upper and Lower Houses of Parliament to engage around issues affecting the LGBT community.
- Strengthened relationship with the police, including the Office of the Police Commissioner, which has led to an increase in LGBT persons reporting to the police and the inclusion of sexual orientation in the Police Ethics and Diversity Policy
- Public dialogue on homophobic bullying and human rights much of which has been through the media and several organisations
- Training among public health professionals from St. Ann, St. James and Kingston & St Andrew to improve service delivery that is respectful of the rights to health of LGBT persons
- More gay, bisexual and other men who have sex with men (MSM) are accessing health facilities for services related to HIV and other sexually transmitted infections (STIs)

- Proposed research through the Ministry of National Security to understand LGBT persons' perception of insecurity and victimization.

'Notwithstanding this progress, much work remains to be done to ensure that all Jamaicans are treated equally and has equal access to services including education, health and justice.

'...recent incidents of vigilante attacks on perceived gay persons continue to undermine the achievements and call into question the national commitment to equality for persons of diverse sexual orientation.' **[9g]**

For further information on the situation of LGBT persons in Jamaica, refer to the websites of the Jamaica Forum for Lesbians, All-Sexuals and Gays (J-FLAG) **[9]**; the International Gay and Lesbian Human Rights Commission (IGLHRC) Information by country: Jamaica **[20a]**; the International Lesbian, Gay, Bisexual, Trans & Intersex Association (ILGA) on Jamaica. **[42b]**

LEGAL PROVISIONS

20.04 The ILGA annual report of 2012, 'State-sponsored Homophobia: A world survey of laws prohibiting same sex activity between consenting adults', cited the following articles of the Offences Against the Person Act of 1864, which are still in force:

'Article 76 (Unnatural Crime)

"Whosoever shall be convicted of the abominable crime of buggery [anal intercourse] committed either with mankind or with any animal, shall be liable to be imprisoned and kept to hard labour for a term not exceeding ten years."

Article 77 (Attempt)

"Whosoever shall attempt to commit the said abominable crime, or shall be guilty of any assault with intent to commit the same, or of any indecent assault upon any male person, shall be guilty of a misdemeanour, and being convicted thereof shall be liable to be imprisoned for a term not exceeding seven years, with or without hard labour."

Article 78 (Proof of Carnal Knowledge)

"Whenever upon the trial of any offence punishable under this Act, it may be necessary to prove carnal knowledge, it shall not be necessary to prove the actual emission of seed in order to constitute a carnal knowledge, but the carnal knowledge shall be deemed complete upon proof of penetration only."

Article 79 (Outrages on Decency)

"Any male person who, in public or private, commits, or is a party to the commission of, or procures or attempts to procure the commission by any male person of, any act of gross indecency with another male person, shall be guilty of a misdemeanor, and being convicted thereof shall be liable at the discretion of the court to be imprisoned for a term not exceeding 2 years, with or without hard labour." **[42a] (p36-37)**

The ILGA survey did not provide information on whether there had been any recent prosecutions or convictions under Articles 76-79. **[42a] (p36-37)** The US State Department

2011 Human Rights Report: Jamaica, released on 24 May 2012, referred to the 'antibuggery law' (Article 76) and noted that 'it was not widely enforced'. **[8a] (Section 6)**

20.05 Commenting on the legal position of lesbians and gay men in the country, the Jamaica Forum for Lesbians, All-Sexuals and Gays (J-Flag), on a 'Know Your Rights advice' webpage, undated, accessed 4 December 2012, stated:

'Contrary to popular belief, it is not actually illegal to be homosexual in Jamaica. Being a homosexual does not contravene any of the existing laws; however, the law makes certain 'homosexual acts' illegal, and these laws are used to persecute gay men. They state that 'acts of gross indecency' and buggery [anal sex] are illegal. Although buggery refers to anal sex between a man and another man, a woman or an animal, in practice the law is predominately enforced against two men. Lesbians are also discriminated against in the wider society, however no laws target lesbians or lesbian conduct.' **[9e]**

20.06 As noted in Section 5, a new Charter of Fundamental Rights and Freedoms was adopted in April 2011, to replace Chapter III of the Jamaican Constitution. **[3g]** The UN Human Rights Committee stated in its Concluding Observations in November 2011:

'While welcoming the adoption of the Charter of Fundamental Rights and Freedoms in April 2011, the Committee regrets that the right to freedom from discrimination is now expressed on the grounds of "being male or female", failing to prohibit discrimination on grounds of sexual orientation and gender identity.' **[99g]**

20.07 J-FLAG's 'Happy New Year' message of 1 January 2011 stressed that the organisation: '… continues to observe and articulate the implications of the absence of a specific legal instrument to protect and promote the human rights of lesbian, gay, bisexual and transgender Jamaicans.' **[9a]** J-FLAG's message continued by stating that, 'While the enactment of laws alone will not change the engrained discrimination within our society, the presence of discriminatory laws coupled with the lack of specific protections continue to contribute to the high incidences of stigma, discrimination, harassment and other forms of abuse as well as death of Jamaicans who are, and in some cases perceived to be gay or lesbian.' **[9a]**

20.08 The Shadow Report of 2011 to the UN Human Rights Committee noted that 'Transgender persons are afforded no legal recognition of their preferred gender, which marginalizes them from the rest of society.' **[10] (Executive Summary)**

20.09 Sex reassignment therapy and surgery are not illegal in Jamaica. (GLBTQJ, 9 June 2010) **[11a]**

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TREATMENT BY, AND ATTITUDES OF, STATE AUTHORITIES

20.10 According to the Shadow Report of 2011 to the UN Human Rights Committee:

'The Government of Jamaica endorses and encourages violence and discrimination against LGBT individuals by state and non-state actors through its propagation of homophobic speech. Political leaders in Jamaica exploit the society's homophobia in order to garner votes in elections. **(p5)**

'Political leaders also use the media to disseminate their messages of hatred towards the LGBT community, justifying their views by appealing to religious doctrine. For

example, in September 2010, [former] Prime Minister Bruce Golding defended his view that same-sex conduct should remain illegal in Jamaica on the basis that Jamaica is "[f]irstly … predominately a Christian country and a fervently Christian country. **(p6)**

'Public intolerance of LGBT individuals prevents those individuals from amassing political influence. Either it is impossible for LGBT individuals to obtain political positions, or they must hide their sexual preference in order to maintain such a position. **(p6)**

'Common acceptance of public hatred towards LGBT individuals places them in an extremely vulnerable position, in which their status deprives them of significant rights within the Jamaican community.' **[10] (p7)**

20.11 The Report of the Working Group on the Universal Periodic Review – Jamaica (UPR WG Report), dated 4 January 2011, stated:

'Regarding the issue of sexual orientation, [the government of] Jamaica stressed that, although consensual sex between adult males remained proscribed by law, there was no legal discrimination against persons on the grounds of their sexual orientation. Jamaica pointed out that Jamaican law did not criminalize lesbian, gay, bisexual and transgender orientation, nor did the Government condone discrimination or violence against lesbian, gay, bisexual and transgender persons. It added that there had been no credible cases of arbitrary detention and/or harassment of such persons by the police, nor was there any such official policy. Likewise, there was no evidence of any mob-related killing of lesbian, gay, bisexual or transgender persons.' **[99e] (p6)**

See Legal rights above and Violence below

20.12 The 2009 Country Report on Human Rights Practices: Jamaica, released 11 March 2010, recorded: 'In October 2009 [former] Prime Minister Golding, who upon taking office [in September 2007] announced that no gays or lesbians would be allowed to serve in his cabinet, called for a constitutional prohibition against same-sex marriage.' **[8e] (Section 6)** However, according to the USSD Report 2011:

'In a December [2011] debate leading up to the national elections, then PNP leader Portia Simpson Miller [who subsequently became Prime Minister] said that she would appoint cabinet ministers based on ability and that sexual orientation would not be a factor, in contrast to former prime minister Golding's statement that he would not appoint a "homosexual" to his cabinet. She also said that she would permit parliament to re-examine the antibuggery law and free members of her party to vote their conscience on this issue.' **[8a] (Section 6)**

20.13 In a shadow report of September 2010 to the UN Universal Periodic Review of Jamaica, a coalition of NGOs noted that 'The distribution of condoms in prisons is banned because of the anti-sodomy laws with the result that incarcerated MSM engage in unprotected sex-acts which transmits HIV leading to a 3.6% HIV prevalence rate within the male prison population. **[22]** The USSD Report 2011 reported:

'Male inmates deemed by prison wardens to be gay were held in a separate facility for their protection. The method used for determining their sexual orientation was subjective and not regulated by the prison system, although inmates were said to confirm their sexual orientation for their own safety. There were numerous reports of

violence against gay inmates, perpetrated by the wardens and by other inmates, but few inmates sought recourse through the prison system.' **[8a] (Section 6)**

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State protection

20.14 Amnesty International (AI), in a Submission to the UN Human Rights Committee dated 9 September 2011, stated, 'Amnesty International also considers that the Jamaican government has not implemented measures adequate to protect lesbian, gay, bisexual and transgender people from the violence and other forms of discrimination with which they are targeted by reason of their sexual orientation alone.' The AI Submission noted:

'For example, just after midnight on 20 February 2011, approximately 20 heavily armed officers raided a gay club in Montego Bay. The police reportedly kicked in the doors of the club, beat and pistol-whipped patrons, and chased patrons from the venue. The police reportedly used homophobic language when intimidating and beating patrons. The police did not disclose the purpose of the raid. At least ten people are reported to have been treated at hospital for injuries received during the raid. Nobody was arrested.

'Amnesty International believes that such attacks continue to occur and go unpunished at least in part because of the retention of discriminatory laws (Articles 76, 77 and 79 of the Offences Against the Person Act) that effectively outlaw same-sex conduct, and send a message that such discrimination is endorsed by the state.' **[3g]**

20.15 The Shadow Report of 2011 to the UN Human Rights Committee stated:

'[T]he government of Jamaica has demonstrated its unwillingness to protect individuals who suffer violence and discrimination on the basis of their LGBT status. In fact, the police are frequent violators and are not held accountable for their actions. Between January 2009 and August 2011, J-FLAG, an organization promoting the human rights of LGBTs, received 17 reports of homophobic incidents perpetrated by the police. **(p7)**

'Overall, there is a widespread phenomena of ongoing failure to properly investigate crimes committed against individuals based on sexual orientation or gender identity. As documented by Human Rights Watch, in Jamaica crimes against LGBT individuals are often dismissed as "crimes of passion" regardless of the strength of evidence that the crime was based on sexual identity.' **(p8)**

'...LGBT individuals also lack access to protective police services. They are reluctant to report violence because, in addition to police complicity in violence against LGBTs, victims often cannot report the violence without admitting their sexual orientation and therefore incriminating themselves under the laws prohibiting same-sex sexual conduct. **(p9-10)**

'Jamaican police frequently harass LGBT individuals on the streets. **(p12)**

'In Jamaica, there no specific recognition of hate crimes against individuals who are targeted based on actual or perceived sexual orientation or gender identity. Furthermore, often the victim's sexual orientation or gender identity is used as a mitigating, rather than aggravating, factor in prosecution...' **[10] (p17)**

20.16 J-FLAG's message of 1 January 2011, when discussing the continuing violence against LGBT persons during 2010, remarked, 'Sadly, in the majority of cases, there have been little or no thorough investigation and/or prosecutions for such inhumane acts unless the case has been labeled "high profile".' **[9a]**

20.17 Maurice Tomlinson, an activist and legal advisor with AIDS-Free World, disseminated a letter dated 27 February 2011 regarding an e-mailed death threat he had received in response to his pro-tolerance activism, in which he described the response of the police, stating, '… [I] was disturbed by the homophobic rhetoric from the recording officer … I am therefore not confident of police protection in Jamaica.' **[35d]** According to a news release of 18 July 2012 from Human Rights Watch:

'Homophobic threats, including death threats, caused one of the most outspoken campaigners for the rights of LGBT people, Maurice Tomlinson, to flee Jamaica in January. He told Human Rights Watch and the Inter American Commission that he had asked police in Montego Bay to protect him, but that the police officer in charge responded by saying, "I hate gays, they make me sick."

'"Homophobia is so bad that human rights defenders advocating the rights of LGBT people are not safe in Jamaica," said Boris Dittrich, advocacy director in the Lesbian, Gay, Bisexual, and Transgender (LGBT) Rights Program at Human Rights Watch.' **[59d]**

20.18 J-FLAG's January 2011 message noted, '… police men and women have been more professional in their attempts to serve and protect lesbian, gay, bisexual and transgender Jamaicans.' **[9a]** Additionally, 'We salute the Jamaican foreign ministry who communicated with J-FLAG about their December 22 [2010] vote at the United Nations to 'recognize that…people [of different sexual orientation] continue to be the target of murder in many of our societies, and they are more at risk than many…other groups'. This demonstrated a welcome measure of accountability and transparency in our foreign policy.' **[9a]**

20.19 The Immigration and Refugee Board of Canada (IRB) Research Directorate, in a response dated December 2010 to an information request on how police treat complaints made by LGBT persons in Jamaica, reported: 'In a telephone interview with the Research Directorate, a representative of Caribbean Vulnerable Communities (CVC), a coalition of leaders and organizations that work with Caribbean populations vulnerable to HIV/AIDS...explained that police harassment usually takes the form of verbal abuse ... However, there are also reported cases in which the police have physically abused LGBT people.' The response quoted the CVC representative as saying that 'there are 'pockets' of improvement in the police treatment of LGBT people and that some 'isolated' cases of violence against them are being properly investigated. However, he cautioned that 'there is still a long way to go' and that 'these cases are the exception rather than the norm.' The IRB response noted, '[T]he Executive Director of J-FLAG states that there have not been any prosecutions of participants of mob violence against LGBT people. **[33a]**

20.20 The December 2010 response by the Canadian IRB added, 'The CVC representative ...stated that LGBT victims are afraid of how the Jamaican police will handle their cases...Specifically, he noted that the Jamaican police have a history of divulging information about such incidents, of not thoroughly investigating cases of violence against LGBT people (including murder), and of not intervening when LGBT victims are subject to violence.' **[33a]**

See also Section 9: Security forces

Access to health services

20.21 According to the Shadow Report of 2011 to the UN Human Rights Committee:

'Health workers in Jamaica reportedly routinely mistreat patients with HIV or AIDS by providing inadequate care or by denying treatment altogether. In certain cases, doctors are afraid to touch infected patients, effectively preventing them from conducting adequate examinations ... Those who have made it to clinics are sometimes turned away and subjected to abusive comments from health care providers, decreasing the chances that they will get treatment. Cases have been documented in which health workers have released confidential medical information about HIV/AIDS patients to the public and other patients by segregating the HIV positive patients from the other patients. **[10] (p9)**

See Section 25: Medical issues: HIV/AIDS: Discrimination against people living with HIV/AIDS. See also paragraph 20.03 above.

20.22 A study published in April 2012 by the Communication for Change (C-Change) project in Jamaica recorded:

'While some ethnographers [researchers] were recruited as persons intending to seek health care during the study, many explained they sought the medical services of private doctors who were thought to be sympathetic and nonjudgmental toward their lifestyle. Based on discussions with the ethnographers, it emerged that this often resulted in study participants seeking health care outside their parishes. This would make health care more costly than if it was obtained at local public clinics, and thus, creates a barrier to care for some MSM.' **[100] (p22)**

See paragraph 20.26 for further information about this study and its findings.

20.23 An article by JG White, L Barnaby, D Swaby and T Sandfort, in the International Journal of Sexual Health of 1 April 2010, indicated that a relatively high percentage of LGBT persons in Jamaica have suffered from an 'Axis I' psychiatric disorder, such as major depression or substance abuse disorder, at some point in their lives. **[93a]** As discussed in Section 22, comprehensive mental health treatment facilities exist in Jamaica; COIS has found no information on LGBT persons being refused psychiatric or psychotherapy treatment at government hospitals for non-medical reasons. Counselling support is available from J-FLAG, which provides counselling services, referrals and 'crisis interventions'. **[9d]**

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SOCIETAL TREATMENT AND ATTITUDES

20.24 The UPR WG Report of January 2011 stated that, 'Jamaica stressed that the issue of male homosexuality was one of great sensitivity in Jamaican society, in which cultural norms, values, religious and moral standards underlay a rejection of male homosexual behaviour by a large majority of Jamaicans...' **[99e] (p6)**

20.25 In July 2012, the Department of Sociology, Psychology and Social Work of the University of the West Indies, under Prof. Ian Boxill, released the findings of the 2012 'National Survey of Attitudes and Perceptions of Jamaicans towards Same Sex

Relationships'. The study, which was commissioned by J-FLAG and funded by AIDS-Free World, used a nationally representative sample of 1000 persons between 18 and 84 years, and two focus groups. As related in the Executive Summary, the survey found, for example:

- 'Most respondents believe homosexuality is between somewhat and very prevalent (92.8%) in Jamaica, with large proportion (48.5%) saying that it is present in all social classes.'

- 'Respondents felt that male (88%) and female (83.7%) homosexuality and bisexuality (83.5%) were immoral.'

- 'Approximately 53% of the sample felt that professional help can change a homosexual's sexual orientation to heterosexual; this represents an increase of about 6% compared to the previous]2011] study.'

- 'Most respondents disagreed with amending both the buggery law (76.7%) and the Charter of Fundamental Rights and Freedoms [which replaced Article III of the Constitution] to protect the rights of those who are part of the Lesbian, Gay, Bisexual and Transgender (LGBT) community (65%). However, 21.3% said they would support an amendment allowing for consensual sex between adults in private.'

- 'Although the majority of respondents (82%) disagreed with the idea of the Charter affording the status of marriage to same-sex unions, 37% of respondents felt that the Government was not doing enough to promote the rights of the LGBT community to freedom from discrimination and violence.'

- 'Most business persons said that they were not likely to hire persons who were known to be non-heterosexual, mostly because they felt that it would make their co-workers uncomfortable. Most, however, said that they would not fire someone because of their sexual orientation.'

- '[F]emales, higher educated persons and those who do not listen mostly to reggae and dancehall music are likely to have less negative attitudes towards homosexuals. Religious persons are seemingly becoming more tolerant, but positive attitudes to homosexuals are still more likely found in less religious individuals. Young persons (35 and under) were found to be slightly less negative in their views than older persons.' **[49a] (Executive Summary)**

The full report can be accessed at: http://www.jflag.org/wp-content/uploads/2012/09/2012-ATTITUDES-AND-PERCEPTIONS-OF-JAMAICANS-TOWARDS-SAME-SEX-RELATIONSHIPS.pdf

20.26 The Communication for Change (C-Change) project in Jamaica, implemented by the NGO 'FHI 360' and its partner organisations, published a study in April 2012, 'Stigma and Discrimination Against Men Who Have Sex with Men in Jamaica'. This research was based on input from '23 trained MSM ethnographers aged 18 to 40 years from five Jamaican parishes [who] went about their daily lives over a three-week period and documented observations, conversations, and personal experiences to understand the dynamics and environments that facilitate and perpetuate stigma and discrimination.' **[100] (Executive summary)** The study found that 'MSM stigma and discrimination was evident in several environments in Jamaica...' More specific findings apparently included the following:

- 'Verbal stigma/discrimination enacted directly or within earshot of the target, was found to be the most common (85 percent...) form [of abuse] observed. Labels such as "batty bwoy" or "batty man" ...were considered so acceptable that one study respondent felt he had become part of the general arsenal of derogatory words used in heated disputes.'

- 'Physical discrimination/harassment was less common (5 percent...) with reports of stories of MSM being stabbed, shot, and attacked with machetes and sticks or a target of violent threats due to their sexuality.'

- 'Nonverbal stigma/discrimination was also manifested (7 percent...), including derogatory looks, shunning, and avoidance.'

- 'While both males and females enacted stigma/discrimination against MSM, the overall profile of the perpetrator was a male (73 percent...) between 18–45 years of age (65 percent...). Males were much more likely to make more negative and threatening comments than females ... While in a minority of all documented perpetrators, youth also took part (22 percent...) and were particularly aggressive and offensive.'

- 'When family members discovered that one of their own was a homosexual, reactions often became violent and involved ejection from the home.'

- 'MSM experienced stigma/discrimination within their own community, including from friends and partners.'

- 'MSM discrimination took place in the rental property market; landlords asked discriminatory questions to determine if the potential tenant was an MSM.'

- 'Discrimination was also documented in the unwillingness of cashiers or store clerks to assist customers deemed to be homosexuals.'

- 'In educational establishments MSM were a regular target of verbal insults and shunning in dormitories/on campuses; sexual harassment from MSM in positions of power (teachers) took place.'

- 'In health facilities staff and providers often used nonverbal actions and body language to communicate disrespect; staff gossip about MSM patients took place.'

- 'Common feelings among MSM ethnographers included: Depression and suicidal thoughts to resolve endless emotional pain; [f]ear of daily verbal abuse and physical attacks; [f]rustration with having to hide oneself and not live freely; [f]eelings of anger and acts of retaliation toward perpetrators.'

- '...MSM stigma/discrimination was found consistently across several environments in Jamaican society ... generally Jamaicans seemed to participate in, acquiesce, or passively observe MSM stigma/discrimination when it occurred.' **[100] (Executive summary)**

The full report can be accessed at: http://www.c-changeprogram.org/sites/default/files/Stigma-MSM-Jamaica.pdf

20.27 J-FLAG's Happy New Year message of 1 January 2011 reported some signs of improvement in the attitude to LGBT persons in 2010, stating, '…we have seen some

encouraging demonstrations that there are possibilities for lesbian, gay, bisexual and transgender Jamaicans to be accorded their human rights and dignity. This has been demonstrated by the numerous public activities that have been held without incident since April [2010] to raise the awareness of the issues being faced by the lesbian, gay, bisexual and transgender community and our allies.' **[9a]**

20.28 J-FLAG's January 2011 message also noted, 'The media has begun to feature more constructive conversations, articles and letters with regards to the rights of lesbian and gay Jamaicans. Key leaders in our society have accepted our invitation and extended a helping hand to have conversation with us and support our advocacy and programmes.' **[9a]**

20.29 A July 2009 article by Associated Press observed, 'The anti-gay sentiment [in Jamaica] has perhaps become best known through Jamaican "dancehall," a rap-reggae music hybrid that often has raunchy, violent themes. Some reggae rappers…depend on gay-bashing songs to rouse concert-goers.' **[38a]** The Freedom House, Freedom in the World 2012 report, released on 22 August 2012, noted, 'The antigay lyrics of Jamaican entertainers, particularly reggae singers, remain a source of contention.' **[32c] (Political Rights and Civil Liberties)**

20.30 The Shadow Report of 2011 to the UN Human Rights Committee noted that the Jamaican Broadcasting Commission issued a directive in February 2009, preventing the broadcast of songs or other material which 'promotes and/or glorifies any offence against the person such as murder, rape, mob violence and other offences such as arson.' However, the Shadow Report stated:

'Despite this directive, dancehall music that incites violence against LGBT individuals remains a problem in Jamaica. First, popular dancehall and reggae shows are unregulated, and artists are free to incite violence against LGBT individuals in these public spaces. Second, these songs are also widely accessible on the internet. Lastly, most artists produce edited versions of their songs for airplay, and while the words in the edited versions are less graphically violent, the message remains of hatred towards LGBT individuals remains the same.' **[10] (p20)**

Violence against LGBT persons

20.31 The executive director of J-FLAG commented in an article of 12 July 2012:

'Admirable public statements and pockets of increased tolerance towards the LGBT community should not negate the reality of the discrimination and violence being experienced. J-FLAG receives almost daily calls, emails and walk-in reports of persons being kicked out of their homes, physically assaulted, raped and verbally abused because of who they are ... Since January 2012, there have been approximately 20 incidents with 11 of them being physical assaults.' **[9f]**

20.32 An article published by the International Gay and Lesbian Human Rights Commission (IGLHRC) on 7 July 2011 stated:

'Jamaicans continue to experience human rights violations at the hands of their family, friends, neighbours, landlord, police or mobs because of their sexual orientation. Since January 2011, fifty-one incidents, including mob attacks, physical abuse, home evictions, and discrimination were reported with forty-seven of these meted out to males. Similar to national statistics on crime and violence, young people, 18 to 29

years, continue to be the main victims of violence based on sexual orientation. Young people made more than 30 of the 51 reports.

'"On average, J-FLAG has documented between 30 and 40 cases annually over the past three years, but we have seen an increase in the number of reports which shows that homophobia based harassment and discrimination continues because of the lack of protection of the human rights of homosexuals living in Jamaica by the state," says Dane Lewis, Executive Director at J-FLAG.' **[20b]**

20.33 According to the USSD Report 2011:

'During the year [2011] J-FLAG received 84 reports of sexually motivated harassment or abuse, which included 71 cases of attempted or actual assault, including at least two killings, and 21 reports of displacements. Members of the police force reportedly were the perpetrators in 12 cases. J-FLAG data showed that young people, ages 18 to 29, continued to bear the brunt of violence based on sexual orientation.' **[8a] (Section 6)**

20.34 The Shadow Report of 2011 to the UN Human Rights Committee noted:

'Violence against lesbian women is prevalent in Jamaica and the state is unresponsive. Often, crimes against lesbian women and transgender women are committed in the home... **(p13)**

'Women for Women, the primary advocacy group for lesbians in Jamaica, has documented increasing numbers of domestic violence and rape of lesbian women, but also that few women feel they can rely on the police for fear of further victimization from the police themselves. **(p13)**

'J-FLAG recorded six cases of "corrective rape" in 2006, in which men raped women in an attempt to "cure" their sexual preference ... In 2008, four cases of "corrective rapes' were reported to Women for Women, and another three in 2010, including one that tragically ended in murder. Although J-FLAG tracks the reports of incidents such as these, these numbers are likely under-representative of the actual problem of corrective rapes because women do not reveal these attacks to anyone for fear of further attacks from their families, upon whom they may be financially dependent. **(p14)**

'Women for Women describes that one of their members who is a lesbian was forced to leave her neighborhood due to the constant harassment, cat-calls and threats that she suffered when she would walk to and from her home with her partner. **(p16)**

'Gender discrimination also disproportionately affects transgender individuals. In December 2010, the police discovered the dead body of a transgender individual hidden behind a building. The victim was chopped to death. Recently, a group of men raped a thirteen-year-old transgender individual in Kingston. News coverage of these incidents did not reveal that any police investigation into these deaths had occurred, and Jamaican activists are not aware of any action taken to seek accountability for these murders of transgender individuals.' **[10] (p14)**

20.35 Amnesty International, in a 'Submission to the UN Human Rights Committee' dated 9 September 2011, stated, 'In 2010, interviews conducted by the Jamaican association Women for Women on 11 lesbian, bisexual and transgender women victims of violence found that only one had reported [a] rape to the police and after two years she was still waiting for the court hearing. The others had not reported the crime because they feared being criminalized on account of their sexual orientation. **[3g]**

See also Section 22: Women: Violence against women

20.36 According to an article in The Gleaner of 8 July 2012:

'Former Assistant Commissioner of Police Les Green...rubbished a common claim by the gay community and international rights groups that homosexuals in Jamaica are victims of wanton murder, mob-mauling and marginalisation.

'His [Green's] pronouncement came just weeks after gay lobby group Jamaica Forum For Lesbians All-Sexuals and Gays (JFLAG) suggested that two men killed in the New Kingston area were slain because of their sexual preference.

'...Green said despite claims by JFLAG that Jamaicans are intolerant of their lifestyle, and are targeting them for death, his experience during his tenure here was totally different ... 'JFLAG has, for years, contended that gay people have been marginalised in Jamaica, but Green said while that may have been the case in the past, the country has come a long way in tolerating the homosexual lifestyle ... "I think Jamaica is far more tolerant than the public hype. There is a vibrant community in Jamaica and there isn't the sort of backlash that some people say...", Green said

'Green explained that as a homicide investigator he worked closely with the gay lobby group which referred him to several incidents in which members of their community were murdered ... However, the former Scotland Yard detective said his findings show that the majority of gay killings are carried out by members of the gay community.' **[36i]**

20.37 On 2 November 2012 a student at the University of Technology (UTech) in St Andrew, Jamaica was attacked. According to the GLBTQ Jamaica blog, '[A] male student at the UTech was reportedly set upon by a mob on the university's compound after he was allegedly caught "in a compromising position" with another male student. He reportedly sought refuge in one of the guard rooms on the campus, where two security guards...were caught on camera hitting him all over his body. The two security guards have since been taken into police custody...' The attack was condemned by the Jamaica Umbrella Group of Churches, amongst others. **[11b]**

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21. DISABILITY

21.01 Jamaica acceded to the UN Convention on the Rights of Persons with Disabilities, and to its Optional Protocol, on 30 March 2007. (UN Treaty Database) **[12a]**

21.02 The US State Department 2011 Human Rights Report: Jamaica (USSD Report 2011), released on 24 May 2012, observed:

'There are no laws prohibiting discrimination against persons with disabilities or mandating accessibility for persons with disabilities. Although the government ratified the UN Convention on the Rights of Persons with Disabilities in 2007, there were no reports of actions taken to implement the provisions of the convention. Persons with disabilities encountered discrimination in employment and denial of access to schools. Discrimination in access to education was particularly pronounced at the primary level.

'Health care reportedly was universally available.

'The Ministry of Labor has responsibility for the Jamaica Council for Persons with Disabilities, which had a budget of [J$]54 million (US $661,770) in 2010-11. The council distributes economic empowerment grants of up to J$50,000 (US $613) to persons with disabilities to help them embark on small entrepreneurial ventures, such as vending or furniture making, or to provide them with assistive aids, such as prosthetics or hearing aids. Smaller rehabilitation grants of up to J$15,000 (US $185) are available for similar purposes. The Ministry of Labor also has responsibility for the Early Stimulation Project, an education program for children with disabilities, as well as the Abilities Foundation, a vocational program for older persons with disabilities.' **[8a] (Section 6)**

21.03 The Planning Institute of Jamaica, in a document of June 2009 entitled 'Vision 2030 Jamaica: Persons with Disabilities: Sector Plan 2009-2030' (Vision 2030 Report), set out a detailed plan to guide Jamaica into achieving developed country status by 2030 in respect of access for disabled persons; the same document described the situation as of 2009, as follows:

- Population census:

According to the Vision 2030 Report, the 2001 Jamaican national Census attempted to identify the number of people with disabilities; it recorded 163,206 persons with disabilities, comprising 6.3 per cent of the population. When the 2001 census data were disaggregated by demographic characteristics, the results were as follows:

'Just over a half of the population with disabilities (83,019) were females. Some 32,207 (20 per cent) were children in the 0-14 age group (52.5 per cent males) while youth (15-24 years) accounted for 12.6 per cent (20,617). The elderly (60 years and over) represented 29.5 per cent of persons with disabilities (48 190), of which 56.3 per cent were female. Of the total population 62,529 persons (38.3 per cent) specified their disability types. These included visual, hearing and speech impairment, physical and learning disabilities, mental retardation and mental illness. The disability type most frequently reported was visual impairment, representing 35.9 per cent (22,425) with 57.4 per cent of the distribution being. Visual impairment was most common among the elderly. The number of persons reported as having multiple disabilities was 2,416.'

The Vision 2030 Report cautioned that 'The Census data understates the actual population figures for persons with disabilities, because the method of data collection leaves room for certain types of disabilities and some PWDs [Persons With Disabilities] to be overlooked.' **[30a] (p6-7)**

- Societal attitudes:

The Vision 2030 Report stated:

'Generally speaking, attitudes towards persons with disabilities remain negative though they have improved over the last 20 years because of more publicity being given to this subject … [For example] The 'Draft National Survey on Public Attitudes toward Persons with Intellectual Disability' revealed that while there are some positive attitudes towards these individuals, some negative perceptions remain. For example, of the sample of 650 persons, 88 per cent believed that persons with intellectual disabilities were somewhat capable of playing on a sports team for persons with intellectual disabilities only. Forty one per cent did not think that they were capable of playing on a team with persons who do not have an intellectual disability. There was a general opinion that a mixed team (with persons with intellectual disabilities and persons without intellectual disabilities)

would be likely to result in 'more injuries to the other players', 'decrease the team's ability to win' and 'make the public regard the team as second rate.' A significant proportion of the sample also believed that persons with intellectual disabilities are incapable of raising children and only 2.2 per cent believe that adults with intellectual disability should live independently.' **[30a] (p8-9)**

- Legal provisions:

'Policy positions that might affect persons with disabilities are included in the Jamaican Constitution, the National Policy on Disability, and various specific legal provisions … The National Policy for persons with disabilities was passed by Parliament in November 1999. It was based on the requirements of the U.N. Standard Rules. This policy provides guidelines for cooperation between government and civil society in addressing the equalization of opportunities for persons with disabilities. The National Policy on Disability, however, is not enforceable as it lacks legal sanctions.

'Much work has been done to try to introduce additional legal rights for persons with disabilities. At present the government is in the process of developing a National Disability Act, which was initially scheduled for completion during the 2008 legislative year. The new government (which took office in 2007) has endorsed the National Disability Act.

'In addition to the National Policy for Persons with Disabilities, there are several laws that protect people with disabilities. For example, persons with disabilities are recognized and protected under the social protection system. In 1992, income tax concessions were introduced for persons with disabilities.

'In cases of violations of their rights, the primary mechanisms for recourse for persons with disabilities are civil lawsuits, criminal prosecutions, and intervention from an independent human rights organization.

'Under the Constitution of Jamaica, all citizens have the right to vote. The law also provides for a voter who is blind to be assisted in casting his or her ballot, either by an acquaintance of his or her choosing or by the presiding officer at the polling station … The Constitution states that people who are 'certified to be insane or otherwise adjudged to be of unsound mind' are declared 'incapable of being registered as electors and disqualified from voting at an election and shall not be so registered or vote at an election.' … Section 15 of the Constitution specifies that a person who is 'reasonably suspected to be of unsound mind,' may be deprived of personal liberty.' **[30a] (p9-11)**

- Early detection and early intervention:

'Early detection is not yet carried out systematically by the Ministry of Health and Environment, though there are plans in place for this. An early intervention programme, the Early Stimulation Programme, a programme of the Jamaica Council for Persons with Disabilities, which is an agency under the Ministry of Labour and Social Security provides these services in Kingston.' **[30a] (p12)**

- Education:

'There are no recent data available from the Ministry of Education regarding the number of school aged children with disabilities ... the Ministry of Education, Youth and Culture reports that since coming under the control of the government, more children with

disabilities have gained access to school-based special education programmes. Home and community-based rehabilitation programmes (CBR) have also improved the opportunities for children with mental/intellectual disabilities. Some vocational training is available at the School of Hope and the Abilities Foundation … Data on the 2007/2008 academic year indicate that there were 412 teachers employed in Special Education schools … The data also shows that 4,115 students with special needs were enrolled in schools … Students are served in approximately 44 independent and government facilities at the pre-school, primary and secondary levels across the island. There is one post-secondary vocational training facility serving youth and adults with special needs … A Ministry of Education and Youth report which provided an assessment of educational provisions and services for persons with disabilities, states that 'despite these initiatives and the increase in coverage and quality, the Special Education programme continues to suffer from the lack of sufficient numbers of trained teachers, inadequate facilities and equipment and irregularity in student attendance' ... Teachers and parents may refer children to the Mico Teachers' College CARE Centre, the School of Hope, the Child and Family Clinic at the University Hospital of the West Indies or the Jamaica Association for Children with Learning Disabilities (JACLD) for testing.' **[30a] (p12-14)**

- Employment:

'The majority of adults with disabilities in Jamaica are unable to find gainful employment. Factors that prohibit their inclusion in the workforce are poor education, discrimination, inaccessible workplaces, and the low levels of experience. The government is an employer of persons with disabilities … Some vocational training and job placement programmes are offered by the government through the Abilities Foundation, the JCPD, and various NGOs.' **[30a] (p14-15)**

- Health Services:

'Health care for persons with disabilities is provided by the Ministry of Health in clinics. A medical rehabilitation service is provided by the Ministry of Health at the Sir John Golding Rehabilitation Centre, which offers long-term rehabilitation services, and eleven public hospitals that provide acute care. Assistive devices are available at the Sir John Golding Rehabilitation Centre on a subsidized basis. These can also be obtained from NGOs such as Jamaica Society for the Blind, Jamaica Society for the Deaf, Paradof, and 3D Projects as well as commercial entities such as Rehab Plus.' **[30a] (p15)**

- Housing:

'The National Housing Trust (NHT), a government-funded agency, has a special benefit programme to assist people with disabilities in purchasing or building homes. Mortgage loans are offered to people with disabilities at two percent below the market interest rate. A percentage of all houses built by the NHT are reserved for persons with disabilities.' **[30a] (p15)**

- Institutionalisation:

'There are various institutions, which provide long and short-term care for people with severe disabilities. Persons with disabilities are typically admitted in situations of risk; when they are abandoned, or when their families are unable to care for them.' **[30a] (p16)**

21.04 At the following link is information on the Jamaica Council for Persons with Disability and the Abilities Foundation Of Jamaica: http://www.mlss.gov.jm/pub/index.php?artid=26

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22. WOMEN

OVERVIEW

22.01 The United Nations Treaty Database recorded that Jamaica is a signatory to the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) **[12a]** As of 27 September 2012; Jamaica had not acceded to the Optional Protocol to the Convention. **[12a]**

22.02 The Jamaican government notified CEDAW in February 2012:

'There are several programmes and initiatives aimed at addressing discriminatory attitudes and traditional stereotypes. These include the...National Gender Policy; National Plan of Action on Gender Based Violence; Schools' Education Programme, Community Based Programmes, Justice System Workshops [and] Legislative Review public awareness sessions ... Efforts also persist to ensure that the role of media in combating such stereotypes and attitudes is understood. **[72e] (pt.6)**

'In an effort to ensure that the administrators of the justice system are fully aware of the obligations emanating from the international treaties and conventions that have been ratified by the Government of Jamaica regarding the rights of women, the Bureau of Women's Affairs continues to coordinate and organize sensitizations workshops and seminars for Resident Magistrates and High Court Judges. **[72e] (pt.3)**

22.03 The addendum to the Report of the Working Group on the Universal Periodic Review – Jamaica (UPR Addendum), dated 11 March 2011, reported:

'The Bureau of Women's Affairs [BWA], which was established [by the government] in 1974, is charged with the responsibility of ensuring that women are empowered to achieve their full potential as individuals and contributors to national development. The Bureau is in the process of establishing a National Gender Advisory Commission and has launched the National Policy on Gender Equality which is expected to more definitively mainstream gender in public policies, programmes and plans as well as create more opportunities for redress regarding offences committed against women and girls.' **[99f] (p4)**

22.04 The US State Department 2010 Human Rights Report: Jamaica, released on 8 April 2011, observed, 'There was an active community of women's rights groups, which focused on the protection of victims of sexual abuse, participation of women in the political process, and legislative reforms affecting women.' **[8b] (Section 6)**

See also Section 16: Human rights institutions, organisations and activists

LEGAL RIGHTS

22.05 The website of UN CEDAW noted that, as a signatory to the UN Convention on the Elimination of All Forms of Discrimination against Women, Jamaica had committed to

'undertake a series of measures to end discrimination against women in all forms', including:

- 'to incorporate the principle of equality of men and women in their legal system, abolish all discriminatory laws and adopt appropriate ones prohibiting discrimination against women;
- 'to establish tribunals and other public institutions to ensure the effective protection of women against discrimination; and
- 'to ensure elimination of all acts of discrimination against women by persons, organizations or enterprises.' **[72d]**

22.06 The Report of the Working Group on the Universal Periodic Review – Jamaica (UPR WG Report), dated 4 January 2011, stated, 'Regarding the legislative framework, Jamaica affirmed its commitment to bringing the country's legal framework into compliance with the provisions of CEDAW. Jamaica highlighted the fact that key legislation had been enacted to address this, including the Domestic Violence Act (2004) and the Sexual Offences Act (2009).' **[99e] (p5)**

See also Violence against women below

22.07 The new Charter of Fundamental Rights and Freedoms, which was adopted in April 2011 to replace Chapter III of the Jamaican Constitution, prohibits "discrimination on the ground of being male or female". **[50a] (Article 13(3)i)**

See also Social and economic rights below

POLITICAL RIGHTS

22.08 The US State Department 2011 Human Rights Report: Jamaica (USSD Report 2011), released on 24 May 2012, recorded:

'On December 29 [2011], voters elected eight women to the new Parliament, including three of the JLP's 13 female candidates and five of the six PNP nominees, including the party leader and candidate for prime minister. [Prior to the 2011 general election] there were eight female members in the [63-seat] House of Representatives and three women appointed to the 21-seat Senate ... A woman was elected speaker of the house on July 12 [2011], the second woman in the country's history to hold the position.' **[8a]**

22.09 As noted in the BBC News 'Jamaica Profile', updated on 9 October 2012, Portia Simpson Miller was elected President of the People's National Party (PNP) in February 2006 and served as Prime Minister of Jamaica from March 2006 to September 2007. She became Prime Minister again in January 2012, following the PNP's win in the general election of December 2011. **[21a] (Leaders)**

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SOCIAL AND ECONOMIC RIGHTS

22.10 The National report submitted [by the Jamaica Government] in accordance with paragraph 15 (a) of the annex to Human Rights Council resolution 5/1* [Universal Periodic Review (UPR)] – Jamaica (National Report to the UPR), dated 20 August 2010, stated:

'The Government of Jamaica continues to ensure that legislation related to marriage and family life is not discriminatory to women and guarantees equality of rights and responsibilities between women and men.

'In addition, women continue to enjoy the same rights as men to conclude contracts and administer property. Both women and men are allowed the same capacity to enter into legal relations and to administer property.

'There is no legal discrimination against women as they have the right to make contracts relating to credit, real estate and other property, as well as other commercial transactions in their own name. In this regard, women have the autonomy to manage their personal affairs, regardless of their marital status.' **[99d] (p10)**

22.11 Nevertheless, the UPR WG Report of January 2011 noted, '…Jamaica recognized the continued existence of cultural and societal biases against women. 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.' **[99e] (p5)**

Education and employment

22.12 According to the 2012 Jamaica Country Report from the Bertelsmann Foundation, 'Jamaica enjoys near gender balance in respect of enrolment of girls and boys at the primary level. A gender imbalance begins to appear at the secondary level (15 to 16 years old), when girls begin to outnumber boys, and this situation worsens at the tertiary level, where the percentage of females to males enrolled at the tertiary level is 221%.

'The dominance of young women at the tertiary level is not replicated however in employment opportunities. The unemployment rate of women is twice that of men. Despite an increase in the number of individual women in leading positions, especially in public service, equal access of women to employment continues to be affected by systemic gender discrimination and gender division in labor.' **[39b]**

22.13 The USSD Report 2011 stated:

'Although the law accords women full legal equality, including equal pay for equal work, in practice women suffered from discrimination in the workplace and often earned less than their male counterparts ... In March [2011] the cabinet approved a National Policy for Gender Equality aimed at providing equal opportunities for men and women in social, political, and economic life. This policy establishes Gender Focal Points in each of the ministries, which are committees charged with developing, implementing, and monitoring gender-sensitive policies and programming.' **[8a] (Section 6)**

22.14 The report 'Because You're a Girl: Growing up in the Commonwealth' showed a considerable disparity between the incomes of Jamaica's women and men. **[82a]** The UPR WG Report of 4 January 2011, stated that, 'The Jamaican delegation… added that it has implemented legislation in relation to equal pay for men and women...' **[99e] (p13)**

Health and reproductive rights

22.15 A 14 March 2011 Jamaica Observer article reported on the publication of the March 2011 RCS and Plan UK joint report, 'Because You're a Girl: Growing up in the Commonwealth' **[82a]**, stating:

'According to the report, Jamaica's women are expected to live to an average age of 74, five years longer than men. The report also states that the number of underweight girls under age five is equal to that of the boys. … Meantime, the fertility rate of girls aged 15 to 19 years is 85 per 1,000. 'Girls who give birth while still in their teens are not only more vulnerable to maternal mortality and morbidity but have limited capacity to enter the paid labour force, to access resources or to earn an independent income later on,' the report states.' **[36g]**

22.16 The USSD Report 2011 stated:

'Couples and individuals have the right to decide the number, spacing, and timing of children, and had the information and means to do so free from discrimination. Access to information on contraception and skilled attendance at delivery were widely available. However, essential obstetric and postpartum care was often lacking. The UN Population Fund reported a modern contraceptive prevalence rate of 66 percent and a maternal mortality rate of 89 deaths per 100,000 live births.' **[8a] (Section 6)**

22.17 The Offences Against the Person Act, 1864 (as amended in 2005), contains the following articles relevant to abortion:

'72. Every woman, being with child, who with intent to procure her own miscarriage, shall unlawfully administer to herself any poison or other noxious thing, or shall unlawfully use any instrument or other means whatsoever with the like intent; and whosoever, with intent to procure the miscarriage of any woman, whether she be or be not with child, shall unlawfully administer to her, or cause to be taken by her, any poison or other noxious thing, or shall unlawfully use any instrument or other means whatsoever with the like intent, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for life, with or without hard labour.

'73. Whosoever shall unlawfully supply or procure any poison or other noxious thing, or any instrument or thing whatsoever, knowing that the same is intended to be unlawfully used or employed with intent to procure the miscarriage of any woman, whether she be or be not with child, shall be guilty of a misdemeanour, and, being convicted thereof, shall be liable to be imprisoned for a term not exceeding three years, with or without hard labour.' **[7c] (p37-38)**

22.18 The United Nations Department of Economic and Social Affairs (UN ESA) Population Division's undated report, Abortion Policies – A Global Review, remarked that there were grounds upon which abortion may be permitted in Jamaica: To save the life of the woman or to preserve her physical and/or mental health. **[85a] (p1)**

22.19 The UN Human Rights Committee stated in its Concluding Observations dated 17 November 2011, 'The Committee is concerned at the prohibition of abortion, which compels pregnant women to seek clandestine and harmful abortion services. The Committee is further concerned at reports of high rates of teenage pregnancies in [Jamaica], where it is reported that 20 per cent of all pregnancies in [Jamaica] occur among teenage girls.' **[99g]** A 13 March 2010 *Jamaican Observer* article reported that the February 2007 Final Report of the Abortion Policy Review Advisory Group (APRAG) **[40f]**, '…found that most of the women seeking abortions were 'young, poor, unemployed, and lived in economically and socially deprived communities'. **[36f]**

22.20 The director of the United Nations Population Fund (UNFPA), in October 2010, urged Jamaica to adopt a new maternal health strategy to reduce the incidence of maternal

mortality. Nevertheless, figures published by the World Health Organisation in 2009 showed that there were 95 maternal deaths to every 100,000 live births – a significant improvement on 170 per 100,000 in 2005. (The Gleaner, 28 October 2010) **[34i]**

22.21 The undated Programmes page of the Uplifting Adolescents Project Phase 2 (UAP2) website, Jamaica-Kidz.com, recorded that the Women's Centre of Jamaica Foundation (WCJF) 'Started in 1978 as the Program for Adolescent Mothers in Kingston, the organization has grown to national prominence with centers in seven Parishes, and 14 outreach stations nation-wide. It assists pregnant girls under age 16 and has established an outstanding record of returning them to the formal school system.' **[37a]**

22.22 The WCJF page on the same website, also undated, listed the following as the main services it provides:

- 'Continuing education for teen mothers 17 years and under
- 'Counselling for 'baby fathers,' their parents and parents of teen mothers
- 'Skills training for males and females in the 17-25 age group
- 'Confidential counselling services for children, adolescent, and young adults; and Group Peer Counselling sessions at the Kingston Centre Counselling Clinic.
- 'Day Care facilities for (i) babies of teen mothers and (ii) babies of working mothers
- 'Youth Activity Programme under the USAID/ Uplifting Adolescents Programme
- 'Continuing Education and Counselling Programme for 'Young Men at-risk'
- ''Walk-in' Counselling services for women and men of all ages.' **[37b]**

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VIOLENCE AGAINST WOMEN

22.23 The Freedom House report, Freedom in the World 2012, reported, 'Legal protections for women are poorly enforced, and violence and discrimination remain widespread.' **[32c]** **(**In the UPR WG Report of March 2011, Jamaica stressed that, in addition to the passing of key legislation, '…it had prioritized a strategy for combating and eradicating violence against women that included awareness-raising programmes and training in gender sensitivity for justice system personnel, teachers, health-care and social workers and the media. Those efforts had been supported by United Nations agencies, including the United Nations Development Fund for Women and the United Nations Population Fund.' **[99e] (p5)**

See also Legal rights above.

22.24 Nevertheless, the National Report to the UPR of August 2010 reported:

'There remains… an unacceptably high level of violence against women and girls. To address this issue, a number of legislative provisions have been implemented to ensure that the rights of women are given adequate protection. The Domestic Violence (Amendment) Act of 2004 provides for men and women who have been victims of domestic violence to apply for the protection of the courts. This Act broadened the categories of women protected to include not just married women, but also women in common-law and visiting relationships.' **[99d] (p9)**

22.25 Amnesty International's April 2010 Submission to the UN Universal Periodic Review [UPR]: Ninth session of the UPR Working Group of the Human Rights Council,

November-December 2010 reported, 'Women and girls in inner-city communities are particularly exposed to gang violence. They are often victims of reprisal crimes, including sexual violence, for being perceived as having reported or actually reporting criminal activity to the police, or in relation to a personal or family vendetta. Women and girls often experience sexual coercion by gang members, as refusal could result in punishment against themselves and their families.' **[3f] (p5)**

See also Section 8: Crime

22.26 The USSD Report 2011 stated that 'Social and cultural norms perpetuated violence against women, including spousal abuse. The law prohibits domestic violence and provides remedies including restraining orders and other noncustodial sentencing. Breaching a restraining order is punishable by a fine of up to J$10,000 (approximately $123) and six months' imprisonment.' **[8a] (Section 6)**

See also 'Rape' below.

Sexual violence, including harassment

22.27 The National Report to UPR of August 2010 stated, 'The Sexual Offences Act, which was passed in 2009, repeals the Incest (Punishment) Act and certain aspects of the Offences Against the Person Act and creates new provisions for the prosecution of rape and other sexual offences, including marital rape, anonymity of complainant in rape and other sexual offences, as well as incest.' **[99d] (p9)**

22.28 Amnesty International's April 2010 Submission to the UN Universal Periodic Review (UPR) stated, 'Amnesty International welcomes that the Jamaican Parliament passed the Sexual Offences Act in July 2009. The bill was finalized in 2007 and is the culmination of efforts dating back to 1995 to reframe existing gender-discriminatory legislation. The Sexual Offences Act reforms and incorporates various laws relating to rape, incest and other sexual offences.' **[3f] (p4)**

22.29 According to the USSD Report 2011, 'There is no legislation that addresses sexual harassment and no legal remedy for victims of sexual harassment. The BWA carried out workshops to sensitize public sector workers to the issue of sexual harassment. NGOs have advocated for legislation on sexual harassment since the early 1990s and continued to advocate for the immediate drafting and enactment of such legislation.' **[8a] (Section 6)**

See also Section 9: Security forces

22.30 The Amnesty International Report 2010, released on 28 May 2010 and covering events of 2009, stated that 'A study on the relationship between adolescent pregnancy and sexual violence carried out by health care researchers showed that 49 per cent of the 750 girls aged between 15 and 17 surveyed had experienced sexual coercion or violence. The study highlighted the need to address gender-based violence at community level.' **[3c] (p189)**

See also Section 23: Children

Rape

22.31 The Amnesty International Report 2010 noted, 'In July [2009], the Sexual Offences Act, which reforms and incorporates various laws relating to rape, incest and other sexual

offences, was passed by Parliament. Although women's organizations welcomed the Act, they also expressed concerns about the restrictive definition of rape. The Act criminalizes rape within marriage, but only in certain circumstances.' **[3c] (p189)**

22.32 The USSD Report 2011 stated:

'Rape is illegal and carries a maximum penalty of 25 years' imprisonment. The 2009 Sexual Offenses Act criminalizes spousal rape, but only in certain circumstances, namely when the parties have separated or when proceedings to dissolve the marriage or have it annulled have begun, when the husband is under a court order not to molest or cohabit with his wife, or when the husband knows he suffers from a sexually transmitted infection. Human rights groups continued to advocate for a more comprehensive law on spousal rape. The authorities reported 738 rapes and 637 cases of carnal abuse of women and girls, compared with 668 rapes and 531 cases of carnal abuse in 2010. The Bureau of Women's Affairs (BWA) believed that the true incidence was significantly higher than these statistics indicated, given the problem of underreporting, due to fear of stigma, retribution, or further violence. The JCF Center for Investigation of Sexual Offenses and Child Abuse, which was headed by a female deputy superintendent, handled sex crimes.' **[8b] (Section 6)**

22.33 The same report also asserted, 'In the 2008 Reproductive Health Survey (the most recent one conducted), almost half of young women reported that they had been pressured or forced into sexual intercourse at the time of their first sexual experience. NGOs reported that inner-city gang leaders and sometimes even fathers initiated sex with young girls as a 'right.' There were 538 cases of carnal abuse reported to the JCF, compared with 578 cases reported in 2009.' **[8b] (Section 6)**

See also Section 20: Lesbian, gay, bisexual and transgender persons: Violence

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Assistance available

22.34 The USSD Report 2010 stated, 'Police were generally reluctant to become involved in domestic issues, which led to cases not being pursued vigorously when reported' **[8b] (Section 6)** The USSD Report 2011 added:

'The NGO Woman Inc. reported that women frequently complained that police failed to treat domestic violence as a crime and take the necessary reports. The [Jamaica Constabulary Force] instituted a domestic abuse sensitivity training program for police officers in downtown Kingston. The BWA [Bureau of Women's Affairs] developed a draft National Plan of Action on Violence against Women and Gender-Based Violence, which aims to provide a comprehensive strategy guiding the government's response to the problem. NGOs meanwhile expressed concerns that in the short term there was insufficient funding for police investigations of gender-based violence and for counseling and shelter for victims. Woman Inc., with a small subsidy from the government, operated the only shelter for battered women in the country.' **[8a] (Section 6)**

22.35 The Jamaican government informed CEDAW in February 2012 that 'Resident Magistrates received training in how to offer greater redress to women and girls who are victims of violence, especially sexual violence and domestic abuse.' **[72e] (pt.3)**

22.36 Amnesty International's April 2010 Submission to the UN Universal Periodic Review (UPR) reported:

'Positive steps over recent years in combating sexual violence and providing assistance to victims include the establishment of the Centre for Sexual Offences and Child Abuse (CISOCA), within the police service, which is responsible for counselling victims and investigating sexual crimes; the implementation of several awareness-raising and education programmes under the supervision of the Bureau of Women Affairs; and the adoption in July 2009 of the Sexual Offences Act. However, the high incidence of violence, combined with the low clear-up rate for sexual crimes and reticence in reporting of sexual crimes, suggests that more vigorous efforts are needed to enforce the law and to bring perpetrators to justice.' **[3f] (p6)**

22.37 The Bertelsmann Foundation reported in their Jamaica Country Report 2012: 'Awareness within the security forces (particularly the police, but less so the army) through specialized training of women's rights as human rights, along with the establishment of the Center for the Investigation of Sexual Offences and Abuse, has brought some improvement in the treatment of women and women's own attempts to seek redress from abuses.' **[39b]**

See also Section 9: Security forces and Section 10: Judiciary

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23. CHILDREN

OVERVIEW

23.01 The United Nations Children's Fund (UNICEF) November 2009 report, Jamaican Children: Twenty Years after the Convention on the Rights of the Child (UNICEF Jamaican Children report), noted that, 'Since ratifying the CRC [in 1991 **[12a]**], Jamaica has sought to institute legislation and policies and create institutions, national plans of action and programmes to ensure compliance. While Jamaica has adopted the Optional Protocol concerning armed conflict, the country is yet to adopt the Protocol concerning child prostitution and child pornography.' **[57c] (p2)**

23.02 In its undated Background Information, accessed 7 November 2012, UNICEF reported on some of the issues facing children in Jamaica:

- 'Violence and abuse are serious problems: 91 children were murdered in 2005 and reports of sexual abuse of children are common.
- 'More than 2,000 children live in institutions, deprived of parental care.
- 'Inadequate services and opportunities exist for children with disabilities. These children are subject to high levels of stigma and discrimination.
- 'About 7.5 per cent of 15-17 year old children work.
- 'About 1 in 5 children is born to a teenage mother.
- 'Poor educational outcomes, especially among boys, increase risks of inter-generational exclusion.
- 'Adolescents do not have sufficient access to information, skills and services for HIV/AIDS knowledge and prevention, increasing the risk of infection.
- 'Many children lack opportunities for learning life skills at home.' **[57a]**

See also Violence against children and Health and welfare below.

23.03 The US State Department 2011 Human Rights Report: Jamaica (USSD Report 2011), released on 24 May 2012, 'While there was no societal pattern of abuse of children, child abuse, including sexual abuse, was substantial and widespread ... Child prostitution and sex tourism were problems, especially in tourist areas.' **[8b] (Section 6)**

23.04 The United States Department of Labor's 2011 'Findings on the Worst Forms of Child Labor', dated 26 September 2012, stated:

'In 2011, Jamaica made a moderate advancement in efforts to eliminate the worst forms of child labor. During the reporting period, the Government ratified the Convention on the Rights of the Child Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography.

'Children in Jamaica continue to engage in the worst forms of child labor, including in street work and commercial sexual exploitation ... On the streets, children typically work in markets, as ambulatory vendors or as beggars ... Some children in commercial sex work are victims of human trafficking ... Although evidence is limited, children are reportedly exploited through forced labor in domestic service and begging ... Children on the island are used for a variety of illicit activities. They execute financial scams and serve as drug and gun couriers.' **[83b] (p315)**

23.05 The UNICEF Jamaican Children report, dated November 2009, estimated that there were more than 6,000 children living and working on the streets of Jamaica. **[57c] (p12)**

See also Violence against children and Child care and protection below.

Basic legal information

23.06 The Child Care and Protection Act 2004, accessed on 6 April 2011 via the Child Development Agency (CDA) website **[58a]**, the US Central Intelligence Agency (CIA) World Factbook **[4a]**, the undated Social Institutions and Gender Index website, accessed on 7 April 2011 **[45a]** and the USSD Report 2010 **[8b]** provided the following information on legal ages in Jamaica:

- A child is anyone under the age of 18 years old. **[58a]**
- The voting age in Jamaica is 18 years old. **[4a] (Government)**
- The voluntary recruitment age for military service was 18 years old. **[4a] (Military)**
- The minimum age for marriage for boys and girls is 16 years old; children under 18 years require parental consent. **[45a]**
- The minimum age for consensual sex is 16 years old. **[8b] (Section 6)**
- The minimum age for employment for children is 15 years, although 'light work', as prescribed by the Ministry of Labour, is permitted for children between 13 and 15 years of age. **[8b] (Section 7d)**
- The criminal age of responsibility is 12 years old. **[58a]**

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LEGAL RIGHTS

23.07 The USSD Report 2011 stated:

'The Office of the Children's Advocate (OCA) has broad responsibilities for reviewing laws, policies, practices, and government services affecting children, as well as providing legal services to protect the best interests of children. In February the OCA launched a web site to provide information on children's rights. The site also includes downloadable forms so that persons can lodge complaints electronically or by fax. The OCA reported it received more than 400 complaints during the year, conducted some preliminary investigations, and referred other cases to appropriate government institutions.' **[8b] (Section 6)**

23.08 In its undated Background Information, accessed 7 April 2011, UNICEF reported on some positive domestic laws established in Jamaica, including:

- 'The national Child Care and Protection Act was passed in 2004 with the support of UNICEF. Work has begun on a Child Abuse Registry.
- 'The Office of the Children's Advocate was established in January 2006.
- 'Many reforms are in motion with respect to early childhood care. The Early Childhood Commission (ECC) has been established as the main coordinating and monitoring body.
- 'The Early Childhood Act passed in February 2005. Regulations for the operation day care centres and basic schools have been approved by Parliament.
- 'A review of the Early Childhood Curriculum, now underway with UNICEF's support, will benefit 300,000 children.
- 'The National Youth Policy was presented to Parliament in 2005. The Policy supports improvements in youth education and training, employment and entrepreneurship, health care, youth participation and empowerment, and care and protection.
- 'A National Policy for HIV/AIDS Management in Schools seeks to ensure that children infected and affected by HIV/AIDS have access to education and that schools deliver HIV/AIDS and family life education to reduce young people's vulnerability to HIV infection.
- 'A National Plan of Action for an Integrated Response to Children and Violence was completed in 2005 with technical and financial support from UNICEF.
- 'The Social Investment Initiative for Children launched in 2006 with support from UNICEF, UNDP, the Cabinet Office, the Planning Institute of Jamaica, the Child Development Agency and the Jamaica Coalition on the Rights of the Child. The Initiative seeks to ensure that social investment is consistent with agreed national priorities for children.' **[57a]**

23.09 The USSD Report 2011 noted:

'The law prohibits statutory rape, defined as sexual relations with a person less than 16 years old, the minimum age for consensual sex. Sexual relations by an adult with a child between the ages of 12 and 16 are a misdemeanor punishable by not more than seven years in prison; if the victim is under 12, it is a felony punishable by up to life imprisonment. The 2009 Sexual Offences Act included the establishment of a Sex Offenders Registry. The law criminalizes the commercial sexual exploitation of children and applies to the protection, possession, importation, exportation, and distribution of child pornography. It carries a maximum penalty of 20 years' imprisonment and a fine of J$500,000 (US $6,130).' **[8a] (Section 6)**

23.10 The US Department of State Background Note on Jamaica, dated 9 August 2010, stated, 'The Government of Jamaica has taken significant steps to pass and enforce

legislation on child labor, although conviction rates in this field, as in others in Jamaica, remain low. Despite the fact that the Jamaican Government recently increased the compulsory age of education from 16 to 18 and confirmed children's right to education under the Education Act, field research confirms child labor practices remain a concern.' **[8c] (Child labor)**

See also Education

Judicial rights

23.11 The National report submitted in accordance with paragraph 15 (a) of the annex to Human Rights Council resolution 5/1* [Universal Periodic Review (UPR)] – Jamaica (National Report to the UPR), dated 20 August 2010, stated:

'The [Jamaican] Government is… working to reverse the current practice of the incarceration of children in police lock-ups and to implement measures to protect children in juvenile correctional facilities, in keeping with recommendations emanating from the Commission of Enquiry on the Armadale incident in which 7 wards of the state lost their lives in a deadly fire in May 2009. These recommendations include ensuring that housing facilities correspond with international standards; the identification of additional space to properly house wards; the development of procedures, for example evacuation procedures, in the event of emergencies; the expansion of rehabilitation programmes to include structured long term therapeutic and cognitive programmes; and training for Correctional Officers at juvenile institutions.' **[99d] (paragraph 77)**

23.12 It was reported in the Amnesty International Report 2012 that,

'Following criticism over the holding of children together with adults in police lockups, the government opened the Metcalfe Street Juvenile Remand Center for boys in July [2011] and ordered the transfer of all detained boys to the Center. However, according to local human rights organizations, as of 3 September [2011], 28 children remained in police lockups. Girls continued to be held together with adults.' **[3e]**

23.13 The National Report to the UPR of August 2010, added, 'As at February 2010, there were 395 juveniles in state correctional institutions (correctional and remand centres). Of this amount, 317 are boys and 78 are girls. In addition, there were 68 children (64 males and 4 females) in police lock-up.' **[99d] (paragraph 96)**

23.14 Additionally, the USSD Report 2010 noted that:

'Non-violent youth offenders were under the jurisdiction of the social services agency and were generally sent to unsecured halfway houses (called 'places of safety' or 'juvenile remand centers') after they were removed from their homes. However, because the law does not clearly define an 'uncontrollable child,' a large number of minors were classified as uncontrollable and detained for long periods of time without regard to the nature of their offenses.' **[8b] (Section 1c)**

23.15 The Child Care and Protection Act 2004 provided details of the procedures for children detained or brought before a court. **[58a] (Part IV)**

See also Section 10: Judiciary and Section 12: Prison conditions

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VIOLENCE AGAINST CHILDREN

23.16 UNICEF noted in its report, Jamaican Children: Twenty Years after the Convention on the Rights of the Child (UNICEF Jamaican Children report), dated November 2009, 'Violence is damaging every aspect of the lives of Jamaica's children through its direct and indirect effects. Between 2006 and October 2009, over 5,612 persons were murdered in Jamaica – they are fathers, mothers, siblings, friends, and acquaintances of Jamaica's children as well as children themselves. From 2006 to 2008, 230 children under 17 years old were murdered.' **[57c] (p10)**

23.17 The USSD Report 2011stated, 'The Office of Children's Registry (OCR) receives, records, and stores data relating to the mistreatment and abuse of children. The law requires anyone who knows of or suspects a child is being abused to make a report to the OCR, with a penalty of up to J$500,000 ($6,130) for failure to do so.' **[8a] (Section 6)**

23.18 The US Department of State Trafficking in Persons Report 2012, dated 19 June 2012, stated that children were susceptible to being trafficked, specifically into forced prostitution and forced labour. The report noted:

'Jamaica is a source, transit, and destination country for adults and children subjected to sex trafficking and forced labor. The exploitation of local children in the sex trade, a form of sex trafficking, remains a problem. NGOs and the government remain alarmed at the high number of missing children and are concerned that some of these children are falling prey to sex trafficking. Sex trafficking of children and adults likely occurs on the street, in night clubs, bars, and private homes' **[8f]**

23.19 Amnesty International stated in its 2010 Report published on 28 May 2010 and covering events in 2009, that 'A study on the relationship between adolescent pregnancy and sexual violence carried out by health care researchers showed that 49 per cent of the 750 girls aged between 15 and 17 surveyed had experienced sexual coercion or violence. The study highlighted the need to address gender-based violence at community level.' **[3c] (Violence against women and girls)**

23.20 The UNICEF Jamaican Children report of November 2009 cited that:

'Reporting of child abuse has been on the rise in recent years, signalling more active citizen participation in child protection. Reporting facilities are also more readily available. Over 8,000 cases of child abuse, neglect and abandonment have been reported to the Office of the Children's Registry since its inception in 2007. Close to 500 reports of infringements of children's rights, including abuse, have been made to the Office of the Children's Advocate.' **[57c] (p10)**

See also Section 22: Women and Section 24: Trafficking.

CHILDCARE AND PROTECTION

23.21 The Child Care and Protection Act (CCPA) 2004, was established to provide regulations regarding the care and protection of children. The Child Development Agency (CDA) website, accessed 6 April 2011, stated that the Act, which applied to parents and all who worked with children, ensured '…adults considered the views and best interests of children… monitored the care and protection of children… provided special help to children who are in need of care and protection… [and] made sure that all children are protected from abuse or neglect.' **[58a]**

23.22 The Child Development Agency website, accessed 6 December 2012, explained the roles of the following authorities:

The Child Development Agency 'has a primary duty to provide holistic care to all children who become wards of the state. The Agency is mandated by law to act in the best interest of these children by providing suitable and safe housing; implement and promote programmes for their physical, psychological, social, medical and all developmental care/needs. The CDA also investigates allegations of child abuse and also engages in advocacy and public education about child abuse.'

The Office of the Children's Registry (OCR) 'is a central registry for receiving, recording assessing and referring all reports of child abuse. This Agency maintains a register of all reports, and provides statistical information relating to this register.'

The Office the Children's Advocate (OCA) 'has primary responsibility to monitor and evaluate the service provides to children by state agents (civil service and quasi government agencies) and provide intervention on behalf of a children and their family where said agents have infringed on the child/ren's rights. They report directly to Parliament unlike the CDA and the OCR which are part of a Ministry cluster and report directly to a Minister of Government.' **[58d]**

23.23 The USSD Report 2011 noted:

'The OCR [Office of Children's Registry] received approximately 7,000 reports of child abuse, compared with 6,330 cases reported in 2010. The number of child abuse reports increased by more than 1,000 percent since the registry was established in 2007, when it received 455 reports. The OCR credited the growth to an increase in awareness among Jamaicans. **[8a] (Section 6)**

23.24 The USSD Report 2011 continued:

'Under the Child Care and Protection Act, the Child Development Authority (CDA) in the Ministry of Health is responsible for implementation of the government's programs to prevent child abuse. According to the CDA, sexual assault was the most common reason for children to be taken to hospitals, with children under age 10 accounting for 17 percent of all sexual assault cases and children between the ages of 10 and 19 accounting for 57 percent. According to the 2008 Reproductive Health Survey (the most recent one conducted), almost half of young women reported that they had been pressured or forced into sexual intercourse at the time of their first sexual experience. NGOs reported that inner-city gang leaders and sometimes even fathers initiated sex with young girls as a "right." There were 637 cases of carnal abuse reported to the JCF, compared with 538 cases reported in 2010.' **[8a] (Section 6)**

See also Violence against children above

Children's homes/institutions and orphanages

23.25 The Child Development Agency (CDA) website, accessed on 6 December 2012, reported that 'There are currently eight government child care facilities which the Child Development Agency directly manages and supports on behalf of the government of Jamaica, while providing oversight and financial assistance to over 40 private homes. **[58b]** The CDA website provided details on the eight government child care facilities

which the CDA directly manages: http://www.jamaicanmenus.com/cda/government-facilities. **[58c]**

23.26 With reference to foster care, the CDA website stated:

'Foster care is a more desirable alternative to placing a child in a residential child care facility. It is aimed at providing a safe family environment for children aged between zero to 18 years who have become wards of the State as a result of being abused, orphaned, abandoned, neglected or unable to be cared for by their parents, relatives or guardians.

'The government offers a monthly allowance towards the maintenance of each foster child, as well as fees for clothing, books, school fees and medical bills where necessary but it is expected that the foster parent will supplement this to meet the needs of the child.' **[58a]**

23.27 The National Report to the UPR of August 2010 stated that, at the end of 2009, '...there were just over 5,900 children in state care. **[99d] (paragraph 42)**

See also Overview and Violence against children above.

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EDUCATION

23.28 The USSD Report 2009 had stated:

'Actual school attendance rates hovered around 64 percent due to the expense of school uniforms, lunch, and books, coupled with lost wages for not working on family farms or selling items on the street. To address this, the Ministry of Social Security established a program to provide stipends to pay for educational expenses. However, students must maintain an 85 percent attendance rate to qualify, resulting in underutilization of the program.' **[8e] (Section 6)**

23.29 The USSD Report 2011 noted that trained community safety officers and police personnel were assigned to certain schools as resource officers to stem school violence. These officers also served as liaisons between the students, faculty, parents, and police. **[8a] (Section 1d)**

23.30 UNICEF noted in its section on Jamaica, undated, accessed 17 November 2012, that 'Primary school education is offered free but is not compulsory. About 94 percent of primary level age children are enrolled in primary schools but the daily attendance rate is significantly lower at 80.4 percent. Reasons for non-attendance include money problems and lack of interest in school. While primary school education is free, the quality of the education provided sometimes falls below desired standards.' **[57b] (The Children; Primary school years)**

23.31 With regard to secondary education, UNICEF added:

'Secondary education is not free, but is provided under a cost sharing scheme in which students pay fees to the schools they attend. Those parents who cannot afford to pay fees can apply for assistance under a consolidated social benefits programme... While school enrollment rates are high at all levels, attendance rates at the secondary school

level are cause for concern. Statistics indicate that 77.4 percent of secondary level attendees are sent to school for all five days.' **[57b] (The Children: Adolescence)**

23.32 According to World Bank indicators, primary school enrollment in 2010 was 89 per cent. **[19b]**

23.33 The Bertelsmann Foundation observed in its 2012 Jamaica Country Report, released in April 2012:

'Jamaica enjoys near gender balance in respect of enrollment of girls and boys at the primary level. A gender imbalance begins to appear at the secondary level (15 to 16 years old), when girls begin to outnumber boys, and this situation worsens at the tertiary level, where the percentage of females to males enrolled at the tertiary level is 221%. It should also be noted that the gross enrollment ratio for tertiary education is only 24.2%. Access to tertiary education is generally constrained by the inability to pay, which is related to the poverty status of a significant part of the population. Equal access to education is limited by the socioeconomic condition of young people generally, with children of the elite and middle classes having opportunities which the majority does not. The dropout rate of young men, at both secondary and tertiary levels, is related to societal gender expectations and roles as bread winners.' **[39b]**

HEALTH AND WELFARE

23.34 The Background page on UNICEF's website on Jamaica, undated, accessed 17 November 2012, noted:

'Jamaica has made impressive strides to provide most of its children with access to health, nutrition, education and social services. Prospects for achieving the Millennium Development Goals are good. The incidence of poverty is declining. However, almost one of every two Jamaicans who live in poverty is a child while only 37 per cent of Jamaicans are children. While children are given a high priority in the development of national policies and plans, resource allocations are not commensurate with objectives.' **[57a]**

23.35 UNICEF noted in its section regarding children in Jamaica, undated, accessed 17 November 2012, that:

'Infant mortality rates (19.9 per 1000 live births in 2002) have improved... [but] Immunization rates for all vaccines have been declining steadily since 2001... The main reasons identified for the falling rates include: difficulties in accessing health services, inadequate transportation, violence, limited health staff for vaccination and financial constraints.

'Children's nutritional status as reflected in low birth weight, low height for age (stunted) and low weight for height (wasted) has improved, but continues to lag behind international standards. A worrying trend is the growing percentage of overweight children under five years old. One in every ten children from the wealthiest quintile is overweight.

'Exclusive breastfeeding rates up to six months are well below the global target of 70 percent... 'Paediatric deaths to AIDS declined in 2003 by 17.3 percent when compared to the previous year. The Health Ministry attributes the decline in part to the improved services provided through the Prevention of Mother To Child Transmission (PMTCT)

Programme and improved care and treatment of infected children. In 2003 there were 67 new cases of paediatric AIDS reported compared to 81 for 2002.' **[57b] (The children: Early childhood years)**

23.36 Regarding children with disabilities, the UNICEF Jamaican Children report of November 2009 stated:

'There is a shortage of specialists who can adequately address their [disabled children] needs, including audiologists, speech therapists and child psychiatrists. Aside from a small number of NGOs, there is a dearth of organizations and institutions delivering services for these children. State-run homes which provide services for children with disabilities, such as the Mustard Seed Homes, are under-resourced. Services for children with mental health problems are also inadequate and cannot meet the increasing needs and referrals, particularly from schools.' **[57c] (p12)**

See also Child care and protection above.

DOCUMENTATION

23.37 The USSD Report 2011 noted, "Every person born in the country after August 5, 1962, is entitled to citizenship. Persons born or adopted outside the country to one or more Jamaican parents can claim citizenship, and those married to Jamaican spouses may also claim citizenship. There is universal birth registration, either in the hospital at the time of birth or at a local registrar's office if the child is not born in a hospital. **[8a] (Section 6)**

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24. TRAFFICKING

24.01 The US State Department Trafficking in Persons Report 2012, published on 19 June 2012, noted:

'Jamaica is a source, transit, and destination country for adults and children subjected to sex trafficking and forced labor. The exploitation of local children in the sex trade, a form of sex trafficking, remains a problem.

'The Government of Jamaica does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so ... The government identified only one victim during the reporting period and reported no convictions of trafficking offenders, thus highlighting serious concerns about a lack of accountability for trafficking offenders and any officials complicit in human trafficking.' **[8f]**

24.02 The same source stated:

'The government made limited progress in the prosecution of trafficking offenders during the reporting period. The government prohibits all forms of trafficking through its comprehensive Trafficking Act of Jamaica, which went into effect in 2007. Punishments prescribed for human trafficking under the Act extend up to 10 years' imprisonment, which are sufficiently stringent but do not appear to be commensurate with penalties prescribed for other serious crimes, such as rape ... The government reported no convictions of trafficking offenders during the year; there were no convictions during the

preceding year. The government reported no investigations, prosecutions, or convictions of officials complicit in human trafficking.

'The government made limited progress in the protection of trafficking victims during the reporting period. The government identified only one new trafficking victim ... The government placed the one identified victim in a temporary shelter for abused girls, with a longer term plan of seeking placement for the girl with extended family.

'Officials provided assistance and safe voluntary repatriation in cooperation with IOM for four foreign labor trafficking victims identified in the previous reporting period. The government reported spending the equivalent of approximately [US] $12,700 on services for trafficking victims including, shelter, counselling, clothing, and meals ... A trafficking-specific shelter mentioned during previous reporting periods had yet to shelter any trafficking victims and reportedly was not operational.

'The Trafficking Act of Jamaica guarantees that trafficking victims are immune from prosecution for immigration or prostitution violations committed as a direct result of their being subjected to forced prostitution or forced labor; there were no allegations of victim punishment during the reporting period.

'The government demonstrated some trafficking prevention efforts during the reporting period ... The government's anti-trafficking task force, which met on a monthly basis, expanded its outreach efforts and included many more government organizations (including the education, tourism, and health ministries along with the Office of the Children's Advocate and the justice training institute) and NGOs.' **[8f]**

24.03 The International Organisation for Migration (IOM), in a report published in 2010, quoted from various external sources as follows:

'[T]he environment within which trafficking takes place includes the existence of a high level of impunity based on corruption, lack of knowledge by the wider society and, therefore, tacit tolerance of activities, especially in those communities which are most commonly the supply locations. Furthermore, and perhaps most important of all, is that persons in those communities do not report cases of trafficking for fear of reprisals (Campbell, 2008). The experience in parts of Europe (for example, the Netherlands) shows that a concerted effort to increase the intelligence has been very effective in breaking into trafficking rings (personal communication with the officer with responsibility for reduction in trafficking, The Hague, Netherlands).' **[53] (p45)**

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25. MEDICAL ISSUES

25.01 The Jamaica Information Service, accessed in September 2011, recorded: 'The Ministry of Health and Environment is responsible for ensuring the provision of an adequate, effective and efficient health service for the population of Jamaica. Services are provided through the government's network of 23 hospitals and over 350 health centres and specialised institutions.' The website added:

'[T]he Ministry has undertaken a comprehensive rationalisation/re-organisation of the health service. The management and delivery of health services have been de-centralised to four statutory regional Health Authorities covering the island. Under the

new status, the Ministry's two largest programmes: Primary, and Secondary and Tertiary Health Care have been integrated into a new programme – Health Service Delivery. It is expected that regional management will improve the quality of health care with more efficient use of resources and timely decision-making.' **[24d]**

25.02 It was observed in an article published by the World Bank on 17 November 2011: 'Today, Jamaicans and citizens of the Eastern Caribbean are living longer than ever before. However, the good news of a life expectancy exceeding 70 years presents a unique dichotomy: people enjoy longevity but the quality of life is rapidly decreasing.

'New World Bank research warns that Jamaica and the Organization of Eastern Caribbean States (OECS) are facing a health crisis with rising rates of heart disease, diabetes, obesity, and other non-communicable diseases (NCDs), which disproportionately affect poor families, with possible side effects of disability and premature death, and worsening poverty as people pay for medical treatment out of their own pockets.' **[19d]**

OVERVIEW OF AVAILABILITY OF MEDICAL TREATMENT AND DRUGS

25.03 The Jamaica Information Service, Ministry of Health, accessed 11 September 2009, noted that the state health sector provides most of the island's health care provision, 'Services are provided through the government's network of 23 hospitals and over 350 health centres and specialised institutions.' **[24d]**

25.04 The Bustamante Hospital for Children, established in 1963, is the only paediatric hospital in the English-speaking Caribbean. (Jamaica information Service, 23 October 2008) **[24am]** Further information on the hospital is available on the website of Kings House Medhelp, at http://www.kingshousemedhelp.com/hospitals/a_bustamante.php

The National Health Fund (NHF)

25.05 It was stated on the website of the National Health Fund of Jamaica, accessed in November 2012:

'The National Health Fund [was] established to provide financial support to the national healthcare system to improve its effectiveness and the health of the Jamaican population through two categories of benefits.

'[The NHF] provides assistance to persons, initially, to purchase specific prescription drugs used in the treatment and management of designated chronic illnesses.

'Persons seeking assistance from NHF Individual Benefits must be certified, by a registered private or public doctor, with one or more of the specified medical conditions and register with the NHF. Once approved, the beneficiary is issued with a NHF card and will be able to get assistance with the purchase of drugs from approved participating pharmacies. The NHF makes a fixed payment towards the price set by the pharmacy for drugs approved by the NHF. The beneficiary is required to pay the difference - the co-payment. The NHF also takes an active role in educating the population and its beneficiaries on the importance of properly managing and treating their chronic condition.' **[46b]**

25.06 Under the JADEP programme, the NHF provides a specific list of drugs, free of cost, to beneficiaries who are over 60 years of age for the treatment of ten (10) chronic

illnesses: Hypertension, cardiac conditions, arthritis, benign prostatic hyperplasia, high cholesterol, vascular disease, diabetes, glaucoma, psychiatric conditions and asthma. **[46c]**

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HIV/AIDS

25.07 According to the Ministry of Health website, accessed on 18 April 2011:

'The [National HIV/AIDS/STI Control Programme] facilitates the co-operation of the public and private sectors, as well as non-government organizations (NGOs) in the fight against HIV/AIDS. In addition to the Government of Jamaica's input, the programme has the support of international funding agencies such as UNAIDS, German Technical Cooperation (GTZ), Canadian International Development Agency (CIDA), United Nations Global Programme on AIDS, PAHO/WHO, CAREC, UNFPA, and UNESCO. Most recently the national programme received a loan from the World Bank (IBRD), and a grant from the Global Fund to fight AIDS, Tuberculosis and Malaria.

'The programme's approach emphasises community intervention and face-to face communication to increase awareness, reduce individual risk of HIV infection and reduce stigmatisation of persons living with HIV/AIDS and to promote safer sex practices. Through this approach, the National Programme has achieved a significant degree of success, particularly a high level of awareness and decline in the rates of Syphilis and other STIs. Increased condom availability and use also confirm the impact of the programme.' **[40e]**

25.08 USAID (United States Agency for International Development), in its 'HIV/AIDS Health Profile, Jamaica' last updated in September 2010, observed:

'Although Jamaica has a well-established national surveillance system, collecting accurate data about at-risk groups is challenging. Despite some progress in reducing stigma and discrimination, homosexual behavior continues to be illegal in Jamaica, and many men who have sex with men (MSM) hide their sexual orientation and behavior, impeding accurate health surveys.' **[68d]**

The same source noted:

'During the past two decades, Jamaica has taken several steps to combat HIV/AIDS. More recent efforts include… developing an HIV/AIDS prevention and control project; implementing three national strategic plans on HIV/AIDS and Sexually Transmitted Infections (STIs), the most recent of which launched a new plan in 2007; providing ART for persons with advanced HIV and for HIV-infected mothers since 2004; adopting a national HIV/AIDS policy in 2005; and establishing a private sector-led business coalition on HIV in 2006.

'The well-established prevention of mother-to-child-transmission (PMTCT) program has been highly successful by integrating opt-out testing into all maternal child health services for pregnant women.' **[68d]**

25.09 The Ministry of Health announced on 30 November 2011 that 'The 2010 HIV/AIDS epidemic update indicates that there is continued decrease in AIDS related deaths and cases among the adult population from 665 reported deaths in 2004 to 333 in 2010.

This represents a 50% decrease in annual AIDS deaths since the inception of universal access to anti-retroviral (ARV) medication in 2004.' **[40g]**

25.10 The UNAIDS Country Progress Report 2012, published on 30 March 2012 (reporting period: January 2010 to December 2011) noted:

'According to epidemic modeling completed during the reporting period, approximately 1.7% of the adult population or 32,000 persons are living with HIV. **[55b] (p7)**

'HIV affects persons in all 14 parishes, with the highest case rates in the most urbanized parishes (St. James and Kingston & St Andrew) and in tourist areas (North Western parishes). The HIV epidemic is closely tied to poverty, developmental and socio-cultural issues including the slow rate of economic growth, high levels of unemployment, early sexual debut, culture of multiple partnerships, and informal drug and commercial sex sectors. **(p7)**

'While new HIV infections in Jamaica have declined by 25% in the past decade, it is estimated that as many as 2,500 Jamaicans will become newly HIV infected in 2012. **(p16)**

'Surveillance data show higher HIV prevalence in populations such as Men who have sex with men (32.8%), Sex Workers (4.1%), and homeless persons (12%) (Ministry of Health, 2010; Figueroa, 2012). The recently completed Modes of Transmission analysis estimates that 30% of new infections in 2012 will be among MSM, 7% among female partners of MSM, and 7% among CSW and their male clients. **(p7-8)**

'The national response is guided by a 5 year national strategic plan developed around 6 priority areas: Prevention; Treatment, Care and Support; Enabling Environment and Human Rights; Governance and Empowerment, Monitoring and Evaluation.' **[55b] (p8)**

Discrimination against people living with HIV/AIDS

25.11 The UNGASS Country Progress Report 2012 observed:

'The impact of stigma and discrimination on key populations prevents many persons from getting tested for HIV, accessing regular care and/or disclosing their status to their partners. [Persons with HIV] often do not want to receive treatment in their community because of concern that others may learn about their status. Women, in particular, fear violence from their partners if they disclose their status. Inappropriate customer service approaches within the health sector also impact on persons living with HIV.' **[55b] (p33)**

25.12 The 2011 NCPI [National HIV/STI Programme] indicated that Jamaica has non-discrimination policies that address key populations with the exception of prison inmates, [sex workers] and transgendered people. The Charter of Rights and Fundamental Freedoms and the revised Civil Service Order are the laws that provide protection for the general population on discrimination issues. However, the country has laws and regulations that present obstacles to effective HIV prevention, treatment, care and support for key populations and vulnerable groups such as MSM, SW, inmates, injecting drug users, women and girls. **(p36-37)**

25.13 According to the 2012 UNGASS Country Progress Report, on April 29, 2011 the then Prime Minister and the Leader of the Opposition signed a Declaration of Commitment to eliminate stigma and discrimination and gender inequality affecting the HIV response in Jamaica. Monitoring stigma and discrimination has been identified as a programmatic

priority under the enabling environment and human rights component of the NSP. The National HIV-Related Discrimination Reporting and Redress System (NHDRRS) continued to be guided by the multi-sectoral Advisory Group, which was established in 2009. **[55b] (p21-22)**

25.14 The US State Department 2011 Human Rights Report: Jamaica, released on 24 May 2012, recorded:

'The International Labor Organization (ILO) worked with the Ministry of Labor on a program to reduce the stigma of HIV/AIDS in the workplace and to assist employers in designing policies for workers with HIV/AIDS. Health-care facilities were prepared to handle patients with HIV/AIDS, but health-care workers often neglected such patients. The Ministry of Labor, in conjunction with the ILO and the Ministry of Health, conducted workplace education programs on HIV/AIDS issues. Laws banning same-sex sexual activity and societal attitudes prevented distribution of condoms in prisons and similar institutions.' **[8a] (Section 6)**

See also Section 20: LGBT persons: Access to health services

Anti-Retroviral (ARV) treatment

25.15 The UNGASS Country Progress Report 2010 stated, 'In 2009, 23 treatment sites were providing multidisciplinary care in Jamaica and laboratory capacity was improved to provide tests such as CD4 count and viral loads.' **[55a]** According to the 2012 UNGASS report:

'By the end of 2011, 8675 adults and 487 children with advanced HIV were started on antiretroviral (ARV) treatment. The number of persons with AIDS and AIDS deaths decreased by 17% and 40% respectively between 2004 and 2010 and the 12-month survival of persons initiating treatment in 2009 and 2010 was 86% and 73% respectively. The number of HIV tests done annually has more than doubled from less than 100,000 tests per year prior to 2004 to over 250,000 in 2010 and 258,000 in 2011. Nearly all pregnant women attending public clinics in 2010 and 2011 were tested for HIV. In a national survey, 95% of women who were pregnant in 2010 and 2011 and received care in public and private facilities reported receiving VCT during antenatal care (KABP, 2012). Most (84%) HIV infected pregnant women and 98% of HIV exposed infants received ARVs in order to prevent mother to child transmission in 2011. **[55b] (p19-20)**

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Sickle Cell

25.16 There is a relatively high incidence of sickle cell disease in Jamaica **[34p]** and there is a Sickle Cell Research Unit at the University of the West Indies. **[49b]** An article in the Jamaica Gleaner of 3 October 2007 confirmed that Hydroxyurea, a drug which decreases the frequency of painful crises and acute chest syndrome in sickle cell sufferers, was in use in Jamaica. **[34q]**

Diabetes

25.17 The Diabetic Association of Jamaica (DAJ) is a non-profit, non-governmental organisation which works in conjunction with the Jamaican Government to provide

diabetes care to the public through clinics, outreach screening and educational activities. The DAJ website (accessed 16 November 2012) noted that, 'On average, 8,000 persons use the various services each month from all branches; this does not include persons seen on the outreach programs.' **[29a]**

25.18 The National Health Fund (NHF) prescription price list, accessed 5 December 2012, confirmed that various types of insulin were available in Jamaica, as were a range of medicines for type-2 diabetics who are not insulin-dependant. **[46d] (Diabetes)**

Cancer treatment

25.19 The Jamaica Cancer Society is a non-governmental organisation established in 1955, which carries out screening, counselling and outreach programmes for cancer. The head office is based in Kingston and there are three regional branches in Manchester, St Ann/St Mary and St Elizabeth. **[41a]** The clinic of the Jamaica Cancer Society carries out screening for cervical, breast and prostate cancer as well as selected diagnostic and treatment services. The Jamaica Cancer Society also provides mobile Pap Smear and Mammography screening services, as well as counselling and various outreach programmes. **[41b]**

Kidney dialysis

25.20 The Global Dialysis website, accessed 2 December 2012, gave the addresses of 12 dialysis centres in Jamaica. Six of the centres were based in the Kingston area, three in Mandeville, three in Montego Bay and one in Ocho Rios. **[16a]**

Mental health

25.21 The World Health Organisation (WHO) 'Mental Health Atlas 2011' provided an overview of mental health care facilities in Jamaica: http://www.who.int/mental_health/evidence/atlas/profiles/jam_mh_profile.pdf **[48a]**

25.22 MedCOI, a project funded by the European Refugee Fund to source information on the availability of medical treatment in various countries, advised in August 2012 that outpatient and inpatient psychiatric treatment, as well as cognitive behavioural therapy, were available at the University Hospital of the West Indies in Kingston. A broad range of medicines prescribed for psychiatric treatment were available in the country. **[52a]**

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26. NATURAL CATASTROPHES

26.01 As stated in a report published by the UN Framework Convention on Climate Change in 2004:

'Jamaica… is impacted from time to time by severe tropical weather systems including tropical waves, tropical depressions, tropical storms and hurricanes. The official hurricane season for the Atlantic is June to November, although systems have occurred outside this period.' **[44a]** For example, Tropical Storm Nicole struck Jamaica in September 2010 with heavy rains and winds, leaving 13 people dead, 26 injured and 437 people taking refuge in collective centres. The Jamaica Red Cross delivered emergency relief to some 2,480 beneficiaries and offered psychosocial support to

families who were victims of the tropical storm. Agricultural production was also severely affected. (Reliefweb) **[15b] (Tropical Storm Nicole)**

26.02 Hurricane Sandy struck Jamaica in late-October 2012, bringing torrential rains and winds of up to 125km/h (80mph); 1,000 people sought refuge in shelters and one person was reported killed. (BBC News, 25 October 2012) **[21h]**

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27. FREEDOM OF MOVEMENT

27.01 The US State Department 2011 Human Rights Report: Jamaica, released on 24 May 2012, stated that 'The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.' **[8a] (Section 2d)**

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28. CITIZENSHIP AND NATIONALITY

28.01 Under Chapter 2 of the 1962 Constitution, any person who was born in Jamaica and was a citizen of the United Kingdom and Colonies prior to 5 August 1962, became a citizen of Jamaica on 6 August 1962. All persons born in Jamaica after independence would automatically gain Jamaican citizenship. Persons born outside Jamaica to Jamaican parents, who would have qualified for citizenship on 6 August 1962, can become Jamaican citizens. Any person who marries a Jamaican can be registered as a citizen of Jamaica. (Jamaica Constitution Order in Council, 1962) **[2a] (Sections 3-12)**

28.02 The Constitution also states that the Governor-General is empowered to deprive of Jamaica citizenship persons who have acquired legal rights or the citizenship of another country by registration, naturalisation or other voluntary and formal acts (other than marriage). (Jamaica Constitution Order in Council, 1962) **[2a] (Section 8)**

28.03 The Constitution and Rights provided a list on citizenship and recorded that 'Jamaica recognizes Dual Citizenship. Only the Governor General of Jamaica can deprive a Jamaican of his/her Jamaican citizenship. The mere act of renunciation of Jamaican nationality in the naturalization process to become a U.S. Citizen does not deprive the Jamaican of his/her Jamaican citizenship. It is not contrary to U.S. Law to have both a Jamaican Passport and a U.S. Passport.' **[98a]**

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29. FORGED AND FRAUDULENTLY OBTAINED OFFICIAL DOCUMENTS

29.01 The Gleaner, in an article of 29 July 2002, noted that new tamper-proof machine-read passports had been introduced in Jamaica, but that an increasing number of people were presenting fraudulent documents (birth certificates, voter's IDs, etc) in applying for new passports. The Passport Office warned Justices of the Peace not to verify such documents as genuine unless they had been personally acquainted with the applicant for at least a year. The Passport Office planned to record the personal details of all new passport holders on a database. **[34m]**

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30. EXIT AND RETURN

30.01 No exit visas are required to leave Jamaica. However, a child leaving the country with a person other than a parent needs written authorisation from one parent. This authorization requires certification from the Jamaican immigration office before minors may exit the country. (The US State Department's International Travel Information, 15 September 2009) **[8h]**

TREATMENT OF RETURNED FAILED ASYLUM SEEKERS

30.02 The Country of Origin Information Service could find no information to suggest that returning Jamaican nationals may be subject to adverse treatment for reason of applying for asylum abroad.

30.03 On 22 July 2007 The Gleaner reported that 63 persons had benefited from assistance provided by International Office of Migration (IOM). The article stated, 'Since 2003, the IOM has opened offices in Kingston and has been quietly helping returnees find jobs, start small businesses and further their education…' The article pointed out that any Jamaican who had applied for asylum and was awaiting a decision, those who had been refused asylum and were appealing, and those who had been granted exceptional leave to remain or those who had been given humanitarian protection would qualify for IOM assistance. **[34am]**

30.04 The website of the British High Commission in Kingston, accessed 28 March 2012, gave details of the National Organisation of Deported Migrants (NODM), which provides advice and support to Jamaican deportees and failed asylum seekers before and after their return to Jamaica:
http://ukinjamaica.fco.gov.uk/en/news/?view=News&id=700568382 **[54a]**

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31. EMPLOYMENT RIGHTS

31.01 The US State Department 2011 Human Rights Report: Jamaica (USSD Report 2011), released on 24 May 2012, reported:

'The law provides for the right to form or join unions and to bargain collectively, but it neither authorizes nor prohibits the right to strike. The law allows for union activity, prohibits antiunion discrimination, and provides for the Industrial Disputes Tribunal (IDT) to reinstate a worker if a dismissal is deemed unjustifiable. The law permits unions to conduct their activities without interference and states that workers are entitled to reasonable time off to conduct union activities ... There were no reports of any workers losing their jobs due to strike action during the year [2011].

'All persons categorized as workers are entitled to protection under the law, including migrants and those working in special trade zones. Contract workers, however, are denied certain statutory provisions, such as redundancy benefits.

'The independent IDT hears cases when management and labor fail to reach agreement, including those involving nonunionized workers.

'The antitrafficking law prohibits forced labor, but there are otherwise no specific laws prohibiting all forms of forced or compulsory labor. However, the country has ratified relevant [International Labor Organisation] conventions, which carries a legal obligation to apply their provisions.' **[8a] (Section 7)**

See also Section 23: Children

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Annex A

CHRONOLOGY OF MAJOR EVENTS

1655 Britain captured Jamaica.

1670 Jamaica formally ceded to Britain.

1838 Slavery abolished.
Norman Manley founded the People's National Party (PNP)

1944 Universal adult suffrage introduced; new constitution providing for a popularly-elected House of Representatives promulgated.

Independence

1962 Jamaica became independent within the Commonwealth with Alexander Bustamante of the Jamaica Labour Party (JLP) as Prime Minister.

1972 The PNP won the general election and Michael Manley becomes Prime Minister.

1976 The PNP won another election.

1980 The JLP won the general election and Edward Seaga is elected Prime Minister. Seaga proceeded to privatise state enterprises.

1989 Michael Manley was elected Prime Minister after PNP ousts the JLP in elections.

Patterson becomes Prime Minister

1992 Michael Manley retired on health grounds and is succeeded by Percival Patterson as the Prime Minister and leader of the PNP.

1993 The PNP returned to office with an increased majority.

1998 The PNP won a third term in office amid increasing crime and deteriorating economy.

1999
April Violent protests took place against a 30 per cent increase in fuel prices.
July The Government ordered the army to patrol the streets of Kingston following a massive increase in crime.

2001
July Troops backed by helicopter gunships, tanks and armoured vehicles moved in to restore order in capital, Kingston, after three days of unrest left at least 27 people dead.

2002

January	The authorities announced that more than 1,100 people were murdered in Jamaica in 2001. This showed an increase of 30 per cent over the previous 12 months, and the highest ever recorded in a single year.
March	Britain's Privy Council, decided to halt executions in a number of Caribbean countries where capital punishment has widespread support as a deterrent to rising violent crime. Prime Minister P. J. Patterson criticised the move.

Patterson's third term

2002

October 16	The People's National Party was re-elected for the fourth term in the general election. This was the third consecutive election victory for Prime Minister Patterson.

2003

January	UK introduced visa regime for Jamaicans entering the UK; London says the move is intended to tackle illegal immigration.

2004

March	Ousted former Haitian president Jean-Bertrand Aristide arrived in Jamaica, prompting angry response from new Haitian government.
September	Hurricane Ivan described as the biggest in living memory pounded the island, destroying thousands of homes.
End	Gang rivalry, drugs trade contribute to high murder rate. 1,145 murders in 2004.

2005

September	Prime Minister PJ Patterson says he will step down by April 2006. Opposition leads a day of protest over price increases for utilities and public transport.
End	More than 1,600 murders in 2005.

2006

February	Local government minister Portia Simpson Miller is elected as head of the ruling People's National Party. She succeeds PJ Patterson to become Jamaica's first female PM in March [2006].
October	Government survives a confidence vote in parliament over the ruling party's acceptance of a campaign donation from a Netherlands-based oil company.

Labour forms a government

2007

September	Jamaica Labour Party wins general elections.
December	Murder rate up 17 per cent on 2006.

2008

August	The battle for the vice presidency of the People's National Party officially commenced.
September	The Prime Minister Bruce Golding completes his first year in office to mixed reviews. Portia Simpson Miller re-elected as president of the Peoples National Party
November	Parliament votes to keep the death penalty, as Jamaica struggles to contain one of the world's highest murder rates.

2009

January	Governor-General Kenneth Hall resigns, citing health reasons. Patrick Allen, president of the Seventh Day Adventist union, will take up the job in February [2009].
August	Jamaica's government received an extradition request for Christopher 'Dudus' Coke (40). By late October it had only responded with requests for more information about the gun and drug trafficking charges against the reputed gang leader. Coke, the alleged leader of the 'Shower Posse' gang, is charged in the US Southern District of New York with conspiracy to distribute cocaine and marijuana and conspiracy to illegally traffic in firearms.
September	John A. Terry (65), Britain's honorary consul in Montego Bay, was found strangled in bed with a note denouncing him as a homosexual.

2010

May-June	Dozens killed in operation to arrest alleged drug lord Christopher 'Dudus' Coke. He is extradited to the US.

2011

October	Andrew Holness takes over as premier, after Golding quits, citing the 'Dudus' Coke affair.
December	Portia Simpson Miller from the People's National Party wins a snap general election.

2012

January	On taking up office, Mrs Simpson Miller says that 50 years after Jamaica gained its independence from Britain, it is time for the country to break with the British monarchy and become a republic.

Source: BBC News, Jamaica Timeline, updated 20 August 2012 **[21b]**

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Annex B

POLITICAL PARTIES

People's National Party (PNP) www.pnpjamaica.com
Founded in 1938; Socialist principles; affiliated with the National Workers' Union. In government since December 2011.
President: Portia Simpson Miller.
General Secretary: Peter Bunting. **[5b]**

Jamaica Labour Party (JLP) http://www.jamaicalabourparty.com/
Founded in 1943. Supports free enterprise in a mixed economy and close co-operation with the USA. Was last in power from September 2007 to December 2011.
Leader: Andrew Holness.
General Secretary: Aundré Franklin. **[5b]**

National Democratic Movement (NDM) http://ndmjamaica.wordpress.com/
Founded 1995; advocates a clear separation of powers between the central executive and elected representatives; supports private investment and a market economy; member of the New Jamaica Alliance.
Chair: Peter Townsend.
President: Earl DeLisser. **[5b]**

Jamaica Alliance Movement (JAM)
Founded 2001; Kingston based; Rastafarian cultural.
President: Astor Black. **[5b]**

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Annex C

PROMINENT PEOPLE

Head of State	Queen Elizabeth II, represented by the Governor General
Prime Minister and Leader of the People's National Party (PNP)	Portia Simpson Miller
Minister of Foreign Affairs & Foreign Trade	Arnold Nicholson
Minister of Finance & Planning	Dr Peter Phillips
Minister of Local Government & Communities	Noel Arscott
Minister of Education	Rev. Ronald Thwaites
Minister of Industry, Investment & Commerce	Anthony Hylton
Minister of Tourism & Entertainment	Dr Wykeham McNeill
Minister of Agriculture & Fisheries	Roger Clarke
Minister of Youth & Culture	Lisa Hanna
Minister of Water, Land, Environment	Robert Pickersgill
Minister of Science, Tech., Energy & Mining	Phillip Paulwell
Minister of Labour & Social Security	Derrick Kellier
Minister of Health	Dr Fenton Ferguson
Minister of Justice	Mark Golding
Minister of Transport, Works & Housing	Omar Davies
Minister of National Security	Peter Bunting
Minister of State in PM's Office	Luther Buchanan
Ministers Without Portfolio in PM's Office	Sandrea Falconer Natalie Neita-Headley

Source: Jamaica Information Service, accessed 25 September 2012 **[24a]**

PROMINENT PEOPLE OUTSIDE OF THE GOVERNMENT

Stanley Redwood	President of the Senate
Zaila McCalla	Chief Justice
Andrew Holness	Leader of the Jamaica Labour Party and former Prime Minister
Astor Black	President of the Jamaica Alliance Movement (JAM)
Peter Townsend	Chair of the National Democratic Movement (NDM)

Source: Europa World Online, accessed 26 September 2012 **[5i]**

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Annex D

LIST OF ABBREVIATIONS

AI	Amnesty International
CEDAW	Committee on the Elimination of All Forms of Discrimination Against Women
EU	European Union
EBRD	European Bank for Reconstruction and Development
FCO	Foreign and Commonwealth Office (UK)
FGM	Female Genital Mutilation
FH	Freedom House
GDP	Gross Domestic Product
HIV/AIDS	Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome
HRW	Human Rights Watch
IAG	Illegal Armed Group
ICG	International Crisis Group
ICRC	International Committee for Red Cross
IDP	Internally Displaced Person
IFRC	International Federation of Red Cross and Red Crescent Societies
IMF	International Monetary Fund
IOM	International Organisation for Migration
JCF	Jamaica Constabulary Force
MSF	Médecins sans Frontières
NATO	North Atlantic Treaty Organisation
NGO	Non Governmental Organisation
OCHA	Office for the Coordination of Humanitarian Affairs
ODIHR	Office for Democratic Institutions and Human Rights
ODPR	Office for Displaced Persons and Refugees
OECD	Organisation of Economic Cooperation and Development
OHCHR	Office of the High Commissioner for Human Rights
OSCE	Organisation for Security and Cooperation in Europe
RSF	Reporters sans Frontières
STD	Sexually Transmitted Disease
STC	Save The Children
TB	Tuberculosis
TI	Transparency International
UN	United Nations
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCHR	United Nations High Commissioner for Human Rights
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNODC	United Nations Office on Drugs and Crime
USAID	United States Agency for International Development
USSD	United States State Department
WFP	World Food Programme
WHO	World Health Organization

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Annex E

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