

JAMAICA

CCPR A/36/40 (1981)

253. The Committee considered the initial report (CCPR/C/1/Add. 53) submitted by the Government of Jamaica at its 291st, 292nd and 296th meetings held on 14 and 16 July 1981 (CCPR/C/SR. 291, 292 and 296).

254. The report was introduced by the representative of the State party who stated that his Government gave the strongest support to the promotion of human rights both at the international and local levels; that the protection of individuals from the abuse of their rights by others was enshrined in the Constitution which was the supreme law of the country and that the purpose of the restrictions imposed on some civil and political rights was to protect the rights of others and the public interest.

255. Members of the Committee, while regretting that the report which had been due since 1977 was submitted only in 1980, commended Jamaica for the detailed character of the report, its consistency with the guidelines of the Committee and the seriousness with which it had been prepared. The report also had the merit of including a number of provisions from different internal laws designed to give effect to the general constitutional norms of Jamaica, particularly since the Covenant could not be directly invoked before the national courts and since domestic legislation was, therefore, necessary. In this connection, reference was made to a statement in the report to the effect that certain rules of customary international law were automatically applied in Jamaica and it was asked to which rules of customary international law the report had referred and whether such rules were regional in scope, such as the rights of territorial asylum recognized in America. Information was also requested on the actual progress made in the enjoyment of human rights in Jamaica and on any factors and difficulties, if any, affecting the implementation of the Covenant as stipulated in article 40, paragraph 2, thereof.

256. In connection with article 1 of the Covenant, it was asked what repercussions the establishment of a new international economic order might have in Jamaica on the civil and political rights set forth in the Covenant. Noting the reference in the report to agreements concluded by Jamaica with multinational corporations, information was sought on the extent to which the practices of such cooperation had adverse impact on the right to self-determination itself and on the right of a people to maintain effective control over its natural resources; and on whether Jamaica had provided material assistance to other peoples striving to achieve their right to self-determination in accordance with the relevant General Assembly resolutions. Information was also requested on the institution of Governor-General as head of the Executive and on the compatibility of such an institution with self-determination.

257. With regard to article 2 of the Covenant, members of the Committee noted that the provisions of this article contained a general prohibition of discrimination. However, the Jamaican Constitution specified fewer grounds on the basis of which discrimination in Jamaica was prohibited than did the Covenant and it was asked whether there were any other legislative provisions prohibiting

discrimination on such important grounds as sex, language, national or social origin, property, birth or other status; and to what extent the provisions of the Covenant ensured to all those who lived in Jamaica the enjoyments of Covenant rights on an equal basis. Some members expressed concern over certain provisions in Section 24 of the Constitution which permitted restrictions of a discriminatory character contrary to article 2 with regard to the rights of privacy, freedom of movement, expression, association and of assembly, and asked for assurances that appropriate attention would be given to the specific obligations undertaken by Jamaica under the Covenant when applying these provisions of the Covenant.

258. Noting that the Covenant had not been directly incorporated into Jamaican domestic law, members asked what publicity the Covenant and the Optional Protocol had been given in Jamaica; whether national institutions for the promotion of human rights had been established; whether any thorough legal inquiry had been undertaken in Jamaica with a view to eliminating any inconsistencies between the domestic law and the Covenant; whether a citizen who claimed that his rights had been violated could invoke the provisions of the Covenant directly in court and the extent to which courts would give weight to those provisions as opposed to existing jurisprudence; whether the Supreme Court or the Court of Appeal could hold a Jamaican Act of Parliament invalid as contrary to the Constitution; whether any ruling of that kind had ever been made, and whether the provisions of the Constitution had ever been used by the courts to grant remedies to persons affected by unconstitutional legislations, and if so, what remedies were there and how often people resorted to them. Information was also sought on the status, functions and activities of the Jamaican Council for Human Rights; on the discretionary powers of the Ombudsman to ensure respect for civil and political rights; and on the relationship between the Ombudsman and the Supreme Court.

259. With regard to article 3 of the Covenant, members of the Committee noted that no mention had been made of practical measures, in addition to purely legislative measures, that had been taken to implement equal rights between men and women. Information was sought on whether, in Jamaica, a woman could voluntarily terminate her pregnancy and if so, in what circumstances, on the number of women lawyers in Jamaica, on the percentage of female students in schools and universities, on the percentage of women Members of Parliament and on the percentage of women in the diplomatic corps.

260. Commenting on article 4 of the Covenant, members asked what guidance was given to the Governor General in proclaiming a state of emergency between June 1976 and June 1977; who was responsible for determining the existence of a “threat to the life of the nation”; which rights had been derogated from during the state of emergency and for what reasons; whether the Government had informed the other States parties of such derogations, as stipulated in article 4, paragraph 3, of the Covenant. Some members pointed out that section 24 (4) and (6) of the Constitution, when read together could be so interpreted as to permit discrimination contrary to the provisions of article 4 of the Covenant. In this connection it was asked whether section 3 (2) (a) of the Emergency Powers Act related to Jamaican citizens or to foreigners, since that provision referred only to “persons”.

261. With regard to article 6 of the Covenant, it was noted that the Governor General was empowered under the Constitution to exercise the prerogative of mercy. Questions were asked as to whether the prerogative could be exercised in the case of a person who had been sentenced to death and to some other sentence; whether the death penalty had even been imposed for high treason

or other serious crimes; and whether the examination of the abolition of capital punishment by a Committee of Parliament in Jamaica was still in its initial stages or whether some progress had already been made. Stressing that the right to life required the control of the use of fire arms by the police, some members asked whether the principle of proportionality was applied by the authorities and whether the courts of Jamaica had had the occasion to apply that principle in cases of that kind.

262. In connection with article 7, information was requested on the implementation of the prohibition of torture and other degrading treatment, on whether it was open to the courts to review a legislatively fixed sentence with a view to determining whether, in the circumstances of the case, the sentenced amounted to cruel, inhuman or degrading treatment, particularly in legislation relating to public order; on the forms of corporal punishment which were still practiced in Jamaica and on the existing rules applicable to solitary confinement. Noting that infringement of the prohibition of medical or scientific experimentation without the free consent of the person concerned was considered to be an offence at common law, it was asked whether Jamaica did not have any more up-to-date legislation to ensure compliance with the provisions of this article.

263. With regard to article 8 of the Covenant, one member referred to ILO Convention 105 concerning the abolition of forced labour, ratified by Jamaica in 1962, and recalled that a United Kingdom statute of 1894, incorporated into Jamaican legislation, provided that seamen of the merchant navy could be brought back by force on board their ships and it was asked whether such provisions were still in force.

264. With respect to article 9 of the Covenant, it was asked whether a citizen could be expelled from Jamaica; and what the justification was there for the possible deprivation of personal liberty under section 15 of the Constitution in “the case of a person who had not attained the age of 21 years, for the purpose of his education or of his welfare”. Questions were also asked on the nature and the burden of proof that lay on a person seeking redress for breach of his fundamental right to liberty. Misgivings were expressed regarding the deprivation, under the same section, of the liberty of vagrants and it was asked how that term was interpreted and in what circumstances a person of that description could be deemed a menace to society. Information was requested on the exact nature of preventive detention, its duration and the circumstances in which it was ordered and on whether a person arrested without legally valid grounds was entitled to bring an action against that person and, in the event of the insolvency of the person originally responsible for the arrest or detention, against the State.

265. As regards to article 10 of the Covenant, members commended the Rules for Prison Officers, which stated that “Every prison officer . . . shall treat prisoners with kindness and humanity”. They stated, however, that prisoners should have the possibility of bringing complaints to persons independent of the police authorities, who listened to them and whose duty it was to ensure that their complaints were properly investigated and that action was taken on them. Another vulnerable class of detainees were persons detained in mental institutions to whom reference was made in section 15, paragraph 1, of the Constitution. It was increasingly realized that more adequate safeguards were necessary to ensure that those persons are not detained without proper cause and that they would receive proper treatment while detained. Members asked what prison rules existed in Jamaica regarding family visits to prisoners, in particular, their frequency and what were the rules governing correspondence and contacts between a prisoner and his family. One member was disturbed to note

that, under Jamaican law, it appeared to be possible to sentence a child of 14 to spend the rest of his life in prison.

266. As regards articles 12 and 13 of the Covenant, reference was made to the apparent conflict between the provisions of the Immigration Restriction (Commonwealth Citizens) Act, the Aliens Act mentioned in the report, and the general rule whereby an alien had no right to enter Jamaica. In this connection it was noted that the term “alien” in the Covenant was intended to cover anyone not a citizen of the country concerned and would therefore apply to a Commonwealth citizen; that the Immigration Registration Act indicated that the procedural safeguards required by article 13 of the Covenant would appear to apply only to persons ordinarily resident in Jamaica continuously for a period of five years whereas article 13 was designed to apply to any alien lawfully in the territory of a State party. Similarly, the Aliens Act, which referred to aliens who were not Commonwealth citizens, did not appear to comply sufficiently with the requirements of article 13 concerning the review of the case and the opportunity for a person to submit his reasons against expulsion. It was suggested that the provisions of the two Acts be reviewed with the view to amending them to give full effect to the provisions of article 13 of the Covenant.

267. Clarification was requested on the implementation of various provisions of article 14 of the Covenant. Questions were specifically asked on how the independence of the judiciary was ensured in Jamaica; on the appointment, transfer and promotion of judges; on whether, in Jamaica, there were emergency courts and courts with non-professional judges; and on how legal assistance was provided in practice. Regarding a reference in the report to the Gun Court Act, which had established a special court and special procedures to deal with cases of possession of firearms, questions were asked as to whether the requirements of due process as laid down in article 14 were met in the Gun Court and whether there was a right of appeal as required by article 14, paragraph 5, of the Covenant. Members also inquired whether any of the rights set forth in the Constitution relating to fair trial had been held by a court to have been infringed and, if so, what remedies had been granted.

268. With regard to article 17 of the Covenant, it was noted that interference could be arbitrary, even though it was lawful, and that was true where a law was formulated in unduly broad terms conferring broadly to defined powers without adequate control, as in the case of police interference. Questions were asked as to what exceptions the Suppression of Crime Act had permitted to the general rule as laid down in the Constitution which provided that, except with his own consent, no person shall be subject to the search of his person or of his property or the entry by others on his premises; whether interference with correspondence was prohibited in Jamaica; and whether there was any law in Jamaica protecting individuals from electronic surveillance and eavesdropping.

269. In relation to articles 18 and 19 of the Covenant, it was noted from the report that the restrictions permissible under the Jamaican Constitution appeared wider than those allowed under the Covenant which provided for the possible imposition of certain restrictions upon the exercise of the right, but not upon the right itself and it was asked how the relevant provisions of the Constitution were implemented in practice since they concerned basic human rights, *inter alia*, freedom of thought, conscience or religion, freedom of expression. Members also requested information on the existing relationship between the press and the Government and on the age at which a child could choose his belief or religion.

270. In connection with article 20 of the Covenant, it was pointed out that the information given in the report was mainly concerned with internal armed conflict, insurrection and the creation of discontent, dissatisfaction and ill-will, whereas article 20 of the Covenant was concerned with the prohibition of propaganda for war in general, and of any advocacy of national, racial or religious hatred. Members asked whether a person might be punishable under the provision of section 3 of the Treason Felony Act of Jamaica mentioned in the report without having done any act on the grounds that his thoughts constituted a threat to State security.

271. With regard to article 22 of the Covenant, it was asked whether the forming of political parties was covered by legislation, and if so which authority or body decided whether a particular political party complied with the provisions of the law; how many trade unions there were and whether they could conclude collective bargaining agreements; and whether foreign residents could join trade unions. It was also asked whether the regulations under the Emergency Powers Act of Jamaica had been considered in connection with the ILO instruments on the freedom of trade unions; whether the ratification by Jamaica of ILO Conventions had created any particular problems for Jamaica and, if so, what the Government had done to solve those problems.

272. With regard to articles 23 and 24 of the Covenant, clarification was requested on the system of marriage contracts and questions were asked as to what the legal system was regarding the family estate; who was considered to be the head of the family; whether Jamaica had ratified the Convention on the nationality of married women and what were the implications of marriage between a Jamaican national and a person of foreign nationality; whether grounds for divorce were the same for men and women; at what age young people could marry; whether the age of marriage corresponded to the age at which sexual relations were not a criminal offense and whether widowers and widows were in a position of equality where inheritance was concerned. It was noted that according to the report the Status of Children Act had removed the status of illegitimacy. However, some provisions of this Act bore evidence that children were not treated with absolute equality. Members asked whether legal action taken by the mother of an illegitimate child could lead to legitimization of that child.

273. With reference to article 25 of the Covenant, it was asked how the political parties existing in Jamaica were formed, who was entitled to form them; whether the constitution of a political party was subject to certain conditions and whether a party based on a fascist or anarchist ideology could legally be formed; whether Jamaica applied the one man one vote rule whether the voting districts were divided, so as to give all persons equal political rights irrespective of where they lived; what legal provisions ensured the fairness of elections and at what age one was eligible to vote.

274. With reference to article 26 of the Covenant, it was pointed out that what was required was not merely equality before the law but also equal protection of the law; that Section 24 of the Constitution furnished some possible grounds for discrimination beyond what was permissible under the Covenant since the prohibition of discrimination did not apply for example with respect to the imposition of taxation or appropriation of revenue nor, for that matter regarding qualifications for service as a public officer, police officer or member of the defence force. It was also asked whether, since article 26 required that the law should prohibit discrimination, special legislation had been enacted in Jamaica particularly, since Jamaica was a multi-religious and multiracial community.

275. In relation to article 27 of the Covenant it was noted that the Constitution had not entirely covered the provisions of this article. Information was requested on the composition of the Jamaican population, on how ethnic minorities were treated and protected; on measures taken to defend their culture and ensure the representation of ethnic minorities in Parliament.

276. The representative of the State party replied to a number of questions put to him by members of the Committee as summarized in the preceding paragraphs.

277. With regard to questions concerning the application of rules of customary international law in Jamaica, he stated that the Jamaican courts would apply the applicable criteria to determine whether a rule was a generally recognized one in international law, and the Jamaican courts would then recognize that rule as part of Jamaican jurisprudence. He also informed the Committee that the Government would include information on any factors and difficulties encountered in implementing the Covenant when it submitted written answers, pursuant to article 40 of the Covenant.

278. Replying to questions raised under article 2 of the Covenant, the representative stated that the fundamental rights and freedoms of individuals were guaranteed in chapter III of the Constitution. The limitations which were permissible were designed to ensure that the enjoyment of those rights and freedoms did not prejudice the enjoyment of the rights of others or the public interest. When a person appeared before tribunals and administrative authorities, he enjoyed the protection of the Constitution and other laws of Jamaica. Any alleged infringement of his fundamental rights and freedoms could be brought before the Supreme Court under section 25 of the Constitution for redress, without prejudice to any other course of action which was available. Section 25, paragraph 2, of the Constitution in fact was couched in the broadest terms and therefore afforded very extensive remedies. As regards the jurisdiction of the Courts, he stated that section 25 of the Constitution contained a clear and express reference to the power of judicial review with respect to chapter III. No lack of clarity had been detected by the Jamaican courts and there had been cases brought under provisions similar to section 25 in West Indian jurisprudence. The Supreme Court had in fact on many occasions considered the constitutionality of legislation and made pronouncements thereon. One such instance concerned the Gun Court Act where, on appeal, the Judicial Committee of the Privy Council had declared certain provisions of that Act to be unconstitutional.

279. Discriminatory legislation was prohibited under section 24, paragraphs 1 and 2 of the Constitution. The protection afforded by the Constitution over ordinary legislation was entrenched under section 49 and strengthened by section 2, whose provisions, taken together, gave supreme force to the Constitution and therefore provided the citizen with greater protection. As regards the status and activities of the Jamaican Council for Human Rights, the representative assured the Committee that those remarks would be brought to the attention of the proper authorities in Jamaica.

280. With regard to questions raised in respect of article 3 of the Covenant, the representative stated that his Government was fully aware of its obligations to promote and protect civil and political rights on the basis of equality as between the sexes and to create conditions for equality by affirmative action. Much was being done to promote and protect equal rights for women and, to that end, a Government unit with that specific responsibility had been established in Jamaica. There were many women in the Jamaican diplomatic service, including several of ambassadorial rank, and

in all spheres of public affairs.

281. Concerning the role of the Governor-General in connection with the provisions of article 4 of the Covenant, the representative stated that the Governor-General's office had been established under the Constitution, which required him to act in accordance with the advice of the Cabinet, except in certain defined areas. Her Majesty in the person the Governor-General was the titular head of the State and the Constitution was clear on where effective executive power lay.

282. In connection with article 6 of the Covenant, the representative stated that under the provisions of section 90 of the Constitution the Governor-General was given the power to exercise the prerogative of mercy for all offences, including that of murder. In the case of a conviction for murder, the Judge sent a report to the Jamaican Privy Council which after considering the report, advised the Governor-General as to whether the prerogative should be exercised. There had been instances of that discretion being used in murder cases. On the matter of capital punishment, debate was current in Jamaica and was being actively considered by a bi-partisan parliamentary Committee. That committee had asked for more time to make appropriate recommendations to Parliament. Replying to a question relating to proportionality with respect to the use of fire arms by the police, he explained that proportionality was one of the major factors to be considered by the Courts under the ambit of the phrase "reasonably justifiable". It would be quite open to the Courts to find that a killing to protect oneself from serious harm was not an infringement of the right to life while a killing to resist a minor theft was such an infringement. The terms used in the Constitution were clearly open to interpretation by the Courts.

283. Replying to a question raised under article 9 of the Covenant, he said that a citizen of Jamaica could not be expelled from his own country. Section 16 of the Constitution concerning the protection of freedom of movement, made by the expulsion of a Jamaican citizen unconstitutional.

284. As regards article 10 of the Covenant the representative stated that the fundamental rights and freedoms of the individual were a subject which formed part of the training of police and security forces who were thus made aware not only of their power but of the rights and freedoms of all persons in Jamaica.

285. Regarding article 14 of the Covenant, the representative pointed out that all successive Governments of Jamaica had recognized the independence of the judiciary as being one of the fundamental requirements of the Constitution, in particular having regard to the entrenched constitutional provisions guaranteeing the fundamental rights and freedoms of the individual. The independence of the judiciary was secured in chapter VI, section 49 of the Constitution, and its main characteristics were security of tenure, security of remuneration, and protection from removal from office. Sections 100 and 106 of the Constitution concerning the Supreme Court and Court of Appeals laid down an elaborate procedure governing the removal of judges from office. He also stated that there were only two grounds for removal, "inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause)" or "misbehaviour". As a first condition, the Governor-General was required to appoint a tribunal of persons holding or who had held high judicial office to inquire into the question of whether the matter should be referred to the Judicial Committee of Her Majesty's Privy Council. The Judicial Committee must then advise whether the Judge concerned ought to be removed from office.

286. The representative commented that there were no non-professional judges in Jamaica and that judges were not elected. All matters relating to the enforcement of the fundamental rights and freedoms affirmed in chapter III of the Constitution were heard by the Supreme Court or, on appeal, by the Court of Appeal or the Judicial Committee of the Privy Council. All the courts in Jamaica were staffed by professional judges whose independence was secured by the provisions of the Constitution. Nevertheless, for certain purposes administrative tribunals had had to be set up to hear specific issues; they were staffed by persons who were not members of the judiciary but who had particular skills in the area of the competence. For instance, the Labour Relations and Industrial Disputes Act, which established the Industrial Disputes Tribunal contained provisions requiring that the Tribunal should consist of a Chairman and two Deputy Chairmen appointed by the Minister, with sufficient knowledge of, or experience in, labour relations, and of not less than two members appointed by the Minister from a panel supplied by organizations representing employers and an equal number of members appointed by him from a panel supplied by organizations representing workers.

287. With regard to the burden of proof under section 15 of the Constitution, he said that a distinction had to be made between civil and criminal proceedings. A person applying to the Supreme Court for redress regarding an alleged infringement of his right to personal liberty under section 15 would merely have to establish that he had in fact been deprived of his liberty. The burden of proof did not involve adducing negative evidence to exclude the operation of the exceptions. Once the complainant had established the deprivation of his liberty, it would then be for the authority concerned to establish, on the evidence, that it was entitled to claim the operation of an exception.

288. As regards article 19 of the Covenant, the representative stated that in Jamaica the press was free, effective and not controlled by the Government. Relations were based on mutual respect and the common desire to see Jamaica advance as a free and progressive society. In fact, the history, tradition and practices of the country ensured and required a free press.

289. Replying to the questions concerning article 25 of the Covenant, he pointed out that the Constitution contained certain provisions on the electoral system such as voting. It had been amended twice, once to lower the voting age to 18 and then to remove certain disabilities affecting senators. An impartial Electoral Commission had recently been established on which representatives of both major parties were equally represented. The national election of 1980 and the local elections of 1981 had both been administered by the Commission and had served to inspire confidence in it in Jamaica and elsewhere.

290. Finally, the representative of Jamaica informed the Committee that the questions and comments of members would be brought to the attention of the appropriate authorities and that the most serious consideration would be given to all views expressed. His Government would provide to the Committee written replies to the points not adequately covered and additional information where necessary.

CCPR A/53/40 (1998)

69. The Committee examined the second periodic report of Jamaica (CCPR/C/42/Add.15) at its 1622nd to 1624th meetings, on 23 and 24 October 1997, and at its 1641st meeting, on 5 November 1997, adopted the following observations.

1. Introduction

70. The Committee welcomes the second periodic report submitted by the State party and appreciates the delegation's readiness to resume its dialogue with the Committee, although it deplors the delay of more than 15 years in reporting. The Committee regrets that while the report provided useful information on the general legislative framework of Jamaica, it did not address consistently the actual state of implementation of the Covenant, nor did it always address, on an article-by-article basis, difficulties encountered in the course of its implementation.

2. Factors and difficulties affecting the implementation of the Covenant

71. The Committee is aware of the difficult economic situation of Jamaica during much of the period covered by the second periodic report, as well as of the high rate of crimes of violence.

3. Positive aspects

72. The Committee appreciates that in the envisaged review of the Jamaican Constitution, any provisions in contradiction with the Covenant which might appear from the application of section 24 of the present Constitution would be eliminated. It expresses the hope that the recommendation of the Constitutional Commission to the effect that the new Bill of Rights should explicitly refer to prohibition of discrimination on the grounds of sex will be implemented as part of this legislation.

73. The Committee welcomes the establishment in 1993 of the Police Public Complaints Authority, which allows Jamaican citizens to seek redress if they have been abused by police officers, and the requirement for this body to report publicly on its activities. The Committee further welcomes the establishment of a Public Commission of Inquiry into the prison disturbances which occurred in several correctional facilities in August 1997, resulting in the loss of life of 16 inmates. At the same time, the Committee wishes to emphasize that the results of the investigations of and the action taken by these bodies should be disseminated as widely as possible and made available to the Committee.

74. The Committee appreciates that the imposition of capital punishment has been reviewed by the Jamaican authorities during the period under review, leading to the adoption of the Offences against the Person (Amendment) Act, 1992 and the concomitant adoption of procedures for legal representation, classification of offences, minimum periods to be served and an appellate system.

75. The Committee appreciates that on the basis of the classification of capital offences under the Offences against the Person (Amendment) Act, judicial decisions and a number of Views adopted by the Committee under the Optional Protocol, numerous death sentences were commuted, leading to a considerable reduction in the number of inmates under sentence of death.

76. The Committee welcomes the fact that draft legislation is currently being finalized with a view to improving the system of legal aid in Jamaica: under the proposed system, legal aid would be extended to all aspects of criminal proceedings and appeals, to constitutional motions, to prerogative writs and to the writ of habeas corpus, as well as to other civil proceedings. The Committee expresses the hope that the new Legal Aid Bill will be passed and will enter into force as soon as possible, and that sufficient resources will be allocated for its effective operation.

77. The Committee welcomes the current implementation of a programme for the modernization and the rebuilding of the prison estate. On the basis of the information provided by the delegation, such projects as have already been approved and are being implemented, such as the long-overdue modernization of St. Catherine District Prison and the building of a facility to replace the outdated Tower Street Adult Correctional Centre, will improve conditions of detention, overcrowding of prisons and other unsatisfactory conditions. The Committee welcomes the intention expressed by the delegation to amend administrative regulations listing objects that inmates, whatever their sentence, may keep in their possession, to the effect that a prisoner will be allowed to retain in his cell correspondence and will be assured access to legal documents relating to his case.

4. Subjects of concern and the Committee's recommendations

78. The Committee notes with the utmost regret Jamaica's notification of denunciation of the Optional Protocol. Unless withdrawn, this denunciation will become effective on 23 January 1998. The Committee affirms that:

(a) Views of the Committee already adopted on communications under the Optional Protocol will retain their validity and will require implementation;

(b) Communications already pending, or submitted before 23 January 1998, will not be affected by Jamaica's notification and will be considered by the Committee in due course;

(c) Jamaica will continue to be bound by the provisions of the Covenant, and be subject to other monitoring functions of the Committee.

79. The Committee considers that the Governor-General's notification of 7 August 1997, unilaterally imposing timetables for the examination of communications under the Optional Protocol by the Committee, cannot be invoked as justification for any measure that would deviate from the Covenant, the Optional Protocol or requests by the Committee for interim measures of protection.

80. The Committee is concerned at the incidence of domestic violence against women. Therefore:

The Committee recommends that increased efforts be made to sensitize the population to the need to respect women's dignity and that legislation should ensure ready access to remedies for violations of women's human rights, and that social and educational programmes be pursued to ensure the upholding of women's rights by way of abolishing all discrimination.

81. The Committee notes with concern that serious deficiencies persist in the administration of the State party's prison system. These include conditions of imprisonment which the Committee

considers incompatible with the United Nations Standard Minimum Rules for the Treatment of Prisoners and article 10 of the Covenant; attention should be paid to the lack of sanitary facilities, lighting in cells, adequate diet, adequate training of prison staff, adequate facilities for visits of convicted prisoners (by relatives and by their legal representatives) and recurrent ill-treatment of inmates. In this regard:

Effective means of redress, without reprisals, should be available for detainees and prisoners regarding complaints of ill-treatment by police or prison warders; the Boards of Visitors should examine all such complaints and report to the prison governor. The Committee recommends that an independent prison inspectorate be established which would report publicly on its findings.

82. While noting current endeavours to reform the system of legal aid, the Committee remains concerned about the state of current legal aid representation. This is particularly disturbing for cases involving capital punishment, where unavailability of legal aid amounts to a violation of article 6 juncto article 14 of the Covenant. Therefore:

The Committee urges the State party to monitor on a continuing basis the availability and quality of legal aid representation, and to ensure that experienced counsel is assigned to individuals accused of capital and other serious offences. The Committee emphasizes that adequate remuneration of lawyers acting under the Poor Prisoners' Defence Act at all stages of arrest and subsequent proceedings would greatly assist in providing a proper defence of clients in a proper manner. Legal aid should be available for obtaining the presence of defence witnesses for the purposes of trials.

83. The Committee is deeply concerned about the fact that the Flogging Regulation Act, 1903 and the Crime (prevention of) Act, 1942 are still in force, which provide for and regulate corporal punishment both as a penalty for certain crimes and as a penalty for breach of prison rules of other regulations. In this regard:

The Committee recommends that both Acts be repealed, as they are contrary to article 7 of the Covenant.

84. The Committee regrets the lack of published information about the alarmingly high incidence of the use of firearms by the police and security forces. Therefore:

The Committee urges the State party to investigate all such incidents and to make available to the public the outcome of such investigations; in particular, an inquiry should be completed on the Tivoli Gardens incident in March 1997 and its results published.

85. With respect to the system of administration of justice and the conduct of criminal trials, especially in capital cases, the Committee is concerned that, while there has recently been some progress in reducing delays in hearings of cases at all stages of judicial procedure between the initial charge and the final appeal, further efforts should be made to reduce delays in the hearing of cases. This applies in particular to the delays between dismissal of capital appeals by the Court of Appeal of Jamaica and the hearing of a petition for special leave to appeal by the Judicial Committee of the Privy Council. Therefore:

The Committee recommends that appropriate legal provisions be adopted to ensure prompt issue of a reasoned judgement by the Court of Appeal.

86. The Committee is concerned that the State party has failed to adhere strictly to article 9, paragraph 3, of the Covenant and to domestic statutory time limits on pre-trial detention. Therefore:

The Committee urges that such time limits be closely observed, so as to reduce the opportunity for beatings and other forms of police brutality such as have been alleged.

87. The Committee is concerned that not all cases of death at the hands of the police or security forces are subject to a coroner's inquest. Therefore:

The Committee emphasizes that all such deaths should be inquired into and that inquests ordered under the Coroners Act which are adjourned pending the consideration by the Department of Public Prosecutions of potential charges must be reopened if no prosecution ensues.

88. The Committee has noted the delegation's information that wire-tapping remains an exceptional administrative measure. It considers that current administrative rules are insufficient to secure compliance with article 17 of the Covenant. Therefore:

The Committee urges the Jamaican authorities either to discontinue wire-tapping or to adopt precise legislation governing its administration, which should include appropriate mechanisms for judicial oversight.

89. The Committee draws the attention of the Government of Jamaica to the provisions of the guidelines regarding the form and contents of periodic reports from States parties and requests that its next periodic report, due on 7 November 2001, contain material which responds to all the present concluding observations. The Committee further requests that these concluding observations be widely disseminated among the public at large in all parts of Jamaica.