**NATIONAL STATEMENT**

**TO THE SECOND CYCLE OF THE UNIVERSAL PERIODIC REVIEW OF THE**

**UNITED NATIONS HUMAN RIGHTS COUNCIL**

**by**

**SENATOR THE HONOURABLE MARK GOLDING, MINISTER OF JUSTICE OF JAMAICA**

**PALAIS DES NATIONS, GENEVA, 13th MAY 2015**

**Mr. [Madam] President / [Vice-President]**

**Members of the Human Rights Council**

**Observer Delegations**

**Ladies and Gentlemen**

Today, I have the honour to present Jamaica’s Report to the Second Cycle of the Universal Periodic Review (UPR) of the United Nations Human Rights Council (HRC). This is further to the Mid Term Report presented in June 2013 outlining the country’s performance since the submission of Jamaica’s first Report to this body.

**Jamaica and Human Rights**

Jamaica has had a long and cherished history of promoting and protecting human rights. As a newly independent nation, Jamaica initiated and advocated for focussed attention to defining an international human rights landscape with agreed principles, guaranteeing fundamental freedoms and rights for all peoples. It is no surprise therefore that the legacy of Jamaica’s seminal contribution to the development of the body of law pertaining to the International Convention on Civil and Political Rights, as well as Cultural, Social and Economic Rights is now established and continues to serve as the anchor on which the global approach to human rights is built.

The Constitution of Jamaica 1962 guarantees the protection of the human rights of all Jamaicans regardless of colour, class or creed. In continuation of this tradition, since 2011, these rights have been further addressed through the Charter of Fundamental Rights and Freedoms that replaces Chapter three of the Constitution. It provides for fundamental rights and freedoms including: Protection of the right to life, liberty and security of the person, protection of property, the right to freedom of expression, protection from inhumane treatment, the right of the child to protection by the state and to publicly-funded primary and secondary education in public educational institutions, the right to enjoy a healthy and productive environment, protection of freedom of assembly and association, protection of freedom of movement, protection from discrimination on grounds of race, among others.

**National Context**

Of course Mr. President,

These rights are exercised and fully protected, not in a vacuum, but within the context of the social and economic realities that are faced by Jamaica, a small developing country. The Government of Jamaica is conscious of the need to improve the quality of life and well being of all Jamaicans while assuring the promotion and protection of Human Rights for all. It is with this understanding that Jamaica has embarked on a path of national transformation through *Vision 2030 Jamaica’s National Development Plan* (2009-2030). The Plan revolves around four (4) national goals: Jamaicans are empowered to achieve their fullest potential; the Jamaican society is secure, cohesive and just; Jamaica’s economy is prosperous; and Jamaica has a healthy natural environment.

While focused on these transformative goals, we like all other countries especially the small and vulnerable, have had to contend with the grave economic effects of the 2008 global economic recession which persist some seven years later. Against this background, The Government entered into a borrowing relationship with the International Monetary Fund (IMF) in May 2013 agreeing to a four-year Extended Fund Facility (EFF).

The Government’s Economic Reform Programme has yielded positive results, including unemployment reduction, economic growth, reduced inflation, narrowing of the current account deficit and increased local and foreign investments. Jamaica has so far passed seven consecutive quarterly reviews under the IMF’s EFF. The World Bank and the Inter-American Development Bank have also provided substantial support for programmes aimed at supporting Jamaica’s macroeconomic sustainability and strengthening the country’s path towards higher economic growth. Legislative support for the economic programme was provided through the passage of several pieces of legislation including The General Consumption Tax (Amendment) Act, The Tax Collections (Miscellaneous Provisions) Act and The Customs (Amendment) Act.

I wish to emphasise that despite the difficult choices that our economic adjustment programmes have required, we have preserved our commitment to maintain and strengthen the mechanisms for securing Human Rights and social well being of our citizens within the evident constraints that such a programme presents.

Mr. President,

The needs of the vulnerable remain a top priority for the Government of Jamaica. In an effort to ensure that the vulnerable in the society are protected, Jamaica’s first comprehensive social protection strategy was developed in 2013 and In March 2014, Cabinet approved the Jamaica Social Protection Strategy (SPS). The Strategy defines goals and objectives of an effective social protection system, and proposes a structured approach to interventions across the gamut of social welfare, social security and labour market initiatives. The SPS is directly linked to Vision 2030 - Jamaica’s National Development Plan, and provides a framework for achieving its Outcome of *Effective Social Protection.*

The Government is currently developing a new National Poverty Policy and Programme in keeping with *Vision 2030 - Jamaica’s National Development Plan*. A Poverty Reduction Coordination Unit was established in the Planning Institute of Jamaica (PIOJ) to oversee this process.

Mr. President,

The Government of Jamaica understands that seeking to reduce crime and violence and improve the social harmony in our communities, is not incompatible with a sustained commitment to the promotion and protection of Human Rights, rather, we see them as complementary. Crime and violence present their own threats to the human rights of citizens in their person and their property. The Charter of Rights “affords protection to the rights and freedoms of persons… to the extent that those rights and freedoms do not prejudice the rights and freedoms of others”.

With these understandings, the Government of Jamaica remains determined in its drive to reduce crime and violence including through increased emphasis on social interventions, community programmes and more effective policing. The Jamaica Constabulary Force (JCF) has acquired new equipment and technology, established additional posts and increased recruitment. These efforts have been bearing fruit as Jamaica has registered a downward trend in serious crimes over the last five (5) years. I will now give an overview of specific developments since the last review in response to the recommendations made by the Council.

**Human Rights Instruments**

Jamaica is party to seven of the nine core international human rights instruments. Since the presentation to the First Cycle, Jamaica ratified the Optional Protocol to the Convention on the Rights of the Child (CRC) on the sale of children, child prostitution and child pornography on 26th August 2011; and, in 2009, passed a Child Pornography (Prevention) Act and a Sexual Offences Act, which address child pornography and child prostitution. The Disabilities Act 2014 was approved by Parliament in October 2014. Jamaica will now consider the ratification of the Optional Protocol to the Convention on the Rights of Persons with Disabilities.

**Convention on Torture**

With regard to the Convention on Torture, Jamaica is still in the process of putting in place the relevant domestic legislation that can facilitate the implementation of this Convention.

**The ICC**

With regard to the ratification of the Rome Statute to the International Criminal Court (ICC), the country is now at an advanced stage in the drafting of the Bill. It is expected that domestic legislation will be in place by late 2015.

**Reporting Obligations**

Since our last UPR, Jamaica has also submitted reports in connection with its implementation of the following human rights treaties to the relevant treaty bodies:

1. Convention on the Elimination of All Forms of Discrimination against Women
2. Convention on the Elimination of All Forms of Racial Discrimination
3. Convention on the Rights of the Child
4. International Covenant on Civil and Political Rights
5. International Covenant on Economic, Social and Cultural Rights

**Human Rights Education/Promotion**

At the primary and secondary levels, human rights education is infused in the national curricula (primarily Social Studies) as well as in the Health and Family Life Education Curricula. All levels of teacher training include human rights education. Relevant Government agencies, in particular, the Jamaica Constabulary Force and the Correctional Services have infused fundamental human rights into their training programmes.

**National Human Rights Institutions**

As it relates to National Human Rights Institutions, The Government is actively pursuing the establishment of a National Human Rights Institution (NHRI). It is receiving technical assistance for this effort from the Commonwealth and the United Nations Development Programme (UNDP). It should be noted that Jamaica already has an effective, extensive network of institutions mandated to protect the rights of Jamaicans and the move to establish a single NHRI builds upon this solid framework.

**Civil Society and Human Rights**

Civil Society and NGO groups are actively engaged in the sensitisation and promotion of human rights in Jamaica. In 2012, the Ministry of Foreign Affairs led a Steering Committee tasked with the preparation of Jamaica’s main human rights reports, namely, the ICCPR, ICESCR and the UPR have in place a mechanism that engages the NGO community. On that Steering Committee, several NGOs are invited to participate in the development of these reports.

I wish to further address the matter of NGOs and charitable status. Under the Charities Act of December 2013, an organisation is recognised as a charity if it is formed for charitable purposes as defined by the Act including for education, health, human rights, among others. Additionally, in order to receive approval, the relevant agencies must be satisfied that the Memorandum of Understanding and the Articles of Association are in strict adherence with the Charities Act.

**Special Procedures Visits**

Jamaica recognises that visits of Special Procedures Rapporteurs can promote dialogue and improve understanding between the Human Rights bodies (UN and Inter-American) and governments with respect to relevant local human rights procedures. Jamaica accords importance to these visits and carefully considers all requests with a view to ensuring that necessary arrangements are in place to ensure their success.

Within the past five years, Jamaica has received three official visits from Special Rapporteurs from the Organisation of American States (OAS) and the United Nations, namely, the OAS Special Rapporteur on Freedom of Speech (2011) the UN Special Rapporteur on Torture (2012) and Country Rapporteur for Jamaica, Inter-American Commission on Human Rights (IACHR), in October 2013. In April of this year, the UN/OAS Special Rapporteur on Violence Against women conducted a joint Study Tour during a four-day visit. Jamaica also endeavours to respond in a timely manner to reporting requests made by these various bodies.

**Crime, Justice and** **Police Reform**

In an effort to enhance the security of its citizens, the Government has implemented a series of measures aimed at reducing serious crimes. These include increasing Police recruitment, the merger of the Major Organised Crime and Anti-Corruption Taskforce and Anti-Corruption Branch aimed at enhancing efficiency in crime fighting. These and other concerted efforts contributed to a 17% decline in serious and violent crimes in 2014, over 2013.

In terms of legislation, the anti-lottery scamming law was passed in 2014, and netted more than 600 arrests and several convictions. The Criminal Justice (Suppression of Criminal Organisations) Act (aka “Anti-Gang legislation”), which came into effect in April 2014, makes provisions for the disruption and suppression of all criminal organisations (gangs); targets leaders of criminal organisations and criminalises their conduct. Parliament also approved the Criminal Records (Rehabilitation of Offenders) (Amendment) Act 2014, which will reduce the period for which persons convicted of misdemeanours can have their convictions removed from the criminal records.

A data system to facilitate the operation of the Sex Offenders Registry was also completed in 2014. Under the Sexual Offences Act, persons convicted of certain specified offences including rape, abduction and the sale or trafficking of persons, must be included in the Sex Offenders Registry. The Department of Correctional Services will monitor the sex offenders.

The Government has also been focusing on community renewal as part of a holistic approach to dealing with crime and violence in the society and in keeping with the commitment to improve the quality of life of Jamaicans. Under the *Unite for Change Initiative*, introduced in 2014, a series of interventions in violence-prone communities have been undertaken. These include football competitions, outdoor church services and increased community policing to engage residents in peaceful and recreational activities.

**Justice reform**

Justice reform is a priority for the Government of Jamaica. Since the last reporting period, considerable strides have been made in improving and enhancing access to justice. The Government of Jamaica has since 2009 benefitted from technical assistance in several areas of justice reform including for example - through the Canadian Justice Undertakings for Social Transformation (JUST Programme). The Justice Reform Implementation Unit, the implementing arm, established in 2012, coordinates monitors and supports the timely delivery of all justice sector reform initiatives and drives the long-term implementation of the Justice Reform Agenda. Several projects and programmes have been developed over the past three years in support of the following:

* Speedy and fair trials and improve the delivery of justice by the courts.
* Additional judges have been retained, who will be deployed on a rotational basis to a newly-established regional Supreme Court location.
* In May 2015, the development of Legislative Policy and Legislative Drafting Manuals to enhance the quality and timely delivery of legislation.
* Initiatives in relation to Judicial training

In addition to several pieces of legislation passed in 2014 to modernise the judicial system, a National Restorative Justice Programme was established to ensure increased access to justice by citizens. The goals of this Programme are to reduce criminal case backlog by diverting cases from the formal justice system and resolving conflicts at the community level. It encourages increased public confidence and trust in the justice system by fostering greater participation in and ownership of restorative justice processes by communities and victims.

**Application of the Death Penalty**

Jamaica has a *de facto* moratorium on the application of the death penalty and no decision has been taken to make it *de jure*.

**Corporal Punishment**

The Law Reform (Flogging and Whipping) (Abolition) Act was enacted in March 2013. The Act abolishes flogging and whipping as a penalty for any offence and provides that every reference to flogging or whipping as a penalty for an offence, appearing in any enactment, is declared to be of no effect. The Act also expressly repeals the Crime Prevention Act and the Flogging Regulation Act.

Corporal punishment has been outlawed for early childhood institutions and children's homes and places of safety pursuant to the Child Care and Protection Act. In conformity with the Convention on the Rights of the Child, the Ministry of Education has sought to take all appropriate administrative measures to ensure that the use of corporal punishment is discontinued in Jamaican schools.

**2010 Operation in West Kingston**

I now will specifically address the question of the 2010 Operation in Tivoli, West Kingston raised in the follow up recommendations. Following an investigation by the Office of the Public Defender into the Tivoli operation, a report was submitted in April 2013, and tabled in Parliament on 1st May 2013. Among the recommendations was the establishment of a Commission of Enquiry into the activities, circumstances and other issues related to the Tivoli operation. I wish to report that the Commission of Enquiry is now underway since December 2014. The Commission should end its deliberations in June this year.

**Use of Force/Extra-Judicial Killings**

The Government of Jamaica is strongly opposed to extra-judicial killings as this represents an aberration to the rule of law. In addition to strengthened investigation, efforts are continuing to strengthen the prosecutorial arm of the Justice System to make it more efficient and effective. The Government continues to act to ensure that police officers who are implicated in allegations/charges of extra-judicial killings and who have left/fled Jamaica are extradited, where possible, to answer charges.

The Independent Commission of Investigations (INDECOM) was established in 2010 in order to ensure that allegations of extrajudicial killings are investigated in a prompt and effective manner. INDECOM receives approximately 600 complaints each year. Approximately 2,000 investigations are currently underway. The Commission has recorded a downward trend in security force-related fatalities in 2014, compared to 2013. A 50% decline was recorded at the end of 2014.

**Child Care and Protection**

The protection of the vulnerable in society in particular children, the elderly, women and the disabled remain of paramount importance.

With respect to the protection of Children, a National Plan of Action for an integrated response to Children - 2012 to 2017 has been developed and operational. The Plan of Action aims amongst others, to provide a coordinated and structured approach to addressing the key issue and challenges pertaining to children as victims, perpetrators of violence.

The Government has since 2004 established a comprehensive network of institutions mandated to protect the rights of children and ensure their well-being. In recent years, the prevalence of missing children has emerged as a major concern warranting public attention. The Office of the Children’s Registry (OCR) receives reports of children who have been, are being or are likely to be abandoned, neglected, physically or sexually ill-treated, or are otherwise in need of care and protection. After receiving these reports, the OCR records, assesses and then refers the reports to the CDA and OCA for investigation and action.

The Ananda Alert System established in March 2013 through the Office of the Children’s Registry, is a nationwide system used for the safe and speedy recovery of missing children. The initiative involves raising public awareness of missing children, and strengthening rescue, recovery and intervention measures that are vital to the welfare of child victims and their families. The Ananda Alert System has recorded a measure of success since its inception. Recent statistics are revealing that approximately nine (9) out of every ten (10) children reported missing in 2014 have since returned home. The year (2014) also saw a fifty seven percent (57%) decline in the number of children still missing in 2014 when compared to 2013.

**Conditions in Prisons and Detention Facilities**

Significant progress has been made in addressing many of the recommendations made by the Special Rapporteur on Torture in his report of his site visit in 2012 including with respect to conditions in detention facilities.

The Government of Jamaica in response to the killing of an inmate (Mr. Mario Deane) in police lock-up in August 2014 issued a public condemnation. This tragic incident brought to the fore focus on conditions relating to arrest, detention and the state of detention facilities.

On 28th April 2015, Cabinet approved an Administration Policy for Persons Deprived of their liberty and a Strategy Document. This was done in response to the concerns that have persisted with regard to the treatment of Persons in Lock Ups and Correctional Facilities. Issues regarding police custody and detention (in particular, for vulnerable persons such as children, the disabled and the mentally ill) and access to bail, are among the matters addressed by the new policy. Also addressed are protocols for a more structured approach to lock-up visits by Justices of the Peace and actions to be taken consequent upon such visits.

The Government is firmly committed to improving existing conditions to address inadequacies and to satisfy international human rights standards in the operation of lock-ups and correctional facilities. There are several challenges that will need to be overcome including the outdated physical infrastructure of the lock-ups and prisons and the insufficient human and financial resources to adequately supervise and operate lock-ups and prisons.

Notwithstanding these challenges, meaningful improvements have been effected in the past two years:

1. The number of juveniles in correctional or remand facilities has been reduced from 446 in 2012 to 243 presently. In addition, female juveniles have been moved from three facilities (one of which was an adult facility) into one;
2. The number of persons in police custody decreased by 25% in 2014, resulting in a system-wide 50% reduction in overcapacity;

**Gender**

Jamaica finalised a National Policy for Gender Equality (NPGE) in 2011. The Government continues to make significant strides in enhancing gender equality and empowering women and girls. According to a study conducted in 108 countries by the International Labour Organisation (ILO), Jamaica was ranked highest in the world in the proportion of women managers– 59.3%. The study found that the number of women in senior and middle management positions has increased over the last 20 years, and that women own and manage over 30% of all businesses.

Gender-based violence remains a challenge that requires a multi-faceted approach in seeking a sustainable solution. It is recognised that this phenomenon is deeply rooted and will require ongoing education to realise any tangible results.

A National Strategic Plan of Action to Eliminate Gender-based Violence in Jamaica (NSPA-GBV) is currently being finalised as part of a strengthened effort to address gender-based violence in all its forms. It is guided by a comprehensive analysis of the causes and consequences of violence against women.

**Health**

Jamaica is seeking to renew its emphasis on primary health care to reduce the burden on secondary health care facilities. The Government has established four Centres of Excellence as part of this renewal; to provide diagnostic, prevention and treatment services, and improve health centres island-wide. With grant-funding from the IADB, the Ministry of Health is about to embark on a ten-year primary health care development plan.

Work has commenced on addressing the financing challenges facing the health sector. With the assistance of key development partners, focus is being directed to identifying additional sources of revenue, as well as undertaking a comprehensive assessment of the health financing system and its effectiveness in ensuring adequate financial protection of vulnerable groups.

**Persons with Disabilities**

The *Constitution of Jamaica* and the *Charter of Rights and Fundamental Freedoms Act* (2011), guarantees persons with disabilities, certain protections by the State.

The Disabilities Act 2014, approved by Parliament on 10th October 2014, seeks to promote, protect and facilitate the full and equal enjoyment of all fundamental rights and freedoms by persons with disabilities in education and training, employment, political office and public life, health care, housing and public transportation. It also promotes individual dignity and autonomy, including the freedom of choice and independence of persons with disabilities.

**Refugees**

**Jamaica’s Policy on Refugees was approved in 2009, and is guided by the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees, to which Jamaica acceded in July 1964 and October 1980, respectively. The Policy establishes the procedures for managing the refugee status determination process, and to ensure that applicants have demonstrated a well-founded fear of persecution in their country of origin.**

Jamaica has adopted a National Policy and Plan of Action on International Migration and Development.

**Trafficking in Persons**

The Government of Jamaica is sparing no effort in addressing this challenge. Owing to the clandestine nature of this crime, it is increasingly difficult to secure convictions due to the fact that victims and witnesses are often reluctant to come forward to testify. Currently there are eight cases before the Courts.

The National Task Force Against Trafficking in Persons (NATFATIP), established in 2007 is actively pursuing public education and other campaigns to sensitise the public to the scourge of human trafficking.

The Government has enacted legislation since 2009 aimed at punishing offenders of trafficking as well as seeking redress for the victims of trafficking. This human rights based approach has been further buttressed by the enactment in 2013 of an amendment to the Trafficking Act, which aims to widen the offence of trafficking to include offenses akin to trafficking, defines debt bondage and widens the scope of recourses for victims of trafficking.

The Government of Jamaica in its efforts to give succour to the victims of trafficking has established a Shelter for victims of trafficking, which has been operational since 2013.

**Sexual Orientation/LGBTQI**

The Constitution of Jamaica guarantees basic human rights to all Jamaicans. There is no discrimination based on gender or sexual orientation. No law criminalizes orientation. No credible case of arbitrary detention or harassment of persons on the basis of sexual orientation has been presented. In order to create greater understanding of the concerns of the LGBTQI community, several initiatives are already in place to address these concerns. The Jamaica Constabulary Force has already established a clear policy of engagement with the LGBTI community including human rights training and sensitisation.

The National Strategic Action Plan to Eliminate Gender-based Violence (NSAP-GBV) to address gender-based violence in all its forms is also expected to contribute to protecting and improving the safety of lesbian, gay, bisexual and transgender (LGBT) persons. The NSAP-GBV consultations with key stakeholders included members of J-FLAG the foremost organization in Jamaica advocating for the rights of lesbian, gay, bisexual and transgender (LGBT) people.

**Conclusion**

**Mr President,**

The Jamaican Government will not falter in its commitment to ensuring that the human rights of all Jamaicans are protected. We are determined to remain at the forefront of global efforts to promote and protect fundamental human rights in keeping with the important steps that defined our initial engagement in the multilateral system. We see the UPR as a significant and important pillar in the Global Human Rights architecture and our presence and participation here today attests this. We assure you of our commitment to the implementation of recommendations of this Universal Periodic Review, which can be of help in our ongoing effort to enhance the promotion and protection of Human Rights for all.

We do so, fully recognising that as a Small Island Developing State which is highly indebted, the besetting challenges due to capacity constraints, including susceptibility to external shocks make more difficult some of our initiatives to strengthen compliance with international human rights obligations. It is for this reason that we attach high importance to the committed support of our many bilateral partners who have offered technical and other assistance to assist in the building of national capacities to meet obligations in areas where constraints are often most significant. I must also underline the importance that the Government of Jamaica attaches to the Human Rights agenda signified by the support it continues to give to efforts to enhance human rights protection for our citizens in all areas.

I thank you.