**THIRD STATEMENT OF JAMAICA**

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

**HUMAN RIGHTS COUNCIL**

 **Delivered by**

 **SENATOR THE HONOURABLE KAMINA JOHNSON SMITH**

**MINISTER OF FOREIGN AFFAIRS AND FORIGN TRADE OF JAMAICA**

**11th NOVEMBER 2020**

**Mr. Vice-President**

**Distinguished Delegations**

Again**,** I extend my appreciation to all States that have offered recommendations. The Government of Jamaica values the views provided and we equally value the opportunity for dialogue.

Mr. Vice-President,

I refer now tothe **Establishment of a National Human Rights Institute (NHRI), and National Mechanism for Implementation, Reporting and Follow-up**

The establishment of such an Institution (NHRI) remains an important objective of the GOJ. The Government, collaborating with various public and private stakeholders, has studied various models of NHRIs with a view to determining the best approach for Jamaica.

The proposed model has to amalgamate, adjust and expand roles and functions, as there are currently multiple institutions in Jamaica that already work towards protecting human rights. The proposals to be submitted to Cabinet for further consideration, will also have to address the issue of the increased financial undertakings and implications for our budget, as well as the structure of the Institution, with a view to determining the best allocation of human and financial resources.

I must emphasize that while a National Human Rights Institute is yet to be established, there are various mechanisms and processes in place to facilitate Jamaica in meeting its human rights obligations.

Mr. Vice-President,

The Ministry of Foreign Affairs and Foreign Trade has a key coordinating role in respect of human rights matters. It serves as the intermediary between the Government of Jamaica and the international community and plays a critical role in bringing to the attention of the Government its international obligations, including in the field of human rights. This Ministry is central to encouraging and monitoring the fulfilment of these obligations.

One initiative of the Ministry has been the development of an Inter-Ministerial Committee on Human Rights as a mechanism to follow-up on human rights issues. The Cabinet of Jamaica approved the formal establishment of the **Inter-Ministerial Committee on Human Rights** on 25th June 2018. The Committee, which is chaired by the Ministry of Foreign Affairs and Foreign Trade, has been operating effectively. Although it has had to resort to virtual meetings since April 2020 as a result of the pandemic, it has generated cooperation and exchange of information among public sector entities and has enabled greater responsiveness to the requirements of the UN system.

The Committee has within its Terms of Reference, a mandate to engage with civil society organisations, and has done so, successfully, including for the preparation of our UPR Report. Given the COVID-19 pandemic, our consultation with civil society, including non-governmental organisations, human rights defenders, and academia, has been undertaken virtually. The response has been positive and helped to sharpen the content of the Government’s report. Plans are underway to formalize this consultative process between the Government and Civil Society Organisations on human rights matters by incorporating them on a regular basis into the work of the **Inter-Ministerial Committee on Human Rights.**

Mr. Vice-President,

In response to questions relating to **equality and non-discrimination,** I must reiterate that the Jamaican Constitution provides for respect for the rights of all persons without distinction. Likewise, all persons are afforded equality before the law. As such, the Government of Jamaica is opposed to violence and discrimination against any group of persons. In conjunction with the human rights guarantees in the Constitution, Jamaica has taken measures to mitigate against any form of discrimination. For instance, there is a Diversity Policy for the Jamaica Constabulary Force that was promulgated on 26th August 2011. The Policy gives guidance to police officers as to how to fairly protect the rights of all persons, including members of the LGBTI community.

The objectives of the Policy include fostering public confidence by demonstrating fairness, integrity, tolerance and understanding in dealing with all sectors of the community. It seeks:

* to achieve a demonstration of commitment, value and support to every individual by seeking to eliminate all forms of harassment and unfair bias;
* to provide the necessary support and referral to victims of crime and violence, regardless of affiliation (whether individual or group) of the particular complainant;
* to eliminate the fear of individuals from diverse groups, of reporting crime and violence; and
* to ensure the provision of high quality, professional policing services, to all members of the public.

Additionally, the Jamaica National Integrated Strategic Plan for Sexual and Reproductive Health & HIV 2014-2019 identifies an enabling environment and human rights as one of the strategic priorities pursued by the Ministry of Health and Wellness. The Plan notes in particular, that stigma and discrimination towards people living with HIV and their families, and men who have sex with men may adversely affect testing, uptake of HIV services, adherence to anti-retroviral treatment and access to supportive services. The Government, through that Ministry, has undertaken in very practical ways, to pursue interventions targeting individuals, communities, and institutions to address stigma and discrimination.

Jamaica also regularly participates in the United Nations Programme on HIV/AIDS in the preparation of the Global Aids Monitoring Report and the National Commitments and Policy Instrument. Both reports involve Jamaica reporting on the measures it has taken to combat HIV/AIDS, especially among vulnerable populations such as men who have sex with men. These reports are prepared in collaboration with relevant civil society organizations.

Mr. Vice-President,

Regarding the **Right to life, liberty and security of persons**

The protection of human rights and the rule of law remain a priority for the GOJ, as is evidenced by the initiatives undertaken thus far.

The Government through the Ministry of National Security (MNS) has implemented the National CCTV surveillance system (Jamaica Eye) to seek to enhance citizen security. At the launch in 2018, Jamaica Eye had one hundred and eighty (180) government-owned CCTV cameras island wide. It now has six hundred and fifty (650) cameras installed in towns across the island. During the period under review, the replacement of old and dysfunctional cameras originally installed almost ten years ago in some towns has been completed, and the number of cameras covering major cities and towns has doubled.

Jamaica has commenced the implementation of a strategic security and development programme called **Plan Secure Jamaica** (PSJ). The Plan’s broad strategic outcomes and objectives are:

1. to deter or otherwise prevent threats;
2. to build robustness and resilience to protect against the effects of threats and hazards;
3. to strengthen Jamaica’s capabilities to appropriately and effectively respond to the many and varied threats to Jamaica’s security.

The Citizen Security Programme (CSP) is a multi-sectoral, community-focused thematic component of the broad-based strategic Plan, aimed at improving citizen security and new interventions that have been deemed necessary to strengthen the approach to improving citizen security.

The Plan will be principally funded by the GoJ with budgetary support from development partners at a cost of JMD$ 41.2 Billion.  The cost associated with the implementation of the CSP reflects existing and planned expenditure of the respective Ministries, Departments and Agencies (MDAs).

The European Union has committed to providing funds totalling €20 million using the budget support modality, to support the implementation of key programmes for the first three years (2021-2024) of the Plan.

The financing agreement is under discussion and is due to be signed by the end of November 2020. The first disbursement of €3 million is expected to be completed by early December 2020 and implementation of the programme is expected to commence early 2021.

 Mr. Vice-President,

The prioritized outcomes of the Citizen Security Programme are categorized into three focus areas to be implemented in twenty-one (21) at-risk communities utilizing the *Clear-Hold-Build* approach.

A Crime Monitoring Oversight Committee (CMOC) was created as the governance mechanism for the National Consensus, whereby functioning as an independent body bringing together non-partisan stakeholders from the private sector, civil society, academia, and the political directorate.

Through the CMOC, the National Consensus will be administered via a transparent monitoring and evaluation mechanism that will inform the authorities, the population and international partners on the advancement of the agreements and milestones of the Consensus. It is envisaged that this will provide an independent overview of the efficacy and efficiency of the agreed programmes.

Mr. Vice-President,

The Law Reform (Zones of Special Operation) (Special Security and Community Development Measures) Act, 2017 mandates the provision of consistent training in human rights, use of force and community development initiatives to the Jamaica Defence Force (JDF) and Jamaica Constabulary Force (JCF) Officers who oversee these operations. This is in addition to the human rights training that is already given to members of our security forces.

There are currently four (4) ZOSOs in operation at this time as follows:

* Mount Salem in Montego Bay, St. James declared 1st September 2017;
* Denham Town in Kingston Western declared 17th October 2017;
* Greenwich Town, St. Andrew South declared 1st July 2020;
* August Town declared 8th July 2020

The Act also requires that whenever a search of any place or vehicle is conducted, the owner, possessor or occupier must be in attendance and has every opportunity to observe all aspects of the search; prohibits the seizure of any tool of lawful trade or business or any document subject to legal professional privilege. Furthermore, arrests are prohibited unless there are reasonable grounds for such arrests. At the time of arrest, persons are entitled to know immediately the basis of their arrest and be brought forthwith before a Justice of the Peace. Justices of the Peace are required to determine whether there are reasonable grounds for detention.

Further, any person who is detained is entitled to have access to his or her legal counsel, physician, spouse/partner, family member or religious counsellor. He or she is also entitled to receive items of food and clothing or such other article as is necessary in the interest of his or her health and wellbeing, while detained. As part of enabling transparency, members of the Security Forces who operate in zones of special operations must use body-worn cameras where possible and given available resources.

Mr. Vice-President,

Importantly, persons who are detained during any State of Emergency(SOE), are entitled to have their detention reviewed by the Emergency Powers Review Tribunal, and the Tribunal is established as one of the very first steps in the institution of a SOE. A request for a review of legality or reasonableness of their detention may be made every 6 weeks spent in detention. Further, the Emergency Powers Review Tribunal has the power to issue legally binding directions to the detaining authority. Moreover, for each State of Emergency that is declared by the Governor-General, Emergency Powers Regulations are promulgated. These Regulations prohibit *inter alia* abuse, insults, threats or the assault of any person, with a view to deterring such person from carrying out any lawful act.

With respect to the States of Emergency (SOEs) and ZOSOs, special forms were developed and used to capture information on all detainees from the initial point of contact regarding the reasons/circumstances which led to their detention up to the point of their release. Information was placed in a database - *OpsInsight* software which was implemented to provide proper accountability and transparency in the detention process. This flags the detention duration and provided information to facilitate decision-making.

Mr. Vice-President,

With the ending of all SOEs on 17th August 2020, all divisional commanders were tasked to develop post SOE operations plans. These plans are guided by environmental assessments of each individual division and a raft of policing strategies implemented to deal with the identified crimes, criminal networks (gangs, violence producers, sponsors, influencers, etc.) and community concerns which facilitate crimes. Commanders are further tasked to utilise the five (5) law enforcement tools of intelligence, investigation, operation, intervention and information to drive policing activities, in order to achieve a coherent, comprehensive and effective approach in crime reduction.

Databases are used to capture all crime information (occurrences, locations, suspects, for example), and Dashboards are used to generate information used for decision making in administrative, operational, intelligence and investigative processes.

There is greater use of technology in intelligence collection, collation, synthesis, sharing and use.

In addition, there is also greater use of technology in investigation which includes use of DNA, Ballistics, Forensic evidence.

Greater focus is also placed on an increase in high visibility policing, public safety, community based policing and stakeholder engagement.

In regards to the appeal of cases by the Government specifically relating to the detention of persons under the State of Emergency, the Government of Jamaica, as a policy, does not discuss matters while they are before the court. Pleadings in court and hearing dates on cases, are matters of public record and can therefore, be easily accessed at the appropriate time.

In addition to investigation, efforts are continuing to strengthen the prosecutorial arm of the Justice System to make it more efficient and effective.

Mr. Vice- President,

In 2019 the Ministry of National Security launched project *Rebuild, Overhaul and Construct* (R.O.C) targeting over 200 police facilities island-wide. The objective of Project R.O.C is to convert all police stations into modern, citizen-friendly workspaces, provide officers with a comfortable environment conducive for work, while creating the ambience for citizens to willingly and comfortably engage the police. **Increased reporting of crime by vulnerable victims, is hoped to be one of the benefits of these improvements which include rooms to provide privacy in reporting sensitive matters such as domestic violence.**

Mr. Vice-President,

I will now address the issue of persons in detention including persons with mental disabilities.

Most, mentally challenged inmates have been abandoned by their relatives. The Government of Jamaica (GoJ) continues to be committed to ensuring that the rights of all inmates, especially the vulnerable, including the mentally ill are assured. A joint approach amongst the Ministries of National Security, Justice and Health and Wellness has begun with policy discussions with an aim to have a coordinated plan to treat with this issue. The first step taken thus far, is an audit of the system to review the systems and procedures, to identify the specific gaps. The next step would be an action plan to operationalize ways to address the notable gaps.

Since the INDECOM Investigations regarding mentally challenged inmates who are in the custody of the Department of Correctional Services (DCS) took place, the engagement with relevant stakeholders has intensified. However, it should be noted that the DCS only houses these persons and provides evaluations to the Courts. The JCF also has clear policy guidelines as to how to deal with persons with mental health issues who are taken in custody.

Mentally challenged inmates are vulnerable and are therefore not placed within the general population. Based on their condition, they are placed at a different location from all other inmates. This location was recently refurbished.

The need to construct a modern correctional facility has been considered and currently the process of reviewing proposals for the design of a modern purpose-built facility is on track. In the interim, the DCS Team is committed and trained to do what is required to ensure that inmates’ rights and dignity are safeguarded, and their general sense of humanity is maintained while incarcerated within the correctional facilities. As such, the inmates are given care packages to include hygiene products and checks are carried out on their hygienic routines within the correctional facilities.

The building of a forensic psychiatric facility is the ideal long-term solution.

Mr. Vice-President,

Since the establishment of the Independent Commission of Investigations (INDECOM) in 2010, the Government has consistently shown its commitment to strengthening the capacity of that entity, through increased financial, technical and human resources.

Where there are reported infractions by the police, the appropriate investigations are conducted by the appropriate oversight bodies, the Independent Commission of Investigations (INDECOM) and the Jamaica Constabulary Force’s Inspectorate of Professional Responsibility and Oversight Bureau, as well as divisional disciplinary units and the requisite sanctions applied where necessary.

Mr. Vice-President,

I conclude by reiterating that Jamaica and the Jamaican Government remain fully committed to the implementation of the recommendations of the Universal Periodic Review. We will endeavour to uphold our demonstrated tradition of respect for the rule of law and indeed human rights of all forms.

I thank you.