



PERMANENT MISSION OF
JAMAICA TO THE UNITED NATIONS

**Statement by H.E. Ambassador Raymond Wolfe
Permanent Representative of the Jamaica to the
United Nations**

**in the Third Committee on the
Report of the Special Rapporteur on Torture and
other Cruel, Inhuman or
Degrading Treatment or Punishment**

25th October, 2010

Mr. Chairman,

The delegation of Jamaica has taken careful note of document A/65/273 which contains the interim report of the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment submitted in accordance with General Assembly Resolution 64/153. We have also taken note of the presentation this afternoon by the Special Rapporteur, Mr. Manfred Nowak, to the Committee.

Let me at the outset underscore the importance the Government of Jamaica attaches to the human rights special procedures. Jamaica considers these mechanisms as critical in helping governments in the promotion and protection of human rights.

It is in this context that, even though Jamaica is not yet a State Party to the Convention against Torture, the Government of Jamaica considered that a visit by the Special Rapporteur could make a valuable contribution in assisting us to improve the conditions and the quality of treatment in its penal and correctional institutions.

Mr. Chairman, at the invitation of the Government of Jamaica, the Special Rapporteur visited the island from 12 to 21 February 2010. During his visit the Special Rapporteur had unobstructed access to all stakeholders, including senior government officials, police and prison officials, non-governmental organizations and other civil society representatives. The Special Rapporteur and his team also had unrestricted and confidential access to prisoners and detainees. He was able to make unannounced visits to police stations and prisons to interview inmates as well as juvenile correctional institutions.

I should point out that the Government of Jamaica has received the draft report of the fact-finding mission and we have provided comments on errors of fact and law. We are in the process of providing a more fulsome response on other elements in the report, including allegations of abuse and ill-treatment, in time for the consideration of the report by the Human Rights Council in May 2011.

Today, I will confine my comments specifically to the references to Jamaica in paragraphs 9, 42, 43 and 55 of the report contained in document A/65/273.

In paragraph 9 of his report, the Special Rapporteur states that he did not find torture in the classical sense in Jamaica. He nevertheless goes on to state that he found a considerable number of cases where persons were subjected to various degrees of beating as punishment, making an instant correlation or equation between torture as defined under the convention and cases of ill-treatment. In other instances the Special Rapporteur has been even more explicit than his reference in paragraph 9 to the point of contradicting his own assertion prior to his departure from Jamaica when he indicated that he found no evidence of torture. As the Special Rapporteur has himself stated in another context, *"The term 'torture' should not be used in an inflationary manner. It is reserved for one of the worst possible human rights violations and abuses human beings can inflict upon each other, and therefore carries a 'special stigma'."*

Mr. Chairman, the Government of Jamaica acknowledges that the situation in prisons and lock-ups is unsatisfactory. Efforts are being made to improve the living conditions of inmates in all institutions to address the challenges highlighted by the Special Rapporteur during his visit. An extensive repair and maintenance programme, which includes the retrofitting of cells and sanitary conveniences, is in place. There is also closer monitoring of inmate/staff relationship and enhanced training opportunities for prison staff to reduce the number of incidents of abuse as well as of conflicts between staff and inmates. The Government is also working to implement measures to protect children in juvenile correctional facilities.

With respect to the Special Rapporteur's claim that there is no clear separation of detainees according to the different stages of criminal procedures, the Government of Jamaica can categorically deny this. It is the case that those who are held in police custody, those in remand for trial and those who have been tried and convicted are not confined in the same physical space. While they may be housed in the same location or facility, the detainees are segregated according to the categories.

The absence of a definition of an uncontrollable child which results in the detention of a large number of children is a matter of concern for the authorities which is being given the serious attention it deserves.

Mr. Chairman, in the same paragraph 9, the Special Rapporteur refers to the fact that the death penalty has not been carried out in Jamaica since 1988. In the same breath, however, he makes in our view, the dangerous link between this fact and the rise in fatal shootings by the police and what he claims is the apparent lack of investigation and accountability. If this is the intent of the Special Rapporteur, we find it extremely disturbing.

Mr. Chairman, the fact is that Jamaica is confronted by serious challenges to public security, including an alarmingly high murder rate, which only recently is trending down. The Government of Jamaica remains very concerned about the numerous allegations of extrajudicial killings by the Security Forces. As such, it recently enacted new legislation which has put in place a new single body - the Independent Commission of Investigations - to undertake investigation into all allegations of misconduct against members of the Police Force, filed by members of the public; as well as investigations into allegations of actions by members of the Security Forces and other agents of the state that result in death or injury to persons or abuse of their rights. Appropriate cases are then referred to the Director of Public Prosecutions for prosecutions.

Mr. Chairman, I will deal with paragraphs 42, 43, and 55 of the report as a cluster and indicate, firstly that accession to the Convention on Torture is being given active consideration by the Government of Jamaica. Secondly, the Constitution of Jamaica expressly prohibits torture. Chapter III, (Fundamental Rights and Freedoms) Article 17 (1) provides that "No person shall be subjected to torture or to inhuman or degrading punishment or other treatment". This specific prohibition against torture in the Constitution - the supreme law of Jamaica - means that the issue of torture is expressly addressed under Jamaica law. The absence of inferior legislation does not leave the citizen unprotected should any allegation of torture be made.

On the matter of ex officio investigations, to which reference is made in paragraph 55, a complaint mechanism does exist whereby allegations of abuse and ill-treatment are investigated. It is a fact that cases have been brought against the State and the latter sued and the victims compensated.

Mr. Chairman, Jamaica is a vibrant democracy, with an independent judiciary and commitment to the rule of law. We recognize that torture and other forms of cruel, inhuman and degrading treatment under any circumstances are an affront to the inherent right to human dignity and integrity and must therefore be abhorred.

As stated at the outset, the invitation to the Special Rapporteur was intended to obtain an objective assessment of the conditions in Jamaica's penal and custodial institutions, including juvenile correctional facilities. In many instances, the Special Rapporteur has made sweeping assessments and has drawn conclusions that are not necessarily substantiated by facts or evidence. These will be addressed when the report is considered by the Human Rights Council.

I nevertheless wish to highlight the fact that the Government of Jamaica takes seriously the findings and recommendations of the Special Rapporteur aimed at improving the deficiencies in our correctional institutions. In the context of fiscal constraints and other challenges, the reality, however, is that many of the recommendations cannot be implemented without international assistance.

Finally, Mr. Chairman, as this is the last opportunity we will have to do so, I join others in expressing, on behalf of the Government of Jamaica, appreciation to Mr. Nowak for undertaking this very challenging task over the last 5 years. We also take this opportunity to congratulate his successor Mr. Juan E. Mendez on his appointment as Special Rapporteur.

Thank you, Mr. Chairman.

