

**The Jamaica Coalition
for a Healthy Society**
Ministry ▪ Advocacy ▪ Education



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July 6, 2021

The Most Honourable Andrew Holness, ON, MP
Prime Minister of Jamaica
Office of the Prime Minister
1 Devon Road
Kingston 10
St. Andrew

Dear Prime Minister,

Re: Concerns with new ACP-EU Partnership agreement

The below signed Jamaican civil society groups have become aware of the pending conclusion of the new ACP-EU Partnership Agreement. We wish to bring to your attention our deep concern with certain provisions of the draft Agreement which we believe will undermine Jamaica's sovereignty, surreptitiously overturn laws that protect the family, marriage, religious freedom, and expose Jamaica's children to a dangerous curriculum promoting high-risk sexual behaviours.

The concerning provisions advance a worldview that is contrary to the right of nations to self-determination, human design and flourishing. Our concerns set out in the form of questions are detailed in Appendix 'A'.

It is itself troubling that the draft Agreement breaks new ground by extensively expanding and deepening the subject-areas and collaborative action with the EU beyond the original trade and economic themes of previous ACP-EU agreements. The proposed new pact anticipates joint action based on "common interests, shared values and mutual respect" (Preamble), although these 'interests' and 'values' are undefined. In particular, the Agreement commits Jamaica to "fulfil human rights, abide by human rights law, promote rights-based policies encompassing all human rights" (Art. 8, General Pact).

The discussions leading to the passage of our Constitution and Charter of Rights provided an opportunity for a national discussion on human rights, however, we believe there is still a need for a national statement on what constitutes the basis for human rights, and the philosophy within which these rights are constructed. Without such a clear and definitive national statement to guide local law and policy and our participation in international discussions, we are concerned that human rights will be

defined by other entities, for example the United Nations, or the EU, in a manner that is contrary to the good of Jamaica and Jamaicans.

The EU is a known advocate of an anthropology of human rights that distorts human identity, devalues the life of the unborn human child, normalises abnormal sexual behaviour and relationships and targets children for predatory sexuality education. This directly conflicts with the worldview expressed in Jamaican law, national values and aspirations.

This conflict of views was acknowledged in the negotiations. The EU's Briefing Paper *'After Cotonou: Towards a new agreement with the African, Caribbean and Pacific states'*¹ acknowledges that a key sticking point delaying conclusion in the negotiations which was due to have been concluded in February 2020, was the topic of sexual and reproductive health and rights. For the EU, this phrase is interpreted as promoting abortion and same sex sexual relationships inter alia. The EU Parliament expressly recommended to its negotiators on the ACP-EU Agreement that, "the chapter on human rights should explicitly list the forms of discrimination that should be combated (such as sexual, ethnic, or religious discriminations) and mention sexual and reproductive rights"² The EU has also stated that the compromised language in the current draft falls short of the "EU negotiators' ambitions" on "notably on sexual orientation and gender identity (LGBTI rights)"³

We submit that even within the current purported 'compromise' text, the EU has still sought and secured language that is favourable to their stated original ambitions over those of their ACP counterparts.

To enter into a twenty-year binding agreement with the EU without a national consensus on the nature and content of human rights, renders Jamaica vulnerable to any definitions imposed by the stronger party, the EU, without input from the citizens of Jamaica. By doing so, Jamaica will find itself under a form of cultural imperialism. This is further underscored by the draft Agreement's alarming allowance of an immediate recourse to trade sanctions against any party considered by another to be in 'serious and flagrant violation'⁴ of Article 9 (human rights), and Article 18 (non-proliferation of weapons of mass destruction), bypassing the 60-120 days consultation stage expected in other dispute settlement cases.

The EU has itself stated that the Agreement's dispute resolution mechanism is "more elaborate and binding than in other international agreements."⁵ This raises additional concerns that the intended use of undefined 'human rights' to punish trade partners will set a new and potentially dangerous precedent for Agreements between EU and ACP countries, and potentially create a dangerous new standard for future Agreements generally. There is also no indication as to the criteria for determining 'cases of special urgency' or what constitutes a 'serious and flagrant violation.' This ought to be a unsettling for Jamaica since it exposes our country to unilateral action subject to arbitrary interpretation of these undefined notions.

¹ EPRS | European Parliamentary Research Service, Author: Eric Pichon, Members' Research Service, PE 659.453 – January 2021, page 1

² Ibid, page 5

³ Ibid, page 7

⁴ Art. 101(6)

⁵ Ibid, page 2

The below signed groups are concerned with:

- (i) The absence of a glossary for terms used in the Agreement many of which are known to be controversial and subject to interpretations by non-Jamaican agents which will undermine national sovereignty and fundamental freedom, such as ‘hate speech’, ‘discrimination’ or ‘gender’.
- (ii) The use of concepts such as comprehensive sexuality education, and related programs that have been openly rejected by Jamaica and African and Caribbean groups at the United Nations.
- (iii) The references and incorporation of international documents such as the Montevideo Consensus, that reflect ideas and recommendations that are contrary to the Jamaican Constitution and other laws, policy and the values of the Jamaican people,
- (iv) The purported commitment to the establishment of an entity entitled ‘Human Rights Institution’. There is no evidence in Jamaica for the need for such an entity. The damaging experiences of citizens in other jurisdictions with the creation of such a body has led a local NGO (the JCHS) to oppose its establishment and which opposition has been brought to the attention of the Government.
- (v) The open-ended language binding Jamaica to unknown future decisions by limited membership international bodies such as the Human Rights Council that have precedents of decisions that are contrary to Jamaican law and values, or unknown texts of international documents such as the Outcome of ICPD Review Conferences that are primarily written by UN agencies which hold a worldview that is inimical to human flourishing.

We are aware that the Agreement has been initialed by partner States and is expected to be signed and concluded by the end of December 2021. We note also, the Disclaimer at the outset of the draft Agreement that, “the Agreement will become binding on the Parties under international law only after completion by each Party of its internal legal procedures necessary for the entry into force of the Agreement (or its provisional application).”

As concerned citizens, we firmly believe that the concerns raised warrant urgent review and clarification to ensure that the desires expressed in the Agreement to ‘act jointly’ to ‘shape global outcomes’ based on ‘shared values’ are truly ‘shared’ and not unilaterally imposed.

Where values diverge, State parties must retain their sovereign freedom to abide by those ideals for human flourishing espoused by their own people.

We respectfully request the Government’s responses to the questions raised in our letter and the attached Appendix, as well as an explanation of the next steps for Jamaica. This should include a road map with a timeline for action with regard to amendments, signing and/or ratifying the Agreement. Given the highly divisive and contentious nature of the below identified language in the Agreement, we urge the Government of Jamaica to strongly consider proposing amendments or deletions or at the least, opt-out clauses.

We make ourselves available for further discussion on the issues raised in this communication.

Yours faithfully,

Dr. Wayne West
Chairman *on behalf of the following groups:*

Jamaica Coalition for a Healthy Society
Love March Movement
Jamaica CAUSE
Hear the Children's Cry
Lawyers Christian Fellowship, Jamaica
Christians for Truth and Justice
Christians United for Life
Chosen to GLOW Ministries

Cc: Senator Hon. Kamina Johnson-Smith, Minister of Foreign Affairs and Foreign Trade

Ambassador Sheila Monteith, Permanent Secretary, Ministry of Foreign Affairs and Foreign Trade

Mr. Mark Golding, MP, Leader of the Opposition

APPENDIX A

CONCERNS by group of Jamaican CSO's with draft ACP-EU Partnership Agreement 2021**GENERAL PACT**

1. Page 7, Art. 1 (3) (a) 3. *The objectives of this Agreement are to: ... promote, protect and fulfil human rights, democratic principles, the rule of law and good governance, paying particular attention to gender equality.*

Page 8, Art. 2 (5) *The Parties shall systematically promote a gender perspective and ensure that gender equality is mainstreamed across all policies ...*

Gender equality is also mentioned Art.7(1) and Art. 77 inter alia.

Ques:

(i) Please indicate the definition of 'gender equality' and the prevailing interpretation to be used for this Agreement. The EU has used the term 'gender equality' to create, uphold and expand so-called "rights" for persons self-identifying as homosexuals and/or transgender, which are not specifically enshrined in international legal frameworks. Is this interpretation supported by the Government of Jamaica?

(ii) Please indicate the definition of 'human rights' by the Government of Jamaica. What is the framework agreed with the EU for establishing a common definition of human rights?

Advocates of abortion and the normalisation of perverse sexual behaviours have couched their advocacy as defending 'human rights'. For instance, abortion access, teaching that same-sex attraction and behaviours are as normal and good as opposite sex attraction and behaviours in sex education curricula have all been explicitly mentioned as imperatives in the recent 'European Parliament Report (2019-2024) on the situation of sexual and reproductive health and rights (SRHR) in the EU, in the context of women's health' ⁶. The following are extracts from this document, which demonstrate the working EU framework of definitions for these terms common to the ACP-EU agreement:

- **'Hindrances' to 'human rights':** Specifically, on pages 8-9 of the EU Parliament Report (Section I), the "*legal restrictions and practical barriers in accessing abortion services; the denial of abortion care*", hindrances to "*the enjoyment of SRHR for LGBTI persons... owing to the omission from sex education curricula of the diversity of sexual orientation; gender identity, expression and sex characteristics*", inter alia.

⁶ The Matic Report. (2021). 'European Parliament Report (2019-2024) on the situation of sexual and reproductive health and rights in the EU, in the frame of women's health'. *Matic Report*. Available at: https://www.europarl.europa.eu/doceo/document/A-9-2021-0169_EN.pdf [Accessed: 5.6.21].

- **Abortion as ‘essential’ health care:** In Section J of the same EU report, SRH services, including “legal abortion care”, were defined and stipulated as “...essential healthcare services that should be available to all” (page 9).
- **Undermining medical freedom of conscience:** Section U of the same EU report ranks SRHR as superior to the exercise of freedoms of conscience and religion. This would force medical practitioners, and on some occasions entire medical institutions, who refuse to perform abortions to be cited as ‘anti-human rights’.
 - **Case studies:** Various medical professionals in the EU have been prosecuted with job dismissal and threatened jail time, due to helping to save both the mother’s and the baby’s life, instead of performing or continuing an abortion. In the EU, the case of Swedish midwife, Ms Ellinor Grimmark⁷ concluded with a job termination without compensation, despite her conscientious objection to abortion. Similarly, the case of Polish doctor, Prof. Bogdan Chazan resulted in successive terminations and continues under trial.⁸

Is this the view of the Jamaican government?

2. Page 13, Art. 8: *The Parties reaffirm their determination to protect, promote and fulfil human rights, fundamental freedoms and democratic principles, and to strengthen the rule of law and good governance, in compliance with the Charter of the United Nations, the Universal Declaration of Human Rights and international law, in particular international human rights law and, where relevant, international humanitarian law. The Parties shall promote people-centred and rights-based policies, encompassing all human rights and ensuring equal access to opportunities for all members of society, directed towards sustainable development centred on the human being. The Parties recognize that respect for democracy, human rights, fundamental freedoms, the rule of law and good governance is an integral part of sustainable development.*

Ques:

- (i) Please indicate if the definition of ‘human rights, international human rights law, rights-based’ includes or excludes non-binding recommendations and general comments by UN Treaty bodies, including related Committees, special mandate holders and other special procedures within the UN Human Rights architecture?
- (ii) We recommend adding the word ‘agreed’ to ‘international human rights law’ to clearly indicate support for rights that enjoy universal agreement in the international system.

⁷ Grimmark v. Sweden. (2017). Available at:

<https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-201915%22%5D%7D> [Accessed: 5.6.21].

⁸ Chazan, B. (2021). Abortion and freedom of conscience: Extended Interview with Prof. Bogdan.

Chosen to GLOW Ministries. Available at: <https://www.youtube.com/watch?v=niEeDoEdhG4&t=245s> [Accessed: 5/6/21].

3. Page 13, Art.9(2) - *The Parties shall commit to the promotion of universal respect for, and observance of, human rights and fundamental freedoms for all, without discrimination based on any ground including sex, ethnic or social origin, religion or belief, political or any other opinion, disability, age, or other status. They commit to fighting all forms of racism, racial discrimination, xenophobia and related intolerance, and all forms of violence and discrimination, including all instances of advocacy of hatred.*

Ques:

- (i) Please indicate the ‘all forms of discrimination and violence’ being contemplated?

We are aware that sexual rights advocates have sought to define objection to homosexuality as ‘discrimination and violence’. References to Bible verses identifying homosexuality as a sin, has been categorized by European policy on “hate speech”. This action has resulted in several prosecutions, oftentimes targeting persons of the Christian faith.

- Presently, a member of the parliament of Finland, Ms. Päivi Räsänen, is facing potential sentencing of two years jail time, under the label ‘ethnic agitation’, because of posting a Bible verse to her personal Twitter account, in reference to an LGBT “Pride Event”⁹.
- The Rev. Dr. Bernard Randall who was school chaplain at Trent College, a Protestant and evangelical Church of England school near Nottingham, England was reported to the UK anti-terrorism agency and “forced out of his job after he gave a sermon defending the rights of students to question the introduction of new LGBT policies”.¹⁰

- (ii) Please indicate what is contemplated as ‘other status’?

- (iii) Please indicate the definition of ‘sex’? Some UN bodies have sought to redefine sex to erroneously include ‘sexual orientation’, a term that has no agreed definition in national or international law and can represent fluid sexual preferences¹¹ including perverse behaviours that are prohibited in Jamaican law such as buggery, bestiality, paedophilia and incest. A vague definition of ‘sex’ has resulted in colleges being forced to allow males who self-identify as females to sleep in female dorms. Christian colleges who oppose due to religion and conscience have thus far lost court battles

⁹ ADF International. (2021). When a tweet can land you in jail: Criminal charges brought against Finnish MP . *Alliance Defence for Freedom International*. Available at: <https://adfinternational.org/news/when-a-tweet-can-land-you-in-jail-criminal-charges-brought-against-finnish-mp/> [Accessed: 5/6/21].

¹⁰ The Times UK, <https://www.thetimes.co.uk/article/school-reported-chaplain-to-terror-watchdog-after-sermon-on-sexuality-pdt3hj5tb> [Accessed: 14/6/21]

¹¹ United Nations (2016). Report on the World Social Situation 2016. Leaving no one behind: the Imperative of Inclusive Development. Sales No E.16.IV.1. Available at: <http://bit.ly/RWSS2016>.

because of this unfair precedent due to the redefinition of sex¹². Is this a definition that Jamaica wishes to support?

- (iv) Please indicate the definition of ‘advocacy of hatred’. This term has been used to describe simply voicing one’s opinion about sexuality or sexual behaviour^{13 14}. We note that the EU has established its own Directives on Anti-discrimination which includes the category of ‘sexual orientation’ which is a fluid unlimited concept embracing all sexual behaviours¹⁵.

4. Page 14, Art. 10 (1) *The Parties reaffirm their strong commitment to achieving gender equality...*

Art. 10 (4) *The Parties undertake to prevent, combat and prosecute all forms of sexual and gender-based violence and discrimination in the public and private spheres, including trafficking and sexual exploitation and abuse...*

Ques: Please indicate the definition of ‘sexual and gender-based violence and discrimination’? We re-iterate our earlier concerns (Para.1) regarding the EU’s distorted interpretation of ‘gender equality’.

5a. Page 15, Art.11 (1) *The Parties undertake to ensure equal opportunities for all members of society in all spheres of life. They shall prevent, prohibit and eradicate discriminatory practices and shall adopt effective measures to ensure the full and equal enjoyment of all human rights.*

Ques: Please indicate the definition of ‘discriminatory practices.’ How would the Government of Jamaica ensure that this text is not used by the EU to force legal acceptance of abortion and so-called “rights” for persons self-identifying as homosexuals and/or transgender and the behaviours associated therewith?

5b. Art. 11(4) *The Parties shall preserve and broaden an enabling space for an active, organised, transparent, civil society, acknowledging its role in promoting and monitoring democracy, human rights, fundamental freedoms, social justice and inclusion, and as defender of rights holders and of the rule of law, thus strengthening domestic transparency and accountability.*

¹² Jonker, S. (2021). Christian College Loses Lawsuit Against Opening Dorms to Members of Opposite Sex. *Vision Times*. Available at: <https://www.visiontimes.com/2021/06/07/christian-college-trans-toilets.html>

¹³ Shultz, G. (2006). Christian Arrested for Distributing Bible Quotes Opposing Homosexuality. *LifesiteNews*. Available at: <https://www.lifesitenews.com/news/christian-arrested-for-distributing-bible-quotes-opposing-homosexuality> [Accessed: 5/6/21].

¹⁴ Diamond, P. (2012). England’s Repressive Tolerance. *First Things*. Available at: <https://www.firstthings.com/article/2012/12/englands-repressive-tolerance> [Accessed: 5/6/21].

¹⁵ The Matic Report. (2021). ‘European Parliament Report (2019-2024) on the situation of sexual and reproductive health and rights in the EU, in the frame of women’s health’. *Matic Report*. Available at: https://www.europarl.europa.eu/doceo/document/A-9-2021-0169_EN.pdf [Accessed: 5.6.21].

Ques: Please define ‘enabling space’, ‘social justice and inclusion’. How would the Government of Jamaica ensure that these terms are not used by the EU to force legal acceptance of so-called “rights” for persons self-identifying as homosexuals and/or transgender and the behaviours associated therewith?

- (i) We are aware that the African Review of ICPD +20 remarks that ‘sexual reproductive health and rights’ are deemed ‘essential to the realisation of social justice’¹⁶. As was stated above, the EU defines ‘sexual and reproductive health and rights’ as including abortion.’

6. Page 20, Article 20(1) *The Parties, reiterating their firm condemnation of all acts of terrorism and violent extremism and radicalization.... The Parties, recognising that the fight against terrorism, in all its forms and manifestations is a shared priority, shall work together at all levels to prevent and combat terrorism, violent extremism and radicalisation. The Parties, recognising the importance of tackling all factors contributing to violent extremism in all its forms, including religious intolerance, hate speech, xenophobia, racism as well as other forms of intolerance, commit to opposing violent extremism and foster religious tolerance and inter-religious dialogue.*

Ques:

- (i) We refer to our earlier comments in Para 3(iv). Please indicate the definition of ‘hate speech’?
- (ii) Please indicate the definition of ‘terrorism’. The UK has deemed expressing an opposing opinion to homosexuality to be ‘hate speech’ and ‘terrorism’¹⁷. The American Civil Liberties Union defines “terrorism” to broadly include to “intimidate or coerce a civilian population” or “*influence the policy of a government by intimidation or coercion*”, which has been used to justify the categorization of pro-life and pro-traditional marriage advocates as terrorists¹⁸. Similar terms, such as ‘torture’ have also been used to denote opposition against abortion by international lobbyists to the United Nations^{19 20}. WHO’s ‘Sexual health, human rights and the law’ also defines “severe violence and torture” in health care settings as including “denial of medical

¹⁶ Balogun, Victoria & Durojaye, Ebenezer. (2011). The African Commission on Human and Peoples' Rights and the Promotion and Protection of Sexual and Reproductive Rights. 11. 368-395. Available at: https://www.researchgate.net/publication/228322467_The_African_Commission_on_Human_and_Peoples'_Rights_and_the_Promotion_and_Protection_of_Sexual_and_Reproductive_Rights [Accessed: 7/6/21].

¹⁷ Cf. FN.13 and FN.14

¹⁸ American Civil Liberties Union [ACLU]. (2021). HOW THE USA PATRIOT ACT REDEFINES "DOMESTIC TERRORISM". Available at: <https://www.aclu.org/other/how-usa-patriot-act-redefines-domestic-terrorism> [Accessed: 7/6/21].

¹⁹ Centre for Reproductive Rights. (2014). UN Letter to Committee Against Torture. Available at: <https://cdn.cnsnews.com/documents/CENTER%20FOR%20REPRODUCTIVE%20RIGHTS-LETTER%20TO%20COMMITTEE%20AGAINST%20TORTURE-04-11-14.pdf>

²⁰ Bedard, P. (2014). U.N. calls Vatican's anti-abortion canon 'psychological torture' of women. *Washington Examiner*. Available at: <https://www.washingtonexaminer.com/un-calls-vaticans-anti-abortion-canon-psychological-torture-of-women>

treatment” (page 40) ²¹. The document condemns this “denial of medical treatment” even categorized as being under ‘conscientious objection’ due to religious views (page 15) ²².

- 7.** Page 25, Article 29(5) *The Parties shall support universal access to sexual and reproductive health commodities and healthcare services, including for family planning, information and education, and the integration of reproductive health into national strategies and programmes.*

Ques:

- (i) Please indicate the definition of ‘sexual and reproductive health commodities’?
- (ii) Please indicate whether the term includes abortion?
- (iii) Does the term include promoting smaller families?
- (iv) Does the term include promoting abortion, condoms and contraception to minors?
- (v) Does the term mean normalising homosexual and other abnormal behaviours?

We are aware of diverse UN documents such as the WHO’s ‘Sexual health, human rights and the law’ define sexual health as abortion, decriminalizing prostitution and legalizing same sex marriage inter alia’ ²³.

- 8.** Page 26, Article 32(1) *The Parties shall aim to enhance social cohesion by progressively achieving greater equality and social inclusiveness and by ensuring that human and social development advances in parallel with economic development, leaving no one behind. Special attention shall be paid to those who are in disadvantaged, vulnerable and marginalised situations.*

Ques: Please indicate the definition of ‘equality’, ‘social inclusiveness’ and, ‘those who are in disadvantaged, vulnerable and marginalised situations.’ We are concerned that these terms will be used by the EU to force legal acceptance of so-called “rights” for persons self-identifying as homosexuals and/or transgender and the behaviours associated therewith.

- 9.** Page 27, Article 33 (2) *The Parties reaffirm their obligations as members of the ILO ... and their commitment to...the promotion and effective implementation of the internationally recognised core labour standards, as defined by the relevant ILO Conventions and Protocols on...non-discrimination in respect of employment. They shall make sustained and*

²¹ WHO. (2015) Sexual health, human rights and the law .*World Health Organization*. Pp. 15, 40.

Available at:

http://apps.who.int/iris/bitstream/handle/10665/175556/9789241564984_eng.pdf;jsessionid=9906E5936AC73252F7AD4F6A87CDE8BF?sequence=1 [Accessed: 7/6/21]

²² WHO. (2015) Sexual health, human rights and the law .*World Health Organization*. Pp. 15, 40.

Available at:

http://apps.who.int/iris/bitstream/handle/10665/175556/9789241564984_eng.pdf;jsessionid=9906E5936AC73252F7AD4F6A87CDE8BF?sequence=1 [Accessed: 7/6/21]

²³ Ibid.

continuous efforts to ratify or accede to, as appropriate, those Conventions and Protocols if they have not yet done so.

Ques: Please indicate if any of the contemplated ILO Conventions and Protocols on non-discrimination refer to ‘sexual orientation’ and ‘gender identity’? These controversial terms are used to normalize abnormal sexual behaviours and the mental illness of gender dysphoria.

10. Page 28, Article 36 (2) *The Parties commit to the full and effective implementation of the Beijing Declaration and Platform for Action and the Programme of Action of the International Conference on Population and Development and the outcomes of their review conferences and commit to sexual and reproductive health and rights, in this context.*

Ques:

- (i) The Beijing Declaration and the ICPD were not binding processes. Please indicate the rationale for Jamaica agreeing to being bound to these frameworks through the ACP-EU Agreement.
- (ii) Please indicate the definition of ‘sexual and reproductive health and rights’ agreed between the ACP and EU? We are aware that ‘sexual and reproductive health and rights (SRHR) is a contentious issue at the UN. There is no internationally agreed definition of the term “sexual rights” in international law. Caribbean UN member states have expressly rejected use of this term for example in Third Committee meetings. Is Jamaica now agreeing to this term?
- (iii) Please indicate what are the ‘outcomes of their review conferences’? Does the Agreement contemplate the Outcomes as at year 2020, or does this include future and unknown outcomes?
- (iv) Do any of the Outcomes promote abortion, acceptance of comprehensive sexuality education, repeal of the buggery law, legalisation of same sex marriage inter alia?

11. Page 29, Article 38 (2) *The Parties agree to promote a vision of human and social development that incorporates dialogue among cultures and the recognition of cultural diversity as common heritage of humanity. They commit to strengthening mutual understanding and knowledge of their respective cultures, with due respect for diversity, universal values and human rights...*

Recommendation to ensure qualification and limitation of the meaning of the word ‘diversity’ to ‘culture’ in order to avoid an interpretation that accept all sexual preferences and behaviours as ‘diversity’.

12. Page 56, Article 80(3) *The Parties shall engage in international forums to uphold international norms and agreements to promote and protect human rights for all, to achieve gender equality, and to enhance democracy and the rule of law. They shall cooperate with the UN’s human rights bodies and mechanisms and fully support the work of the Human Rights Council. They*

shall establish cross-regional alliances to serve common values and interests, as appropriate.

Ques:

- (i) Please specify which international norms and agreements are being contemplated?
- (ii) Please specify which ‘UN human rights bodies and mechanisms’.
- (iii) Please explain the rationale for Jamaica agreeing to be bound to open-ended future commitments as this is not ideal. It does not take into account the potential need for decisions by referenda so that the will of the Jamaican people shall prevail.
- (iv) The Human Rights Council (HRC) is not fully representative of all UN member states. Please explain the rationale for Jamaica agreeing to be bound to the decisions of a non-representative body. Additionally, the HRC has taken positions in the past that are contrary to Jamaican law and inimical to human design and flourishing. For example, the vote to appoint an Independent Expert on Sexual Orientation and Gender Identity (‘LGBT Czar’) in 2016. Jamaica did not support this decision. On what basis is the Jamaican Government now committing itself to an open-ended support of the HRC for unknown future recommendations and discussions?

13. Page 67, Art.97, *No treaty, convention, agreement or arrangement of any kind between one or more Member States of the European Union and one or more OACPS Members shall impede the implementation of this Agreement.*

Ques: How will this provision affect other international instruments to which Jamaica is party, which promote a proper understanding of human rights, protect the natural family, ensure sound educational curriculum and generally encourage human flourishing?

14. Page 70, Art.101 (7) *If either Party considers that a violation of any of the essential elements constitutes a case of special urgency, it may take appropriate measures with immediate effect, without prior consultations. Cases of special urgency shall refer to exceptional cases of particularly serious and flagrant violation of one of the essential elements referred to in Articles 9 and 18.*

Ques:

- (i) Please indicate the definition of ‘particularly serious and flagrant violation’?
- (ii) We recommend that in all cases, the process of ‘prior consultations’ be followed. The absence of prior consultations runs counter to the principle of good faith in international treaty law, which guarantees the prohibition of the abuse of power and provides equitable solutions in legal

relationships. Unilateral action could constitute an abuse of power over weaker states.

- (iii) How would the Government of Jamaica respond if, for example, the EU unilaterally decides that Jamaica's preservation of the life of the unborn is a 'human rights violation' against some women, and institutes trade sanctions against Jamaican exports?

CARIBBEAN REGIONAL PROTOCOL

- 15.** Page 117, Art.2 (1)(d) *...build inclusive, peaceful and secure societies, with a special focus on advancing human rights, gender equality, justice and governance, including financial governance, and citizen security;*

Ques:

- (i) Please define 'inclusive'?
- (ii) We reiterate our earlier question on the definitions for certain terms such as 'human rights' and 'gender equality'. We request a rationale for 'a special focus on advancing human rights, gender equality...'
- (iii) How would the Government of Jamaica ensure that this text is not used by the EU to force legal acceptance of abortion and so-called "rights" for persons self-identifying as homosexuals and/or transgender and the behaviours associated therewith?

- 16.** Page 137, Art. 32(1) *The Parties shall contribute to the protection, promotion and fulfilment of human rights in compliance with international law. They shall promote and contribute to the universal ratification and implementation of international human rights instruments, implement those instruments which they subscribe to, and consider accession to those to which they are not yet party. They shall apply in full the non-discrimination principle as set out in Article 9 of the General Part of the Agreement placing a priority on adopting and implementing comprehensive equality and anti-discrimination laws.*

Ques:

- i Please indicate the definition of 'international law'? We recommend that this should be qualified as 'agreed' international law.
- (v) Please indicate which 'international human rights instruments' are being contemplated. We are concerned with an open-ended commitment unqualified by 'binding', or, other objective standards.
- (vi) Please indicate the rationale for binding Jamaica to 'consider accession' if an agreement is not to Jamaica's benefit or inconsistent with national values and aspirations.
- (vii) Article 9 in General Part of the Agreement binds States to fighting all instances of 'advocacy of hatred'. We reiterate our request for a definition of 'hatred'.

- (viii) Please indicate the definition of ‘comprehensive equality and ‘anti-discrimination’ laws?

We are concerned as ‘anti-discrimination’ legislation has been mooted by the CARICOM Secretariat which sought to criminalise justifiable acts or policies of discrimination between behaviours that are inimical to human and public health, and those that promote good public health²⁴. “Discrimination” is a known phrase used by advocates for the repeal of buggery laws, and normalising homosexual sexual behaviour through educational curriculum.²⁵ ²⁶ Anti-discrimination laws in the EU have been used to stifle fundamental freedoms of speech, conscience, parental rights and religious freedom, and chill honest debate in the public space²⁷. Parents in European countries such as Finland have lost custody of their children because of refusing a teen transgender surgery²⁸. Some European parents have also had to leave their home country to enjoy the right to home school their children.²⁹

- 17.** Page 137, Article 32 (6) *They shall recognise and observe the independence of national human rights institutions... They shall promote the participation of national human rights institutions.*

Ques: The JCHS has publicly opposed the establishment of such an entity in light of the abuses by homosexual and transgender activists of such bodies. Please indicate the structure, intended role and rationale for a National Human Rights Institution in Jamaica.

- 18.** Page 138, Art. 33(1) *The Parties shall cooperate to enhance effective and equitable access to justice by all and shall cooperate in the consolidation of the rule of law and in the strengthening of institutions at all levels in the areas of law enforcement and administration of justice. For that purpose, the Parties shall enhance access to legal services by persons in vulnerable situations.*

Ques:

- (i) Please indicate the category of person being contemplated as being in a ‘vulnerable situation’ in this section?
- (ii) Please explain the rationale for the word ‘enhance? Is it not enough to ensure everyone has these rights? This suggests a hierarchy of rights when

²⁴ PANAP (2012). FINAL DRAFT CARICOM MODEL ANTI-DISCRIMINATION BILL Available at:

https://pancap.org/pc/pcc/media/pancap_document/Model-Anti-Discrimination-Legislation-FINAL-DRAFT.pdf [Accessed: 7/6/21].

²⁵ Tomlinson v. Belize. (2016). Consolidated Order Caribbean Court of Justice. *World Courts Database*. Available at: http://www.worldcourts.com/ccj/eng/decisions/2016.06.10_Tomlinson_v_Belize.htm [Accessed: 7/6/21]

²⁶ HRW. (2018). Discriminatory Laws against LGBT People in the Eastern Caribbean. *Human Rights Watch*. Available at: <https://www.hrw.org/report/2018/03/21/i-have-leave-be-me/discriminatory-laws-against-lgbt-people-eastern-caribbean>

²⁷ Cf. FN9, FN 13 and FN 14

²⁸ Watson, P. (2019). Parents Lose Custody of 15-Year-Old Daughter For Refusing to Allow Sex Change. Available at: <https://summit.news/2019/12/10/parents-lose-custody-of-15-year-old-daughter-for-refusing-to-allow-sex-change/>

²⁹ ‘U.S. Christians rally around home-schooling family facing deportation’, <https://religionnews.com/2013/04/22/u-s-christians-rally-around-home-schooling-family-facing-deportation/> [Accessed: 22/6/21]

all human rights are inalienable, indivisible and universal. They ought to be on equal footing for ALL persons. Recommendation to delete “enhance” or replace with “ensure”.

- 19.** Page 140, Art. 36 (2) - *The Parties shall prosecute, combat and seek to prevent all forms of violence, including sexual, gender-based and domestic violence.*

Ques: Please indicate the definition of ‘gender’. The EU has expanded the meaning of ‘gender’ beyond alternate to male and female, to include fluid identity preferences of individuals such as trans -men or trans-women^{30 31}.

- 20.** Page 143, Art.42 (1) *The Parties shall consolidate and promote inclusive, affordable and equitable access to, and enhance the quality of, education at all levels. They shall support the advancement of gender equality, to develop an enabling environment in which boys and girls have equal educational opportunities and comparable educational attainment.*

Ques: Please indicate the definition of ‘inclusive’ and ‘gender equality’.

- 21.** Page 146, Art 48 (1) *The Parties shall strengthen policies, programmes and mechanisms aimed at promoting gender equality and ensuring and improving equal opportunities for participation in all sectors of political, economic, social and cultural life. They shall ensure that the gender perspective is systematically mainstreamed across all policies, including through the creation and consolidation of legal frameworks.*

48 (2) *The Parties shall ensure women’s and girls’ physical and psychological integrity by adopting legislative and policy measures to end child, early and forced marriages, and by eliminating all forms of sexual and gender-based violence...*

48 (3) *The Parties shall support the effective implementation of all relevant international agreements, including the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and encouraging the ratification of its Optional Protocol.*

...

48 (6) *The Parties shall empower women’s and girls’ organisations and strengthen national and regional institutions’ capacity to address issues relating to violence against women and girls, including prevention and protection from all forms of sexual and gender-based violence...*

48 (7) *The Parties shall commit to the full and effective implementation of the Beijing Declaration and Platform for Action and the Programme of Action of*

³⁰ Cf. FN 6.

³¹ Weforum. (2016). Which European countries have the harshest transgender laws? Available at: <https://www.weforum.org/agenda/2016/05/this-is-what-transgender-rights-in-europe-looks-like/>

the International Conference on Population and Development and the outcomes of their review conferences. They shall further stress the need for universal access to quality and affordable comprehensive sexual and reproductive health information and education, taking into consideration the UNESCO international technical guidance on sexuality education, as well as the need for the delivery of sexual and reproductive health-care services. They shall pursue the effective implementation of the Montevideo Consensus on Population and Development, as appropriate.

Ques:

- (i) Please state the intended benefit to Jamaica of ratifying the Optional Protocol to CEDAW.
- (ii) We reiterate our earlier question as to the definition of ‘gender’ and our concern regarding the ‘outcomes of review conferences’.
- (iii) Please indicate the rationale for agreeing to integrating ‘comprehensive sexual (sexuality) education (CSE) in Jamaican schools. CSE is the offensive curriculum which was the subject of public outrage and culling by the Ministry of Education in 2012 when modules advancing CSE were discovered in the Health and Family Life Education (HFLE) curriculum. CSE sexualises children, grooms them towards a receptive attitude to promiscuity and teaches as normal, perverse behaviours that are associated with disease and death and promotes a risk-reduction approach rather than risk-avoidance. Including CSE in this draft Agreement would bind Jamaica accept CSE and all its implications for the next twenty-years, without knowing what future Guidance’s would contain.
- (iv) The Montevideo Consensus on Population and Development contains provisions calling for the normalisation of a wide range of sexual preferences and expressions (for example, paras. 34 and 36). This is contrary to Jamaican law. Please explain why the Government is committing to international obligations that are contrary to Jamaican law and national values and importantly, are not specifically enshrined in international law.