Jamaica

Jamaicans for Justice – Rodjé Malcolm

Good day, I will be addressing persons with disabilities and detention.

**General protection of the disabled** - last year, adisabled Jamaican was crushed to death by a bus because Jamaica’s public infrastructure so thoroughly excludes the physically disabled, that participating in public life can be life threatening.

Because Jamaica has not implemented the legal framework to protect the disabled, scores of Jamaicans lack basic access to buildings, to information, and to essential services. There are no mandatory building codes, so in most schools, disabled children can barely access classrooms.

Jamaica’s Charter of Rights excludes disability from its anti-discrimination provisions, and the Disabilities Act, which the Committee raised in its List of Issues, is not in force. *The State Party misleads this Committee in its reply.* Despite being passed in 2014, the law has not been assented to not has the date of commencement been legally published. The Committee should recommend its full implementation.

**Arbitrary detention of the disabled** - In the justice system, hundreds of disabled Jamaicans have been incarcerated because of their disability.

In criminal proceedings, Jamaican law enables the imprisonment of anyone deemed “unfit to enter a plea.” This has become license to imprison the mentally disabled who are accused of crimes *for years at a time* in order to conduct “evaluations.” They are thrown in prison, and forced to live with convicted offenders -- but almost never stand trial. As of August, 2016, Jamaica had over one hundred such disabled persons living in prisons – a huge number for a tiny island.

Imprisonment – without trial – solely on the basis of mental disability violates the Covenant. Despite this, the State party has resisted reforming its laws. It is not enough for the state to simply commit to reviewing these cases. It must take legislative action. The Committee should explicitly recommend that Jamaica reform its laws to no longer allow for the incarceration of the mentally disabled in criminal proceedings based on their “fitness to plea.” Anything short of this is a license to abuse.

**Now, I will address the general status of detention in Jamaica.**

This month, another one of our clients was beaten in detention by police officers. Beatings in custody, and even deaths in custody are disturbingly high in Jamaica.

People deprived of liberty in Jamaica are subjected to degrading treatment, and in some cases torture. In police lockups and prisons, detainees pass human feaces on themselves because they are denied access to toilets; rats, roaches, lice and fleas torment them, and they are denied medical care despite high rates of illness and infection.

Nearly every human rights review of Jamaica has established that detention conditions in Jamaica are inhumane. The Committee has raised in its List of Issues the review of Jamaica's detention system that occurred in 2015. In its reply, the State party claimed that the creation of its Administration Policy for Persons Deprived of Liberty is a sufficient response. It is not.

The policy -- while good -- has **no legal force. It is not law. There is no legal accountability for breaches, as required by the Covenant.** While Jamaica has a Corrections Act for prisons, it is not compliant with the Covenant, is silent on pre-trial detention.The Committee should explicitly recommend legislation regulating detention in Jamaica that sets minimum standards for the treatment of detainees.

Thank you