**Jamaica**

*The purpose of the Housing Rights and Human Rights Brief is to provide a succinct overview of housing rights and human settlements-related human rights within a specific country. It is designed for project designers to familiarize themselves with the human rights situation in the country that they are working in. The Housing Rights and Human Rights Brief is not intended to be a comprehensive analysis of all human rights, yet to provide an overview of housing rights and other human settlements-related human rights within the national and the UN Delivering as One contexts. Further, this Brief is not intended to cover the entire legislative and regulatory framework of the country concerned.*

*The Brief outlines specific articles of the Constitution, national and local legislation, and other human settlements-related policies and acts. It further explains specific international legal commitments, with particular emphasis on the key conventions that the country has signed and/or ratified. UN reviews and recommendations, particularly the Universal Periodic Review process, are also outlined. The final section provides information on previous UN-Habitat projects in the country and links for further information and elaboration.*

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**Revision History**

|  |  |  |
| --- | --- | --- |
| Revision | Date | Author |
|  *1* |  *-* | *SN*  |
|  *2* | *13/01/2016*  |  *SN* |
| *3* | *29/02/2016* | *SG* |

**Summary**

Jamaica is governed by its 1962 Constitution. The Charter of Fundamental Rights and Freedoms in the Jamaican Constitution does not provide for the right to adequate housing. It does however enshrine the right to respect for and protection of privacy of the home, and the protection of property rights.

Jamaica’s Vision 2030 is a national development plan whose implementation shall see the realization of the right to adequate housing. Jamaica’s National Housing Policy is informed by the need for the government to meet its vision of providing access to adequate and secure shelter for all its citizens by 2030.

Jamaica has ratified most of the key international human rights conventions, among them the International Covenant on the Economic, Social and Cultural Rights, which includes the right to adequate housing as a component of the right to an adequate standard of living.

UN review mechanisms have recommended the State of Jamaica to adopt a comprehensive national housing strategy with a view to ensuring access to adequate and affordable housing. UN review mechanisms have also noted that the housing situation in Jamaica is acute, as well as the rapid growth of squatter communities in urban areas in overcrowded, unsafe and dilapidated housing. UN-Habitat is currently working in Jamaica through the Participatory Slum Upgrading Programme.

**Legal Framework**

***Constitution[[1]](#footnote-1)***

Jamaica is governed by its 1962 Constitution. The Charter of Fundamental Rights and Freedoms (Constitutional Amendment Act of 2011) does not provide for the right to adequate housing. It does however enshrine the right to respect for and protection of privacy of the home, and the protection of property rights.

Chapter III – Charter of Fundamental Rights and Freedoms

‘Article 13 (3)(j)

The right of everyone to

(iii) respect for and protection of private and family life, and privacy of the home;’

‘Article 15 (1)

No property of any description shall be 'compulsorily taken possession of and no interest in or right over property of any' description shall be compulsorily acquired except by or under the provisions of a law that -

(a) prescribes the principles on which and the manner in which compensation therefor is to be determined and given; and

(b) secures to any person claiming an interest in or right over such property a right of access to a court for the purpose of-

(i) establishing such interest or right (if any);

(ii) determining the compensation (if any) to which he is entitled; and –

(iii) enforcing his right to any such compensation.

**Government**

***Political System[[2]](#footnote-2)***

Jamaica is a constitutional monarchy and member of the Commonwealth. Therefore, the Queen of England, Elizabeth II is the titular head of the country. She is represented here by a governor general. The Jamaican Parliament consists of two Houses, the Senate and the House of Representatives; and the Queen. The Governor General represents the Queen in Parliament and his role is strictly formal.

Executive authority in Jamaica is formally vested in the Queen and is to be exercised on her behalf by the governor general. In practice, the prime minister and the cabinet exercise executive control over the administration. The governor general selects the Prime Minister from the members of the House of Representatives, all of whom are popularly elected.

The Jamaican legal and judicial system is based on the English common law tradition. The Constitution guarantees judicial independence. The Jamaican Constitution establishes two separate superior courts, the Court of Appeal and the Supreme Court of Judicature.

***Ministry of Transport, Works and Housing***

The relevant ministry in the implementation of the legislations and policies relating to housing is the Ministry of Transport, Works and Housing. The Ministry is established under the Housing Act of 1969 and performs functions such as law and policy development.

Housing Act (1969)[[3]](#footnote-3)

The Act establishes the Ministry of Housing. Section 4, 5 and 6 contain provisions on housing schemes, slum clearance and improvement schemes respectively. The Minister may, after considering that houses in an area are unfit for human habitation and are dangerous to the health of the habitants (among others), may order that they be demolished. The Minister also has the power to declare an area a slum clearance area. Where the area can be remedied without the need for demolition, he may order the acquisition of the area for reconstruction purposes.

National Housing Policy (2011)[[4]](#footnote-4)

The National Housing Policy and Implementation Plan for Jamaica was developed by the Ministry of Transport, Works and Housing to give direction to the government in relation to the housing sector. The Policy was informed by the need for the government to meet its vision of providing access to adequate and secure shelter for all its citizens by 2030.

Vision 2030[[5]](#footnote-5)

‘National Outcome 15:

Sustainable Urban and Rural Development Physical planning approaches employed in past decades are inadequate for today’s Jamaica. Vision 2030 Jamaica creates a framework for urban and rural development that supports the economic and social development of all parishes to achieve their full potential, thereby creating sustainable communities. We acknowledge that poor spatial planning in the past has resulted in various problems as is evidenced by rundown town centres, urban sprawl, environmental degradation, unsafe and dilapidated housing, planned and unplanned development in ecologically-sensitive areas, crime and disorder, rural-urban migration, and poverty.‘

**Judiciary**

No decisions related to housing could be sourced.

**International Conventions[[6]](#footnote-6)**

Jamaica has ratified most of the key international human rights conventions, including the Covenant on Economic, Social and Cultural Rights, which includes the right to adequate housing as a component of the right to adequate housing.

|  |  |  |  |
| --- | --- | --- | --- |
| Treaty Description | Treaty Name | Signature Date | Ratification Date, Accession(a), Succession(d) Date |
| Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment | CAT |   |   |
| International Covenant on Civil and Political Rights | CCPR | 19 Dec 1966  | 03 Oct 1975  |
| Convention on the Elimination of All Forms of Discrimination against Women | CEDAW | 17 Jul 1980 |  19Oct 1984 |
| International Convention on the Elimination of All Forms of Racial Discrimination | CERD | 14 Aug 1966 |  04 Jun 1971 |
| International Covenant on Economic, Social and Cultural Rights | CESCR | 19 Dec 1966  | 03 Oct 1975  |
| International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families | CMW | 25 Sep 2008 | 25 Sep 2008 |
| Convention on the Rights of the Child | CRC | 26 Jan 1990 |  14 May 1991 |
| Convention on the Rights of Persons with Disabilities | CRPD | 30 Mar 2007 |  30 Mar 2007 |
| Convention Relating to the Status of Refugees | Refugee Convention |  |  30 Jul 1964 (d) |
| Protocol Relating to the Status of Refugees | Protocol Relating to the Status of refugees |  |  30 Oct 1980 (a) |

Jamaica has not ratified:

* Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment

**UN Agencies**

UN review mechanisms have recommended the State of Jamaica to adopt a comprehensive national housing strategy with a view to ensuring access to adequate and affordable housing. UN review mechanisms have also noted that the housing situation in Jamaica is acute, as well as the rapid growth of squatter communities in urban areas in overcrowded, unsafe and dilapidated housing.

***Universal Periodic Review***

*The Universal Periodic Review (UPR) is a unique process which involves a periodic review of the human rights records of all 193 UN Member States. The UPR is a significant innovation of the Human Rights Council which is based on equal treatment for all countries. It provides an opportunity for all States to declare what actions they have taken to improve the human rights situations in their countries and to overcome challenges to the enjoyment of human rights. The UPR also includes a sharing of best human rights practices around the globe. Currently, no other mechanism of this kind exists.*

First UPR (2010)[[7]](#footnote-7)

Jamaica was first viewed in November 2010 yet the UPR contains nothing on the right to adequate housing.

 Second UPR (2015)[[8]](#footnote-8)

‘Recommendation 119.53: Adopt a comprehensive national housing strategy with a view to ensuring access to adequate and affordable housing.’

 ***Report of the United Nations High Commissioner for Human Rights (2015)[[9]](#footnote-9)***

*The Report provides a comprehensive review of the Human Rights situation in a given country and is presented to the Human Rights Council.*

The report noted, with concern, the acute housing situation in Jamaica as well as the rapid growth of squatter communities in urban areas in overcrowded, unsafe and dilapidated housing.

***Committee on Economic, Social and Cultural Rights (2013)[[10]](#footnote-10)***

*The Committee specifically reviews states that have ratified the ICESCR on their compliance with the rights enshrined in it, including the Right to Adequate Housing.*

The Committee expressed concern at the acute housing situation in the State party, including the fact that almost a quarter of the population lived as squatters on land they neither owned nor leased, as well as the rapid growth of squatter communities in urban areas in overcrowded, unsafe and dilapidated housing. Additionally, the Committee regretted the absence of data on the extent of homelessness in the State party, as well as the lack of effective programmes and policies to address the issue.

Recommendation: The Committee recommended that the State party adopt a comprehensive national housing strategy with a view to ensuring access to adequate and affordable housing with legal security of tenure for everyone. The Committee recalled that such strategy should: be developed based on a systematic needs assessment and consultation with and participation by affected individuals; include concrete targets and a time frame for implementation as well as an effective monitoring and feedback mechanism; and be allocated sufficient funding for effective implementation. The Committee drew the attention of the State party to its general comment No. 4 (1991) on the right to adequate housing, and requested that the State party provide information on measures adopted in this regard in its next periodic report, including information on the extent of homelessness and steps taken to eliminate the phenomenon.

***United Nations Country Team (UNCT) (2011)[[11]](#footnote-11)***

*The UNCT ensures inter-agency coordination and decision-making at the country level. The main purpose of the Country Team is for individual agencies to plan and work together, as part of the Resident Coordinator system, to ensure the delivery of tangible results in support of the development agenda of the Government.*

The Jamaica UN Country Team develops the UNDAF, which contains no references to the right to adequate housing.

***United Nations Development Assistance Framework (UNDAF) (2012-2015)[[12]](#footnote-12)***

*The UNDAF is a partnership that has been developed between the UN and the Government of Jamaica which articulates the development vision, goals and aspirations of the people of Jamaica. The UNDAF forms the overall framework for the UNCT’s work in Jamaica 2012-2016.*

 Jamaica’s UNDAF does not provide anything on housing.

**UN-Habitat[[13]](#footnote-13)**

UN-Habitat Projects in Jamaica include:

Participatory Slum Upgrading Programme (2008-present)

In 2007, the Government of Jamaica launched *Vision 2030*, a national development road map to put the country on a path to becoming the place of choice to live, work, raise families, and do business. Among other goals, *Vision 2030* aims to create prosperity through the sustainable use and management of natural resources. The Participatory Slum Upgrading Programme was launched in Jamaica in August 2008. When fully implemented, it will assist Jamaica to move closer to *Vision 2030*.

**Further Information**

* Constitution of Jamaica: [http://moj.gov.jm/sites/default/files/laws/Ja%20(Constitution)%20Order%20in%20Council%201962.pdf](http://moj.gov.jm/sites/default/files/laws/Ja%20%28Constitution%29%20Order%20in%20Council%201962.pdf)
* Vision 2030: [http://www.vision2030.gov.jm/Portals/0/NDP/Vision%202030%20Jamaica%20NDP%20Full%20No%20Cover%20(web).pdf](http://www.vision2030.gov.jm/Portals/0/NDP/Vision%202030%20Jamaica%20NDP%20Full%20No%20Cover%20%28web%29.pdf)
* Housing Act: <http://moj.gov.jm/sites/default/files/laws/The%20Housing%20Act.pdf>
* OHCHR Convention Ratification Status: <http://indicators.ohchr.org/>
* Universal Periodic Review: http://www.ohchr.org/EN/HRBodies/UPR/Pages/JMSession22.aspx
* Report of the United Nations High Commissioner for Human Rights (2015):http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G15/039/56/PDF/G1503956.pdf?OpenElement
* CESCR: <http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fJAM%2fCO%2f3-4&Lang=en>
* UNCT: <http://undg.org/home/country-teams/latin-america-the-carribean/jamaica/>
* UNDAF:<http://www.jm.undp.org/content/dam/jamaica/docs/misc/Jamaica-UNDAF2012-2016.pdf>
* UN-Habitat Jamaica Summary: <http://mirror.unhabitat.org/content.asp?cid=10999&catid=592&typeid=79>
* UN-OHCHR: <http://www.ohchr.org/EN/Pages/WelcomePage.aspx>
* UN-Habitat: <http://unhabitat.org/>
* Universal Periodic Review: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx>
* Special Rapporteur on Adequate Housing: <http://www.ohchr.org/EN/Issues/Housing/Pages/HousingIndex.aspx>

1. [http://moj.gov.jm/sites/default/files/laws/Ja%20(Constitution)%20Order%20in%20Council%201962.pdf](http://moj.gov.jm/sites/default/files/laws/Ja%20%28Constitution%29%20Order%20in%20Council%201962.pdf) [↑](#footnote-ref-1)
2. http://unpan1.un.org/intradoc/groups/public/documents/un/unpan023200.pdf [↑](#footnote-ref-2)
3. <http://moj.gov.jm/sites/default/files/laws/The%20Housing%20Act.pdf> [↑](#footnote-ref-3)
4. <https://www.mtw.gov.jm/images/Housing/Policies/ImplementationPlanNationalHousingPolicyJANUARY2011.pdf> [↑](#footnote-ref-4)
5. [http://www.vision2030.gov.jm/Portals/0/NDP/Vision%202030%20Jamaica%20NDP%20Full%20No%20Cover%20(web).pdf](http://www.vision2030.gov.jm/Portals/0/NDP/Vision%202030%20Jamaica%20NDP%20Full%20No%20Cover%20%28web%29.pdf%20) [↑](#footnote-ref-5)
6. <http://indicators.ohchr.org/> [↑](#footnote-ref-6)
7. http://www.ohchr.org/EN/HRBodies/UPR/Pages/JMSession9.aspx [↑](#footnote-ref-7)
8. http://www.ohchr.org/EN/HRBodies/UPR/Pages/JMSession22.aspx [↑](#footnote-ref-8)
9. http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G15/039/56/PDF/G1503956.pdf?OpenElement [↑](#footnote-ref-9)
10. Concluding Observations, E/C.12/JAM/CO/3-4 http://tbinternet.ohchr.org/\_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fJAM%2fCO%2f3-4&Lang=en

 [↑](#footnote-ref-10)
11. http://undg.org/home/country-teams/latin-america-the-carribean/jamaica/ [↑](#footnote-ref-11)
12. <http://www.jm.undp.org/content/dam/jamaica/docs/misc/Jamaica-UNDAF2012-2016.pdf> [↑](#footnote-ref-12)
13. <http://mirror.unhabitat.org/content.asp?cid=10999&catid=592&typeid=79> [↑](#footnote-ref-13)