**Questionnaire**

Human Rights Council Resolution 29/10 on “Human Rights and the Regulation of Civilian Acquisition, Possession and Use of Firearms”

1. **Does your country have regulations regarding the acquisition, possession and use of firearms by civilians? Please provide information on relevant legislation, regulations, administrative procedures, policies or any other measures in this regard.**

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| **Yes**. The Firearms Act, 1967, is the current local legislation that regulates the acquisition, possession and use of firearms by civilians. Further, state security entities such as the Jamaica Constabulary Force (JCF) and the Jamaica Defence Force (JDF) are exempt from the Act. However, members of the JCF and JDF seeking to acquire firearms in the capacity of private citizens are governed by the Act. The Firearm Licensing Authority (FLA) is a centralized administrative body and database repository, which was established by an act of Parliament, to streamline and standardize the granting, renewal and revocation of firearm licences and all the attendant processes. This serves to regulate the licensing of firearms in Jamaica in keeping with worldwide standards. The FLA is an agency of the Ministry of National Security.The FLA is also responsible for the implementation of a transparent and accountable system for the issuance of Firearm Licenses to civilians and to ensure proper and standardized training certification in the safe use and care of firearms. This Authority is also the Entity responsible for the development and maintenance of a modern Computerized Ballistic Identification Database. The Institute of Forensic Science and Legal Medicine (IFSLM) is another agency of the Ministry of National Security is responsible for capturing and maintaining the ballistic signature of state-owned firearms.  |

1. **Does your country have specific regulations regarding the acquisition, possession and use of firearms by private security companies? Please provide information on relevant legislation, regulations, administrative procedures, policies or any other measures in this regard.**

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| **Yes**. While there is no legislation or regulation that specifically speaks to the acquisition, possession and use of firearms by private security companies, the Firearms Act, 1967, in addition to regulating the acquisition, possession and use of firearms by civilians, also regulates same for private security companies, given that they are civilian based organizations.  |

1. **Does your country have regulations that restrict or prohibit the import and export of firearms or certain types of firearms intended for civilian use? Please provide information on relevant legislation, regulations, administrative procedures, policies or any other measures in this regard.**

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| **Yes**. Pursuant to Section 4 of the Firearms Act, 1967, no person is permitted to import into, export from or tranship in Jamaica any firearm or ammunition without the relevant permit. |

1. **Has your country undertaken any regional or international commitment(s) related to the regulation of civilian acquisition, possession or use of firearms? If so, please list them and give any relevant details.**

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| **Yes**. Jamaica signed and ratified several International Treaties/Conventions to regulate the possession and use of privately-owned firearms. These are listed below:1. **Inter-American Convention Against The Illicit Manufacturing Of And Trafficking In Firearms, Ammunition, Explosives, And Other Related Materials (CIFTA) - *Signed on November 14, 1997 but has not yet been ratified***
2. **Arms Trade Treaty (ATT) - *Signed and Ratified on June 3, 2013 and June 3, 2014, respectively***
3. **The United Nations Program of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in all its Aspects (PoA) – *Signed in 2001***
4. **The International Instrument to Enable States to Identify and Trace, in a Timely, Reliable Manner, Illicit Small Arms and Light Weapons (ITI) – *Signed in 2005***
5. The United Nations Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition supplementing the United Nations Convention against Transnational Organized Crime (Firearms Protocol ‘FP’) – ***Signed and ratified on November 3, 2001 and September 29, 2003, respectively***
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1. **What are the types and characteristics of firearms to which civilians can lawfully have access? Are there any limits on the number of firearms which civilians may own? Please provide details of each.**

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| 1. The Firearms Act, 1967, details the kinds of weapons which are not lawfully accessible, except where authorised by a licence which continues in force by virtue of any enactment. The Act defines two legal classes of weapons:
2. “prohibited weapon” which is -
3. any artillery or automatic firearm; or
4. any grenade, bomb or other like missile
5. “restricted weapon” which is -

any weapon of whatever description or design which is adapted for discharge of any noxious liquid, gas or other thing. Civilians may, on satisfying the relevant licensing and regulation procedures, access the  following kinds of firearms:* Shotguns,
* Rifles, and
* Handguns (Revolvers and Pistols).
1. There is no stated limit on the number of firearms which a civilian may own. However, the FLA’s Board has discretion in granting approval for additional licences to firearm owners, subject to appropriate justification.
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1. **Please provide information on how firearms are categorized according to risk factors and how they are legally classified.**

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| While the Firearms Act, 1967, does not categorize firearms based on risk factors, it outlines two (2) legal classes of firearms as follows:1. “prohibited weapon” which is -
2. any artillery or automatic firearm; or
3. any grenade, bomb or other like missile
4. “restricted weapon” which is -

any weapon of whatever description or design which is adapted for discharge of any noxious liquid, gas or other thing The Act however does not provide a definition for a ‘legal’ or ‘non-restricted’ weapon.  |

1. **Who may lawfully possess firearms in your country? Please provide information on (a) whether civilians are required to hold a licence or a certificate in order to acquire, own/possess or use a firearm, and (b) what are the minimum requirements for the issuance or renewal of licence or a certificate to acquire, own/possess or use firearms.**

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| Section 52 of the Firearms Act, 1967, outlines the categories of persons and circumstances for which the Act does not apply. They include, *inter alia*: * To a person authorized by or on behalf of the Government of Jamaica to be in possession of such firearm or ammunition;
* to any firearm or ammunition or signalling apparatus or ammunition therefor forming part of the equipment of any ship or aircraft or of any aerodrome at any time .when such firearm or ammunition or signalling apparatus or ammunition therefor is on board of such ship or aircraft or at such aerodrome, as the case may be;
* to any employee of the Kingston and St. Andrew Corporation or any Parish Council or the Jamaica Society for the Prevention of Cruelty to Animals or of any prescribed person in respect of his possession in his capacity as such employee of any slaughtering instrument;
* to any firearm or ammunition forming ,part of any collection owned by the Institute of Jamaica for museum purposes except at a time when such firearm or ammunition is in the possession of a person not authorized by the Institute of Jamaica to be in possession of such firearm or ammunition; and
* to such firearms and ammunition the property of the Government of such country in such circumstances and subject to such conditions as may for the time being be approved by the Minister, and to such persons in respect of their possession thereof as may be so approved.

Members of State Security Entities, such as the JCF, JDF and Department of Correctional Services (DCS) may lawfully possess firearms for the purpose of performing their duties. However, civilians are required to have a Firearm User’s Licence to acquire, own/possess a firearm. Further, the minimum requirements for the issuance and renewal of a Firearm User’s Licence by the FLA are as follows:**Issuance**;1. A Completed Application Form
2. Two (2) Passport photographs (Must be signed by a Justice of the Peace)
3. Two (2) recommendations/references (from either a Justice of the Peace, Lawyer or Doctor)
4. Proof of Income (may include but not limited to - Pay Slip, Letter from Employer, Business Receipt etc.)
5. Fingerprint Receipt
6. Licence Fee Receipt
7. Security Clearance (from the JCF)
8. Interview with the FLA Board
9. Training in the Safe Use and Handling of a Firearm
10. Firearm Competency Test

**Renewal**;1. Submission of expired Licence(s) and firearm(s) to the FLA
2. Inspection of firearm(s) by the FLA
3. Interview with the FLA Board

(N.B.) Firearm Users’ Licences are renewed annually on or up to 30 days prior to applicants’ date of birth. Additionally, effective January 2016, applicants will be required to complete a safe use and handling assessment/test, prior to the renewal of all Firearms Users’ Licences. |

1. **For what purpose does the domestic legislative or regulatory framework allow civilians to have access to firearm(s)? Can civilians carry firearms in public places?**

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| 1. Civilians may lawfully access firearms for the following purposes:
2. Protection of the Person and property;
3. Sport Shooting
4. Hunting;
5. Training and instruction;
6. Theatrical Performances and Rehearsals;
7. A Starter’s Pistol, for signalling the start of athletic competition;
8. A flare gun, for use by marine interests
9. Yes. Pursuant to Section 21(1) of the Firearms Act, a person shall not carry any firearm or ammunition in any public place unless at the time when he carries such firearm or ammunition he has about his person a licence, certificate or permit granted by the Authority, authorizing him to carry such firearm or ammunition in such place and, if such place is a place to which section 22 applies, a Firearm User’s (Special) Permit authorizing him to carry such firearm or ammunition in such place on such occasion.
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1. **What are the conditions for possession of firearms by civilians (e.g. safe storage requirements, reporting of theft or loss of firearms)?**

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| Jamaica has adapted the International Small Arms Control Standards (ISACS), which is in keeping with International Best Stockpile Management Practices, to include safe storage requirements for small arms and light weapons (SALWs). These standards are in accordance with Jamaica’s Small Arms Control Policy and are applied to both State-owned and Privately-owned firearms.Additionally with respect to the reporting of the theft or loss of firearms, Section 41A of the Firearms Act mandates that the holder of a licence, certificate or permit in respect of any firearm or ammunition and any other person lawfully in possession of any firearm or ammunition by virtue of subsection (2) section 20 of the Act, shall within forty-eight hours after he discovers the loss or theft of such firearm or ammunition, report the loss or theft at a police station. |

1. **Is there a system to keep a record of firearms acquired or owned by civilians?**

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| **Yes**. All firearms that are acquired and owned by civilians are recorded by the FLA in a centralized Database System.  |

1. **What are the conditions for the transfer of ownership of firearms between civilians?**

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| The conditions that permits the transfer of ownership of firearms between civilians include:1. Pursuant to Section 10 subsection (2) of the Firearms Act, a person shall not purchase or acquire any firearm or ammunition from or sell or transfer any firearm or ammunition to any other person whom he knows or has reasonable cause to believe to be under the age of seventeen years, except where such other person is the holder of a certificate issued under paragraph (j) of subsection (2) of section 20.
2. Pursuant to Section 10 subsection (3) of the Firearms Act, (3) A person shall not purchase or acquire any firearm or ammunition unless- (a) subject to subsection (9), he is the holder of a Firearm Manufacturer’s Licence or a Firearm Dealer’s Licence or a Firearm User’s Licence in relation to a firearm or ammunition of the type so purchased or acquired by him; and (b) subject to subsections (8) and (9), the person from whom he purchases or acquires such firearm or ammunition is the holder of a Firearm Manufacturer’s Licence, or a Firearm Dealer’s Licence, or a Firearm Disposal Permit in respect of the firearm or ammunition so purchased or acquired from such person.
3. Pursuant to Section 10 subsection (4) of the Firearms Act a person shall not sell or transfer any firearm or ammunition unless – (a) subject to subsections (8) and (9), he is the holder of a Firearm Manufacturer’s Licence, or a Firearm Dealer’s Licence, or a Firearm Disposal Permit in respect of the firearm or ammunition so sold or transferred by him; and (b) subject to subsection (9), the person to whom he sells or transfers such firearm or ammunition is the holder of a Firearm User’s Licence or a Firearm Dealer’s Licence or a Firearm Manufacturer’s Licence in respect of a firearm or ammunition of the type so sold or transferred to such person.
4. Pursuant to Section 11 (1) of the Firearms Act, where any person (in this section referred to as “the purchaser”) other than the holder of a Firearm Manufacture’s Licence or a Firearm Dealer’s Licence proposes to purchase or acquire any firearm or ammunition from any other person (in this section referred to as “the vendor”) – (a)
5. Pursuant to Section 13 subsection (2) of the Firearms Act, a person shall not sell or transfer a firearm or ammunition to, or repair, test or prove a firearm or ammunition for, any person whom he knows, or has reasonable cause to believe, to be a restricted person, or to be drunk or of unsound mind or, at the time, otherwise unfitted to be entrusted with such a firearm or ammunition.

Additionally, subject to the foregoing, Section 20 (2) of the Act, outlines the following as conditions/circumstances under which civilians who do not have a Firearm User’s Permit may lawfully temporarily possess firearms: 1. any holder of a Firearm Manufacturer's Licence or a Firearm Dealer's Licence in respect of any firearm or ammunition manufactured by him or forming part of his stock in trade as a firearm manufacturer or a firearm dealer; or
2. the executor or administrator of any deceased person or to the Trustee in Bankruptcy or liquidator of any insolvent person, or of any company in liquidation, who before his decease, or becoming insolvent or going into liquidation, as the case may be, was the holder of a Firearm Manufacturer's Licence or a Firearm Dealer's Licence, in respect of any firearm or ammunition forming part of the stock in trade of such person during the administration by such executor, administrator, Trustee in Bankruptcy or liquidator of the affairs of such person; or;
3. to any person who came into possession of any firearm or ammunition in the capacity of executor or administrator of the estate of any deceased person, or Trustee in Bankruptcy or liquidator of any insolvent person or of any company in liquidation, during the period of thirty days after the day upon which he came into possession of such firearm or ammunition.
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1. **What measures are in place to regulate private entities engaged in selling firearms to civilians in the domestic market? What conditions are private entities required to fulfil in order to qualify for a licence to sell firearms?**

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| Pursuant to Section 10(4a) of the Firearms Act, a person shall not sell or transfer any firearm or ammunition unless – subject to subsections (8) and (9), he is the holder of a Firearm Manufacturer’s Licence, or a Firearm Dealer’s Licence, or a Firearm Disposal Permit in respect of the firearm or ammunition so sold or transferred by him. Also, pursuant to Section 9 (1a) of the Act, a person shall not manufacture or deal in – Firearms or ammunition except under and in accordance with the terms of a Firearm Manufacturer’s Licence or Firearm Dealer’s Licence. Section 10(1) of the Act also states that a person shall not purchase, acquire, sell or transfer any prohibited weapon. Additionally, the Firearms Act mandates the following criteria for the granting of a license to sell a firearm (i.e. A Firearm Dealer’s Licence or a Firearm Manufacturer’s Licence):1. A Completed Application Form
2. Two (2) Passport photographs (Must be certified by a Justice of the Peace)
3. Proof of Age (copy of Birth Certificate or Passport)
4. Trauma First Aid Certification (must be current)
5. Two (2) recommendations/references (from either a Justice of the Peace, Lawyer or Doctor )
6. Fingerprint Receipt (only for applicants who are due for Recertification)
7. Licence Fee Receipt
8. Source of Funding (may include but not limited to – Bank Statement, Land Title, Registration of current Business, Company Incorporation)
9. Documents – (may submit photograph of proposed location and structure){*optional*}.
10. Individual Tax Compliance Certificate – for applicant and partner(s)
11. Declaration of Assets, Liabilities, Income and Source of Funding Form

N.B. Applicant must be a firearm holder  |

1. **How does your country monitor and enforce existing regulation of civilian access to firearms? What sanctions, if any, does your domestic legislation provide for: (a) illegal possession, (b) possession of prohibited firearms or of a number of firearms exceeding what the law allows, (c) lack of permission or licence required for possessing a firearm?**

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| The Ministry of National Security (MNS) is the Entity responsible for the monitoring, review and amendments of the Firearms Act, in accordance with Jamaica’s Small Arms Control Policy. However, the JCF and the Jamaica Customs Agency (JCA) are the Entities that are primarily responsible for the enforcement of the Act.The Firearms Act also outlines sanctions for persons found guilty of the following offences:1. Illegal possession of a firearm or lack of permission or licence required to possess a firearm -

**In the event that the person is a restricted person or if the offence relates to possession of a restricted weapon or restricted ammunition –** 1. on summary conviction before a Resident Magistrate to a fine not exceeding Five Hundred Thousand Dollars ($500,000.00) or to imprisonment with or without hard labour for a term not exceeding five (5) years; or
2. on conviction before a Circuit Court to imprisonment for life with or without hard labour; or

**In any other case** (to include possession of a number of firearms exceeding that allowed by the Firearms Act) **-**1. on summary conviction before a Resident Magistrate to a fine not exceeding Three Hundred Thousand Dollars ($300,000.00) or to imprisonment with or without hard labour for a term not exceeding three (3) years; or
2. on conviction before a Circuit Court to imprisonment for life with or without hard labour
3. Possession of prohibited firearms -
4. on summary conviction before a Resident Magistrate to imprisonment with or without hard labour for a term not exceeding five (5) years;
5. on conviction before a Circuit Court to imprisonment for life with or without hard labour.
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1. **Do the authorities in your country collect data on civilian misuse of firearms? If so, what data is gathered and how is it used?**

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| **Yes**. Pursuant to Section 26A (1e) of the Firearms Act, the function of the Authority (FLA) shall be to receive and investigate any complaint regarding the breach of a firearm licence, certificate or permit. Additionally, pursuant to Section 36d of the Act, the FLA may revoke any licence, certificate or permit if the holder thereof has been convicted of an offence involving- 1. the unlawful discharge of a firearm in a public place
2. failure to adequately secure a firearm in a public place
3. the unlawful use of a firearm to threaten violence against another person
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1. **What is the impact of the misuse of firearms by civilians on human rights, in particular the right to life and the right to security? What is the basis of your assessment of this impact?**

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| As at the end of the year 2014, Jamaica had a per capita homicide rate of approximately 36/100,000 population, the majority of which involved the use of a firearm. It also had a per capita shooting incident rate of approximately 44/100,000. This placed Jamaica among the countries in the world with some of the highest such rates. This level of violence has tremendous adverse effects on Jamaica’s economic and social development.Further, the misuse of firearms by civilians may result in several human rights violations, such as unlawful wounding, wounding with intent, murder/homicide, manslaughter, robbery/theft, assault, rape, among others criminal offences, which are all in contravention of Articles 3 and 5 of the United Nations Declaration on Human Rights, 1948, which state, respectively:*“Everyone has the right to life, liberty and security of person.”* AND*“No one shall be subject to torture or to cruel, inhumane or degrading treatment or punishment.”*Similarly, such activities would also be in direct contravention of Chapter III, Section 13 – subsection 3a and 3o of the Charter of Fundamental Rights and Freedoms (Constitutional Amendment) Act, 2011, which state that all Jamaicans have the following fundamental rights, consistent with the afore-mentioned United Nations Declaration of Human Rights:*“the right to life, liberty and security of the person and the right not to be deprived thereof except in the execution of the sentence of a court in respect of a criminal**offence of which the person has been convicted;”*AND*“the right to protection from torture, or inhuman or degrading punishment or other treatment….”* |

1. **What measures are in place to minimize the risk of firearms being misused by civilians?**

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| The measures in place to minimize the risk of firearms being misused include:1. ***Domestic Firearm Legislation*** -

The Firearms Act outlines the requisite conditions/ circumstances for the licit possession and use of firearms, as well as sanctions for the misuse of said firearms. Also the Jamaica Customs Act, 1941, also outlines conditions for the licit importation of firearms. 1. ***Enforcement Entities -***

The JCF and JCA are the primary Law Enforcement Entities that ensure the enforcement of the domestic firearm legislation. 1. ***Regulatory Framework –***

The FLA is the Entity that has been mandated to regulate the possession and use of civilian owned firearms. The FLA is further mandated to receive and investigate any complaint regarding a breach of a firearm licence, certificate or permit, to include incidents involving alleged misuse of firearms. Such investigations are done in collaboration with the JCF, which also has specialized Divisions that play vital investigative and monitoring roles.  |

1. **What is the impact of the domestic regulation of civilian firearms on the protection of the right to life and security of person? How effective is this regulation in human rights protection?**

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| Domestic firearm regulation/legislation provides a critical framework for the establishment and implementation of standards to regulate the possession, use, transfer and disposal of civilian firearms. Such regulation/legislation also outlines certain sanctions to ensure the compliance and promote the responsible use and handling of firearms, which are all aimed at ensuring the security of life and basic human rights in accordance with the United Nations Declaration on Human Rights, 1948.  |

**- END –**