

## A BILL

ENTITLED

AN ACT to Repeal the Crime (Prevention of) Act.

[ ]

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

1. This Act may be cited as the Crime (Prevention of) (Repeal) Act, 2010. Short title and construction.
2. The Crime (Prevention of) Act is repealed. Repeal of Crime (Prevention of) Act.

Amendment  
to the Obeah  
Act.

**3.** The Obeah Act is amended by deleting section 3 and substituting therefor the following—

“Punishment  
for  
practising  
Obeah.”

3. Every person who is convicted for practising obeah shall be liable to imprisonment, with or without hard labour, for a period not exceeding twelve months.”.

## MEMORANDUM OF OBJECTS AND REASONS

In 1976, a Flogging Committee, established by the then Attorney-General recommended that all laws relating to flogging and whipping be repealed. In its report, the committee noted that “in the vitally important field of Penology we were still haunted by ghosts of the past as the more modern rehabilitative theory is constantly obstructed by the instinct of revenge masquerading as a rational theory of punishment”.

International jurisprudence has also decried flogging and whipping as a form of cruel, inhumane and degrading punishment that is contrary to the fundamental rights guaranteed by modern constitutions. The Human Rights Committee established under the International Covenant on Civil and Political Rights in 2000 and 2004, respectively, in its decisions in *Osbourne v. Jamaica* and *Pryce v. Jamaica* held that flogging and whipping represent cruel, inhumane and degrading punishment and is in breach of Article 7 of the International Covenant on Civil and Political Rights.

Although the Flogging Regulation Act predated the Constitution, and being inconsistent with the fundamental rights stated therein should have been impliedly repealed, its provisions were preserved by the savings clause in the Constitution.

This Bill, therefore, seeks to repeal the Flogging Regulation Act and is a companion to other proposed legislation aimed at repealing this form of punishment.

DESMOND GREGORY MAIR  
Member of Parliament.

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As introduced by the Desmond Gregory Mair,  
Member of Parliament.

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