

# Jamaica | Freedom House

## POLITICAL RIGHTS: 34 / 40

### A. ELECTORAL PROCESS: 12 / 12

#### **A1. Was the current head of government or other chief national authority elected through free and fair elections? 4 / 4**

The British monarch is the ceremonial head of state and is represented by a governor general. The prime minister is the head of government; the position is appointed after elections by the governor general, and usually goes to the leader of the majority party or coalition. The prime minister's legitimacy rests largely on the conduct of legislative elections, which in Jamaica are generally free and fair. Jamaica Labour Party (JLP) leader Andrew Holness became prime minister after the party's narrow win in the 2016 elections.

#### **A2. Were the current national legislative representatives elected through free and fair elections? 4 / 4**

Jamaica's bicameral Parliament consists of a 63-member House of Representatives, elected for five years, and a 21-member Senate, with 13 senators appointed on the advice of the prime minister and 8 on the advice of the opposition leader. Senators also serve five-year terms.

In 2016, the opposition JLP won 32 seats in the legislature, in a narrow victory over the incumbent People's National Party (PNP), which took 31. Monitors from the Organization of American States (OAS) deemed the elections competitive and credible, but recorded instances of election-related violence ahead of the polls, and expressed concern about voter apathy, which was manifested in a historically low voter turnout of 48 percent.

#### **A3. Are the electoral laws and framework fair, and are they implemented impartially by the relevant election management bodies? 4 / 4**

Electoral laws are generally fair, but the 2016 OAS mission suggested various improvements, including strengthening campaign finance rules and making it easier for citizens to vote in areas outside their assigned polling station.

### **B. POLITICAL PLURALISM AND PARTICIPATION: 13 / 16**

**B1. Do the people have the right to organize in different political parties or other competitive political groupings of their choice, and is the system free of undue obstacles to the rise and fall of these competing parties or groupings? 4 / 4**

Political parties form and operate without restriction. Although various smaller parties are active, politics at the national level are dominated by the social democratic PNP, and the more conservative JLP.

**B2. Is there a realistic opportunity for the opposition to increase its support or gain power through elections? 4 / 4**

Opposition parties operate freely, and political power has alternated between the PNP and JLP.

**B3. Are the people's political choices free from domination by the military, foreign powers, religious hierarchies, economic oligarchies, or any other powerful group that is not democratically accountable? 2 / 4**

Powerful criminal gangs can influence voters who live in areas under their control. Such groups have used intimidation or other tactics to ensure high voter turnout for particular candidates or parties in exchange for political favors.

**B4. Do various segments of the population (including ethnic, religious, gender, LGBT, and other relevant groups) have full political rights and electoral opportunities? 3 / 4**

Women are underrepresented in politics. Of the 152 candidates contesting the 2016 elections, 26 candidates, or 17.1 percent, were women. Eleven women were elected to the House of Representatives, amounting to 17.5 percent of the body. The LGBT community experiences harassment and violence, and this impacts the ability of LGBT people to engage in political and electoral processes.

**C. FUNCTIONING OF GOVERNMENT: 9 / 12**

**C1. Do the freely elected head of government and national legislative representatives determine the policies of the government? 4 / 4**

The elected prime minister and national legislative representatives determine the policies of the government. However powerful criminal gangs, as well as corruption in politics, can affect democratic policymaking.

**C2. Are safeguards against official corruption strong and effective? 3 / 4**

Long-standing links between officials and organized crime figures persist. Government bodies continue to pursue corruption investigations, and cases frequently end in convictions. However, the public prosecutor has faced criticism in

the media and from nongovernmental organizations (NGOs) for a reluctance to pursue some cases. Government whistleblowers are not well protected.

Recent years have seen new legal efforts to fight corruption. These include the approval of the Integrity Commission Act of 2017, which requires lawmakers and public officials to disclose their income, liabilities, and assets; streamlined anticorruption laws; and empowered a single commission to monitor for compliance. The new commission was duly established in February 2018, and has begun to monitor activities within its scope.

Legislation approved in 2018 mandated the establishment of an independent Major Organised Crime and Anti-Corruption Agency (MOCA), and funding was allocated for its operations in July. (MOCA had already existed, but was affiliated with the Jamaica Constabulary Force; the new body is autonomous.)

In 2016, allegations emerged that PNP leaders had siphoned off millions of dollars' worth of funds donated to the party in order to bolster their personal campaigns for that year's general elections. The PNP established an internal oversight body to safeguard against such occurrences in the future, but no other action was taken. More recently, Finance Minister Audley Shaw faced scrutiny in 2017 after media outlets reported that he had racked up a J\$8 million (US\$60,000) phone bill; he issued an apology and claimed to have paid back part of the charge, and the issue was apparently not pursued further.

### **C3. Does the government operate with openness and transparency? 2 / 4**

An access to information law has been in effect since 2004, though it contains a number of exemptions. Legislative processes are often opaque.

In December 2018, the government proved reluctant to allow the Public Accounts Committee of Parliament (PAC), which is chaired by an opposition lawmaker, to discuss an audit of the state petroleum refinery (Petrojam) that showed evidence of serious corruption and mismanagement. The government relented and began calling for an examination of the audit by the PAC after facing criticism from the opposition and scrutiny in the media.

## **CIVIL LIBERTIES: 44 / 60 (+1)**

### **D. FREEDOM OF EXPRESSION AND BELIEF: 15 / 16**

#### **D1. Are there free and independent media? 4 / 4**

The constitutional right to free expression is generally respected. Most newspapers are privately owned, and express a variety of views. Broadcast media are largely state-owned but espouse similarly pluralistic points of view. Journalists occasionally face intimidation, especially in the run-up to elections.

In May 2018, Reporters Without Borders (RSF) expressed concern over a proposed data-protection bill it said failed to “adequately distinguish gathering ‘data’ for journalistic activities from gathering data for regular commercial purposes.” The group said the bill, if it became law, could allow authorities to compel journalists investigated under its provisions to reveal their sources.

**D2. Are individuals free to practice and express their religious faith or nonbelief in public and private? 4 / 4**

Freedom of religion is constitutionally protected and generally respected in practice. While laws banning Obeah—an Afro-Caribbean shamanistic religion—remain on the books, they are not actively enforced.

**D3. Is there academic freedom, and is the educational system free from extensive political indoctrination? 4 / 4**

The government does not restrict academic freedom.

**D4. Are individuals free to express their personal views on political or other sensitive topics without fear of surveillance or retribution? 3 / 4**

Individuals are generally free to express their personal views on political or other sensitive topics. However, the presence of powerful criminal gangs in some urban neighborhoods can discourage people from talking openly about such groups’ activities.

In 2017, the House of Representatives passed the National Identification and Registration Bill, which established groundwork for a National Identification System that requires the collection of people’s personal information. Privacy advocates expressed concern about possible overreach; it had not yet been implemented at the end of 2018.

**E. ASSOCIATIONAL AND ORGANIZATIONAL RIGHTS: 10 / 12 (+1)**

**E1. Is there freedom of assembly? 3 / 4**

Freedom of assembly is provided for by the constitution and is largely respected in practice. Occasionally protests are marred by violence or otherwise unsafe conditions. In 2017, protests in St. Thomas Parish over poor roads saw some participants throwing stones and setting debris on fire. Responding police deployed pepper spray against at least one demonstrator.

**E2. Is there freedom for nongovernmental organizations, particularly those that are engaged in human rights—and governance-related work? 4 / 4 (+1)**

Jamaica has a robust and vibrant civil society with many active community groups. However, some struggle financially or have difficulty attracting volunteers, negatively impacting their levels of engagement. Others are funded by the central government, but for the most part act autonomously. NGOs are well represented in the education, health, and environment sectors, and many provide support for the most marginalized groups in society.

*Score Change: The score improved from 3 to 4 because a variety of NGOs are able to conduct work without interference, including those focused on human rights and governance.*

### **E3. Is there freedom for trade unions and similar professional or labor organizations? 3 / 4**

Around 20 percent of the workforce is unionized, and antiunion discrimination is illegal. Labor unions are politically influential and have the right to strike. However, workers in essential services must undergo an arbitration process with the Ministry of Labor and Social Security before they may legally strike, and the definition of the work constituting “essential services” is broad. There are reports of private employers laying off unionized workers and then later hiring them as contract workers.

The Industrial Disputes Tribunal (IDT) is empowered to reinstate workers whose dismissals are found to be unjustified, although cases before the IDT often take much longer to settle than the 21 days stipulated by the law.

## **F. RULE OF LAW: 8 / 16**

### **F1. Is there an independent judiciary? 3 / 4**

Judicial independence is guaranteed by the constitution, and while the judiciary is widely considered independent, corruption remains a problem in some lower courts.

### **F2. Does due process prevail in civil and criminal matters? 2 / 4**

A large backlog of cases and a shortage of court staff at all levels continue to undermine the justice system. Trials are often delayed for many years and at times cases are dismissed due to systemic failures. In an effort to reduce the backlog, the government passed the 2017 Criminal Justice (Plea Negotiations and Agreements) Act, which increased avenues for the resolution of civil cases outside of trial.

### **F3. Is there protection from the illegitimate use of physical force and freedom from war and insurgencies? 2 / 4**

Killings by police remain a serious problem in Jamaica. According to the Independent Commission of Investigations, 137 people were killed by security personnel in 2018, though that was down from 168 the previous year.

Gang and vigilante violence remains a common occurrence. Kingston's insular "garrison" communities remain the epicenter of most violence and serve as safe havens for criminal groups. Jamaica is a transit point for cocaine, and much of the island's violence is the result of warfare between drug-trafficking organizations. A range of initiatives to address the problem have been undertaken by successive governments, but crime and violence remain deeply entrenched.

States of emergency were in place for much of 2018 in two districts of the country—St. Catherine North and St. James—to deal with increasing levels of violent crime, and states of emergency were declared for shorter periods in several other areas, for similar reasons. They were seen as contributing to a reduction in rate of murders and shootings. Through early August, murders declined by 17 percent, shootings by 15 percent, and robberies by 9 percent over the same period in 2017.

#### **F4. Do laws, policies, and practices guarantee equal treatment of various segments of the population? 1 / 4**

Harassment of and violence against LGBT people remains a major concern and is frequently ignored by the police. Legislation against sodomy, which is punishable by 10 years in prison with hard labor, was challenged in court in 2014; however, the case was withdrawn that year after death threats were made against the claimant and his family. In 2016, a report published by J-Flag (Jamaica Forum of Lesbians, All-Sexuals and Gays) found that approximately 88 percent of survey respondents felt that male homosexuality was immoral; 83.7 percent felt the same for female homosexuality; and 83.5 percent felt bisexual relationships were immoral; these results represented an increase on a similar survey conducted in 2011. However, there have been modest steps forward. In 2014, the government added a provision to the Offences against the Person Act that criminalized the production, recording, or distribution of any audio or visual materials that promote violence against any category of persons, including LGBT individuals. The next year saw the first public pride event, and it has grown in size since then. Some high profile politicians have also spoken out publicly in support of J-Flag.

Women enjoy the same legal rights as men but suffer employment discrimination and tend to make less money than men for performing the same job.

Employment discrimination against Rastafarians has fallen in recent years, as Rastafarian dress and practices have gained greater societal acceptance.

### **G. PERSONAL AUTONOMY AND INDIVIDUAL RIGHTS: 11 / 16**

#### **G1. Do individuals enjoy freedom of movement, including the ability to change their place of residence, employment, or education? 3 / 4**

Although there are constitutional guarantees of freedom of movement, political and communal violence frequently

precludes the full enjoyment of this right, and states of emergency or curfews are sometimes imposed as a result of gang activity. There are no formal restrictions on people's ability to change their place of employment or education.

**G2. Are individuals able to exercise the right to own property and establish private businesses without undue interference from state or non-state actors? 3 / 4**

Jamaica has an active private sector and a powerful pro-business lobby. Individuals are free to establish businesses subject to legal requirements, which are not onerous. Recent reforms have included expediting the incorporation process, making electricity in Kingston more consistent, and easing the import process. However, corruption and crime can still hamper normal business activity. The World Bank's 2019 *Doing Business* report (published in October 2018) noted difficulties in registering property and enforcing contracts.

**G3. Do individuals enjoy personal social freedoms, including choice of marriage partner and size of family, protection from domestic violence, and control over appearance? 2 / 4**

Legal protections for women and girls are poorly enforced, and violence and discrimination remain widespread. There is not a blanket ban on spousal rape, nor are there laws against sexual harassment. Child abuse, including sexual abuse, is widespread.

**G4. Do individuals enjoy equality of opportunity and freedom from economic exploitation? 3 / 4**

Residents of neighborhoods where criminal groups are influential are at a heightened risk of becoming victims of human traffickers. Because of the poverty in certain communities and high-profile tourism industry, child sex tourism is present in some of Jamaica's resort areas, according to local NGOs.