

**COUNTRY OF ORIGIN INFORMATION REPORT**

# **JAMAICA**

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28 SEPTEMBER 2006

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## Preface

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- i This Country of Origin Information Report (COI Report) has been produced by Research, Development and Statistics (RDS), Home Office, for use by officials involved in the asylum/human rights determination process. The Report provides general background information about the issues most commonly raised in asylum/human rights claims made in the United Kingdom. The main body of the report includes information available up to 31 August 2006. The 'latest news' section contains further brief information on events and reports accessed from 1 September 2006 to 28 September 2006.
- ii The Report is compiled wholly from material produced by a wide range of recognised external information sources and does not contain any Home Office opinion or policy. All information in the Report is attributed, throughout the text, to the original source material, which is made available to those working in the asylum/human rights determination process.
- iii The Report aims to provide a brief summary of the source material identified, focusing on the main issues raised in asylum and human rights applications. It is not intended to be a detailed or comprehensive survey. For a more detailed account, the relevant source documents should be examined directly.
- iv The structure and format of the COI Report reflects the way it is used by Home Office caseworkers and appeals presenting officers, who require quick electronic access to information on specific issues and use the contents page to go directly to the subject required. Key issues are usually covered in some depth within a dedicated section, but may also be referred to briefly in several other sections. Some repetition is therefore inherent in the structure of the Report.
- v The information included in this COI Report is limited to that which can be identified from source documents. While every effort is made to cover all relevant aspects of a particular topic, it is not always possible to obtain the information concerned. For this reason, it is important to note that information included in the Report should not be taken to imply anything beyond what is actually stated. For example, if it is stated that a particular law has been passed, this should not be taken to imply that it has been effectively implemented unless stated.
- vi As noted above, the Report is a collation of material produced by a number of reliable information sources. In compiling the Report, no attempt has been made to resolve discrepancies between information provided in different source documents. For example, different source documents often contain different versions of names and spellings of individuals, places and political parties etc. COI Reports do not aim to bring consistency of spelling, but to reflect faithfully the spellings used in the original source documents. Similarly, figures given in different source documents sometimes vary and these are simply quoted as per the original text. The term 'sic' has been used in this document only to denote incorrect spellings or typographical errors in quoted text; its use is not intended to imply any comment on the content of the material.

- vii The Report is based substantially upon source documents issued during the previous two years. However, some older source documents may have been included because they contain relevant information not available in more recent documents. All sources contain information considered relevant at the time this Report was issued.
- viii This COI Report and the accompanying source material are public documents. All COI Reports are published on the RDS section of the Home Office website and the great majority of the source material for the Report is readily available in the public domain. Where the source documents identified in the Report are available in electronic form, the relevant web link has been included, together with the date that the link was accessed. Copies of less accessible source documents, such as those provided by government offices or subscription services, are available from the Home Office upon request.
- ix COI Reports are published regularly on the top 20 asylum intake countries. COI Bulletins are published on lower intake asylum countries according to operational need. Home Office officials also have constant access to an information request service for specific enquiries.
- x In producing this COI Report, the Home Office has sought to provide an accurate, balanced summary of the available source material. Any comments regarding this Report or suggestions for additional source material are very welcome and should be submitted to the Home Office as below.

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## ADVISORY PANEL ON COUNTRY INFORMATION

- xi The independent Advisory Panel on Country Information was established under the Nationality, Immigration and Asylum Act 2002 to make recommendations to the Home Secretary about the content of the Home Office's country of origin information material. The Advisory Panel welcomes all feedback on the Home Office's COI Reports and other country of origin information material. Information about the Panel's work can be found on its website at [www.apci.org.uk](http://www.apci.org.uk).
- xii It is not the function of the Advisory Panel to endorse any Home Office material or procedures. In the course of its work, the Advisory Panel directly reviews the content of selected individual Home Office COI Reports, but neither the fact that such a review has been undertaken, nor any comments made, should be taken to imply endorsement of the material. Some of the material examined by the Panel relates to countries designated or proposed for designation for the Non-Suspensive Appeals (NSA) list. In such cases, the Panel's work should not be taken to imply any endorsement of the decision or

proposal to designate a particular country for NSA, nor of the NSA process itself.

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## Latest News

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### EVENTS IN JAMAICA, FROM 1 SEPTEMBER 2006 TO 28 SEPTEMBER 2006

- 28 September The Victoria Jubilee Hospital, Jamaica's largest maternity medical centre, was reported to be in a critical condition due to a shortage of nurses, as well as malfunctioning, and a lack of hospital equipment.  
Radio Jamaica, Victoria Jubilee Hospital in critical condition, 28 September 2006  
<http://www.radiojamaica.com/news/story.php?category=2&story=28644>  
Date accessed 29 September 2006
- 26 September Political tensions in the Mountain View area of South East St Andrew flared up between rival supporters of the PNP and JLP, resulting in shootings and violence within the community.  
The Jamaica Observer, Mountain View flares up again, 26 September 2006  
[http://www.jamaicaobserver.com/news/html/20060926T000000-0500\\_113325\\_OBS\\_MOUNTAIN\\_VIEW\\_FLARES\\_UP\\_AGAIN.asp](http://www.jamaicaobserver.com/news/html/20060926T000000-0500_113325_OBS_MOUNTAIN_VIEW_FLARES_UP_AGAIN.asp)  
Date accessed 29 September 2006
- 22 September The Jamaica Defence Force and the Island Special Constabulary Force were called upon to provide security on the island of Jamaica after nearly a third of the Jamaica Constabulary Force called in sick in a wage dispute.  
Jamaica Gleaner, Sick-out suspends courts for third day, 22 September 2006  
<http://www.jamaica-gleaner.com/gleaner/20060922/lead/lead8.html>  
Date accessed 22 September 2006
- 18 September An HIV anti-stigma campaign, aimed at reducing the discrimination that is associated with the disease, was launched by the Ministry of Health on 15 September 2006. The campaign is seen as an important milestone in Jamaica's response to the HIV/AIDS epidemic.  
Jamaica Information Service, Health Ministry Launches HIV Anti-Stigma Campaign, 18 September 2006  
[http://www.jis.gov.jm/health/html/20060915T100000-0500\\_10035\\_JIS\\_HEALTH\\_MINISTRY\\_LAUNCHES\\_HIV\\_ANTI\\_STIGMA\\_CAMPAIGN.asp](http://www.jis.gov.jm/health/html/20060915T100000-0500_10035_JIS_HEALTH_MINISTRY_LAUNCHES_HIV_ANTI_STIGMA_CAMPAIGN.asp)  
Date accessed 18 September 2006
- 12 September The Automated Palm and Fingerprint Identification System (APFIS) is due to become operational in October 2006, enhancing the Jamaica Constabulary Force's crime-fighting capabilities.  
Caribbean Net News, New fingerprint identification system becomes operational in Jamaica next month, 12 September 2006  
<http://www.caribbeanetnews.com/cgi-script/csArticles/articles/000032/003229.htm>  
Date accessed 14 September 2006
- 11 September According to the Child Development Agency (CDA), a total of 361 children were taken into state care between 2004 and 2005. Many children still remain on the streets trying to fend for themselves.  
Jamaica Gleaner, Many children still on the streets – CDA, 11 September 2006  
<http://www.jamaica-gleaner.com/gleaner/20060911/lead/lead3.html>  
Date accessed 11 September 2006
- 10 September Between 1999 and 2006, fatal police shootings have claimed 1,066 lives. Over 1,600 cases of fatal shootings have been recorded over the last ten years, placing Jamaica among countries with the highest



rate of killings by security forces. The JCF are looking to review their training processes as part of their approach to solving the problem.

Sunday Herald, Police kill 1,000 since '99, 10–16 September 2006

<http://www.sunheraldjamaica.com/coverstory4.htm>

Date accessed 15 September 2006

- 10 September An intelligence-driven approach to crime-fighting has helped to push down Jamaica's high murder rate, with recent data showing a 26 per cent decline for August 2006, compared with the same period last year.

Jamaica Gleaner, Murders stay down – Police High Command praises good intelligence, 10 September 2006

<http://www.jamaica-gleaner.com/gleaner/20060910/lead/lead1.html>

Date accessed 11 September 2006

- 6 September Following the launch of a toll-free number – 311 – in July 2006, calls to Crime Stop doubled in August, enabling police to remove five high-powered illegal firearms from the streets.

Jamaica Gleaner, New number attracts more Crime Stop calls, 6 September 2006

<http://www.jamaica-gleaner.com/gleaner/20060906/news/news6.html>

Date accessed 6 September 2006

- 6 September Spanish Town police expressed concern over the migratory patterns of gangs into suburban areas.

Jamaica Gleaner, Spanish Town gangs fan out, 6 September 2006

<http://www.jamaica-gleaner.com/gleaner/20060906/lead/lead4.html>

Date accessed 6 September 2006

## REPORTS ON JAMAICA, PUBLISHED OR ACCESSED SINCE 1 MAY 2006

### US Department of State (USSD)

<http://www.state.gov>

International Religious Freedom Report 2006 – Jamaica

<http://www.state.gov/g/drl/rls/irf/2006/71466.htm>

Date accessed 20 September 2006

Trafficking in Persons Report 2006 – Jamaica

<http://www.state.gov/g/tip/rls/tiprpt/2006/65989.htm>

Date accessed 12 July 2006

### Amnesty International

<http://web.amnesty.org>

2006 Annual Report – Jamaica

Covering events from January–December 2005

<http://web.amnesty.org/report2006/jam-summary-eng>

Date accessed 26 May 2006

Sexual violence against women and girls in Jamaica: ‘just a little sex’

AI index AMR 38/002/2006 dated 22 June 2006

<http://web.amnesty.org/library/index/engamr380022006>

Date accessed 23 June 2006

### UNAIDS

<http://www.unaids.org>

Jamaica UNGASS Report – Declaration of commitment on HIV/AIDS, published May 2006

[http://data.unaids.org/pub/Report/2006/2006\\_country\\_progress\\_report\\_jamaica\\_en.pdf](http://data.unaids.org/pub/Report/2006/2006_country_progress_report_jamaica_en.pdf)

Date accessed 24 July 2006

### UNICEF

<http://www.unicef.org>

Situation Analysis on Excluded Children in Jamaica, published March 2006

[http://www.unicef.org/jamaica/resources\\_3950.htm](http://www.unicef.org/jamaica/resources_3950.htm)

Date accessed 9 August 2006

## Background information

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### GEOGRAPHY

- 1.01 Jamaica is an island in the Caribbean Sea and lies south of Cuba. The country has an area of 10,991 sq km. Kingston is its capital and the island is divided into 14 parishes. As of July 2006, Jamaica's total population was estimated at 2,758,124. The male:female ratio was 1,363,115:1,395,009. The official language of Jamaica is English though Patois is also widely spoken. (CIA World Factbook, updated 8 August 2006) [4] In 2005, the estimated population of Kingston and its parish of St Andrew was 658,600. The second largest parish was St Catherine, (capital Spanish Town), at 488,700, and the smallest parish was Hanover, (capital Lucea), with 69,000. (Labour Market Information System, accessed 27 June 2006) [62a]
- 1.02 Protestants, at 61.3 per cent, are Jamaica's largest religious group. This is divided into Church of God (21.2 per cent), Seventh-Day Adventist (9 per cent), Baptist (8.8 per cent), Pentecostal (7.6 per cent), Anglican (5.5 per cent), Methodist (2.7 per cent), United Church (2.7 per cent), Jehovah's Witness (1.6 per cent), Brethren (1.1 per cent), and Moravian (1.1 per cent). Roman Catholics accounted for four per cent, and other religions, including some spiritual cults, 34.7 per cent. (CIA World Factbook, updated 8 August 2006) [4] At the 2001 census there were an estimated 5,000 Muslims in Jamaica. (Europa World Online, accessed 19 September 2006) [5c]

### JAMAICAN DIASPORA

- 1.03 The Jamaican Diaspora Foundation website, accessed 30 January 2006, estimated that 2.6 million Jamaicans live overseas. The site noted "The Jamaican Diaspora is vast. It ranges from Africa to Latin America (with descendents in Panama, Costa Rica, Nicaragua) to of course North America and Europe. Migration to the United States began in 1920, and shortly after 1948, mass migration of Jamaicans to the United Kingdom began. The heyday of migration to Britain was between 1955 and 1965." [33]

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## MAP

**MAP OF JAMAICA**

<http://www.reliefweb.int/rw/rwb.nsf/db900SID/SKAR-64GDWU?OpenDocument>

**MAP OF THE CARIBBEAN**

<http://www.infoplease.com/atlas/caribbean.html>

**DETAILED MAP OF JAMAICA**

<http://www.caribbean-on-line.com/islands/jm/jmmap.shtml>

**MAP OF KINGSTON**

<http://www.caribbean-on-line.com/islands/jm/kgmap.shtml>

**MAP OF MONTEGO BAY**

<http://www.caribbean-on-line.com/islands/jm/mbmap.shtml>

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## ECONOMY

- 2.01 In 2006, the national minimum weekly wage was recorded as being \$2,800 Jamaican Dollars (JMD) or \$70 JMD per hour. Industrial Security Guards' minimum weekly wage was \$4,140 JMD or \$103.50 JMD per hour. (Labour Market Information System, accessed 27 June 2006) [62b] Jamaica's unemployment rate in 2005 was estimated at 11.5 per cent. The inflation rate was estimated at 15.3 per cent in 2005, and GDP per capita was estimated at \$4,400 USD. (CIA World Factbook, updated 8 August 2006) [4]
- 2.02 Key sectors in Jamaica's economy are tourism, remittances and bauxite (alumina and bauxite account for over half of exports). Agriculture also plays an important role. Following a near economic crisis in the first half of 2003, the authorities worked hard to stabilise the economy and restore market confidence. Challenges remain, such as high interest rates and a growing internal debt, increased foreign competition and a growing trade deficit. In addition there is an urgent need for the sugar industry to diversify as well as to tackle rising crime and a "brain drain" to avoid constrained future growth. (FCO Country Profile, Jamaica, dated 3 April 2006) [6a] (p2)
- 2.03 The Jamaican Government's economic policies encourage foreign investment in areas that earn or save foreign exchange, generate employment, and use local raw materials. The Government provides a wide range of incentives to investors, including remittance facilities to assist them in the repatriation of funds to the country of origin; tax holidays, which defer taxes for a period of years; and duty free access for machinery and raw materials imported for approved enterprises. (USSD Background Note, Jamaica, March 2006) [8b] (p3-4)
- 2.04 As of 16 August 2006, the universal currency converter, xe.com, noted the exchange rate was \$124.360 Jamaican Dollars (JMD) to £1 GBP. [18]

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## FOREIGN AID

- 2.05 As noted in the Foreign and Commonwealth Office Country Profile on Jamaica, last updated 3 April 2006:
- "Poverty reduction is the main focus of Britain's assistance in Jamaica. The Department for International Development (DFID) have an aid programme for Jamaica worth in the region of £2.5 million a year. In addition, the UK also waives approximately £5-6m of Jamaican debt annually. Major projects include assistance to the programme to reform the Jamaican police force; assistance to the private sector to enhance the competitiveness of Jamaican exports; support for the Government's public sector reform programme and other programmes related to social development and giving disadvantaged groups of Jamaican society a stronger voice in the development of policy by the Government." [6a] (p3)
- 2.06 The USSD Background Note noted that:

“The Government of Jamaica also seeks to attract U.S. investment and supports efforts to create a Free Trade Area of the Americas (FTAA). More than 80 U.S. firms have operations in Jamaica, and total U.S. investment is estimated at more than \$1 billion.... U.S. Agency for International Development (USAID) assistance to Jamaica since its independence in 1962 has contributed to reducing the population growth rate, the attainment of higher standards in a number of critical health indicators, and the diversification and expansion of Jamaica’s export base.... In fiscal year 2002, the USAID mission in Jamaica operated a program totalling more than \$13 million in development assistance.” [8b] (p4)

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## HISTORY

- 3.01 Jamaica was a British colony from 1655 until the country became a member of the Federation of the West Indies in 1958 and self-governing in its internal affairs in 1959. Jamaica gained its independence in 1962. (FCO Country Profile, Jamaica, dated 3 April 2006) [6a] (p1)
- 3.02 The JLP and the PNP have been the two most dominant political parties forming successive governments since the country’s independence. (Europa World Online, accessed 12 January 2006) [5a]
- 3.03 An undated Jamaicans for Justice report, Jamaica’s Human Rights Situation, accessed on 4 August 2004, noted that “Jamaica’s socio-political background is a picture of the promise of independence marred by a culture of political tribalism. This culture of tribalism, which has seen the entrenchment of political power as the pinnacle of achievement, has resulted in the creation of an increasingly violent society in which human rights are honored on paper but not in practice....” [50a] (p1)
- 3.04 The same Jamaicans for Justice report noted that:

“Jamaica today is a case study in tribalist politics typified by inner-city ‘garrison’ communities, that are entrenched in state-built housing, are politically homogenous, intolerant of dissenting views, and defended by guns and bullets....” [50a] (p2)
- 3.05 The new Patterson Government confronted labour unrest and an increase in violent crime carried out largely by former politically organised gangs operating a lucrative drug trade only loosely tied to local party bosses. In 2000, Patterson promised to staunch Jamaica’s “rampant criminality” by introducing new efforts to control guns, creating a new police strike force targeting organised crime, and reintroducing the death penalty. (Freedom House Freedom in the World 2005 Report) [32a] (p1)
- 3.06 Europa World Online, accessed 12 January 2006, noted:

“In December 2002 the armed forces and police began a joint offensive on crime. The Government also revived a previously debated proposal to extend capital punishment to drugs-related crimes and to replace the Privy Council in London with a Caribbean Court of Justice (CCJ) as the final court of appeal,



thereby removing the Privy Council's ability to commute death sentences to life imprisonment. More than 1,000 murders were reported in 2002 and extended use of capital punishment gained increasing popular support. Some units of the police force and human rights organizations, however, demanded the dismissal of Renato Adams, the head of the Crime Management Unit (CMU) amid allegations of human rights abuses by his staff. The CMU had been established in 2000 in response to the rising rate of violent crime; however, it was repeatedly criticized for its excessive use of force. In June 2003, following the shooting of four people during a police raid, Adams was suspended and the CMU disbanded and replaced by an Organised Crime Investigation Division. Nevertheless, the crime rate continued to increase. In 2003 the number of murders totalled 975, and in 2004 the rate reached a record 1,445 homicides [sic]; this rise was largely attributed to gang-related conflicts." [5a] (p6)

(See also Section 9.59: [Crawle \(Kraal\) trial](#), and 11.02: [Caribbean Court of Justice](#))

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## GENERAL ELECTION OF 16 OCTOBER 2002

3.07 Europa World Online, accessed 12 January 2006, noted that:

"Parliament was dissolved in September 2002, in advance of legislative elections scheduled for 16 October [2002]. Although the two main parties vowed to work together to halt the rise in violence, some 11 murders were committed during the months preceding the ballot. The PNP was re-elected for a fourth consecutive term, receiving 52.2% of votes cast, although its majority in the House of Representatives was reduced, by 14 seats, to 34. The JLP won the remaining 26 seats, with 47.2% of the votes cast. The rate of participation by voters was, at some, 51.2%, was [sic] particularly low. Voting was deemed to have been fair and democratic by an international delegation, led by former US President Jimmy Carter, which oversaw the process." [5a] (p5)

3.08 Europa World Online further noted "At his inauguration, on 23 October 2002, Patterson became the first Jamaican Prime Minister to swear allegiance to the people and Constitution of Jamaica, rather than to the British monarch, in accordance with new legislation introduced in August. He subsequently formed a new Cabinet, retaining most of the members of the previous administration." [5a] (p5)

3.09 The Jamaica Election website, accessed on 12 January 2006, noted that the voter turnout then was 771,068, or 65.22 per cent of the 1,182,294 voters on the list. [35] (p3)

3.10 Groups and organisations such as the Citizens Action for Free and Fair Elections (CAFFE) and supplemented by The Carter Center helped reduce the violence that has tended to mar Jamaican elections. (USSD Background Note, Jamaica, March 2006) [8b] (p3)

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## Political violence and the election campaign

- 3.11 Thousands of police and soldiers patrolled the streets in Jamaica on 16 October 2002 as voters streamed to the polls at the end of an election campaign overshadowed by a history of politically motivated gang violence. (*The Independent* (UK), 17 October 2002) [53] More than 50 people have died across the island in the last two weeks and many of the killings are thought to have been politically motivated. (BBC News, 14 October 2002) [21a]

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## LOCAL ELECTIONS JUNE 2003

- 3.12 The Freedom House Freedom in the World Report 2005 noted that:
- “In June [2003], the JLP won a landslide victory in bitterly contested local elections that appeared to be a referendum on the PNP’s fiscal policies. The JLP secured control of 11 of the 13 municipal councils contested; 23 percent of the candidates were women. Following the vote, 27 people, including two police officers, were killed during security force operations in western Kingston, and 16 others died in gun battles in the eastern part of the city, as gangs loyal to the country’s two major political parties battled.” [32a] (p2)
- 3.13 An Associated Press article, dated 20 June 2003, noted that:
- “Jamaica’s main opposition party scored an important victory Thursday [19 June 2003], winning control of 12 of 13 municipal councils in elections billed as a crucial popularity test for the government. With all ballots counted, the Jamaica Labor Party won 52 percent of the vote in races accompanied by isolated violence, electoral officials said. Thursday’s election was the first electoral victory for the Jamaica Labor Party, led by former Prime Minister Edward Seaga. Prime Minister P.J. Patterson’s People’s National Party won 48 percent of the votes.” [52]
- 3.14 As reported in the Caribbean Media Corporation (CMC) news, dated 4 August 2003, “Following the 19 June [2003] local government elections, some 20 twenty [sic] people were killed during a flare-up of violence in lower Mountain View Avenue-one of the main thoroughfares connecting the capital with the Norman Manley International airport in the corporate area. Police were forced to introduce a curfew in sections of the community.” [44a]

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## RECENT DEVELOPMENTS

- 4.01 On the 27 February 2006, the *Jamaica Gleaner* reported on the election of Portia Simpson-Miller as the fourth and new president of the PNP [People’s National Party]. The report noted that having gained 1,775 votes, Simpson-Miller will become the seventh and first female prime minister of Jamaica. Other presidential contenders included Minister of National Security, Dr Peter



Phillips, who received 1,538 votes, Minister of Finance, Dr Omar Davies, receiving 283 votes, and former cabinet member, Dr Karl Blythe, who polled 204 votes. [34c]

- 4.02 BBC News reported on 31 March 2006 that “Jamaica has sworn in its first female Prime Minister, Portia Simpson Miller. Leaders from around the world attended Thursday’s [30 March 2006] inauguration in the Jamaican capital, Kingston. Ms Simpson Miller, 60, takes over from the incumbent Prime Minister, PJ Patterson, who has been in power for the past 14 years... Ms Simpson Miller was elected president of the governing People’s National Party in an internal vote.” [21d]
- 4.03 *The Jamaica Observer* reported on 3 January 2006, “With a record high of nearly 1,700 homicides last year [2005] and Jamaica’s emergence at the top of the world rankings for per capita murders, homicide figures, long closely followed here, are under increasing scrutiny.” [36u]

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## CONSTITUTION

- 5.01 Under Chapter three of the Jamaican Constitution (1962) the fundamental rights and freedoms are:
- a The right to life. This section provides that ‘no person shall intentionally be deprived of life save in execution of the sentence of a court in respect of a criminal offence of which he has been convicted.’ It also stipulates that a person shall not be regarded as having been deprived of his life in contravention of this section if he dies as a result of the use of force in protection from violence, defence of property, to effect a lawful arrest, to prevent escape from lawful detention, in suppression of a riot, insurrection or mutiny or in lawful prevention of a criminal offence.
  - b Protection from arbitrary arrest or detention
  - c Protection from inhuman treatment
  - d Freedom of movement
  - e Protection of property and privacy of home
  - f Provision to secure protection of law
  - g Freedom of conscience
  - h Freedom of expression
  - i Freedom of assembly and association. [2] (section 13)
- 5.02 Europa Regional Surveys of the World: South America, Central America and the Caribbean 2005 recorded that the Constitution came into force on 6 August 1962 when Jamaica gained independence. Amendments to the Constitution are enacted by Parliament but certain entrenched provisions require ratification by a two-thirds majority in both chambers of the legislature, and some (such as a change of the Head of State) require the additional approval of a national referendum. The Head of State is the British monarch, who is locally represented by the Governor-General, appointed by the British monarch and approved by the Jamaican Prime Minister in consultation with the Leader of the Opposition party. [1] (p563)

- 5.03 Europa 2005 also mentioned that the Constitution includes provisions in safeguarding the fundamental freedoms of the individual, irrespective of race, place of origin, political opinion, colour, creed or sex. [1] (p563)
- 5.04 The US Department of State Background Note on Jamaica, dated March 2006, noted that “The judiciary also is modeled on the U.K. system. The Court of Appeals is the highest appellate court in Jamaica. Under certain circumstances, cases may be appealed to the Privy Council of the United Kingdom. Jamaica’s parishes have elected councils that exercise limited powers of local government.” [8b] (p2)

(See Section 11.02: [Caribbean Court of Justice](#))

- 5.05 The establishment of a Charter of Rights and Freedoms in the Constitution was close to conclusion. However, the report noted that Minister of Justice, Senator A.J. Nicholson, was at odds with opposition members who demanded the consideration of a late submission by the Lawyers Christian Fellowship. The law group had suggested that the wording of a clause allowing the right to privacy of the individual could potentially allow homosexuality. Mr Nicholson argued that the issue of homosexuality was addressed in buggery law. (*Jamaica Gleaner*, 10 February 2006) [34au]

(See also section 21.01: [Lesbian, gay, bisexual and transgender persons](#))

- 5.06 The Charter of Rights and Freedoms has been under deliberation since 1991 and is aimed at amending the Jamaica Constitution to better ensure the protection of human rights and freedoms. (*The Jamaica Observer*, 15 February 2006) [36ao]

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## POLITICAL SYSTEM

- 6.01 Jamaica’s political system is stable. However, the country’s serious economic problems have exacerbated social problems and have become the subject of political debate. High unemployment, averaging 15.5 per cent, rampant underemployment, growing debt, and high interest rates are the most serious economic problems. (USSD Background Note, Jamaica, March 2006) [8b] (p2)
- 6.02 The Europa Regional Survey 2005 noted that the legislature is bicameral and comprises the upper chamber or the Senate and the lower chamber or the House of Representatives. The Senate consists of 21 Senators, 13 of whom are appointed by the Governor-General on the advice of the Prime Minister and eight by the Governor-General on the advice of the Leader of the Opposition. In the absence of an opposition leader, eight independent Senators may be appointed to the Senate. The House of Representatives consists of 60 elected members called Members of Parliament. [1] (p563)
- 6.03 The Prime Minister is appointed from the House of Representatives by the Governor-General, and is the leader of the Party that holds the majority of seats in the House of Representatives. The leader of the party is voted in by members of that party. The Leader of the Opposition is voted in by members of the Opposition party. The Cabinet consists of no fewer than 11 other

ministers, not more than 4 of whom may sit in the Senate. The members of the Cabinet are appointed by the Governor-General on the advice of the Prime Minister. (Europa Regional Survey 2005) [1] (p563)

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## Human Rights

### INTRODUCTION

7.01 The United States Department of State 2005 Country Report on Jamaica noted:

“While the government generally respected the human rights of its citizens, there were serious problems in some areas:

- unlawful killings committed by members of the security forces
- mob violence against and vigilante killings of those suspected of breaking the law
- abuse of detainees and prisoners by police and prison guards
- poor prison and jail conditions
- continued impunity for police who commit crimes
- an overburdened judicial system and frequent lengthy delays in trials
- violence and discrimination against women
- trafficking in persons
- violence against suspected or known homosexuals.” [8a]

7.02 In its 2006 annual report on Jamaica, covering events from January-December 2005, Amnesty International noted that “Reports of police brutality continued. A number of police officers were charged and tried after unlawful killings, but none was convicted. At least 168 people were killed by the police, many in circumstances suggesting they were extrajudicially executed. Conditions of detention frequently amounted to cruel, inhuman or degrading treatment. At least two people were sentenced to death; there were no executions.” [9e]

7.03 *The Jamaica Observer*, dated 24 February 2005, reported that:

“A United Nations High Commission for Human Rights representative has commended Jamaica’s international human rights record while challenging the country to ensure that the safeguards translate into real protection. Maarit Kohonen observed Tuesday [22 February 2005] that Jamaica had signed on to a number of key international human rights instruments. ‘This means that Jamaica has undertaken a significant responsibility to protect and promote a wide range of human rights, civil, political, economic, social and cultural for all in Jamaica,’ she told a human rights conference in Mandeville.” [36aa]

7.04 The Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, published on 26 September 2003, referring to the mission of 17-27 February 2003, stated that:

“With regard to its legal observations under international human rights law, Jamaica is a State party to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention on the Rights of the Child and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.” [12] (p8)

- 7.05 The Special Rapporteur continued “Jamaica has also signed but not yet ratified the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. In 1998 Jamaica withdrew from the Optional Protocol to the International Covenant on Civil and Political Rights. In addition, within the context of the Organization of American States, Jamaica is a State party to the American Convention on Human Rights.” [12] (p8)
- 7.06 There were no reports of political detainees. (USSD report 2005) [8a] (Section 1d)

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## CRIME

- 8.01 The USSD 2005 Report noted “The country faced a critical crime situation with a homicide rate exceeding 62 per 100 thousand persons, the highest in its history.” [8a] (Section 1a) In 2005, the number of homicides in Jamaica increased to 1,669. At 0.55 – 0.62 per thousand people, this is one of the highest rates in the world. (AI Report, *Sexual violence against women in Jamaica*, 22 June 2006) [9b]
- 8.02 Statistics released by the Jamaica Constabulary Force showed that for the seventh time this year (2006), murders in Jamaica have fallen below the number for the same period in 2005. 96 persons were murdered in July 2006, 49 less than July 2005. The total number of murders from January to July 2006 stands at 756, a reduction of 254 compared to the corresponding period in 2005. (*Jamaica Gleaner*, 9 August 2006) [34ae] Major crimes, including murder, shooting, rape, carnal abuse, robbery, breaking and larceny, also fell during 1 January to 6 July 2006 to 3,743, down from 4,392 in the same period in 2005. (*Jamaica Gleaner*, 10 July 2006) [34aj] National Security Minister, Dr. Peter Phillips, credited the drop in crime to intelligence-driven work by the JCF, particularly Operation Kingfish, which he noted as having a significant impact since its establishment in late 2004. (*Jamaica Gleaner*, 25 August 2006) [34i]
- 8.03 Police crime statistics indicate that youths, some as young as 12, are the main perpetrators of criminal activity in recent years. Deputy Commissioner of Police (DCP) Jevane Bent said that the figures show that 350 persons arrested for murder in 2005 are between 12 and 25 years old. Seven of those arrested in 2004 were between 12 and 15 years old. (*Jamaica Gleaner*, 13 February 2006) [34bp]

- 8.04 *The Jamaica Observer* reported on 16 October 2005 that “Homicides continue to spiral towards a new record, but there are known areas of confrontations – the battle zones – where blood is either often spilled, such as Maxfield Avenue, or where the police and the community have an uneasy relationship, such as Tivoli Gardens.” The report noted “These are areas that often require battalions of security forces to maintain order, to take in the criminals and the guns.” [36f]

(See also Section 8.08: [Gang violence](#))

- 8.05 The *Jamaica Gleaner* reported on 15 September 2005 that “The month of September [2005] is shaping up to be one of the bloodiest on record with 12 persons being killed in a 24 hour period. At least 29 persons have been killed since Saturday [10 September 2005], according to police reports.” The report noted “According to police records, someone is murdered in this country every six hours, and as the murder figures steamroll towards a record number this year [2005], solutions are proving to be elusive.” [34m]

- 8.06 The same *Jamaica Gleaner* article noted that despite Government attempts to tackle rising crime, police have made arrests for only 26 per cent of the murders committed in 2005 so far. The report also noted that “The violence has even spread to rural parts of the island with no tradition of gun violence.” [34m]

- 8.07 As reported by the *Jamaica Gleaner* on 6 November 2005, Security Minister Dr Peter Phillips vowed that security forces would continue to target ‘dons’ for preying on society and instilling fear in residents. The report noted “A resolute Dr. Peter Phillips said political affiliation will not be considered, in wake of last Sunday’s killing of [PNP supporter] Donovan ‘Bulbie’ Bennett by Operation Kingfish.” [34ar]

(See also Section 9.27: [Operation Kingfish](#))

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## GANG VIOLENCE

- 8.08 The USSD 2005 Report noted that “Well-armed gangs that trafficked in narcotics and guns controlled many inner-city communities. The gangs often were equipped better than the police force and conducted coordinated ambushes of joint security patrols.” [8a] (Section 1a)
- 8.09 An undated Jamaicans for Justice report, Jamaica’s Human Rights Situation, accessed on 4 August 2004, noted “[that] Out of structures created by political wars, ‘community’ youth gangs have emerged to fight over turf and account for 20-25 percent of homicides. Criminal gangs linked with US ‘posses’, UK ‘yardies’, and now, most lethally, with elements of the Colombian drugs trade menace the entire fabric of society.” [50a] (p2)
- 8.10 The Freedom House Freedom in the World 2005 Report on Jamaica noted that much of the violence in Jamaica is the result of warfare between drug gangs. The report stated that “Jamaican-born criminal deportees from the United States and a growing illegal weapons trade are major causes of the

violence. Mobs have been responsible for numerous vigilante killings of suspected criminals.” [32a] (p4)

- 8.11 *The Jamaica Observer* reported on 16 October 2005 on the so-called ‘battle zones’ in some of Jamaica’s parishes and towns, namely St Catherine, St Andrew and Kingston. On St Catherine the report noted:

“Last week an attempt at a truce between warring factions in Spanish Town turned ugly when a car transporting Member of Parliament Olivia ‘Babsy’ Grange was shot up. Fighting for control of the old capital, the One Order gang with connections to the JLP [Jamaica Labour Party] and Klansman gang with PNP [People’s National Party] sympathisers, have been having a turf war in the town for more than two years. With Tawes Pen at the western end as the hub of the One Order gang’s operations, and Bus Stop and its environs the haunt of Klansman at the other end, Spanish Town proper has become a battlefield. Earlier in the year, gunmen from Tawes Pen and Eilerslie Pen clashed, leaving at least three dead and scores wounded. The flare up was blamed on differences over who should succeed One Order gang leader Oliver ‘Bubba’ Smith. Smith was killed in 2004.” [36f]

- 8.12 Reporting on recent troubles in the parish of St Andrew, *The Jamaica Observer* noted “Now experiencing a lull in violent activity, August Town exploded earlier this year in what was described as a feud between men from Judgment Yard and others from Jungle 12. In March the police uncovered 13 high powered guns at Judgment Yard, the most guns found in any one place at any one time, the police said at the time.” [36f]

- 8.13 The report continued:

“The hot spot along Red Hills Road stretches from Black Ants Lane to the north to 100 Lane to the south. Factions from Park Lane - a JLP enclave - have been at odds, intermittently, with the PNP-affiliated 100 Lane gang over a protracted period. In August [2005], Park Lane residents blocked Red Hills Road in protest over the shooting death of one of their own. The 100 Lane gunmen were blamed for the killing. Earlier in the month a 100 Lane youth was gunned down and a four year old child injured. Alleged Red Hills Road area leader Cleveland ‘Cassie’ Downer is facing charges in court for illegal possession of firearm and ammunition and shooting with intent. He is out on bail to reappear in court November 23 [2005].” [36f]

- 8.14 Police have reported that there have been as many as 48 murders in the constituency of St Andrew since September 2005. Violence in south St Andrew has accounted for most of the 130 or more deaths recorded in the division in 2005. (*Jamaica Gleaner*, 1 January 2006) [34ao]

- 8.15 Reporting on gang violence in Kingston, *The Jamaica Observer* dated 16 October 2005 noted:

“Tivoli has been in the spotlight since three policemen were killed on a bloody night in May [2005] this year, allegedly by gunmen from the community. Last week four persons were shot during a raid by the security forces on the community in search of the men said wanted for the murder of the policemen. Area leader Lloyd ‘Dudus’ Coke, in a separate raid on his uptown home, was arrested and charged for possession of ganja on the day of the last raid.” [36f]



(See also Section 9.43: [Use of excessive force by police](#))

- 8.16 On the 29 January 2006, the *Jamaica Gleaner* noted that:

“The elimination of reputed gang leader Donovan ‘Bulbie’ Bennett has yielded significant benefits in reducing the incidence of crime, including murder, in Spanish Town, according to the police. Assistant Commissioner of Police Glenmore Hinds, who heads the highly-touted Operation Kingfish, is in no doubt that the removal of Bennett is largely responsible for the reduction. ‘Bennett was killed at the end of October, and when you look at the comparative analysis for November 1 to December 31, 2004, there were 37 murders in Spanish Town, and this went down to 20 for the corresponding period last year,’ he said. Similarly, ACP Hinds noted, over the comparative periods, shootings in Spanish Town went down from 46 in 2004 to 20 last year ‘and the trend is continuing as a reflection of the inroads we have made.’” [34p]

- 8.17 The report further noted “As for ‘One Order’, the other major gang in Spanish Town, the Kingfish boss believes this organisation is ‘gradually disintegrating’ following the arrest of several members in mid-2005, and the consequent migration of others outside of the parish, with some even going abroad. ‘They are no longer as cohesive a unit as they once were,’ Hinds confidently asserted.” [34p]

- 8.18 The *Jamaica Gleaner*, dated 9 February 2006, reported that “An all-out riot broke out in Spanish Town, St. Catherine, yesterday [8 February 2006], after the reputed leader of one of the most notorious criminal gangs in the country was shot and killed in the Old Capital. Andrew ‘Bun Man’ Hope, who was allegedly the head of the ‘One Order’ gang, was shot and killed along Ellis Street, near to the Spanish Town High School about 2:30 in the afternoon.” The article noted “The killing set off an immediate chain reaction. Within minutes, angry residents of Tawes Pen and Ellerslie Pen flocked Ellis Street and swarmed the Honda motor car in which Hope had been shot.” [34r]

(See also Section 9.27: [Operation Kingfish](#))

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### Gideon Warrior gang

- 8.19 *The Jamaica Observer* reported on 17 December 2005 on Operation Kingfish’s announcement that it had dismantled the Gideon Warriors, a notorious gang whose members have been accused of various crimes including murders, shootings, robberies, kidnappings and extortion. The article noted that this statement by Operation Kingfish followed the recent capture of a senior member of the gang, whose name is currently being withheld prior to identification parades and interrogation. [36q]

(See also Section 9.27: [Operation Kingfish](#))

- 8.20 On the 10 November 2005, *The Jamaica Observer* reported on the conviction and sentencing of former Gideon Warrior gang leader Joel Andem. The report noted “Andem received 20 years for the two counts of shooting and 10 years

for illegal possession of a firearm and ammunition, but will spend only 20 years behind bars as the sentences will run concurrently.” The report noted that Andem is still to face trial for the abduction and murder of Sylvia Edwards in 2000. [36j]

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### Kevin ‘Richie Poo’ Tyndale

8.21 A report in *The Jamaica Observer* on 21 September 2005 stated:

“Kevin Tyndale, the Gideon Warriors gangster, who the police dramatically captured in a rural St James Village in February [2005], was yesterday [20 September 2005] sentenced to a total of 90 years on gun-related, wounding and robbery charges. But because the sentences on the three counts for which he was convicted are to run concurrently, Tyndale, also known as ‘Richie Poo’, will serve only 30 years, unless he gets time off on parole.” [36k]

8.22 *The Jamaica Observer* also noted that the reported jail sentences were not the end of the court cases for Tyndale and that he was in court that day [21 September 2005] to face charges that he shot a policeman in January [2004] and was also due to be tried on 26 September 2005 for the murder of Jervis Lobban in August 2003. [36k]

8.23 On 4 October 2005, the *Jamaica Gleaner* reported “Kevin Tyndale... has filed an appeal against his convictions and sentence.” The *Gleaner* noted that “Tyndale is contending that the judge failed to recognise or to treat properly the weakness in the evidence relating to his identification. He is also complaining that his sentence is manifestly excessive.” [34q]

8.24 Kevin ‘Richie Poo’ Tyndale, the alleged leader of the Gideon Warriors gang following the capture of former leader Joel Andem, was, on the 30 January 2006, found guilty of the August 2003 murder of Jervis Lobban. Tyndale’s accomplice, Brenton Fletcher, was also found guilty of the crime. (*The Jamaica Observer*, 31 January 2006) [36l]

8.25 The *Jamaica Gleaner* reported on 4 February 2006 that following the guilty of murder verdict on Kevin Tyndale and Brenton Fletcher, sentences of life imprisonment were imposed upon them both. The report noted that “The judge recommended that Tyndale, who fired the fatal shot, should serve 35 years before he was eligible for parole. Fletcher, who had exchanged his firearm with Tyndale immediately before Tyndale fired the shot, must serve 20 years before he will be eligible for parole.” [34t]

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### SECURITY FORCES

9.01 The USSD Country Report 2005 noted that “The JCF [Jamaica Constabulary Force] had primary responsibility for internal security and was assisted by the Island Special Constabulary Force...The Ministry of National Security oversaw the JCF and the JDF.” [8a] (Section 1d)



- 9.02 On the 1 June 2006, the National Security Minister, Dr Peter Phillips, disclosed the recent achievements made by the Internal Affairs/Anti-Corruption Division of the Professional Standards Branch (PSB) of the Jamaica Constabulary Force (JCF). 43 police officers have been arrested on charges of misconduct, with one conviction, and 40 cases against officers are currently before the courts. Since its inception in 2005, the PSB's Anti-Corruption Division has been pursuing an aggressive anti-corruption drive aimed at ensuring incidents of police misconduct were dealt with promptly and with transparency. (Jamaica Information Service, 1 June 2006) [24m]

(See also Section 18.01: [Corruption](#))

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## POLICE

### The Jamaica Constabulary Force (JCF)

- 9.03 The Jamaica Constabulary Force (JCF) website, accessed on 2 February 2005, noted that the force is responsible for the maintenance of law and order, prevention and detection of crime, the protection of life and property, the investigation of alleged crime, and the enforcement of all criminal laws. The Commissioner of Police is responsible to the Minister of National Security for the command and superintendence of the force. He administers this responsibility in accordance with a chain of command through which all communication and correspondence are normally channelled. Senior management groups are also formed to complement the Office of the Commissioner. Management groups are organised into activities described as the following portfolios: Administration and Support Services, Operations, Crime, and Special Projects. [37a] (p2)

- 9.04 The USSD Country Report 2005 noted that:

"The force maintains divisions focusing on community policing, special response, intelligence gathering, and internal affairs. Faced with a rapidly increasing rate of killings, the JCF generally was not effective. The country experienced the highest level of violent crime in its history and the perception of corruption and impunity within the force were serious problems that contributed to a lack of public confidence in the institution. Human rights groups identified systematically poor investigative procedures and weak oversight mechanisms." [8a] (Section 1d)

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## Police resources

- 9.05 As reported in the *Jamaica Gleaner*, dated 3 February 2005:

"The Country's fight against crime and violence is expected to get a much needed boost come March 1 [2005] when a senior British law enforcement agent will officially join the ranks of the Jamaica Constabulary Force (JCF).

National Security Minister Dr. Peter Phillips made the disclosure yesterday [2 February 2005] at a press conference at his Oxford Road office in St. Andrew. 'He will be acting in a supernumerary position,' Dr. Peter Phillips said. 'We believe this development will complement the expertise and capabilities in the JCF.' For some time now, influential voices in the private sector have been calling on the government to seek overseas help in the fight against crime and violence." [34bf]

- 9.06 A *Jamaica Gleaner* article, dated 11 February 2005, reported that "Chairman of the Police Service Commission, Noel Hylton, confirmed that senior Scotland Yard detective Mark Shields is the British police officer who will be seconded to the JCF, effective 1 March 2005." [34j]
- 9.07 On the 15 February 2006, the *Jamaica Gleaner* reported "Two more British policemen have signed contracts to join the Jamaica Constabulary Force (JCF) at the rank of assistant commissioner of police (ACP)." The report noted that "Metropolitan Police (New Scotland Yard) detective Paul Robinson will start on April 18 [2006] and Scottish officer John McLean on May 29 [2006]. They will be responsible for firearms standards and community policing, respectively." [34ba]
- 9.08 A *Jamaica Gleaner* article dated 7 November 2005 reported on the proposal to Cabinet by the Minister of National Security, Dr Peter Phillips, to substantially increase the complement of the police force. Dr Phillips stated he wants to increase the 8,500 membership of the Jamaica Constabulary Force (JCF) to 10,000 officers in the next 18 months as well as moving 500 officers from desk to frontline duty. The report noted that following over 1,400 murders this year, with a 50 per cent increase in gang and drug related murders, the security forces would increase their intelligence-driven operations against crime 'hot spots'. [34bd]
- 9.09 The same article noted "All shootings and murders are to be investigated by a new task force of experienced Homicide Unit and Divisional CIB officers, to be merged under Operation Kingfish." [34bd]
- (See also Section 9.27: [Operation Kingfish](#))
- 9.10 On the 25 January 2006, *The Jamaica Observer* reported on the opening of the first model community policing and multi-purpose community services facility in Grants Pen, St Andrew. The report noted "Speaking at the official opening, US ambassador Brenda LaGrange Johnson said five years ago the Grants Pen community was violent, and the police could only enter using combat tactics. However, she said today it was heartening to see policemen patrolling the streets." [36z] Police stated that there has been a 100 per cent reduction in serious crime in Grants Pen since November 2005, which they attribute to the increased police presence since the opening of the community services facility, as well as effective community policing in the area. (*Jamaica Gleaner*, 19 May 2006) [34ac]
- 9.11 The Automated Palm and Fingerprint Identification System (APFIS) is currently being installed and will allow for the taking of fingerprints at scenes of crime and matching them electronically against existing data bases. The Integrated Ballistic Identification System (IBIS) will also allow the police to

collect ballistic evidence at scenes of crime and match this against a database. (Jamaica Information Service, 2 June 2006) [24n]

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## Witness Protection Programme

9.12 The USSD Country Report 2005 noted:

“There was a general lack of confidence in the police’s witness protection program, which led to the dismissal of a number of cases involving killings. In a culture where it was widely believed that ‘informers will die,’ some criminal trials were dismissed because witnesses failed to come forward as a result of threats and intimidation. Some of those who came forward qualified for the witness protection program, but many either refused protection or violated the conditions of the program.” [8a] (Section 1e)

9.13 The Witness Protection Programme is provided for by the Justice Protection Act (Act 23 of 2001). As stated in the Justice Protection Act, it is an “Act to Establish a programme or assistance to certain witnesses and other persons.” [56] (p3)

9.14 On 1 July 2005, the Jamaica Information Service reported on the country’s Witness Protection Programme, stating that it was “... a solid and effective one, where those who opt to go into the programme are assured of a standard of living similar to or in some instances better than that which they enjoyed prior to entering the programme.” The report went on to say how Assistant Commissioner of Police, George Williams, in charge of the Criminal Investigation Bureau (CIB), told JIS News “... that the programme is a credible one that is strongly recommended for persons who are witnesses in major cases and have come forward to give evidence on behalf of the State.” ACP Williams also stated “We have not had a witness who is on the programme and who remains on the programme, injured, killed or hurt in any way.” [24c]

9.15 In a letter dated 22 February 2006, the Foreign and Commonwealth Office listed the eligibility criteria for the Witness Protection Programme. The FCO stated that anyone who wants to testify in court and fears for his/her life is eligible for the programme. The witness is evaluated to make sure protection is needed and able to follow the rules of the programme. The FCO noted that a witness is required to remain in the programme until after the case is tried and it is deemed safe for that person to leave the programme. [6b]

9.16 The FCO further noted “[that] almost 400 people have participated in the programme since 1997, including over 120 primary witnesses and 270 dependants.” [6b]

9.17 There are currently 338 people under the Witness Protection Programme, 115 of those being primary witnesses and four are minors. Witnesses in the WPP are offered “100 per cent protection”. Their testimonies have resulted in a number of criminals being brought to justice since the programme’s inception in 1997. (*Jamaica Gleaner*, 9 April 2006) [34af]

- 9.18 However, an article in *The Jamaica Observer* reported on 4 September 2005 that “A deep seated fear of being slapped with the dreaded label ‘informer’ is keeping many Jamaican’s from stepping forward as witnesses to a crime and severely hurting the administration of justice...” The report also noted “Several programmes, such as Crime Stop, Operation Kingfish and the Witness Protection Programme, have been instituted to give potential witnesses some comfort in giving evidence, but with limited success. In the case of the most elaborate of them, the Witness Protection Programme, which might involve relocating witnesses overseas, individuals are known to reject the programme because they don’t want to sever family or community ties.” [36a]

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### Safety of witnesses outside the Witness Protection Programme

- 9.19 Amnesty International’s *Sexual violence against women and girls in Jamaica* report, dated 22 June 2006, noted:

“Killings, threatening and extortion of witnesses by gang members is common. This, combined with low levels of awareness of the workings of the criminal justice system, means that witnesses are often reluctant to testify in criminal cases. One NGO worker told Amnesty International that the justice system even has difficulties getting character witnesses to testify as to the good character of the accused, because witnesses were so terrified that ‘word would get out’, that the person had been a witness in court. Even being seen at a police station may give rise to fears that someone is an ‘informer’. Most sexual violence in communities in Jamaica goes unreported because women are fearful of the retaliation of gang members.” [9b] (4d, **The judicial response**)  
 “Approximately 32 per cent of all homicides in Jamaica are reprisal based, and women are increasingly targeted as informers” [9b] (**Guns, gangs and rising levels of violence**)

(See also Section 23.08: [Violence against women](#))

- 9.20 *The Jamaica Observer*, dated 15 August 2005, reported on the murder of Aston ‘Mikey’ Facey, who was shot and killed after being stigmatised as an ‘informer’. The report noted that Facey’s relatives were moving out of the family home, under the protection of the police, fearful that they may also be targeted. Quoting a police officer, the article noted “We are getting information that persons were saying Facey gave information to the police that led to the fatal shooting of Omar Brewery some time ago. Nothing could be further from the truth.” Because of this, the police say Facey was labelled an informer. Cleon Richard Thomas, a man police describe as the most wanted criminal in the St Andrew North Division, was arrested in connection with Facey’s death. [36g]
- 9.21 On the 4 September 2005 *The Jamaica Observer* stated that “The fear that witnesses have of reprisals is not entirely unfounded, officials concede. Only last month [August 2005], the principal of a St Mary primary school was murdered and police theorised that he was killed because he was to be a witness in a murder case set for October [2005].” [36a]

- 9.22 The same report continued by stating that “Police investigators themselves are not immune to threat. Just last Wednesday [31 August 2005] a female cop, inspector Herfa Beckford, told the Corporate Area court that her life had been threatened in the case of the Avalanche murder, and that a witness in the case had been killed already.” [36a]
- 9.23 Referring to the alleged murdered witness, a report in *The Jamaica Observer* dated 1 September 2005 noted “Ten days ago [22 August 2005] Frederick Satchwell, a minibuss conductor who the police say was a key witness in their case, was shot dead as he stepped out of the bus to let off passengers...” [36y]

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### Crime-fighting initiatives

- 9.24 On 5 January 2006, the *Jamaica Gleaner* reported on the disclosure of the Jamaica Constabulary Force’s (JCF) plans to reduce murder, to be developed by the end of the month (January 2006). Deputy Commissioner of Police (DCP) Mark Shields’ objective is to be pursued through a specific Homicide Reduction Strategy. However, DCP Shields was careful to warn against expectations of a 50 per cent reduction in murders and stated “There’s no such thing as a quick fix.” [34ab]
- 9.25 Caribbean Net News reported on 3 February 2006 on Jamaica Commissioner of Police, Lucius Thomas’s unveiling of an eight-point action plan designed to reduce the country’s murder rate by five per cent by the end of 2006. To be included in the strategy was a ‘crime hot spot secretariat’ in the Jamaica Constabulary Force (JCF), to improve the management and analysis of information about serious crimes and ensure deployment of police where they are most needed; the establishment of a Major Investigation Taskforce (MIT) in Kingston and St Andrew, to improve the JCF’s investigation of murders, shootings and other serious crimes, and; improvement of the use of forensic science by introducing new policies, technologies and procedures, including the new IBIS ballistic machine already on the island, and a new digital fingerprinting system. [57]
- 9.26 The *Jamaica Gleaner*, dated 23 July 2005, noted that:
- “The Senate yesterday [22 July 2005] passed the Firearms Bill to establish a new centralised and independent Gun Licensing Authority that will grant and revoke gun licences, permits and certificates. Entitled an Act to Amend the Firearms Act 2005, the bill was passed with several amendments. The legislation also provides for the establishment of a Review Board to hear appeals following the refusal to grant or revocation of a gun licence, certificate or permit.” [34e]

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### Operation Kingfish

- 9.27 The *Jamaica Gleaner* noted on 20 October 2004 that the Government on 19 October 2004 unveiled another crime-fighting initiative, “Operation Kingfish”, just 24 hours after the Police High Command disclosed that 44 more persons

had been killed the previous week. Up to the night of 19 October 2004, the number of persons murdered since the start of 2004 stood at 1,161, the most to have ever been recorded in the nation's history. Minister of National Security, Dr Peter Phillips, addressing key private sector leaders and reporters at the Hilton Kingston Hotel, in New Kingston, said the latest crime plan would target the leaders of an estimated 85 active criminal gangs, located across inner-city communities islandwide. He said "The main aim of the task force is to break up the organised and dangerous criminal gangs that are at the root of most of the gun violence." [34bg]

- 9.28 As reported in the *Jamaica Gleaner*, dated 22 October 2004, "Operation Kingfish will be supported in its operations by elements of other arms of the security forces such as the Special Anti-Crime Task Force (SACTF), Flying Squad, the Organised Crime investigation Division (OCID) and the JDF." [34bh]
- 9.29 On 5 November 2005, the Jamaica Information Service documented a national television and radio broadcast by the National Security Minister, Dr Peter Phillips. He was quoted as saying "Operation Kingfish' has arrested some 235 persons in relation to murders, firearms, drugs and ammunition and has apprehended 32 wanted persons." Referring to other achievements, Dr Phillips stated "We have dismantled or severely disrupted major criminal networks including the 'Gideon Warriors', the 'One Order' and 'Klansman' gangs in Spanish Town as well as other gangs operating in the Corporate Area and elsewhere. We have also confronted and apprehended some of the so called 'untouchables', who in the past relied on their political affiliation for immunity." [24a]
- 9.30 The Jamaica Information Service also noted what Dr Phillips considered to be one of the most important achievements, that being the improved relationship between the police and community. This has resulted in around 1,000 telephone calls to Operation Kingfish over the past year with 800 of those being actionable. [24a]
- 9.31 On 31 October 2005, reporting on the reputed leader of the 'Clansman' gang, the *Jamaica Gleaner* noted "Jamaica's most wanted criminal, 43-year-old Donovan 'Bulbie' Bennett was shot and killed during a joint police military operation in Rock River, Clarendon, yesterday morning [30 October 2005]." Sergeant Steve Brown, public relations officer for Operation Kingfish, told reporters "When the police approached the house they were fired on and a shootout ensued and Mr. Bennett and a man known only as 'Nathan' were shot and killed." [34bj]
- 9.32 On the 7 November 2005, the *Jamaica Gleaner* reported:
- "Pointing to the unit's success to date, ACP Hinds said Kingfish was charged with the responsibility of dismantling major criminal gangs. Since January [2005] they have disrupted the 'Spanglers' gang by arresting Donald 'Zekes' Phipps on two counts of murder. Phipps' Havendale residence was searched and over \$18 million found inside a vault. The conviction of Kevin 'Richie Poo' Tyndale and the arrest of Joel Andem have also had an impact on the 'Gideon Warriors' gang." [34bk]



- 9.33 On 13 November 2005, *The Jamaica Observer* reported on Operation Kingfish's successes. Speaking to the *Sunday Observer*, Glenmore Hinds, the Assistant Commissioner of Police who heads the Operation Kingfish Task Force, stated "We are confident that we have dismantled the Gideon Warriors Gang, led by Joel Andem at some stage." Hinds was also quoted as saying "We have been able to confiscate 50-odd boats, 1,240 plus firearms, a third of which are rifles, more than 2,500 cartridges, 12 tonnes of cocaine, 4,300 pounds of compressed ganja and have arrested 235 persons for a range of offences, including murder, ammunition, firearms and drug possession." [36m]

(See also Section 8.08: [Gang violence](#))

- 9.34 As noted in the *Jamaica Gleaner* on 13 December 2005, "Within the next four weeks, another crime-fighting unit is expected to hit the streets of Jamaica, searching for perpetrators of vicious crimes committed across the island. The new unit has been named the Major Investigation Team (MIT), and will comprise some of the finest and skilled detectives of the Jamaica Constabulary Force (JCF). The unit will operate under the umbrella of Operation Kingfish, headed by Assistant Commissioner Glenmore Hinds." [34b]

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### Arbitrary arrest and detention

- 9.35 The USSD report 2005 noted that the law prohibits arbitrary arrest. However, the report stated:

"There were reports of arbitrary arrest during the year, and the authorities continued their 'cordon and search' policy in neighborhoods where it was believed certain suspects may be present. During these operations, conducted by the JCF sometimes in conjunction with the JDF, authorities detained groups of people and took them to a police station or other safe area where they were processed and held until it could be determined whether they were the suspect the police were looking for. By law, unless special permission is granted by a Justice of the Peace or a Resident Magistrate, persons must be released within 24 hours if they have not been charged with a crime... Arrests normally require warrants signed by a police officer of the rank of station sergeant or higher; however, arrests may be made without warrants." [8a] (Section 1d)

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### Extra-judicial killings

- 9.36 The 2006 Amnesty International report on Jamaica noted that "At least 168 people were allegedly killed by members of the police. . . For the sixth consecutive year [2005], no police officers or army officers were convicted of unlawful killings committed while on duty. Investigations into alleged extrajudicial executions remained inadequate." [9e]

(See Section 9.48: [Prosecution of state officials accused of ill-treatment](#) 9.59: [Crawle \(Kraal\) trial](#))

- 9.37 The Report of the U.N. Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, dated 26 September 2003, stated that:

“During the visit Ms Jahangir met with government ministers and officials, including representatives of the police, the security forces and the judiciary. She also met with a number of civil society organizations and community representatives. She had the opportunity to visit a number of neighbourhoods in central Kingston – the so-called ‘inner cities’ – and the St Catherine prison in Spanish Town. She also visited Montego Bay. On a number of occasions she met with individual witnesses and family members of persons who had allegedly been extrajudicially executed.” [12] (p2)

- 9.38 The Special Rapporteur report also stated that:

“Following her mission, it was the Special Rapporteur’s distinct impression that extrajudicial executions by the police, and possibly in a very few cases also Jamaican Defence Forces, had in fact taken place. She stresses that she is not mandated to pronounce any clear-cut judgement as to the guilt or innocence of any individual; this eventually has to be determined through a due process of law. She also notes that the criminal justice system in Jamaica currently does not have the appropriate capacity to deal with these cases.” [12] (p2)

- 9.39 The Special Rapporteur report further noted that “The Special Rapporteur recognizes the challenge faced by the security forces in controlling crime and violence, but underlines that a high crime rate is not an excuse for the excessive use of force on the part of State authorities. She appreciates that senior policy makers and security officials in Jamaica have recognised the need for better accountability on the part of the security forces.” [12] (p2)

- 9.40 The report continued:

“The Special Rapporteur fully comprehends the challenge faced by the security forces in controlling crime and violence. They face a difficult task which is compounded by the fact that they lack tactical training in the use of non-lethal force and thereby end up using disproportionately high levels of force. Such methods are habit-forming and expose both the security forces and the public to undue risks. There was a tendency across the board to cover up suspected cases of extrajudicial killings.” [12] (p22)

- 9.41 The USSD report 2005 noted that “While the government or its agents did not commit any politically motivated killings, security forces committed some unlawful or unwarranted killings during the year [2005].” [8a] (Section 1a)

- 9.42 Human Rights activists claimed that as many as 80 people have been killed by the police so far this year [2006] and that in May 2006 alone, there were 23 controversial police shootings. (*Jamaica Gleaner*, 18 June 2006) [34h]

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### Use of excessive force by the police

- 9.43 The USSD report 2005 noted that “The police frequently employed lethal force in apprehending criminal suspects, which resulted in 180 deaths (including 13 police officers) compared with 119 deaths (including 11 police officers) in 2004. While allegations of ‘police murder’ remained frequent, the validity of some of the allegations was suspect.” [8a] (Section 1a)
- 9.44 The same report noted that “The JCF continued an initiative of community policing to address the problem of long-standing antipathy between the security forces and many poor inner-city neighborhoods. The police academy includes training for policemen on citizens’ rights and human rights.” [8a] (Section 1d)
- 9.45 *The Jamaica Observer* reported on 6 January 2006 on the police shooting of St. Elizabeth resident, Roger Banton, 23, on the 5 January 2006. The report noted “Police say when they knocked on the door of the room in which Banton was staying in an unfinished house at about 5.00am, he opened the door and pointed a gun at them. They opened fire hitting him. The police say they took a Larcin pistol and magazine with three live rounds from Banton who was wanted for a murder in the neighbouring district of Vineyard in June last year [2005].” [36p]
- 9.46 However, *The Jamaica Observer* noted that grieving residents rejected the police version of events, saying that Banton never owned a gun and had never been seen with one. The neighbours also stated the shooting happened at 4.30am, half an hour earlier than the time given by police. The report noted that “Eyewitnesses say people threw stones at the police after discovering that Banton was dead and the police fired tear gas canisters and gunshots. Twenty-five year-old mother of four, Barbara Barrett – apparently the victim of a stray bullet – was shot in the right breast and right arm.” [36p]
- 9.47 *The Jamaica Observer* reported on 22 January 2006 that “Stung by continuing criticisms over questionable police shootings, the Jamaica Constabulary Force (JCF) is turning to firearm training to put a dent in the high rate of such incidents, and at the same time sharpen awareness of the legal and moral responsibility of the police in the use of firearms.” The report noted that “Senior Superintendent Charles Simpson of the Mobile Reserve, believed the training to be paramount in bringing a higher level of professionalism in the use of the firearm and hopefully reduce the levels of controversial shootings.” [36s]

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### Prosecution of state officials accused of ill-treatment

- 9.48 The USSD Country Report 2005 noted that:
- “The JCF conducted both administrative and criminal investigations into all incidents involving fatal shootings by the police. The JCF’s BSI [Bureau of Special Investigations], which employed 21 investigators, specifically addresses police shootings. The BSI completed investigations of 521 shooting

incidents during the year and sent them to the DPP. The DPP ruled on 333 cases and sent 21 to criminal courts. No officer was found criminally liable during the year. The BSI supplemented the JCF Office of Professional Responsibility, which investigated police corruption and other misconduct, and the civilian Police Public Complaints Authority [PPCA], which oversaw investigations of the other two bodies and could initiate its own investigations.” [8a] (Section 1d)

9.49 In a press release dated 23 February 2006, Amnesty International (AI) welcomed the conviction of a police officer from the Jamaican Constabulary Force for the murder of a 25 year-old man in November 2000, the first conviction of a Jamaican police officer for murder committed while on duty since October 1999. However, AI expressed concern that there continues to be insufficient will on the part of the security and justice systems in Jamaica to effectively tackle impunity for police killings. The report noted “While this is a positive development in the fight against impunity for police killings, this is just the tip of the iceberg, and is not enough to restore the public’s faith in the Jamaican judicial system,” said Susan Lee, Director of Amnesty International’s America Programme.” [9f]

9.50 The same source noted that:

“Constable Glenroy McDermoth was sentenced yesterday to life imprisonment for the killing of Michael Dorsett, who he shot in the back on 9 November 2000 while on patrol with other police officers. Constable McDermoth had stated that the victim and another man had opened fire on the police patrol and he had returned fire to protect himself and his colleagues. Scientific evidence presented by the prosecution, however, showed that no gunpowder residue was found on the deceased’s hands.” [9f]

9.51 On 17 November 2005 the *Jamaica Gleaner* noted:

“Minister of National Security Dr. Peter Philips on Tuesday revealed that the Bureau of Special Investigations (BSI) has completed investigations into just over half the cases of police shootings brought to its attention in the last six years. Dr. Phillips said that, of the 2,109 cases of police shooting investigated by the BSI since its inception in 1999, 1,175 have been completed and sent to the Director of Public Prosecution (DPP) for a ruling. But according to the National Security Minister, the DPI has since forwarded just over 500 cases to the courts with only four convictions.” [34n]

9.52 In the same report, Dr Phillips was noted as saying that more advanced technology would be introduced to improve the investigative capacity of the BSI. The report continued “The Bureau was established on July 1, 1999 to investigate all cases of shooting by the police. Currently, according to the National Security Minister, 23 investigators are permanently assigned to the body. They are required to respond to and initiate all investigations within 48 hours after the police discharge a firearm.” [34n]

9.53 Over the past two years more than 45 policemen have faced criminal charges of murder and shooting with intent. The charges have arisen from controversial shootings that led to the Director of Public Prosecution (DPP) ordering the arrest of the shooters. (*The Jamaica Observer*, 22 January 2006) [36s]

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### Cases of police impunity

- 9.54 The Amnesty International (AI) 2006 Annual Report on Jamaica stated that numerous police officers charged with unlawful killings had fled from justice. The report cited a number of cases where the trials of police officers charged with murder had either not commenced, or where they had, those charged had been acquitted. [9e]

(See Section 9.59: [Crawle \(Kraal\) trial](#))

- 9.55 As noted in an undated report on Jamaica's investigation and prosecution of deaths at the hands of agents of the state, Pattern of Impunity, which was presented to the Inter-American Commission on Human Rights by Jamaicans for Justice, accessed 1 February 2005:

"Jamaica has one of the highest per capita rates of lethal police shootings in the world on average 140 people per year have been shot and killed by the police in the last decade, in a country whose population is only 2.6 million. Compounding this problem is the fact that almost all investigations and prosecutions of fatal police shootings are perfunctory, inadequate and unsatisfactory and do not meet international standards....The Government of Jamaica has failed to properly investigate police shootings on several systemic levels, including: A failure to preserve the crime scene and collect forensic evidence; A failure to protect witnesses of police shootings against intimidation and harassment, (at times the Police themselves are the perpetrators of the harassment and intimidation); and a failure to grant legislative support and resources to an independent investigative body to oversee the investigation of police shootings. Furthermore, there has been a failure on the part of the Government of Jamaica to provide: A speedy and efficient remedy to victims' families in terms of both the investigation (including adequate autopsy and post-mortem procedures) and the judicial proceedings. This failure includes a failure to prosecute police officials for the killing of civilians, despite overwhelming evidence." [50b] (p4)

- 9.56 The same Jamaicans for Justice report stated that:

"In Jamaica there is a clear pattern of police impunity for killings of civilians due to a combination of factors including: systematically poor investigative procedures; weaknesses of oversight bodies and mechanisms; failure to protect witnesses; delays and weaknesses in the processes of the courts; weaknesses and lack of will in the office of the Director of Public Prosecutions; and lack of political will to correct the problem. By improperly investigating and prosecuting fatal police shootings Jamaican authorities are not only undermining the trust relationship that exists between a government and its people but also the internationally guaranteed fundamental right to life." [50b] (p3)

- 9.57 The *Jamaica Gleaner*, dated 3 November 2004, reported that:

"The Government has agreed to pay \$2.7 million to Janine Cameron, the mother of Michael Gayle, the mentally-ill man who died as a result of injuries he received when he was beaten by soldiers and police at a curfew barricade in Olympic Gardens on August 21, 1999.... Cameron filed a suit in the Supreme Court seeking damages for assault, false imprisonment and breach of her son's constitutional rights. Last year [2003] Michael Hylton, Q.C., recommended that there should be an out of court settlement. A Coroner's jury had ruled in December 1999 that all the military and police personnel at the curfew barricade should be charged. Director of Public Prosecutions, Kent Pantry, Q.C. reviewed the depositions and ruled in March 2000 that no one should be charged." [34v]

- 9.58 Four police officers charged with murdering two elderly residents in Flankers, St James, in October 2003, were found not guilty of both murder and manslaughter, on 20 July 2006. A fifth officer, who was also charged with the killings, was freed the previous week due to lack of evidence. David Bacchas and Cecil Brown were gunned down in a pre-dawn police operation on 25 October 2003. The police initially said that the two men were killed when gunmen fired at the police who then returned fire. The police later admitted the shootings were accidental. However, the defence attorneys insisted that Bacchas and Brown were killed in a shoot-out, arguing that the police fired upon Bacchas's taxi without provocation. (*The Jamaica Observer*, 21 July 2006) [36h]

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### Crawle (Kraal) trial

- 9.59 The *Jamaica Gleaner* reported on 13 December 2005 that "Three of the six policemen charged with murder of four civilians at Kraal, Clarendon, on May 7, 2003, were freed yesterday after Chief Justice Lensley Wolfe ruled there was no case in law against them." The report noted that the Chief Justice directed the jury to return a formal verdict of not guilty in respect of Constables Devon Bernard, Leford Gordon and Roderick Collier. [34g]
- 9.60 As reported by the *Jamaica Gleaner* on 21 December 2005:
- "The flamboyant Senior Superintendent of Police Reneto Adams and two other policemen were yesterday [20 December 2005] freed of charges in the Kraal case, which SSP Adams had previously branded 'the mother of all trials'. A 12-member jury, comprising seven women and five men, deliberated for a little over five and a half hours and returned to find SSP Adams, Corporal Lenford Coke and Constable Shane Lyons not guilty of the murder of four persons in Kraal, Clarendon, on May 7, 2003." [34ah]
- 9.61 The *Jamaica Gleaner* reported on 11 January 2006 that:
- The six policemen recently acquitted of murder in the controversial Kraal case have been reinstated in the Jamaica Constabulary Force, police spokesperson Karl Angell said yesterday [10 January 2006]. However, Mr Angell said the men . . . will not be reassigned to beat duties until their psychological evaluations are completed by police chaplain, the Rev. Vivian Panton, and the force's clinical psychologist, George Leveridge." [34ax]

- 9.62 Senior Superintendent Reneto Adams was officially reinstated to active duty in the JCF on 12 June 2006. He is now based at the JCF headquarters at Old Hope Road, St Andrew. (*Jamaica Gleaner*, 13 June 2006) [34x]

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## ARMED FORCES

- 9.63 The JDF [Jamaica Defence Force] was charged with national defence, marine narcotics interdiction, and JCF support. The JDF had no mandate to maintain law and order and no powers of arrest (with the exception of the JDF Coast Guard in the maritime domain), unless so ordered by the prime minister. The Jamaica Regiment (JDF infantry forces) was detached as part of a joint internal security operation to assist the JCF in patrolling certain communities. The prime minister occasionally authorised the JDF to cordon and search with the JCF. (USSD Country Report 2005) [8a] (Section 1d)
- 9.64 The *Jamaica Gleaner*, dated 23 June 2005, reported that Deputy Commissioner Mark Shields said that both the Jamaica Defence Force coast guard and marine police are ill-equipped to monitor the country's coastline and stop the influx of illegal guns and ammunition into the island. He attributed the influx to the ganja/gun trade between Jamaica and Haiti. [34f]

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## AVENUES OF COMPLAINT

- 9.65 The Police Public Complaints Authority is an independent, non-police agency with the power to investigate allegations of misconduct filed by members of the public against members of the Jamaica Constabulary Force and its Auxiliaries. Investigations are impartial and objective, and are conducted by the Authority's Investigative Staff, made up solely of civilian employees. Complaints may be made by a member of the public, in person or by mail, whether or not that person is affected by the subject of the complaint, or by any person on behalf of a member of the public so affected, but with his/her written consent. (Ministry of Justice, Jamaica, accessed 13 July 2006) [47]

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## MILITARY SERVICE

- 10.01 The War Resisters' International CONCODOC [Conscription and Conscientious Objection Documentation Project] 1998 report, issued on 5 April 1998, noted that "Conscription has never existed since independence was achieved in 1962. There is no legislation providing for conscription." The report also states that "The legal enlistment age is between the ages of 18 and 24." [27]

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## CONSCIENTIOUS OBJECTION

- 10.02 The same publication noted that “There is no known legal provision for conscientious objection. In 1998 the government stated that, as military service is voluntary, ‘the question of Conscientious Objection status does not apply.’” [27]

## DRAFT EVASION AND DESERTION

- 10.03 The War Resisters’ International report 1998 also noted that “Desertion is punishable by up to two years’ imprisonment in peacetime. In wartime desertion is punishable by firing squad execution.” [27]

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## JUDICIARY

### ORGANISATION

- 11.01 The USSD report 2005 stated that “The court system consists of justices of the peace at the lower end. Resident magistrate’s courts handle civil and criminal cases, while the Supreme Court has unlimited jurisdiction in civil and criminal matters. Defendants have the right to appeal a conviction in any of the three trial courts to the court of appeal, which is the highest court in the country. The Privy Council in the United Kingdom is the final court of appeal.” [8a] (Section 1e)

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### Caribbean Court of Justice

- 11.02 A Latin America Press report, dated 19 March 2001, noted that the Caribbean heads of Government signed a landmark agreement to establish the Caribbean Court of Justice (CCJ). However, in Jamaica several organisations, including the country’s bar association, oppose the regional judicial body. It is intended that the new court will replace the British Privy Council as the court of last resort for the region. [13a]
- 11.03 An article in *The Jamaica Observer*, dated 15 June 2004, noted that “The Privy Council effectively ruled on 14 June 2004 that the Jamaican Parliament could abolish appeals to the UK-based court without the need for further major constitutional amendments. This decision was interpreted by the government as removing a substantial hurdle to the island’s participation in the Caribbean Court of Justice (CCJ).” [36n]
- 11.04 The *Jamaica Gleaner*, dated 4 February 2005, reported that the Government is standing firm on its vow to establish the controversial Caribbean Court of Justice (CCJ) as the nation’s final court of appeal, despite the ruling on 3 February 2005 by the United Kingdom-based Privy Council that the Government’s handling of the process last year where the CCJ bills were passed in Parliament, was unconstitutional. Reacting to the ruling, Prime Minister P J Patterson said that the government’s legal team was completing



its analysis of the judgement delivered by the British law lords, and that Cabinet would consider the matter fully on 7 February 2005. Mr Patterson stated that “The Jamaican Government remains committed to the establishment of the CCJ as our final appellate court.” [34bm]

- 11.05 *The Jamaica Observer*, dated 18 April 2005, reported that “The political Opposition and a leading Human Rights organisation in Jamaica on Saturday [16 April 2005] cautiously welcomed the historic inauguration of the Caribbean Court of Justice (CCJ) – ending for now – a bitter row that forced the Government to abandon plans [to] use it to replace the England-based Privy Council.” The CCJ bill was passed earlier that week by the House of Representatives. [36t]
- 11.06 On 21 October 2005, *The Jamaica Observer* noted “...[that] the Opposition held fast to its demand for a referendum for Jamaicans to decide on whether they want the Caribbean Court of Justice as their court of final appeal.” [36v]

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## INDEPENDENCE

- 11.07 The USSD Country Report 2005 noted that “The law provides for an independent judiciary, and the government generally respected this provision in practice; however, the judicial system was overburdened and operated with inadequate resources.” [8a] (Section 1e)

## FAIR TRIAL

- 11.08 The USSD 2005 Report stated “Most trials are public and use juries. Defendants are presumed innocent, have the right to counsel, and have the right to confront witnesses against them.” The report also noted “The public defender may bring cases for persons who have had their constitutional rights violated. Although the Public Defender’s Office contracted private attorneys to represent clients, funds were insufficient to meet the demand, and such attorneys sometimes requested payment from clients.” [8a] (Section 1e)

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## Legal Aid

- 11.09 The USSD 2005 Country Report noted “[that] Legal Aid attorneys were available to defend the indigent, except those charged with certain offenses under the Money Laundering Act or Dangerous Drugs Act.” [8a] (Section 1e)
- 11.10 The human rights organisation Jamaicans for Justice stated in its Jamaica Human Rights Situation report, 2003, that:
- “The Legal Aid Authority struggles with a budget that is less than one third of what it needs to effectively represent all those who need legal aid. They also have great difficulty getting the police either to inform citizens of their right to counsel or to call the duty counsel when needed. In addition the Ministry of Justice has itself acknowledged the need for a ‘Proper streamlining of the

Legal Aid System' and last year [2002] threatened to reduce the number of offences for which legal aid was available." [50a] (p7)

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## ARREST AND DETENTION – LEGAL RIGHTS

- 12.01 Under Chapter 3 section 15 of the Jamaica Constitution 1962, the Constitution provides for the fundamental right to protection from arbitrary arrest and detention. [2] (section 15)
- 12.02 The USSD Country Report 2005 noted that "The law permits the arrest of persons 'reasonably suspected' of having committed a crime." The report stated "Although the law requires police to present a detainee in court within a reasonable time period, in practice authorities continued to detain suspects for lengthy periods (often up to two or three years), which the government attributed to an overburdened court system. Magistrates were required to inquire at least once a week into the welfare of each person listed by the JCF as detained. [8a] (Section 1d)
- 12.03 The USSD Country Report 2005 also stated that:
- "The law requires detained suspects to be charged or released within 24 hours of arrest. The law also requires police to contact duty counsel (a private attorney who volunteers to represent detainees at police stations and until cases go to trial), if requested by the detainee, upon detention; however, the authorities continued to wait until after detainees had been identified in an identification lineup before contacting duty counsel for them. There was a functioning bail system... [and] detainees were provided with prompt access to family members." [8a] (Section 1e)
- 12.04 The same report further noted "Although the constitution prohibits such actions, the revised Constabulary Force Act gives security personnel broad powers of search and seizure. This act allows search without a warrant of a person on board or disembarking from a ship or boat, if a police officer has good reason to be suspicious. In practice the police conducted searches without warrants. There were no allegations of unauthorized wiretapping by police." [8a] (Section 1f)

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## PRISON CONDITIONS

- 13.01 As noted by the USSD Country Report 2005:
- "Prison conditions remained poor, primarily due to overcrowding and poor sanitary conditions. The Department of Correctional Services took measures during the year to improve catering services and medical care for inmates. A March 31 [2005] escape attempt at Kingston's maximum security prison was foiled but resulted in the deaths of three inmates and one prison guard. The media labelled the event a riot. Men and women were incarcerated in separate facilities under similar conditions, except that women's prisons were generally



not overcrowded. Although the law prohibits the incarceration of children in adult prisons, some juveniles were held with adults, particularly when juvenile facilities were filled to capacity. The majority of pretrial detainees were held in police custody, either in police stations or in remand centers, generally separate from convicted prisoners. In general, the government allowed private groups, voluntary and religious organizations, local and international human rights organizations, and the media to visit prisons and monitor prison conditions, and such visits took place during the year.” [8a] (Section 1c)

- 13.02 Reporting on torture and other cruel, inhuman, or degrading treatment or punishment, the same source noted that:

“Although the law prohibits such practices, reports of physical abuse of prisoners by guards continued, despite efforts by the government to remove abusive guards and improve procedures. On August 9 [2005], the Department of Correctional Services announced that it had discharged 16 correctional officers for misconduct. At year’s end, the department, in conjunction with the police, was investigating alleged criminal activities of the fired correctional officers, including trafficking of contraband, abuse of inmates, missing ammunition, and assisting with prison escapes.” [8a] (Section 1c)

- 13.03 Amnesty International noted in their Annual Report 2006, covering events from January-December 2005, that:

“Conditions in prisons and other places of detention were reported to be harsh and in many cases amounted to cruel, inhuman or degrading treatment. In April [2005], one prisoner and one guard were shot dead and other prisoners beaten during an attempted escape from Tower Street Correctional Centre. A government-appointed Board of Inquiry investigated the incident and found numerous violations of prisoners’ human rights, including one prisoner beaten to death by guards and another dying because he was not given timely medical attention after being injured. There were no reported criminal charges brought in connection with the abuse of prisoners.” [9e]

- 13.04 As stated in the USSD Country Report 2005 “During the year [2005], at least three detainees died while in police custody... There was no evidence of negligence.” [8a] (Section 1a)

- 13.05 On 23 October 2005, *The Jamaica Observer* reported on the rehabilitation programmes available to convicts in prison. According to prison boss Richard Reese, “The focus ... is on general inmate development, and not the issue of guilt or innocence.” The report went on to name some of the available programmes. “Rehabilitation Through Music (RTM) is one segment of a wider programme, from which, said Reese, there have been some positive results.” *The Jamaica Observer* also noted “The prison runs an educational programme known as Students Expressing Truth (SET) which offers classes in mathematics, English, history, sociology and science, among other subjects.” [36am]

- 13.06 The 2005 USSD report stated:

“Male inmates deemed by prison wardens to be homosexual are held in a separate facility for their protection. The method used for determining their sexual orientation is subjective and not regulated by the prison system,

although inmates were said to admit their homosexuality for their own safety. There were numerous reports of violence against homosexual inmates, perpetrated both by the wardens and by other inmates, but few inmates sought recourse through the prison system.” [8a] (Section 5)

(See also Section 21.08: [Violence against gay men](#))

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## MENTALLY CHALLENGED INMATES

- 13.07 On the 11 November 2005, the Senate passed legislation intended to provide better care and protection for prison inmates who are mentally ill. Senator Kern Spencer, Parliamentary Secretary in the Ministry of National Security, said improvements were carried out in conjunction with the Ministry of Health and the implementation of a twenty-page proposal which included the relocation of mentally ill inmates from the St. Catherine and Tower Street correctional facilities to a secure area. (*Jamaica Gleaner*, 12 November 2005) [34bn]
- 13.08 The same report noted that “The legislation is expected to prevent the mentally ill, who are accused or convicted of a crime, from being lost in the legal shuffle through the courts and prison system.” However, whilst welcoming the new legislation, Nancy Anderson, a legal officer at the Independent Jamaica Council for Human Rights, told the *Jamaica Gleaner* that the implementation efforts were inadequate. She was quoted as saying “it is time to look at these people as people who are ill, instead of people who are criminals. It is time to look at diverting them without bringing them into the justice system.” [34bn]
- 13.09 On the 18 December 2005 *The Jamaica Observer* noted “Prison keepers are finalising a new plan to transform Tamarind Farm, a medium security correctional facility, into a psychiatric prison for the criminally insane and other mentally ill inmates...” The report noted “The new forensic psychiatric centre will facilitate both institutionalisation and treatment of the mentally ill who have either broken the law, or are already in the prison system and diagnosed as being a risk to themselves or to others.” [36ad]
- 13.10 In the same article, *The Jamaica Observer* noted that currently prisons refer patients to Bellevue Hospital, a stand-alone state-run mental institution which the government is scaling down following the announcement of plans to close the Hospital permanently. [36ad]
- (See also Section 26.46: [Mental health](#))
- 13.11 The *Jamaica Gleaner* noted on the 22 December 2005 that through the Canada Fund for Local Initiatives (CFLI) Jamaica, the Canadian Government has contributed J\$500,000 to the Independent Jamaica Council for Human Rights (IJCHR) to help with efforts to reduce the number of mentally ill persons in Jamaica’s prisons. The report noted that “The money will go towards the IJCHR’s Mentally Ill Persons in Prisons Project. The goal of the project is to:

- Locate all persons who have been remanded in custody on the basis that they were unfit to plead, and assess their fitness to plead.
- Have all persons who are fit to plead placed before the court and their cases disposed of.
- Secure accommodation and aftercare for those detainees/inmates released.
- Have the cases of persons still unfit to plead, monitored by the court and disposed of once they have been assessed by a psychiatrist.” [34bo]

13.12 On 3 March 2006, Major Richard Reese, Commissioner of Corrections, disclosed that in the last two years, 34 out of 74 mentally ill inmates who were lost in the prison system after being declared unfit to plead, have been processed and sent home. (*Jamaica Gleaner*, 5 March 2005) [34I]

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## DEATH PENALTY

14.01 Following the 2004 decision by the Judicial Committee of the Privy Council that mandatory death sentences were unconstitutional, new sentencing hearings were held. At least four prisoners were re-sentenced to death and at least 11 had their sentences commuted to terms of imprisonment. (AI Report 2006) [9e]

14.02 As noted by the Italian NGO Hands off Cain, accessed 16 August 2006, which campaigns for an end to the death penalty worldwide:

“On the issue of capital punishment, the Jamaica Constitution states, ‘No person shall intentionally be deprived of his life save in execution of a sentence of a court in respect of a criminal offence of which he has been convicted’. Murder is a capital crime, except for pregnant women, persons over 70 years of age and those who committed crimes when under eighteen years old. The last hanging in Jamaica took place in 1988. Nathan Foster was executed at the St Catherine Adult Correctional Facility on February 18 [1988].” [17]

14.03 The same source stated that in 1993, the London-based Privy Council ruled that five years on death row constituted unusual and inhumane punishment, thus establishing a five-year limit for prisoners on death row. On 7 July 2004, the UK Privy Council won a reprieve for more than 60 prisoners on death row after finding that the 1992 Offences Against the Persons Act, which introduced that mandatory death sentence for capital murder was inconsistent with section 17(1) of Jamaica’s Constitution. As of February 2005, there were more than 29 prisoners on death row. [17]

(See Section 11.02: [Caribbean Court of Justice](#))

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## POLITICAL AFFILIATION

- 15.01 The USSD 2005 Country Report noted that “All citizens age 18 and over have the right to vote by secret ballot. However, in recent elections voters living in ‘garrison communities’ in inner-city areas dominated by one of the two major political parties often faced substantial influence and pressure from politically connected gangs and young men hired by political parties, which impeded the free exercise of their right to vote.” [8a] (Section 3)
- 15.02 A *Jamaica Gleaner* news article, dated 18 October 2002, reported that Jennifer McCoy, Carter Centre Director for the Latin American and Caribbean Programme, commenting on the 16 October 2002 election, said that “Garrisons are political constituencies fiercely loyal to either the People’s National Party [PNP] or the opposition Jamaica Labour Party [JLP].” Ms McCoy sought to explain the reasoning behind earlier comments by President Carter that garrison politics were a disgrace and a blot on Jamaica’s image. His comments, she said, referred to the impact of the so-called garrison-type political organisation and the right of voters to cast their ballots freely and fairly to make their choice. [34d]
- (See also Annex B: [Political Organisations](#), and Section 15.04: [Garrison communities](#))
- 15.03 The USSD report 2005 noted that “There were no reports of politically motivated disappearances.” [8a] (Section 1b)

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### Garrison communities

- 15.04 The Bertelsmann Transformation Index (BTI), a global ranking that analyses and evaluates development and transformation in 119 different countries, noted in their 2006 report that:
- “The state’s monopoly on the use of force in Jamaica is widely secured, but it is still limited in some urban residential areas and constituencies. There are some communities, particularly in Kingston, that are under much less political control than in the past and are dominated by criminal gangs and clientele-istic networks. Since the 1960s, and especially in the 1980s, these garrison communities have been centers of political violence, consciously used by politicians of both major parties. This phenomenon, known as political tribalism, declined significantly in the 1990s, but some of these garrison communities still constitute a kind of ‘state within the state’ where drug trafficking also plays an increasingly relevant role. During the time covered in this report, 12 out of 60 of Jamaica’s constituencies were classified as garrison communities to varying degrees. Local party leaders, many of whom are alleged to have connections with criminal gangs and the drug trade, rule these garrisons.” [39] (p4)
- 15.05 The same source noted that although garrison constituencies were estimated at 12 out of 60 constituencies, only four of those stood out in the media coverage of the 2002 elections. [39] (p11)

(See also section 3.11: [Political violence and the election campaign](#))

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## FREEDOM OF POLITICAL EXPRESSION

- 15.06 Chapter three of the Jamaica Constitution provides for freedom of expression and freedom of political opinion. [2] The law provides citizens with the right to change their government peacefully and this right was exercised in practice through periodic elections held on the basis of universal suffrage. (USSD 2005 Report) [8a] (Section 3)

## FREEDOM OF ASSOCIATION AND ASSEMBLY

- 15.07 The USSD Country Report 2005 noted that “The law provides for freedom of assembly and association, and the government generally respected this right in practice.” [8a] (Section 2b)

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## FREEDOM OF SPEECH AND MEDIA

- 16.01 The USSD Country Report 2005 noted that:

“The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or the internet. The independent media were active and expressed a wide variety of views without restriction. However, some local media professionals expressed concern that the country’s libel law limited their freedom of expression. Specifically, news outlets reported the need to self-censor investigative reports because of the potential for courts to award high damages in cases of defamation. On June 22 [2005], the attorney general threatened legal action against an AI official for comments the researcher made about an ongoing trial. The attorney general argued that the comments, made by e-mail to a news reporter, constituted contempt of court. The government had not pursued any legal action by the year’s end.” [8a] (Section 2a)

- 16.02 The Freedom House Freedom of the Press 2005 Report noted that “Jamaica’s mostly private print media express diverse views and frequently criticize the government. There are 14 private radio stations, 3 private television stations, 3 major daily newspapers, and a number of community newspapers. For the most part, the government has consistently shown respect for journalistic independence and has supported competition in the media as a means of giving the public a choice of information sources.” [32b]

- 16.03 The International Press Institute’s World Press Freedom Review 2004, reported on Jamaica that:

“Although under its own constitution, and the international human rights treaties that it has ratified, Jamaica is committed to upholding press freedom and other human rights, there were nonetheless some issues of concern in 2004. One such concern was the People’s National Party (PNP) government’s plan to introduce anti-terrorism legislation that critics say could prohibit the publication of official documents and target anyone who threatens public

stability. At a public meeting in Kingston, in late January, Lloyd D'Aguilar, a member of the Campaign for Global Justice, said the draft Terrorism Prevention Bill 2003 was designed to 'stifle political dissent' and 'clamp down on the possibility of protest.' [7]

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## HUMAN RIGHTS INSTITUTIONS, ORGANISATIONS AND ACTIVISTS

### 17.01 The USSD Country Report 2005 stated that:

"A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views. The Independent Jamaica Council for Human Rights was the country's only formal organization concerned with all aspects of human rights. The nongovernmental organization (NGO) Jamaicans for Justice (JFJ) focused on the issues of police impunity, extrajudicial killings and excessive use of force by the police and wrote a weekly newspaper column. JFJ reported that undercover police regularly attended its meetings. Some members of the police and the DPP were outspoken in their criticism of the organization. The group sits on the board of the Ministry of Justice's Justice Consultative Committee; however, that committee reportedly has not met since April 2004. JFJ resigned its seat on the Ministry of National Security's committee to oversee the recommendations of the National Committee on Crime and Violence, since the group did not feel the work of that committee was moving forward." [8a] (Section 4)

### 17.02 In its report, *Essential actors of our time*, published on 10 November 2003, Amnesty International (AI) stated that:

"Amnesty International wrote to the Jamaican government three times during the period 2000 to 2003 regarding repeated statements by top government and public officials portraying human rights workers as 'enemies of the police force' and insinuating defenders are in league with criminal gangs. In July 2002, the organisation requested the Minister for National Security to clarify whether it was official government policy to regard human rights groups as sanctioning criminality, following comments by the Head of the Crime Management Unit that 'criminals have infiltrated civil rights groups.' Amnesty International received no reply." [9a] (p10)

### 17.03 As mentioned on their website, accessed on 8 September 2003, the Independent Jamaica Council for Human Rights (1998) Limited (IJCHR) is based in Kingston and formed in 1968. It is the oldest human rights NGO in the Caribbean. The Council is non-partisan and non-sectarian. Its membership is open to all persons who subscribe to the Universal Declaration of Human Rights and support the aims and objectives of the IJCHR. The Council pursues the protection and promotion of human rights through advocacy, public education and legal aid and assistance. The Council is dedicated to achieving respect for human rights, greater mutual tolerance and less abuse of the vulnerable in society. [31a]

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## CORRUPTION

- 18.01 On the 1 June 2006, the National Security Minister, Dr Peter Phillips, disclosed the recent achievements made by the Internal Affairs/Anti-Corruption Division of the Professional Standards Branch (PSB) of the Jamaica Constabulary Force (JCF). 43 police officers have been arrested on charges of misconduct, with one conviction, and 40 cases against officers are currently before the courts. Since its inception in 2005, the PSB's Anti-Corruption Division has been pursuing an aggressive anti-corruption drive aimed at ensuring incidents of police misconduct were dealt with promptly and with transparency. (Jamaica Information Service, 1 June 2006) [24m]
- 18.02 Transparency International's Corruption Perceptions Index (CPI) 2005 recorded Jamaica's CPI score as 3.6. (CPI Score relates to perceptions of the degree of corruption as seen by business people and country analysts and ranges between 10 (highly clean) and 0 (highly corrupt). [28]
- 18.03 The *Jamaica Gleaner* reported on 9 December 2005 that "Government Senator Trevor Munroe yesterday said corruption is the most serious impediment to good governance in Jamaica. During a panel discussion organised by the Cabinet Office, yesterday, at Jamaica House, dubbed, 'Good Governance: Perception versus Reality', Professor Munroe admitted that Jamaica had not done well in eliminating corruption from the public sector." [34w]
- 18.04 An article in the *Jamaica Gleaner* dated 27 October 2005 reported on a newly formed anti-corruption unit of the Jamaica Constabulary Force, launched on 26 October 2005, which will fall under the Professional Standards Branch (PSB). Assistant Commissioner Novelette Grant gave an overview of the JCF's Anti Corruption Strategy. "The new Anti-Corruption Strategy allows the use of disciplinary codes to dismiss any member from the force for serious cases of unethical and inappropriate behaviour, breaches of discipline and codes of conduct that harm the image of the force, and where it is in the public's interest to do so." [34k]
- 18.05 The same report went on to say "... [that] since June [2005] 25 police personnel have been arrested and charged for theft, conspiracy and breaches of the Corruption Prevention Act." The *Jamaica Gleaner* continued "Police Commissioner Lucius Thomas praised the strategy for the protection it affords 'whistleblowers', thereby providing avenues for police officers to report the misconduct of their own colleagues." [34k]
- 18.06 On 6 January 2006, the *Jamaica Gleaner* reported:
- "Following through on his commitment to rid the Jamaica Constabulary Force (JCF) of corrupt policemen, Commissioner of Police Lucius Thomas has requested that three additional cops be retired in the interest of the public. Reports are that the commissioner has asked the Police Services Commission (PSC), a civilian oversight body, to relieve three narcotics policemen of their duties. This action brings to 11, the total number of policemen being asked to be relieved of their duties." [34y]

18.07 As reported in *The Jamaica Observer* on 15 January 2006:

“Lucius Thomas completes his first year as police commissioner this Thursday itching to continue an internal anti-corruption drive that, he said, has so far rid the constabulary of at least 50 cops since January 2005. At the same time, Thomas is pushing his officers on a relentless drive to win back public trust ruined by years of police abuse and killings of citizens that, in most instances, are alleged to be extra-judicial.” [36aq]

(See also Section 9.36: [Extrajudicial killings](#))

18.08 The *Jamaica Gleaner* reported on 16 October 2005:

“Assistant Commissioner of Police Leon Rose, is sparing no words. Criminal kingpins, boasting squeaky-clean police records, continue to camouflage as community leaders, giving orders to kill and create mayhem in several war-torn communities across the island, the ACP charges. He said that the ‘area leaders’ appear to be doers of good but are the evil forces masterminding even the child-killing atrocities that have rocked the nation. Leon Rose is the assistant commissioner of police in charge of community relations. He told *The Sunday Gleaner* that there is a stark difference between a community leader and a don but many ‘dons’ have successfully hidden behind the mask of an uncontaminated and upstanding community leader.” [34o]

18.09 Despite the deaths of gang leaders in the area, the St Catherine capital, Spanish Town, is still a haven for gang members who extort money from informal sellers and formal businesses, to finance their criminal networks and rich lifestyles. Sellers in the town say they each pay up to \$500 a week to the gangs. Local businesses are said to pay out hundreds of thousands of dollars to the collectors on a weekly basis for ‘protection’. Taxi operators are also forced to pay over a portion of their daily earnings. (*The Jamaica Observer*, 11 December 2005) [36i]

18.10 The same article noted that local police chief, Superintendent Kenneth Wade, could not confirm that the extortion racket was going on as no one had come forward with such information. [36i]

18.11 *The Jamaica Observer*, dated 27 January 2006, reported on the destruction of an illegal airstrip at Braes River, St Elizabeth, by members of Operation Kingfish and the Jamaica Defence Force, which was allegedly being used to smuggle “ganja” out of the island. A Kingfish spokesman was quoted as saying “In the last six months, the police force have targeted ganja fields in St Elizabeth, where the trade and export of ganja have been escalating.” [36x]

18.12 The same article noted that “Kingfish boss, Assistant Commissioner of Police Glenmore Hinds, said that the operation fell within its mandate of dismantling organised crime networks.” The report also noted “Over the past few months, the police destroyed at least three other illegal airstrips in Lilliput, St James; Hector’s River, Portland; and Four Paths, Clarendon.” [36x]

(See also Sections 9.27: [Operation Kingfish](#); and 8.08: [Gang violence](#))

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## FREEDOM OF RELIGION

- 19.01 The US State Department International Religious Freedom Report 2005 stated that, "The Constitution provides for freedom of religion, and the Government generally respects this right in practice. There was no change in the status of respect for religious freedom during the period covered by this report, and government policy continued to contribute to the generally free practice of religion." [8c] (p1)
- 19.02 The US State Department Report on Religious Freedom also stated that:
- "The Government recognizes Rastafarianism as a religion. Members of the Rastafarian community continued to complain that law enforcement officials unfairly target them; however, it is not clear whether the police actions reflect religious discrimination or are due to the group's illegal use of marijuana, which is an element of Rastafarian religious practice. In 2003, the Parliamentary Joint Select Committee on marijuana recommended decriminalization of possession of small quantities for adult personal use in private. At the end of the period covered by this report, the committee's recommendations had not been considered by the full Parliament." [8c] (Section II)
- 19.03 The same USSD Report on Religious Freedom noted that "There were no reported abuses targeted at specific religions by terrorist organizations during the period covered by this report." [8c] (Section II)
- 19.04 The USSD Report on Religious Freedom 2005 noted that "The generally amicable relationship among religions in society contributed to religious freedom." [8c] (Section III)

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## ETHNIC GROUPS

- 20.01 The USSD Country Report 2005 stated that "The law prohibits discrimination on grounds of race, gender, place of origin, political opinions, color, or creed. The government generally enforced these prohibitions in practice, although there continued to be widespread discrimination on the basis of political opinion in the distribution of scarce governmental benefits, including employment, particularly in the garrison communities." [8a] (Section 5) The CIA World Factbook, updated 8 August 2006, noted that Jamaica is made up ethnically of Black 90.9 per cent; East Indian 1.3 per cent; White 0.2 per cent; Chinese 0.2 per cent; Mixed 7.3 per cent; and other 0.1 per cent. [4]

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## LESBIAN, GAY, BISEXUAL AND TRANSGENDER PERSONS

- 21.01 The Jamaica Forum for Lesbians, All-Sexual and Gays (J-Flag) website, accessed on 21 February 2005 states:

“J-Flag is actively lobbying for legal reform. Our Parliamentary Submission to amend the non-discrimination clause within the Constitution to include sexual orientation was reviewed by the Joint Select Committee on the Charter of Rights Bill. In December 2001, the Committee made its recommendations to Parliament. It declined to support our proposed amendment but did recommend that the House consider repealing the Buggery Law. We [J-FLAG] are now strengthening our efforts to ensure the successful passage of this bill through parliament, and will continue to push for the amendment to the constitution.” [26a]

21.02 The J-Flag website also stated that:

“Contrary to popular belief, it is not actually illegal to be homosexual in Jamaica. Being a homosexual does not contravene any of the existing laws; however, the law makes certain ‘homosexual acts’ illegal, and these laws are used to persecute gay men. They state that ‘acts of gross indecency’ and buggery [anal sex] are illegal. Although buggery refers to anal sex between a man and another man, a woman or an animal, in practice the law is predominately enforced against two men. Lesbians are also discriminated against in the wider society, however no laws target lesbians or lesbian conduct.” [26c]

21.03 The J-Flag website further noted that “The Offences Against Persons Act prohibits ‘acts of gross indecency’ between men, in public or in private. (This is a very general term which can be interpreted to mean any kind of physical intimacy).” Under:

- Article 76 (Unnatural Crime); ‘Whosoever shall be convicted of the abominable crime of buggery [anal intercourse] committed either with mankind or with any animal, shall be liable to be imprisoned and kept to hard labour for a term not exceeding ten years.’
- Article 77 (Attempt); ‘Whosoever shall attempt to commit the said abominable crime, or shall be guilty of any assault with intent to commit the same, or of any indecent assault upon any male person, shall be guilty of a misdemeanour, and being convicted thereof shall be liable to be imprisoned for a term not exceeding seven years, with or without hard labour.’
- Article 78 (Proof of Carnal Knowledge); ‘Whenever upon the trial of any offence punishable under this Act, it may be necessary to prove carnal knowledge, it shall not be necessary to prove the actual emission of seed in order to constitute a carnal knowledge, but the carnal knowledge shall be deemed complete upon proof of penetration only.’
- Article 79 (Outrages on Decency); ‘Any male person who, in public or private, commits, or is a party to the commission of, or procures or attempts to procure the commission by any male person of, any act of gross indecency with another male person, shall be guilty of a misdemeanor, and being convicted thereof shall be liable at the discretion of the court to be imprisoned for a term not exceeding 2 years, with or without hard labour.’ [26c]

- 21.04 The J-Flag website also gave details on Your Rights, Duties and Responsibilities as a Jamaican Citizen – one of them being that “As a Jamaican citizen you also have through the Constitution, the right to have your privacy respected within your home and family.” [26c]
- 21.05 The J-Flag website stated that J-Flag, among other things, does significant personal development and community building in the gay community. It offers counselling and referral services to gay people and their families. It consults and collaborates with noted local and international figures and human rights/health/political interest groups. J-Flag are currently in the process of working for constitutional and other legislative changes and has made written submissions to the Joint Select Committee of the Houses of Parliament for the inclusion of ‘Sexual Orientation’ as a basis on which the Constitution of Jamaica prohibits discrimination. It maintains a library and archive of resource for academic research. [26b]
- 21.06 On the 16 February 2006, the *Jamaica Gleaner* noted “The Government said yesterday that it has no intention of decriminalising homosexuality in Jamaica. . .” The report noted “In a statement signed by Justice Minister Senator A.J. Nicholson yesterday [15 February 2006], the administration said there would be no reversal of the law that makes homosexual behaviour illegal.” Senator Nicholson was quoted as saying “There is no intention whatsoever on the part of the Government or the Joint Select Committee of Parliament that any door should be opened by provisions in the proposed Charter of Rights and Freedoms, or otherwise, to decriminalise homosexuality or to pave the way for same-sex marriages.” [34aq]
- 21.07 The *Jamaica Gleaner* reported on the 19 February 2006 that “While same-sex marriages are illegal in the country, homosexuals can form legal partnerships that give one surviving partner full rights to the other’s assets when he or she is dead.” [34u]

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## VIOLENCE AGAINST GAY MEN

- 21.08 The USSD Country Report 2005 noted that:
- “The Jamaica Forum for Lesbians, All Sexuals, and Gays (J-FLAG) continued to report allegations of human rights abuses, including police harassment, arbitrary detention, mob attacks, stabbings, harassment of homosexual patients by hospital and prison staff, and targeted shootings of homosexuals. Police often did not investigate such incidents. J-FLAG documented a number of instances of homophobic violence during the year, some of which resulted in charges brought to court, while others were never reported to authorities by reason of fear ... In December [2005] a homophobic mob allegedly chased homosexual Nokia Cowen off a pier at Kingston Harbor where he drowned. At year's end the police had not identified any suspects in the killing.” [8a] (Section 5)
- 21.09 In August 2005, two men were convicted of buggery and sentenced to two years’ imprisonment with hard labour, suspended for two years. During the

hearings, the two men faced insults from crowds gathered outside the courthouse. (Amnesty International 2006 Report) [9e]

- 21.10 A man had to be rescued by police on the Mona campus of the University of the West Indies (UWI), after he was beaten by students who accused him of being a homosexual. The police had to fire a warning shot into the air to ward off the students before taking the man to a police station to take a statement from him. (*The Jamaica Observer*, 5 April 2006) [36c] Constitutional lawyer and human rights advocate, Dr Lloyd Barnett, “rapped” the students who participated in the beating of the alleged gay man, describing their actions as “irrational”. (*The Jamaica Observer*, 7 April 2006) [36ar]
- 21.11 In November 2004, a Human Rights Watch report, entitled *Hated to Death: Homophobia, Violence and Jamaica’s HIV/AIDS Epidemic* noted that:
- “Violent acts against men who have sex with men are commonplace in Jamaica. Verbal and physical violence, ranging from beatings to brutal armed attacks to murder, are widespread. For many, there is no sanctuary from such abuse. Men who have sex with men and women who have sex with women reported being driven from their homes and their towns by neighbors who threatened to kill them if they remained, forcing them to abandon their possessions and leaving many homeless. The testimony of Vincent G., twenty-two, is typical of the accounts documented by Human Rights Watch: ‘I don’t live anywhere now.... Some guys in the area threatened me. Battyman, you have to leave. If you don’t leave, we’ll kill you.’ [59b] (p2)
- 21.12 Some dancehall artists have been accused of inciting violence against homosexuals through their music. The lyrics of some popular dancehall songs apparently encourage the killing of gay men, and concerts have been cancelled in Europe and the United States following protests over their ‘anti-gay’ lyrics. Following the death of gay activist Brian Williamson, members of a crowd gathered outside his house were heard to be singing lyrics from a well-known dancehall song by Buju Banton about shooting and burning gay men. Some commentators assert that dancehall music is a celebration of heterosexuality and that any homosexual content should be viewed within this context. (*The Guardian*, 27 April 2006) [20]

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### Availability of protection

- 21.13 The November 2004 HRW report also stated that “Victims of violence are often too scared to appeal to the police for protection. In some cases the police themselves harass and attack men they perceived to be homosexual. Police also actively support homophobic violence, fail to investigate complaints of abuse, and arrest and detain them based on their alleged homosexual conduct. In some cases, homophobic police violence is a catalyst for violence and serious – sometimes lethal – abuse by others.” [59b] (p2)
- 21.14 The November 2004 HRW report further mentioned that:
- “Jamaican health officials acknowledge that Jamaica’s sodomy laws make it difficult for them to work directly with men who have sex with men. As one



high-level health official told Human Rights Watch: 'We don't promote direct programs or services to MSM [men who have sex with men] as a group because the existing laws impede this work [and] because [of] the high-level of stigma and discrimination, they're not open to getting services through the public sector.' The police, however, actively impede government-supported peer HIV prevention efforts among men who have sex with men and also among sex workers. AIDS outreach workers reported that the very possession of condoms – a key tool in HIV prevention – triggers police harassment, and in some cases, arrest and criminal charges." [59b] (p4)

- 21.15 Responding to the above-mentioned November 2004 HRW report, the *Jamaica Gleaner*, dated 18 November 2004, reported that the:

"Government yesterday [17 November 2004] dismissed claims by the international body, Human Rights Watch, that the authorities have been soft on police abuses on homosexual males and persons affected by HIV/AIDS. 'We find the approach of this organisation unacceptably insensitive,' Information Minister Burchell Whiteman said in a statement issued to the media yesterday [17 November 2004]. 'We also as the duly elected representatives of the people feel that it is the people who must set our agenda in respect of the legislation which we pass or the repeal of any existing laws. We are currently not about to respond to any organisation, external to this country, which may want to dictate to us how and when to deal with the laws of our land,' said Senator Whiteman.... The international body also criticised the Government's stance on legislation (the buggery law) on homosexuality, which they say is a 'discriminatory legislation'." [34b]

- 21.16 The *Jamaica Gleaner*, dated 19 November 2004, also noted that the Police Federation also condemned the findings published in the November 2004 HRW report and called on the Minister of Justice to slap sedition charges on the body and local groups, which they say were slandering both the government and the police force. [34bh] The *Jamaica Gleaner*, dated 29 November 2004, noted that "While careful to point out that they were not advocating violence against gays, panellists at Saturday's [27 November 2004] 'Men on a Mission' conference in Montego Bay denounced homosexuality as a moral defect, saying it should not be sanctioned by the Church." [34as]

- 21.17 A Human Rights Watch document, dated 30 November 2004, stated that:

"Jamaican authorities should reject a police demand to press criminal charges against local human rights defenders who have criticized police abuses against gay men and people living with HIV/AIDS, Human Rights Watch said today [30 November 2004] in a letter to the Jamaican prime minister.... Five Jamaican human rights organizations – Families Against State Terrorism, the Independent Jamaica Council for Human Rights, Jamaica AIDS Support, Jamaicans for Justice, and Jamaican Forum for Lesbians, All-Sexuals, and Gays – all joined Human Rights in the launch of the report. The report led to furious denials by Jamaican government officials, who claimed that police abuse doesn't take place. Officials also defended Jamaica's sodomy laws, Victorian-era legislation introduced by Britain when it was the colonial power, as basic to the country's sovereignty and culture. However, Jamaica is party to the International Covenant on Civil and Political Rights, a treaty that prohibits discrimination on the basis of sexual orientation.... In an open letter to Prime

Minister P.J. Patterson, Human Rights Watch responded in detail to criticism by Jamaica's commissioner of police and by the head of the National AIDS Program. The Jamaican police should investigate allegations of homophobic abuse submitted to it months before, Human Rights Watch said." [59c]

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### Death of gay rights activist Brian Williamson

- 21.18 The USSD Country Report 2005 reported that "In June 2004 Brian Williamson, a prominent homosexual rights activist and founding member of J-FLAG, was found stabbed to death at his home in Kingston. Human rights groups believed that the brutality of Williamson's death indicated a hate crime, but the JCF maintained that the crime was a robbery. A suspect was remanded in custody at year's end awaiting trial." [8a] (Section 5)

- 21.19 An AI Press Release – AMR 38/010/2004, dated 10 June 2004 – 'Amnesty International mourns loss of leading human rights defender' stated that:

"Amnesty International today [10 June 2004] mourns the loss of Brian Williamson, brutally murdered on 9 June 2004, and urges that a thorough investigation be conducted into his death.... The police have concluded that the motive for the murder was robbery due to the reported removal of a safe. Amnesty International urges the investigating authorities to keep an open mind as to the motive behind this killing.... There remains a strong possibility that Brian Williamson's profile as a gay man and advocate of homosexual rights made him a target for those with homophobic views. The taking of money or other items may have been an afterthought by the perpetrators of the killing with the primary motivation for the murder being hatred to homosexuals." [9d]

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### Death of HIV/AIDS activist Steve Harvey

- 21.20 Mourning his death on the eve of World AIDS Day (30 November 2005), Human Rights Watch reported on 1 December 2005 on the murder of leading HIV/AIDS activist, Steve Harvey, who worked to defend the health and human rights of people living with and at high risk of HIV/AIDS. The report noted:

"Harvey, 30, was found dead early in the morning of November 30. According to Jamaican police, at least four assailants forced their way into Harvey's home when he returned from work around 1 a.m. They tied up Harvey and two people staying with him, stole a number of their possessions, and abducted Harvey in the company car. Harvey was found with gunshot wounds in his back and head in a rural area miles from his home. For more than a decade, Harvey was a leader in the struggle to defend the health and human rights of people living with and at high risk of HIV/AIDS. He worked with Jamaica AIDS Support since 1997, and represented the interests of marginalized people and people living with HIV/AIDS in Jamaica and throughout the region." [59d]

- 21.21 Reporting on Steve Harvey's death, a Christian Aid news article noted on 1 December 2005:

“He [Harvey] ran a programme providing support to gay men and sex workers. Three men, armed with guns, broke into Mr Harvey’s house and demanded money. They then forced him to carry valuables into the JASL car parked outside. One of the gun men was reported to have said to Mr Harvey and his two house-mates: ‘We hear that you are gay’. Two of the men denied it. They were tied up and left in the house. Steve was forced into the car which then sped away. Two hours later, he was found, shot dead.” [38]

21.22 The 2005 USSD Country Report noted:

“[that] At year’s end the police had a number of suspects under investigation. A senior JCF official familiar with the Harvey killing reported that the suspects were also linked to other similar robbery-murders whose victims were apparently heterosexual, and he cautioned against categorizing Harvey’s death as a hate crime pending further evidence. The JCF appointed political ombudsman Bishop Herro Blair as an independent civilian monitor to oversee the investigation.” [8a] (Section 5)

21.23 On the 9 December 2005, *The Jamaica Observer* reported “In an apparent first for Jamaica, the police are to appoint an independent monitor of their investigation of the murder of AIDS and gay rights activist Steven Harvey, and could do the same in future investigations of gay men believed to have been killed because of their sexual preferences, according to deputy police commissioner Mark Shields.” The report also noted “Shields is in charge of the crime portfolio. His decision to have a civilian review of how the police handle the Harvey case is a response to claims by Jamaican and international gay rights activists that the police have not been aggressive enough, not only in this investigation, but those involving crimes against gay men generally.” [36af]

21.24 The same article in *The Jamaica Observer* noted:

“[that] the United Nations body UNAIDS, in praising Harvey’s work on HIV/AIDS awareness, claimed confidence that the government would investigate his murder ‘to ensure that those who committed this hideous crime are brought to justice. UNAIDS reiterates its support for the strengthening of efforts by the Jamaican government to address homophobia and other causes of stigma and discrimination, which are fuelling the spread of AIDS, not only in Jamaica, but across the Caribbean,’ the agency said.” [36af]

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## LESBIANS

21.25 Gay women in Jamaica are at increased risk of discrimination and do not disclose their sexuality to people they do not know. They are not openly affectionate in public. Many lesbians reported being beaten and have endured threatened and actual sexual violence “to be taught a lesson”. (AI report *Sexual violence against women and girls in Jamaica*, 22 June 2006) [9b] (1b. The double bind – being a woman and gay)

21.26 In a letter to the Minister of National Security, Dr Peter Phillips, Human Rights Watch (HRW) expressed concern over the double murder of Candice Williams

and Phoebe Myrie on 29 June 2006, and the allegation that the women were lesbians. Police named the estranged partner of Candice Williams as the prime suspect for the murders, saying the apparent sexual orientation and relationship between the women was the likely motive for the crime. However, despite being encouraged by the increasing willingness of authorities to work with the LGBT community, the apparent lack of any further investigation or questioning on the murder has led advocates to express concerns to HRW about the level of police commitment to identifying and prosecuting the murderer. (HRW, Letter to Jamaican Minister of National Security, 27 July 2006) [59e]

21.27 The *Jamaica Gleaner*, dated 1 February 2005, reported that:

“A lesbian couple in Kingston is seeking to formalise their relationship, hoping to give each partner the rights and privileges usually offered to spouses and to long term partners in heterosexual relationships. However, Bert Samuels, an attorney at law says that any legal arrangements made by these women may not be recognised under law because homosexuality is illegal in Jamaica.... The couple, who have been together for two and a half years, is currently looking at wedding rings and said they will be having a formal ceremony – with an ordained minister, but not in a church, to mark their commitment to each other in April.” [34aa]

21.28 On the 3 September 2005, Women’s e News reported that local activists in Jamaica were noted as saying “[that] women who step outside social norms—by dressing ‘too manly’ or having few male visitors, for example—risk threats of verbal and physical abuse. Women have reportedly been raped, beaten, murdered and forced out of their homes or jobs simply for being lesbians.” [25]

21.29 The report stated that Michael Heflin, director of Amnesty International’s OUTfront program on lesbian, gay, bisexual and transgender human rights, claimed that attacks on lesbians were less visible than attacks on gay men. He was quoted as saying “Violence against lesbian and bisexual women happens more often in a more private sphere. It’s what we’ve seen in other countries as well, although particularly acute in Jamaica.” The report further noted that “Men often get attacked in a more public way with crowds present and even participating while women are more likely to suffer assaults in their homes or neighborhoods.” [25]

21.30 The same article noted that Karlene, co-chair of J-FLAG, recounted the story of a woman who was murdered in the community where she was born by people she’d known all her life after they discovered her sexuality. She stated “The guys decided the lesbian can’t stay here. They worried she was going to infect the young people and the ladies around her. After they raped her, they murdered her.” [25]

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## DISABILITY

22.01 As reported in the USSD Country Report 2005:

“There were no laws prohibiting discrimination against persons with disabilities, nor any laws mandating accessibility for persons with disabilities, and such persons encountered discrimination in employment and denial of access to schools. Health care and other state services were reported to be universally available. Several government agencies and NGOs provided services and employment to various groups of persons with disabilities, but there was no government agency specifically charged with assisting persons with disabilities.” [8a] (Section 5)

22.02 *The Jamaica Observer*, dated 19 July 2005, noted that “Citing high levels of unemployed disabled persons living in Jamaica, labour officials are calling on the private sector to employ more persons with disabilities. Presently, there are approximately 250,000 disabled persons living in Jamaica, less than one per cent of whom are gainfully employed. The majority of those with jobs work in the public sector.” [36ac]

22.03 On 2 November 2005, the Jamaica Information Service reported on the launch of Skills For a Life, an HIV/AIDS and sexual education programme for young people with learning disabilities. The programme is geared towards providing information on HIV/AIDS, relationships, sex and sexuality, safer sex choices and decision making. [24h]

(See also Section 26.12: [HIV/AIDS](#))

22.04 The *Jamaica Gleaner* reported on 23 December 2005 the long-awaited legislation to protect the rights of the disabled was to be drafted in 2006. Ransford Wright, Executive Director of the Jamaica Council for Persons with Disabilities said that the legislation would not solve all the problems but there would be some recourse in place for people who felt they were being discriminated against. [34bq]

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## WOMEN

### LEGAL RIGHTS

23.01 Chapter three of the Jamaica Constitution (1962) states “[that] every person in Jamaica is entitled to the fundamental rights and freedoms of the individual, that is to say, has the right, whatever his race, place of origin, political opinions, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following, namely:

- life, liberty, security of the person, the enjoyment of property and the protection of the law;
- freedom of conscience, of expression and of peaceful assembly and association; and
- respect for his private and family life, the subsequent provisions of this Chapter shall have effect for the purpose of affording protection to the aforesaid rights and freedoms, subject to such limitations of that

protection as are contained in those provisions being limitations designed to ensure that the enjoyment of the said rights and freedoms by any individual does not prejudice the rights and freedoms of others or the public interest.” [2] (Section 13)

23.02 The International Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) was ratified by Jamaica in 1981. The Convention:

- Affirms women’s rights to full participation in the political and public life of the nation and guarantees women the rights to vote, to hold public office and to exercise public functions.
- Affirms women’s right to non-discrimination in education, employment and economic and social activities.
- Asserts the full equality of women in civil and business matters.
- Asserts the equal rights and obligations of women and men with regard to choice of spouse, parenthood, personal rights and command over property. (IJCHR, Women and Human Rights, accessed 11 July 2006) [31b]

23.03 In cases of uncorroborated sexual assault, judges are required to issue a ‘warning’, which states “Madam foreman and members of the jury as this is a case of rape (sexual violence) the law requires me to give you a warning in such cases. The laws says that in these types of cases it is desirable that there should be corroboration...This warning is necessary because experience has shown that women and young girls often tell lies and for that reason the law requires independent evidence. However, if there is no corroboration and you believe that the complainant is telling the truth and bearing the warning in mind you can proceed to act on her evidence even if there is no corroboration.” (AI report, *Sexual violence against women and girls in Jamaica*, 22 June 2006) [9b] (4d, The Judicial response)

(See Section 11.08: [Fair trial](#))

23.04 There was an active community of women’s rights groups, including Women’s Media Watch, the Women’s Political Caucus, the St Peter Claver Women’s Housing Cooperative, the Women’s Construction Collective, the Sistren Theatre Collective, Woman Inc., and the Centre for Gender and Development Studies at the University of the West Indies. Among the major concerns of these groups were the protection of victims of sexual abuse, participation of women in the political process, and legislative reforms affecting women. (USSD 2005 Country Report) [8a] (Section 5, Women)

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## POLITICAL RIGHTS

23.05 Women remain significantly under-represented in politics. In 2005, women made up only seven per cent of mayors...However, despite this lack of representation, Portia Simpson Miller was sworn in as Prime Minister on 30 March 2006, after being elected President of the ruling party. (AI report,



*Sexual violence against women and girls in Jamaica*, 22 June 2006) [9b] There were seven women in the 60-seat House of Representatives, and five women in the 21-seat Senate. Three of the 17 cabinet members were women. (USSD 2005 Country Report) [8a] (Section 2d)

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## SOCIAL AND ECONOMIC RIGHTS

23.06 The USSD 2005 Country Report stated that:

“Although the law accords women full legal equality including equal pay for equal work, in practice women suffered from discrimination in the workplace and often earned less than their male counterparts. The Bureau of Women’s Affairs, reporting to the Minister of Development, oversaw programs to protect the legal rights of women. These programs had limited effect but raised the awareness of problems affecting women.” [8a] (Section 5, Women)

23.07 AI’s report, *Sexual violence against women and girls in Jamaica*, dated 22 June 2006, stated:

“Universities have a high percentage of women enrolled – they made up 73 per cent of the higher education student body in 1997. In Jamaica this means that despite a high number of female graduates, women hold only 10 per cent of senior positions in the public and private sectors. This means that ‘women’s higher levels of educational achievement have not translated in the short run into commensurate levels of income, responsibility or status in the economy or broadly in that society’.” [9b] (1c, Women in power)

23.08 The Offences Against the Persons Act criminalises abortion, despite the existence of a policy which appears to allow abortion in cases of sexual assault or where the mother is at physical or mental risk. However, the reality is that safe abortion is unavailable and the before mentioned policy has never been clarified legally. There are no known clinics that provide legal termination services for women. (AI report, *Sexual violence against women and girls in Jamaica*, 22 June 2006) [9b] (3, Reproductive health – unintended pregnancies and unsafe abortions)

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## VIOLENCE AGAINST WOMEN

23.09 Amnesty International’s report, *Sexual violence against women and girls in Jamaica*, published on 22 June 2006, noted:

“Violence against women in Jamaica persists because the state is failing to tackle discrimination against women, allowing social and cultural attitudes which encourage discrimination and violence. This violates the government’s most basic treaty obligations under the UN Convention for the Elimination of Violence against Women (CEDAW), among others. Shortcomings in national legislation do not deal adequately with marital rape, incest or sexual harassment, thereby encouraging impunity and leaving women without the protection of the law.

“Discrimination is entrenched and often exacerbated in the police and criminal justice system. Women and adolescent girls are rarely believed by the police, so have little confidence in reporting crimes against them. Evidence is often not sought effectively or professionally, and witnesses are rarely protected. In court, women’s testimony is explicitly given less weight than men’s, thereby depriving women of the right to equality before the law.”

(See also Section 23.01: [Women – Legal rights](#))

23.10 The same AI report noted:

“In Jamaica, entrenched discrimination against women means many individuals fail to appreciate that forced sex carried out by an acquaintance or family member is a serious crime. The rate of sexual violence against women in Jamaica is very high, and is accompanied by spiralling levels of community violence and homicide throughout the island. Sexual assault is the second-most-common cause of injury for women, after fights. Five per cent of all violent injuries seen in hospitals are caused by sexual assaults.”  
[9b] (Introduction – Sexual violence in Jamaica)

23.11 There is no legislation that addressed sexual harassment. There were reports of sexual harassment of women by the police, but some observers believed that women did not often report such incidents because there was no legal remedy. Parliament had not yet passed legislation relating to sexual harassment called for by CEDAW. (USSD 2005 Country Report) [8a] (Section 5, Women) However, a draft proposal for a law against sexual harassment is being circulated. (AI, *Sexual violence against women and girls*, 22 June 2006) [9b] (5, The inadequacy of national legislation)

23.12 The Senate is seeking to reform laws on rape, incest and other sexual offences. Minister of Justice and Attorney General, Senator A.J. Nicholson, outlined the intended amendments to the Offences Against the Person (Amendment) Act. The Act, which currently governs the law on rape, would provide a statutory definition of rape and a definition of sexual intercourse to make rape a non-gender specific offence. The Act would also address marital rape. (Jamaica Information Service, 24 July 2006) [24b]

23.13 The USSD 2005 report noted that:

“Rape, including spousal rape, was illegal and carried a penalty of up to 25 years’ imprisonment with hard labor. During the year [2005], 735 incidents of rape were reported (not including statutory rape), a decrease of 15 percent, but NVOs stressed that the vast majority of rapes were not reported. Moreover, these statistics may be misleading because often a significant decrease may be due to decreased reporting indicative of a lack of confidence in the police. The JCF rape investigative and juvenile unit, which was headed by a female deputy superintendent, handled sex crimes... Several women’s groups, including Women’s Media Watch, applauded the December ratification by parliament of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women.” [8a] (Section 5, Women)

23.14 In the first ten months of 2005, 16 per cent of reported rapes were committed at gunpoint. Reprisal crime, including sexual violence, is a growing phenomenon connected to perceived or actual informing the police of criminal activity, a personal or familial vendetta, or a form of political tribalism. (AI report, *Sexual violence against women and girls in Jamaica*, 22 June 2006) [9b] (Guns, gangs and rising levels of violence)

23.15 Amnesty International's 2006 Report stated that marital rape was not a criminal offence. The report also noted that despite the special units set up to work with sexual assault victims, routine investigations of sexual assaults were reported to be inadequate, and police investigations were often returned to the regular constabulary. [9e]

(See Section 23.20: Domestic violence and 23.23: Support for abused women)

23.16 The Independent Jamaica Council for Human Rights (1998) Limited (IJCHR) website noted that the following are criminal offences:

- To assault, injure or wound a spouse or partner.
- To threaten and put a person in fear.
- To rape and force a woman to have sexual relations against her will.
- To destroy property.

There also exists a number of institutions in Jamaica with responsibility for ensuring the equal rights of men and women. [31b]

23.17 According to statistics from the Police Commissioner's office, one woman is raped every twelve hours in Jamaica. The statistics show that up to 23 October 2005, there were 606 reported cases of rape. (*Jamaica Gleaner*, 30 October 2005) [34a]

23.18 On 8 January 2006, the *Jamaica Gleaner* reported "Several women's organisations have lauded the Jamaican Government for ratifying a convention which will aim to eliminate the incidence of violence against women. Jamaica ratified the 'Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women, Convention of Belem do Para' last December [2004]." The report noted that Candis Hamilton, a consultant with the Inter-American Commission on Human Rights, said that Jamaica's ratification of the convention was significant as it will give women the opportunity to defend their rights if they have been violated. [34ak]

23.19 The *Jamaica Gleaner* also reported on 8 January 2006 that following Jamaica's ratification of the 'Convention of Belem do Para', "Public and private employers in Jamaica representing more than 800,000 workers and all educational institutions can be held responsible for all incidents of sexual harassment perpetrated against women." The report noted that:

"According to Article 2b of the convention, 'Violence against women shall be understood to include physical, sexual and psychological violence that occurs in the community and is perpetrated by any person, including, among others, rape, sexual abuse, torture, trafficking in persons, forced prostitution, kidnapping and sexual harassment in the workplace, as well as in educational institutions, health facilities or any other place.'" [34al]

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## Domestic violence

- 23.20 On December 7 [2004], Parliament passed the Domestic Violence (Amendment) Act 2004. The bill provides for the widening of the categories of persons who may apply for a protection order, to include any person who resides in the respondent's household or who is in a visiting relationship with the respondent. The bill also provides for applications for protection orders to be made by a constable or a person who is given leave to apply by the Court on behalf of a spouse, or other member of the respondent's household or a person who is in a visiting relationship with the respondent, upon the written consent of that person. The bill also provides for maintenance orders to be made in conjunction with protection and occupation orders. [61] A copy of the Domestic Violence Act (1995) is annexed as source [60]
- 23.21 The law provides remedies for domestic violence, including restraining orders and other non-custodial sentencing. Breaching a restraining order is punishable by a fine of up to approximately \$166 (J\$10 thousand) and six months' imprisonment. Social and cultural traditions perpetuate violence against women, including spousal abuse. Violence against women was widespread, but many women were reluctant to acknowledge or report abusive behavior, leading to wide variations in estimates of its extent. There was a general reluctance by the police to become involved in domestic issues, which may not be pursued vigorously when reported. The government's Bureau of Women's Affairs operated crisis hot lines and shelters and managed a public education campaign to raise the profile of domestic violence. (USSD 2005 Country Report) [8a] (Section 5, Women)
- 23.22 Between 1997 and 2002, almost a third of total murders in Jamaica were attributed to domestic violence, yet it is estimated that only ten per cent of women who are battered report the abuse. (AI, *Sexual violence against women and girls*, 22 June 2006) [9b] (Sexual violence in the home)

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## Support for abused women

- 23.23 *The Jamaica Observer* reported on 5 October 2005 on Woman Inc's launching of a \$1.9 million project to extend the organisation's reach into communities across Jamaica to assist and support abused women. Funded by the Canadian Gender Equity Fund and due to run until February 2006, the so-called 'Woman Inc Crisis Centre and the Community in Action' initiatives include:
- the provision of community-based counselling for women in need;
  - the establishment of a support group for the survivors of rape, incest, and domestic violence;
  - the upgrade of their hotline counselling service through the introduction of volunteers to new counselling techniques; and
  - the organisation of seminars through churches and other non-government organisations in St Catherine and the Kingston Metropolitan Area. [36aj]

23.24 *The Jamaica Observer* also noted that other services provided by Woman Inc include a crisis shelter, a 24-hour hotline, a public education programme and a legal reform committee that lobbies for legislative change. [36a]]

23.25 On the 8 January 2006, the *Jamaica Gleaner* noted:

“The Jamaican Government will be forced to build shelters for battered women in 2006, following the signing of an International Convention in December to protect women’s rights. Under Article Eight of The Convention on the Prevention of Punishment and Eradication of Violence Against Women (or the Convention of Belem do Para), Government will be obliged to provide these services. Currently, there are no Government-owned shelters in Jamaica for battered women, and women’s groups have consistently criticised the Government for the lack of these facilities.” [34am]

23.26 The same article noted that:

“Woman Incorporated (Woman Inc.), a non-governmental organisation (NGO), is the only established shelter in the island for battered women. In September, public education coordinator of that NGO, Joyce Hewett, told *The Gleaner*, despite promises from the Government to build shelters in every parish, none has been erected. The promise was then made under the Convention on the Elimination of all Forms of Discrimination Against Women and Violence Against Women (CEDAW) in 1988.” [34am] AI noted that as of September 2005, there was only one shelter with a 12 bed capacity on the island [9b] (Healing the Nation: 15 recommendations)

23.27 The Centre for Sexual Offences and Child Abuse (CISOCA) was set up by the Jamaica Constabulary Force in 1989. Centres have been established across the island and are located in the central police station for each parish. Staff members have received special training in dealing with survivors of sexual assault. However, the investigating officer is usually a police officer from the region in which the crime was committed, who may not have received specialist training in sexual assault investigations. The clear-up rate for sexual assaults was low. (AI, *Sexual violence against women and girls*, 22 June 2006) [9b] (4b, The Centre for Sexual Offences and Child Abuse)

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## CHILDREN

### GENERAL INFORMATION

24.01 The age requirement for voting is 18 years. The age of consent for marriage is also 18 years old, or 16 years with permission from parents. (Interpol, National laws – Jamaica, accessed 9 August 2006) [3] The Child Care and Protection Act defines a child as anyone up to the age of 18 years. The age of sexual consent is 16 years. (Jamaica Information Service, 23 November 2004) [24e]

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## EDUCATION

- 24.02 The Europa Regional Survey 2005 noted that primary education was compulsory in certain districts, and free education was ensured. The education system consists of a primary cycle of six years, followed by secondary cycles of three and four years, respectively. [1] (p571)
- 24.03 The USSD 2005 Country Report on Jamaica noted:
- “The Government was committed to improving children’s welfare. The Ministry of Education, Youth, and Culture was responsible for implementation of the Government’s programs for children. Public primary education was free, universal, and compulsory for students between the ages of 6 and 11, and the Ministry of Education reported that 99 percent of children in that age group were enrolled in school. However, economic circumstances obliged thousands of children to stay home to help with housework and avoid school fees. As a result, attendance rates at primary schools averaged 78 percent, although some rural areas reported attendance as low as 50 percent. More than 70 percent of children between the ages of 12 and 16 had access to secondary school, and the UN Children’s Fund reported that most children completed secondary education. A National Task Force on Education continued its review of the educational system and at year’s end was working on suggested methods for improvement.” [8a] (Section 5)
- 24.04 The Task Force on Educational Reform report 2004 on Jamaica, entitled ‘A Transformed Education System’, noted that “The education system caters to approximately 800,000 students in public and private institutions at the early childhood, primary, secondary and tertiary levels. Over 22,000 teachers are employed in 1,000 public institutions. Only 20% of teachers are trained university graduates. The Government currently spends over \$30 billion on education, with households estimated to spend an additional \$19 billion.” [19] (p9)
- 24.05 The same 2004 Task Force report stated that “Despite high enrolment rates, significant curriculum reform and other efforts, performance at all levels of the system has been well below target as measured by student scores on national and regional assessments and performance in relation to the critical minimum targets set out in the White Paper of February 2001.” [19] (p10)
- 24.06 According to the report “There are marked differences in the performance of boys and girls throughout the education system, with girls ‘outperforming’ boys consistently except in CSEC Mathematics.” [19] (p56)
- 24.07 The *Jamaica Gleaner* reported on 10 November 2005 how Dr Donald Rhodd, Minister of State in the Ministry of Education, Youth and Culture, outlined stark statistics regarding the state of Jamaica’s school population. Extracted from the National Youth Policy, the statistics showed the high levels of violence and anti-social behaviour displayed by students, including:
- 15 per cent of students aged 10 to 18 carry weapons to school.
  - 14 per cent of boys have been stabbed or shot in a fight.
  - 15 per cent of girls have been stabbed or shot in a fight.
  - One in six adolescents belonged to a gang at some point in their youth.
  - One in 10 youths is sexually abused.
  - Youths are arrested, jailed and murdered at twice the rate of the general population. [34ap]



24.08 The article also noted the figures on drug usage as being:

- 29 per cent of students use alcohol
- 11 per cent use ganja
- 10 per cent use inhalants
- Five per cent use tobacco [34ap]

24.09 The *Jamaica Gleaner*, dated 29 January 2006, noted that following a sharp increase in violence in Jamaica's schools, the Government is considering installing surveillance cameras. The report noted:

"Just last week, classes were suspended at the Cedric Titus High School in Trelawny due to growing tension among residents of Clark's Town and Falmouth since the stabbing death of an eleventh grade student. The following day, teachers and students at the Eltham Basic School in St. Catherine were traumatised by a daring daylight robbery at the institution. Then, teachers at the Boscobel Primary School in St. Mary demanded tighter security following death threats against two of their colleagues." [34an]

24.10 The Jamaica Information Service reported on 1 November 2005 on Government Senator Floyd Morris proposal that both parents and operators of early childhood institutions should strive to ensure that disabled children received proper exposure to education. The report noted that Senator Morris stated "[that] the best scenario for children with disabilities would be for their integration with 'what you would regard as normal children in the education system'." [24i]

(See also Section 22.01: [Disability](#))

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## CHILD CARE

24.11 There are a number of both government and privately owned children homes and places of safety across Jamaica, which are managed and supervised by the Child Development Agency (CDA). The CDA listed 11 Places of Safety and 46 Children Homes. (CDA, Residential Child Care Facilities, accessed 22 August 2006) [58] In 2005, there were 2,572 children living in residential institutions. In addition, 274 children were living in correctional institutions. (UNICEF *Situation Analysis on Excluded Children in Jamaica*, March 2006) [10a]

24.12 The Jamaicans for Justice website's undated Report on Abuse in Children's Homes and Places of Safety, accessed on 22 February 2005, noted that:

"Children's Homes are established for the accommodation and maintenance of children for period up to 18 years. The Place of Safety is intended to accommodate the juvenile on a temporary basis. Children's Homes may be provided by voluntary organizations or by the government and administered by the Children's Services/Child Development Agency. A valid licence has to be granted by the responsible Minister before a Children's Home can be established or maintained. The licence may contain such terms and conditions

as the responsible Minister, now the Minister of Health, at his discretion, thinks fit.” [50c] (p14)

- 24.13 As mentioned in a letter from the Ministry of Health, Children Services Division, Kingston, dated 17 February 2003:

“If a child has to be returned to Jamaica efforts would be made to identify relatives who would be willing and able to care for him. If there were no relatives, and the child has to be returned to Jamaica, this Division [Child Services Division] would meet him/her at the airport and arrange for reception in care of the State. The case would be referred to the Juvenile/Family Court for an order (Fit Person Order) to allow for alternate placement. The child would automatically gain entrance into an Educational Institution/School on their return.” [40b]

- 24.14 The above-mentioned Jamaicans for Justice website’s undated Report on Abuse in Children’s Homes and Places of Safety, accessed on 22 February 2005, also noted that:

“The number of Care and Support staff varies significantly primarily as a result of the size and numbers of children in each home. There is no consistent relationship to establish whether a standard ratio of caregiver to children has been established. One home employs up to 91 persons on the care staff, of which 56 are full time workers, at the other end of the spectrum one has 2 persons employed on a full-time basis. The home employ an average of 7 full-time support staff, although the number for each home varies significantly, with one home having up to 36 support workers and three homes having three (3) support workers.” [50c] (p57)

- 24.15 The *Jamaica Gleaner*, dated 27 February 2005, noted that:

“Many Jamaicans are ignorant of the existence of the Child Care and Protection Act (CCPA), which facilitates the prosecution of parents who deliberately neglect their children. The act reaffirms that children are the subjects of rights and that collectively, individuals, families, communities, institutions and the government are duty-bound to ensure that these rights are promoted, protected and upheld. Under the act, it is mandatory that persons with information of neglect or abuse of children report such situations to the relevant authorities. It also places a duty on every person responsible for the maintenance of a child to provide the child with adequate food, clothing, lodging and health care appropriate to the age and needs of the child. Section 28 of the act states that ‘Every person having the custody, charge or care of a child between the ages of four and 16 years shall take such steps as are necessary to ensure that the child is enrolled at, and attends, school’. ...If a person is financially unable to provide for a child, the law states that the person can apply to the Minister (of Education) for assistance. However, ignorance is never an acceptable excuse for breaching the law. Still, upon being enlightened about some of the core clauses in the CCPA, many persons with whom The Sunday Gleaner spoke expressed reservation in contacting the authorities if they were aware of a case where a breach of the CCPA was occurring.” [34bb]

- 24.16 Allison Anderson of the Child Development Agency (CDA) noted that 60,000 persons had approached the CDA, part of the Ministry of Health, for various

forms of assistance. St Catherine, with 15,000 cases, leads the 14 parishes with the number of complaints. Although Kingston and St Andrew are the epicentre of violence in Jamaica, the CDA reports that rural parishes such as St Thomas, St Catherine, Trelawny, St James and Hanover, also have high levels of crime against children. (*Jamaica Gleaner*, 16 October 2005) [34bc]

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## ADOPTION

- 24.17 In a guide to international adoption, the US Department of State Bureau of Consular Affairs noted on Jamaica that:

“The government office responsible for adoptions in Jamaica is the Jamaican Adoption Board. Single individuals or married couples may adopt children in Jamaica. Those persons not related to the potential adopted child must be age 25 years or older. If the child is a brother, sister, niece or nephew of the prospective adoptive parent(s), the age limit is 18. The Adoption Board does not have any specified medical ineligibilities, but evaluates each potential adoption on a case-by-case basis. A medical condition of the adoptive parents may factor into this evaluation.” [8e]

- 24.18 The guide noted that “There are two types of adoption in Jamaica: Adoption Orders and Adoption Licenses. Adoption Orders provide for the orphan to be adopted in Jamaica. Adoption Licenses allow for a Jamaican citizen orphan to be taken to a ‘scheduled country’ and adopted there.” [8e] The Department of Health’s guide to adoption in Jamaica noted that the United States, Sweden, Denmark and all Commonwealth countries are ‘scheduled countries’. [30]

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## HEALTH ISSUES

- 24.19 UNICEF’s Background on Jamaica, accessed 10 August 2006, noted:

“Jamaica has made impressive strides to provide most of its children with access to health, nutrition, education and social services. . . The incidence of poverty is declining. However, almost one of every two Jamaicans who live in poverty is a child, while only 37 per cent of Jamaicans are children. Although children are given a high priority in the development of national policies and plans, resource allocations are not commensurate with objectives.” [10b]

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## VIOLENCE AGAINST CHILDREN

- 24.20 The USSD 2005 Country Report on Human Rights Practices in Jamaica noted:

“There was no societal pattern of abuse of children; however, there were numerous reports of rape and incest, particularly in inner cities. NGOs reported that inner city gang leaders and sometimes even fathers initiated sex

with young girls as a 'right'. There were 333 cases of carnal abuse reported, a 19 percent decrease over the same period in 2004. The government expressed concern about child abuse and acknowledged that incidents were underreported. The Child Development Agency (CDA) held training sessions to familiarize police officers with the rights of children and to prepare them to enforce the Child Care and Protection Act." [8a] (Section 5)

- 24.21 Violence and abuse are some of the serious problems that children face in Jamaica. In 2005, 91 children were murdered. Reports of sexual abuse of children were common. (UNICEF, Background on Jamaica, accessed 10 August 2005) [10b] There were 367 cases of rape and 346 cases of carnal abuse reported in 2005. (UNICEF, *Situation Analysis on Excluded Children in Jamaica*, March 2006) [10a] (Children caught in violence) In 2004, 70 per cent of all reported sexual assaults were recorded against girls, rather than women. (AI, *Sexual violence against women and girls*, 22 June 2006) [9b] (Girls)
- 24.22 Hospital reports for 2005 showed that at least 1,241 children, aged under one year to nine, were treated for physical injury caused by blunt instruments in accident and emergency units. The Ministry of Health stated that approximately 60 per cent of these injuries were perpetrated by adults, most of them carers. (*Jamaica Gleaner*, 13 August 2006) [34ag]

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## TRAFFICKING

- 25.01 The 2006 USSD Trafficking in Persons Report placed Jamaica on a Tier Two Watch list, an improvement from the previous year's Tier Three. The report noted that following Jamaica's Tier Three placement, the Government was making significant efforts to address trafficking, although it does not fully comply with the minimum standards for the elimination of trafficking. The report stated: "Jamaica is a source country for men, women, and children trafficked for the purposes of sexual exploitation and labor. Information from international organizations and embassies working in Jamaica suggests that women from the Dominican Republic and Eastern Europe are trafficked to Jamaica for sexual exploitation. Women and children are also internally trafficked from rural to urban and tourist areas for sexual exploitation." [8d]
- 25.02 The Jamaican Government increased efforts to investigate trafficking crimes although this resulted in limited progress. Jamaica has specific laws against trafficking in children, such as the 'Child Care and Protection Act 2004', but no laws addressing trafficking in adults. However, the 'Offences Against the Person Act' can be used to prosecute individuals for trafficking, in relation to commercial sexual exploitation. (2006 USSD Trafficking in Persons Report) [8d]
- 25.03 The Child Care and Protection Act prohibits the sale or trafficking of minors and provides that violators receive the maximum penalty under the law. The law subjected convicted traffickers to a fine or imprisonment with hard labour for a term not exceeding 10 years, or both. It also provides that no person under the age of 18 years may be employed in a night club. (USSD 2005 Country Report on Human Rights Practices) [8a] (Section 5)

25.04 The USSD 2006 Trafficking in Persons Report noted that:

“During the reporting period [April 2005 – March 2006], the government created a police unit, staffed by six officers in the Jamaica Constabulary Force to enforce Jamaica’s anti-trafficking and related laws. To date, there have been a number of raids and arrests, but no convictions under the Child Care and Protection Act. There have been some related convictions under other laws, including the Spirit Licensing Act and also some reported immigration code violations. There are at least six cases currently under investigation. The government also temporarily suspended work permits for foreign exotic dancers, some of whom are victims of trafficking. The Ministry of Labor is currently working on procedures to monitor individuals granted an exotic dancer permit, to ensure they are not being abused. However, despite some progress on law enforcement, official corruption remains endemic. Law enforcement efforts are also hampered by a lack of resources, personnel, and trafficking awareness.” [8d]

25.05 On the protection of trafficking victims, the government’s efforts remained inadequate, partly affected by resource constraints. Child trafficking victims may be referred to shelters operating throughout the island although there were no such provisions for adult trafficking victims. However, the government had on occasions placed adult trafficking victims in hotels and other temporary facilities. There is no formalised referral system for victims once they are identified and overall victim protection efforts are ad hoc. (2006 Trafficking in Persons Report) [8d]

25.06 On 1 September 2005, The Jamaica Information Service reported on a public forum held on 30 August 2005 on human trafficking, which was geared towards increasing public awareness of the grave threats human trafficking presented to Jamaicans, especially woman and children. Speaking at the forum, National Security Minister, Dr Peter Phillips, stated “Jamaica has pledged to protect its citizens against such practices. We made this commitment when we signed the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children, supplementing the United Nations Convention against Transitional Organized Crime.” [24i]

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## MEDICAL ISSUES

26.01 The Pan American Health Organization (PAHO), in its 2002 country profile of Jamaica, stated that “The health system offers primary, secondary and tertiary care .... Secondary and tertiary care are offered via 23 government hospitals and the teaching hospital of the University of the West Indies, with a combined capacity of 4,802 beds.” [42] (p5)

26.02 The same PAHO country profile stated that “Jamaica has a national formulary; a vital, essential, and necessary drug list, and policies relating to the use of generic drugs. Training programs have not been able to meet the demand for health personnel except in the area of medical doctors, dental nurses, and community health aides.” [42] (p5)

- 26.03 The Jamaica Information Service, Ministry of Health, accessed 19 January 2006, noted:

“Over the past three years, the Ministry has undertaken a comprehensive rationalisation/re-organisation of the health service. The management and delivery of health services have been de-centralised to four statutory regional Health Authorities covering the island. Under the new status, the Ministry’s two largest programmes: Primary, and Secondary and Tertiary Health Care have been integrated into a new programme – Health Service Delivery. It is expected that regional management will improve the quality of health care with more efficient use of resources and timely decision-making.” [24d]

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## OVERVIEW OF AVAILABILITY OF MEDICAL TREATMENT AND DRUGS

- 26.04 *The Jamaica Observer*, dated 9 March 2004, reported that on 8 March 2004 the University Hospital of the West Indies (UHWI) opened its newly refurbished \$4-million obstetrics and gynaecology ward. The Chief Executive Officer Stephannie Reid immediately announced plans to upgrade the accident and emergency department and build a new operating theatre and intensive care unit. [36o]
- 26.05 *The Jamaica Gleaner*, dated 19 October 2004, noted that two surgical machines had been donated to Port Antonio Hospital. One of the machines was an electro surgical machine designed for the operating theatre and is used for containing blood loss during surgery. The other machine was a diathermy X-ray processing machine, which would speed up X-ray scans, normally done manually. [34bg]
- 26.06 *The Jamaica Observer*, dated 7 June 2005, noted that:
- “A tonometer – eye equipment used in the diagnosis of glaucoma – is to be handed over to the eye clinic at the Princess Margaret Hospital in St Thomas. The equipment has been donated by two Canadian optometrists, Dr Victor Obasuyi and Dr Modupe Oladeji in Toronto, Canada, and handed over to the Canadian Friends of St Thomas Healthcare.... Many Jamaicans are stricken with glaucoma each year, a disease which slowly damages the optic nerve without warning and often without symptoms, leading to gradual loss of vision and total blindness, over time. Loss of vision from glaucoma is irreversible.” [36ae]
- 26.07 On 3 February 2005, the *Jamaica Gleaner* reported that the Spanish Town Hospital had received a major boost to its capacity to care for premature babies. Three incubators, medicines, gloves and other surgical items were donated to the Neonatal Unit. [34be]
- 26.08 According to the website of the Bustamante Hospital for Children, accessed 7 August 2003, “Since its inception, Bustamante Hospital for Children remains the only specialist pediatric facility in the English-speaking Caribbean. As such, being a major referral institution committed to the care and well being of children from birth to twelve years old, our patient population is drawn from the



entire island of Jamaica and occasionally other countries within the region.” [14] (p2-3)

26.09 The same Bustamante Hospital website noted that:

“Today, a comprehensive range of diagnostic, preventative, curative and rehabilitative services are offered in pediatric medical, surgical specialties and subspecialties. An Intensive Care Unit provides critical care service to critically ill patients. The Accident and Emergency Department operates on a twenty-four hour basis throughout the year. In addition, specialist clinics are held five days per week in the Outpatient Department. The hospital has a total bed compliment of two hundred and ninety-two (292), distributed in ten wards and the Intensive Care Unit.” [14] (p2-3)

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## THE NATIONAL HEALTH INSURANCE PROGRAMME (NHIP)

26.10 The key features of the National Health Insurance Programme (NHIP) are:

- Universal Coverage – The National Health Insurance Programme will provide guaranteed access to the package of health services for all residents regardless of age or health condition;
- Service Package – The NHIP will cover a service benefit package – the Standard Benefit Package – consisting of inpatient care, laboratory and diagnostic tests and pharmaceuticals. Other services will be included in later years if deemed necessary and affordable;
- Mandatory Health Insurance – The NHIP will be mandatory, that is, everyone will be required to have (purchase) health insurance for the Standard Benefit Package. The government will be responsible for insuring the medically indigent; and uninsured persons will be required to meet the full cost of health care;
- Choice of Insurer – Health insurance for the Standard Benefit Package can be bought either from a public health insurance agency (to be established) or from competing health insurance carriers;
- Choice of Service Provider – Services in the Package will be available in public and private health facilities;
- Catastrophic Care – A Catastrophic Care Fund for very costly and sophisticated services will be established with resources coming from health insurance premiums and other sources;
- Management – The NHIP will be administered by a broadbased independent and non-profit body, the Health Insurance Commission, which will be subjected to clearly defined performance and accountability requirements. [46] (p1-2)

26.11 An undated National Health Insurance Plan Green Paper (NHIP Green paper) noted that:

“The National Health Insurance Plan (NHIP) is a contributory health financing plan aimed at covering all residents of Jamaica for a stipulated package of medically necessary services. It is designed to assist individuals and families in meeting the high costs of health care without suffering financial distress and to provide dedicated resources for enhancing the availability and quality of

health services. It is a critical component of the overall Health Reform Programme currently being implemented to improve the delivery, management and financing of health services.” [46] (p1-2)

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## HIV/AIDS

- 26.12 UNAIDS, accessed on 22 February 2006, reported that at the end of 2003, an estimated 22,000 adults and children were living with HIV in Jamaica, 10,000 of those being women. The report further noted that in 2003 there were 900 AIDS- related deaths. [55a] The cumulative total of reported AIDS cases between 1982 and June 2005 was 9,682. 655 AIDS-related deaths were reported in 2004. (Jamaica UNGASS Report, published May 2006) [55b] (p24)
- 26.13 *The Jamaica Observer* noted on 3 December 2005 that 13 cases of AIDS in children under 10 years old were reported between January and March 2005, compared to 18 in 2004. The report noted that there were five paediatric AIDS deaths in 2005, compared to eight in 2004. The decrease has been attributed to the improvement in care and treatment for HIV-infected children and decrease in mother-to-child transmission of HIV. [36r]
- 26.14 The *Jamaica Gleaner* reported on 15 February 2006 that “Health Minister John Junor says if Jamaica is to achieve Universal Access in HIV/AIDS treatment, care and support by 2010, all sexually-active persons will have to be tested to determine their status. According to Mr. Junor, an estimated 20,000 people are living with HIV/AIDS, and of that total, approximately 15,000 are not aware that they are living with the disease.” [34s]
- 26.15 The NAC website (accessed 5 March 2004) states that the NAC has four main functions:
- “To advise the Minister of Health in Jamaica on policy issues relevant to HIV/AIDS & STIs; to involve all sectors of the Jamaican Society in efforts to prevent and control HIV/AIDS & STIs; to act as a central body where ideas, experiences and questions about HIV/AIDS & STIs in Jamaica can be shared, discussed and addressed; to provide a sustainable means of supporting the initiatives of the NAC and member organizations by eliciting funds from fundraising activities, public and private sector participation.” [45c]
- 26.16 The NAC website, accessed 8 February 2005, noted that there are a number of local organisations working with AIDS and HIV. [45a] The NAC also noted that there are a number of international organisations based in Jamaica working with AIDS and HIV. [45d] The NAC has also provided a summary of organisations working with HIV/AIDS [45e], and a list of hospice services. [45f]
- 26.17 As noted on their website, accessed 8 February 2005, Jamaica AIDS Support was founded in 1991 and today is Jamaica’s oldest and largest AIDS, human rights, non-government organisation. They currently have three chapters – Kingston, Ocho Rios and Montego Bay – 33 members of staff, and over 300 volunteers. [43]

- 26.18 The National AIDS Committee website, accessed 15 October 2002, noted that the National AIDS Committee (NAC), is a private NGO established in 1998 by the Ministry of Health to co-ordinate the national multi-sectoral response to the AIDS epidemic in Jamaica. The NAC has strong links with the National HIV/STI Control Programme (NCHP), representatives from both private and public sector organisations, NGOs and community based organisations (CBOs). [45g]
- 26.19 The *Jamaica Gleaner*, dated 23 July 2005, also noted that the Centre for HIV/AIDS Research, Education, and Services (CHARES) is a not-for-profit organisation that has been providing for the needs of persons living with HIV/AIDS for more than 14 years. Over the years the organisation has been responsive to demands created by HIV/AIDS, one of which is the plight of children who are infected and affected by HIV/AIDS. [34z]
- 26.20 As reflected in the same *Jamaica Gleaner* article, dated 23 July 2005, the programme for children living with HIV/AIDS includes:
- Support Group of children infected and affected by HIV/AIDS.
  - Home-based care training programmes conducted for professionals and volunteers involved in the provision of care for children infected by HIV.
  - Parenting-skills training programme conducted with parents of affected and infected children.
- 26.21 The article also notes that the two groups of children targeted for intervention include:
- Children affected by HIV/AIDS who are living at home with parents who have the disease (HIV/AIDS) and have shown and expressed difficulties in coping with parents' sero-positive status or death.
  - Many children born with HIV are now approaching pre-teens and teens and are desperately in need of psycho-social support. [34z]
- 26.22 *The Jamaica Observer* noted in an article dated 3 December 2005 "Matthew 25:40, home to 13 children living with HIV/AIDS is to receive a \$2-million boost from the Culture Heath Agriculture Sports and Education (CHASE) Fund ..." The report noted that the home opened three years ago for children aged 18 months to six years old. Matthew 25:40 is run by the Mustard Seed Communities and is the second of two Mustard Seed homes that care for children with HIV/AIDS. The first home, Dear to Care, is located in Spanish Town and houses 32 children. A third home, Martha'a House, is scheduled to open early next year [2006]. [36r]

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### Discrimination against people living with HIV/AIDS

- 26.23 The Jamaican government has made some efforts to combat discrimination against people living with HIV/AIDS (PLWHA), with initiatives from the Ministry of Education, and particularly the Ministry of Health, which has incorporated training initiatives for its staff. There are plans for the development of a national policy in 2006 to combat discrimination. (AI Report, *Sexual violence*

*against women and girls in Jamaica*, 22 June 2006) [9b] (3, The consequences of sexual violence on health)

- 26.24 A Human Rights Watch report, dated 16 November 2004, reported that:
- “Widespread violence and discrimination against gay men and people living with HIV/AIDS in Jamaica is undermining government measures to combat the country’s fast-growing epidemic.... Gay men and people living with HIV/AIDS face serious violence, and are often forced to abandon their homes and communities. Health workers often provide them with inadequate healthcare or deny them treatment altogether.” [59a] Reacting to the Human Rights Watch report, the *Jamaica Gleaner*, dated 17 November 2004, noted that “Human rights organisations yesterday [16 November 2004] accused the government and the police force of turning a blind eye to the rampant abuse of homosexual males and persons living with HIV/AIDS.” [34aw]
- 26.25 Discrimination is faced by HIV-positive women. They are often regarded as either promiscuous or as sex workers, adding to difficulties in accessing health care and other appropriate services. Women whose HIV status has been disclosed have sometimes been thrown out of their communities, their houses have been burned down, and they have been disowned by their families and partners. They have been also been ostracised, made homeless and lost employment. (AI Report, *Sexual violence against women and girls in Jamaica*, 22 June 2006) [9b] (3, The consequences of sexual violence on health)
- 26.26 The USSD Country Report 2005 noted that “No laws protected persons living with HIV/AIDS from discrimination. Human rights NGOs reported severe stigma and discrimination against this group. Although health care facilities were prepared to handle patients with HIV/AIDS, health care workers often neglected such patients.” [8a] (Section 5)
- 26.27 In an article dated 12 December 2005, the Jamaica Information Service noted:
- “The Ministry of Health is continuing to scale up its responses to the HIV/AIDS epidemic in Jamaica, through expansion of its prevention programmes targeting high risk groups and the general population.” The article noted “[that] a campaign in support of abstinence among young people is being developed as well as a special anti-stigma campaign built around profiling a number of persons living with HIV/AIDS. Currently, a programme to combat stigma in the work place is being aired in addition to a campaign promoting condom use among young adults.” [24f]
- 26.28 *The Jamaica Observer*, dated 20 October 2004, reported that Jamaican employers are now restricted, by international code, from screening workers for HIV/AIDS, whether they are new recruits or persons already on the job. And for those employees known to have the virus, it now cannot be a cause of their dismissal. [36an]
- 26.29 As noted in *The Jamaica Observer* on 30 November 2005, “People living with HIV/AIDS in Jamaica, who feel that they have been discriminated against and are seeking legal redress, can now access legal services free of cost from members of the legal fraternity.” One signatory of the declaration, Arlene Harrison-Henry, President of the Jamaica Bar Association, stated “There should be no hesitation to bring test cases to vindicate the right of persons

who have been treated unfairly based on HIV status. It is important that we also do our best to aggressively remove stigma and discrimination in relation to HIV/AIDS.” [36b]

- 26.30 Health Minister John Junor noted that there has been an increase in the number of people being tested for HIV/AIDS, saying this was a positive sign and arguing that it may be an indication that the stigma associated with the disease was waning. (*The Jamaica Observer*, 16 November 2005) [36e]

(See also Section 21.20: [Death of HIV/AIDS activist Steve Harvey](#))

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### Anti-Retroviral (ARV) treatment

- 26.31 According to the National Aids Committee website, accessed 8 February 2005, a large amount of medication is available in Jamaica for treatment of HIV/AIDS. [45b] (See source [45b] for more information on treatment for HIV/AIDS)
- 26.32 The Jamaica Information Service reported on 1 November 2005 on the opening of an Immunology Centre at the National Public Health Laboratory in Kingston. The Centre has the facilities to offer Viral Load testing, Polymerase Chain Reaction (PCR) technology and CD4 count testing for HIV patients. These services will be available to HIV-infected persons both in the public and private sector. [24g]
- 26.33 On 3 November 2005, an article in *The Jamaica Observer* reported that people living with HIV and AIDS should now find it easier to access antiretroviral drugs provided by the National HIV/Sexually Transmitted Infections (STI) Control Programme. The report noted “This has been made possible through a National Health Fund [NHF]/Antiretroviral (ARV) tracking system implemented by the government ...” The article further noted “Health Minister John Junor pointed out that under this system, all Jamaicans with HIV and AIDS attending any of the treatment sites as well as visiting participating private physicians, are required to obtain a Taxpayer Registration Number (TRN) and register with the NHF through the clinic or physician they visit.” This registration would indicate the co-payment or exemption from regular fees. [36d]
- 26.34 There are 2,200 people registered under the Ministry of Health’s subsidised treatment programme in 18 public health institutions, and 500 persons are being treated in the private sector. Those accessing treatment through public health services are required to pay \$1,000 Jamaican Dollars (JMD) per month for a triple combination of drugs, while at private health facilities the cost could range between \$5,000 and \$25,000 JMD. However, provisions are made for those who cannot afford to pay for treatment. (*Jamaica Gleaner*, 23 July 2006) [34ad]

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### SICKLE CELL



- 26.35 The Haemoglobinopathy Association of Counsellors (known as STAC), accessed on 15 February 2006, reported on a Jamaican Sickle Cell Awareness Week, organised by the Sickle Cell Trust Jamaica, which took place between 25 September and 1 October 2004. Detailing the background of how the week evolved, the report noted:

“The Sickle Cell Trust Jamaica (SCT) is a registered charity formed in 1986 whose objectives included fundraising and provision of educational material to complement the scientific programmes of the MRC Laboratories. The Sickle Cell Support Club was founded in 1992 by patients for patients. They peruse [sic] a variety of self help initiatives including social support, supplementary teaching, hospital visiting and activities to promote confidence and self esteem. From the support club there are local branches with similar objectives. One of their early initiative [sic] was sickle cell awareness week. This is in collaboration with the SCT, which involves a series of talks, poster presentations and distribution of information to the public and other professionals.” [54]

- 26.36 On the 24 November 2004, *The Jamaica Observer* reported that Chairman of the Sickle Cell Trust, Professor Graham Serjeant, noted that there are networks of clinics across Jamaica where people can obtain information and assistance on sickle cell disease, namely St Ann’s Bay, Annotto Bay, Mandeville, Black River and Montego Bay. [36ak]

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## DIABETES

- 26.37 Treatment for people living with diabetes in Jamaica is easily available and accessible. The Diabetic Association of Jamaica (DAJ) and the Jamaican Government provide diabetes care to the public through clinics, outreach screening and educational activities. More recently a programme developed by the Ministry of Health managed by an Executive Body, the National Health Fund has made diabetes medication available to the general public at a significantly low cost, as well as testing supplies. The DAJ stated that medication and testing kits are available through Government-subsidised pharmacies, and participating private pharmacies. Other services are offered island-wide through Government clinics and Diabetes Association Branches. (Diabetic Association of Jamaica, email dated 1 February 2006) [29]

- 26.38 On the 22 November 2005, the Jamaica Information Service noted:

“Diabetics, who are beneficiaries of the National Health Fund (NHF), are now able to test their blood sugar levels by using glucometers, which are being made available to NHF cardholders free of cost. In a recent interview with JIS News, Public Relations Officer at the NHF, Rosemarie Lee disclosed that beneficiaries have been receiving glucometers upon making requests to either their physicians or pharmacists. A glucometer is a small, portable machine that can be used to check blood glucose concentrations. After pricking the skin with a lancet or needle, a drop of blood is placed on a test strip in the machine. The meter (or monitor) then displays the blood glucose concentration as a number on the meter’s digital display.” [24k]



- 26.39 The Jamaica Information Service also noted “Local distributors of glucometers in the island include, H.D. Hopwood Limited, LASCO Distributors, Cari-Med Limited, Inter Commercial Distributors, and Qualcare Limited.” [24k]
- 26.40 On the 17 February 2006, *The Jamaica Observer* reported on the launch of the HOPIE Fund, a non-profit organisation that seeks to provide people needing dialysis treatment with easier access to machines close to where they live and at reduced rates. The report noted that Sandra Bromwell-Riley of HOPIE said the long-term goal was to increase the number of dialysis machines available across Jamaica, particularly in rural areas. Bromwell-Riley stated “We are going to have mobile clinics to visit these people in St Thomas, St Elizabeth and other parishes where there is limited access to the kind of treatment that is required.” [36w]

(See also Section 26.44: [Kidney dialysis](#))

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## CARDIAC DISEASE AND TREATMENT

- 26.41 As noted by the Jamaica Foundation for Cardiac Disease (JFCD), “In Jamaica the number of those suffering from chronic as well as congenital cardiac disease is rising rapidly. If they are not treated soon after diagnosis, persons with heart disease may be deprived of a normal and healthy life. Treatment and tests include echocardiograms, cardiac catheterization, valve replacements and coronary bypass surgery.” [49]
- 26.42 Their website, accessed on 3 August 2004, noted that the JFCD is a voluntary non-profit, non-governmental organisation founded in 1994. It assists persons with cardiac surgery treatment including children. It assists adults and children with cardiac studies and tests. It assists patients with the purchase of pacemakers, valves, drugs and other materials. [49]

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## CANCER TREATMENT

- 26.43 The Jamaica Cancer Society is a non-governmental organisation which carries out screening for cervical, breast and prostate cancer as well as selected diagnostic and treatment services. [41a] In two emails to the UK COI Service, dated 20 and 26 July 2006 respectively, the Jamaica Cancer Society stated that cancer treatment is available in Jamaica both in the public and private sector. The public sector offers chemotherapy, and radiotherapy using cobalt units. The private sector also offers radiotherapy using a linear accelerator, as well as chemotherapy. Radiotherapy is publicly available at the Cornwall Regional Hospital, Montego Bay, and the Kingston Public Hospital in Kingston. Private treatment can be accessed at the Radiation Oncology Centre, also in Kingston. Surgery and chemotherapy are offered at the major, Type A and B hospitals, and some Type C, depending on the extent of the cancer. [41b] (For further information on hospital classifications see source [40a] Jamaica Ministry of Health – Health Facilities)

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## KIDNEY DIALYSIS

- 26.44 There are at least eight kidney dialysis centres across the island of Jamaica. Two of the centres are based in Kingston, two in Mandeville, three in Montego Bay and one in Ocho Rios. Of these, two are state run, including the University Hospital of the West Indies (UHWI) in Kingston and the Cornwall Regional Hospital in Montego Bay, and six centres are private. (Global Dialysis, accessed 19 July 2006) [16]
- 26.45 On 3 July 2003, *The Jamaica Observer* reported on the donation of a portable kidney dialysis machine and a granuflo mixer machine to the Renal Unit of Kingston Public Hospital (KPH), by the Rotary Club of St Andrew. [36ab]

## MENTAL HEALTH

- 26.46 The World Health Organization (WHO) Mental Health Atlas 2005 Country Profile on Jamaica noted that "Jamaica has a Mental Health Act. Under the new Mental Health Bill [1997], provisions have been made for the admission of patients, whether voluntary or involuntary, and the designation of psychiatric facilities for the mentally ill." The components of the Mental Health Policy are advocacy, promotion, prevention, treatment and rehabilitation as well as integration of mental health into primary healthcare. [48] According to the Pan American Health Organization, Country Health Profile 2002: Jamaica, "In 2000 schizophrenia accounted for 49 percent of patients seen at mental health clinics in Jamaica." [42] (p4)
- 26.47 The Jamaica Information Service, Ministry of Health, noted that:
- "The mental health services are delivered through a three-pronged system consisting of:
- A residential hospital – Bellevue Hospital
  - Out-patient community mental health services at primary health care facilities islandwide
  - Residential out-patient rehabilitation units – Ken Royes Rehabilitation Centre." [24d]
- 26.48 As mentioned in the WHO Country Profile Jamaica 2005, the following therapeutic drugs are available in Jamaica: Carbamazepine, Phenobarbital, Phenytoinsodium, Sodium Valproate, Amitriptyline, Chlorpromazine, Diazepam, Fluphenazine, Haloperidol and Lithium. [48]
- 26.49 The *Jamaica Gleaner*, dated 24 October 2005, reported that the Bellevue Hospital for the mentally ill is to remain open for now despite plans to scale down its services. This is due to the lack of alternative care for its 800 inpatients and scores of outpatients. The senior medical officer, Dr Maureen Irons-Morgan, was quoted as saying "We are having more patients being treated in general wards in the main hospitals but we still need to have dedicated psychiatric beds so patients (who need to be) are admitted." Dr Irons-Morgan stated "There are 21 beds at UHWI (University Hospital of the West Indies) and 30 beds at the Cornwall Regional Hospital. This needs to be addressed." [34av]

- 26.50 The same article noted that Director of Mental Health Services at the Health Ministry, Dr Earl Wright, said that proposals have been developed to create inpatient acute emergency units at the Mandeville Regional, Spanish Town, St. Ann's Bay and Kingston Public hospitals. He said the Cornwall Regional Hospital has a unit but "plans are to have a 20-bed unit at the Mandeville, Spanish Town and St. Ann's Bay hospitals and a 40-bed unit at KPH [Kingston Public Hospital]". [34av]

(See also Section 13.07: [Mentally challenged inmates](#))

- 26.51 On 27 October 2005, the *Jamaica Gleaner* noted "The University of the West Indies Department of Community Health and Psychiatry will be setting up a new multimillion dollar mental health institute that, among other things, will be geared towards reducing the country's staggering crime rate." The report noted that the institute will be called the Caribbean Institute of Mental Health and Substance Abuse (CARIMENSA), offering "... cultural therapy to turn the creative energy of mental health patients into continuous entrepreneurial activity." [34at]
- 26.52 The article further noted that CARIMENSA would not be competing with local clinics as they would not be providing medication. "The role of that institution is to bring a different kind of mental health care to the people..." stated Professor Frederick Hickling, the head of the department. [34at]

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## FREEDOM OF MOVEMENT

- 27.01 Reporting on freedom of movement within the country, foreign travel, emigration, and repatriation, the USSD Country Report 2005 noted that "The law provides for these rights, and the government generally respected them in practice. The law prohibits forced exile, and there were no reports that it occurred." [8a] (Section 2d)

## TRANSPORT LINKS

- 27.02 There are reliable bus services in Kingston and Montego Bay although less reliable services for trans-island travel. Flights are also available between Kingston and Montego Bay. The approximate travelling time by road from Kingston to Montego Bay is three hours, or 30 minutes by air. There has been no passenger train service since 1994. (World Travel Guide, Jamaica, accessed 18 July 2006) [15] Fares are extremely low, approximately \$1 USD for a 50-mile bus journey. Public buses in Montego Bay are practically non-existent. (The Jamaica Guide, accessed 18 July 2006) [23]

## ACCESS TO SOCIAL SECURITY BENEFITS

- 27.03 Residents of Jamaica may benefit from various Social Security and Welfare provisions, which are aimed at specific target groups. These provisions include Public Assistance Services for the aged, the disabled and the destitute, the Food Stamp Programme for those nutritionally at risk, and the Kerosene Programme targeting poor families following the removal of subsidy

on domestic kerosene. (Ministry of Labour and Social Security, accessed 18 July 2006) [24]] For further information on Social Security Benefits see source [22]

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## FOREIGN REFUGEES

28.01 The USSD Report on Human Rights Practices 2005 reported that:

“The law does not provide for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, but the Government has established a system for providing protection to refugees. In practice the Government provided protection against refoulement, the return of persons to a country where they feared persecution, and handled refugee or asylum cases administratively. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The authorities granted political asylum to 17 Haitian nationals during the year [2005].” [8a] (Section 2d)

28.02 The same report also stated that:

“The Government provided temporary protection to 402 individuals who did not qualify as refugees under the UN treaties. Over 135 individuals were voluntarily repatriated, and 434 individuals were involuntarily repatriated. The government, with the assistance of UNCHR, provided nine Haitians with temporary protection and resettlement. Immigration officers interviewed all Haitians who arrived during the year and determined that none qualified for refugee status. All Haitians who arrived during the year were repatriated, except one family that was allowed to remain to seek medical care. Of the Haitians denied refugee status in 2004, 28 appeals were pending, and trials were being scheduled at year’s end.” [8a] (Section 2d)

28.03 The *Jamaica Gleaner* reported on 18 August 2005 that:

“The Government of Jamaica repatriated 78 Haitian nationals via chartered flight to their homeland early yesterday [17 August 2005] afternoon at the Sangster International Airport in Montego Bay. The Haitians’ bid for asylum in Jamaica was reportedly turned down by a United Nations ad hoc committee headed by Jamaican jurist, Justice Lloyd Ellis. Four of those repatriated had been arrested by law enforcement officials for illegal entry into Jamaica and were never a part of those who had entered the country during the Haitian political crisis. According to the Ministry of National Security, another 40 Haitians are expected to be repatriated in the coming weeks.” [34bi]

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## CITIZENSHIP AND NATIONALITY

29.01 Under Chapter 2 of the 1962 Constitution, any person who was born in Jamaica and was a citizen of the United Kingdom and Colonies prior to 5 August 1962, became a citizen of Jamaica on 6 August 1962. All persons born

in Jamaica after independence would automatically gain Jamaican citizenship. Persons born outside Jamaica to Jamaican parents, who would have qualified for citizenship on 6 August 1962, can become Jamaican citizens. Any person who marries a Jamaican can be registered as a citizen of Jamaica. [2] (Sections 3-12)

- 29.02 The Constitution also states that the Governor-General is empowered to deprive of Jamaica citizenship persons who have acquired legal rights or the citizenship of another country by registration, naturalisation or other voluntary and formal acts (other than marriage). [2] (Section 8)

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## EXIT/ENTRY PROCEDURES

- 30.01 No exit visas are required to leave Jamaica. However, a child leaving the country with a person other than a parent needs written authorisation from one parent, which requires certification from the Jamaican immigration office before minors may exit the country. (USSD Bureau of Consular Affairs, International Parental Child Abduction, accessed 17 July 2006) [8f]

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## Treatment of returned failed asylum seekers

- 30.02 Correspondence, dated 19 April 2005, from the Foreign and Commonwealth Office noted that the British High Commission in Kingston have confirmed that deportees (including failed asylum seekers) are interviewed by police on their return but there are no penalties imposed for immigration or other offences committed solely in the UK. [6c]
- 30.03 On the 5 December 2005, BBC News reported on the murder of a Jamaican man after he was deported back to Jamaica from the UK following a failed asylum application. The report noted that Delroy Edwards, 43, had gone into hiding on his return to Jamaica and, according to his British fiancée, was killed the first time he left the house. Mr Edwards had insisted that he would be persecuted by Jamaican gangsters if he was returned to his homeland. [21b]
- 30.04 On the 3 February 2006, *The Jamaica Observer* noted "Despite a drop in the number of persons deported to Jamaica last year [2005], deportees still have significant influence on the levels of serious crimes committed in Jamaica, Deputy Police Commissioner Mark Shields has said." The report noted "[that] while many were deported for non-violent offences and are not considered serious threats, others, by their very physical presence, can cause crime rates in a community to skyrocket, Shields said." [36ap]
- 30.05 *The Jamaica Observer* article noted that currently, the Jamaica police keep tabs on deportees through the National Intelligence Bureau. The newly formed Crime Hotspot Secretariat also focuses on their movements. [36ap]

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## EMPLOYMENT RIGHTS

31.01 The USSD report 2005 noted that “The law provides for the right to form or join a trade union and unions functioned freely and independently of the government. Approximately 20 percent of the work force of 1.2 million was unionized. Some union workers charged that private sector employers laid them off and then rehired them as contractors with reduced pay and benefits; a practice that was legal as long as workers received severance pay.” [8a] (Section 6a)

31.02 The same source noted:

“The law neither authorizes nor prohibits the right to strike, and strikes did occur: of 129 disputes reported to the Ministry of Labor, 16 resulted in strikes. Striking workers could interrupt work without criminal liability but could not be assured of keeping their jobs, although there were no reports of any workers losing their jobs over a strike action during the year. Workers in 10 broad categories of ‘essential services’ are prohibited from striking, a provision the ILO repeatedly criticized as overly broad.” [8a] (Section 6b)

31.03 The USSD report 2005 also noted:

“[that] The minimum wage did not provide a decent standard of living for a worker and family. Most workers were paid more than the legal minimum, except in the tourism industry. The Ministry of Labor administered and enforced the minimum wage...The law provides for a standard 40-hour workweek and mandates at least one rest day per week. Work in excess of 40 hours per week or 8 hours per day must be compensated at overtime rates, a provision that was observed widely, except by some security guard companies.” [8a] (Section 6e)

(See Section 2.01: [Economy](#))

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## Annex A: Chronology of Major Events

- 1655** Britain captured Jamaica.
- 1670** Jamaica formally ceded to Britain.
- 1838** Slavery abolished.  
Norman Manley founded the People's National Party (PNP).
- 1944** Universal adult suffrage introduced; new constitution providing for a popularly-elected House of Representatives promulgated.
- 1962** Jamaica became independent within the Commonwealth with Alexander Bustamante of the Jamaica Labour Party (JLP) as Prime Minister.
- 1972** The PNP won the general election and Michael Manley becomes Prime Minister.
- 1976** The PNP won another election.
- 1980** The JLP won the general election and Edward Seaga is elected Prime Minister. Seaga proceeded to privatise state enterprises.
- 1989** Michael Manley was elected Prime Minister after PNP ousts the JLP in elections.
- 1992** Michael Manley retired on health grounds and is succeeded by Percival Patterson as the Prime Minister and the leader of the PNP.
- 1993** The PNP returned to office with an increased majority.
- 1998** The PNP won a third term in office amid increasing crime and deteriorating economy.
- 1999** **April:** violent protests took place against a 30 per cent increase in fuel prices. In July the Government ordered the army to patrol the streets of Kingston following a massive increase in crime.
- 2001** **July:** Troops backed by helicopter gunships, tanks and armoured vehicles moved in to restore order in capital, Kingston, after three days of unrest left at least 27 people dead.
- 2002** **January:** The authorities announced that more than 1,100 people were murdered in Jamaica in 2001. This showed an increase of 30 per cent over the previous 12 months, and the highest ever recorded in a single year.  
  
**March:** Britain's Privy Council, decided to halt executions in a number of Caribbean countries where capital punishment has widespread support as a deterrent to rising violent crime. Prime Minister P. J. Patterson criticised the move.

- October 16:** The People's National Party was re-elected for the fourth term in the general election. This was the third consecutive election victory for Prime Minister Patterson.
- 2003 January:** UK introduced visa regime for Jamaicans entering the UK; London says the move is intended to tackle illegal immigration.
- 2004 March:** Ousted former Haitian president Jean-Bertrand Aristide arrived in Jamaica, prompting angry response from new Haitian government.
- 2004 September:** Hurricane Ivan described as the biggest in living memory pounded the island, destroying thousands of homes.
- 2004 End:** Gang rivalry, drugs trade contribute to high murder rate. 1,145 murders in 2004.
- 2005 September:** Prime Minister PJ Patterson says he will step down by April 2006.  
Opposition leads a day of protest over price increases for utilities and public transport.
- 2005 End:** More than 1,600 murders in 2005.
- 2006 February:** Local government minister Portia Simpson Miller is elected as head of the ruling People's National Party. She succeeds PJ Patterson to become Jamaica's first female PM in March [2006].  
[21c]

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## **Annex B: Political Organisations**

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**People's National Party (PNP)** [www.pnpjamaica.com](http://www.pnpjamaica.com)

Founded in 1938; Socialist principles; affiliated with the National Workers' Union.

**President:** Portia Simpson-Miller.

**General Secretary:** Burchell Whiteman.

**Vice President:** Peter Phillips. [5b]

**Jamaica Labour Party (JLP)** [www.thejlp.org](http://www.thejlp.org)

Founded in 1943. Supports free enterprise in a mixed economy and close co-operation with the USA.

**Leader:** Bruce Golding.

**Chair:** Robert Pickersgill.

**General Secretary:** Karl Samuda. [5b]

**National Democratic Movement (NDM)** [www.ndm4jamaica.org](http://www.ndm4jamaica.org)

Founded in 1995; advocates a clear separation of powers between the central executive and elected representatives; supports private investment and a market economy. Member of the New Jamaica Alliance.

**President:** Hyacinth Bennett.

**Chair:** Hugh Thomson. [5b]

**Jamaica Alliance Movement (JAM)**

Founded 2001; Kingston based; Rastafarian.

**President:** Astor Black. [5b]

**Jamaica Alliance for National Unity (JANU)**

Founded in 2002. Member of the New Jamaica Alliance.

**Chair:** Rev. Al Miller. [5b]

**United People's Party (UPP)**

Founded in 2001.

**President:** Antoinette Haughton Cardenas.

**General Secretary:** Horace Matthews. [5b]

**Republican Party of Jamaica (RPJ)**

Kingston based; Member of the New Jamaica Alliance.

**Leader:** Denzil Taylor. [5b]

**Natural Law Party**

Founded 1996.

**Leader:** Dr Leo Campbell. [5b]

**Imperial Ethiopian World Federation Party (I.E.W.F. Inc).**

Launched on 16 July 1997 and first entered the Jamaican political arena in the 1997 General Election with five candidates. It was launched to represent the Rastafarian community in the Jamaican Parliament and the Grassroot people. [51]

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## **Annex C: Prominent People**

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### **Kenneth Baugh**

In January 2005 Dr Kenneth Baugh was officially named temporary Opposition leader by the Governor-General. Dr Baugh has been a surgeon for over 30 years. He unsuccessfully contested the West Central St Catherine seat for the JLP in the general election of 1997 and two years later he was appointed General Secretary, a post he held for four years. [34az]

### **Bruce Golding**

The JLP's defeat in the 1993 election led to increased in-fighting among senior members and criticism of Seaga's leadership, with the result that in 1995 Bruce Golding left the party to lead a new organisation the National Democratic Movement (NDM). [1] (p554) Bruce Golding named as the official leader of the JLP on 21 February 2005. [34ai]

### **Michael Manley**

Became Prime Minister in 1972 following an impressive victory by the PNP in the general elections. Succeeded by JLP's Edward Seaga in 1980. Returns as PM following 1989 elections but retires in 1992 on health grounds. [21c]

### **Percival J Patterson**

Assumed office as Prime Minister in 1992. [6a] (p1) He led the PNP to election victories in 1993 and 1997. [5a] Retired in 2006 after 14 years in office. [21d]

### **Portia Simpson-Miller**

New president of PNP as of 27 February 2006. [34c] Inaugurated as Prime Minister on 30 March 2006. [21d]

### **Edward Seaga**

JLP leader and Prime Minister between 1980 and 1989. [21c] Mr Seaga's resignation took effect on 19 January 2005. He assumed a senior post in the Department of Government at the University of the West Indies. [34ay]

### **Hilaire Sobers**

Human rights activist and lawyer and writes a weekly column on human rights for *The Jamaica Observer*. He is an outspoken critic of the government's human rights record. He has been highly critical of the authorities' failure to prevent extrajudicial executions by the security forces and other abuses. [9c]

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## **Annex D: List of Abbreviations**

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<b>AI</b>	Amnesty International
<b>CCJ</b>	Caribbean Court of Justice
<b>CEDAW</b>	Committee on the Elimination of All Forms of Discrimination Against Women
<b>DFID</b>	Department for International Development
<b>FCO</b>	Foreign and Commonwealth Office (UK)
<b>FH</b>	Freedom House
<b>GDP</b>	Gross Domestic Product
<b>HIV/AIDS</b>	Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome
<b>HRW</b>	Human Rights Watch
<b>IJCHR</b>	Independent Jamaica Council for Human Rights (1998) Limited
<b>IMF</b>	International Monetary Fund
<b>IOM</b>	International Organization for Migration
<b>ISCF</b>	Island Special Constabulary Force
<b>JAS</b>	Jamaica AIDS Support
<b>JCF</b>	Jamaica Constabulary Force
<b>JDF</b>	Jamaica Defence Force
<b>JFLAG</b>	Jamaica Forum for Lesbians, All-Sexuals and Gays
<b>JLP</b>	Jamaica Labour Party
<b>NAC</b>	National AIDS Committee (Jamaica)
<b>NGO</b>	Non Governmental Organisation
<b>PAHO</b>	Pan American Health Organization
<b>PLWHA</b>	People living with HIV/AIDS
<b>PNP</b>	People's National Party
<b>RSF</b>	Reporteurs sans Frontières
<b>STD</b>	Sexually Transmitted Disease
<b>STI</b>	Sexually Transmitted Infection
<b>TB</b>	Tuberculosis
<b>TI</b>	Transparency International
<b>UN</b>	United Nations
<b>UNAIDS</b>	Joint United Nations Programme on HIV/AIDS
<b>UNESCO</b>	United Nations Educational, Scientific and Cultural Organization
<b>UNHCR</b>	United Nations High Commissioner for Refugees
<b>UNICEF</b>	United Nations Children's Fund
<b>USAID</b>	United States Agency for International Development
<b>USSD</b>	United States State Department
<b>WHO</b>	World Health Organization

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