



Jamaica

Country Reports on Human Rights Practices - [2000](#)

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Jamaica is a constitutional parliamentary democracy and a member of the Commonwealth of Nations. Two political parties have alternated in power since the first elections under universal adult suffrage in 1944; a third major party was established in late 1995. Prime Minister P.J. Patterson's People's National Party (PNP) won 50 of the 60 seats in Parliament in national elections in December 1997 that were significantly less violent than previous general election campaigns. Intimidation of voters and party agents and restrictions on the free movement of voters was reported. The judiciary is independent but lacks adequate resources.

The Jamaica Constabulary Force (JCF) has primary responsibility for internal security, assisted by the Island Special Constabulary Force. The Jamaica Defense Force (JDF--army, air wing, and coast guard) is charged with national defense, marine narcotics interdiction, and supporting the JCF. The JDF has no mandate to maintain law and order and no powers of arrest. The Ministry of National Security and Justice oversees the JCF and the JDF. Civilian authorities generally maintain effective control of the security forces; however, some members of the security forces committed human rights abuses.

The economy is based on primary products (bauxite and alumina, sugar, bananas), services (tourism, finance), and light manufacturing (garment assembly). The Government promoted private investment to stimulate economic growth and modernization, pursuing in the process a sometimes painful program of structural adjustment. The trade-dependent economy contracted (by 0.5 percent) for the fourth consecutive year in 1999. In 1999 annual per capita income was \$2,531, but there is a large gap between the wealthy and the impoverished.

The Government generally respected the human rights of its citizens; however, there were serious problems in some areas. Members of the security forces committed extrajudicial killings and beatings and carried out arbitrary arrests and detentions.

Although the Government moved to punish many of those police involved, continued impunity for police who commit abuses remains a problem. Police investigations often were hampered by lack of witnesses, and bottlenecks in the judicial systems cause long delays in resolution of criminal cases. Prison and jail conditions remained poor; overcrowding, brutality against detainees, and poor sanitary conditions were problems. The judicial system was overburdened, and lengthy delays in trials were common. There were allegations that citizens' privacy rights were infringed upon. Violence and economic discrimination against women remained problems. There were cases of societal discrimination against disabled persons and members of the Rastafarian religion. Violence against suspected homosexuals occurred. Child labor is a problem. Mob violence against those suspected of breaking the law remains a problem.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Political and Other Extrajudicial Killing

There were no reports of political killings during the year.

However, there were two killings involving politically connected victims that produced allegations of possible political motivation. On December 6, unknown assailants shot and killed an organizer for Sharon Hay-Webster,

a PNP Member of Parliament, in front of Hay-Webster's constituency office in South Clarendon, after a party event. On December 12, a PNP area leader was found strangled in St. Andrew parish. One Member of Parliament said that the victim had been threatened and that he was "sure she had been eliminated for political reasons," but another Member of Parliament contended that constituents had killed her in a dispute over jobs in a public works project. Although the last two national elections were relatively calm, there is a history of political violence and killings in the period leading up to elections (see Section 3).

The police frequently employed lethal force in apprehending criminal suspects. During the year, there were 140 deaths, including those of 11 police officers, during police encounters with criminals. While allegations of "police murder" were frequent, the validity of many of the allegations was suspect. The country faces a crime situation with a homicide rate exceeding 30 per 100,000 persons. Well-armed gangs trafficking in narcotics and guns control many inner-city communities. The gangs are often better equipped than the police force and have conducted coordinated ambushes of joint security patrols. There have been targeted assaults against police officers and their families.

In February police killed a 20-year-old man in Farm district, Clarendon parish. The police claimed that they encountered a group of men, were fired upon, and returned fire. At that point, the man was hit. However, residents said that the police came upon the group, began firing indiscriminately and hit the victim. The incident led to 2 days of violent protests in May Pen, Clarendon's capital, which subsided when the area's parliamentarian visited and appealed for calm. In May the police concluded their investigation and forwarded it to the Public Prosecutor's office for action. In September the authorities brought murder charges against a policewoman involved in the incident; at year's end she awaited trial.

On April 25, television stations broadcast news footage taken by an independent cable operator that showed a group of armed police officers surrounding a house in pursuit of an alleged gang leader, who was shot and killed by a police superintendent a few moments later. The videotape did not show the shooting; however, the footage of a woman crying for help and a violent scuffle in a doorway stirred much controversy and led to a confrontation on April 27 between heavily armed gunmen and the police in a volatile area of Kingston. Two policemen were killed and several injured in a prolonged gun battle; one gunman was also killed. In a press conference immediately after the outbreak of violence, security force leaders criticized Jamaicans for Justice, a nongovernmental organization (NGO) advocating human rights, for politically motivated involvement in the controversy (see Section 4). During the press conference, the Police Commissioner also criticized a journalist for questioning possible political motivation behind the violent events (see Section 2.a.).

The JCF has undertaken an initiative of "community policing" in certain areas to address the problem of longstanding antipathy between the security forces and many poor inner-city neighborhoods. For example, designated policemen walk beats and interact with members of the community on a daily basis. The JCF conducted both administrative and criminal investigations into all incidents involving fatal shootings by the police. In July the Government established a special police body, the Bureau of Special Investigations, specifically to address police shootings. This group supplements the JCF Office of Professional Responsibility, which investigates police corruption and other misconduct, and the civilian Public Complaints Authority that oversees investigations of the other two bodies and can initiate its own investigations. In April a prominent human rights activist assumed the newly created position of human rights advisor to the Minister of National Security and Justice. She has been engaged in educating JCF trainees as well as junior officers to respect citizens' rights. The JCF policy statement on the use of force incorporates U.N.-approved language on basic principles on the use of force and firearms by law enforcement officials.

Following a police investigation, in September 1999 the Public Prosecutor's office charged a police sergeant with murder for the April 1999 killing of an off-duty JDF soldier during island-wide protests. A preliminary hearing found that there was sufficient evidence to proceed to trial; at year's end, the case was still before the courts.

The authorities also brought murder charges against a police officer for the death of a taxi driver killed when police fired on a taxi carrying passengers in Kitson town in June 1999. The case was still in preliminary hearings at year's end.

On August 21, 1999, nine soldiers and four policemen severely beat Michael Gayle, described as a paranoid schizophrenic, after he tried to pass through a roadblock near his home after curfew. Gayle died as the result of a ruptured abdomen; at the coroner's inquest, the jury returned a majority verdict that all police and military personnel on duty at the roadblock at that time should be charged with manslaughter. However, in March the Director of Public Prosecutions ruled that there was not sufficient evidence to bring charges against specific individuals for Gayle's death. The police opened a new investigation of this incident, completed it in April, and resubmitted the results to the Public Prosecutor's office. The police investigation did not uncover any new information and recommended that the case be closed.

Vigilantism, involving spontaneous mob executions in response to crime, continued to be a problem. There were 8 known vigilante killings during the year, compared with 9 in 1999 and 16 in 1998. Official investigations into such killings generally do not uncover information, since the persons and the community involved usually band together to intimidate potential witnesses.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading

Treatment or Punishment

The law prohibits torture and other abuse of prisoners and detainees; however, reports of physical abuse of prisoners by guards continued, despite efforts by the Government to remove abusive guards and improve procedures.

In June police fired on a minibus carrying 16 passengers when the driver failed to stop at a roadblock. The police reported that they had received reports of gunmen on the bus. After the bus sped away, the police pursued and fired on it. One passenger took off his white shirt and waved it out a window, shouting that passengers were on the bus, but had to duck back inside when the police continued shooting. Six persons were injured, including two students. Two policemen involved in the incident were removed from front-line duty and more training was mandated for police in the proper use of firearms. The police concluded an investigation into the incident and sent it to the Public Prosecutor's office for action.

In December 1998, the court of appeal announced that flogging could not be imposed as a punishment because the legislative authority for it had expired. This sentence was used rarely; prior to 1994, no sentence of flogging had been imposed for 25 years.

There were reports that police sexually harassed women (see Section 5).

A Human Rights Watch (HRW) report published in July 1999 detailed frequent and credible allegations of police abuse, specifically in lockups, including severe beatings, mock executions, and rape. The conditions in these lockups are harsh, with severe overcrowding, intermittent meals, and poor lighting, ventilation, and sanitation. HRW noted that the Government must undertake a systematic effort to curb police abuse effectively and bring sanctions against officers who commit abuses. The police have acknowledged the problem and have stated they are trying to address it by establishing a police code of conduct and by increasing human rights training. The police must call a legal aid attorney when they detain a person.

Prison conditions remained poor; overcrowding, inadequate diet, poor sanitary conditions, and insufficient medical care are typical. During the year, the Government secured the services of a dentist for the prisons. The Government also outplaced food services for the prisons.

In May a riot at the St. Catherine's district prison led to reports of beatings by guards and JDF soldiers of 300 inmates. The JDF soldiers had been in charge of prison security at St. Catherine's following a work stoppage by guards in January (see Section 6.a.). Guards and soldiers fired into cells, but caused no injuries. Prisoners alleged that they were upset with being given spoiled food, and that the guards and soldiers retaliated against them when they refused to eat it. Prison officials contended that the disturbance developed during a search of cells for weapons and contraband (including cellular telephones brought in with the acquiescence of certain guards). There were also reports that the prisoners were staging a riot in conjunction with another prison, coordinated by telephone, in order to facilitate a jailbreak. Many prisoners had to wait days for medical attention following these events.

In June the Government convened a one-person Commission of Inquiry into the incident; the JDF initiated its own internal inquiry. A prison doctor testified that he saw 15 guards and soldiers repeatedly club and kick a handcuffed inmate, and that only his presence prevented the inmate from being killed. The doctor has since been reassigned. A sentry from a private security company also testified to witnessing beatings. There were also reports that inmates took a JDF soldier hostage, and the soldiers acted to recover him. In July the Commissioner concluded his work but had not reported his findings by year's end. The authorities did not bring criminal charges against any of the guards or soldiers.

A separate prison for women--the Ft. Augusta Women's Prison--is housed in a 19th century fort. Poor sanitary

conditions are the norm, although far less so than in the men's prisons because there is less overcrowding. Ft. Augusta is also safer and does not have the violence found in the men's prisons.

The Constitution prohibits the incarceration of children in adult prisons; however, in practice some juveniles are held with adults. The July 1999 HRW report criticized the conditions in which juveniles are held. HRW noted that the Government responded quickly to remove some children from lockups. The report detailed many cases in which juveniles were detained improperly, not given access to legal representation, and held in adult lockups where they were victimized by adult prisoners.

In July the court of appeals ruled that it was unconstitutional for juveniles to be held "at the Governor General's pleasure." This referred to a section of the 1951 Juveniles Act that provides that persons under the age of 18 who commit a capital crime must have their death sentence commuted; however, they could be held for an indeterminate time at the Governor General's discretion and were subject to incarceration in an adult prison.

In general the Government allowed private groups, voluntary organizations, international human rights organizations, and the media to visit prisons and monitor prison conditions.

d. Arbitrary Arrest, Detention, or Exile

The Jamaica Constabulary Force Act permits the arrest of persons "reasonably suspected" of having committed a crime, and the police continued to arrest and detain citizens arbitrarily. In 1997 the Jamaican Bar Association (JBA) protested that the police unlawfully were detaining and fingerprinting groups of citizens in poor, inner-city areas. At the time, the Police Commissioner disavowed the practice and ordered it discontinued; however, both the JBA and the Independent Jamaica Council for Human Rights state that the practice continues. In July 1999, police rounded up 52 men from the Grant's Pen area of Kingston after civil unrest erupted there. The men reportedly were fingerprinted, photographed, and then released without being charged. A class action civil suit was brought and was pending at year's end.

In March a three-person Commission of Inquiry was convened to investigate the detention and forced transport in July 1999 of at least 25 persons (many of whom were reportedly mentally ill), who were living on the streets in a Montego Bay business district. In October 1999, the authorities had charged three persons (including a police inspector and two public sector employees) with false imprisonment and assault, but later dropped the charges against the police inspector when he turned State's witness in the inquiry. In September the commission presented its recommendations, among them that the victims be granted \$500 (J\$20,000) per month for life. The Government indicated that it intended to set up a trust for that purpose but had not yet done so by year's end. The police inspector said that he was under orders from his superiors, a claim the commission rejected as perjured. Although it was believed widely that the police were involved and acted at the behest of Montego Bay merchants and with the acquiescence of the local government, the commission exonerated the Montego Bay mayor and parish council. The commission named the police inspector and civil service truck driver as key conspirators and criticized the local head of public works for instituting a coverup. The two public sector employees were awaiting trial at year's end.

The law requires police to present a detainee in court within 48 hours of arrest, but the authorities continued to detain suspects, especially those from poor neighborhoods, without bringing them before a judge within the prescribed period. The Government attributed this circumstance to an overburdened court system that cannot accommodate large numbers of such presentations in a timely manner. Magistrates inquire at least once a week into the welfare of each person listed by the JCF as detained. There is a functioning bail system.

Foreign prisoners must pay for their own deportation when they have completed their sentences. If they cannot afford to pay, they are jailed until relatives or consulates can arrange for transportation. In effect this constitutes an additional prison term for indigent foreigners.

The Constitution prohibits forced exile, and no instances of exile occurred.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, which exists in practice. However, the judicial system is overburdened and operates with inadequate resources.

Three courts handle criminal matters at the trial level. Resident magistrates try lesser offenses (misdemeanors). A Supreme Court judge tries felonies, except for felonies involving firearms, which are tried before a judge of the Gun Court. 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. This appeal process results in frequent delays. The

Constitution allows the Court of Appeal and the Parliament to refer cases to the Judicial Committee of the Privy Council in the United Kingdom as a final court of appeal.

The lack of sufficient staff and resources hinders due process. Trials in many cases are delayed for years, and other cases are dismissed because files cannot be located. The Government initiated a night court in 1995, which has had some success in reducing the backlog of cases. Donations of computers are also expected to assist the courts in this regard.

The defendant's right to counsel is well established. In February the Government increased salaries for attorneys appointed by the State, and in April it created the position of Public Defender, to bring cases for individuals who have had their constitutional rights violated. The defender's office would contract private attorneys to represent clients. However, as of year's end, no cases had been brought as the defender's office was still securing funds.

In May legal aid was expanded to include prisoners charged with any offenses, except those covered by certain provisions of the Money Laundering Act or possession or trafficking of narcotics under the Dangerous Drugs Act. Although the authorities assert that those who commit such offenses can afford counsel, the Jamaican Bar Association has criticized this as presuming guilt.

During the Commission of Inquiry into the beatings of prisoners at St. Catherine's district prison in June (see Section 1.c.), the judge ruled that a human rights group could not take notes during the proceedings. A Supreme Court judge later overturned this ruling.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution prohibits arbitrary intrusion by the State into the private life of an individual; however, there were allegations of unauthorized wiretapping by the police. The revised Jamaica Constabulary Force Act gives security personnel broad powers of search and seizure similar to those granted by the former Suppression of Crimes Act. The act allows search of a person on board or disembarking a ship or boat without a warrant if a police officer has good reason to be suspicious. In practice the police conducted searches without warrants.

In October the media reported allegations that the police wiretapped the telephones of the Prime Minister, two Cabinet members, and other senior officials. Only the Prime Minister has the authority to order wiretaps, and on October 24, the Prime Minister stated that his last authorization for wiretapping had been in April, for 14 lines associated with 12 different individuals suspected of trafficking in firearms and narcotics. The head of the Special Intelligence Unit, which the press alleged had carried out the wiretaps, denied that his unit placed wiretaps on any telephones. At year's end, it was still unclear whether any wiretaps had been put in place. In December the Government introduced a draft Interception of Communications Act, which would place authorization for wiretapping in the hands of the judiciary.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government respects these rights in practice.

The four largest newspapers, all privately owned, regularly report on human rights abuses, particularly those involving the JCF. Foreign publications are available widely. The Government privatized the Jamaica Broadcasting Company in 1997, and the television station and two radio stations it operated became privately owned. The Government's broadcasting commission has the right to regulate programming during emergencies. Foreign television transmissions are unregulated and available through satellite antennas.

In an April 27 press conference, the Police Commissioner criticized a journalist who raised a question about political motivation behind a violent confrontation that occurred the previous day (see Section 1.a.). On the following day, the same journalist was confronted by a police officer who pointed his gun inside the journalist's vehicle and asked him what he was doing.

Near year's end, Parliament approved the Corruption Prevention Act, which the Government had reintroduced without clauses that journalists had charged would restrict their ability to report about corruption. The original

draft had provided that journalists could be fined up to \$25,000 (J\$1 million) and receive 10 years' imprisonment for publishing information about an ongoing corruption investigation. The new act does not restrict the media from publication.

The Government does not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly, and the Government respects this right in practice.

There were numerous community protests against police actions during the year, such as the 2 days of protests in May Pen over a killing by police (see Section 1.a.). A local human rights group organized various rallies, including reenactments of the August 1999 beating of a man by security forces (see Section 1.a.) and the July 1999 abduction of homeless persons (see Section 1.c.). Security personnel generally acted with restraint during public demonstrations.

The Constitution provides for freedom of association, and the Government respects this right in practice.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respects this right in practice.

Members of the Rastafarian community have complained that law enforcement officials unfairly target them. It is alleged that the police force Rastafarian detainees to cut their hair and surreptitiously give them food that they are forbidden to eat. Rastafarians have no right to prison visits by Rastafarian clergy.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and the Government respects them in practice.

The Government provides asylum or refugee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol.

The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Government provides first asylum; it approved one application during the year. The Government established a committee and formal procedures to review claims to refugee status. This committee has denied all claims to refugee status by Cubans and Haitians who have arrived in the country since 1994.

There were no reports of the forced return of persons to a country where they feared persecution.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in periodic elections held on the basis of universal suffrage. All citizens age 18 and over have the right to vote by secret ballot. However, voters living in "garrison communities", in inner-city areas dominated by one of the two major political parties, face substantial influence and pressure from politically connected gangs and young men hired by political parties, which impede the free exercise of their right to vote.

During the 1997 general election campaign, both international and local observer groups concluded that, although the process was significantly less violent than recent election campaigns, problems persisted in the garrison communities. These problems included intimidation of party agents and voters of nondominant parties and restrictions on the movement of voters and election workers. Some areas are so dominated by one party that the polls simply closed early and vote counts were taken that resulted in 100 percent (or nearly 100 percent) of the votes being awarded to the dominant party. These problems persisted in the December 1997 election, despite the best efforts of the security forces, which were credited with controlling violence, such as the beating of voters, and reducing election malpractice, such as the theft of ballot boxes from polling places.

There were two killings of politically connected persons late in the year that produced allegations of possible political motivation (see Section 1.a.), as well as other acts of alleged intimidation.

There are no legal restrictions on the participation of women in politics; however, they are underrepresented in government and politics. Women hold about 13 percent of all political offices and 30 percent of the senior civil service positions. Two of the 16 cabinet members are women, as is the PNP General Secretary.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. The Independent Jamaica Council for Human Rights is the country's only formal organization concerned with all aspects of human rights. Jamaicans for Justice is a human rights group created in August 1999 in response to concerns about police impunity; the NGO focuses on the issues of extrajudicial killing and excessive use of force by the police. Government officials generally are cooperative and responsive to the views of human rights organizations.

However, in an April press conference, senior police officials criticized Jamaicans for Justice on the occasion of an outbreak of severe violence (see Section 1.a.). The organization also reported that it received threatening telephone calls at its office following the killing of two policemen that month. The group noted that the police were cooperative in tracing and stopping threatening calls. In a newspaper article, the Minister of National Security and a member of the clergy questioned the sincerity of those defending human rights, claiming that they cared little for police officers killed in the line of duty. The Police Federation labeled the human rights NGO "suspicious," and stated that it would monitor the group's actions closely. Jamaicans for Justice reported that undercover police regularly attend their meetings.

In August Amnesty International (AI) issued a statement to the Government expressing concern for a human rights attorney's safety. The attorney figured prominently in the inquiry into the abduction of homeless persons from Montego Bay (see Section 1.d.) and represented prisoners at the inquiry into beatings at St. Catherine's district prison (see Section 1.c.). AI contended that the attorney fled the country fearing for her life and that she reported death threats, surveillance, and illegal wiretapping from agents of prison authorities. The Police Commissioner stated that the attorney had not notified police of any such threats. The attorney also is wanted by police in connection with charges of fraud brought by a former client.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution prohibits discrimination on grounds of race, place of origin, political opinions, color, creed, or sex. The Government largely enforces these prohibitions in practice, except for widespread discrimination on the basis of political opinion in the distribution of scarce governmental benefits, including employment, especially in the garrison communities (see Section 3). Individuals have committed acts of violence against suspected homosexuals; in April a mob cornered a 25-year-old man in a Kingston church and killed him because they suspected that he was a homosexual.

Women

Social and cultural traditions perpetuate violence against women, including spousal abuse. Violence against women is widespread, but many women are reluctant to acknowledge or report abusive behavior, leading to wide variations in estimates of its extent. Reported incidents of rape and incest have been on the rise, with a 10 percent increase in rapes during the year. The JCF rape investigative and juvenile unit, which is headed by a female deputy superintendent, handles sex crimes.

The Domestic Violence Act of 1995 provides remedies for domestic violence, including restraining orders and other noncustodial sentencing. Breaching a restraining order is punishable by a fine of up to \$250 (J\$10,000) and/or 6 months' imprisonment.

There have been some reports of sexual harassment of women by the police.

The Constitution and the 1975 Employment Act accord women full legal equality; however, in practice women suffer from sexual harassment and economic discrimination in the workplace. The Bureau of Women's Affairs in the Ministry of Labor oversees programs to ensure the legal rights of women. These programs have had limited effect but have raised the awareness of problems affecting women. In 1996 the Government established a steering committee, charged with creating a Commission on Gender and Social Equity. The committee forwarded its recommendations to Parliament in 1997, which accepted them; Parliament continued to discuss methods of implementation at year's end.

A number of active women's rights groups exist. They are concerned with a wide range of issues, including

violence against women, political representation, employment, and the image of women presented in the media. Their effectiveness is mixed, but the groups were successful in advocating enactment of the 1995 Domestic Violence Act.

Children

The Government is committed to improving children's welfare. The Ministry of Education, Youth, and Culture is responsible for implementation of the Government's programs for children.

There is no societal pattern of abuse of children. However, a number of reported cases of sexual abuse and incest may point to a growing trend. There were reports of child prostitution in some resort areas. Inducing prostitution on one's premises of a girl under 12 is a felony punishable by life imprisonment; of a girl between the ages of 12 and 16 is a misdemeanor punishable by 5 years in prison. The encouraging of prostitution of a girl under age 16 by a legal guardian is a misdemeanor punishable by 3 years' imprisonment; procuring a girl under age 18 is also a misdemeanor punishable by 3 years' imprisonment. Child pornography is not prohibited by statute, but it is a common law offense that can be prosecuted as a form of indecency.

The Juvenile Act of 1951 deals with several areas related to the protection of children, including the prevention of cruelty, a prohibition on causing or allowing juvenile begging, the power to bring juveniles in need of care or protection before a juvenile court, the treatment of juvenile offenders, the regulation and supervision of children's homes, and restrictions on employment of juveniles. However, resource constraints have resulted in juveniles "in need of care or protection" being incarcerated in police lockups with adults (see Section 1.c.).

People with Disabilities

No laws mandate accessibility for the disabled, and disabled citizens have encountered discrimination in employment and denial of access to schools. Several government agencies and NGO's provide services and employment to various groups of disabled citizens. In 1998 the Prime Minister appointed the first blind member of the Senate, an action that despite expectations has not brought tangible benefits to disabled persons, although it helped to increase public awareness related to these issues. In July 1999, an incident in which police rounded up a number of persons (many of whom reportedly were mentally ill) triggered a national debate over police action (see Section 1.c.).

Section 6 Worker Rights

a. The Right of Association

The law provides for the right to form or join a trade union, and unions function freely and independently of the Government. The Labor Relations and Industrial Disputes Act (LRIDA) defines worker rights. There is a spectrum of national unions, some of which are affiliated with political parties. Approximately 15 percent of the work force is unionized.

The LRIDA neither authorizes nor prohibits the right to strike, but strikes do occur. Striking workers can interrupt work without criminal liability but cannot be assured of keeping their jobs. Other than in the case of prison guards, there is no evidence of any workers losing their job over a strike action. Workers in 10 broad categories of "essential services" are prohibited from striking, a provision the International Labor Organization (ILO) repeatedly condemned as overly inclusive.

Beginning December 29, 1999, prison guards conducted an islandwide sick-out to protest the proposed reappointment of the Commissioner of Corrections. When 800 guards failed to comply with an order to return to work, the authorities put them on forced leave at one-fourth pay beginning in January. In March the Government brought disciplinary charges against the guards and declared the work stoppage illegal. In May court hearings began to examine the charges against the guards on a case-by-case basis; they still were under way at year's end.

On March 30, members of the Junior Doctor Association (JDA) staged an industrial action in which they curtailed their hours in retaliation for nonsettlement of salary negotiations. The Government declared the action illegal and the Supreme Court ordered the doctors back to work. They did not comply but subsequently ended their protest on April 4. The Government brought charges against the doctors who then apologized for their actions. In April the court sentenced the JDA's executive members to 200 hours of community service. The JDA appealed the ruling; in June a higher court overturned the ruling on the grounds that the JDA is not a legal organization and could not be taken to court. In July in response to the ruling, the Government declared that it would no longer conduct negotiations with "nonlegal entities." Unions that represent teachers and government

workers feared that this could include them, since they are not officially registered with the Government as trade unions. In protest the three largest registered trade unions boycotted an unrelated meeting with employers and the Government in August. However, there have been no consequences for the unregistered unions following the Government's announcement, reflecting the fact that various other laws and regulations provide for their right to bargain.

Unions maintain a wide variety of regional and international affiliations.

b. The Right to Organize and Bargain Collectively

There were no reports of government interference with union organizing efforts during the year. Judicial and police authorities effectively enforce the LRIDA and other labor regulations. All parties are committed firmly to collective bargaining in contract negotiations, even in some nonunion settings. An independent Industrial Disputes Tribunal (IDT) hears cases where management and labor fail to reach agreement. Any cases not resolved by the IDT pass to the civil courts. The IDT generally handles 35 to 40 cases each year. Most are decided within 90 days, but some take longer to resolve due to the complexity of the dispute or delays requested by the parties. The LRIDA prohibits antiunion discrimination, and employees may not be fired solely for union membership. The authorities enforced this law effectively.

Collective bargaining is denied in a bargaining unit if no single union represents at least 40 percent of the workers in the unit in question or when the union seeking recognition for collective bargaining purposes does not obtain 50 percent of the votes of the total number of workers (whether or not they are affiliated to the union). The ILO's Committee of Experts (COE) considers that where there is no collective agreement and where a trade union does not obtain 50 percent of the votes of the total number of workers, that union should be able to negotiate at least on behalf of its own members. The COE requested the Government to take necessary measures to amend this legislation.

Domestic labor laws apply equally to the "free zones" (export processing zones). However, there are no unionized companies in any of the 3 zones, which employ 7,703 workers. Organizers attribute this circumstance to resistance by foreign owners in the zones to organizing efforts, but attempts to organize plants within the zones continue. Company-controlled "workers' councils" handle grievance resolution at most free zone companies, but they do not negotiate wages and conditions with management. Management determines wages and benefits within the free zones; these are generally as good as or better than those in similar industries outside the zones. The Ministry of Labor is required to perform comprehensive factory inspections in the free zones once each year, and in practice it performs them at 6- to 9-month intervals. There were no reports of substandard or unsafe conditions in the free zone factories.

c. Prohibition of Forced or Compulsory Labor

The Constitution does not specifically address the matter of forced or compulsory labor for either adults or children, but there were no reports that this practice exists.

The ILO COE noted that the Jamaica Shipping Act of 1998 did not remove the provision that disciplinary offences of seafarers such as desertion and absence without leave are punishable by imprisonment (involving an obligation to work). The ILO points out that this is incompatible with ILO Convention 105 on the Abolition of Forced Labor and requested that the Government amend the legislation. However, amendments to the law that were enacted in November did not address this criticism.

d. Status of Child Labor Practices and Minimum Age for Employment

The Juvenile Act provides that children under the age of 12 shall not be employed except by parents or guardians, and that such employment may be only in domestic, agricultural, or horticultural work. However, enforcement is uneven. Children under the age of 12 are seen peddling goods and services on city streets. There are also reports that underage children are employed illegally in fishing communities and in prostitution. The Educational Act stipulates that all children between 6 and 11 years of age must attend elementary school. However, due to economic circumstances, thousands of children are kept home to help with housework and avoid school fees. A 1994 UNICEF report stated that 4.6 percent of children below the age of 16 worked to help support their households. In December 1999, the Minister of Labor, Welfare, and Sport gave a speech in which she stated that 23,000 children were engaged in child labor. The Government and UNICEF cooperated on a strategy designed to eliminate child labor, to increase school awareness through poverty alleviation, and on a public awareness campaign intended to combat public complacency. However, these efforts are hampered by economic conditions, lack of resources, and incomplete information on the full extent of the problem.

In September the Government signed a memorandum of understanding with the ILO in preparation to ratify ILO Convention 182 on the prohibition and elimination of the "worst forms" of child labor. The memorandum provides funding and technical assistance to assess the country's child labor situation. While the Constitution does not prohibit forced or bonded labor by children, such practices were not known to occur (see Section 6.c.).

e. Acceptable Conditions of Work

The minimum wage, raised from \$20 (J\$800) to \$30 (J\$1,200) per week in August 1999, is considered widely to be inadequate to provide a decent standard of living for a worker and family. Most workers are paid more than the legal minimum, except in the tourism industry. Work over 40 hours per week or 8 hours per day must be compensated at overtime rates, a provision that is observed widely.

The Labor Ministry's Industrial Safety Division sets and enforces industrial health and safety standards, which are considered adequate. Public service staff reductions in the Ministries of Labor, Finance, National Security, and the Public Service have contributed to the difficulties in enforcing workplace regulations.

The law provides workers with the right to remove themselves from dangerous work situations without jeopardy to their continued employment if they are trade union members or covered by the Factories Act. The law does not specifically protect other categories of workers in those circumstances. Industrial accident rates, particularly in the bauxite and alumina industry, remained low.

f. Trafficking in Persons

The law does not prohibit specifically trafficking in persons; however, there are laws against assault and fraud, and other laws establish various immigration and customs regulations. There were no reports that persons were trafficked to, from, within, or through the country.

[End.]