



U.S. DEPARTMENT of STATE

Jamaica

Country Reports on Human Rights Practices - [2007](#)

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Jamaica is a constitutional parliamentary democracy with a population of approximately 2.7 million. In generally free and fair elections on September 5, the Jamaica Labour Party (JLP), led by Bruce Golding, won 32 of the 60 seats in the House of Representatives, and he was sworn in as prime minister on September 10. The civilian authorities generally maintained effective control of the security forces.

While the government generally respected the human rights of its citizens, there were serious problems in some areas, including: 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 committed crimes, an overburdened judicial system and frequent lengthy delays in trials, violence and discrimination against women, trafficking in persons, and violence against suspected or known homosexuals.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including

Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

While the government or its agents did not commit any politically motivated killings, security forces committed unlawful or unwarranted killings during the year.

The police frequently employed lethal force in apprehending criminal suspects, which resulted in 219 deaths as of December 1, compared with 189 deaths for the same period in 2006. While allegations of "police murder" remained frequent, the validity of some allegations was suspect. Well-armed gangs that trafficked in narcotics and guns controlled many inner-city communities. The gangs often were better equipped than the police force and conducted coordinated ambushes of joint security patrols.

The human rights group Jamaicans for Justice accused police of an average of 20 questionable killings monthly for the period from January 2005 through April 2007.

On September 28, police shot a Grants Pen resident, Andre Thomas, who was among a group of men whom the police said were acting suspiciously. However, residents of the area rejected the police version of the incident and staged a protest in the community. The incident was further elevated because the police officers did not report the shooting to their superiors and took their police vehicle to a local body shop to repair damage in an attempt to tamper with the evidence. The father of the victim claimed his son was alive and bleeding from two gunshot wounds when he was placed in the back of the police vehicle. Upon reaching the hospital, he was pronounced dead, and the medical report listed four gunshot wounds. The four officers involved were placed on desk duty until the full investigation is complete; no results had been announced by year's end.

On September 18 in Hampstead, St. Thomas, police shot and killed Tian Wolfe, a 19-year-old pregnant woman, and Dexter Hyatt, a day laborer. According to police accounts, Hyatt fired upon the officers, and he was found clutching a revolver after the shooting occurred. Local residents said police shot Wolfe after she joined a protest following Hyatt's shooting. The police claimed they fired into the crowd of protesters after they were fired upon. Authorities conducted an investigation but announced no results by year's end.

There was no known progress in the investigations into the police killings of four men in Alexandria and one detainee in custody in 2006.

A coroner's court hearing was scheduled for November in the 2005 killing of 16-year-old Jeff Smellie by police in Kingston.

The Department of Public Prosecutions (DPP) had not yet set a hearing date after the police Bureau of Special Investigations (BSI) concluded its investigation of the 2005 police killing of Nichols Weir and Donald Allen in Portmore, St. Catherine.

There was no information available about a coroner's court hearing into the 2004 police killing of three men in Burnt Savannah, Westmoreland.

In May a coroner's court found no one criminally responsible in the 2004 killing by Jamaica Defence Force (JDF) soldiers of Sandra Sewell and Gayon Alcott in August Town, St. Andrew.

It can take many years to bring police officers to trial for unlawful killings. Authorities set a trial date of March 15 for three police officers charged with the 2001 killing of Richard Williams, but one of the accused reportedly fled the country. A new trial date had not been set for the three police officers charged in 2003 with the 1999 killing of Noel Barnes in a shoot-out with police, after the first trial ended with a hung jury.

Appeals also can take years. On October 16, the Court of Appeals granted final leave for attorneys representing the mother of Janice Allen, killed by police in 2001, to take her case to the Privy Council. The family had appealed the dismissal of the case against the responsible police officer.

Vigilantism and spontaneous mob killings in response to crime continued to be problems. While not frequently reported in the media, this perhaps reflected a sense that police did not give such cases high priority.

In late December, however, the media widely reported that a vigilante mob angered at the alleged theft of a goat from the Papine area of St. Andrew, near the University of the West Indies (UWI) campus, attacked and killed three men seen in a car with a goat in the area on a Saturday night. One of the victims was a 25-year-old history major in his final year at UWI. There was no police response until days after the incident, with the media and letters to the editor expressing disdain over the lack of response. The police arrested at least three persons allegedly involved in the killing.

b. Disappearance

There were no reports of politically motivated disappearances.

There was no further action in the case involving charges of false imprisonment against Lawrence Clayton, a police officer, for his role in the 2004 police abduction of two men in Kingston.

c. Torture and Other Cruel, Inhuman, or Degrading

Treatment or Punishment

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.

The police began an investigation of one correctional officer suspected of aiding a 2005 prison escape, but it was not completed by year's end, and no hearings or inquests were held.

Prison and Detention Center Conditions

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 also entered into a new contract for insect and rodent control for all facilities. Medical care also was poor, primarily a result of having only three full-time doctors, one full-time nurse, and no psychiatrist to cover 13 facilities with 4,790 inmates across the island.

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 in jails. Adults and juveniles were segregated in the prison system. The majority of pretrial detainees were held in police custody either in police stations or in remand centers, generally separate from convicted prisoners.

When prisoners raise allegations of abuse by correctional officers, the charges are first reviewed by corrections officials,

then by an inspector from the Ministry of National Security, and finally by the police. Authorities file charges against correctional officers for abuse if evidence is found to support the allegations.

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.

d. Arbitrary Arrest or Detention

The law permits the arrest of persons "reasonably suspected" of having committed a crime. While the law prohibits arbitrary arrest, security forces performed "cordon and search" operations, during which they detained persons and took them into custody for processing.

Role of the Police and Security Apparatus

The Jamaica Constabulary Force (JCF) has primary responsibility for internal security and is assisted by the Island Special Constabulary Force. The JDF is charged with national defense, marine narcotics interdiction, and JCF support. The JDF has 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 authorized the JDF to cordon and search with the JCF. The Ministry of National Security oversees the JCF and the JDF.

The JCF is headed by a commissioner who delegates authority through the ranks to its constables. The force maintains divisions focusing on community policing, special response, intelligence gathering, and internal affairs. Faced with a homicide rate exceeding 51 per 100,000 persons, an increase from the 2006 rate of 45, the JCF generally was not effective. The perception of corruption and impunity within the force was a serious problem that contributed to a lack of public confidence in the institution. The Professional Standards Branch of the JCF, with responsibility to tackle corruption in the force, has never been able to charge or have dismissed even one senior police officer. Human rights groups identified systematically poor investigative procedures and weak oversight mechanisms.

The JCF conducted administrative and criminal investigations into all incidents involving fatal shootings by the police. The JCF's BSI, which employed 21 investigators, specifically addressed police shootings. A senior BSI detective estimated that approximately 525 police shootings were investigated during the year. No officer was found criminally liable during the year. BSI supplements the JCF Office of Professional Responsibility, which investigates police corruption and other misconduct, and the civilian Police Public Complaints Authority, which oversees investigations by the other two bodies and may initiate its own investigations.

The JCF continued a community policing initiative to address the long-standing antipathy between the security forces and many poor inner-city neighborhoods. The initiative included assigning JCF officers to targeted schools as resource officers to stem school violence and serve as liaison between the students, faculty, parents, and the police. The police academy included training for police officers on citizens' rights and human rights.

Human rights advocates contended that police did not consider killings by vigilante mobs a priority and expressed concern that the perpetrators rarely were charged.

Arrest and Detention

Arrests normally require warrants signed by a police officer of the rank of station sergeant or higher; however, arrests may be made without warrants. The law requires detained suspects to be charged or released within 24 hours of arrest, unless a justice of the peace or a resident magistrate grants special permission.

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, 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. The state provides indigent detainees access to counsel through the legal aid program, and detainees were provided with prompt access to family members.

There were reports of arbitrary arrest during the year, including during the brief period of a state of emergency declared in August by Prime Minister Portia Simpson-Miller, during which the right of habeas corpus was automatically suspended.

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, but few did so in practice.

e. Denial of Fair Public Trial

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. Most judges were appointed after serving in the DPP, and it was very difficult for a private attorney or one who specialized in defense to be appointed as a judge. Human rights groups stated that this made the independence of the judiciary very fragile, owing to judges' strong ties to the prosecutor's office.

The judiciary's lack of sufficient staff and resources hindered due process, and the BSI also had a large backlog. Trials in many cases were delayed for years, and other cases were dismissed because files could not be located or had been destroyed. A night court continued to operate in an effort to reduce the backlog of cases. The Supreme Court used mediation through the Dispute Resolution Foundation as an alternative to traditional trials, which alleviated some of the backlog in that court. The resident magistrate's courts also used alternative dispute resolution in limited cases.

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. 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. According to the JCF, no participant in the witness protection program who abided by the rules of the program was ever killed.

The court system includes justices of the peace, resident magistrate's courts, and the Supreme Court, which 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, the highest court in the country. The Privy Council in the United Kingdom is the final court of appeal.

Trial Procedures

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. Legal Aid attorneys were available to defend the indigent, except those charged with certain offenses under the Money Laundering Act or Dangerous Drugs Act. 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.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

There is an independent and impartial civil judiciary process. Complainants may bring human rights abuse cases for civil remediation to the courts, but awards can be difficult to collect. The civil authority did not always have enough money to award each case, resulting in a backlog of awards. There is a process to undertake pretrial negotiations between the complainant and the state in order to avoid trial. However, local human rights lawyers complained that the state did not take full advantage of this alternative.

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

Correspondence

Although the constitution prohibits such actions, the 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 vehicle, ship, or boat, if a police officer has good reason to be suspicious. In practice the police conducted searches without warrants.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and of the press, and the government generally respected these rights in practice.

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 laws 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. The Press Association of Jamaica and the Media Association of Jamaica continued to advocate changes in the libel laws, which they stated had a "chilling effect" on the media's ability to report effectively, especially on political issues.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion

The constitution provides for freedom of religion, and the government generally respected this right in practice.

Societal Abuses and Discrimination

Members of the Rastafarian community complained that law enforcement officials unfairly targeted them. However, it was not clear whether such complaints reflected discrimination on the basis of religious belief or were due to the group's illegal use of marijuana as part of Rastafarian religious practice.

There was a small practicing Jewish congregation in the country. There were no reports of societal abuses or discrimination, including anti-Semitic acts.

For a more detailed discussion, see the [2007 International Religious Freedom Report](#).

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

The law prohibits forced exile, and there were no reports that it occurred.

Protection of Refugees

The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and 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 there is reason to believe they feared persecution, and handled refugee or asylum cases administratively.

The government generally cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers; however, during the Cricket World Cup a group of 23 Haitians arrived in February and were repatriated on March 2, because the government was unwilling to address the issue at that busy time. The UNHCR asked the government to allow its local honorary liaison to interview the group to determine whether they had any protection concerns or asylum claims. The government denied access, citing that the migrants were quarantined.

According to the International Organization for Migration (IOM), at least one person was granted asylum during the year, but that person was refused a work permit, thereby denying the person the ability to be self-sufficient.

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

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic elections held on the basis of universal suffrage.

Elections and Political Participation

All citizens age 18 and over have the right to vote by secret ballot. However, in recent elections voters living in "garrison communities," 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. These factors impeded the free exercise of their right to vote. During the national election campaign in August and September, politically motivated violence in two communities reached a high enough level for the commissioner of elections to place a moratorium on political rallies and gatherings. There were at least two alleged shootings related to political motorcades on the campaign trail.

In the September elections the JLP appeared to win 33 of the 60 seats in the popularly elected House of Representatives. However, subsequent legal challenges narrowed the victory to 32 seats for the JLP. Although the seat in Eastern Hanover was ruled to have been officially won by the People's National Party (PNP), the JLP candidate filed an election petition to continue his attempt to unseat his PNP rival. Also, there were four cases against alleged dual nationals elected to Parliament, which the PNP claims violates the constitution. The courts began hearing the case against one sitting JLP member, and three other JLP parliamentarians were served with similar suits, but the court had not heard their cases by year's end.

There were eight women elected to the 60-seat House of Representatives and three women appointed to the 21-seat Senate. Two of the 18 cabinet ministers were women.

Government Corruption and Transparency

The law provides criminal penalties for official corruption, but the government did not implement the law effectively, and officials engaged in corrupt practices with impunity. According to the World Bank's worldwide governance indicators, government corruption was a serious problem. There was a widespread public perception of corruption in the executive and legislative branches of government, as well as in the ranks of the JCF. A media poll and a survey by the Caribbean Policy Research Institute found that the public believed more than half of the JCF was corrupt and considered nearly 50 percent of all government employees corrupt. After the JCF, parish council members and customs officers were seen as the most corrupt.

On October 22, the Minister of Energy, Mining, and Telecommunications announced an investigation into a program to distribute free light bulbs from Cuba. The minister alleged that the previous administration, through the Petroleum Corporation of Jamaica, paid more than \$1.7 million (J\$114 million) to two corporations not registered as government contractors to distribute and install the four million bulbs. Both firms were incorporated just before the distribution program began and never submitted invoices for services rendered.

Shortly before the national elections, the PNP returned approximately \$465,000 (J\$31 million) that Trafigura, a Dutch company, allegedly deposited in 2006 to an account used to pay for the PNP's annual conference that year. Prime Minister Simpson-Miller claimed that the PNP returned the money; however, authorities gave permission to the Dutch government to conduct an investigation whether Trafigura had bribed elected officials of Jamaica.

The Corruption Prevention Act requires many government officials to file financial declarations; however, reports indicated that more than 5,000 civil servants failed to file, or filed late or incomplete, financial declarations required under the act. The Ministry of Justice and the Attorney General's Office have overall responsibility to combat official corruption, but the various ministries are responsible for their own investigations.

The Access to Information Act (ATI) provides public access to information held by government ministries and agencies. However, there were reports that some legitimate requests for information were not granted, and in January a Joint Select Committee of parliament undertook a review of the ATI to consider its effectiveness from the standpoint of end-users as well as that of the public officials providing service under the act. No results of the review were made public.

Section 4 Governmental Attitude Regarding International and

Nongovernmental Investigation of Alleged Violations of

Human Rights

A number of domestic and international human rights groups and other international bodies generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often 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 NGO Jamaicans for Justice focused on the issues of police impunity, extrajudicial killings, and excessive use of force by the police and wrote a weekly newspaper column. The group 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 Public Defender's Office brings cases on behalf of those who charged that their constitutional rights were violated. The office contracted private attorneys to bring suits against the government on behalf of private citizens.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on 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.

Women

Rape was illegal and carried a penalty of up to 25 years' imprisonment with hard labor. Spousal rape is not recognized as a crime. Through December 1, 650 rapes were reported (not including statutory rape). NGOs believed the actual numbers were much higher, but they could not provide any detailed statistics. The JCF rape investigative and juvenile unit, which was headed by a female deputy superintendent, handled sex crimes. No information was available as to the number of prosecutions and convictions obtained.

Social and cultural traditions perpetuated 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. The law prohibits domestic violence and provides remedies including restraining orders and other noncustodial sentencing. Breaching a restraining order is punishable by a fine of up to approximately \$166 (J\$10,000) and six months' imprisonment. There was a general reluctance by the police to become involved in domestic issues, which led to cases not being pursued vigorously when reported. The Bureau of Women's Affairs operated crisis hot lines and shelters and managed a public education campaign to raise the profile of domestic violence.

Although the law prohibits prostitution, it was widespread, particularly in tourist areas. Trafficking in women for prostitution was a problem.

There is no legislation that addresses sexual harassment, and it was a problem. There were reports of sexual harassment of women by the police, but some observers believed that women often did not report such incidents because there was no legal remedy.

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 awareness of problems affecting women. Women sought jobs and served in almost every occupation in both the public and private sectors.

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 was the protection of victims of sexual abuse, participation of women in the political process, and legislative reforms affecting women.

Children

The government was committed to improving children's welfare. The Ministry of Education, Youth, and Culture is responsible for implementation of the government's programs for children. In January the government established an Office of the Children's Advocate. The office has broad responsibilities for reviewing laws, policies, practices, and government services affecting children; providing legal services and investigating complaints against the government; and publishing reports and issuing best practice guidelines concerning the rights or best interests of children.

Public primary education was free, universal, and compulsory for students between the ages of six 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. Media reports indicated a higher percentage of female students continued their education and that males were

much more likely to drop out. 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. The newly elected Parliament enacted a law abolishing tuition in all public primary and secondary schools and refunding tuition already paid prior to the election. There were still laboratory and other miscellaneous fees.

Medical care was widely available, and boys and girls enjoyed equal access.

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." As of December 1, there were 395 cases of carnal abuse reported, a 2 percent decrease from the same period in 2006. 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.

Child prostitution and trafficking for the purpose of sexual exploitation were problems.

Trafficking in Persons

On February 16, new antitrafficking in persons legislation was enacted. Nonetheless, the country was a source for women and children trafficked for purposes of sexual exploitation and labor. In a 2005 exploratory assessment, the IOM stated that some trafficking occurred in the country, primarily for sexual exploitation. The report also stated there may be trafficking, including that of children, within the country for domestic servitude and forced labor.

During the year authorities identified a third-country national as having been trafficked to Jamaica as a domestic servant by a dual national originally from the same country. The employer allegedly had not paid the young woman properly since she arrived in the country in 2002. The Ministry of Justice, in cooperation with IOM, removed the woman from the household, placed her in a women's shelter, and recovered back wages from the employer. The government planned to prosecute the employer under trafficking in persons legislation and returned the victim to her home country with IOM resettlement assistance.

The International Labor Organization (ILO) estimated that several hundred minors were involved in the country's sex trade.

Groups at a special risk for trafficking included migrants from rural areas who sought work in cities and tourist areas, usually in the sex industry. Victims were lured by the promise of jobs and education. Some victims were trafficked by family members, while others voluntarily answered employment advertisements without knowing what the job actually entailed.

The Child Care and Protection Act specifically prohibits the sale or trafficking of minors and provides that violators receive the maximum penalty under the law. This law subjects convicted traffickers to a fine or imprisonment at hard labor 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. The Trafficking in Persons Act, which came into force on March 1, provides penalties of up to 10 years' imprisonment for permitting or facilitating trafficking. It also allows for restitution to the victim.

Police raided some night clubs; however, the number of persons charged with trafficking during the year was not available.

The CDA managed facilities for at-risk children, and the government provided funding to NGOs that worked to reintegrate child laborers who were victims of trafficking.

A specialized police antitrafficking unit within the Organized Crime Division of the JCF compiles data on trafficking investigations and related legal proceedings. Six officers staffed the unit. Three major crime hot lines were available to receive reports of trafficking 24 hours per day.

The government's National Task Force against Trafficking in Persons, led by the Ministry of Justice, has the lead on all trafficking issues. The Bureau of Women's Affairs integrated trafficking topics into its public education program.

Persons with Disabilities

There were no laws prohibiting discrimination against persons with disabilities or 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.

Other Societal Abuses and Discrimination

The law prohibits "acts of gross indecency" (generally interpreted as any kind of physical intimacy) between men, in public or in private, which are punishable by 10 years in prison.

The Jamaica Forum for Lesbians, All Sexuals, and Gays (J-FLAG) continued to report 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 members also reported death threats, as well as threats to burn down its offices. In October members of J-Flag reported that they were considering sending a prominent AIDS spokesman abroad due to concerns for his personal safety in the country.

Authorities postponed the trial of six suspects arrested for the 2005 robbery and murder of Lenford "Steve" Harvey, and it had not been held by year's end.

Male inmates deemed by prison wardens to be homosexual were held in a separate facility for their protection. The method used for determining their sexual orientation was subjective and not regulated by the prison system, although inmates were said to confirm their homosexuality for their own safety. There were numerous reports of violence against homosexual inmates, perpetrated by the wardens and by other inmates, but few inmates sought recourse through the prison system. One foreign homosexual man held in prison complained about harassment and for his safety was moved to a maximum-security prison and placed in solitary confinement for 23 hours a day.

Homosexual men were hesitant to report incidents against them because of fear for their physical well-being. Human rights NGOs and government entities agreed that brutality against homosexuals, by police and by private citizens, was widespread in the community.

No laws protect persons living with HIV/AIDS from discrimination. Human rights NGOs reported severe stigma and discrimination against this group. The ILO worked with the Ministry of Labor on a program to reduce the stigma of HIV/AIDS in the workplace and to assist employers in designing policies for workers with HIV/AIDS. Although health care facilities were prepared to handle patients with HIV/AIDS, health care workers often neglected such patients.

Section 6 Worker Rights

a. The Right of Association

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.

b. The Right to Organize and Bargain Collectively

The law permits unions to conduct their activities without interference, and the government protected this right in practice. An independent Industrial Disputes Tribunal (IDT) hears cases when management and labor fail to reach agreement. Any cases not resolved by the IDT pass to the civil courts. The IDT generally handled 35 to 40 cases each year. Most were decided within 90 days, but some took longer to resolve due to the complexity of the dispute or delays requested by the parties.

Collective bargaining is denied to 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 with the union). The ILO Committee of Experts (COE) considered that, where there was no collective bargaining agreement and where a trade union did not obtain 50 percent of the votes of the total number of workers, the union should be able to negotiate at least on behalf of its own members.

The law neither authorizes nor prohibits the right to strike, and strikes occurred: of 189 disputes reported to the Ministry of Labor, 11 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 due to 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. However, despite this prohibition, some workers who provide essential services went on strike by staging a "sick-out."

Domestic labor laws applied equally to the "free zones" (export processing zones), but there were no unionized companies in any of the three publicly owned zones. Organizers attributed this circumstance to resistance to organizing efforts by foreign owners in the zones, asserting that there was an unwritten agreement among them to prevent free zone workers from participating in trade unions. According to the International Trade Union Confederation, unions reported that many employers continued to prevent workers from seeking union representation. Employer-controlled "workers' councils"

handled grievance resolution in most of these companies but did not negotiate wages and conditions, which were set by management.

c. Prohibition of Forced or Compulsory Labor

The law does not specifically prohibit forced or compulsory labor, including by children, but other than child prostitution, there were no reports that such practices occurred.

The COE's annual report reiterated its recommendation that the government amend prison rules to ensure that no prisoners may work for private individuals or companies except under conditions of a freely accepted employment relationship. The Ministry of Labor stated that prisoners do not work privately unless they have approval from the commissioner, and those prisoners who work privately freely accept the employment and receive normal wages.

d. Prohibition of Child Labor and Minimum Age for

Employment

The Child Care and Protection 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. It also prohibits children under the age of 15 from industrial employment. The police are mandated to conduct child labor inspections, and the CDA is charged with finding places of safety for children. However, according to CDA officials, resources to investigate exploitive child labor were insufficient. Children under the age of 12 peddled goods and services or begged on city streets. There were also reports that underage children were employed illegally in fishing communities and in prostitution.

e. Acceptable Conditions of Work

The government sets the minimum wage after receiving recommendations from the National Minimum Wage Advisory Commission. The minimum wage was approximately \$42 (J\$2,800) per week for all workers except private security guards, whose minimum was approximately \$62 (J\$4,140) per week. The minimum wage did not provide a decent standard of living for a worker and family, but most workers were paid more than the legal minimum. The Ministry of Labor administered and enforced the minimum wage.

The law provides for a standard 40-hour workweek and mandates at least one day of rest per week. Work in excess of 40 hours per week or eight hours per day must be compensated at overtime rates, a provision that was observed widely, except by some security guard companies. The law does not prohibit excessive compulsory overtime, and some employees, including security guards, regularly were required to work 12-hour shifts without overtime compensation. There were differing practices among security guard companies, but workers were generally not paid for overtime unless they worked more than 12 hours. Historically the JCF was exempt from the 40-hour workweek; however, a phased-in program was put in place to change that standard.

The Ministry of Labor's Industrial Safety Division sets and enforces industrial health and safety standards, mainly through factory inspections. Insufficient staffing in the Ministries of Labor, Finance, National Security, and Public Service contributed to the difficulties in enforcing workplace regulations. The Industrial Safety Division conducted inspections, investigated accidents, warned violators, and gave them a time period in which to correct the violation. If the violation was not corrected within that time, the violator was taken to court.

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.

