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Jamaica

Country Reports on Human Rights Practices - [2005](#)

Released by the Bureau of Democracy, Human Rights, and Labor
March 8, 2006

Jamaica is a constitutional parliamentary democracy with a population of approximately 2.7 million. In the generally free and fair 2002 elections, Prime Minister P.J. Patterson's People's National Party (PNP) won 34 of the 60 seats in the House of Representatives. 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:

- 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

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 some unlawful or unwarranted killings during the year.

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 allegations was suspect. The country faced a critical crime situation with a homicide rate exceeding 62 per 100 thousand persons, the highest in its history. 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.

On June 19, Amnesty International (AI) reported that no Jamaica Constabulary Force (JCF) officer had been convicted of murder in the last six years, and that police are "immune from effective prosecution and are allowed to carry out killings with impunity."

On August 19, in Kingston, police killed 16-year-old Jeff Smellie who was reportedly returning from visiting his grandmother in the hospital. Police reported that the youth was involved in a shootout.

On December 30, police reportedly shot two men in Portmore, St. Catherine. Police stated there was a shootout that resulted in their deaths. Neighbors and family alleged the two men were killed in their sleep, dragged out of the house, and put in police jeeps. The Bureau of Special Investigations (BSI) was investigating the incident.

Following a BSI investigation into the March 2004 police killing of three men in Burnt Savannah, Westmoreland, the case was transferred to the Department of Public Prosecutions (DPP). At year's end the case was before the coroner's court to determine whether criminal charges should be brought against any members of the JCF.

Similarly, the BSI concluded its investigation into the September 2004 killing by Jamaica Defense Force (JDF) soldiers of Sandra Sewell and Gayon Alcott in August Town, St. Andrew, and transferred the case to the DPP. At year's end the coroner's court was to decide whether

criminal charges should be brought against any members of the JDF.

The BSI also concluded its investigation into the December 2004 police killing of 15-year-old Donovan Hayles and 7-year-old Shakeira Thompson in Old Braeton, St. Catherine, and sent the case to the DPP. At year's end the case was with the DPP, and no formal charges had been made.

Six members of the JCF's disbanded Crime Management Unit, including Senior Superintendent Reneto Adams, were charged in connection with the 2003 killing of four people at a home in Crawle, Clarendon. On December 12, the judge found that the prosecution failed to make a prima facie case against three of the officers and ordered the jury to free them. On December 20, the jury found the remaining three officers not guilty. At year's end it was anticipated that the officers would be back at their jobs early in 2006.

Following a BSI investigation, authorities brought charges of killing and intent to injure against five police officers for the 2003 police killing of two elderly men in the community of Flankers, St. James. The government accepted liability and agreed to compensate the family of one of the victims in the amount of approximately \$80 thousand (J\$4.75 million). The trial was expected to begin in 2006.

In 1999 Michael Gayle died two days after being injured by the security forces. Authorities admitted that he was killed unlawfully and issued a public apology in March 2004. The government also paid the family approximately \$48 thousand (J\$2,886,265) in compensation for Gayle's death. On October 24, the Inter-American Commission on Human Rights published its report on the case, which found that the government's remedy and investigation into the case were insufficient. This caused renewed public debate about the DPP's finding that there were no officers who could be charged in connection with the case.

On February 11, a trial judge acquitted the six police officers charged in the 2001 killing of seven youths in Braeton, St. Catherine. The court freed the officers after it determined that the prosecution had failed to make a prima facie case against the officers.

In the case of the 2000 police killing of Janice Allen, her family appealed the dismissal of the case against the responsible police officer and was awaiting a court date at year's end.

During the year at least three detainees died while in police custody. In addition a March 31 escape attempt at Kingston's maximum security prison resulted in the deaths of three inmates. There was no evidence of negligence.

Vigilantism and spontaneous mob killings in response to crime continued to be a problem. There were at least 20 vigilante killings during the year, with varying motives. On April 4, a mob in the parish of Trelawny killed two men accused of stealing yams. Human rights advocates contended that police did not consider such killings a priority and expressed concern that the perpetrators rarely were charged.

In November unknown assailants kidnapped and killed Lenford "Steve" Harvey, a homosexual man who operated Jamaican AIDS Support for Life (see section 5).

b. Disappearance

There were no reports of politically motivated disappearances.

In December 2004 police allegedly abducted two men in Kingston. Witnesses reported that two members of the JCF Organized Crime Unit handcuffed and took two men into custody. At year's end, authorities had charged one police officer with false imprisonment, but his trial was postponed. The victims had not been found.

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. On August 9, 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.

A former prison doctor for the St. Catherine Adult Correction Center in Spanish Town publicly alleged at a St. Catherine parish council meeting and in a letter to the commissioner of corrections that mass rapes, particularly of mentally ill inmates and inmates serving time for nonviolent offenses, occurred at the prison during the year. The doctor also alleged that prison guards and some inmates were involved in "renting out" the victims for sex with other inmates. The Ministry of National Security agreed to investigate the allegations.

On February 17, the Supreme Court ordered the government to pay \$50 thousand (J\$3 million) in damages for the "oppressive and unconstitutional" conduct by a policeman who shot and injured 36-year-old electrician Esrick Morgan in 1998.

On March 9, a Supreme Court judge, in assessing damages against the government, described the conduct of a policeman who gave a prisoner a knife to wound another while in custody as "outrageous." The injured man was awarded \$20 thousand (J\$1.2 million) with interest in damages.

There were no developments in the case of six police officers accused of raping a prostitute in Negril, Westmoreland in March 2004.

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 medical care for inmates. A March 31 escape attempt at Kingston's maximum security prison was foiled but resulted in the deaths of three inmates and one prison guard. The media labeled 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.

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. Arrests normally require warrants signed by a police officer of the rank of station sergeant or higher; however, arrests may be made without warrants.

Role of the Police and Security Apparatus

The JCF had primary responsibility for internal security and was assisted by the Island Special Constabulary Force. The JDF was charged with national defense, 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 authorized the JDF to cordon and search with the JCF. The Ministry of National Security oversaw 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 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 was a serious problem that contributed to a lack of public confidence in the institution. Human rights groups identified systematically poor investigative procedures and weak oversight mechanisms.

On March 1, Mark Shields joined the JCF as deputy commissioner of police in charge of crime. Shields, a 29-year veteran of the London Metropolitan Police, was the first foreign police officer to join the JCF. Shields was hired for a period of four years with primary responsibility to reduce the homicide rate.

The JCF conducted both administrative and criminal investigations into all incidents involving fatal shootings by the police. The JCF's BSI, 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, which oversaw investigations by the other two bodies and could initiate its own investigations.

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. During the year JCF officers were assigned to targeted schools as school resource officers to stem school violence and serve as liaison between the students, faculty, parents, and the police. The police academy includes training for policemen on citizens' rights and human rights. In September the government completed distribution of human rights materials to 23 primary schools across the country; the program was developed jointly by the government and the Independent Jamaica Council for 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 (see section 1.a).

Arrest and Detention

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, but the police publicly criticized the courts for being too lenient in granting bail to serious criminals. The judiciary responded that it was the responsibility of parliament to toughen laws on bail. 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, 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.

There were no reports of political detainees.

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 (see section 1.e.). Magistrates were required to inquire at least once a week into the welfare of each person listed by the JCF as detained.

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.

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 had some success in reducing 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. 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.

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.

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

There were no reports of political prisoners.

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

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 the police. In May 2004 businessman and political activist Paul Burke made public a letter that he addressed to the police commissioner and chief justice arguing that the judicial authorization to tap his phones was an attempt by his enemies to smear him for political reasons. There was no public government reaction to his letter.

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 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, 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 year's end.

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 law 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 [2005 International Religious Freedom Report](#)

d. Freedom of Movement within the Country, Foreign

Travel, Emigration, and Repatriation

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.

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 they feared persecution, and handled refugee or asylum cases administratively. The government cooperated with the office of the UN 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.

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 UNHCR, 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.

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

The law provides citizens with 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" 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.

In 2002 P.J. Patterson's PNP won 34 of the 60 seats in the popularly elected House of Representatives. The PNP holds 13 of the 21 seats in the appointed Senate.

There were 7 women in the 60-seat House of Representatives, and 5 women in the 21-seat Senate. Three of the 17 cabinet members were women.

Government Corruption and Transparency

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.

On October 30, security forces in South Central St. Catherine killed Donovan "Bulbie" Bennett, the reputed leader of the

"Clansman" gang and one of the JCF's most wanted men for more than 10 years. Following the incident, police accused PNP Member of Parliament (MP) Sharon Hay-Webster and her party of being

"major supporters" of Bennett, who had been wanted in connection with nearly 100 killings, extortion, and other serious crimes in Spanish Town. Police Superintendent Kenneth Wade said that PNP support had helped fuel the criminal gang for years. The PNP denied the allegations, but the incident raised further questions about government involvement with known criminals.

In December 2004 the Senate noted the omission of party financing regulations as a gap in the 2003 Corruption Prevention Act. On December 9, parliament amended that act to close reporting loopholes for state employees. However, reports indicated that over five thousand civil servants failed to file declarations with the commission, or filed late or incomplete declarations.

The 2004 investigation into JLP MP Olivia Grange's relationship with Spanish Town gang leader Oliver Smith ceased, and no developments were expected. However, on October 6, Olivia Grange was involved in another shooting while riding in a car with Andrew Hope, who replaced Oliver Smith as the new leader of the gang, when a lone gunman fired shots at her vehicle and the motorcycles accompanying her. One motorcycle rider was killed.

The Access to Information Act (ATI), signed in 2002, went into effect on January 5. This law 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 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.

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 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.

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. The public defender continued working on an overall antidiscrimination bill, which would create an Antidiscrimination Commission to make decisions about grievances. The public defender won compensation for at least four of the families of victims killed during the 2001 shootout in Tivoli Gardens, West Kingston, between members of the community, the JCF, and the JDF. Lawsuits filed on behalf of all the victims killed during the shooting remained pending at year's end.

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 (see section 3).

Women

The law provides remedies for domestic violence, including restraining orders and other noncustodial 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.

Rape, including spousal rape, was illegal and carried a penalty of up to 25 years' imprisonment with hard labor. During the year, 735 incidents of rape were reported (not including statutory rape), a decrease of 15 percent, but NGOs 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.

Although the law prohibits prostitution, it was widespread, particularly in tourist areas.

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.

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. Parliament had not yet passed legislation relating to sexual harassment called for by the convention on violence against women.

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.

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 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.

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." 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.

Child prostitution and trafficking for the purposes of sexual exploitation were problems (see section 5, Trafficking).

Trafficking in Persons

Although the law does not prohibit specifically trafficking in adults, there were laws against assault and fraud, and other laws established various immigration and customs regulations that could be used against this practice. Trafficking in children was a problem, and there were reports that persons were trafficked primarily within the country.

The Child Care and Protection Act passed in 2004 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 with 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. Although authorities raided some night clubs, police tended to arrest victims of trafficking rather than owners of the clubs. There were few if any convictions under this law. Authorities reported that very few children had been found to be trafficking victims.

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

The country was also a transit country for illegal migrants moving to the United States and Canada, some of whom were believed to be trafficking victims. Groups at a special risk for trafficking included rural migrants who sought work in cities and tourist areas, usually in the sex industry. Corruption among immigration officials in facilitating the unauthorized international movement of persons was a concern.

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.

On August 30, the government launched a year-long educational campaign to educate its citizens regarding the dangers of trafficking in persons. The government formed a National Trafficking Task Force and created a specialized police antitrafficking unit within the Organized Crime Division of the JCF. A main focus of this unit was to compile data on trafficking investigations and related legal proceedings. Two officers staffed the unit and both received training from the International Organization for Migration. Three major crime hot lines were available to receive reports of trafficking 24 hours per day.

Persons with Disabilities

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.

Other Societal Abuses and Discrimination

The Offenses against the Person Act 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. Although Prime Minister Patterson stated that the country would not be pressured to change its antihomosexual laws, in October a parliamentary committee proposed a combined national public debate on the legality of homosexuality and prostitution as matters of public health.

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.

On November 30, Lenford "Steve" Harvey, who operated Jamaican AIDS Support for Life, was killed on the eve of World AIDS Day. At least four men broke into Harvey's home, stole items, and kidnapped Harvey. Two of Harvey's associates who were in the home at the time reported that they were asked if they were gay; they answered negatively but Harvey did not reply, and the intruders took him from his home. Several hours later he was found shot to death in a rural area some miles from his home. 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.

In December 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.

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 remained in custody at year's end awaiting trial.

Also in June 2004 a group of armed men, reportedly including famous dancehall artist Mark Myrie, a.k.a. Buju Banton, forced their way into a house in Kingston and beat six men while shouting homophobic insults. Banton plead not guilty to the charges on September 21, and was released on less than \$1 thousand (J\$50 thousand) bail. The court extended Myrie's bail on September 30 and again on October 19, when the court relaxed its conditions, requiring that he report to his local police station once per week.

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.

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

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.

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 COE requested the government to take necessary measures to amend this legislation. The government contended that this would unduly lengthen negotiations.

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.

Domestic labor laws applied equally to the "free zones" (export processing zones), but there were no unionized companies in any of the 3 publicly owned zones, which employed approximately 134 workers. 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. Nonetheless, efforts to organize plants within the zones continued. Company-controlled "workers' councils" handled grievance resolution at most free zone companies, but they did not negotiate wages and conditions with management. Management determined wages and benefits within the free zones. The Ministry of Labor is required to perform comprehensive factory inspections in the free zones once each year, and, in practice it performed them at six- to nine-month intervals.

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 (see section 5).

The ILO Committee of Experts' annual report reiterated its recommendation that the government amend prison rules so as to ensure that no prisoners may work for private individuals or companies except under conditions of a freely accepted employment relationship, which would bring the rules into conformity with ILO Convention 29 on Forced Labor. The Ministry of Labor stated that prisoners do not work privately unless they have approval from the commissioner, and that 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 with conducting child labor inspections, and the CDA is charged with finding places of safety for children. However, according to CDA officials, resources to investigate exploitative 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 (see section 5).

e. Acceptable Conditions of Work

The government sets the minimum wage, after receiving recommendations from the National Minimum Wage Advisory Commission. During the year the minimum wage was changed to \$40 (J\$2,400) per week and \$1.50 (J\$90) per hour for private security guards. 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 day of rest 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. 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 for over 12 hours.

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 the public service contributed to the difficulties in enforcing workplace regulations. At year's end the Industrial Safety Division had 16 officers, who conducted 2,344 planned inspections, 282 special inspections, and 77 accident investigations. Violators were warned and given a time period in which to correct the violation. If the violation was not corrected within that time, the violator was taken to court. Authorities brought 10 cases to court during the year.

Industrial accident rates remained low. 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.

