Home Office
UK Border Agency

JAMAICA

COUNTRY OF ORIGIN INFORMATION (COI) REPORT

COI Service

27 May 2011

SECURING OUR BORDER CONTROLLING MIGRATION

Contents

Preface

Latest News

EVENTS IN JAMAICA FROM 10 MAY TO 26 MAY 2011
Useful news sources for further information

REPORTS ON JAMAICA PUBLISHED OR ACCESSED AFTER 9 MAY 2011

Paragraphs

Background Information

1. GEOGRAPHY 1.01
Maps 1.03
2. ECONOMY 2.01
3. HISTORY 3.01
Prior to 1990 ..... 3.01
1990 – April 2010 ..... 3.03
4. RECENT DEVELOPMENTS 4.01
May 2010 – 9 May 2011 ..... 4.01
5. CONSTITUTION 5.01
6. POLITICAL SYSTEM 6.01

Human Rights

7. INTRODUCTION 7.01
8. CRIME 8.01
Gang violence 8.07
Some specific gangs 8.12
9. SECURITY FORCES 9.01
Police (Jamaica Constabulary Force and Island Special Constabulary Force) 9.02
Extra-judicial killings 9.04
Torture 9.06
Arbitrary arrest and detention 9.08
Corruption in the police 9.09
Avenues of complaint 9.11
Armed forces 9.14
Military service 9.15
10. JUDICIARY 10.01
Organisation 10.04
Independence 10.05
Fair trial 10.07
Legal Aid 10.08
Witness protection 10.09
Relevant legislation 10.11
11. ARREST AND DETENTION – LEGAL RIGHTS 11.01
12. PRISON CONDITIONS 12.01
13. DEATH PENALTY 13.01
14. POLITICAL AFFILIATION 14.01
Freedom of political expression 14.02

 The main text of this COI Report contains the most up to date publicly available information as at 9 May 2011. Further brief information on recent events and reports has been provided in the Latest News section to 26 May 2011.

Freedom of association and assembly **14.04**
Opposition groups and political activists **14.05**
15. FREEDOM OF SPEECH AND MEDIA **15.01**
Media freedom **15.01**
Internet **15.04**
Academic freedom and cultural events **15.06**
16. HUMAN RIGHTS INSTITUTIONS, ORGANISATIONS AND ACTIVISTS **16.01**
17. CORRUPTION **17.01**
18. FREEDOM OF RELIGION **18.01**
19. ETHNIC AND ANCESTRAL GROUPS **19.01**
20. LESBIAN, GAY, BISEXUAL AND TRANSGENDER PERSONS **20.01**
Legal rights **20.04**
Treatment by, and attitudes of, state authorities **20.10**
Protection and assistance available 20.18
Societal treatment and attitudes **20.24**
Violence 20.32
Gay men 20.38
Lesbians 20.44
Transgender persons 20.47
21. DISABILITY **21.01**
22. WOMEN **22.01**
Overview **22.01**
Legal rights **22.06**
Political rights **22.10**
Social and economic rights **22.13**
Education and employment 22.15
Health and reproductive rights 22.18
Violence against women **22.25**
Sexual violence, including harassment 22.29
Rape 22.33
Assistance available 22.36
23. CHILDREN **23.01**
Overview **23.01**
Basic legal information 23.06
Legal rights **23.07**
Judicial rights 23.11
Violence against children **23.16**
Childcare and protection **23.20**
Education **23.29**
Health and welfare **23.34**
24. TRAFFICKING **24.01**
25. MEDICAL ISSUES **25.01**
Overview of availability of medical treatment and drugs **25.02**
National Health Fund (NHF) 25.04
HIV/AIDS 25.07
Discrimination against people living with HIV/AIDS 25.10
Anti-Retroviral (ARV) treatment 25.13
Sickle Cell 25.16
Diabetes 25.19
Cancer treatment 25.21
Kidney dialysis 25.22
Mental health 25.23

26. HUMANITARIAN ISSUES 26.01
27 FREEDOM OF MOVEMENT 27.01
28. CITIZENSHIP AND NATIONALITY 28.01
29. FORGED AND FRAUDULENTLY OBTAINED OFFICIAL DOCUMENTS 29.01
30. EXIT AND RETURN 30.01
Treatment of returned failed asylum seekers 30.02
31. EMPLOYMENT RIGHTS 31.01

Annexes

Annex A – Chronology of major events
Annex B – Political parties
Annex C – Prominent people
Annex D – List of abbreviations
Annex E – References to source material

 The main text of this COI Report contains the most up to date publicly available information as at 9 May 2011. Further brief information on recent events and reports has been provided in the Latest News section to 26 May 2011.

Preface

i This Country of Origin Information (COI) Report has been produced by the COI Service, United Kingdom Border Agency (UKBA), for use by officials involved in the asylum/human rights determination process. The Report provides general background information about the issues most commonly raised in asylum/human rights claims made in the United Kingdom. The main body of the report includes information available up to 9 May 2011. The 'Latest News' section contains further brief information on events and reports accessed from 10 May to 26 May 2011. The report was issued on 27 May 2011.

ii The Report is compiled wholly from material produced by a wide range of recognised external information sources and does not contain any UKBA opinion or policy. All information in the Report is attributed, throughout the text, to the original source material, which is made available to those working in the asylum/human rights determination process.

iii The Report aims to provide a compilation of extracts from the source material identified, focusing on the main issues raised in asylum and human rights applications. In some sections where the topics covered arise infrequently in asylum/human rights claims only web links are provided. It is not intended to be a detailed or comprehensive survey. For a more detailed account, the relevant source documents should be examined directly.

iv The structure and format of the COI Report reflects the way it is used by UKBA decision makers and appeals presenting officers, who require quick electronic access to information on specific issues and use the contents page to go directly to the subject required. Key issues are usually covered in some depth within a dedicated section, but may also be referred to briefly in several other sections. Some repetition is therefore inherent in the structure of the Report.

v The information included in this COI Report is limited to that which can be identified from source documents. While every effort is made to cover all relevant aspects of a particular topic, it is not always possible to obtain the information concerned. For this reason, it is important to note that information included in the Report should not be taken to imply anything beyond what is actually stated. For example, if it is stated that a particular law has been passed, this should not be taken to imply that it has been effectively implemented unless stated. Similarly, the absence of information does not necessarily mean that, for example, a particular event or action did not occur.

vi As noted above, the Report is a compilation of extracts produced by a number of reliable information sources. In compiling the Report, no attempt has been made to resolve discrepancies between information provided in different source documents though COIS will bring the discrepancies together and aim to provide a range of sources, where available, to ensure that a balanced picture is presented. For example, different source documents often contain different versions of names and spellings of individuals, places and political parties, etc. COI Reports do not aim to bring consistency of spelling, but to reflect faithfully the spellings used in the original source documents. Similarly, figures given in different source documents sometimes vary and these are simply quoted as per the original text. The term 'sic' has been used in this document only to denote incorrect spellings or typographical errors in quoted text; its use is not intended to imply any comment on the content of the material.

vii The Report is based substantially upon source documents issued during the previous two years. However, some older source documents may have been included because they contain relevant information not available in more recent documents. All sources contain information considered relevant at the time this Report was issued.

viii This COI Report and the accompanying source material are public documents. All COI Reports are published on the RDS section of the Home Office website and the great majority of the source material for the Report is readily available in the public domain. Where the source documents identified in the Report are available in electronic form, the relevant web link has been included, together with the date that the link was accessed. Copies of less accessible source documents, such as those provided by government offices or subscription services, are available from the COI Service upon request.

ix COI Reports are published regularly on the top 20 asylum intake countries. Reports on countries outside the top 20 countries may also be published if there is a particular operational need. UKBA officials also have constant access to an information request service for specific enquiries.

x In producing this COI Report, COI Service has sought to provide an accurate, balanced summary of the available source material. Any comments regarding this Report or suggestions for additional source material are very welcome and should be submitted to UKBA as below.

Country of Origin Information Service
UK Border Agency
St Anne House
20-26 Wellesley Road
Croydon, CR0 9XB
United Kingdom
Email: cois@homeoffice.gsi.gov.uk
Website: http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/

INDEPENDENT ADVISORY GROUP ON COUNTRY INFORMATION

xi The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Chief Inspector of the UK Border Agency to make recommendations to him about the content of the UKBA's COI material. The IAGCI welcomes feedback on UKBA's COI Reports and other country of origin information material. Information about the IAGCI's work can be found on the Chief Inspector's website at http://www.ociukba.homeoffice.gov.uk

xii In the course of its work, the IAGCI reviews the content of selected UKBA COI documents and makes recommendations specific to those documents and of a more general nature. A list of the COI Reports and other documents which have been reviewed by the IAGCI or the Advisory Panel on Country Information (the independent organisation which monitored UKBA's COI material from September 2003 to October 2008) is available at http://www.ociukba.homeoffice.gov.uk/

xiii Please note: it is not the function of the IAGCI to endorse any UKBA material or procedures. Some of the material examined by the Group relates to countries

designated or proposed for designation to the Non-Suspensive Appeals (NSA) list. In such cases, the Group's work should not be taken to imply any endorsement of the decision or proposal to designate a particular country for NSA, nor of the NSA process itself. The IAGCI can be contacted at:

Independent Advisory Group on Country Information
Independent Chief Inspector of the UK Border Agency
5th Floor, Globe House
89 Eccleston Square
London, SW1V 1PN
Email: chiefinspectorukba@icinspector.gsi.gov.uk
Website: http://www.ociukba.homeoffice.gov.uk/

Return to contents

Latest News

EVENTS IN JAMAICA FROM 10 MAY TO 26 MAY 2011

The Latest News provides a non-exhaustive selection of significant events since 10 May 2011. Further information may also be available from the list of useful sources below.

23 May Amnesty International published a report, *Jamaica: A long road to justice? Human rights violations under the state of emergency*, and called on the Jamaican government to establish an independent commission of enquiry into alleged human rights violations, including the killing of 74 people, during the state of emergency imposed between 23 May and 22 July 2010 in an operation to arrest suspected gang leader Christopher 'Dudus' Coke. The full report can be accessed at: http://www.amnesty.org/en/library/asset/AMR38/002/2011/en/d452da6f-50b9-4553-919c-0ce0ccedc9d8/amr380022011en.pdf

Amnesty International
News release:*Jamaica urged to bring to justice those guilty of gang operation killings*, 23 May 2011
http://www.amnesty.org/en/news-and-updates/report/jamaica-urged-bring-justice-those-guilty-gang-operation-killings-2011-05-23
Date accessed 24 May 2011

10 May Prime Minister Bruce Golding announced in the 2011-2012 Budget Debate in Parliament that the number of posts in the public sector would be reduced from 118,163 (according to the Census) to between 108,000 and 109,000, over a five year period.

The Gleaner
Jobs to go, 11 May 2011
http://jamaica-gleaner.com/gleaner/20110511/lead/lead1.html
Date accessed 12 May 2011

USEFUL NEWS SOURCES FOR FURTHER INFORMATION

A list of news sources with Weblinks is provided below, which may be useful if additional up to date information is required to supplement that provided in this report. The full list of sources used in this report can be found in Annex E – References to source material.

AlertNet (Thomson Reuters) http://www.alertnet.org/thenews/newsdesk/index.htm?news=all

British Broadcasting Corporation (BBC) http://news.bbc.co.uk

The Gleaner, Jamaica http://jamaica-gleaner.com/

Jamaica Observer http://www.jamaicaobserver.com/

Jamaica Information Service www.jis.gov.jm/

Return to contents
Go to sources

REPORTS ON JAMAICA PUBLISHED OR ACCESSED AFTER 9 MAY 2011

Amnesty International
Jamaica: A long road to justice? Human rights violations under the state of emergency, 23 May 2011
http://www.amnesty.org/en/library/asset/AMR38/002/2011/en/d452da6f-50b9-4553-919c-0ce0ccedc9d8/amr380022011en.pdf
Date accessed 24 May 2011

Amnesty International
Amnesty International Annual Report 2011 – Jamaica (covering events of 2010), 13 May 2011
http://www.unhcr.org/refworld/country,,,,JAM,,4dce155f3c,0.html
Date accessed 15 May 2011 (via the UNHCR Refworld website)

Return to contents
Go to sources

Background Information

1. GEOGRAPHY

1.01 Jamaica is an island in the Caribbean Sea and lies south of Cuba. The country has an area of 10,991 sq km. Kingston is its capital and the island is administratively divided into three *counties* and 14 *parishes*. Jamaica's total population is estimated to reach 2,868,380 by July 2011. Life expectancy at birth was estimated in 2011 to be 71.8 years for males and 75.2 years for females. The official language of Jamaica is English, and Jamaican Patois (Patwah) is widely spoken. (CIA World Factbook, updated 6 April 2011) **[4a]**

Further information on the geography of Jamaica can be found at the US Library of Congress website: Country Studies - Caribbean-Islands

1.02 Public holidays in Jamaica for 2011 and 2012 are as follows:

	2011	**2012**
New Year's Day	1 Jan	1 Jan
Ash Wednesday	9 Mar	22 Feb
Good Friday	22 Apr	6 Apr
Easter Monday	25 Apr	9 Apr
Labour Day	23 May	23 May
Emancipation Day	1 Aug	1 Aug
Independence Day	6 Aug	6 Aug
National Heroes' Day	17 Oct	15 Oct
Christmas Day	25 Dec	25 Dec
Boxing Day	26 Dec	26 Dec

Source: WordTravels: Public holidays in Jamaica **[23]**

MAPS

1.03 The following map is reproduced from the 'ReliefWeb' website of the UN Office for the Coordination of Humanitarian Affairs, accessed 14 April 2011 **[15]**:

Original source: Central Intelligence Agency

1.04 Some other useful maps are available on the website 'Map of Jamaica':

Political map: http://www.map-of-jamaica.co.uk/large-political-jamaican-map.htm
Physical map: http://www.map-of-jamaica.co.uk/physical-map-of-jamaica.htm
Road map: http://www.map-of-jamaica.co.uk/large-road-map-jamaica.htm

(Maps on this website are copyright of GEOATLAS.com ® 2004 © Graphi-Ogre)

Return to contents
Go to sources

2. ECONOMY

2.01 The US State Department's *Background Note: Jamaica*, updated on 6 April 2011, noted that the country's gross domestic product (GDP) in 2009 was US $12.6bn, and was estimated to have reached US $13bn in the fiscal year 2010. (Real GDP declined in 2009 and 2008 respectively.) According to the same source:

"Jamaica's economy is improving in the wake of the global recession, but still faces serious long-term problems: a sizable…trade deficit, large-scale unemployment and underemployment, and a [national] debt-to-GDP ratio of almost 130% … The country's economy is heavily dependent on services, which now account for more than 60% of GDP. Jamaica continues to derive most of its foreign exchange from tourism, remittances, and [the mineral] bauxite/alumina. Remittances account for nearly 20% of GDP and are equivalent to tourism revenues." **[8c]**

2.02 The World Bank observed in its *Jamaica Country Brief*, updated in April 2011:

"Jamaica has made substantial progress in poverty reduction since it began monitoring living conditions in 1988. Poverty has fallen from 30.5 percent in 1989 to 9.9 percent in 2007 [measured as the percentage of the population living below the national poverty line]. With growing unemployment and reduced remittances (which accounted for 16

percent of GDP in 2009) occasioned by the global economic downturn, the incidence of poverty has increased to 16.9 percent in 2009 … The country has made remarkable progress in the areas of financial sector reform and reform of the social sectors including safety nets, HIV/AIDS prevention and control, and education … Jamaica is also on track to meet most of the Millennium Development Goals, including targets on poverty, child malnutrition, universal primary education, and access to safe drinking water, though the country is unlikely to meet targets on infant and maternal mortality … Jamaica has lost four decades without achieving significant growth. To address this issue and build on the early successes of the IMF-led structural adjustment program, the government in March 2011 prepared a strategy to stimulate growth in the near-to-medium term." **[19a]**

2.03 Regarding unemployment, the World Bank's Country Brief, updated April 2011, noted, "While the total unemployment rate has fallen from 15.3 percent of the labor force in 1990 to 11.3 percent in 2009, youth unemployment remained relatively high at 25.9 percent in 2008 (ages 15 to 24), three times the adult unemployment rate (7.9 percent). With the economic downturn, the unemployment rates are expected to increase significantly." **[19a]** The USSD *Background Note* observed, "High unemployment exacerbates the serious crime problem, including gang violence that is fueled by the drug trade." **[8c]**

2.04 The currency is the Jamaican Dollar (=100 cents), abbreviated as J$ or JMD. The rate of exchange on 19 April 2011, as quoted by xe.com, was £1 (sterling) = 138.37 JMD. **[18]**

2.05 In 2009 the average annual wage, across all sectors of the economy, was J$16,083. The national minimum wage per hour was J$101.75 in 2009. **[1b]**

Return to contents
Go to sources

3. HISTORY

See also ANNEX A: CHRONOLOGY

PRIOR TO 1990

3.01 Europa World Online recorded in its Jamaica Country Profile, accessed 9 April 2011:

"Jamaica, a British colony from 1655, was granted internal self-government in 1959, and full independence, within the Commonwealth, was achieved on 6 August 1962. Jamaica formed part of the West Indies Federation between 1958 and 1961, when it seceded, following a referendum. The Federation was dissolved in May 1962. The two dominant political figures after the Second World War were Sir Alexander Bustamante, leader of the Jamaica Labour Party (JLP), who retired as Prime Minister in 1967, and Norman Manley, a former Premier and leader of the People's National Party (PNP), who died in 1969. The JLP won the elections of 1962 and 1967 but, under the premiership of Hugh Shearer, it lost the elections of February 1972 to the PNP, led by Michael Manley, the son of Norman Manley. Michael Manley advocated democratic socialism and his Government put great emphasis on social reform and economic independence." **[5a] (Historical Context)**

3.02 The same source related:

"The early 1970s were marked by escalating street violence and crime, with gang warfare rife in the deprived areas of Kingston … In June 1976 the government declared a state of emergency which remained in force until June 1977." There was high unemployment, severe economic stagnation and, in 1979, violent demonstrations against the Government took place. "… [A] general election took place in February 1989, the PNP secured an absolute majority of the seats in the House of Representatives and Michael Manley…again became Prime Minister.

1990 – APRIL 2010

3.03 Europa World Online related:

"In 1991, the Minister for Mining and Energy, Horace Clarke and the Deputy Prime Minister, Percival Patterson resigned from office amid opposition allegations of corruption and misconduct … In March 1992 Manley announced his resignation, owing to ill health, from the premiership and from the presidency of the PNP. Patterson was elected as Manley's successor by members of the PNP, and was appointed Prime Minister…

"An electronic voter registration system was installed in 1996 and new electoral rolls were finally completed in late 1997 … At a general election in March 1993 Patterson's PNP secured 52 of the 60 seats in the House of Representatives. A general election was held in December 1997, at which the PNP won a majority of seats in the House of Representatives. Patterson, who was subsequently sworn in as Prime Minister for a third consecutive term…announced plans for Jamaica to become a republic within five years … In 1998 and 1999 there were many public protests against police actions and a deepening economic crisis, several of which resulted in riots.

"In a general election held on 16 October [2002], the PNP was re-elected for a fourth consecutive term … At his inauguration, Patterson became the first Jamaican Prime Minister to swear allegiance to the people and Constitution of Jamaica, rather than to the British monarch…In July 2004 the Privy Council abolished Jamaica's mandatory death sentence for convicted murderers … In October [2004] the armed forces and the police launched 'Operation Kingfish', an intelligence-based task force intended to reduce the ever-rising crime rate. The initiative was particularly targeted at dismantling the estimated 13 major criminal networks on the island, which were thought to be responsible for much of the crime.

"In January 2005, after more than 30 years in the post, Seaga retired as leader of the JLP [Jamaica Labour Party] and as a member of Parliament. He was succeeded as party leader in the following month by Bruce Golding. In February 2006 Patterson was succeeded as leader of the PNP by Portia Simpson-Miller." **[5a] (Domestic Political Affairs)**

3.04 Freedom House noted in its 2010 *Freedom in the World* report for Jamaica, that in March 2006 Portia Simpson-Miller, who had recently won the leadership of the PNP, became Prime Minister. "Her victory was heralded as a major advance for the role of women in Jamaican politics, but her government foundered due to poor economic growth and the fallout from Hurricane Dean … In parliamentary elections held in September 2007, the JLP won 33 seats in the House of Representatives, ending the 18-year rule of the PNP, which took 27 seats. Opposition leader Bruce Golding became the new prime minister [on 11 September 2007]…" **[32a]**

3.05 Europa World Online continued:

"In his inaugural speech Golding stated that anti-corruption measures and justice system reform would be priorities of the new Government…

"In November 2007 the Cabinet approved the drafting of legislation to create an Office of the Special Prosecutor, which would investigate high-level acts of corruption in the public and private sectors, and an independent commission to examine allegations of excessive use of force and of abuse by members of the security forces … The high level of violent crime continued to be a significant matter of concern for the Government in 2008 and 2009. In November 2008 the House of Representatives voted in favour of retaining the death penalty, a decision later approved by the Senate … The Golding administration also revealed that the judicial system would be reformed and additional judges would be appointed to expedite the trials of violent criminals…

"The Government, struggling with a liquidity crisis, imposed an unpopular fuel tax in April 2009, precipitating small-scale protests throughout the island. Further taxes were announced in December, including a new levy on staple food items, which resulted in a more vociferous response from the opposition and the public, forcing the Government to rescind the food duty and replace it with a luxury goods tax and an increase in income tax for high earners." **[5a] (Domestic Political Affairs)**

3.06 *The Telegraph* reported on 11 September 2009 that John Terry, a British Honorary Consul in Jamaica, had been murdered in what was widely believed to have been a homophobic attack. **[31a]** (See paragraphs 20.41 and 20.42)

Return to contents
Go to sources

4. RECENT DEVELOPMENTS

MAY 2010 – 9 MAY 2011

4.01 It was reported on 23 June 2010 that Christopher 'Dudus' Coke, leader of the *Shower Posse* gang which 'controlled' the Tivoli Gardens area of Kingston, had been arrested. (BBC News, 23 June 2010) **[21f]** In August 2009, United States authorities had officially sought Coke's extradition, having charged him with organising deals involving marijuana and crack cocaine and funnelling the profits along with illegal weapons back to Jamaica. The Shower Posse gang was also believed to have been responsible for numerous murders. The Jamaican government initially opposed extradition, arguing that it was based on flawed evidence. According to BBC News, "Prime Minister Bruce Golding is said to have relied on Mr Coke to turn out the vote at election time in the Tivoli Gardens district he represents in parliament, and which the Shower Posse controls." (BBC News, 23 June 2010) **[21e]**

4.02 BBC News reported:

"When the Jamaican government bowed to heavy US pressure and announced in May [2010] that it would extradite Mr Coke, the Shower Posse and [Coke's] supporters attacked police stations in Tivoli Gardens.

"The assault prompted the declaration of a state of emergency [in the parishes of Kingston and St. Andrew] and the biggest mobilisation of the security forces in Jamaican history. Hundreds of soldiers were deployed to help the capital's police force sweep through Tivoli Gardens and surrounding areas in search of Mr Coke.

"The troops fought pitched battles for several days with heavily-armed gunmen, who barricaded the streets. Thousands of people were trapped in the area and the clashes resulted in the deaths of more than 70 people.

"Despite the assault, Mr Coke was able to escape and went on the run. He was eventually arrested nearly four weeks later by policemen…on the outskirts of Kingston." **[21e]**

4.03 A Human Rights Watch (HRW) press release of 4 June 2010 recounted, "The joint police and military operation on May 23, 2010, touched off three days of violence. The dead included three members of the security forces. Officials and media reports said that the security forces encountered an armed, organized opposition by Coke supporters." **[59c]** HRW stated that the security forces operation "may have involved extrajudicial executions", and called for an official investigation. **[59c]**

4.04 The State of Emergency, imposed on 23 May 2010, was lifted on 22 July following Coke's extradition to the US. It was reported that 4,181 people had been detained under the State of Emergency; most of those were reportedly 'processed' and released within hours. (*The Gleaner*, 21 July 2010) **[34d]**

4.05 It was reported in August 2010 that, following investigations by the Anti-Corruption Branch, 149 police officers had been removed from the Jamaica Constabulary Force (JCF) during the first seven months of 2010 – an apparent indication that the police anti-corruption arm had stepped up its efforts to weed out 'bad apples'. (*The Gleaner*, 9 August 2010) **[34e]**

4.06 Data from the Bureau of Special Investigations showed that 1,963 civilians had been shot dead by police officers between July 1999 and December 2009. (*The Gleaner*, 8 August 2010) **[34f]**

See Section 9: Security forces: Extra-judicial killings

4.07 The trial of alleged Jamaican crime lord Christopher 'Dudus' Coke was proceeding in a New York court, it was reported in September 2010. Coke was facing the prospect of life imprisonment on narcotics and other charges. (*The Gleaner*, 8 September 2010) **[34g]**

4.08 The Jamaican Minister of Finance, in a speech delivered on 9 September 2010, predicted that the country's economy would – for the first time since 2008 – register positive growth during the period September 2010 to March 2011. He noted that, after the trauma of the financial sector melt-down in the 1990s, growth had been hampered by "the suffocating impact of unsustainably high interest rates; a huge debt burden; the erosion in the value of our domestic currency; high and debilitating inflation and in general a loss of confidence by the productive sector…" (*Jamaica Observer*, 10 September 2010) **[36a]**

4.09 The Jamaica Constabulary Force (JCF) reported on 11 October that, for the first time since July 2002, the number of murders committed in Jamaica in a single month fell below 80, with 77 recorded in September 2010. (EIN) **[56a]**

4.10 The director of the United Nations Population Fund (UNFPA) urged Jamaica to adopt a new maternal health strategy to reduce the incidence of maternal mortality. Nevertheless, figures published by the World Health Organisation in 2009 showed that

there were 95 maternal deaths to every 100,000 live births – a significant improvement on 170 per 100,000 in 2005. (*The Gleaner*, 28 October 2010) **[34i]**

4.11 Statistics provided by the US Immigration and Customs Enforcement (ICE) in December 2010 showed that 1,548 Jamaicans were deported from the US during 2010; 1,225 of these had been convicted of a criminal offence in the US. A Jamaican police spokesman said that monitoring deportees to ensure they did not become involved in criminal activities back in Jamaica was proving to be "quite a challenge". (*The Gleaner*, 31 December 2010) **[34j]**

4.12 The International Monetary Fund, bringing its loan facilities to Jamaica up to $838 million, stated on 14 January that "Jamaica's performance under the program has been positive overall. Signs of recovery have emerged, with net job creation for the first time in four quarters, and inflationary pressures remain subdued, allowing an accommodative monetary policy." (Bloomberg.com, 14 January 2011) **[57a]**

4.13 The Minister of Tourism announced on 18 February 2011 that Jamaica was planning to abolish or simplify outgoing immigration (exit) checks at airports. (*The Gleaner*, 20 February 2011) **[34k]**

4.14 According to the US State Department's International Narcotics Control Strategy Report, published on 3 March 2011, corruption among public officials continued to be "entrenched, widespread, and compounded by a judicial system that is poorly equipped to handle complex criminal prosecutions in a timely manner." Over the past three years, however, seizures of narcotics in Jamaica had generally decreased along with marijuana eradication efforts. **[8g]**

USEFUL SOURCES FOR FURTHER INFORMATION

4.15 A list of sources with weblinks is provided below, which may be useful if additional up to date information is required to supplement that provided in this report. The full list of sources used in this report can be found in Annex E – References to source material.

BBC News (regular news/reports)
http://www.bbc.co.uk/search/news/jamaica

The Gleaner
http://jamaica-gleaner.com/

The Jamaica Observer
www.jamaicaobserver.com

Human Rights Watch (regular news/reports)
http://www.hrw.org/asia/vietnam

US State Department (*Trafficking in Persons Report 2011*, due in June 2011)
http://www.state.gov/g/tip/rls/tiprpt/index.htm

US State Department (*2011 Report on International Religious Freedom*, due in November 2011)
http://www.state.gov/g/drl/rls/irf/index.htm

US State Department (*2011 Country Reports on Human Rights Practices*, due in March 2012)
http://www.state.gov/g/drl/rls/hrrpt/index.htm

Return to contents
Go to sources

5. CONSTITUTION

5.01 Europa World Online, accessed on 15 April 2011, recorded, "The Constitution came into force at the independence of Jamaica on 6 August 1962. Amendments to the Constitution are enacted by Parliament, but certain entrenched provisions require ratification by a two-thirds' majority in both chambers of the legislature, and some (such as a change of the head of state) require the additional approval of a national referendum." **[5e] (Constitution)** The same sourced added, "The Head of State is the British monarch, who is locally represented by the Governor-General, appointed by the British monarch, on recommendation of the Jamaican Prime Minister in consultation with the Leader of the Opposition party." **[5f] (Head of State)**

5.02 A copy of the 1962 Constitution can be accessed at:
http://www.ziplaw.com/products/jamaica_constitution.htm **[2b]**

5.03 Europa World Online also noted, "The Constitution includes provisions in safeguarding the fundamental freedoms of the individual, irrespective of race, place of origin, political opinion, colour, creed or sex ..." **[5g] (Fundamental Rights and Freedoms)**

5.04 Chapter Three of the Jamaican Constitution (1962) sets out the following fundamental rights and freedoms:

a The right to life. This section provides that 'no person shall intentionally be deprived of life save in execution of the sentence of a court in respect of a criminal offence of which he has been convicted.' It also stipulates that a person shall not be regarded as having been deprived of his life in contravention of this section if he dies as a result of the use of force in protection from violence, defence of property, to effect a lawful arrest, to prevent escape from lawful detention, in suppression of a riot, insurrection or mutiny or in lawful prevention of a criminal offence.

b Protection from arbitrary arrest or detention

c Protection from inhuman treatment

d Compulsory acquisition of property

e Freedom of movement

f Protection for privacy of home and other property

g Provision to secure protection of law

h Freedom of conscience

i Freedom of expression

j Freedom of assembly and association

k Protection from discrimination on the grounds of race. **[2a] (section 13)**

5.05 On 22 March 2011 the House of Representatives approved a Charter of Rights, intended to replace Chapter Three of the Constitution, and sent it to the Senate. It was reported that "The Charter of Rights places on the State an obligation to promote universal respect for, and observance of, human rights and freedoms for all persons in Jamaica and affords protection to the rights and freedoms of persons as set out in those provisions… The Charter of Rights dictates that Parliament shall pass no law and establish no organ of the state which abrogates, abridges or infringes the fundamental rights of citizens." (*The Gleaner*, 23 March 2011) **[34bu]**

Return to contents
Go to sources

6. POLITICAL SYSTEM

6.01 Jamaica has a bicameral parliament consisting of the Senate or Upper House and the House of Representatives. Europa World Online, accessed 15 April 2011, noted that, "The Senate or Upper House consists of 21 Senators, of whom 13 will be appointed by the Governor-General on the advice of the Prime Minister and eight by the Governor-General on the advice of the Leader of the Opposition... The House of Representatives or Lower House consists of 60 elected members called Members of Parliament." **[5c] (Legislature)**

6.02 Europa further noted:

"The Prime Minister is appointed from the House of Representatives by the Governor-General, and is the leader of the Party that holds the majority of seats in the House of Representatives. The leader of the party is voted in by members of that party. The Leader of the Opposition is voted in by members of the Opposition party. The Cabinet consists of the Prime Minister and not fewer than 11 other ministers, not more than 4 of whom may sit in the Senate. The members of the Cabinet are appointed by the Governor-General on the advice of the Prime Minister." **[5d] (Executive)**

6.03 The Bertelsmann Foundation's *Jamaica Country Report 2010*, dated 30 April 2011, observed, "Reforms of the electoral system, such as the enactment of the independent Electoral Commission of Jamaica in 2006 and stricter procedures on election day before and during national and local elections, have significantly reduced the influence of electoral fraud and violence." **[39a]**

See also Section 14: Political affiliation

Return to contents
Go to sources

Human Rights

7. INTRODUCTION

7.01 The US State Department *2010 Human Rights Report: Jamaica* (USSD Report 2010), released on 8 April 2011, noted:

> "There were serious human rights problems in some areas, including unlawful killings committed by members of the security forces, abuse of detainees and prisoners by police and prison guards, poor prison and jail conditions, impunity for police who committed crimes, an overburdened judicial system and frequent lengthy delays in trials, violence and discrimination against women, violence against and sexual abuse of children, trafficking in persons, and violence against persons based on their suspected or known sexual orientation." **[8a]**

7.02 The *Amnesty International Report 2010*: (covering events of 2009), also highlighted a number of concerns, including, "Hundreds of people in inner-city communities were the victims of gang murders or police killings. Sexual violence against women and girls was widespread. There were reports of discrimination against lesbian and gay people. Two people were sentenced to death; there were no executions." **[3c]**

7.03 An Amnesty International report, *Public security reforms and human rights in Jamaica*, dated 21 July 2009, noted, "People in Jamaica's inner cities have for decades been caught between the reign of fear exercised by criminal gangs and violent policing. Far-reaching reforms to the police and the justice system have begun. **[3d]**

7.04 Jamaica is party to most of the principal United Nations human rights treaties. The United Nations Treaty database (accessed in April 2011) noted that these included:

- International Convention on the Elimination of All Forms of Racial Discrimination (CERD), date of accession 4 June 1971;
- International Covenant on Economic, Social and Cultural Rights (CESCR), date of accession 3 October 1975;
- International Covenant on Civil and Political Rights (CCPR), date of accession 3 October 1975;
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), date of accession 19 October 1984;
- Convention on the Rights of the Child (CRC), date of accession 14 June 1991; the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (CRC-OP-AC), date of accession 25 May 2000;
- Convention on the Rights of Persons with Disabilities, date of accession 30 March 2007. **[12a]**

7.05 Jamaica has not acceded to the UN Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). **[12a]** The UN Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak, undertook a mission to Jamaica in February 2010 and

published a report on 11 October 2010. **[99a]** A copy of this report can be accessed at: http://www2.ohchr.org/english/bodies/hrcouncil/docs/16session/A-HRC-16-52-Add3.pdf

7.06 The UN Special Rapporteur noted in his report of 11 October 2010 that "The Office of the Public Defender was established in 1999 to replace the Office of the Ombudsman. The Public Defender may investigate and give recommendations concerning any complaints of injustice as a result of any action taken by an authority or an officer of member of such authority, or where any person has suffered, is suffering or is likely to suffer an infringement of their constitutional rights as a result." **[99a] (p7)** The Public Defender's responsibilities and powers are set out in the Public Defender (Interim) Act of March 2002, a copy of which is at: http://www.moj.gov.jm/laws/statutes/Public%20Defender%20(Interim)%20Act.pdf

Return to contents
Go to sources

8. CRIME

8.01 As stated in the Freedom House report of 3 May 2010, *Freedom in the World 2010 – Jamaica*: "…Jamaica has continued to struggle with high levels of crime. In the first six months of 2009, 4,778 major crimes were reported, representing a 19 percent increase over the same period the previous year. The 1,680 homicides reported in 2009 represented an all-time high, marking a four percent increase over 2008 numbers. Over half of these murders were gang-related and only 21 percent were solved in court." **[32a]** However, the *Jamaica Observer*, in an article of 3 February 2011, quoted a Jamaica Constabulary Force (JCF) communication as announcing an overall reduction in major crime levels for 2010:

"'All major crimes (murders, shooting, rape, carnal abuse, robbery, break-ins, and larceny) declined in 2010, when compared to 2009, by an overall seven per cent. This is the first time since 1999 (eleven years) that the national crime statistics are showing a reduction in all major crimes.'

"'Murder, which is considered to be the key crime indicator, decreased by 15 per cent in 2010 compared with 2009. There were 1428 reported murders in 2010 against 1682 in 2009, a decrease of 254 in 2010 compared with 2009.'" **[36h]**

8.02 BBC News reported on 8 April 2011 that there had been a further decrease in the number of murders during the first quarter of 2011 (238 murders committed), compared to the same period in 2010 (426 murders). The government attributed this improvement to its recently-introduced policy of 'saturating' gang-dominated areas with police and soldiers. **[22g]**

8.03 The Bertelsmann Foundation commented in its Jamaica Country Report 2010, dated 30 April 2011:

"A greatly improved network of highways connecting urban and rural centers has facilitated the rapid movement of criminal elements into rural areas. Organized criminal networks associated with drug and/or gun trafficking dominate some of these communities. The phenomenon known as political tribalism emerged in the 1960s as 'garrison communities' increasingly became centers of political violence manipulated by politicians of both parties to their advantage, and it continues to be a major factor. However, politically-motivated violence is less frequent in comparison to violence

related to drug and gun trafficking. Some garrison communities still constitute a kind of 'state within the state,' in which drug and gun trafficking play a dominant role. Local party leaders, many of whom are alleged to have connections with criminal networks and the drug trade, rule these communities. The emergence of transnational and regional networks, and their interconnectedness with local organized-crime networks, hampers the ability of the law-enforcement agencies to implement crime-control responses that both respect human rights and are effective. During the period under review [2007-2009], 15 out of Jamaica's 60 constituencies were classified as garrison constituencies (although to differing degrees)." **[39a]**

8.04 Amnesty International's *Submission to the UN Universal Periodic Review: Ninth session of the UPR Working Group of the Human Rights Council, November-December 2010*, published on 19 April 2010, recorded:

"A raft of so-called 'anti-crime' bills – including extension of police powers of arrest, increases in bail periods and minimum sentences for gun-related crimes – were tabled in the Parliament in 2008. National human rights organizations have questioned the constitutionality of some of the bills' provisions and expressed concerns that the proposed extra police and judicial powers could breech human rights obligations and standards, including the principle of proportionality and individualisation of restrictions on human rights, the principle of presumption of innocence and fair trial standards." **[3f]**

8.05 The US Army Logistics University website, accessed on 17 May 2011, recorded:

"Operation Kingfish is a multinational task force (Jamaica, U.S., United Kingdom, and Canada) for coordinating investigations leading to the arrest of major criminals. From its October 2004 inception through December 2006, Operation Kingfish launched 1,378 operations resulting in the seizure of 56 vehicles, 57 boats, one aircraft, 206 firearms, and two containers conveying drugs. Kingfish was also responsible for the seizure of over 13 metric tons of cocaine (mostly outside of Jamaica) and over 27,390 pounds of compressed marijuana. In 2006 Operation Kingfish mounted 870 operations, compared to 607 in 2005. In 2006, through cargo scanning, the Jamaican Customs Contraband Enforcement Team seized over 3,000 pounds of marijuana, ten kilograms of cocaine, and approximately $500,000 at Jamaican air and seaports." **[13a]**

8.06 The Minister of National Security, Derrick Smith, praised the work of the Counter Narcotics and Major Crimes Task Force (Operation Kingfish) at a press briefing (held 19 October 2007), the Jamaica Information Service reported:

"Kingfish has been one of the most successful and celebrated national security projects ever introduced in this country…Since its inception, Operation Kingfish has received more than 2000 actionable calls and has mounted more than 2000 operations leading to the recovery of nearly 300 firearms and in excess of 21,000 rounds of assorted ammunition, 567 arrests, and the seizure of thousands of pounds of drugs including cocaine, ganja and hash oil.

"In addition, some 100 wanted persons have been apprehended, five illegal airstrips disabled and more than 80 illegal aliens detained. For the period January to September, Operation Kingfish carried out 607 operations and firearms, drugs and ammunition were seized." **[24b]**

GANG VIOLENCE

8.07 An Amnesty International report of 21 July 2009, entitled *Jamaica: Public security reforms and human rights in Jamaica*, observed:

"According to a government source, at least 120 criminal gangs are thought to be active and responsible for 80 per cent of all major crimes in the country. Most victims of violent crime live in deprived and excluded inner-city areas where unemployment rates are high and access to basic services – water, electricity and security of housing tenure – are often poor. Some of these neighbourhoods have been neglected by the state for years, and many have effectively become the fiefdoms of gang leaders. Criminal gangs not only control communities through fear and violence, they also control access to what few services are available. Many are 'garrison communities' where the ruling gangs have for years flourished under the patronage of one or other of the political parties. **[3d] (p5-6)**

"Most murders were carried out with the use of firearms (79 per cent in 2007 and 78 per cent in 2008). 13 Although every year the authorities confiscate about 700 illegal firearms, this is thought to represent merely the tip of the iceberg. **(p8)**

"In his State of the Nation speech in January 2009, the Minister of National Security acknowledged the special vulnerability of those living in communities controlled by gangs: 'I dare to say that if you are not a member of a gang, or are not associated with gangs; if you do not live in an area with gang members, then you have a greater probability of not being affected by violence. **(p8-9)**

"Families and sometimes entire communities have been forced to flee their homes and seek refuge as a result of threats and violence from gangs. Sometimes the threats are triggered by conflict between rival political factions; sometimes they are the result of criminal activities." **[3d] (p9)**

8.08 In a report of September 2010 for the Small Arms Survey of the Graduate Institute of International and Development Studies in Geneva, Glaister Leslie observed:

"Intelligence suggests that there are 268 active gangs in Jamaica, a five-fold increase in prevalence compared to the 1998 estimate of 49 active gangs … There are approximately 12 organized crime groups on the island; estimates in 1998 were that there were 7 highly organized gangs … While there is no validated estimate of the overall number of gang members in Jamaica, some observers have claimed that gang membership could be as high as 20,000, with estimates for Kingston ranging from 6,000 to 10,000 … More recent studies yield more conservative figures... **[92a] (p18)**

"…the government struggles to contain gangs that, along with their various allies, appear better armed, better resourced, and more effective. **(p2)**

"…there is a dense social web connecting highly organized, transnational gangs to [some other] loosely organized gangs whose activities are often indistinguishable from broader community and interpersonal violence. **(p2)**

"…contemporary gangs in Jamaica have their roots in the organized political violence of the 1940s. Though the political facilitation of crime has declined since the country's bloodiest national elections in 1980, it remains an enduring – though less overt – force. The persistent facilitation of gang activity by politicians continues to hinder targeted

violence reduction efforts, despite the government's vociferous public condemnation of crime and violence and official support of both punitive and social approaches to violence reduction." **[92a] (p2-3)**

8.09 According to the same report:

"Beginning in the 1960s, politicians in densely populated inner-city areas of Kingston began arming groups with guns instead of the sticks and stones that had characterized earlier political violence. They charged each group of men, or 'military crop', with the defence of its own area; these groups then answered to a single leader, called an 'enforcer' or 'don' … Dons ensured party loyalty in inner-city areas and politicians depended on them to deliver key votes. In return, dons depended on the politicians for patronage, such as jobs via public works programmes and public housing. Further, political parties allowed these dons to operate with impunity in their locales, enabling them, in effect, to become the rule of law in some instances. **[92a] (p12-13)**

"While political patronage towards certain gangs persists, the number of garrison communities has declined and most gang-related violence is no longer primarily political. **(p13)**

"…beginning in the 1980s, gangs increasingly became involved in more organized forms of crime, as the drug trade…became a more frequent and lucrative source of income than political patronage. **(p13)**

8.10 The Small Arms Survey report noted:

"An identifiable leadership, a formal hierarchy, assigned roles, specific territory, activities that increase cohesiveness, and formalized roles and rituals usually define a *highly organized gang*. *Loosely organized gangs* usually have no identifiable leadership or consistent leader. There is very little cohesive activity in these gangs… **[92a] (p15)**

"Another typology of Jamaican gangs separates large gangs that are heavily involved in international drug-trafficking – referred to as *organized crime groups*, *posses*, or *yardies* – from smaller, local, loosely organized groups called *youth gangs* … These more notorious international drug dealing *posses* and *yardies*, which generally have an adult membership, tend to overshadow Jamaican youth gangs, which are reported to have members between the ages of 12 and 15 … Unlike youth gangs, organized crime groups actively seek to corrupt local institutions, attempt to establish exclusive hegemony in communities in which they operate, and have an entrepreneurial intent – as distinguished from simply being concerned with intangibles such as turf and respect… **(p15)**

"A third typology distinguishes *area gangs* from *corner gangs*. Area gangs dominate entire communities or neighbourhoods." **[92a] (p15)**

8.11 Refer to the Small Arms Survey report for further detailed information on the structure and activities of Jamaican crime gangs: http://www.smallarmssurvey.org/fileadmin/docs/B-Occasional-papers/SAS-OP26-Jamaica-gangs.pdf

See also Section 4: Recent developments and Section 9: Security forces

Return to contents
Go to sources

Some specific gangs

8.12 **Back Road gang:** This gang was mentioned in an article published in May 2007 as being in operation in the White Lane community in Waterhouse, Kingston. (*Jamaica Observer*, 12 May 2007) **[36av]**

Checkers gang: This gang was reported to operate out of Penwood Road and Ashoka Road areas in the Waterhouse community. Two Checkers gang members, Dwayne 'Oliver' Smith and Ricard Zigga Walcot, were reportedly killed in a gunfight with police in May 2007. (*Jamaica Observer*, 12 May 2007) **[36av]**

Clansman gang: A gang reported as having PNP (People's National Party)-affiliations involved in violent confrontations in Spanish Town, St Catherine in March 2007. *The Jamaica Observer* reported these were "sparked by rising tensions within the Clansman gang" and also as a result of clashes with rival gangs for control of the city. (*Jamaica Observer*, 17 March 2007) **[36au]** The BBC reported in May 2007 that "The feared gang Klansman is now, according to the police, a 'shadow of its old self', with the leader of the group having been killed in a shootout." **[21d]**

Collin Palmer gang: This gang operates in St James, Montego Bay, where several gang members, including the leader, were shot dead by police in January 2007: "Among the dead were Kirk 'Joe' Thomas of St John's Hall, Collin 'Teacher' Palmer of Tucker and Stratty McLeod, also of a Tucker address." (*Jamaica Observer*, 18 February 2007) **[36at]** On 29 January 2007 *The Gleaner* had reported the fatal shooting of five members of the gang and confirmed the names of the three men killed. (*The Gleaner*, 29 January 2007) **[34bu]**

Fatherless gang: A group of young men, so-called because they have lost their fathers in gang wars in Trench Town, Kingston. (BBC News, 16 May 2007) **[21d]** Also reported as "a group of disenchanted youths who have lost their fathers through violence or imprisonment." (*World Politics Review*, 29 January 2007) **[63a]**

Fresh Roses: An article of February 2007 identified the gang as operating in the St James parish of Montego Bay. (*Jamaica Observer*, 18 February 2007) **[36at]** *The Gleaner* reported on the shooting of the gang's leader, Garfield Sawyers, by police in Niagara district, bordering St James and St Elizabeth Parishes in May 2006. (*The Gleaner*, 2 May 2006) **[34u]**

G-Unit gang: A gang mentioned in an article published May 2007 as being in operation in the White Lane community in Waterhouse. (*Jamaica Observer*, 12 May 2007) **[36av]**

Hot Stepper gang: A gang operating in St James Parish, according to an article published in 2007. (*Jamaica Observer*, 18 February 2007) **[36at]** Mentioned in a 2007 article as being "closely associated with racketeers…[in] a multi-million dollar international sweepstakes and lottery scam that has been blamed for a significant number of the more than 200 murders committed in St James". (*Jamaica Observer*, 16 February 2007) **[36as]**

Hundred Lane gang: An article published in October 2005 reported the gang, from the Red Hills area of St Andrews, to have PNP (People's National Party) connections, and to be in dispute with the JLP (Jamaican Labour Party) affiliated Park Lane gang. (*Jamaica Observer*, 16 October 2005) **[36ay]**

Killer Bees gang: An article of February 2007 identified the gang as operating in the St James Parish. (*Jamaica Observer*, 18 February 2007) **[36at]** Another article, published in May 2007, stated the Granville area of the St James Parish of Montego Bay to be the gang's area of operation. (*Jamaica Observer*, 21 March 2007) **[36aw]**

One Order gang: An article in *Jamaica Observer* reported the gang as being PLP-affiliated and based in St Catherine's region. Leader Oliver 'Bubba' Smith was killed in 2004; since then, turf wars and fighting occurred in St Catherine's since 2005 over who should succeed Smith. (*Jamaica Observer*, 12 May 2007) **[36av]** The gang has been blamed for the "ongoing murder, intimidation and extortion that have [has] plagued Jamaica's former capital Spanish Town for a number of years." (*Jamaica Observer*, 9 April 2007) **[36az]** An article published in February 2007 stated that the gang were "[one of] the chief perpetrators in a spate of murders across St James". (*Jamaica Observer*, 21 May 2007) **[36aw]**

Renegades: This gang is reported to be in operation in the St James Parish, Montego Bay. (*Jamaica Observer*, 18 February 2007) **[36at]**

Shower Posse: Said to have 'control' of the Tivoli Gardens area of Kingston, the Shower Posse is believed to be active in drugs and gun dealing/smuggling and to have been responsible for many murders. Leader Christopher 'Dudus' Coke was arrested in June 2010 and subsequenly extradited to the United States. (BBC News, 23 June 2010) **[21e] [21f]** See Section 4: Recent developments for further information.

Skull and Southie gangs: These gangs were reported by *The Gleaner* to be in operation in the Southside and Tel-Aviv area of Kingston. It was reported that an estimated 1500 people had been killed over the past 30 years in their dispute. Violence has been fuelled by vengeance and reprisals. More recently the Jamaica Labour Party (JLP) councillor for the Rae Town division and two other women were shot as part of the gang conflict. **[34z]**

Spanglas: This gang is mentioned in a 2004 report as being active in West Kingston. (Corner and Area Gangs of inner-city Jamaica, published 2004) **[64a]** No further information could be found about this gang.

Stone Crusher gang: A gang based in the St James area of Montego Bay, involved in a multi-million dollar international sweepstakes and lottery scam, blamed for many of the 200-plus murders committed in the area. The *Jamaica Observer* reported on 16 February 2007 that, "Cops… raided 13 locations in Hanover and St James, arresting more than 30 persons, six of whom are believed to be key players." **[36as]** The killing of their leader, Rohan 'Don' Gordan, by police was reported in May 2007 "as a major achievement in their fight against crime in this resort city." The gang has been blamed for many of the 178 murders committed in St James in 2006 and have been named "as [one of] the chief perpetrators in a spate of murders across St James, said to `be responsible for a trail of double and triple murders, including the killings of entire families in Norwood." **[36aw]**

Tight Pants gang: An article in the *Jamaica Observer* in May 2007 reported this gang as operating in the Albion and Gully areas of Montego bay "… as [one of] the chief perpetrators in a spate of murders across St James." **[36aw]** A source from February 2007 also identifies the gang as operating in the St James Parish. (*Jamaica Observer*, 18 February 2007) **[36at]**

9. SECURITY FORCES

9.01 The US State Department *2010 Human Rights Report: Jamaica* (USSD Report 2010), released on 8 April 2011, noted:

> "The JCF [Jamaica Constabulary Force - the Jamaican police] has primary responsibility for internal security and is assisted by the Island Special Constabulary Force. The Jamaica Defence Force (JDF) is charged with national defense, maritime narcotics interdiction, and JCF support. The JDF routinely conducts joint patrols and checkpoints in conjunction with the JCF. As the minister of defense, and outside of a state of emergency, the prime minister is the approval authority for all JDF operations in support of the JCF. The Ministry of National Security exercises the prime minister's authority for oversight of the JCF and JDF." **[8a] (Section 1d)**

POLICE (JAMAICA CONSTABULARY FORCE AND ISLAND SPECIAL CONSTABULARY FORCE)

9.02 The website of the Ministry of National Security, accessed in April 2011, advised that the JCF had a strength of 8,441 personnel. Further, "The Island Special Constabulary Force (ISCF) is the first reserve to the regular Police Force. Approximately…58 percent of the personnel are deployed in Kingston and St. Andrew. Its members supplement the regular force in all facets of policing including the detection and investigation of major breaches of the Road Traffic Act. The strength of the ISCF is 1,386." **[74a]**

9.03 The USSD Report 2010 noted:

> "The JCF is headed by a commissioner who delegates authority through the ranks to constables. The force maintains divisions focusing on community policing, special response, intelligence gathering, and internal affairs.
>
> "The JCF continued a community policing initiative to address the long-standing antipathy between the security forces and many poor inner-city neighborhoods. Through the Community Safety and Security Branch, during the year the JCF conducted targeted training of 309 officers in 38 communities, trained community safety officers, and assigned JCF personnel to targeted schools as resource officers to stem school violence. These officers also served as liaisons between the students, faculty, parents, and police. The government bolstered these efforts through public education and by nominating deputy divisional commanders with responsibility to introduce community policing to all the communities within their division." **[8a] (Section 1d)**

Extra-judicial killings

9.04 Amnesty International noted in their 2010 Report, published on 28 May 2010, "The number of reported police killings rose to 253 [in 2009], compared with 224 in 2008. The high number of killings, combined with eyewitness testimonies and other evidence, indicated that many of the killings were unlawful." **[3c]**

9.05 The USSD Report 2010 stated:

> "While the government or its agents did not commit any politically motivated killings, there were reliable accounts that security forces committed unlawful or unwarranted killings during the year.

"According to official statistics, there were more than 309 killings involving police during the year [2010]. This figure does not include the 73 civilians security forces killed in May [2010] during operations to arrest an alleged drug lord and gain control of a criminally controlled area.

"Reliable sources indicated that many killings by police were unreported, with police meting out the justice they see as unavailable through the judicial system. In most shooting incidents, police alleged that the victims were carrying firearms and opened fire on them. In many cases, however, eyewitness testimony contradicted the police accounts. In other cases allegations of 'police murder' were suspect, because well-armed gangs trafficking in weapons and narcotics and running lottery scams controlled many inner-city communities and were often better equipped than the police force.

"Violent crime remained rampant, and on many occasions the Jamaica Constabulary Force (JCF) employed lethal force in apprehending criminal suspects. The JCF's Bureau of Special Investigations (BSI) investigated all police killings, and when appropriate, forwarded some to the Director of Public Prosecutions (DPP) for prosecution. The BSI completed 308 investigations during the year and sent 291 to the DPP for further consideration. However, it takes many years to bring police officers to trial for unlawful killings. Although there was progress during the year [2010] in bringing some cases to trial, there were no convictions, and no police officer accused of human rights violations has been convicted since 2006. In August [2010] the government created an Independent Commission of Investigations (INDECOM), with the power to take over and direct BSI investigations." **[8a] (Section 1a)**

Torture

9.06 The UN Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, following his mission to Jamaica in February 2010, stated in his report of 11 October 2010:

"The Special Rapporteur did not find that torture, in the classical sense of deliberately inflicting severe pain or suffering as a means of extracting a confession or information, constitutes a major problem in Jamaica. He did find, however, a general atmosphere of violence and aggression in almost all police stations, as well as discriminatory practices against detainees. At police stations, the overall conditions reflected a complete disregard for the dignity of detainees. **[99a] (Summary)**

"[The Special Rapporteur] found a considerable number of cases where persons were subjected to different degrees of beatings as a form of punishment, which could amount to torture. **[99a] (Conclusions)**

"The conditions in police stations can generally be regarded as inhuman and the treatment arbitrary. **[99a] (p10)**

"Police lock-ups are designed for only very short time of detention, but in practice, these cells are used as pre-trial detention facilities, holding detainees suspected of crimes for up to four or five years in absolutely appalling conditions. Detention for several weeks or even months in these conditions amounts to inhuman and degrading treatment. **[99a] (Conclusions)**

"Torture is not defined in criminal legislation in Jamaica, nor is Jamaica a party to the [UN] Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or

Punishment. This might explain why during the mission, the Special Rapporteur observed that the term 'torture' was not part of the Jamaican lexicon. However, its absence in the law does not mean that it does not exist in practice." **[99a] (Summary)**

9.07 The Special Rapporteur noted that there were constitutional and legislative provisions criminalising torture and other ill-treatment:

"Article 17(1) of the Constitution prohibits the use of torture or inhuman or degrading punishment or other treatment. However, article 17(2) provides that punishment prescribed by other laws shall not be held to be inconsistent with the prohibition in section 17(1) as long as it concerns punishment that was legal at the time the Constitution was drafted … There are several legislative provisions prohibiting the excessive use of force, although the only explicit prohibition of torture is found in the Constitution. For example, section 22 of the Offences against the Person Act (1864) criminalizes the infliction of serious bodily harm to another person … The Constabulary Force Act (1935) governs the general treatment of persons deprived of their personal liberty. This includes treating them with kindness and humanity and not using harshness or unnecessary restraint towards them." **[99a] (p5-6)**

Return to contents
Go to sources

Arbitrary arrest and detention

9.08 According to the USSD Report 2010:

"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. Although they can legally hold persons for 24 to 48 hours before charging or releasing them, police sometimes reportedly held individuals for as long as five weeks.

"During the period from May 23 to July 22 [2010], authorities detained and then released more than 4,000 persons under a declared state of emergency, initiated to allow security forces to enter West Kingston and regain control after gunmen barricaded themselves inside the community. Most of the individuals detained were young men who were fingerprinted, photographed, and interviewed by detectives and were later released without being charged for any offense." **[8a] (Section 1d)**

See Section 11: Arrest and detention – legal rights

Corruption in the police

9.09 According to a report published in September 2010 by the Small Arms Survey at the Graduate Institute of International and Development Studies, Geneva:

"Accused of rampant corruption and characterized by one of the highest rates of police killings in the Americas, few members of the security forces receive any support from the communities in which they serve … In February 2010, the recovery of more than 10,000 rounds of illegal ammunition from one inner-city community – more than recovered in any single year since 2004 – and the discovery that the stash came entirely from the national police armoury – only served to bolster residents' claims of police corruption and complicity in Jamaica's spiralling murder rate. **[92a] (p1-2)**

9.10 The USSD 2010 Report stated:

"The JCF Anti-Corruption Branch, headed by a British police officer hired as assistant commissioner of police, has responsibility for addressing corruption in the force, and some recent improvements were noted. However, suspicions of corruption and impunity within the force remained, despite a notable increase in the number of arrests of officers for corruption.

"In August [2010] the JCF announced that 149 rogue police officers had been removed in the first seven months of the year; by year's end 188 police officers had been dismissed. Authorities arrested 21 police personnel and charged them with breaches of the Corruption Prevention Act. Police personnel are required to sign five-year contracts with renewal contingent upon good conduct. They are barred from reenlisting whenever there is information that they are not efficient or effective in carrying out their duty with integrity." **[8a] (Section 4)**

See also Section 8: Crime

Avenues of complaint

9.11 The UN Special Rapporteur noted in the report of his mission to Jamaica in February 2010 published on 11 October 2010:

"There are three different bodies in Jamaica mandated to receive and investigate complaints regarding police misconduct: the Police Public Complaints Authority, the Bureau of Special Investigations and the Office of Professional Responsibility. The Bureau of Special Investigations and the Office of Professional Responsibility are institutions within the Jamaican Constabulary Force, while the Police Public Complaints Authority is a State-funded independent body. The Authority and the Bureau of Special Investigations will be replaced by the Independent Commission of Investigation, created under the Independent Commission of Investigation Act (2009). However, there is no clear time frame for when the Commission will start its work.

"The Police Public Complaints Authority is an independent, non-police agency tasked with investigating all allegations of misconduct by the Jamaican Constabulary Force. The investigative staff is made up solely of civilian personnel. The role of the Authority is to appraise the investigations and decide whether the police acted unlawfully. When the Authority considers that a criminal offence may have been committed, it reports the case to the Director of Public Prosecutions for further action.

"According to the Independent Commission of Investigation Act, a person may submit a complaint to the Independent Commission of Investigation regarding the conduct of a member of the security forces or any specified official which (a) resulted in the death of or injury to any person or was intended or likely to result in such death or injury; (b) involved sexual assault; (c) involved assault or battery by the member or official; (d) resulted in damage to property or the taking of money or of other property; (e) although not falling within any of the preceding paragraphs, is in the opinion of the Commission of a grave or exceptional nature… the Act also requires police officers to report any such incidents within 24 hours, and forthwith if the incident resulted in the death of or injury of a person." **[99a] (p7)**

"The Special Rapporteur was concerned about the narrow scope of offences to be investigated by the Independent Commission of Investigation. Only allegations of misconduct of a 'grave and exceptional nature' are investigated by the Commission,

leaving victims vulnerable to a subjective and discretionary interpretation of these terms." **[99a] (Conclusions)**

(Further information on the Police Public Complaints Authority is available on the Ministry of Justice website: http://www.moj.gov.jm/node/view/15)

9.12 According to the USSD 2010 Report, "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. However, official complaints and investigations were infrequent." **[8a] (section 1c)**

9.13 Amnesty International recorded in a public statement of 17 March 2011, "Amnesty International notes Jamaica's support of a number of recommendations to improve the training and oversight of the security forces and to investigate allegations of human rights abuses by them, including through supporting the newly established Independent Commission of Investigations." **[3b]**

ARMED FORCES

9.14 Jane's Sentinel Country Risk Assessments – Jamaica (Armed Forces), dated 6 February 2009, reported that:

"The Jamaica Regiment (comprising two regular Infantry Battalions and one reserve unit), the Jamaican Defence Forces Air Wing and Jamaican Defence Forces Coast Guard are all responsible for the defence of Jamaica. The Infantry and National Reserve is the main wing of the Jamaican Defence Forces (JDF) and supports the police in maintaining law and order and assisting with infrastructure projects and emergency relief.

"The Jamaican Armed Forces are governed by the constitution of Jamaica and by the Defence Act of 1962. Commissions are granted by the governor general, who is the constitutional representative of the Queen as head of state. The Prime Minister is titular Minister of Defence with formal powers of command under the Defence Act. However, there is no substantive defence ministry, and matters of budget and administration are handled by the Ministry of National Security. Promotions and establishment are agreed by the Defence Board, which is made up of the Prime Minister as Minister of Defence, the Minister of National Security, the Chief of Staff, and the permanent secretary in the Ministry of National Security." **[87e]**

Military service

9.15 War Resisters' International, in their Jamaica Country Report, accessed on 17 April 2011 and last amended in April 1998, confirmed that conscription (or obligatory military service) does not exist and that there is no legislation providing for conscription. **[84a]**

Return to contents
Go to sources

10. JUDICIARY

10.01 Europa World Online, accessed on 9 April 2011, advised:

"The judicial system is based on English common law and practice. Final appeal is to the Judicial Committee of the Privy Council in the United Kingdom, although in 2001 the Jamaican Government signed an agreement to establish a Caribbean Court of Justice to fulfil this function.

"Justice is administered by the Privy Council, Court of Appeal, Supreme Court (which includes the Revenue Court, the Gun Court and, since 2001, the Commercial Court), Resident Magistrates' Court (which includes the Traffic Court), two Family Courts and the Courts of Petty Sessions." **[5h]**

10.02 The US State Department *2010 Human Rights Report: Jamaica*, released on 8 April 2011 (USSD Report 2010), observed:

"Trials in many cases were delayed for years, and other cases were dismissed because files could not be located or had been destroyed. Some trials suffered as a result of antiquated rules of evidence as well as from lack of equipment for collecting and storing evidence … Storage facilities were inadequate and understaffed, and evidence went missing, rotted in the warehouse, or could not be located when needed.

"The resident magistrate's courts, which handle more than 90 percent of the cases in the court system, continued operation of a night court in an effort to reduce the backlog of cases. The Supreme Court used mediation through the Dispute Resolution Foundation as an alternative to traditional [civil] trials.

"Some criminal trials were dismissed because witnesses failed to come forward as a result of threats, intimidation, or murder." **[8a] (Section 1e]**

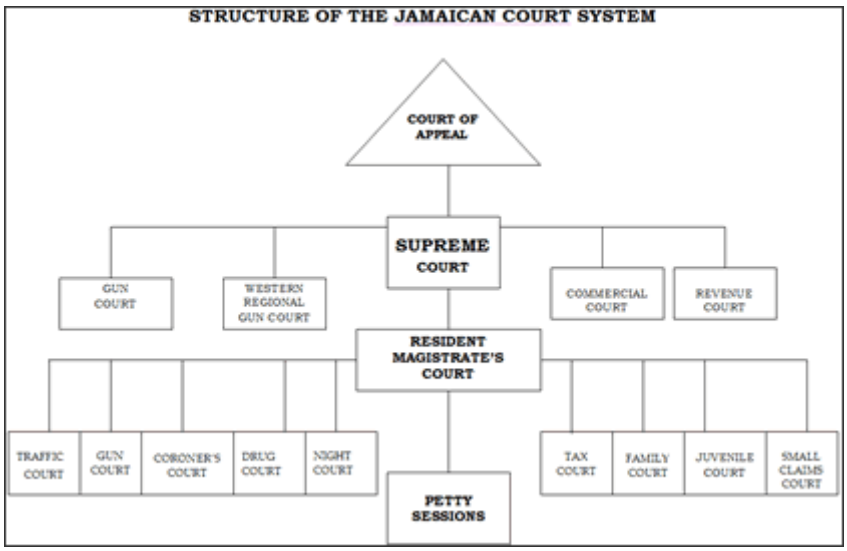
10.03 Amnesty International stated in a *Submission to the UN Universal Periodic Review*, dated 19 April 2010:

"In an attempt to address the justice system's multiple weaknesses, in 2006 the government set up the Jamaican Justice System Reform project to undertake a comprehensive review of the justice system and to develop strategies and mechanisms for its modernization. In June 2007, the Justice System Reform Task Force issued a detailed set of recommendations which, if implemented, could significantly improve access to justice for victims of criminal violence and human rights violations. According to a statement made by the Minister of Justice in November 2009, the implementation of over 70 of the 200 recommendations has been initiated." **[3a]**

Return to contents
Go to sources

ORGANISATION

10.04 The website of the Ministry of Justice, accessed on 12 April 2011, provided the following information on the structure of the courts:



The Court of Appeal: "Appeals against decisions from both the Supreme Court and the Resident Magistrate's Court are heard in the Court of Appeal. It consists of the President of the Court of Appeal and six Judges of Appeal. The Chief Justice is an ex-officio member… The Chief Justice and the President of the Court of Appeal are appointed by the Governor General on the recommendation of the Prime Minister after consultation with the Leader of Opposition."

Supreme Court: "The Supreme Court has unlimited jurisdiction in civil and criminal matters. It consists of the Chief Justice, a Senior Puisne Judge and at least twenty other Puisne Judges. Puisne Judges must be Attorneys-at-law of at least ten years standing. Judges of the Supreme Court are appointed by the Governor General on the recommendation of the Judicial Services Commission. They have jurisdiction to hear applications regarding breaches of fundamental rights and freedom as provided for under the Constitution … This Court exercises important supervisory functions over tribunals … The Circuit Court is the criminal jurisdiction of the Supreme Court that is convened in Parishes for the proper administration of justice."

Resident Magistrate's Court: "There is a Resident Magistrate's Court for every Parish… This Court presides over both civil and criminal matters …The Resident Magistrate's Court has limited jurisdiction in both civil and criminal matters; the amounts and the extent of the jurisdiction of this court is provided for in the Judicature (Resident Magistrate's) Act … The Resident Magistrate's Court has no power to hold a trial for certain criminal offences including murder, treason and rape, however in such cases a Preliminary Examination or enquiry into the charge is held."

Petty Session: "The Petty Session Court is presided over by Justices of the Peace. The Justices of the Peace Jurisdiction Act confer various powers on the Justice of the Peace including the power to issue warrants consequent on non-obedience to summons. A Resident Magistrate has the power of two Justices of the Peace." **[47b]**

INDEPENDENCE

10.05 The USSD Report 2010 stated that "Although the law provides for an independent judiciary, the judicial system relied entirely on the Ministry of Justice for all resources." **[8a] (Section 1e]**

10.06 As mentioned above, the Chief Justice and the President of the Court of Appeal are appointed by the Governor General on the recommendation of the Prime Minister after consultation with the Leader of Opposition; Judges of the Supreme Court are appointed by the Governor General on the recommendation of the Judicial Services Commission. Resident Magistrates are appointed by the Governor General and the Judicial Services Commission. (Ministry of Justice) **[47b]**

FAIR TRIAL

10.07 The USSD Report 2010 noted:

> "Most trials are public and adjudicated by a lone judge. More serious criminal offenses are tried with juries in circuit court at the Supreme Court level.
>
> "The constitution provides that defendants are presumed innocent and have the right to counsel and 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 and in the case of offenses in which the defendant is not liable to incarceration. The Office of the Public Defender (OPD) may bring cases on behalf of persons who have had their constitutional rights violated but the OPD cannot appear in court on their behalf. Although the OPD contracted with private attorneys to represent indigent clients, funds were insufficient to meet demand, and such attorneys sometimes requested payment from clients.
>
> "Complainants may bring human rights abuse cases for civil remediation to the courts, but awards can be difficult to collect … There is an independent and impartial civil judiciary process." **[8a] (Section 1e]**

Legal Aid

10.08 The Ministry of Justice website, accessed 18 April 2011, confirmed that a legal aid system is administered by the Legal Aid Council and gave details of its operation: http://www.moj.gov.jm/node/view/13 **[7a]**

Witness protection

10.09 According to the USSD Report 2010, "Some criminal trials were dismissed because witnesses failed to come forward as a result of threats, intimidation, or murder. 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 has ever been killed." **[8a] (Section 1e)**

10.10 Eligibility criteria for witness protection are set out in the Justice Protection Act 2001, a copy of which appears at:
http://www.oas.org/juridico/spanish/mesicic2_jam_justice_protection_act.pdf.
This confirms that whether a particular individual is granted protection is at the discretion of the Witness Protection Unit in the Ministry of National Security and Justice. **[51a]**

Return to contents
Go to sources

RELEVANT LEGISLATION

10.11 Copies of the Criminal Justice (Administration) Act, the Criminal Justice (Reform) Act and other key legislation can be accessed on Lexadin's website, updated 2 March 2010: http://www.lexadin.nl/wlg/legis/nofr/oeur/lxwejam.htm **[14]**

11. ARREST AND DETENTION – LEGAL RIGHTS

11.01 The UN Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, following his mission to Jamaica in February 2010, stated in his report dated 11 October 2010:

"With regard to procedural safeguards, the Constitution provides for the right to be informed of the reasons for arrest 'as soon as reasonably practicable' (section 15(2)); the right to be brought before a court 'without delay' (section 15(3)(b)); be tried within a "reasonable time" (section 15(3)(b)); and the right to have a case reviewed by an impartial tribunal after six months for persons detained during a period of public emergency (section 15(6)). **[99a] (p6)**

"According to the Constabulary Force Act, a person may be detained 'upon reasonable suspicion that he is in the course of committing or has committed or is about to commit an offence' (art. 50(B)). The Act also provides some safeguards that also apply for arrests based on warrants, including the right to be immediately informed of the reason for the arrest or detention and the right to be taken forthwith before a justice of the peace, who will determine whether there are reasonable grounds for arrest and detention (art. 50(F)(2)). According to section 50(G)(1) of the Constabulary Force Act, 'forthwith' denotes within 12 hours. If the justice of the peace considers that the arrest or detention is required in the interest of justice, he can order that a person be remanded for 24 hours, after which the detainee is taken before a resident magistrate. A resident magistrate, however, never reviews the legality of an arrest per se. **(p6)**

"For cases concerning detention when there is intent to hold an identification parade, section 63(A) of the Judicature (Resident Magistrates) Act applies. According to the Resident Magistrates Act, a magistrate is to make enquiries at least once a week into each person detained pending an identification parade. At that time, the magistrate may extend the remand period or order that the person be taken before a court within 24 hours. However, there are no limits in the legislation to the time either an adult or a juvenile may be held in custody pending an identification parade. **(p6)**

"According to the Bail Act (2000), any detained individual has the right to bail immediately upon detention at a police station. If an individual is not charged within 24 hours, a determination on bail is made by the justice of the peace or a resident magistrate (section 3(2)). Where individuals are charged with murder, treason or treason-felony, bail may only be granted by the resident magistrate (section 3(4)). In most other cases, a police officer can decide on bail." **[99a] (p6-7)**

11.02 The US State Department *2010 Human Rights Report: Jamaica*, released on 8 April 2011, noted:

"Arrests normally require warrants signed by a police officer of the rank of station sergeant or higher; however, arrests may be made without warrants. Police often used the warrant as the first step in an investigation to search for evidence. The law requires detained suspects to be charged or released within 24 to 48 hours of arrest, unless a justice of the peace or a resident magistrate grants a special waiver.

"If a detainee requests access to counsel, the law requires police to contact duty counsel (a private attorney who volunteers to represent detainees at police stations and until cases go to trial) under the Legal Aid Program; however, authorities continued to wait until after detainees had been identified in a lineup before contacting duty counsel for them. There was a functioning bail system, and detainees were provided with prompt access to family members.

"Although the law requires police to present a detainee in court within a reasonable time period, in practice authorities sometimes remanded suspects for psychiatric evaluation, some for as long as three years when their cases were 'lost in the 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, especially in the busy Kingston/St. Andrew corporate area." **[8a] (Section 1d]**

See also Section 9: Arbitrary arrest and detention

Return to contents
Go to sources

12. PRISON CONDITIONS

12.01 The International Centre for Prison Studies (ICPS) at King's College, London, recorded in their Prison Brief for Jamaica (updated 17 June 2010) that there were 12 prison establishments in operation across Jamaica. The total prison population stood at 4,709 in October 2007 (including pre-trial detainees and remand prisoners); the official capacity of the prison system was 4,247. Female prisoners made up 5.2 per cent of the prison population and minors, below the age of 18, represented 9.2 per cent. **[25a]**

12.02 The US State Department *2010 Human Rights Report: Jamaica* (USSD Report 2010), released on 8 April 2011, stated:

"Prison conditions remained poor, primarily due to overcrowding and poor sanitation. Tower Street Adult Correctional Center, located in downtown Kingston, housed approximately 1,600 inmates, nearly double the capacity for which the facility was built. Men and women were incarcerated in separate facilities under similar conditions. Female prisoners were generally incarcerated under better conditions than their male counterparts. Cells in some facilities had little natural light, inadequate artificial light, and poor ventilation.

"Prison medical care was also poor, primarily a result of having only three full-time doctors, one full-time nurse, and one psychiatrist to cover 12 facilities (eight adult, four juvenile) with almost 5,000 inmates across the island. Prisoners in need of dentures and unable to eat the prison food encountered difficulties in gaining access to a dentist.

"Reliable reports indicated that there was no clear separation of detainees according to the different stages of criminal procedure. Persons detained without charges,

remandees, and convicted persons were held together in the same facility, and often shared cells.

"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. Prisoners were able to make complaints to the Public Defender's Office without censorship, and representatives generally were able to enter the detention centers and interview prisoners without problems. Although access was denied after a riot at the Horizon Remand Center, the prime minister subsequently ordered the center to restore access.

"The government invited a UN special rapporteur to conduct a fact-finding mission in February [2010] regarding detention facilities…" **[8a] (Section 1c)**

12.03 The UN Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, following his mission to Jamaica in February 2010, stated in his report dated 11 October 2010:

"The Special Rapporteur was particularly concerned at the conditions of detention in police stations, reflecting a complete disrespect for the human dignity of detainees and prisoners, made worse by a general atmosphere of violence and aggression from both the police and detainees. In correctional facilities, the conditions differed significantly between facilities, although they were generally better than in police stations.

"The conditions found at the Horizon Remand Centre were better than in the police stations, but were still extremely harsh, despite the fact that remand detainees are supposed to be presumed innocent until found guilty. In addition, although Horizon was only at 58 per cent of its capacity, with 609 detainees, there were several human rights concerns, including a lack of water, sometimes for a number of days. Additionally, as in police stations, the Special Rapporteur received many allegations of arbitrary treatment of detainees by warders … On 8 February 2010, disturbances broke out at Horizon as a result of frustration with the conditions of detention and treatment by the warders.

"The Special Rapporteur visited [correctional] facilities [i.e. prisons] that demonstrated a broad spectrum of conditions, ranging from fairly poor to those that could be considered best practices.

"Homosexuals detained at St. Catherine and Tower Street correctional centres were held in the 'vulnerable persons unit' as a protective measure. However, their separation led to a loss of privileges of a punitive character, such as work and recreation, including the use of the library and playing field." **[99a] (p10-12)**

12.04 Regarding correctional facilities for women, children and 'persons with mental disabilities', the Special Rapporteur reported:

"The conditions at the detention facilities for children and women were generally better than those for adult males.

"Children and juveniles in need of care and protection, uncontrollable juveniles and those in conflict with the law are often held together without distinction. The lack of separation makes it extremely difficult, if not impossible, to address the individual needs of children, be it in terms of protection or rehabilitation.

"The Special Rapporteur witnessed two opposite ends of the spectrum in the conditions of detention [for children] in the places visited.

"Detention facilities for women were generally more open and offered better conditions than those for men. There was a strict separation of male and female detainees.

"Persons with mental disabilities deprived of their liberty are not held in a separate psychiatric institution, but detained in a special wing of different correctional centres." **[99a] (p12-14)**

(Refer to the Special Rapporteur's report for a full account of his findings at specific facilities: http://www2.ohchr.org/english/bodies/hrcouncil/docs/16session/A-HRC-16-52-Add3.pdf)

Return to contents
Go to sources

13. DEATH PENALTY

13.01 Jamaica retains the death penalty (Amnesty International) **[3c]**, although the organisation Hands Off Cain, on its website accessed 14 April 2011, listed Jamaica as "Abolitionist de facto". **[17a]** According to the *Amnesty International Report 2010*:

"Two death sentences were handed down in 2009; no executions were carried out. There were four people on death row at the end of the year [2009]. In July [2009] the Prime Minister declared that the government would honour Parliament's decision in 2008 to retain the death penalty by resuming executions as soon as the appeal avenues available to death row prisoners were exhausted." **[3c]**

13.02 Amnesty International noted in a Public Statement of 17 March 2011:

"…Jamaica has rejected a wide range of recommendations made by many states regarding the death penalty, including to establish a moratorium on executions, to commute all death sentences to prison sentences and to abolish the death penalty. While it is encouraging that there have been no executions since 1988, the organization is concerned that death sentences continue to be handed down and that the authorities justify the retention of the death penalty as the will of the people." **[3b]**

13.03 The UN Special Rapporteur noted in his report of 11 October 2010 that, under the Offences against the Person Act, the death penalty may be imposed for capital murder when the victim is a public official, witness or juror. It may also be imposed for murder in the course of robbery, burglary or sexual violence. **[99a] (p7)**

Return to contents
Go to sources

14. POLITICAL AFFILIATION

14.01 According to the Bertelsmann Foundation's *Jamaica Country Report 2010*, dated 30 April 2011:

"Ideological polarization and confrontation were severe between the two [major] parties in the 1970s. They peaked in 1980, when approximately 800 people died during that year's elections.

"Political violence is now less frequent, but extreme polarization and political tribalism between political parties and their constituents [still exists]. Jamaica's political system is one that has alternated between high and moderate levels of consensual and tribal politics. The Jamaican population, whose alienation from the political system is growing, has been increasingly rejecting patronage-based democracy, and it has become equally difficult for both major parties to gain new supporters…

"…both parties' political positions have converged toward the center." **[39a]**

FREEDOM OF POLITICAL EXPRESSION

14.02 The Freedom House report, *Freedom in the World 2010 – Jamaica*, released 3 May 2010, confirmed that "The constitutional right to free expression is generally respected." **[32a]**

14.03 The Bertelsmann Jamaica Country Report of 30 April 2011 noted that "There are no restraints on free and fair elections except in 'garrison' constituencies, where a dominant political party can intimidate dissenters. Continued improvements to the electoral system have resulted in an electoral process that…was overall free and fair and marked by minimal violence in both national and municipal elections." **[39a]**

FREEDOM OF ASSOCIATION AND ASSEMBLY

14.04 The US State Department *2010 Human Rights Report: Jamaica* (USSD Report 2010), released on 8 April 2011, reported, "The law provides for freedom of assembly and association, and the government generally respected these rights in practice." **[8a] (Section 2b)**

OPPOSITION GROUPS AND POLITICAL ACTIVISTS

14.05 The USSD Report 2010 stated:

"…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 to intimidate supporters of the opposing political party. These factors impeded the free exercise of their right to vote." **[8a] (Section 3)**

"There were no reports of political prisoners or detainees." **(Section 1e)**

See also Section 8: Crime

Return to contents
Go to sources

15. FREEDOM OF SPEECH AND MEDIA

MEDIA FREEDOM

15.01 The Freedom House report, *Freedom of the Press 2010*, covering events of 2009, ranked Jamaica 16th out of 196 countries in terms of press freedom, where 1st was the most free. **[32b]**:

15.02 The US State Department *2010 Human Rights Report: Jamaica* (USSD Report 2010), released on 8 April 2011, observed:

"The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. Newspapers were independent and free of government control. Broadcast media were largely state owned but open to pluralistic points of view.

"Some local media professionals expressed concern that the country's libel laws limited 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. In a speech on May 17 [2010], Prime Minister Golding expressed the need to reform the libel laws to enable greater transparency and accountability in government.

"The Press Association of Jamaica (PAJ) continued to advocate for changes in the country's 'antiquated' libel and defamation laws. The PAJ also advocated repealing the Official Secrets Act, 'which runs counter to the Access to Information Act,' requested that whistle-blower legislation be enacted to help the media expose corruption, and called for strict separation between management and editorial departments …

"Some journalists also stated that they censored their political coverage based on fear of violent reprisals, and the UN Human Rights Council's 2010 Freedom in the World Report stated that journalists sometimes faced intimidation in the run-up to elections." **[8a] (Section 2a)**

15.03 The organisation Reporters Without Borders, in its *Press Freedom Barometer 2011*, ranked Jamaica 25th out of 178 countries and noted that "Jamaica has a very honourable record in freedom of expression and media safety, only slightly diminished by the occasional physical assault … A few isolated confrontations were reported during elections that brought Golding to power, in September 2007, between journalists and militants of the two main parties…" **[27a]**

INTERNET

15.04 In its report, *Freedom in the World 2010*, covering events of 2009, Freedom House stated, "The government does not restrict access to the internet; about 50 percent of Jamaicans have access, more than double the regional average of the Caribbean." **[32a]**

15.05 The USSD Report 2010 confirmed, "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." **[8a] (Section 2a)**

ACADEMIC FREEDOM AND CULTURAL EVENTS

15.06 According to the USSD Report 2010, there were no government restrictions on academic freedom. **[8a] (Section 2a)**

15.07 The same report noted, "With respect to cultural events, the Jamaica Broadcasting Commission (JBC) sought to regulate and limit the dissemination of certain popular music deemed inconsistent with public morality. Since 2009 the JBC banned certain

lyrics deemed inappropriate to broadcast, including dancehall songs referring to the simulation of aggressive or violent sex…" **[8a] (Section 2a)**

Return to contents
Go to sources

16. HUMAN RIGHTS INSTITUTIONS, ORGANISATIONS AND ACTIVISTS

16.01 The US State Department *2010 Human Rights Report: Jamaica*, released on 8 April 2011, reported:

"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 Public Defender's Office provides services 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 government was generally supportive of international human rights concerns and humanitarian nongovernmental organizations (NGOs). The government invited a UN special rapporteur to conduct a fact-finding mission in February regarding detention facilities, where he had access to senior state officials, representatives of civil society, and detainees." **[8a] Section 5)**

See Section 7 Human Rights: Introduction for further information on the Public Defender's Office

Return to contents
Go to sources

17. CORRUPTION

17.01 Transparency International's *Corruption Perceptions Index 2010* (CPI 2010), published on 26 October 2010, ranked Jamaica 87th out of 178 countries, where 1st was the least corrupt. A country's CPI score reflects perceived levels of public-sector corruption, based on the results of up to 13 surveys amongst business people and country analysts; it ranges between 10 (highly clean) and 0 (highly corrupt). Jamaica's CPI score in 2010 was 3.3. **[28a]**

17.02 The US State Department *2010 Human Rights Report: Jamaica* (USSD Report 2010), released on 8 April 2011, observed:

"The law provides criminal penalties for official corruption, but the government did not implement the law effectively. The contractor general stated in his 2009 annual report that 30 formal criminal offenses were referred to the DPP [Director of Public Prosecutions], with no criminal charge, arrest, or prosecution arising out of any of the matters.

"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 DPP's Office has the authority to identify noncompliant officials and send their cases to the

Magistrate's Office, but the government did not levy any fines on officials during the year. The Ministry of Justice and the Attorney General's Office have overall responsibility to combat official corruption, but various other ministries are responsible for their own investigations.

"Despite provisions in the Access to Information Act to promote transparency, media accounts indicated that access to information was sometimes categorically denied. The act contains no sanctions or penalties to discourage lack of response to applications." **[8a] (Section 4)**

17.03 Freedom House, in its report *Freedom in the World 2010,* released on 3 May 2010, added that "Government whistleblowers who object to official acts of waste, fraud, or abuse of power are not well protected by Jamaican law, as is required under the Inter-American Convention against Corruption." **[32a]**

17.04 *The Gleaner* reported on 6 April 2011 that a Corruption Prevention (Special Prosecutor) Bill had been introduced in Parliament, but its progress had been delayed by a contention that an 'Office of the Special Prosecutor' could not be established without an amendment to the Constitution. **[34c]**

See also Section 9: Corruption in the police

Return to contents
Go to sources

18. FREEDOM OF RELIGION

18.01 The US State Department *International Religious Freedom Report 2010*, released 17 November 2010 (US Religious Freedom Report 2010), stated:

"The constitution provides for freedom of religion, and other laws and policies contributed to the generally free practice of religion.

"The government generally respected religious freedom in practice.

"Rastafarians alleged that the overwhelmingly Christian population discriminated against them. There were no other reports of societal abuses or discrimination based on religious affiliation, belief, or practice." **[8d] (Introduction)**

"Parliament may act to recognize a religious group; however, registration was not mandatory. Recognized groups receive tax-exempt status and other privileges, such as the right of their clergy to visit members in prison.

"Religious schools were not subject to any special restrictions, nor did they receive special treatment from the government." **[8d] (Section II)**

"Local media outlets continued to provide a forum for extensive, open coverage and debate on religious matters." **[8d] (Section III)**

18.02 The US Religious Freedom Report 2010 noted:

"According to the most recent census (2001), religious affiliation as a proportion of the population is: Church of God, 24 percent; Seventh-day Adventist, 11 percent; Pentecostal, 10 percent; Baptist, 7 percent; Anglican, 4 percent; Roman Catholic, 2

percent; United Church, 2 percent; Methodist, 2 percent; Jehovah's Witnesses, 2 percent; Moravian, 1 percent; Brethren, 1 percent; unstated, 3 percent; and 'other,' 10 percent. The category 'other' included 24,020 Rastafarians, an estimated 5,000 Muslims, 1,453 Hindus, approximately 350 Jews, and 279 Baha'is. The census reported that 21 percent claimed no religious affiliation." **[8d] (Section I)**

18.03 According to the US Religious Freedom Report 2010:

"A Rastafarian sect, the Church of Haile Selassie I, has sought religious incorporation for 14 years without success … Some in parliament maintained that the church should be denied incorporation because it uses marijuana, which is illegal, in religious services. The church, however, claimed that this was not the case and that it used legal herbs.

"Members of the Rastafarian community continued to complain 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 alleged illegal use of marijuana as part of Rastafarian religious practice." **[8d] (Section II)**

18.04 The Bertelsmann Foundation, in its *Jamaica Country Report 2010,* dated 30 April 2011, observed, "There is separation of church and state. There is some influence of religious views on politics and laws, such as those on abortion, gambling and the attitude to homosexuality. However, this influence is primarily exerted by interest groups, including the several (mostly Protestant) churches." **[39a] (Section I.1)**

Return to contents
Go to sources

19. ETHNIC AND ANCESTRAL GROUPS

19.01 The US State Department *2010 Human Rights Report: Jamaica* (USSD Report 2010), released on 8 April 2011,observed:

"Maroons, descendants of slaves who escaped to the mountainous interior in the 17th and 18th centuries, considered themselves a group apart and maintained some African traditions distinct from those of the larger society. They continued to defend their rights and legal status, which stem from peace treaties signed with the British in 1739-40 … Maroon communities such as Accompong and Nanny Town, voters elect a colonel for a five-year term, who governs the community assisted by an appointed 32-member council. Maroons also vote in general elections, and their leaders worked with Parliament to ensure that their communities' needs are considered when making important decisions. Maroons are exempt from national taxes and land is held in common; however, there are major infrastructural needs that the Maroons believe the central government neglects." **[8a] (Section 6)**

19.02 The Bertelsmann Foundation, in its *Jamaica Country Report 2010,* dated 30 April 2011, noted:

"Under the country's constitution, citizens of all ethnic groups have the same civil rights, although race, class, sexual orientation and gender factors often prevent the equitable exercise of these rights by all social classes. Jamaicans accept and support the nation-state as legitimate. The greatest historical injustices in Jamaica's history were slavery and colonialism, both of which have left a residue of racism. However, despite distinct racial and social tensions, there is no acute conflict between ethnic groups or between

groups whose ancestors suffered under slavery, racism and colonialism, on the one hand, and groups whose ancestors profited from them, on the other … Jamaica stresses that all its citizens are equal within the scope of the national identity regardless of their background… Still, the cultural forms of expression of the black African majority are not adequately recognized. Such recognition only comprises occasional special tributes to religious and cultural traditions and historic public figures." **[39a]**

Return to contents
Go to sources

20. LESBIAN, GAY, BISEXUAL AND TRANSGENDER PERSONS

20.01 The USSD *International Travel Information – Country Specific Information: Jamaica* (USSD Travel Information: Jamaica), dated 24 February 2011, reported, "Harassment, threats, and acts of violence have been targeted at homosexuals in Jamaica. Government officials have been known to make derogatory comments toward homosexuals, and discrimination on the basis of sexual orientation is widespread. It has been reported that police do not always investigate reports of harassment, threats, or violence targeted on the basis of sexual orientation of the victim." **[8b] (Special Circumstances: Attitudes towards homosexuals)** The *National report submitted* [by the government] *in accordance with paragraph 15 (a) of the annex to Human Rights Council resolution 5/1* [Universal Periodic Review (UPR)] – Jamaica*, dated 20 August 2010, stated, "The Government of Jamaica respects the right of all individuals and does not condone discrimination or violence on [sic] against any person or group because of their sexual orientation." **[99d] (p6)**

20.02 A June 2009 Human Rights Watch (HRW) report, *Together, Apart – Organizing around Sexual Orientation and Gender Identity Worldwide*, noted:

"Violence is a general problem in the [Caribbean] region. Music and pop culture help channel it toward people who are 'manly,' or 'womanly,' in the wrong way. Homophobic mob attacks in Jamaica have burgeoned, amid what one regional activist, now working in Canada, calls 'a louder voice by the government to excuse homophobia and transphobia. The Caribbean, although a region poised to benefit from [outside] political and economic development, remains resistant to any social or cultural suggestions to advance rights-based approaches.'" **[59a] (p41)**

20.03 A Pink News article reporting on the stabbing of a gay man in December 2010 stated, "Gay campaigners consider Jamaica to be one of the most homophobic countries in the world. Gay sex between two men can carry a ten-year jail sentence or hard labour. Sex between two women is currently legal but many lesbians face persecution." **[43a]**

See also Violence below

For further information on the situation of LGBT persons in Jamaica, refer to the International Gay and Lesbian Human Rights Commission (IGLHRC) Information by country: Jamaica page **[20a]** and the International Lesbian, Gay, Bisexual, Trans & Intersex Association (ILGA) page on Jamaica. **[42b]** and the Global Forum on MSM and HIV (Jamaica page).

Return to contents
Go to sources

LEGAL RIGHTS

20.04 The May 2010 ILGA annual report, *State-sponsored Homophobia: A world survey of laws prohibiting same sex activity between consenting adults* stated that male to male sex is illegal, but female to female sex is legal. **[42a] (p36)** The survey went on to list the relevant articles of the Offences Against the Person Act:

"Article 76 (Unnatural Crime)

"'Whosoever shall be convicted of the abominable crime of buggery [anal intercourse] committed either with mankind or with any animal, shall be liable to be imprisoned and kept to hard labour for a term not exceeding ten years.'

"Article 77 (Attempt)

"'Whosoever shall attempt to commit the said abominable crime, or shall be guilty of any assault with intent to commit the same, or of any indecent assault upon any male person, shall be guilty of a misdemeanour, and being convicted thereof shall be liable to be imprisoned for a term not exceeding seven years, with or without hard labour.'

"Article 78 (Proof of Carnal Knowledge)

"'Whenever upon the trial of any offence punishable under this Act, it may be necessary to prove carnal knowledge, it shall not be necessary to prove the actual emission of seed in order to constitute a carnal knowledge, but the carnal knowledge shall be deemed complete upon proof of penetration only.'" **[42a] (p36-37)**

The ILGA survey did not provide data on actual prosecutions or convictions under the above articles. **[42a] (p36-37)**

20.05 The US State Department *2010 Human Rights Report: Jamaica* (USSD Report 2010), released on 8 April 2011, stated, "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." **[8a] (Section 6)** The February 2011 USSD Travel Information: Jamaica, noted, "Jamaican law contains specific prohibitions on certain sexual activities. These prohibitions have been used to target homosexuals and trans-gendered individuals. Violations can result in lengthy imprisonment." **[8b] (Criminal Penalties)** Information about the legal status of transgender persons is scarce. *Sexual Minorities and the Law: A World Survey*, edited in July 2006 by the website Asylumlaw, observed that, regarding transgender persons, there was "no data or the legal situation remained unclear". **[44a]**

20.06 Commenting on the legal position of lesbians and gays in the country, the Jamaica Forum for Lesbians, All-Sexuals and Gays (J-Flag), on their *Know Your Rights* advice webpage, undated, accessed 5 April 2011, stated:

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

20.07 J-FLAG's *Happy New Year* message of 1 January 2011 stressed that the organisation: "… continues to observe and articulate the implications of the absence of a specific legal instrument to protect and promote the human rights of lesbian, gay, bisexual and transgender Jamaicans." **[9a]** J-FLAG's message continued by noting that, "While the enactment of laws alone will not change the engrained discrimination within our society, the presence of discriminatory laws coupled with the lack of specific protections continue to contribute to the high incidences of stigma, discrimination, harassment and other forms of abuse as well as death of Jamaicans who are, and in some cases perceived to be gay or lesbian." **[9a]**

20.08 In its Public Statement of 17 March 2011, following the UN Human Rights Council's adoption of the Universal Periodic Review (UPR) outcome on Jamaica, Amnesty International urged:

"… Jamaica to express its unequivocal support for a number of recommendations aimed at combating discrimination based on sexual orientation, and to reconsider a number of recommendations made during the review to repeal legislation that criminalize consensual same-sex activities and to include in the Charter of Rights Bill, currently before Parliament, a specific prohibition of discrimination on the grounds of sexual orientation." **[3b] (p1)**

20.09 On 30 March 2011, J-FLAG similarly urged "… that the Senate provide a framework to reduce discrimination and violence against all persons including lesbians, gays, bisexuals and transgenders (LGBT); persons with disabilities and persons affected by particular health conditions such as HIV in the Charter of Fundamental Rights and Freedoms." **[9d]**

Return to contents
Go to sources

TREATMENT BY, AND ATTITUDE OF, STATE AUTHORITIES

20.10 The *Report of the Working Group on the Universal Periodic Review – Jamaica* (UPR WG Report), dated 4 January 2011, stated:

"Regarding the issue of sexual orientation, Jamaica stressed that, although consensual sex between adult males remained proscribed by law, there was no legal discrimination against persons on the grounds of their sexual orientation. Jamaica pointed out that Jamaican law did not criminalize lesbian, gay, bisexual and transgender orientation, nor did the Government condone discrimination or violence against lesbian, gay, bisexual and transgender persons. It added that there had been no credible cases of arbitrary detention and/or harassment of such persons by the police, nor was there any such official policy. Likewise, there was no evidence of any mob-related killing of lesbian, gay, bisexual or transgender persons." **[99e] (p6)**

See Legal rights above and Violence below

20.11 The Immigration and Refugee Board of Canada (IRB) Research Directorate, in a Response to an Information Request of December 2010 on police treatment of gay complainants in Jamaica, reported that "In a telephone interview with the Research Directorate, a representative of Caribbean Vulnerable Communities (CVC), a coalition of leaders and organizations that work with Caribbean populations vulnerable to HIV/AIDS (CVC n.d.), explained that police harassment usually takes the form of verbal abuse." **[33a]**

20.12 A February 2010 Letter to the Editor of *The Gleaner* from Maurice Tomlinson, activist and legal advisor with AIDS-Free World, reported, "Just after midnight on Sunday, February 20, 2011, four police pickups and a van normally used to transport prisoners descended on the only gay club along the Hip Strip in Montego Bay. About 20 heavily armed policemen jumped from the vehicles, aggressively accosting patrons, kicking in doors, beating and pistol-whipping indiscriminately, and chasing everyone from the venue." The letter also stated that, "This latest attack follows a similar one in Kingston in early February when police, not wearing badges, raided a gay club, pointing guns at patrons and shining powerful flashlights in their faces." **[35e]**

20.13 In an interview, recorded on 25 September 2010 and reproduced on the J-FLAG website in October 2010, Prime Minister Golding asserted:

"We [Jamaicans] are tolerant provided that homosexual lifestyle does not invade our space. And what do I mean by that? Persons who wish, because of their own inclination, to live in a homosexual relationship, do so in Jamaica and there are many such persons in Jamaica. The society in Jamaica in general do not want to be… do not want it to be flaunted. They don't want it to be sort of thrown into the face, because there are some real fears. There are some real fears. The basic unit of a society is a family, and there is a passionate concern in Jamaica about protecting the integrity of the family. And it is felt that encouragement or recognition of the appropriateness of the homosexual lifestyle is going to undermine the effectiveness of that family unit and, in that process, undermine the basic fabric of a society." **[9c]**

See also Societal treatment and attitudes below

20.14 The *2009 Country Report on Human Rights Practices: Jamaica*, (USSD Report 2009), released 11 March 2010, stated, "In October [2009] Prime Minister Golding, who upon taking office [in September 2007] announced that no gays or lesbians would be allowed to serve in his cabinet, called for a constitutional prohibition against same-sex marriage." **[8e] (Section 6)**

20.15 The *Amnesty International Report 2010*, released on 28 May 2010 and covering events of 2009, reported: "During a parliamentary debate, a member of Parliament questioned the right of gay men and lesbians to form organizations and demanded life imprisonment for homosexual acts. The Prime Minister, while distancing himself from these comments, made it clear that his government would not repeal the crime of buggery, which is currently punishable by up to 10 years' imprisonment." **[3c] (p189)**

20.16 On 19 February 2009, Human Rights Watch (HRW) reported on the parliamentary debate in more detail, stating:

"…on February 10, 2009, Ernest Smith of the Jamaica Labor Party said that 'homosexual activities seem to have overtaken this country.' He described homosexuals as 'abusive, violent,' and called for tightening the 'buggery' law criminalizing consensual homosexual conduct to impose sentences of up to life in prison. On February 16 [2009], Smith told a Jamaican newspaper that J-FLAG, the Jamaica Forum for Lesbians, All-Sexuals and Gays, 'should be outlawed,' adding: 'How can you legitimize an organization that is formed for the purposes of committing criminal offenses?'" **[59b]**

20.17 The USSD Report 2010 reported that, "Laws banning homosexual acts and societal attitudes prevented distribution of condoms in prisons and similar institutions." **[8a] (Section 6)** Additionally:

"Male inmates deemed by prison wardens to be gay 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 gay inmates, perpetrated by the wardens and by other inmates, but few inmates sought recourse through the prison system." **[8a] (Section 6)**

Protection and assistance available

20.18 J-FLAG's message of 1 January 2011, when discussing the continuing violence against LGBT persons during 2010, remarked, "Sadly, in the majority of cases, there have been little or no thorough investigation and/or prosecutions for such inhumane acts unless the case has been labeled 'high profile'." **[9a]**

20.19 Maurice Tomlinson, an activist and legal advisor with AIDS-Free World, disseminated a letter dated 27 February 2011 regarding an e-mailed death threat he had received in response to his pro-tolerance activism, in which he described the response of the police, stating, "… [I] was disturbed by the homophobic rhetoric from the recording officer … Amongst other things [he] called the author of the email a 'faggot' because of his username 'dkjuice.' Further, the officer expressed disgust that gays can 'hug up and kiss in foreign.' I am therefore not confident of police protection in Jamaica." **[35d]**

20.20 The December 2010 response produced by the Canadian IRB Research Directorate reported, "The CVC representative [interviewed by telephone on 30 November 2010] stated that LGBT victims are afraid of how the Jamaican police will handle their cases. Specifically, he noted that the Jamaican police have a history of divulging information about such incidents, of not thoroughly investigating cases of violence against LGBT people (including murder), and of not intervening when LGBT victims are subject to violence." **[33a]**

20.21 J-FLAG's January 2011 message continued, "… police men and women have been more professional in their attempts to serve and protect lesbian, gay, bisexual and transgender Jamaicans." **[9a]** Additionally, "We salute the Jamaican foreign ministry who communicated with J-FLAG about their December 22 [2010] vote at the United Nations to 'recognize that…people [of different sexual orientation] continue to be the target of murder in many of our societies, and they are more at risk than many…other groups'. This demonstrated a welcome measure of accountability and transparency in our foreign policy." **[9a]**

20.22 The December 2010 RIR produced by the Canadian IRB Research Directorate also reported that "…the CVC representative [interviewed by telephone on 30 November 2010] noted that there are 'pockets' of improvement in the police treatment of LGBT people and that some 'isolated' cases of violence against them are being properly investigated. However, he cautioned that 'there is still a long way to go' and that these cases are the exception rather than the norm." **[33a]**

20.23 The USSD Report 2009 noted, "The trial of six suspects arrested for the 2005 robbery and murder of prominent gay rights advocate Lenford 'Steve' Harvey, initially begun and then postponed in 2007, was scheduled to recommence on January 25, 2010." **[8e] (Section 6)** The USSD Report 2010 made no mention of the trial having been recommenced in 2010, stating only that it was now scheduled to recommence in early 2011. **[8a] (Section 6)**

SOCIETAL TREATMENT AND ATTITUDES

20.24 The UPR WG Report of January 2011 stated that, "Jamaica stressed that the issue of male homosexuality was one of great sensitivity in Jamaican society, in which cultural norms, values, religious and moral standards underlay a rejection of male homosexual behaviour by a large majority of Jamaicans..." **[99e] (p6)**

See also Treatment by, and attitude of state authorities above

20.25 An AIDS-Free World Press Release of 8 April 2010 reported, "Yesterday [7 April 2010] in Montego Bay, over a hundred people carrying signs with messages from 'My Bedroom My Business' to 'Sex Work is My Choice' called for tolerance. Sexual minorities, sex workers and people with AIDS in Jamaica held a public event together for the first time." **[35a]** The Press Release later asserted, "If anyone is in doubt about the significance of this event, we would like to point out that it is the first of its kind in Jamaica, a country internationally notorious for its vicious homophobia." **[35a]**

20.26 A 21 December 2010 letter to the editor by Maurice Tomlinson, an activist and legal advisor with AIDS-Free World, published in the *Jamaican Observer*, noted, "… virulent intolerance and homophobia has dire consequences for the country's fight against HIV and AIDS by driving gays underground, away from effective HIV prevention, treatment, care and support interventions. Many gay Jamaicans refrain from going to pharmacies to buy condoms and lubricants for fear of being 'outed', …". **[35b]** A March 2009 Pink News article similarly reported, "Gay Jamaican men are suffering from high levels of sexually-transmitted diseases due to discriminaty [sic] barriers in accessing healthcare, it has been suggested. According to the Caribbean HIV & AIDS Alliance, gay men are reluctant to go to healthcare providers because of homophobic laws and attitudes in the country." **[43c]**

See also Section 25: Medical issues

20.27 J-FLAG's *Happy New Year* message of 1 January 2011 did report some signs of improvement in the attitude to LGBT persons in 2010, stating, "…we have seen some encouraging demonstrations that there are possibilities for lesbian, gay, bisexual and transgender Jamaicans to be accorded their human rights and dignity. This has been demonstrated by the numerous public activities that have been held without incident since April [2010] to raise the awareness of the issues being faced by the lesbian, gay, bisexual and transgender community and our allies." **[9a]**

20.28 J-FLAG's January 2011 message also noted, "The media has begun to feature more constructive conversations, articles and letters with regards to the rights of lesbian and gay Jamaicans. Key leaders in our society have accepted our invitation and extended a helping hand to have conversation with us and support our advocacy and programmes." **[9a]**

20.29 The Freedom House, *Freedom in the World 2010* survey, which covers the human rights situation in 2009 and was released on 3 May 2010, noted, "The antigay lyrics of Jamaican entertainers, particularly reggae singers, remain a source of contention." **[32a] (Political Rights and Civil Liberties)** An article in *The Gleaner* of 14 October 2010 remarked, "Jamaican dancehall artistes…have been chastised for several years by LGBT groups in North America and Europe for their anti-gay lyrics." **[34b]**

20.30 A July 2009 article by the Associated Press expanded, "The anti-gay sentiment [in Jamaica] has perhaps become best known through Jamaican 'dancehall,' a rap-reggae music hybrid that often has raunchy, violent themes. Some reggae rappers…depend on gay-bashing songs to rouse concert-goers." **[38a]**

20.31 *The Gleaner* article, dated 14 October 2010, reported that J-FLAG had acknowledged that the signing of the Reggae Compassionate Act by Vybz Kartel is "a step in the right direction of the dancehall artiste claiming responsibility for his music." The article explained that, "The Reggae Compassionate Act was drafted in 2007 as part of the Stop Murder Music campaign, a human-rights groups coalition, which advocates for lesbians, gays, bisexuals and trans-identified persons… However, Dane Lewis, executive director of J-FLAG, said the next step is to hold artistes accountable for their lyrics. 'Considering what the act calls for, this is a step, as long as the signature is not just a token. Signing the act is one thing, but it's important to stand up for it.'" **[34b]**

Violence

20.32 The Jamaica Forum for Lesbians, All-Sexuals and Gays (J-FLAG), in their *Happy New Year* message of 1 January 2011, remarked that, "This year [2010], we have received and documented over forty incidences of human rights abuses meted out to members of the lesbian, gay, bisexual and transgender community in Jamaica." **[9a]**

20.33 The USSD Report 2010 noted:

"The Jamaica Forum for Lesbians, All Sexuals, and Gays (J-FLAG) continued to report human rights abuses, including arbitrary detention, mob attacks, stabbings, harassment of gay and lesbian patients by hospital and prison staff, and targeted shootings of such persons. Police often did not investigate such incidents. During the year [2010], J-FLAG received 43 reports of sexually motivated harassment or abuse, which included 26 cases of attempted or actual assault, including three murders and three cases of rape. This violence created a climate of fear that prompted many gay persons to emigrate, while the gross indecency laws left those who remained vulnerable to extortion from neighbors who threatened to report them to the police unless they were paid off…

"J-FLAG members also suffered attacks on their property and home intrusions, as people demanded to know the number of persons and beds in a home. Victims reported numerous cases of threats and intimidation to J-FLAG. In many instances family members expelled their own relatives from homes because of sexual orientation. In other cases neighbors drove gay and lesbian persons out of their communities, slashing tires and hurling insults. Many gays and lesbians faced death and arson threats, with some threats also directed at J-FLAG offices. As a result of such threats, J-FLAG elected not to publicize its location, and one of its officials reported feeling unsafe having meetings with clients at the organization's office." **[8a] (Section 6)**

See also Protection and assistance available above

20.34 The Freedom House, *Freedom in the World 2010* survey, which covers the human rights situation in 2009 and was released on 3 May 2010, reported, "In recent years, several Jamaicans have been granted asylum in Britain on the grounds that they were in danger because of their homosexuality. Activists for gay and lesbian rights remain targets of violence. Gareth Henry, a prominent member of the advocacy group Jamaica Forum for Lesbians, All-Sexuals, and Gays (J-FLAG), fled to Canada in 2008 and filed

for refugee status following an escalating series of threats against his life." **[32a] (Political Rights and Civil Liberties)**

20.35 Amnesty International, in it's April 2010 *Submission to the UN Universal Periodic Review: Ninth session of the UPR Working Group of the Human Rights Council, November-December 2010*, remarked, "The criminalization of consensual sex between men in Jamaica promotes a climate of prejudice in which discrimination, physical attacks and other abuses against people who are or believed to be homosexual, are likely to occur. Amnesty International is particularly concerned by reports of mob violence against persons perceived as homosexuals who are targeted because of their appearance or behaviour." **[3f] (p6)**

20.36 HRW's February 2009 article stated, "In recent years, Human Rights Watch has documented extensive violence faced by LGBT people across Jamaica. This includes mob attacks in which gay men have been seriously wounded." **[59b]**

20.37 The USSD Report 2010 concluded, "Human rights NGOs and government entities agreed that brutality against such persons, primarily by private citizens, was widespread in the community." **[8a] (Section 6)**

Return to contents
Go to sources

Gay men

20.38 J-FLAG's *Happy New Year* message of 1 January 2011 provided examples of violence against gay men, "…there were two mob invasions of the homes of men suspected to be gay in February [2010]… Additionally, two gay men were violently murdered including a cross-dresser known as 'Charm' in December [2010], because they identif[ied] as gay." **[9a]**

See also Transgender persons below

20.39 A 21 December 2010 letter to the editor by Maurice Tomlinson, an activist and legal advisor with AIDS-Free World, published in the *Jamaican Observer*, noted, "JFLAG received information that on December 7, 2010, a gay tertiary student was savagely beaten by his colleagues after being recorded in an intimate conversation with a classmate posing as gay." **[35b]** In December 2010, J-FLAG reported on the murder of "… [a member of the LGBT] Community whose body was found with stab wounds behind the National Solid Life and General Insurance Branch Limited on Half-Way-Tree Road in St Andrew on Friday, November 3, 2010… While the reason behind his death is not yet known, allegations are that his life had been under threat for some time." **[9e]**

20.40 The USSD Report 2009 also listed specific examples of violence against gay men during 2009, "…a fire bombing at the home of two men left one of them with burns on more than 60 percent of his body… On October 12 [2009], a passerby accused a pedestrian on a Kingston sidewalk of being gay because he had been walking in an 'effeminate manner.' That person was subsequently attacked with a machete and four fingers were nearly severed." **[A1] (Section 6)**

20.41 Additionally, "On September 9 [2009], an honorary British consul in Montego Bay was strangled in bed, and a note left at the scene reportedly denounced the victim as gay." **[A1] (Section 6)** A J-FLAG statement of 12 September 2009 noted that:

"Given this report [of the homophobic note] and police declarations that they have no strong leads as to the motive for Mr. Terry's murder, J-FLAG is surprised that homophobia has been ruled out as a motive. …As detectives continue their probe into the murder, J-FLAG hopes that their declaration that the killing was not motivated by homophobia is not an expedient attempt to counter the international perception that Jamaica is a homophobic society." **[9b]**

20.42 In October 2009, Pink News reported on the arrest of a 23-year-old man in connection with the murder, stating, "Although Terry's wallet and phone were stolen, police do not believe robbery was a motive for the killing. They believe he may have been bisexual and are working to establish whether he was in a relationship with a man. Local police said on Saturday [3 October] that the arrested man will be questioned but has not yet been charged." **[43b]**

20.43 The USSD Report 2010 observed, "Gay men were hesitant to report incidents against them because of fear for their physical well-being." **[8a] (Section 6)**

Lesbians

20.44 J-FLAG's message of 1 January 2011 provided examples of sexual violence against lesbians committed in 2010; "On separate occasions, two females were raped by men who attempted to sexually cleanse them and make them heterosexual women." **[9a]**

20.45 The USSD Report 2010 provided more detail on such attacks:

"In September [2010] six men brutally gang-raped a lesbian woman and cut her genitals after the assault ended. These men had previously taunted their victim, and this attack typified a phenomenon known as 'corrective rape,' whereby rapists justify their actions under the rationale that forcing their victim into sex will somehow convert the injured party to heterosexuality. Three days later a taxi driver raped another lesbian woman in an unrelated attack staged in the same northern parish of St. Ann's. J-FLAG protested both rapes, stating that the women were attacked because of their sexual orientation. The organization believed that, as with heterosexual women, many homosexual rape victims were hesitant to report their abuse out of fear, shame, or for any number of personal reasons, suggesting that the actual incidence of sexual violence perpetrated against such persons could be notably higher." **[8a] (Section 6)**

20.46 A July 2009 Associated Press article reported on the story of Staceyann Chin, a Jamaican lesbian writer living in New York:

"In 1996, when she was 20, Chin came out as lesbian on the Kingston UWI [University of the West Indies] campus. She said she was ostracized by her peers, and one day was herded into a campus bathroom by a group of male students, who ripped off her clothes and sexually assaulted her. 'They told me what God wanted from me, that God made women to enjoy sex with men,' recalled Chin…

"Chin said she doesn't know if she would have the courage to come out now [in 2009] as a lesbian in Jamaica. 'The tensions are higher now. People are feeling very much that they have to declare camps,' she said." **[38a]**

See also Section 22: Women

Transgender persons

20.47 A December 2009 *Jamaican Observer* article reported the following explanation of transgendered persons by Jason McFarlane, programmes manager at J-FLAG:

"…transgenderism is to gender what homosexuality is to sexuality. In other words a transgendered person does not have to be gay. 'Sexuality and gender are separate markers and the distinction needs to be made because people continue to believe that someone who is transgendered is gay and this is not true. The concern of the transgender community is one of a disconnect between how they feel and how they see their body expressing how they feel. Simply put, what is between the ears doesn't match what is between the legs, so someone feels that they are female but carries male genitalia and vice versa.'" **[36e]**

20.48 The same article continued:

"'The genre of music called dancehall ... has certainly played its part in preventing the kind of dialogue that would allow for a greater understanding of this particular minority grouping,' asserted Jason McFarlane … in response to Observer queries. '(But) homophobia does not prevent the emergence of transgendered persons it only prevents dialogue around transgender issues as many have not yet dealt with the reality of homosexuality.'" **[36e]**

20.49 A 21 December 2010 letter to the editor by Maurice Tomlinson, an activist and legal advisor with AIDS-Free World, published in the *Jamaican Observer*, noted, "…the brutal hacking to death of a cross-dresser in Half-Way-Tree on December 3, 2010." **[35b]**

Return to contents
Go to sources

21. DISABILITY

21.01 Jamaica acceded to the UN Convention on the Rights of Persons with Disabilities, and to its Optional Protocol, on 30 March 2007. (UN Treaty Database) **[12a]**

21.02 The US State Department *2010 Human Rights Report: Jamaica* (USSD Report 2010), released on 8 April 2011, observed:

"There are 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.

"The Ministry of Labor has responsibility for the Jamaica Council for Persons with Disabilities (JCPD), which had a budget of J$48 million ($560,000) in 2009-10. The JCPD distributes Economic Empowerment Grants of up to J$50,000 ($580) to persons with disabilities to help them embark on small entrepreneurial ventures such as vending or furniture making, or to provide them with assistive aids, such as prosthetics or hearing aids ... The Ministry of Labor also has responsibility for the Early Stimulation Project, an education program for children with disabilities, as well as the Abilities Foundation, a vocational program for older persons with disabilities." **[8a] (Section 6)**

21.03 The Planning Institute of Jamaica, in a document of June 2009 entitled *Vision 2030 Jamaica: Persons with Disabilities: Sector Plan 2009-2030* (Vision 2030 Report), set out a detailed plan to guide Jamaica into achieving developed country status by 2030 in respect of access for disabled persons; the same document described the situation as of 2009, as follows:

- Population census:

According to the Vision 2030 Report, the 2001 Jamaican national Census attempted to identify the number of people with disabilities; it recorded 163,206 persons with disabilities, comprising 6.3 per cent of the population. When the 2001 census data were disaggregated by demographic characteristics, the results were as follows:

"Just over a half of the population with disabilities (83,019) were females. Some 32,207 (20 per cent) were children in the 0-14 age group (52.5 per cent males) while youth (15-24 years) accounted for 12.6 per cent (20,617). The elderly (60 years and over) represented 29.5 per cent of persons with disabilities (48 190), of which 56.3 per cent were female. Of the total population 62,529 persons (38.3 per cent) specified their disability types. These included visual, hearing and speech impairment, physical and learning disabilities, mental retardation and mental illness. The disability type most frequently reported was visual impairment, representing 35.9 per cent (22,425) with 57.4 per cent of the distribution being. Visual impairment was most commonamong the elderly. The number of persons reported as having multiple disabilities was 2,416."

The Vision 2030 Report cautioned that "The Census data understates the actual population figures for persons with disabilities, because the method of data collection leaves room for certain types of disabilities and some PWDs [Persons With Disabilities] to be overlooked." **[30a] (p6-7)**

- Societal attitudes:

The Vision 2030 Report stated:

"Generally speaking, attitudes towards persons with disabilities remain negative though they have improved over the last 20 years because of more publicity being given to this subject … [For example] The 'Draft National Survey on Public Attitudes toward Persons with Intellectual Disability' revealed that while there are some positive attitudes towards these individuals, some negative perceptions remain. For example, of the sample of 650 persons, 88 per cent believed that persons with intellectual disabilities were somewhat capable of playing on a sports team for persons with intellectual disabilities only. Forty one per cent did not think that they were capable of playing on a team with persons who do not have an intellectual disability. There was a general opinion that a mixed team (with persons with intellectual disabilities and persons without intellectual disabilities) would be likely to result in 'more injuries to the other players', 'decrease the team's ability to win' and 'make the public regard the team as second rate.' A significant proportion of the sample also believed that persons with intellectual disabilities are incapable of raising children and only 2.2 per cent believe that adults with intellectual disability should live independently." **[30a] (p8-9)**

- Legal provisions:

"Policy positions that might affect persons with disabilities are included in the Jamaican Constitution, the National Policy on Disability, and various specific legal provisions …

The National Policy for persons with disabilities was passed by Parliament in November 1999. It was based on the requirements of the U.N. Standard Rules. This policy provides guidelines for cooperation between government and civil society in addressing the equalization of opportunities for persons with disabilities. The National Policy on Disability, however, is not enforceable as it lacks legal sanctions.

"Much work has been done to try to introduce additional legal rights for persons with disabilities. At present the government is in the process of developing a National Disability Act, which was initially scheduled for completion during the 2008 legislative year. The new government (which took office in 2007) has endorsed the National Disability Act.

"In addition to the National Policy for Persons with Disabilities, there are several laws that protect people with disabilities. For example, persons with disabilities are recognized and protected under the social protection system. In 1992, income tax concessions were introduced for persons with disabilities.

"In cases of violations of their rights, the primary mechanisms for recourse for persons with disabilities are civil lawsuits, criminal prosecutions, and intervention from an independent human rights organization.

"Under the Constitution of Jamaica, all citizens have the right to vote. The law also provides for a voter who is blind to be assisted in casting his or her ballot, either by an acquaintance of his or her choosing or by the presiding officer at the polling station … The Constitution states that people who are 'certified to be insane or otherwise adjudged to be of unsound mind' are declared 'incapable of being registered as electors and disqualified from voting at an election and shall not be so registered or vote at an election.' … Section 15 of the Constitution specifies that a person who is "reasonably suspected to be of unsound mind,' may be deprived of personal liberty." **[30a] (p9-11)**

- Early detection and early intervention:

"Early detection is not yet carried out systematically by the Ministry of Health and Environment, though there are plans in place for this. An early intervention programme, the Early Stimulation Programme, a programme of the Jamaica Council for Persons with Disabilities, which is an agency under the Ministry of Labour and Social Security provides these services in Kingston." **[30a] (p12)**

- Education:

"There are no recent data available from the Ministry of Education regarding the number of school aged children with disabilities ... the Ministry of Education, Youth and Culture reports that since coming under the control of the government, more children with disabilities have gained access to school-based special education programmes. Home and community-based rehabilitation programmes (CBR) have also improved the opportunities for children with mental/intellectual disabilities. Some vocational training is available at the School of Hope and the Abilities Foundation … Data on the 2007/2008 academic year indicate that there were 412 teachers employed in Special Education schools … The data also shows that 4,115 students with special needs were enrolled in schools … Students are served in approximately 44 independent and government facilities at the pre-school, primary and secondary levels across the island. There is one post-secondary vocational training facility serving youth and adults with special needs … A Ministry of Education and Youth report which provided an assessment of

educational provisions and services for persons with disabilities, states that 'despite these initiatives and the increase in coverage and quality, the Special Education programme continues to suffer from the lack of sufficient numbers of trained teachers, inadequate facilities and equipment and irregularity in student attendance' ... Teachers and parents may refer children to the Mico Teachers' College CARE Centre, the School of Hope, the Child and Family Clinic at the University Hospital of the West Indies or the Jamaica Association for Children with Learning Disabilities (JACLD) for testing." **[30a] (p12-14)**

- Employment:

"The majority of adults with disabilities in Jamaica are unable to find gainful employment. Factors that prohibit their inclusion in the workforce are poor education, discrimination, inaccessible workplaces, and the low levels of experience. The government is an employer of persons with disabilities … Some vocational training and job placement programmes are offered by the government through the Abilities Foundation, the JCPD, and various NGOs." **[30a] (p14-15)**

- Health Services:

"Health care for persons with disabilities is provided by the Ministry of Health in clinics. A medical rehabilitation service is provided by the Ministry of Health at the Sir John Golding Rehabilitation Centre, which offers long-term rehabilitation services, and eleven public hospitals that provide acute care. Assistive devices are available at the Sir John Golding Rehabilitation Centre on a subsidized basis. These can also be obtained from NGOs such as Jamaica Society for the Blind, Jamaica Society for the Deaf, Paradof, and 3D Projects as well as commercial entities such as Rehab Plus." **[30a] (p15)**

- Housing:

"The National Housing Trust (NHT), a government-funded agency, has a special benefit programme to assist people with disabilities in purchasing or building homes. Mortgage loans are offered to people with disabilities at two percent below the market interest rate. A percentage of all houses built by the NHT are reserved for persons with disabilities." **[30a] (p15)**

- Institutionalisation:

"There are various institutions, which provide long and short-term care for people with severe disabilities. Persons with disabilities are typically admitted in situations of risk; when they are abandoned, or when their families are unable to care for them." **[30a] (p16)**

21.04 At the following link is information on the Jamaica Council for Persons with Disability and the Abilities Foundation Of Jamaica:
http://www.mlss.gov.jm/pub/index.php?artid=26

Return to contents
Go to sources

22. WOMEN

OVERVIEW

22.01 The United Nations Treaty Database recorded that Jamaica is a signatory to the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) **[12a]** As of 13 April 2011, Jamaica had not acceded to the Optional Protocol to the Convention. **[12a]**

22.02 A 14 March 2011 *Jamaica Observer* article reported on the publication of the March 2011 Royal Commonwealth Society (RCS) and Plan UK joint report, *Because You're a Girl: Growing up in the Commonwealth* **[82a]**; the article noted that Jamaica was ranked joint 12th out of the 54 Commonwealth member states, scoring "…'Bs' on all indicators except for education and sport where the country earned 'As', based on the number of scholarships taken up by women in other Commonwealth countries from 2006 to 2009 and their achievement in sports, particularly in track and field. [Countries obtain a grade 'A' if they score above average, 'B' for average; and 'C' for below average]." **[36g]**

"Commenting on the report on Friday [11 March 2011], executive director of the Bureau of Women's Affairs Faith Webster said Jamaica received a 'fair' overall ranking, but the data on the individual indicators show there are areas that need improvement. … Dorothy Whyte, president of the Women's Resource and Outreach Centre, agreed that Jamaica's ranking is reasonable based on the developments. However, she, too, shared the view that efforts must be made to improve the remuneration and rate of employment for Jamaica's women … 'I am glad to know that we are not at the bottom as we are in other reports. But if we can address the women's remuneration, employment rate, and gender-based violence then these three areas will really push us further up the scale,' she told the Observer." **[36g]**

22.03 The addendum to the *Report of the Working Group on the Universal Periodic Review – Jamaica* (UPR Addendum), dated 11 March 2011, reported:

"The Bureau of Women's Affairs [BWA], which was established in 1974, is charged with the responsibility of ensuring that women are empowered to achieve their full potential as individuals and contributors to national development. The Bureau is in the process of establishing a National Gender Advisory Commission and has launched the National Policy on Gender Equality which is expected to more definitively mainstream gender in public policies, programmes and plans as well as create more opportunities for redress regarding offences committed against women and girls." **[99f] (p4)**

22.04 The US State Department *2010 Human Rights Report: Jamaica* (USSD Report 2010), released on 8 April 2011, stated, "There was an active community of women's rights groups, which focused on the protection of victims of sexual abuse, participation of women in the political process, and legislative reforms affecting women." **[8a] (Section 6)**

22.05 According to the Report of the Working Group on the Universal Periodic Review (UPR) Addendum of March 2011, "The Government is committed to providing the support necessary to ensure that these institutions are adequately resourced to meet the needs of their constituents." **[99f] (p5)**

See also Section 16: Human rights institutions, organisations and activists

LEGAL RIGHTS

22.06 The website of UN CEDAW noted that, as a signatory to the UN Convention on the Elimination of All Forms of Discrimination against Women, Jamaica had committed to "undertake a series of measures to end discrimination against women in all forms", including:

- "to incorporate the principle of equality of men and women in their legal system, abolish all discriminatory laws and adopt appropriate ones prohibiting discrimination against women;
- "to establish tribunals and other public institutions to ensure the effective protection of women against discrimination; and
- "to ensure elimination of all acts of discrimination against women by persons, organizations or enterprises." **[72d]**

22.07 The *Report of the Working Group on the Universal Periodic Review – Jamaica* (UPR WG Report), dated 4 January 2011, stated, "Regarding the legislative framework, Jamaica affirmed its commitment to bringing the country's legal framework into compliance with the provisions of CEDAW. Jamaica highlighted the fact that key legislation had been enacted to address this, including the Domestic Violence Act (2004) and the Sexual Offences Act (2009)." **[99e] (p5)**

See also Violence against women below

22.08 The most recent State Party Report submitted by the Government of Jamaica to the UN Committee on the Elimination of Discrimination against Women (CEDAW) was dated 18 February 2004. **[72c]** The Concluding Comments report of UN CEDAW, in response to the 2004 State Party Report, was published on 25 August 2006. **[72a]** As of 6 April 2011, Jamaica was not scheduled for discussion at a future session of UN CEDAW. **[72b]**

22.09 The USSD Report 2010 stated, "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." **[8a] (Section 6)** The same report also noted that "Sex tourism continued to be a problem." **[8a] (Section 6)**

See also Social and economic rights below

POLITICAL RIGHTS

22.10 The USSD Report 2010 noted that all citizens who were 18 years of age or more were eligible to vote. **[8a] (Section 3)** The Inter-Parliamentary Union (IPU) Women in National Parliaments database reported that, as of 31 January 2011, Jamaica ranked joint 88th of 188 countries with eight seats out of 60 occupied by women in the lower house (House of Representatives **[26b] [26a]**) and five seats out of 21 in the Upper House (Senate **[26c] [26a]**). However, the USSD Report 2010 stated that "There were eight women elected to the 60-seat House of Representatives and three women appointed to the 21-seat Senate. Two of the 16 cabinet ministers were women." **[8a] (Section 3)**

22.11 A 14 March 2011 *Jamaica Observer* article reported on the publication of the March 2011 RCS and Plan UK joint report, *Because You're a Girl: Growing up in the Commonwealth* **[82a]**, noting that, "'There's is [sic] only one elected female in our Cabinet,' she [Faith Webster, the executive director of the Bureau of Women's Affairs

(BWA)] said. 'The number of women coming out of tertiary institutions is not translating with the number that hold high-level positions.'" **[36g]**

22.12 As noted in her New World Encyclopedia entry, updated in 2008, Portia Simpson-Miller was elected President of the People's National Party (PNP) in February 2006 and served as Prime Minister of Jamaica from 30 March 2006 to 11 September 2007. **[69a]**

Return to contents
Go to sources

SOCIAL AND ECONOMIC RIGHTS

22.13 The *National report submitted* [by the Jamaica Government] *in accordance with paragraph 15 (a) of the annex to Human Rights Council resolution 5/1* [Universal Periodic Review (UPR)] – Jamaica* (National Report to the UPR), dated 20 August 2010, stated:

"The Government of Jamaica continues to ensure that legislation related to marriage and family life is not discriminatory to women and guarantees equality of rights and responsibilities between women and men.

"In addition, women continue to enjoy the same rights as men to conclude contracts and administer property. Both women and men are allowed the same capacity to enter into legal relations and to administer property.

"There is no legal discrimination against women as they have the right to make contracts relating to credit, real estate and other property, as well as other commercial transactions in their own name. In this regard, women have the autonomy to manage their personal affairs, regardless of their marital status." **[99d] (p10)**

22.14 Nevertheless, the UPR WG Report of January 2011 noted, "…Jamaica recognized the continued existence of cultural and societal biases against women. It declared the Government's firm commitment to gender mainstreaming and indicated that a range of policy initiatives were being undertaken, including the formulation of a national policy for gender equality." **[99e] (p5)**

Education and employment

22.15 The RCS and Plan UK joint report of March 2011, *Because You're a Girl: Growing up in the Commonwealth*, showed that girls stay as long (10.28 years) in school — up to [the] end of their secondary education — as boys (10.27 years). **[82a] (p17)**

22.16 The USSD Report 2010 stated, "According to the World Economic Forum's *2010 Global Gender Gap Report*, women earned 36 percent less than men for comparable work. The BWA, 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." **[8a] (Section 6)**

22.17 The report *Because You're a Girl: Growing up in the Commonwealth* also showed a considerable disparity between the incomes of Jamaica's women and men. **[82a]** The UPR WG Report of 4 January 2011, stated that, "The Jamaican delegation… added that it has implemented legislation in relation to equal pay for men and women..." **[99e] (p13)**

Health and reproductive rights

22.18 A 14 March 2011 *Jamaica Observer* article reported on the publication of the March 2011 RCS and Plan UK joint report, *Because You're a Girl: Growing up in the Commonwealth* **[82a]**, stating:

"According to the report, Jamaica's women are expected to live to an average age of 74, five years longer than men. The report also states that the number of underweight girls under age five is equal to that of the boys. …

"Meantime, the fertility rate of girls aged 15 to 19 years is 85 per 1,000. 'Girls who give birth while still in their teens are not only more vulnerable to maternal mortality and morbidity but have limited capacity to enter the paid labour force, to access resources or to earn an independent income later on,' the report states." **[36g]**

22.19 The USSD Report 2010 stated:

"Couples and individuals had the right to decide the number, spacing, and timing of children, and had the information and means to do so free from discrimination. Access to information on contraception and skilled attendance at delivery were widely available. However, essential obstetric and postpartum care was often lacking. The UN Population Fund reported a 2008 maternal mortality ratio of 89 deaths per 100,000 live births and a modern contraceptive prevalence rate of 66 percent. Missionaries of the Poor, a Kingston-based NGO [non-governmental organisation], provided counseling and medical services to expectant mothers. Women and men were given equal access to diagnostic services and treatment for sexually transmitted diseases, including HIV." **[8a] (Section 6)**

See also Sexual violence, including harassment below

22.20 The Offences Against the Person Act, 1864 (as amended in 2005), contains the following articles relevant to abortion:

"72. Every woman, being with child, who with intent to procure her own miscarriage, shall unlawfully administer to herself any poison or other noxious thing, or shall unlawfully use any instrument or other means whatsoever with the like intent; and whosoever, with intent to procure the miscarriage of any woman, whether she be or be not with child, shall unlawfully administer to her, or cause to be taken by her, any poison or other noxious thing, or shall unlawfully use any instrument or other means whatsoever with the like intent, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for life, with or without hard labour.

"73. Whosoever shall unlawfully supply or procure any poison or other noxious thing, or any instrument or thing whatsoever, knowing that the same is intended to be unlawfully used or employed with intent to procure the miscarriage of any woman, whether she be or be not with child, shall be guilty of a misdemeanour, and, being convicted thereof, shall be liable to be imprisoned for a term not exceeding three years, with or without hard labour." **[7c] (p37-38)**

22.21 The United Nations Department of Economic and Social Affairs (UN ESA) Population Division's undated report, *Abortion Policies – A Global Review,* remarked that there were grounds upon which abortion may be permitted in Jamaica: To save the life of the woman or to preserve her physical and/or mental health. **[85a] (p1)**

22.22 A 13 March 2010 *Jamaican Observer* article reported that the February 2007 Final Report of the Abortion Policy Review Advisory Group (APRAG) **[40f]**, "…found that most of the women seeking abortions were 'young, poor, unemployed, and lived in economically and socially deprived communities'. APRAG… recommended that Sections 72 and 73 of the Offences Against the Person Act be repealed and replaced with a Termination of Pregnancy Act." **[36f]** However, the *Jamaican Observer* article also noted that, "After some 18 months of weighing the pros and cons of legalising abortion, members of the Joint Select Committee of Parliament [on] Thursday [11 March 2010] seemed split over what recommendations they would be making to the legislature on the thorny issue." **[36f]**

22.23 The undated Programmes page of the Uplifting Adolescents Project Phase 2 (UAP2) website, Jamaica-Kidz.com, recorded that the Women's Centre of Jamaica Foundation (WCJF) "Started in 1978 as the Program for Adolescent Mothers in Kingston, the organization has grown to national prominence with centers in seven Parishes, and 14 outreach stations nation-wide. It assists pregnant girls under age 16 and has established an outstanding record of returning them to the formal school system." **[37a]**

22.24 The WCJF page on the same website, also undated, listed the following as the main services it provides:

- "Continuing education for teen mothers 17 years and under
- "Counseling for 'baby fathers,' their parents and parents of teen mothers
- "Skills training for males and females in the 17-25 age group
- "Confidential counseling services for children, adolescent, and young adults; and Group Peer Counselling sessions at the Kingston Centre Counselling Clinic.
- "Day Care facilities for (i) babies of teen mothers and (ii) babies of working mothers
- "Youth Activity Programme under the USAID/ Uplifting Adolescents Programme
- "Continuing Education and Counselling Programme for 'Young Men at-risk'
- "'Walk-in' Counselling services for women and men of all ages." **[37b]**

Return to contents
Go to sources

VIOLENCE AGAINST WOMEN

22.25 The Freedom House survey, *Freedom in the World 2010*, reported, "Despite legal protections for women suffering from violence and discrimination, enforcement remains lacking, and violence against women continues to be widespread." **[32a] (Political Rights and Civil Liberties)** In the UPR WG Report of March 2011, Jamaica stressed that, in addition to the passing of key legislation, "…it had prioritized a strategy for combating and eradicating violence against women that included awareness-raising programmes and training in gender sensitivity for justice system personnel, teachers, health-care and social workers and the media. Those efforts had been supported by United Nations agencies, including the United Nations Development Fund for Women and the United Nations Population Fund." **[99e] (p5)**

See also Legal rights above

22.26 Nevertheless, the National Report to the UPR of August 2010 reported:

"There remains… an unacceptably high level of violence against women and girls. To address this issue, a number of legislative provisions have been implemented to ensure that the rights of women are given adequate protection. The *Domestic Violence (Amendment) Act* of 2004 provides for men and women who have been victims of domestic violence to apply for the protection of the courts. This Act broadened the categories of women protected to include not just married women, but also women in common-law and visiting relationships." **[99d] (p9)**

22.27 Amnesty International's April 2010 *Submission to the UN Universal Periodic Review [UPR]: Ninth session of the UPR Working Group of the Human Rights Council, November-December 2010* reported, "Women and girls in inner-city communities are particularly exposed to gang violence. They are often victims of reprisal crimes, including sexual violence, for being perceived as having reported or actually reporting criminal activity to the police, or in relation to a personal or family vendetta. Women and girls often experience sexual coercion by gang members, as refusal could result in punishment against themselves and their families." **[3f] (p5)**

See also Section 8: Crime

22.28 The USSD Report 2010 stated:

"Social and cultural norms 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 J$10,000 (approximately $114) and six months' imprisonment." **[8a] (Section 6)**

Sexual violence, including harassment

22.29 The National Report to UPR of August 2010 stated, "The Sexual Offences Act, which was passed in 2009, repeals the Incest (Punishment) Act and certain aspects of the Offences Against the Person Act and creates new provisions for the prosecution of rape and other sexual offences, including marital rape, anonymity of complainant in rape and other sexual offences, as well as incest." **[99d] (p9)**

22.30 Amnesty International's April 2010 Submission to the UN Universal Periodic Review (UPR) stated, "Amnesty International welcomes that the Jamaican Parliament passed the Sexual Offences Act in July 2009. The bill was finalized in 2007 and is the culmination of efforts dating back to 1995 to reframe existing gender-discriminatory legislation. The Sexual Offences Act reforms and incorporates various laws relating to rape, incest and other sexual offences." **[3f] (p4)**

22.31 The USSD Report 2010 asserted, "There is no legislation that addresses sexual harassment, and the BWA reported that it had become a 'disturbing problem.' There were anecdotal reports of sexual harassment of women by the police as well as in the workplace, but few statistics were available. The BWA and NGOs such as Woman Inc. and Women's Media Watch believed that women often did not report such incidents because there was no legal remedy." **[8a] (Section 6)**

See also Section 9: Security forces

22.32 The *Amnesty International Report 2010*, released on 28 May 2010 and covering events of 2009, stated that "A study on the relationship between adolescent pregnancy and sexual violence carried out by health care researchers showed that 49 per cent of the 750 girls aged between 15 and 17 surveyed had experienced sexual coercion or violence. The study highlighted the need to address gender-based violence at community level." **[3c] (p189)** The Freedom House *Freedom in the World 2010* survey also reported on the findings of the April 2009 survey conducted by International Perspectives on Sexual and Reproductive Health. **[32a] (Political Rights and Civil Liberties)**

See also Section 23: Children

Rape

22.33 The *Amnesty International Report 2010* noted, "In July [2009], the Sexual Offences Act, which reforms and incorporates various laws relating to rape, incest and other sexual offences, was passed by Parliament. Although women's organizations welcomed the Act, they also expressed concerns about the restrictive definition of rape. The Act criminalizes rape within marriage, but only in certain circumstances." **[3c] (p189)**

22.34 The USSD Report 2010 stated:

"Rape is illegal and carries a maximum penalty of 25 years' imprisonment. The 2009 Sexual Offenses Act criminalizes spousal rape, but only in certain circumstances. Human rights groups continued to advocate for a more comprehensive law. While that law replaced an existing patchwork of laws relating to sexual assault, rape, and incest, the authorities had yet to implement many of its provisions. The number of rapes victims reported declined slightly to 668, compared with 695 in 2009. NGOs believed the actual numbers were much higher, but no other statistics were available. The JCF [Jamaica Constabulary Force] Rape Investigative and Juvenile Unit, which was headed by a female deputy superintendent, handled sex crimes." **[8a] (Section 6)**

22.35 The same report also asserted, "In the 2008 Reproductive Health Survey (the most recent one conducted), almost half of young women reported that they had been pressured or forced into sexual intercourse at the time of their first sexual experience. NGOs reported that inner-city gang leaders and sometimes even fathers initiated sex with young girls as a 'right.' There were 538 cases of carnal abuse reported to the JCF, compared with 578 cases reported in 2009." **[8a] (Section 6)**

See also Section 20: Lesbian, gay, bisexual and transgender persons

Assistance available

22.36 The USSD Report 2010 stated, "Police were generally reluctant to become involved in domestic issues, which led to cases not being pursued vigorously when reported. The Bureau of Women's Affairs (BWA) operated crisis hotlines and managed a public education campaign to raise the profile of domestic violence, while the NGO Woman Inc. operated a shelter that received some government funds." **[8a] (Section 6)**

22.37 Amnesty International's April 2010 Submission to the UN Universal Periodic Review (UPR) reported:

"Positive steps over recent years in combating sexual violence and providing assistance to victims include the establishment of the Centre for Sexual Offences and Child Abuse

(CISOCA), within the police service, which is responsible for counselling victims and investigating sexual crimes; the implementation of several awareness-raising and education programmes under the supervision of the Bureau of Women Affairs; and the adoption in July 2009 of the Sexual Offences Act. However, the high incidence of violence, combined with the low clear-up rate for sexual crimes and reticence in reporting of sexual crimes, suggests that more vigorous efforts are needed to enforce the law and to bring perpetrators to justice. According to many women's organizations, more resources should be invested in promoting rights awareness among women and girls and in the creation of more shelters for women victims of violence (there is currently only one shelter located in Kingston)." **[3f] (p6)**

22.38 On the authorities' response to allegations of rape, the US State Department Country Report on Human Rigts Pra*: Jamaica* (USSD Report 2009), released 11 March 2010, noted, "Only partial information was available as to the number of prosecutions and convictions obtained. For the period January [2009] through July [2009], there were 20 rape prosecutions and six convictions, not including figures from the circuit courts in the rural parishes." **[A1] (Section 6)** The USSD Report 2010 did not provide any information as to the number of prosecutions and convictions on charges of rape during 2010. **[8a] (Section 6)**

See also Section 9: Security forces and Section 10: Judiciary

Return to contents
Go to sources

23. CHILDREN

OVERVIEW

23.01 The United Nations Children's Fund (UNICEF) November 2009 report, *Jamaican Children: Twenty Years after the Convention on the Rights of the Child* (UNICEF Jamaican Children report), noted that, "Since ratifying the CRC [in 1991 **[12a]**], Jamaica has sought to institute legislation and policies and create institutions, national plans of action and programmes to ensure compliance. While Jamaica has adopted the Optional Protocol concerning armed conflict, the country is yet to adopt the Protocol concerning child prostitution and child pornography." **[10c] (p2)**

23.02 In its undated Background Information, accessed 7 April 2011, UNICEF reported on some of the issues facing children in Jamaica:

- "Violence and abuse are serious problems: 91 children were murdered in 2005 and reports of sexual abuse of children are common.
- "More than 2,000 children live in institutions, deprived of parental care.
- "Inadequate services and opportunities exist for children with disabilities. These children are subject to high levels of stigma and discrimination.
- "About 7.5 per cent of 15-17 year old children work.
- "About 1 in 5 children is born to a teenage mother.
- "Poor educational outcomes, especially among boys, increase risks of inter-generational exclusion.
- "A 2005 budget analysis estimates the share of the total budget allocated to children's programmes and services at 10.87 per cent in 2003/04 and 10.68 per cent in 2004/05 – a declining proportion.

- "Adolescents do not have sufficient access to information, skills and services for HIV/AIDS knowledge and prevention, increasing the risk of infection.
- "Many children lack opportunities for learning life skills at home." **[10a]**

See also Violence against children and Health and welfare below

23.03 The United States Department of Labor's *2009 Findings on the Worst Forms of Child Labor*, dated 15 December 2010, stated that children in Jamaica were at risk of becoming:

"...victims of trafficking for commercial sexual exploitation as well as domestic service. Some children are trafficked internally from rural to urban and tourist areas for the purpose of prostitution. In other instances, young rural girls enticed with promises of an education, clothes, and money end up working as domestic servants under conditions of forced labor. Street children are especially vulnerable to being trafficked. Street boys, in particular, are lured and transported to various locations to sell drugs or become gun or drug couriers, and are often sexually exploited." **[83a] (p339)**

23.04 The US State Department *2010 Human Rights Report: Jamaica* (USSD Report 2010), released on 8 April 2011, stated, "Child prostitution and sex tourism were problems, especially in tourist areas. In September [2010] authorities uncovered a prostitution ring in Kingston, involving an undisclosed number of minors." **[8a] (Section 6)**

23.05 The UNICEF Jamaican Children report, dated November 2009, estimated that there were more than 6,000 children living and working on the streets of Jamaica. **[10c] (p12)**

See also Violence against children and Child care and protection below

Basic legal information

23.06 The Child Care and Protection Act 2004, accessed on 6 April 2011 via the Child Development Agency (CDA) website **[58a]**, the US Central Intelligence Agency (CIA) World Factbook **[4a]**, the undated Social Institutions and Gender Index website, accessed on 7 April 2011 **[45a]** and the USSD Report 2010 **[8a]** provided the following information on legal ages in Jamaica:

- A child is anyone under the age of 18 years old. **[58a]**
- The voting age in Jamaica is 18 years old. **[4a] (Government)**
- The voluntary recruitment age for military service was 18 years old. **[4a] (Military)**
- The minimum age for marriage for boys and girls is 16 years old; children under 18 years require parental consent. **[45a]**
- The minimum age for consensual sex is 16 years old. **[8a] (Section 6)**
- The minimum age for employment for children is 15 years, although "light work", as prescribed by the Ministry of Labour, is permitted for children between 13 and 15 years of age. **[8a] (Section 7d)**
- The criminal age of responsibility is 12 years old. **[58a]**

Return to contents
Go to sources

LEGAL RIGHTS

23.07 The USSD Report 2010 stated:

"The Office of the Children's Advocate (OCA) has broad responsibilities for reviewing laws, policies, practices, and government services affecting children, as well as providing legal services to protect the best interests of children. In February [2010] the OCA launched a Web site to provide information on children's rights. The site also includes downloadable forms so that persons can lodge complaints electronically or by fax." **[8a] (Section 6)**

23.08 In its undated Background Information, accessed 7 April 2011, UNICEF reported on some positive domestic laws established in Jamaica, including:

- "The national Child Care and Protection Act was passed in 2004 with the support of UNICEF. Work has begun on a Child Abuse Registry.
- "The Office of the Children's Advocate was established in January 2006.
- "Many reforms are in motion with respect to early childhood care. The Early Childhood Commission (ECC) has been established as the main coordinating and monitoring body.
- "The Early Childhood Act passed in February 2005. Regulations for the operation day care centres and basic schools have been approved by Parliament.
- "A review of the Early Childhood Curriculum, now underway with UNICEF's support, will benefit 300,000 children.
- "The National Youth Policy was presented to Parliament in 2005. The Policy supports improvements in youth education and training, employment and entrepreneurship, health care, youth participation and empowerment, and care and protection.
- "A National Policy for HIV/AIDS Management in Schools seeks to ensure that children infected and affected by HIV/AIDS have access to education and that schools deliver HIV/AIDS and family life education to reduce young people's vulnerability to HIV infection.
- "A National Plan of Action for an Integrated Response to Children and Violence was completed in 2005 with technical and financial support from UNICEF.
- "The Social Investment Initiative for Children launched in 2006 with support from UNICEF, UNDP, the Cabinet Office, the Planning Institute of Jamaica, the Child Development Agency and the Jamaica Coalition on the Rights of the Child. The Initiative seeks to ensure that social investment is consistent with agreed national priorities for children." **[10a]**

23.09 The USSD Report 2010 noted, "The law prohibits statutory rape, defined as sexual relations with a person less than 16 years old, the minimum age for consensual sex. Sexual relations by an adult with a child between the ages of 12 and 16 are a misdemeanor punishable by not more than seven years in prison; if the victim is under 12, it is a felony punishable by up to life imprisonment." **[8a] (Section 6)** Further, "In September 2009 Parliament enacted the Child Pornography (Prevention) Act, criminalizing the commercial sexual exploitation of children. The law applies to the protection, possession, importation, exportation, and distribution of child pornography and carries a maximum penalty of 20 years' imprisonment and a fine of J$500,000 ($5,800)." **[8a] (Section 6)**

23.10 The US Department of State *Background Note* on Jamaica, dated 9 August 2010, stated, "The Government of Jamaica has taken significant steps to pass and enforce legislation on child labor, although conviction rates in this field, as in others in Jamaica, remain low. Despite the fact that the Jamaican Government recently increased the

compulsory age of education from 16 to 18 and confirmed children's right to education under the Education Act, field research confirms child labor practices remain a concern." **[8c] (Child labor)**

See also Education

Judicial rights

23.11 The *National report submitted in accordance with paragraph 15 (a) of the annex to Human Rights Council resolution 5/1* [Universal Periodic Review (UPR)] – Jamaica* (National Report to the UPR), dated 20 August 2010, stated:

"The [Jamaican] Government is… working to reverse the current practice of the incarceration of children in police lock-ups and to implement measures to protect children in juvenile correctional facilities, in keeping with recommendations emanating from the Commission of Enquiry on the Armadale incident in which 7 wards of the state lost their lives in a deadly fire in May 2009. These recommendations include ensuring that housing facilities correspond with international standards; the identification of additional space to properly house wards; the development of procedures, for example evacuation procedures, in the event of emergencies; the expansion of rehabilitation programmes to include structured long term therapeutic and cognitive programmes; and training for Correctional Officers at juvenile institutions." **[99d] (paragraph 77)**

23.12 The USSD Report 2010 noted, "In October 2009 the Office of the Children's Advocate investigated reports of children being held in police lock-ups and made a number of recommendations to Parliament, including a request that the Child Care and Protection Act of 2004 be revised to limit to 90 days the amount of time children spent in lock-up, thereby preventing extended detention. However, Parliament did not address the issue." **[8a] (Section 1c)** The same report also stated:

"Although the law prohibits the incarceration of children in adult prisons in most cases, some juveniles as young as 13 years old were held in adult jails because there were no juvenile facilities with adequate security. Armadale remained closed, and the 50 female juveniles previously held there were moved to the Horizon maximum-security remand center, where the island's most violent male offenders are held, and to Fort Augusta Women's Prison. Juveniles and adults were housed together in these facilities. In one case a 16-year-old was held in detention with adult arrestees for more than two months while the judicial process was underway." **[8a] (Section 1c)**

23.13 The National Report to the UPR of August 2010, added, "As at February 2010, there were 395 juveniles in state correctional institutions (correctional and remand centres). Of this amount, 317 are boys and 78 are girls. In addition, there were 68 children (64 males and 4 females) in police lock-up." **[99d] (paragraph 96)**

23.14 Additionally, the USSD Report 2010 noted that:

"Non-violent youth offenders were under the jurisdiction of the social services agency and were generally sent to unsecured halfway houses (called 'places of safety' or 'juvenile remand centers') after they were removed from their homes. However, because the law does not clearly define an 'uncontrollable child,' a large number of minors were classified as uncontrollable and detained for long periods of time without regard to the nature of their offenses." **[8a] (Section 1c)**

23.15 The Child Care and Protection Act 2004 provided details of the procedures for children detained or brought before a court. **[58a] (Part IV)**

See also Section 10: Judiciary and Section 12: Prison conditions

Return to contents
Go to sources

VIOLENCE AGAINST CHILDREN

23.16 UNICEF noted in its report, *Jamaican Children: Twenty Years after the Convention on the Rights of the Child* (UNICEF Jamaican Children report), dated November 2009, "Violence is damaging every aspect of the lives of Jamaica's children through its direct and indirect effects. Between 2006 and October 2009, over 5,612 persons were murdered in Jamaica – they are fathers, mothers, siblings, friends, and acquaintances of Jamaica's children as well as children themselves. From 2006 to 2008, 230 children under 17 years old were murdered." **[10c] (p10)**

23.17 The USSD Report 2010 stated:

"There was no societal pattern of abuse of children; however, child abuse, especially sexual abuse, was a substantial problem. The Office of Children's Registry (OCR) receives, records, and stores data relating to the mistreatment and abuse of children. The law requires anyone who knows of or suspects a child is being abused to make a report to the OCR, with a penalty of up to J$500,000 ($5,800) for failure to do so. The OCR received approximately 6,330 reports of child abuse [in 2010], compared with 6,778 cases reported in 2009." **[8a] (Section 6)**

23.18 Amnesty International stated in its 2010 Report published on 28 May 2010 and covering events in 2009, that "A study on the relationship between adolescent pregnancy and sexual violence carried out by health care researchers showed that 49 per cent of the 750 girls aged between 15 and 17 surveyed had experienced sexual coercion or violence. The study highlighted the need to address gender-based violence at community level." **[3c] (Violence against women and girls)**

23.19 The UNICEF Jamaican Children report of November 2009 cited that:

"Reporting of child abuse has been on the rise in recent years, signalling more active citizen participation in child protection. Reporting facilities are also more readily available. Over 8,000 cases of child abuse, neglect and abandonment have been reported to the Office of the Children's Registry since its inception in 2007. Close to 500 reports of infringements of children's rights, including abuse, have been made to the Office of the Children's Advocate." **[10c] (p10)**

See also Section 22: Women

CHILDCARE AND PROTECTION

23.20 The Child Care and Protection Act (CCPA) 2004, was established to provide regulations regarding the care and protection of children. The Child Development Agency (CDA) website, accessed 6 April 2011, stated that the Act, which applied to parents and all who worked with children, ensured "…adults considered the views and best interests of children… monitored the care and protection of children… provided special help to children who are in need of care and protection… [and] made sure that all children are protected from abuse or neglect." **[58a]**

23.21 The Office of the Children's Advocate (OCA) was established in 2006, under the Child Care and Protection Act, to protect and enforce the rights of children and promote their well-being and welfare. The OCA website, accessed 6 April 2011, noted that its functions, amongst others, were to: provide legal representation for children in courts; review services provided for children by relevant authorities; review laws and practices relating to child rights; assist children in making complaints to authorities; and to give advice and make recommendations to parliament, ministers and relevant authorities on matters relating to child rights. **[91a]**

23.22 The USSD Report 2010 stated that "The OCA reported it received over 400 complaints during the year [2010], conducted some preliminary investigations, and referred other cases to appropriate government institutions." **[8a] (Section 6)** The USSD Report 2009 had noted:

"The OCA intervened to have students reinstated in schools, assigned lawyers to represent children in court cases, and successfully sought bail for minors accused of committing crimes. OCA officials met with the commissioner of corrections to discuss the treatment of children in penal institutions. As a result of the OCA's advocacy, the Department of Correctional Services provided psychological assessments, medical examinations, and individual and group counseling to minors." **[8e] (Section 6)**

23.23 The USSD Report 2010 continued:

"The 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. The OCA and the Family and Parenting Center conducted a child protection audit and training to prevent child abuse victims from being revictimized and to facilitate court proceedings in victimization cases. The Child Abuse Registry recorded a significant increase in reported cases compared with 2008. The Child Care Protection Act places responsibility on all citizens to report suspected abuse, with a penalty of up to J$500,000 ($5,600) for failure to do so." **[8a] (Section 6)**

See also Violence against children above

23.24 There are a number of both government and privately owned children's homes and places of safety across Jamaica, which are managed and supervised by the Child Development Agency (CDA). The CDA listed 12 Places of Safety and 45 Children Homes. (CDA, Residential Child Care Facilities, accessed 6 April 2011) **[58b]** The Child Development Agency (CDA) website reported on 8 February 2009 that "…although foster care placements have been consistent over the last three years, settling at approximately two hundred and fifty new placements per year; there has been no real growth in the programme, as each year that number is equaled by the number of children who mature out of state care." **[58c]** The same source added that, as of 8 February 2009, "...there are eight hundred and fifty-five (855) foster parents and one thousand one hundred and forty eight (1148) foster children." **[58c]**

23.25 In a news article dated 6 February 2010, the CDA website noted that there were over 2,400 children in state care institutions. **[58d]** However, the National Report to the UPR of August 2010 stated that, at the end of 2009, "...there were just over 5,900 children in state care – Foster care, Family reintegration, at home supervision order, private and government operated children's Homes and Places of Safety." **[99d] (paragraph 42)**

23.26 The Child Development Agency (CDA) website, accessed 6 April 2011 provided a brochure on the adoption process in Jamaica and a downloadable pre-adoption application form. **[58]**

23.27 The US Department of State *Trafficking in Persons Report 2010*: Jamaica (USSD TiP Report 2010), dated 14 June 2010, stated that children were susceptible to being trafficked, specifically into forced prostitution and forced labour. The report added:

"The majority of victims identified within the country were poor Jamaican women and girls, and increasingly boys, subjected to forced prostitution in urban and tourist areas. Trafficking is purported to occur within Jamaica's poverty stricken garrison communities, territories ruled by criminal 'dons' that are effectively outside of the government's control...

"An NGO working with street children reported that the forced labor of children in street vending is prevalent. Jamaican children also may be subjected to involuntary domestic servitude. There is widespread belief among the NGO community that many of the 1,859 Jamaican children that have gone missing in 2009 were trafficked. Trafficking offenders increasingly used the Internet and cell phone text messages to lure victims. NGOs and other local observers reported that child sex tourism is a problem in Jamaica's resort areas." **[8f]**

23.28 The same source noted, "The government attempted to return child victims to families or referred them to foster homes. It also directly operated facilities that could house child trafficking victims, though some of these facilities also served as juvenile detention centers." **[8f]**

See also Overview and Violence against children above

Return to contents
Go to sources

EDUCATION

23.29 The USSD Report 2010 noted that, "Through the Community Safety and Security Branch, during the year [2010] the [Jamaican Constabulary Force (JCF)]… assigned JCF personnel to targeted schools as resource officers to stem school violence. These officers also served as liaisons between the students, faculty, parents, and police." **[8a] (Section 1d)**

23.30 The USSD Report 2009 stated, "The Ministry of Education, in collaboration with the police, the CDA, and the OCA, maintained a 'safe school zone' program." **[8e] (Section 6)** Further:

"Actual school attendance rates hovered around 64 percent due to the expense of school uniforms, lunch, and books, coupled with lost wages for not working on family farms or selling items on the street. To address this, the Ministry of Social Security established a program to provide stipends to pay for educational expenses. However, students must maintain an 85 percent attendance rate to qualify, resulting in underutilization of the program." **[8e] (Section 6)**

23.31 UNICEF noted in its section on Jamaica, undated, accessed 7 April 2011, that, according to 2003/04 statistics, there were 792 state-operated primary schools. The report added, "Primary school education is offered free but is not compulsory. About 94 percent of primary level age children are enrolled in primary schools but the daily

attendance rate is significantly lower at 80.4 percent. Reasons for non-attendance include money problems and lack of interest in school. While primary school education is free, the quality of the education provided sometimes falls below desired standards." **[10b] (The Children; Primary school years)**

23.32 UNICEF also noted that there were 593 public sector schools providing secondary level education, and added:

"Secondary education is not free, but is provided under a cost sharing scheme in which students pay fees to the schools they attend. Those parents who cannot afford to pay fees can apply for assistance under a consolidated social benefits programme... While school enrollment rates are high at all levels, attendance rates at the secondary school level are cause for concern. Statistics indicate that 77.4 percent of secondary level attendees are sent to school for all five days." **[10b] (The Children: Adolescence)**

23.33 The *Report of the Working Group on the Universal Periodic Review – Jamaica* (UPR WG Report), dated 4 January 2011, stated that "Jamaica indicated that both boys and girls had equal access to education. However, there was a growing concern that boys were lagging behind." **[99e] (paragraph 21)**

HEALTH AND WELFARE

23.34 The Background page on UNICEF's website on Jamaica, undated, accessed 7 April 2011, noted:

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

23.35 UNICEF noted in its section regarding children in Jamaica, undated, accessed 8 April 2011, that:

"Infant mortality rates (19.9 per 1000 live births in 2002) have improved... [but] Immunization rates for all vaccines have been declining steadily since 2001... The main reasons identified for the falling rates include: difficulties in accessing health services, inadequate transportation, violence, limited health staff for vaccination and financial constraints.
"Children's nutritional status as reflected in low birth weight, low height for age (stunted) and low weight for height (wasted) has improved, but continues to lag behind international standards. A worrying trend is the growing percentage of overweight children under five years old. One in every ten children from the wealthiest quintile is overweight.
"Exclusive breastfeeding rates up to six months are well below the global target of 70 percent...
"Paediatric deaths to AIDS declined in 2003 by 17.3 percent when compared to the previous year. The Health Ministry attributes the decline in part to the improved services provided through the Prevention of Mother To Child Transmission (PMTCT) Programme and improved care and treatment of infected children. In 2003 there were 67 new cases of pediatric AIDS reported compared to 81 for 2002." **[10b] (The children: Early childhood years)**

23.36 Regarding children with disabilities, the UNICEF Jamaican Children report of November 2009 stated:

"There is a shortage of specialists who can adequately address their [disabled children] needs, including audiologists, speech therapists and child psychiatrists. Aside from a small number of NGOs, there is a dearth of organizations and institutions delivering services for these children. State-run homes which provide services for children with disabilities, such as the Mustard Seed Homes, are under-resourced. Services for children with mental health problems are also inadequate and cannot meet the increasing needs and referrals, particularly from schools." **[10c] (p12)**

See also Child care and protection above

Return to contents
Go to sources

24. TRAFFICKING

24.01 The US State Department *Trafficking in Persons Report 2010,* published on 14 June 2010, noted:

"Jamaica is a source, transit, and destination country for women and children subjected to trafficking in persons, specifically conditions of forced prostitution and forced labor. The majority of victims identified within the country were poor Jamaican women and girls, and increasingly boys, subjected to forced prostitution in urban and tourist areas… Some Jamaican women and girls have been subjected to forced prostitution in other countries such as Canada, the United States, the UK, The Bahamas, and other Caribbean destinations. Foreign victims have been identified in forced prostitution and domestic servitude in Jamaica.

"There is widespread belief among the NGO community that many of the 1,859 Jamaican children that have gone missing in 2009 were trafficked." **[8f]**

24.02 The same source stated:

"The Government of Jamaica does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The government demonstrated leadership in addressing human trafficking by acknowledging the problem, forging partnerships with NGOs, and making substantial strides in the area of victim protection – opening a trafficking-specialized shelter in Kingston, despite limited resources. This progress was threatened by a lack of reporting on the punishment of convicted trafficking offenders, a critical element in both victim protection and deterrence of the crime.

"The government made no discernible progress in prosecuting trafficking offenders during the reporting period. The government prohibits all forms of trafficking through its comprehensive "Trafficking Act of Jamaica," which went into effect in 2007. Punishments prescribed for trafficking under the Act extend up to 10 years' imprisonment, which are sufficiently stringent, though not commensurate with penalties prescribed for other serious crimes, such as rape. The government was not able to provide comprehensive data on trafficking prosecutions and convictions throughout the country. Over the past year, there were at least six ongoing sex trafficking prosecutions.

"The government made some progress in victim protection during the reporting period. The government offered fifteen victims free legal, medical, and psychological services. Despite limited resources, in partnership with an NGO, the government began establishment of three government-supported shelters for female trafficking victims, the first of which was completed in March 2010.

"The government trained 71 persons in the Ministry of National Security, 15 in the Ministry of Foreign Affairs and Foreign Trade, and 648 in the Jamaican Constabulary Force in 2009 in trafficking victim identification. Law enforcement, immigration, and social services personnel in Kingston used established formal mechanisms to proactively identify victims of trafficking and to refer them to organizations providing services.

"The government conducted anti-trafficking education campaigns in schools and libraries during the reporting period." **[8f]**

Return to contents
Go to sources

25. MEDICAL ISSUES

25.01 The Jamaica Information Service, accessed 11 September 2009, noted, "The Ministry of Health and Environment is responsible for ensuring the provision of an adequate, effective and efficient health service for the population of Jamaica." The website added:

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

OVERVIEW OF AVAILABILITY OF MEDICAL TREATMENT AND DRUGS

25.02 The Jamaica Information Service, Ministry of Health, accessed 11 September 2009, noted that the state health sector provides most of the island's health care provision, "Services are provided through the government's network of twenty-three (23) hospitals and over three hundred and fifty (350) health centres and specialised institutions." **[24d]**

25.03 The Bustamante Hospital for Children, established in 1963, is the only paediatric hospital in the English-speaking Caribbean. (Jamaica information Service, 23 October 2008) **[24am]** Further information on the hospital is available on the website of Kings House Medhelp, at http://www.kingshousemedhelp.com/hospitals/a_bustamante.php

The National Health Fund (NHF)

25.04 In 1997 the green paper for The National Health Insurance Plan (NHIP) was presented to Parliament for consideration. In 2000 The National Health Insurance Plan (NHIP) Implementation Unit presented a proposal for a National Health Fund (NHF). The NHF website, accessed 3 December 2008, stated:

"…the mission of the NHF is to reduce the burden on health care by supporting improvements in health benefits, access to medical treatment and preventive care for the resident population of Jamaica. It is not intended that the NHF become a provider of healthcare. The NHF is concerned with assisting the Jamaican population to improve their well being by addressing their health issues and providing support to healthcare providers who service the population. The NHF provides two categories of benefits. Individual Benefits directly assist patients and Institutional Benefits, which support governmental and non-governmental organisations." **[46a]**

25.05 The National Health Fund website also noted:

"Persons seeking assistance from NHF Individual Benefits must be certified, by a registered private or public doctor, with one or more of the specified medical conditions and register with the NHF. Once approved, the beneficiary is issued with a NHF card and will be able to get assistance with the purchase of drugs from approved participating pharmacies. The NHF makes a fixed payment towards the price set by the pharmacy for drugs approved by the NHF. The beneficiary is required to pay the difference - the co-payment. The NHF also takes an active role in educating the population and its beneficiaries on the importance of properly managing and treating their chronic condition. Various strategies are used to achieve this including informational advertising and literature, seminars and promotions through public events e.g. health fairs." **[46b]**

25.06 On 4 June 2008 the Jamaica Information Service reported that: "…more than 422,000 persons have benefited from the abolition of user fees at public health facilities. These include 217,565 persons at hospitals and 204,950 persons at 75 Type 3 to 5 health centres across the island." The article informed that patients at public hospitals and health centres, except the University of the West Indies, received services such as "…doctor's examination; hospital stay; diagnostic services including x-rays and laboratory tests; drugs; physiotherapy; surgeries; family planning; immunization; antenatal care; renal dialysis; drugs for chemotherapy; and radiation treatment", free of cost from 1 April 2008. **[24ad]**

Return to contents
Go to sources

HIV/AIDS

25.07 According to the Ministry of Health website, accessed on 18 April 2011:

"Currently, approximately 1.5 % of Jamaica's adult population live with HIV/AIDS. This represents about 22,000 people.

"The numbers continue to increase island wide, with the parishes of St. James and Kingston and St. Andrew, being the most seriously affected. The disease is the second leading cause of death for children in the 1-4 age group.

"The [National HIV/AIDS/STI Control Programme] facilitates the co-operation of the public and private sectors, as well as non-government organizations (NGOs) in the fight against HIV/AIDS. In addition to the Government of Jamaica's input, the programme has the support of international funding agencies such as UNAIDS, German Technical Cooperation (GTZ), Canadian International Development Agency (CIDA), United Nations Global Programme on AIDS, PAHO/WHO, CAREC, UNFPA, and UNESCO.

Most recently the national programme received a loan from the World Bank (IBRD), and a grant from the Global Fund to fight AIDS, Tubercolosis and Malaria.

"The programme's approach emphasises community intervention and face-to face communication to increase awareness, reduce individual risk of HIV infection and reduce stigmatisation of persons living with HIV/AIDS and to promote safer sex practices. Through this approach, the National Programme has achieved a significant degree of success, particularly a high level of awareness and decline in the rates of Syphilis and other STIs. Increased condom availability and use also confirm the impact of the programme." **[40e]**

25.08 USAID, on its website updated in September 2010, quoted slightly different estimates:

"With 1.6 percent of the adult population estimated to be HIV positive, Jamaica appears to have stabilized its HIV/AIDS epidemic. First detected in 1982, HIV is now present in all of Jamaica's parishes, while Kingston, St. Andrew, and St. James – the three most urbanized parishes – have the majority of cases. UNAIDS estimates 27,000 people in Jamaica are infected with HIV, and men and women aged 20 to 44 account for 65 percent of reported AIDS cases."

"Although Jamaica has a well-established national surveillance system, collecting accurate data about at-risk groups is challenging. Despite some progress in reducing stigma and discrimination, homosexual behavior continues to be illegal in Jamaica, and many men who have sex with men (MSM) hide their sexual orientation and behavior, impeding accurate health surveys." **[68d]**

The same source noted:

"The results of the 2008 Knowledge, Attitudes, and Behavior (KABP) 2008 Survey indicate multiple partnerships are one of the main risk factors fueling the epidemic in Jamaica. The data shows 76 percent of males 15 to 24 years old reported multiple partnerships in the previous 12 months, compared to 52 percent of older men.

"During the past two decades, Jamaica has taken several steps to combat HIV/AIDS. More recent efforts include… developing an HIV/AIDS prevention and control project; implementing three national strategic plans on HIV/AIDS and Sexually Transmitted Infections (STIs), the most recent of which launched a new plan in 2007; providing ART for persons with advanced HIV and for HIV-infected mothers since 2004; adopting a national HIV/AIDS policy in 2005; and establishing a private sector-led business coalition on HIV in 2006.

"The well-established prevention of mother-to-child-transmission (PMTCT) program has been highly successful by integrating opt-out testing into all maternal child health services for pregnant women.

"The Government is currently implementing its third National Strategic Plan on HIV/AIDS/STIs, covering 2007–2011. The Plan focuses on achieving universal access to prevention, treatment, and care and support." **[68d]**

25.09 The *UNGASS Country Progress Report 2010*, published on 31 March 2010 (reporting period: January 2008 to December 2009) and accessed on the UNAIDS website, noted that, according to the Ministry of Health, HIV prevalence was "higher among vulnerable populations such as MSM [men who have sex with men] (31.8%), SW [sex workers] and

informal entertainment workers (4.9%), inmates (3.3%), and crack/cocaine users (4.5%) … Despite widespread scaling up of HIV testing, approximately 50% of HIV infected persons remain unaware of their status and 14,000 persons are in need of treatment." According to the same source:

"Activities with key populations at high risk… were scaled up in 2008 and 2009. Interventions were delivered through community outreach as well as structured workshops. In all, over 2,000 MSM and 6,000 SWs were reached through a combination of outreach work and structured workshop interventions led primarily by the regional BCC teams, Jamaica AIDS Support for Life, and the Jamaica Red Cross… Over 1000 inmates were reached by the BCC team through their work in the prisons in 2008 and 2009…" **[55a]**

Discrimination against people living with HIV/AIDS

25.10 The *UNGASS Country Progress Report 2010* observed:

"At the end of 2008, a National HIV-Related Discrimination Reporting and Redress System (NHDRRS) was activated further. This system was established in 2007 with five simple steps: (1) Submitting a complaint about discrimination (2) Interviewing the complainant to verify the complaint (3) Investigation of the complaint (4) Redress (5) Closure. The outputs of this System are documented in the Monitoring and Evaluation Unit based on the number of cases submitted which have received some measure of redress. Between 2005 and 2009 over 180 HIV related complaints have been documented with 70% of them receiving some measure of redress.

"An active National Multisectoral Group has been created since 2007 and remained active in 2009 to primarily offer guidance and recommendation for the functioning of the National HIV Related Discrimination Reporting and Redress System. This group includes organisations such as the Jamaican Network of Seropositives, the Jamaica AIDS Support for Life, the National HIV/STI Programme, the National AIDS Committee [NAC] and its Legal and Ethical Sub Committee, the Independent Jamaica Council for Human Rights, the Resident Office of the Joint United Nations Programme on HIV/AIDS and direct representation from the community of persons living with HIV and AIDS.

"The NAC, through its legal and ethical subcommittee, provided pro bono legal services for any person living with HIV requiring it for alleged complaints against discrimination." **[55a]**

25.11 On 30 November 2008 the Jamaica Information Service reported on the launch of the Ministry of Water and Housing's HIV/AIDS workplace policy. Minister of State in the Ministry, Everald Warmington, stated:

"The… HIV/AIDS policy uses the 10 International Labour Organisation (ILO) principles as its foundation. These are: the recognition of HIV/AIDS as a workplace issue; non-discrimination; gender equality; healthy work environment; social dialogue; no screening for exclusion; confidentiality; continuation of employment; prevention; and care and support. The policy encourages openness and honesty at the workplace about HIV and AIDS and deals with the stigma and discrimination associated with the conditions." **[24an]**

25.12 The *UNGASS Country Progress Report 2010* recorded:

"The National AIDS Committee (NAC), through the Parish AIDS Associations, (PAA) has contributed significantly to the welfare of children who are infected with or affected by HIV and AIDS. In 2009, back to school assistance was provided through the Parish AIDS Associations. Social Workers and adherence counsellors attached to health facilities were able to identify families who were in need and referred them to the PAA to receive support in the form of: i) payment of school fees, ii) purchase of school books, and iii) purchase of school uniforms. This assistance is ongoing and has been well received by the recipients." **[55a]**

Anti-Retroviral (ARV) treatment

25.13 The *UNGASS Country Progress Report 2010* stated, "In 2009, 23 treatment sites were providing multidisciplinary care in Jamaica and laboratory capacity was improved to provide tests such as CD4 count and viral loads. Based on programme monitoring, 6,895 persons (6,459 adults and 436 children) with advanced HIV (49% of persons with advanced HIV) were started on treatment by the end of December 2009." **[55a]**

25.14 According to the UNGASS report:

"With the introduction of public access to antiretroviral treatment (ARV), there has been a significant decline in AIDS cases and AIDS deaths between 2004 and 2008. In addition, mother to child transmission of HIV (MTCT) has declined from 25% before ARV introduction to <5% in 2008. To bolster the gains made in treatment, several programmes were implemented to enhance the care and support available to those who are infected with or affected by HIV." **[55a]**

25.15 On 11 July 2008 the Jamaica Labour Party website reported that Jamaica had been awarded a US$44m (J$3.1b) grant from the Global Fund. The Minister for Health and Environment stated:

"…as the ministry moves towards universal access, the treatment, care and support component will seek to accommodate up to 7,500 persons who are in need of treatment and ensure that they adhere to antiretroviral (ARV) treatment. More than 4,000 persons, including children, living with HIV are now on ARV treatment. There will be interventions geared to monitor and prevent drug resistance and improve standardised methods of tracking adherence and ARV resistance. The Ministry of Health estimates that between 25,000 and 30,000 Jamaicans have HIV. Of that total, 15,000 are unaware of their status." **[67a]**

Return to contents
Go to sources

Sickle Cell

25.16 The World Health Organisation (WHO), in a report by the Secretariat dated 24 April 2006 on the prevalence of Sickle Cell Anaemia, stated:

"Sickle-cell anaemia (also known as sickle-cell disorder or sickle-cell disease) is a common genetic condition due to a haemoglobin disorder – inheritance of mutant haemoglobin genes from both parents. … Each year about 300 000 infants are born with major haemoglobin disorders – including more than 200 000 cases of sickle-cell anaemia in Africa. Globally, there are more carriers (i.e. healthy people who have inherited only one mutant gene from one parent) of thalassaemia than of sickle-cell

anaemia, but the high frequency of the sickle-cell gene in certain areas leads to a high rate of affected newborns…

"Sickle-cell anaemia is particularly common among people whose ancestors come from sub-Saharan Africa, India, Saudi Arabia and Mediterranean countries. Migration raised the frequency of the gene in the American continent…" **[48c]**

25.17 *The Gleaner* reported on 3 October 2007 some facts and fiction about cell sickle disease, stating that, "One in 250 babies born in Jamaica has Sickle Cell Disease (SCD), a group of inherited blood disorders characterised by the predominance of sickle-shaped red blood cells. One in every 10 persons has the sickle cell trait. Most people in Jamaica have family members, friends or colleagues who are affected." **[34s]**

Details of the full report can be accessed via the following weblink: Sickle Cell - facts and fiction

25.18 The Rural and Remote Health published a report on 10 April 2008 of a research the organisation had carried out into the quality of life in patients with sickle cell disease in Jamaica. The report stated:

"Quality of life (QOL) refers to people's ability to function in the ordinary tasks of living. It moves beyond direct manifestations of illness to the patient's personal morbidity. … Sickle cell disease (SCD) is a chronic and potentially, quite a debilitating disease. The disease is severe and may result in significant morbidity, as well as a shortened life span. It is the most common genetic disorder seen in Jamaica and impacts on physical, psychological, social and occupational wellbeing. Jamaica is a developing country where support systems that exist for patients with SCD are sparse. Health related QOL has been shown to be poorer in people living in the rural areas as compared with urban populations." **[97a]**

Diabetes

25.19 The Diabetic Association of Jamaica (DAJ) is a non-profit, non-governmental organisation which works in conjunction with the Jamaican Government to provide diabetes care to the public through clinics, outreach screening and educational activities. The DAJ website (accessed 16 April 2011) noted that, "On average, 8,000 persons use the various services each month from all branches; this does not include persons seen on the outreach programs." **[29a]**

25.20 On 16 November 2007 the Jamaica Information Service reported that:

"The National Health Fund (NHF) has added the A1C blood test to its list of benefits, which will reduce by 80 per cent to 90 per cent, the cost of the test for diabetics, who are covered under the Fund… NHF cardholders will be allowed two subsidized tests annually. The NHF subsidy amounts to $300 per test… The NHF cardholder will be able to access the test benefit at NHF participating providers such as hospitals, laboratories, medical practitioners and other authorized medical facilities." **[24ap]**

Cancer treatment

25.21 The Jamaica Cancer Society is a non-governmental organisation established in 1955, which carries out screening, counselling and outreach programmes for cancer. The head office is based in Kingston and there are three regional branches in Manchester,

St Ann/St Mary and St Elizabeth. **[41a]** The clinic of the Jamaica Cancer Society carries out screening for cervical, breast and prostate cancer as well as selected diagnostic and treatment services. The Jamaica Cancer Society also provides mobile Pap Smear and Mammography screening services, as well as counselling and various outreach programmes. **[41b]**

Kidney dialysis

25.22 There are at least twelve dialysis centres across the island of Jamaica. Six of the centres are based in Kingston, three in Mandeville, three in Montego Bay and one in Ocho Rios. Of these, two are state run, the University Hospital of the West Indies (UHWI) in Kingston and the Cornwall Regional Hospital in Montego Bay, and nine centres are private. (Global Dialysis, accessed 2 December 2008) **[16a]**

Mental health

25.23 The Jamaica Information Service, Ministry of Health, accessed 17 September 2009, noted:

"The mental health services are delivered through a three-pronged system consisting of:

- A residential hospital – Bellevue Hospital
- Out-patient community mental health services at primary health care facilities island wide
- Residential out-patient rehabilitation units – Ken Royes Rehabilitation Centre." **[24d]**

25.24 As mentioned in the WHO Country Profile Jamaica 2005, the following therapeutic drugs are available in Jamaica: Carbamazepine, Phenobarbital, Phenyltoinsodium, Sodium Valproate, Amitriptyline, Chlorpromazine, Diazepam, Fluphenazine, Haloperidol and Lithium. **[48a]**

25.25 On the 4 June 2008 the Jamaica Information Service (JIS) reported that the Ministry of Health and Environment planned to develop a community-based mental health service. The Minister Rudyard Spencer stated, "The community-based service will be supported by an Emergency Crisis and Outreach Team and a Rehabilitative Service at the parish level at each Regional Hospital…" **[24u]**

25.26 Following the above report, the JIS reported on an article from the Ministry of Health on 29 October 2008 that Community Mental Health Care is the way forward in Jamaica. "Community Mental Health Care, is more effective and cheaper to provide than institutional care, but in order to have a successful system, all the critical institutional services, must be available at the community level." The report added that: "… there is an urgent need for specialised branches of psychiatric services, including forensic psychiatry, geriatric psychiatry, and child and adolescent disaster psychiatry." **[24z]**

25.27 On 7 October 2008 the Jamaica Information Service reported that patients in need of mental health treatment should in the first instance "…utilise the services, offered by health centres and hospitals closer to their communities…" Acting Director of the Mental Health Services at the Ministry of Health and Environment, Dr Maureen Irons-Morgan, continued, "While acknowledging that these health facilities may not be able to offer the level of mental health care that hospitals such as Bellevue, the University of the West Indies, the Kingston Public Hospital or the Cornwall Regional Hospital do… the first stop

should not be at a hospital… if the service is not yet offered at that facility, the individual will then be given a referral." **[24v]**

25.28 On 12 October 2008 *The Gleaner* reported that the head of psychiatry at the University of the West Indies, Dr Wendel Abel, urged for Bellevue, the country's largest and longest-running mental institution, to be closed. Dr Abel stated, "…the 147-year-old Bellevue Hospital… has become inefficient… the method of locking away people living with mental disorders in a 'human warehouse' is no longer an accepted or effective way of treating mental illness." Dr Abel proposed "…the establishment of small community group homes with a population of about 10-14 patients to replace the hospital… data show that there are more than 30,000 mentally ill persons in Jamaica, the majority of whom have been treated in a community-based setting." **[34ae]**

25.29 A report dated 2009, by the WHO, provided details of the mental health system in Jamaica and proposed a work plan for 2009/10:

"Currently all Jamaicans have access to free health care in the public system, hence all persons in the population who need psychotropic medication have access or those that pay out of pocket, the cost of antipsychotic medication such as Haloperidol (15mg/day) is J$113 per day (5% of the one daily minimum wage) and antidepressant medication such as Amitriptyline (75mg/day) is J$3.96 per day (1% of the daily minimum wage). In addition all severe and some mild mental disorders are covered in social insurance schemes.

"The Mental Health Unit has on its 2009/10 work plan the activity to review and revise the Mental Health Policy which will include among other things the following components:

- Involvement of users and families.
- Advocacy and promotion.
- Human rights protection of users.
- Equity of access to mental health services across different groups.
- Financing.
- Quality improvement.
- Monitoring system." **[48b]**

Return to contents
Go to sources

26. HUMANITARIAN ISSUES

26.01 As stated in a report published by the UN Framework Convention on Climate Change in 2004:

"Jamaica… is impacted from time to time by severe tropical weather systems including tropical waves, tropical depressions, tropical storms and hurricanes. The official hurricane season for the Atlantic is June to November, although systems have occurred outside this period." **[44a]** For example, Tropical Storm Nicole struck Jamaica in September 2010 with heavy rains and winds, leaving 13 people dead, 26 injured and 437 people taking refuge in collective centres. The Jamaica Red Cross delivered emergency relief to some 2,480 beneficiaries and offered psychosocial support to families who were victims of the tropical storm. Agricultual production was also severely affected. (Reliefweb) **[15b] (Tropical Storm Nicole)**

Return to contents
Go to sources

27. FREEDOM OF MOVEMENT

27.01 The US State Department *2010 Human Rights Report: Jamaica*, released on 8 April 2011, stated that "The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice." **[8a] (Section 2d)**

Return to contents
Go to sources

28. CITIZENSHIP AND NATIONALITY

28.01 Under Chapter 2 of the 1962 Constitution, any person who was born in Jamaica and was a citizen of the United Kingdom and Colonies prior to 5 August 1962, became a citizen of Jamaica on 6 August 1962. All persons born in Jamaica after independence would automatically gain Jamaican citizenship. Persons born outside Jamaica to Jamaican parents, who would have qualified for citizenship on 6 August 1962, can become Jamaican citizens. Any person who marries a Jamaican can be registered as a citizen of Jamaica. (Jamaica Constitution Order in Council, 1962) **[2a] (Sections 3-12)**

28.02 The Constitution also states that the Governor-General is empowered to deprive of Jamaica citizenship persons who have acquired legal rights or the citizenship of another country by registration, naturalisation or other voluntary and formal acts (other than marriage). (Jamaica Constitution Order in Council, 1962) **[2a] (Section 8)**

28.03 The Constitution and Rights provided a list on citizenship and recorded that "Jamaica recognizes Dual Citizenship. Only the Governor General of Jamaica can deprive a Jamaican of his/her Jamaican citizenship. The mere act of renunciation of Jamaican nationality in the naturalization process to become a U.S. Citizen does not deprive the Jamaican of his/her Jamaican citizenship. It is not contrary to U.S. Law to have both a Jamaican Passport and a U.S. Passport." **[98a]**

Further information about Citizenship and Nationality can be found on the US State Department website: US State Department - Travel, as well as in the section 'Dual Citizenship' on the Constitution and Rights.com website.

Return to contents
Go to sources

29. FORGED AND FRAUDULENTLY OBTAINED OFFICIAL DOCUMENTS

29.01 *The Gleaner*, in an article of 29 July 2002, noted that new tamper-proof machine-read passports had been introduced in Jamaica, but that an increasing number of people were presenting fraudulent documents (birth certificates, voter's IDs, etc) in applying for new passports. The Passport Office warned Justices of the Peace not to verify such documents as genuine unless they had been personally acquainted with the applicant for at least a year. The Passport Office planned to record the personal details of all new passport holders on a database. **[34m]**

Return to contents
Go to sources

30. EXIT AND RETURN

30.01 The US State Department's International Travel Information website, when accessed on 15 September 2009, stated that "No exit visas are required to leave Jamaica. However, a child leaving the country with a person other than a parent needs written authorisation from one parent. This authorization requires certification from the Jamaican immigration office before minors may exit the country." **[8b]**

TREATMENT OF RETURNED FAILED ASYLUM SEEKERS

30.02 The Country of Origin Information Service could find no information to suggest that returning Jamaican nationals may be subject to adverse treatment for reason of applying for asylum abroad.

30.03 On 22 July 2007 *The Gleaner* reported that 63 persons had benefited from assistance provided by International Office of Migration (IOM). The article stated, "Since 2003, the IOM has opened offices in Kingston and has been quietly helping returnees find jobs, start small businesses and further their education…" The article pointed out that any Jamaican who had applied for asylum and was awaiting a decision, those who had been refused asylum and were appealing, and those who had been granted exceptional leave to remain or those who had been given humanitarian protection would qualify for IOM assistance. **[34am]**

Return to contents
Go to sources

31. EMPLOYMENT RIGHTS

31.01 The US State Department *2010 Human Rights Report: Jamaica* (USSD Report 2010), released on 8 April 2011, reported:

"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.

"The law neither authorizes nor prohibits the right to strike, and strikes occurred.

"The country has ratified relevant ILO [International Labour Organisation] conventions, which carries a legal obligation to apply their provisions. There are otherwise no specific laws prohibiting forced or compulsory labor.

"The law protects children from exploitation in the workplace… The minimum age for employment is 15 years, and the law prohibits the employment of children under age 13 in any type of work.

"The government sets the minimum wage in a transparent process after receiving recommendations from the tripartite National Minimum Wage Advisory Commission. The minimum wage was J$4,070 (approximately $47) per week for all workers, although there were some reports of domestic workers receiving less.

"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 generally respected. The law does not prohibit excessive compulsory overtime…

"The Ministry of Labor's Industrial Safety Division (ISD) sets and enforces industrial health and safety standards, mainly through factory inspections." **[8a] (Section 7)**

Return to contents
Go to sources

Annex A

CHRONOLOGY OF MAJOR EVENTS

1655 Britain captured Jamaica.

1670 Jamaica formally ceded to Britain.

1838 Slavery abolished.
Norman Manley founded the People's National Party (PNP)

1944 Universal adult suffrage introduced; new constitution providing for a popularly-elected House of Representatives promulgated.

Independence

1962 Jamaica became independent within the Commonwealth with Alexander Bustamante of the Jamaica Labour Party (JLP) as Prime Minister.

1972 The PNP won the general election and Michael Manley becomes Prime Minister.

1976 The PNP won another election.

1980 The JLP won the general election and Edward Seaga is elected Prime Minister. Seaga proceeded to privatise state enterprises.

1989 Michael Manley was elected Prime Minister after PNP ousts the JLP in elections.

Patterson becomes Prime Minister

1992 Michael Manley retired on health grounds and is succeeded by Percival Patterson as the Prime Minister and leader of the PNP.

1993 The PNP returned to office with an increased majority.

1998 The PNP won a third term in office amid increasing crime and deteriorating economy.

1999
April Violent protests took place against a 30 per cent increase in fuel prices.
July The Government ordered the army to patrol the streets of Kingston following a massive increase in crime.

2001
July Troops backed by helicopter gunships, tanks and armoured vehicles moved in to restore order in capital, Kingston, after three days of unrest left at least 27 people dead.

2002

January	The authorities announced that more than 1,100 people were murdered in Jamaica in 2001. This showed an increase of 30 per cent over the previous 12 months, and the highest ever recorded in a single year.
March	Britain's Privy Council, decided to halt executions in a number of Caribbean countries where capital punishment has widespread support as a deterrent to rising violent crime. Prime Minister P. J. Patterson criticised the move.

Patterson's third term

2002

October 16	The People's National Party was re-elected for the fourth term in the general election. This was the third consecutive election victory for Prime Minister Patterson.

2003

January	UK introduced visa regime for Jamaicans entering the UK; London says the move is intended to tackle illegal immigration.

2004

March	Ousted former Haitian president Jean-Bertrand Aristide arrived in Jamaica, prompting angry response from new Haitian government.
September	Hurricane Ivan described as the biggest in living memory pounded the island, destroying thousands of homes.
End	Gang rivalry, drugs trade contribute to high murder rate. 1,145 murders in 2004.

2005

September	Prime Minister PJ Patterson says he will step down by April 2006. Opposition leads a day of protest over price increases for utilities and public transport.
End	More than 1,600 murders in 2005.

2006

February	Local government minister Portia Simpson Miller is elected as head of the ruling People's National Party. She succeeds PJ Patterson to become Jamaica's first female PM in March [2006].
October	Government survives a confidence vote in parliament over the ruling party's acceptance of a campaign donation from a Netherlands-based oil company.

Labour forms a government

2007

September	Jamaica Labour Party wins general elections.
December	Murder rate up 17 per cent on 2006.

2008

August	The battle for the vice presidency of the People's National Party officially commenced.
September	The Prime Minister Bruce Golding completes his first year in office to mixed reviews. Portia Simpson Miller re-elected as president of the Peoples National Party
November	Parliament votes to keep the death penalty, as Jamaica struggles to contain one of the world's highest murder rates.

2009

January	Governor-General Kenneth Hall resigns, citing health reasons. Patrick Allen, president of the Seventh Day Adventist union, will take up the job in February [2009].
August	Jamaica's government received an extradition request for Christopher 'Dudus' Coke (40). By late October it had only responded with requests for more information about the gun and drug trafficking charges against the reputed gang leader. Coke, the alleged leader of the 'Shower Posse' gang, is charged in the US Southern District of New York with conspiracy to distribute cocaine and marijuana and conspiracy to illegally traffic in firearms.
September	John A. Terry (65), Britain's honorary consul in Montego Bay, was found strangled in bed with a note denouncing him as a homosexual.

2010

May-June	Dozens killed in operation to arrest alleged drug lord Christopher 'Dudus' Coke. He is extradited to the US.

Source: BBC News, Jamaica Timeline, updated 26 January 2011 **[21b]**

Return to contents
Go to sources

Annex B

POLITICAL PARTIES

People's National Party (PNP) www.pnpjamaica.com
Founded in 1938; Socialist principles; affiliated with the National Workers' Union.
President: Portia Simpson-Miller.
General Secretary: Peter Bunting. **[5b]**

Jamaica Labour Party (JLP) http://www.jamaicalabourparty.com/base/
Founded in 1943. Supports free enterprise in a mixed economy and close co-operation with the USA. In power since September 2007.
Leader: Bruce Golding.
General Secretary: Karl Samuda. **[5b]**

National Democratic Movement (NDM) www.ndm4jamaica.org
Founded 1995; advocates a clear separation of powers between the central executive and elected representatives; supports private investment and a market economy; member of the New Jamaica Alliance.
Chair: Peter Townsend.
General Secretary: Michael Williams. **[5b]**

Jamaica Alliance Movement (JAM)
Founded 2001; Kingston based; Rastafarian.
President: Astor Black. **[5b]**

Return to contents
Go to sources

Annex C

PROMINENT PEOPLE

Head of State	Queen Elizabeth II, represented by the Governor General
Prime Minister and Leader of the Jamaica Labour Party (JLP)	Bruce Golding
Minister of Foreign Affairs & Foreign Trade	Dr. Kenneth Baugh
Minister of Finance & the Public Service	Audley Shaw
Minister of Energy & Mining	James Robertson
Minister of Education, Leader of the House	Andrew Holness
Minister of Industry, Investment & Commerce	Karl Samuda
Minister of Tourism	Edmund Bartlett
Minister of Agriculture & Fisheries	Dr. Christopher Tufton
Minister of Youth, Sport & Culture	Olivia Grange
Minister of Water & Housing	Dr. Horace Chang
Minister of Labour & Social Security	Pearnel Charles
Minister of Health	Rudyard Spencer
Minister of Justice	Dorothy Lightbourne
Minister of Transport & Works	Michael Henry
Minister of National Security	Dwight Nelson
Minister Without Portfolio	Daryl Vaz
Speaker of the House	Delroy Chuck

Source: Jamaica Information Service, accessed 10 April 2011 **[24a]**

PROMINENT PEOPLE OUTSIDE OF THE GOVERNMENT

Oswald Harding	President of the Senate
Zaila McCalla	Chief Justice
Portia Simpson-Miller	President of the People's National Party (PNP) and former Prime Minister
Astor Black	President of the Jamaica Alliance Movement (JAM)
Peter Townsend	Chair of the National Democratic Movement (NDM)

Source: Europa World Online, accessed 10 April 2011 **[5i]**

Return to contents
Go to sources

Annex D

LIST OF ABBREVIATIONS

AI	Amnesty International
CEDAW	Committee on the Elimination of All Forms of Discrimination Against Women
EU	European Union
EBRD	European Bank for Reconstruction and Development
FCO	Foreign and Commonwealth Office (UK)
FGM	Female Genital Mutilation
FH	Freedom House
GDP	Gross Domestic Product
HIV/AIDS	Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome
HRW	Human Rights Watch
IAG	Illegal Armed Group
ICG	International Crisis Group
ICRC	International Committee for Red Cross
IDP	Internally Displaced Person
IFRC	International Federation of Red Cross and Red Crescent Societies
IMF	International Monetary Fund
IOM	International Organisation for Migration
MSF	Médecins sans Frontières
NATO	North Atlantic Treaty Organisation
NGO	Non Governmental Organisation
OCHA	Office for the Coordination of Humanitarian Affairs
ODIHR	Office for Democratic Institutions and Human Rights
ODPR	Office for Displaced Persons and Refugees
OECD	Organisation of Economic Cooperation and Development
OHCHR	Office of the High Commissioner for Human Rights
OSCE	Organisation for Security and Cooperation in Europe
RSF	Reporters sans Frontières
STD	Sexually Transmitted Disease
STC	Save The Children
TB	Tuberculosis
TI	Transparency International
UN	United Nations
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCHR	United Nations High Commissioner for Human Rights
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNODC	United Nations Office on Drugs and Crime
USAID	United States Agency for International Development
USSD	United States State Department
WFP	World Food Programme
WHO	World Health Organization

Return to contents
Go to sources

Annex E

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Return to contents