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Jamaica: Domestic violence, including legislation and availability of state protection (2008 - 2009)

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

Background

According to Amnesty International (AI) and Freedom House, violence against women is "widespread" (AI 2009; Freedom House 2009). In a 21 July 2008 article, the *Jamaica Gleaner* states that, according to the Ministry of Justice, there is a "high level of domestic violence" in the country. The *Jamaica Observer* reports that, according to statistics from the Jamaica Constabulary Force, 2,501 cases of domestic violence went to court in 2008 (5 Mar. 2009).

In correspondence with the Research Directorate, a representative of Woman Inc., a Jamaica-based non-governmental organization (NGO) that supports victims of domestic violence (Jamaica n.d.a; *Jamaica Gleaner* 21 Nov. 2008), stated that "culturally it is still acceptable for a man to physically abuse his female spouse" (Woman Inc. 1 Dec. 2009). Similarly, the United States (US) Department of State's *Country Reports on Human Rights Practices for 2008* explains that, in 2008, "social and cultural traditions perpetuated violence against women, including spousal abuse" (25 Feb. 2009, Sec. 5). Both the *Jamaica Observer* and the *Jamaica Gleaner* note that there are also cases of domestic violence against men (*Jamaica Observer* 28 Apr. 2008; *Jamaica Gleaner* 5 July 2008).

Legislation

Domestic violence issues are addressed by the *Domestic Violence Act* (Woman Inc. 1 Dec. 2009; Jamaica 6 May 1996; *Jamaica Observer* 20 Oct. 2008), amended in 2004 (Jamaica 6 May 1996; *Jamaica Observer* 20 Oct. 2008). *Country Reports 2008* states that the act "prohibits domestic violence and provides remedies including restraining orders and other noncustodial sentencing" (US 25 Feb. 2009, Sec. 5). The Woman Inc. Representative noted that married and "visiting" relationships are both covered under the act (1 Dec. 2009). The *Jamaica Observer* provides the following information:

Under the Domestic Violence Act, an abused person can seek the protection of the courts against actions by their abusers who have threatened physical or mental harm. Such acts include watching the victim's home or school, persistently calling the victim, or using abusive language or ill-treatment. In

such cases, the court is obligated to assist the abused person by granting them a protection order, or a restraining order as it is more commonly called. (28 Apr. 2008)

The penalty for violating a restraining order is 10,000 Jamaican dollars (approximately 117 US dollars) or six months imprisonment (US 25 Feb. 2009, Sec. 5; *Jamaica Observer* 28 Apr. 2008). The *Jamaica Observer* describes the process of acquiring a restraining order:

The abused person can go to the Family Court or the Resident Magistrate (RM) court within their parish, and speak to an intake counsellor or clerk, who will assist in filling out a form so that the matter can be brought before a judge.

When the matter is brought before the judge, an interim order will be given, so that the abuser will know that an order is being filed and also prevent the abuser from going within close proximity to the petitioner. In cases where the victim is fearful of handing the order to their abuser, a bailiff or a police officer within their community can do so. When the case is tried, then a protection order is granted detailing the distance the abuser has to stay away from the petitioner, and how long the order lasts, among other things.

Married women can also seek protection from their abusive husbands by seeking a protection order from the Supreme Court under the Matrimonial Causes Act. (28 Apr. 2008)

The Woman Inc. Representative stated in correspondence with the Research Directorate that the *Offences Against the Person Act* "has recently been amended to make marital rape an offence" (1 Dec. 2009). The *Jamaica Gleaner* reports that, on 17 July 2009, the Senate passed the *Sexual Offences Bill* which criminalizes marital rape (20 July 2009).

State protection

According to the Woman Inc. Representative, domestic violence legislation is "comprehensive but enforcement and reporting are the real issues" (1 Dec. 2009). Similarly, Freedom House reports that women's groups, government bodies and NGOs "have noted that while much of the legal structure is in place to help reduce violence and discrimination against women, enforcement remains lacking" (2009). In the opinion of the Woman Inc. Representative, state protection is "not available" to victims of domestic violence due to "massive resource constraints" on the part of the government (1 Dec. 2009). Furthermore, the Woman Inc. Representative stated that "[u]nless the victim is a witness who qualifies for protection under the witness protection program, there is no other form of 'state protection'" (1 Dec. 2009). Corroborating information on whether the witness protection program is the only form of protection provided by the government could not be found among the sources consulted by the Research Directorate.

Country Reports 2008 states that, in 2008, "[t]here was a general reluctance by the police to become involved in domestic issues, which led to cases not being pursued vigorously when reported" (US 25 Feb. 2009, Sec. 5). In a 5 March 2009 *Jamaica Observer* article, the manager of the Social Development Commission (SDC) in Westmoreland states that, through discussions that took place in community focus groups on domestic violence issues, it was determined

that abuse often occurs during the night when women are unable to access the police. The SDC manager is quoted as saying that "sometimes it's very hard to reach the police in the night" (*Jamaica Observer* 5 Mar. 2009). In a 20 October 2008 article, the *Jamaica Observer* notes that women have experienced delays in court proceedings when requesting protection from abusive partners.

Resources

The Bureau of Women's Affairs, a government organization, addresses a variety of women's issues, including domestic violence (Jamaica n.d.b). According to *Country Reports 2008*, the Bureau of Women's Affairs engages in projects such as crisis hotlines, shelters and domestic violence education (US 25 Feb. 2009, Sec. 5). The Victim Support Unit, part of the Ministry of Justice (*Jamaica Observer* 30 Nov. 2009; *Jamaica Gleaner* 31 Aug. 2009), provides counselling to abused women (*Jamaica Observer* 30 Nov. 2009). The Centre for Investigation of Sexual Offences and Child Abuse (CISOCA) (*ibid.*; Jamaica n.d.b), part of the Jamaica Constabulary Force, is tasked with investigating sexual offences (*Jamaica Observer* 30 Nov. 2009).

NGOs in Jamaica that address domestic violence issues in some form include Woman Inc., Women's Centre of Jamaica Foundation, Women's Media Watch and Women's Resource and Outreach Centre (*Jamaica Observer* 30 Nov. 2009). Woman Inc., established in 1984, runs crisis centres, shelters (Jamaica n.d.a.) and a hot line (*Jamaica Observer* 30 Nov. 2009; *Jamaica Gleaner* 21 Nov. 2008). In an 8 December 2008 article by the *Jamaica Observer*, a counsellor at Woman Inc. is quoted as saying that a woman can remain at a shelter for only ten days, though if she is unable to find alternative accommodation, she may extend her stay.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

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Woman Inc. 1 December 2009. Correspondence with a representative.

Additional Sources Consulted

Oral sources: Attempts to contact representatives of the Association of Women's Organisations in Jamaica (AWOJA), the Jamaica Bureau of Women's Affairs and the Caribbean Association for Feminist Research and Action (CAFRA) were unsuccessful.

Internet sites, including: Asylum Aid, British Broadcasting Corporation (BBC), European Country of Origin Information Network (ecoi.net), Family Health International (FHI), Human Rights Watch (HRW), The Independent Jamaica Council for Human Rights, The Jamaica Constabulary Force, Organization of American States (OAS), ReliefWeb, United Kingdom (UK) Border Agency, United Nations (UN) Division for the Advancement of Women, UN Integrated Regional Information Networks (IRIN), UN High Commissioner for Refugees (UNHCR) Refworld, Women's Media Watch Jamaica, World Health Organization (WHO), World Organisation Against Torture (OMCT).

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