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Jamaica: How police treat complaints made by lesbian, gay, bisexual, and transgender (LGBT) people (2007 - 2010)
Research Directorate, Immigration and Refugee Board of Canada, Ottawa

Several non-governmental organizations (NGOs) indicate that lesbian, gay, bisexual and transgender (LGBT) people are subject to "harassment" by police officers (JFJ et al. 2010, 9; JASL et al. 2010, 5; CVC 30 Nov. 2010). 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 (ibid. 30 Nov. 2010). However, there are also reported cases in which the police have physically abused LGBT people (ILGA 20 Feb. 2007; J-FLAG 2 Dec. 2010).

A 2010 report submitted to the United Nations (UN) Human Rights Council by a coalition of seven non-governmental organizations (NGOs) in Jamaica, which are active in protecting the human rights of LGBT people, sex workers and people living with HIV/AIDS, explains that, because Jamaican law criminalizes acts of same-sex intimacy between two males, the police have used it to harass men perceived to be gay (JASL et al. 2010, 5). According to Jamaica's *Offences Against the Person Act*, "buggery" (anal sex) is punishable by imprisonment and hard labour for up to ten years (Jamaica n.d., Art. 76), and "acts of gross indecency" between two males is punishable by imprisonment for up to two years (ibid., Art. 79). Sources indicate that "acts of gross indecency" is a broad term that can be interpreted to mean any kind of physical intimacy (YCSRR n.d.; US 11 Mar. 2010, Sec. 6).

Reluctance to report cases to the police

Several sources report that LGBT people are reluctant to report incidents of violence against them to authorities in Jamaica (US 11 Mar. 2010, Sec. 6; CVC 30 Nov. 2010; J-FLAG 2 Dec. 2010; *The Economist* 17 Sept. 2009). The CVC representative stated that LGBT victims are afraid of how the Jamaican police will handle their cases (CVC 30 Nov. 2010). 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 (ibid.). The United States (US) Department of State's *Country Reports on Human Rights Practices for 2009* indicates that gay men are hesitant to report crimes against them because of "fear for their physical well-being" (11 Mar. 2010, Sec. 6), while *The Economist* maintains that the reason is, in part, a result of the

police not always investigating such crimes (17 Sept. 2009).

In a telephone interview with the Research Directorate, the Executive Director of Jamaica Forum for Lesbians, All-Sexuals, and Gays (J-FLAG), an organization that promotes the human rights of LGBT people in Jamaica (J-FLAG n.d.), stated that of the approximately 40 cases of physical assaults against LGBT people (such as assaults with weapons, mob attacks, stabbings, and rapes of lesbians) reported to J-FLAG annually, only about 5 percent are reported to the police (2 Dec. 2010). He explained that although victims are required to report crimes at the nearest police station, many victims fear that doing this will make it worse for them in the community (J-FLAG 2 Dec. 2010). He maintained that some LGBT victims do not file complaints with the police because they fear reprisals and that the police will not respond to their complaints (ibid.). An example of this can be found in the coalition of NGOs' report to the UN, which states that four women, who were raped because of their sexual orientation, did not report the crimes "for fear of further victimization by the police" (JASL et al. 2010, 5).

Police reaction to incidents of violence against LGBT people

International and local human rights organizations provide details on several cases in which the police failed to adequately protect LGBT people from mob violence (Human Rights Watch 31 Jan. 2008; ILGA 20 Feb. 2007; JASL et al. 2010, 5-6). According to the international NGO Youth Coalition for Sexual Reproductive Rights (YCSRR), the Jamaican police have not laid charges against anyone responsible for mob-related killings of LGBT people (YCSRR n.d.). Similarly, the Executive Director of J-FLAG states that there have not been any prosecutions of participants of mob violence against LGBT people (J-FLAG 2 Dec. 2010).

In one example of mob violence, in February 2007, a group of men perceived to be gay were reportedly threatened and attacked by a large group in Kingston (JASL et al. 2010, 5; AI 19 Apr. 2010, 6; ILGA 20 Feb. 2007; Human Rights Watch 31 Jan. 2008). The men reportedly took shelter in a pharmacy, and the police were called to the scene (ILGA 20 Feb. 2007). NGOs report that the victims were subjected to police abuse, although they were escorted to the police station (Human Rights Watch 31 Jan. 2008; ILGA 20 Feb. 2007; JASL et al. 2010, 5). Accounts of the events indicate that police officers verbally abused the victims, and hit one victim in the face, head and stomach (Human Rights Watch 31 Jan. 2008; ILGA 20 Feb. 2007). The coalition of Jamaican NGOs notes that there were no arrests of those involved in the mob attack (JASL et al. 2010, 5). Human Rights Watch reports that the police would not register the victims' complaints (31 Jan. 2008).

In another example, in April 2007, a mob attacked a church in Mandeville during the funeral of a gay man (JASL et al. 2010, 5; Human Rights Watch 31 Jan. 2008; AI 19 Apr. 2010, 6; *New Internationalist* 1 May 2008). After police were called to the scene, they reportedly joined the mob in taunting the mourners (ibid.; JASL et al. 2010, 5; Human Rights Watch 31 Jan. 2008). According to Human Rights Watch, the police did not intervene when mourners leaving the church were threatened with sticks, stones and batons, did not detain any members of the mob and, instead, stopped and searched the vehicles of the mourners (ibid.).

Sources report that in January 2008, a mob attacked the home of gay men

in Mandeville, resulting in the hospitalization of two of the victims (JASL et al. 2010, 5-6; Human Rights Watch 31 Jan. 2008). Human Rights Watch reports that the police did not arrive until 90 minutes after the victims first called for help, although they escorted three of the victims away from the scene (ibid.). Another victim reportedly went missing before the police arrived and may have been killed (ibid.; J-FLAG 2 Dec. 2010).

More recently, the CVC representative stated that there was a case of LGBT people having been attacked and beaten by bikers in New Kingston, but that the police failed to investigate the crimes, in part, because the victims were "homeless and known to the police" (CVC 30 Nov. 2010). The J-FLAG representative was also aware of a case in which a cross-dresser was hit by police officers in 2009 (J-FLAG 2 Dec. 2010). This information could not be corroborated among the sources consulted by the Research Directorate.

Treatment of LGBT police officers

Two sources report on the treatment of police officers based on their sexual orientation (JASL et al. 2010, 5; *Jamaica Star* 1 Feb. 2008). Local media source *The Jamaica Star* states that a bisexual police officer was afraid to return to work after his sexual orientation was discovered by his colleagues; the officer claims that he received telephone threats and had his belongings thrown out of the barracks (1 Feb. 2008). The coalition of Jamaican NGOs reports that, in December 2009, a Jamaican police officer was held in custody for 12 days for alleged acts of "gross indecency" with another officer, although he was never charged and was subsequently released (JASL et al. 2010, 5).

Improvements

Both the CVC representative and the Executive Director of J-FLAG indicate that there have been improvements in police treatment of LGBT people (CVC 30 Nov. 2010; J-FLAG 2 Dec. 2010). The J-FLAG Executive Director stated that LGBT people fleeing mobs can now go into police stations and be treated professionally (ibid.). He also provided an example in which a group of men were attacked by a mob because of their perceived sexual orientation during Jamaica's annual carnival celebration in 2008; they were protected by the police, who brought them into a service vehicle (ibid.). He also noted that there was one prosecution for the murder of a gay man (ibid.). For his part, the CVC representative 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 (CVC 30 Nov. 2010). However, he cautioned that "there is still a long way to go" and that these cases are the exception rather than the norm (ibid.).

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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