



## RESPONSES TO INFORMATION REQUESTS (RIRs)

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3 May 2005

### JAM43553.E

Jamaica: Whether male homosexuality or lesbianism is illegal and penalties (2000-2004)

Research Directorate, Immigration and Refugee Board, Ottawa

The Sodomy Laws Website provides the following description of the Offences Against the Person Act of Jamaica:

[It] prohibits "acts of gross indecency" (generally interpreted as referring to any kind of physical intimacy) between men, in public or in private. The offence of buggery is created by section 76, and is defined as anal intercourse between a man and a woman, or between two men. Most of the prosecutions in fact, involve consenting adult men suspected of indulging in anal sex (28 Feb. 2005; see also The International Lesbian and Gay Association (ILGA) 31 July 2000).

Amnesty International indicated that article 76 punishes "buggery" by up to 10 years of jailed hard labour (see also *The Independent* 25 Apr. 2003) and that article 79 of the same law makes "any act of intimacy between men in public or private" punishable by up to two years imprisonment and, possibly, hard labour (1 June 2004). For the original phrasing of articles 76 to 79, please consult the Website of the Jamaica Forum for Lesbians, All-Sexuals and Gays (J-FLAG) at <<http://www.jflag.org/bodyspirit/rights.htm>>.

This NGO, J-FLAG, indicates that homosexuality is not illegal in Jamaica, but that certain "homosexual acts" are and that "the law is predominantly enforced against gay men" (J-FLAG 2001). According to J-FLAG, "no laws target lesbians or lesbian conduct" (ibid.). An article in the *Miami Herald* stated that it is believed that the anti-sodomy laws specifically target gay men (17 Nov. 2004).

Human Rights Watch (HRW) published a *report* in November 2004 entitled "Jamaica: Hated to Death: Homophobia, Violence, and Jamaica's HIV/AIDS Epidemic", in which it recommended that the Jamaican government "[r]epeal sections 76, 77 and 79 of the Offences against the Person Act, which criminalize sex between consenting adult men and are used as justification for harassment of men who have sex with men and of HIV/AIDS educators working with them" (Nov. 2004). The report also recommended that the government "include 'sexual orientation and gender identity' and 'sex' in the anti-discrimination clause of the Charter of Rights and Freedoms proposed as amendments to the Jamaican Constitution" (HRW Nov. 2004).

An Associated Press article, reporting on the killing of gay rights activist

Brian Williamson, stated also that J-FLAG had lobbied for the repeal of "Jamaica's 140-year-old anti-sodomy law that prohibits sexual acts between men, but not women" (10 June 2004; see also IGLHRC 14 June 2004). As well, Amnesty International has indicated that the Jamaican government refused to consider the repeal of this legislation, despite recommendations to that effect by a joint committee working on the Charter of Rights' bill (2003).

The United Kingdom Home Office reported that "there is no clear evidence as to whether the authorities enforce the law prohibiting homosexual acts" (May 2003). The Office also added that "there are no official statistics or public reports of prosecution of homosexuals under Article 76" (UK Home Office May 2003).

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 additional sources consulted in researching this Information Request.

### References

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#### Additional Sources Consulted

**Oral sources** : The Jamaica Forum for Lesbians, All-Sexuals and Gays (J-FLAG) did not provide information within the time constraints of this Response.

**Internet sites, including:** OutRage![London], Rex Wockner, *The Voice* [London], World News Connection.

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