
Jamaica: LGBTI

Country of origin information to support the adjudication of asylum claims from Lesbian, Gay, Bisexual, Transgender and Intersex ('LGBTI') asylum seekers

16 July 2012

16th July 2012

Country-of-origin information to support the adjudication of asylum claims from Lesbian, Gay, Bisexual, Transgender and Intersex ('LGBTI') asylum-seekers

Jamaica

Commissioned by the Office of the United Nations High Commissioner for Refugees (UNHCR), Division of International Protection. Any views expressed in this paper are those of the authors and not necessarily those of UNHCR.

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Explanatory Note

The following non-exhaustive excerpts of COI are from 2009-2012. The COI is presented in reverse chronological order and is cited directly from the original source, including original footnotes. All sources are publicly available and a direct hyperlink has been provided for all sources. The same source of COI may be repeated under more than one issue, if relevant. Only the most recent (2011) annual report from sources has been included and multiple sources documenting the same incidents have not been included. A list of sources consulted is provided, together with a short self-description of less well known sources.

1. The legal position of LGBTI persons in the country concerned including criminalisation

Jamaica – Ministry of Justice, *The Offences Against the Person Act, 1864*

<http://www.moj.gov.jm/sites/default/files/laws/Offences%20Against%20the%20Person%20Act.pdf>

[...] *Unnatural Offences*

Article 76 (Unnatural Crime)

Whosoever shall be convicted of the abominable crime of buggery 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.

Article 79 (Outrages on Decency)

Any male person who, in public or private, commits, or is a party to the commission of, or procures or attempts to procure the commission by any male person of, any act of gross indecency with another male person, shall be guilty of a misdemeanor, and being convicted thereof shall be liable at the discretion of the court to be imprisoned for a term not exceeding 2 years, with or without hard labour. [...]

U.S. Department of State, *Country Reports on Human Rights Practices for 2011: Jamaica, 24 May 2012*

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dliid=186525>

[...] *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

The law prohibits “acts of gross indecency” (generally interpreted as any kind of physical intimacy) between persons of the same sex, in public or in private, which are punishable by 10 years in prison. There is also an “antibuggery” law that prohibits consensual same-sex sexual conduct between men, but it was not widely enforced. [...]

UN Human Rights Committee, *Consideration of reports submitted by States parties under article 40 of the Covenant: Concluding observations of the Human Rights Committee: Jamaica, 17 November 2011*

<http://www2.ohchr.org/english/bodies/hrc/hracs103.htm>

[...] *C. Principal matters of concern and recommendations*

[...] 8. While welcoming the adoption of the Charter of Fundamental Rights and Freedoms in April 2011, the Committee regrets that the right to freedom from discrimination is now expressed on the grounds of “being male or female”, failing to prohibit discrimination on grounds of sexual orientation and gender identity. The Committee is also concerned that the

State party continues to retain provisions under the Offences against the Person Act which criminalize consensual same-sex relationships, thus promoting discrimination against homosexuals.

Jamaica Forum for Lesbians, All-Sexuals, & Gays (J-FLAG)/Women for Women (Kingston, Jamaica)/Heartland Alliance for Human Needs & Human Rights/International Gay and Lesbian Human Rights Commission (IGLHRC)/AIDS-Free World (AFW)/The George Washington University Law School International Human Rights Clinic, *Human Rights Violations of Lesbian, Gay, Bisexual, and Transgender (LGBT) people in Jamaica: A Shadow Report Submitted for consideration at the 103rd Session of the Human Rights Committee, October 2011*

http://www2.ohchr.org/english/bodies/hrc/docs/ngos/LGBT_Jamaica103.pdf

[...] *II. Executive Summary*

The human rights situation of Lesbian, Gay, Bisexual, and Transgender (LGBT) people in Jamaica is dire. The Jamaican government recently amended its Constitution, adding a new Charter of Fundamental Rights and Freedoms (Charter). However, the Charter does not contain protection against discrimination on the basis of sexual orientation or gender identity.⁷ In fact the Jamaican government explicitly excluded protections on the basis of “sex” and instead granted protections against discrimination on the grounds of being male or female, thus excluding any possibility for judicial interpretation of the Charter as including protections on the basis of sexual orientation and gender identity. Jamaica retains colonial legislation criminalizing same-sex sexual conduct.⁸ A constitutional provision prevents judges from reviewing the constitutionality of any laws enacted prior to the adoption of the constitution.⁹ The only potential manner of overturning these laws is through legislative mechanism.¹⁰ However, the legislature has refused to take steps to strike down these provisions, and the Jamaican Prime Minister has explicitly stated that he does not support any attempt to repeal these laws.¹¹

[...] *III. Substantive violations*

[...] *D. Article 17 (Right to Privacy)*

[...] Although the buggery law in Jamaica does not explicitly target same-sex conduct, “buggery has become a synonym for same-sex intercourse... shift[ing] the attention of society on specific sectors of the populations instead of conduct.”⁹⁶

[...] *J. Article 23 (Family Life)*

[...] Laws that explicitly recognize rights of heterosexual relationships deny people in same-sex relationship those rights, in violation of the ICCPR. The Family Property Act of 2003 is one example of a Jamaican family law that offers differential protection of same-sex relationships and opposite-sex relationships which are similarly situated. The Act provides

⁷ The Charter of Rights (and Wrongs) – Commentary, JAMAICA GLEANER, April 5, 2011 available at <http://jamaicagleaner.com/gleaner/20110405/cleisure/cleisure3.html>.

⁸ The Offences Against the Person Act §§ 76-77, 79, available at <http://www.moj.gov.jm/laws/statutes/Offences%20Against%20the%20Person%20Act.pdf>.

⁹ Jam. Const. § 26(8).

¹⁰ This practice was recently “re-saved” in the Charter of Fundamental Rights and Freedoms. Telephone Interview with Corbin Gordon, J-FLAG (Sept. 14, 2011).

¹¹ “Walk for Tolerance” calls for end to Bigotry in Jamaica, AIDS-Free World, Apr. 8, 2010, available at <http://www.aidsfreeworld.org/Our-Issues/Homophobia/Walk-for-Tolerance-Calls-for-End-to-Bigotry-in-Jamaica.aspx>; Buggery laws firm – PM says life or 15 years for some sex-offence breaches, JAMAICA GLEANER,

Mar. 4, 2009, available at <http://jamaica-gleaner.com/gleaner/20090304/lead/lead1.html>

⁹⁶ The unnatural connexion, *supra* note 23, at 18

for the division of family property between spouses and children. The Act defines “spouse” to be: (a) a single woman who has cohabited with a single man as if she were in law his wife for a period of not less than five years; (b) a single man who has cohabited with a single woman as if he were in law her husband for a period of not less than five years, immediately preceding the institution of proceedings under this Act or the termination of cohabitation, as the case may be.¹³⁰

By limiting the definition of “spouse” in this way, the Act violates Article 23. Although the Act does not necessitate marriage for heterosexual couples to be protected under this law, it still provides no protection for non-heterosexual couples. [...]

Amnesty International, Jamaica Submission to the UN Human Rights Committee for the 103rd Session of the Human Rights Committee (17 October – 4 November 2011), 9 September 2011

<http://www.amnesty.org/en/library/asset/AMR38/004/2011/en/0fb9e79e-366a-412b-95cf-4cae963d2951/amr380042011en.pdf>

[...] *NON-DISCRIMINATION (ARTICLES 2 AND 26)*

Rights of lesbian, gay, bisexual and transgender people (Question 6)

Jamaican criminal law continues to include provisions that discriminate, both formally and in the manner in which they are applied, on grounds of sex (see articles 76, 77 and 79 of the Offences against the Person Act). Amnesty International also considers that the Jamaican government has not implemented measures adequate to protect lesbian, gay, bisexual and transgender people from the violence and other forms of discrimination with which they are targeted by reason of their sexual orientation alone.

[...] The discrimination has potentially been further entrenched by provisions included in the new Charter of Fundamental Rights and Freedoms adopted in April 2011, which replaces Chapter III of the Jamaican Constitution (sections 8-20). Section 8(3)(i) of the Constitution now recognises “the right to freedom from discrimination on the ground of ... being male or female”, and 8(3)(j)(ii) the right to “respect for and protection of private and family life, and privacy of the home”, and other rights of potential relevance to persons of same-sex sexual orientation. However, section 8(12) provides in part that: “Nothing contained in or done under the authority of any law in force immediately before the commencement of the Charter of Fundamental Rights and Freedoms (Constitutional Amendment) Act, 2011, relating to a) sexual offences ... shall be held to be inconsistent with or in contravention of the provisions of this Chapter.” This provision appears to have been specifically intended to protect articles 76, 77 and 79 of the Offences Against the Person Act against any claims that the laws, or even particular enforcement actions taken under them, violate the human rights of lesbian, gay, bisexual and transgender people. The provision therefore seems fundamentally inconsistent with the prohibition of discrimination in articles 2 and 26 of the Covenant (as well as other provisions such as the right to private and family life) together with the right to a remedy in article 2. Charter article 18 also contravenes the Covenant by discriminating against persons in same-sex relationships on the basis of their sex alone, in providing that “[n]othing contained in or done under any law in so far as it restricts (a) marriage; or (b) any other relationship in respect of which any rights and obligations similar to those pertaining to marriage are conferred upon persons as if they were husband and wife, to one man and one woman shall be regarded as being inconsistent with or in contravention of the provisions of this Chapter” and that “[n]o form of marriage or other relationship referred to in subsection (1), other than the voluntary union of one man and one woman may be contracted or legally recognized in Jamaica.” [...]

¹³⁰ The Family Property (Rights of Spouses) Act, 2003, Part I.2(1).

Jamaica Forum for Lesbians, All-Sexuals and Gays, *Happy New Year, 1 January 2011*

<http://www.jflag.org/2011/01/>

[...] J-FLAG 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. 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. [...]

Jamaica Aids Support for Life (JASL)/Jamaica Forum for Lesbians, All-sexuals, and Gays/Caribbean Vulnerable Communities Coalition (CVC)/Sex Workers Association of Jamaica (SWAJ)/Women for Women (WfW)/The Underlined Response (UR)/International Lesbian, Gay, Bisexual, Trans, and Intersex – Latin America and the Caribbean (ILGA-LAC) Coalition, *Submission by stakeholder LGBTI, Sex Workers and PLWHIV Coalition for the United Nations Universal Periodic Review of Jamaica, 3 September 2010*

http://lib.ohchr.org/HRBodies/UPR/Documents/Session9/JM/JASL_JamaicaAidsSupportforLife_JS.pdf

[...] *II. BACKGROUND AND FRAMEWORK*

[...] *B. Constitutional and legislative framework*

7. The Jamaica Constitution was passed as an order in council in 1962. Fundamental rights are captured in Chapter 3 of the constitution. Of special significance is the fact that the Constitution does not prohibit discrimination on the grounds of gender and sexual orientation. Section 26 of the Jamaican Constitution prevents any laws which predated the country's independence from being reviewed by local courts. This is regardless of how draconian and violative of human rights these laws are. Therefore, the 19th century Offences Against the Person Act and the Town and Communities Act which directly contribute to violations of the rights of LGBTI and SWs are immune from review by local courts. The legal framework is based on the British Common Law.

[...] *III PROMOTION AND PROTECTION OF HUMAN RIGHTS*

Implementation of international human rights obligations

9. Equality and Non Discrimination

Sections 76, 77 and 79 of Jamaica's 18th Century Offences Against the Person Act (OAPA) criminalize anal sex, the private sex act of consenting adult males as well as any form of same-sex male intimacy termed 'gross indecency.' The laws can be easily engineered to target and prosecute homosexuals and, more generally, all non-reproductive sexual behaviour. The laws also strengthen social stigma against homosexuals. Section 79 is particularly troublesome because of its vague definition of gross indecency. The criminalization of sodomy has the effect of amounting per se to discrimination against homosexuals' private sexual behavior for no good reason. Further, the proposed Charter of Rights and Freedoms which will amend the Jamaican Constitution makes no references to nondiscrimination on the grounds of 'sexual orientation' and 'gender identity.' These laws strengthen social stigma against homosexuals. [...]

UN Human Rights Council, *Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 (c) of the annex to Human Rights Council resolution 5/1: Jamaica, 10 August 2010*

http://lib.ohchr.org/HRBodies/UPR/Documents/Session9/JM/A_HRC_WG.6_9_JAM_3_Jamaica_eng.pdf

[...] *I. Background and framework*

[...] *C. Institutional and human rights infrastructure*

5. JSI [Joint Submission 1] indicated that Jamaica has quite a few institutional and human rights structures, but none of them specifically address issues related to lesbians, gay, bisexual, transsexual and intersex persons, as well as sex workers, and very few of them address issues related to people living with HIV/AIDS.⁹

[...] *II. Promotion and protection of human rights on the ground*

Implementation of international human rights obligations

[...] 1. Equality and non-discrimination

[...] 11. YCSRR [Youth Coalition for Sexual Reproductive Rights] stated that the legislation did not guarantee all persons equal and effective protection against discrimination, and recommended that Jamaica enact legislation which recognizes sexual orientation and gender identity as criteria for non-discrimination.¹⁸

[...] 4. Right to privacy, marriage and family life

33. JS1 [Joint Submission 1] stated that Sections 76, 77 and 79 of Jamaica's 18th Century Offences Against the Person Act criminalized anal sex, private sex acts of consenting adult males, as well as any form of same-sex male intimacy termed 'gross indecency.' These provisions can be used to target and prosecute homosexuals.⁶⁰ JS1 recommended their repeal.⁶¹

34. JSI [Joint Submission 1] asserted that Section 80 of the Offences against Persons Act and Section 4 of the Town and Communities Act granted broad latitude for arrest and detention without a warrant of arrest or an order from a magistrate, and was also used to incarcerate gay men, lesbians and sex workers.⁶² It recommended that Jamaica repeal this provision and replace it with legislation which provided strict limitations on situations in which an arrest without a warrant is permissible.⁶³

35. JS1 [Joint Submission 1] asserted that Section 23 of the Sexual Offences Act criminalized adult consensual sex work⁶⁴, and recommended that Jamaica repeal this provision.⁶⁵

[...] 36. JS1 stated that the proposed Charter of Rights and Freedoms which will amend the Jamaican Constitution, made no reference to non-discrimination on the grounds of 'sexual orientation' and 'gender identity.'⁶⁶ It recommended that Jamaica include "sexual orientation and gender identity," "sex" and "HIV/AIDS status" in this proposed amendment.⁶⁷

[...] 38. JS1 [Joint Submission 1] noted that there was no constitutional protection from employment discrimination on the grounds of sexual orientation and gender identity.⁶⁹ It also noted that sex work is criminalized, regardless of whether it is freely entered into by consenting adults.⁷⁰ [...]

⁹ JS1, p. 4, para. 8.

¹⁸ YCSRR, p. 4.

⁶⁰ JS1, p. 4, para. 9.

⁶¹ JS1, p. 8, para. 19. See also submission from AI.

⁶² JS1, p. 4, para. 10

⁶³ JS1, p. 8, para. 20

⁶⁴ JS1, p. 4, para. 10 (iii).

⁶⁵ JS1, p. 8, para. 21

⁶⁶ JS1, p. 4, para. 9.

⁶⁷ JS1, p. 8, para. 22

⁶⁹ JS1, p. 6, para. 12

⁷⁰ JS1, p. 6, para. 12

2. Evidence of the implementation of legal provisions, including police and judicial treatment and punishment of same sex activity

U.S. Department of State, *Country Reports on Human Rights Practices for 2011: Jamaica*, 24 May 2012

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dliid=186525>

[...] *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

[...] In September the group AIDS-Free World filed an anonymous petition for two gay Jamaican men challenging Jamaica's antibuggery law at the Inter-American Commission on Human Rights. The petition claims that the law effectively criminalizes gay men and their sexual orientation and gives license to public officials and private individuals alike to commit violence and abuse against lesbian, gay, bisexual, and transgender (LGBT) community members. [...]

Amnesty International, *Annual Report 2012: Jamaica*, 24 May 2012

<http://www.amnesty.org/en/region/jamaica/report-2012#section-9-7>

[...] *Rights of lesbian, gay, bisexual and transgender people*

[...] The Charter of Fundamental Rights and Freedoms failed to include the right to non-discrimination on grounds of sexual orientation and gender identity.

A petition was filed with the Inter-American Commission on Human Rights on behalf of two gay men to challenge the articles of the Offences Against the Person Act (commonly known as the "buggery" law). A UN Human Rights Committee recommendation called on the state to amend the law and to provide protection for lesbians, gay men and bisexual and transgender people, and for human rights defenders working on their behalf. [...]

Amnesty International/J-FLAG, *Fifty Years without the Liberty to Love*, 17 May 2012

<http://www.amnesty.org/en/library/asset/AMR38/001/2012/en/49565034-6213-4e45-b917-8d78ccf39a40/amr380012012en.pdf>

[...] The laws of Jamaica, have for too long now, singled out for punishment one group of people on the basis of their sexual orientation alone. These laws have been used to justify the arbitrary arrest, detention and even torture of individuals who are suspected of being gay, lesbian, bisexual or transgender person. [...]

The Toronto Star, *Porter: Jamaica's leading gay activist, Maurice Tomlinson, married a Torontonian*, 10 January 2012

<http://www.thestar.com/news/gta/article/1111965--porter-jamaica-s-leading-gay-activist-maurice-tomlinson-married-a-torontonian>

[...] Tomlinson is a leading gay activist in Jamaica. In Toronto, he married Tom Decker, a police officer-cum-pastor in the Metropolitan Community Church of Toronto.

[...] According to the law, consensual sex between two men in Jamaica will get you 10 years of imprisonment and hard labour. Any "act of gross indecency" — like kissing — will get you two years.

The law is rarely enforced. More often, police use it for extortion, Tomlinson says. But its very existence fuels the mobs, machetes in hand, since gays are legally criminals. [...]

Jamaica Forum for Lesbians, All-Sexuals, & Gays (J-FLAG)/Women for Women (Kingston, Jamaica)/Heartland Alliance for Human Needs & Human Rights/International Gay and Lesbian Human Rights Commission (IGLHRC)/AIDS-Free World (AFW)/The George Washington University Law School International Human Rights Clinic, *Human Rights Violations of Lesbian, Gay, Bisexual, and Transgender (LGBT) people in Jamaica: A Shadow Report Submitted for consideration at the 103rd Session of the Human Rights Committee, October 2011*

http://www2.ohchr.org/english/bodies/hrc/docs/ngos/LGBT_Jamaica103.pdf

[...] *III. Substantive violations*

[...] *A. Article 2(1) and Article 26 (Non-discrimination)*

[...] *4. Savings Law Clauses Prevent Challenge of Anti-LGBT Law*

Section 26(8) of the Constitution of Jamaica provides:

Nothing contained in any law in force immediately before the appointed day shall be held to be inconsistent with any of the provisions of this Chapter; and nothing done under the authority of any such law shall be held to be done in contravention of any of these provisions.⁵⁷

This practical effect of this section is that it prevents judges from reviewing the constitutionality of criminal laws that were in effect prior to Jamaica's independence in 1962, when its constitution was ratified. Such provisions, known as Savings Law Clauses, prevent LGBT individuals accused under laws criminalizing same-sex sexual conduct from seeking judicial review of the constitutionality of the statute, a remedy that is available to defendants accused of other criminal laws not implicated by the Savings Law Clauses. This differential treatment is justified by the constitutional provision. The HRC, however, has consistently held that constitutional provisions may not be invoked to justify violations of the ICCPR.⁵⁸ No steps have been taken by the government to redress this issue; rather, the Jamaican Parliament has re-saved the existing buggery laws in the new Charter of Fundamental Rights and Freedoms, through its exclusion of protections on the basis of sex (or sexual orientation).⁵⁹

[...] *E. Article 14 (Right to Fair Trial)*

[...] In Jamaica, however, judges allow their prejudice against victims of violence based on sexual orientation or gender identity to influence their decision to grant a lenient sentence to defendants in criminal proceedings. For example, defendants accused of murder are allowed to use the excuse of "self-defense" to secure lenient sentences. This defense is particularly common amongst those accused of crimes against LGBT individuals, who frequently claim self-defense against alleged sexual advances from the victim, thereby resulting in very few convictions for those who commit crimes against this group. Prince Vale, the killer of the Reverend Richard Johnson, was convicted on the charge of manslaughter and sentenced to twelve years. The jury found Vale guilty of manslaughter rather than murder, although he stabbed Reverend Johnson 25 times, based on his claim of self-defense from sexual advances.¹⁰⁴ In a similar case, Kevon Martin was charged with the murder of Steve Lindo in Lindo's own home. Over the objections of the prosecution in that case, a magistrate granted bail, indicating that he believed Martin was acting in self-defense when he stabbed Lindo with a pair of scissors, after Lindo allegedly made sexual advances towards him.¹⁰⁵

⁵⁷ Jam. Const. § 26(8).

⁵⁸ General Comment No. 31, supra note 15, ¶ 4.

⁵⁹ The Charter of Rights (and Wrongs), supra note 7.

¹⁰⁴ Priest's Killer gets 12 Years, CONGER, Feb. 13 2009, available at <http://geoconger.wordpress.com/2009/02/13/priests-killer-gets-12-years-cen-21309-p-8/>The unnatural connexion, supra note 23, at 33.

¹⁰⁵ Man before Court for Killing Alleged Homo, JAMAICAN OBSERVER, Mar. 21, 2011, available at http://www.jamaicaobserver.com/news/Man-before-court-for-killing-alleged-homo_8541388

In Jamaica, there no specific recognition of hate crimes against individuals who are targeted based on actual or perceived sexual orientation or gender identity. Furthermore, often the victim's sexual orientation or gender identity is used as a mitigating, rather than aggravating, factor in prosecution, as is demonstrated by these incidents described above.

[...] *F. Article 9 (Right to Liberty) and Article 10 (Treatment of Individuals Deprived of Their Liberty)*

[...] *I. Arbitrary Arrests and Detention by the JCF*

The government discriminates against LGBT individuals through the detention and arrest practices of the JCF. Jamaica retains numerous laws that facilitate arbitrary arrest and detention of LGBT individuals. Jamaican law provides broad discretion for police to detain people on charges that are not well-defined, such as "suspicion of buggery" and "gross indecency". The police take advantage of these laws by threatening, arresting, detaining, and prosecuting people based on their perception of an individual's gender identity or sexual orientation.¹⁰⁶ In one instance, in 2009, a Jamaican police officer who was suspected by another officer of having committed acts of "gross indecency" with another officer was detained for 12 days without charge.¹⁰⁷

Additionally, Section 80 of The Offences Against the Person Act allows police officers to arrest any person found loitering between 7 p.m. and 6 a.m. because such behavior provides the officers with good cause to believe that such a person would commit a felony. The Towns and Communities Act, Section 3(r), allows police to "arrest without warrant and based on charges made by any 'credible person'" that certain offences were committed within view of the charging party.¹⁰⁸ The vagueness of Jamaica's laws against "buggery" and "gross indecency," combined with such broad police powers to arrest and detain, disproportionately affect LGBT individuals' rights to be free from arbitrary arrest or detention.

[...] *I. Article 21 (Freedom of Assembly) and 22 (Freedom of Association)*

[...] LGBT groups cannot declare their true intent when they register as organizations under Jamaican law. For example, J-FLAG is registered with the government without having declaring its complete organizational objectives, fearing that the organization would be denied registration due to "immoral purposes" under the Companies Act.¹²³ In 2009, a member of Parliament, Ernest Smith, called for J-FLAG to be outlawed.¹²⁴ "How can you legitimise an organisation that is formed for the purpose of committing criminal offences?" said Smith.¹²⁵ Similarly, J-FLAG does not list the names of its members on its articles of incorporation for security reasons.¹²⁶ [...]

Immigration and Refugee Board of Canada, *Jamaica: How police treat complaints made by lesbian, gay, bisexual, and transgender (LGBT) people (2007 - 2010)*, 10 December 2010

http://www.irb-cisr.gc.ca:8080/RIR_RDI/RIR_RDI.aspx?id=453279&l=e

[...] *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 30Nov. 2010; J-FLAG 2 Dec. 2010). The J-FLAG Executive Director stated that LGBT people fleeing mobs can now go

¹⁰⁶ HATED TO DEATH, supra note 23, at 22.

¹⁰⁷ The unnatural connexion, supra note 23, at 40.

¹⁰⁸ HATED TO DEATH, supra note 23, at 22.

¹²³ The unnatural connexion, supra note 23, at 47.

¹²⁴ The unnatural connexion, supra note 23, at 47-48.

¹²⁵ See Outlaw J-Flag – Smith – MP says it could inspire wave of illegal groups, JAMAICA GLEANER, Feb. 17, 2009, available at <http://jamaica-gleaner.com/gleaner/20090217/lead/lead6.html>

¹²⁶ Email with Maurice Tomlinson, supra note 77.

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.). [...]

References [...]

Caribbean Vulnerable Communities (CVC), Kingston, Jamaica. 30 November 2010. Telephone interview with a representative. [...]

Jamaica Forum for Lesbian, All-Sexuals and Gays (J-FLAG). 2 December 2010. Telephone interview with the Executive Director. [...]

UN Human Rights Council, *Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 (c) of the annex to Human Rights Council resolution 5/1: Jamaica, 10 August 2010*

http://lib.ohchr.org/HRBodies/UPR/Documents/Session9/JM/A_HRC_WG.6_9_JAM_3_Jamaica_eng.pdf

[...] *II. Promotion and protection of human rights on the ground*

Implementation of international human rights obligations

[...] 4. Right to privacy, marriage and family life

[...] 34. JSI [Joint Submission 1] asserted that Section 80 of the Offences against Persons Act and Section 4 of the Town and Communities Act granted broad latitude for arrest and detention without a warrant of arrest or an order from a magistrate, and was also used to incarcerate gay men, lesbians and sex workers.⁶² It recommended that Jamaica repeal this provision and replace it with legislation which provided strict limitations on situations in which an arrest without a warrant is permissible.⁶³ [...]

Jamaica Aids Support for Life (JASL)/Jamaica Forum for Lesbians, All-sexuals, and Gays/Caribbean Vulnerable Communities Coalition (CVC)/Sex Workers Association of Jamaica (SWAJ)/Women for Women (WfW)/The Underlined Response (UR)/International Lesbian, Gay, Bisexual, Trans, and Intersex – Latin America and the Caribbean (ILGA-LAC) Coalition, *Submission by stakeholder LGBTI, Sex Workers and PLWHIV Coalition for the United Nations Universal Periodic Review of Jamaica, 3 September 2010*

http://lib.ohchr.org/HRBodies/UPR/Documents/Session9/JM/JASL_JamaicaAidsSupportforLife_JS.pdf

I. EXECUTIVE SUMMARY

[...] Jamaica has failed to ratify the full complement of international instruments that provide fundamental human rights protections to SW, LGBTI, and PLWHIV communities. It has also repeatedly failed to align its domestic legislation with human rights standards. Existing laws have also been utilized by agents of the state and private citizens to violate the rights of these persons to [sic].

[...] *III PROMOTION AND PROTECTION OF HUMAN RIGHTS*

Implementation of international human rights obligations

10. Cruel and Inhuman Treatment

i. Jamaica has been labeled as being the most dangerous place for gays in the Western Hemisphere. Jamaican security personnel as well as private citizens, acting under the provisions of s. 76, 77 and 79 of the OAPA regularly abuse, extort and harass Men who have Sex with Men (MSM) and Lesbians. Section 80 of the Offences Against the Person Act and section 4 of the Towns and 5 Communities Act, which grant broad latitude for arrest and

⁶² JS1, p. 4, para. 10.

⁶³ JS1, p. 8, para. 20

detention without warrant or an order from a magistrate are also used to incarcerate MSM, Lesbians and SW. [...]

[...] *11. Right to Privacy*

Sections 76, 77 and 79 of Jamaica's 19th century Offences Against the Person Act criminalize the private acts of consenting adult male same-sex intimacy. The police have used this provision in the past to harass males perceived to be gay and members of the public regularly invade the homes of alleged gay men. [...]

3. Societal attitude to LGBTI persons, evidence of non-state persecution and discrimination

Jamaica Forum for Lesbians, All-Sexuals and Gays (J-FLAG), *Is Jamaica a more tolerant society?*, 12 July 2012

<http://www.jflag.org/2012/07/>

[...] Admirable public statements and pockets of increased tolerance towards the LGBT community should not negate the reality of the discrimination and violence being experienced. J-FLAG receives almost daily calls, emails and walk-in reports of persons being kicked out of their homes, physically assaulted, raped and verbally abused because of who they are. Professor Ian Boxill has found that 82% of Jamaicans are homophobic. Between 2009 and 2011, there have been 186 incidents of human rights abuses reported to us with the highest number of 84 being recorded in 2011. There were 27 incidents of physical assaults with 8 of them being assaulted with a weapon.

[...] Since January 2012, there have been approximately 20 incidents with 11 of them being physical assaults. I am grateful the media has reported some of these because it removes the discussion from the realm of conjecture and provides evidence to counter the baseless assertions by those who contend otherwise. For example, in two separate incidents CVM TV^[1] showed the crowds that descended on the person who was merely going about their business and in another newscast reported that the occupants of a house were forced to flee their community because a mob came down on the house^[2].

[...] Let us also recall the story of Oshane Gordon, of New England in Lilliput, St. James, who on Tuesday, October 18, 2011, 16 year-old Oshane Gordon was chopped to death for questionable relations with a man. CVM TV^[3] news reports that he was then chopped numerous times when the men caught up with him after he attempted to escape. His mother also suffered injuries. On August 2, 2011 CVM^[4] also reported that Ricardo Morgan was chopped to death^[5] by a gang member in his community of Torrington Park. [...]

Jamaica Forum for Lesbians, All-Sexuals and Gays (J-FLAG), *Gays saddened by recent murders, call on Prime Minister to act*, 14 June 2012

<http://www.jflag.org/2012/06/>

[...] Members of the LGBT community have reported to J-FLAG that eight gay men have been murdered within the last three months bringing to the fore the reality that despite progress towards greater tolerance, the LGBT community continues to be at great risk of violence. Among the most recent attacks against the gay community was the savage killing of two young men. The men were apparently brutally murdered with blunt instruments in the vicinity of the intersection of Trafalgar Road and Lady Musgrave Road. Persons who are homeless frequented this area; among them are young gay men who have been made homeless because of the continued intolerance of homosexuality in Jamaica.

¹ <https://www.youtube.com/watch?v=zC7HSIF0IzI&feature=g-all-u> [at 3:15mins]

² <https://www.youtube.com/watch?v=fdNiD1GhjH8> [at 23:35 mins]

³ http://www.youtube.com/user/cvmtelevision#p/u/18/ZYgGDH_Sgbl [at 9:50mins]

⁴ http://www.youtube.com/watch?v=XYy-W7MgygE&context=C332c017ADOEGsToPDskI3_wrjPSdtNTq31XcxFuYf

⁵ <http://www.jamaicaobserver.com/news/Man-almost-beheaded-in-Torrington-Park>

Inter Press Service (IPS), *Caribbean: Gay Rights Slowly Coming Out of the Closet*, 8 June 2012

<http://www.ipsnews.net/2012/06/caribbean-gay-rights-slowly-coming-out-of-the-closet/>

GEORGETOWN, Guyana, Jun 8 2012 (IPS) - Over the past six months, governments in two influential Caribbean trade bloc member states – Jamaica and Guyana – have floated political test balloons on the question of whether colonial-era laws criminalising homosexuality should be amended in keeping with trends in most Western states.

[...] More than 1,000 miles away in Jamaica, widely considered one of the world's most homophobic societies, the government of Prime Minister Portia Simpson-Miller says there could be a parliamentary conscience vote in the near future as to whether or not the so-called buggery laws should be amended.

[...] A recent poll in Jamaica suggested that 61 percent of the population would have a negative opinion of government should it repeal the law, down from 82 percent last year, but some Christian fellowship groups are leading a so far relatively successful fight against any amendment to the laws. [...]

Jamaica Observer, *Full text of the Gay Manifesto! Clergyman willing to die in fight against gay lobby*, 23 May 2012

<http://www.jamaicaobserver.com/news/Full-text-of-the-gay-manifesto->

Local pastor says he is willing to take the fight to the powerful international gay lobby even if it means he loses his life.

Speaking at the Jamaica Observer's Monday Exchange, the Reverend Peter Garth, read out a section of the Gay Manifesto which he said was crafted to destroy the heterosexual family and eventually the society. Garth told reporters and editors [*sic*] that he is prepared to die in the fight against what he described as a 'very powerful' gay lobby. [...]

U.S. Department of State, *Country Reports on Human Rights Practices for 2011: Jamaica*, 24 May 2012

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dliid=186525>

[...] *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

[...] Homophobia was widespread in the country, and through the songs and the behavior of some musicians, the country's dancehall culture helped perpetuate homophobia.

The Jamaica Forum for Lesbians, All Sexuals, and Gays (J-FLAG) continued to report serious human rights abuses, including assault with deadly weapons, "corrective rape" of women accused of being lesbians, arbitrary detention, mob attacks, stabbings, harassment of gay and lesbian patients by hospital and prison staff, and targeted shootings of such persons.

[...] During the year J-FLAG received 84 reports of sexually motivated harassment or abuse, which included 71 cases of attempted or actual assault, including at least two killings, and 21 reports of displacements.

[...] J-FLAG data showed that young people, ages 18 to 29, continued to bear the brunt of violence based on sexual orientation. 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.

[...] Gay men were hesitant to report incidents against them because of fear for their physical well-being. Human rights NGOs and government entities agreed that brutality against such persons, primarily by private citizens, was widespread in the community. [...]

Amnesty International, *Annual Report 2012: Jamaica, 24 May 2012*

<http://www.amnesty.org/en/region/jamaica/report-2012#section-9-7>

[...] *Rights of lesbian, gay, bisexual and transgender people*

LGBT organizations reported scores of cases of attacks, harassment and threats against lesbians, gay men and bisexual and transgender people, which in many cases were not fully and promptly investigated. [...]

Jamaica Observer, *Group braces for costly fight against gays: Church must be passionate in fight against homosexuality, says pastor, 22 May 2012*

http://www.jamaicaobserver.com/news/Group-braces-for-costly-fight-against-gays_11518361

A group opposing homosexuality in Jamaica is adamant that it will not let up on its stance against the gay agenda and is prepared for a costly battle in order to prevent the erosion of family life and the ultimate destruction of the nation.

The group — the Jamaica Coalition for a Healthy Society (JCHS) — comprises individuals and institutions that act as watchdogs for the physical, emotional, spiritual and mental health of the society.

Vice-president of the Jamaica Association of Evangelicals Reverend Peter Garth, who is closely aligned to the Coalition, said he has already called on the evangelical community to set aside funding for this uphill struggle.

[...] According to Garth, homosexuality is a threat to family life and an issue which he will continue to speak against, regardless of the consequence. [...]

Jamaica Observer, *Tackle homosexuality in schools, says churchman, 22 May 2012*

http://www.jamaicaobserver.com/news/Tackle-homosexuality-in-schools--says-churchman_11518150

LEADING clergyman Rev Peter Garth says a special effort ought to be made to tackle the problem of homosexuality in schools.

He cited examples of irregular sexual behaviour in institutions for girls and called for an urgent investigation into "what has been happening in schools".

[...] Citing personal experience, Rev Garth stated that his efforts to counsel affected students had led to threats of lawsuits and in one case, a student broke her silence which prompted school authorities to sit up and take note.

If those girls were not helped, later on in life the gay community would say that these are all gay people. But we managed to help them through, as we have done with so many persons, and today what you find is that persons who have received help are happily married with children and are thankful that they did not continue down that road."

"I have been threatened to be taken to court because I tried to help and to counsel persons. It is a tedious role, a hard role.

"The fact is a number of parents were called to a school, and when the parents came, some of them threatened to take me to court because I stand up as chaplain and board member and all that I was trying to do was to help these girls. The long and short of it is that one of the girls broke down and said that they were not lies and then began to call other schools that actually brought them into it.

"There are others who have been attacked in the restrooms and when they make a report they are told initially that nothing can be done. When people start to send texts, that's how it

begins, because they are told to find out in schools the ones who lean that way. So it is something that we have to go after," said Rev Garth, who added that he was unaware of the extent of homosexuality in schools other than those for girls.

"I have heard about them, and people have told me so, but I have first-hand information about girls schools.

"I have also had that experience at university level and persons have come in for counselling," Rev Garth said.

Amnesty International/J-FLAG, *Fifty Years without the Liberty to Love*, 17 May 2012

<http://www.amnesty.org/en/library/asset/AMR38/001/2012/en/49565034-6213-4e45-b917-8d78ccf39a40/amr380012012en.pdf>

[...] The laws of Jamaica, have for too long now, singled out for punishment one group of people on the basis of their sexual orientation alone. These laws have been used to justify the arbitrary arrest, detention and even torture of individuals who are suspected of being gay, lesbian, bisexual or transgender person. They also send a message to the entire population that discrimination, harassment and violence against people who are, or who are perceived to be, 'different', is okay. As a result, lesbian, gay, bisexual and transgender persons face disproportionately high levels of discrimination when accessing healthcare, housing, employment and other services. The perpetrators of the vast majority of these crimes are allowed to walk free with little or no investigation occurring when these incidents are reported to the police. [...]

Jamaica Observer, *Man charged for cutting gay in face*, 14 April 2012

<http://www.jamaicaobserver.com/news/Man-charged-for-cutting-gay-in-face>

Andrade Worrell, who has been accused of unlawful wounding will have his case tried on June 27.

The complainant in the matter said Worrell accosted him one night in New Kingston and used a knife to cut him in his face. He said Worrell accused him of being a homosexual and told him he should die because of it.

In his defense, Worrell told the court that he did not know the complainant and had never seen him before he showed up at his workplace with police officers, when he was arrested.

Senior Resident Magistrate Judith Pusey then explained that this could be a case of mistaken identity after the complainant admitted that he had never seen the accused before the night he allegedly cut him, and set the case to go to trial.

C-Change, *Stigma & Discrimination Against Men Who Have Sex with Men: In Jamaica*, April 2012

<http://c-changeproject.org/sites/default/files/Stigma-MSM-Jamaica.pdf>

Executive Summary

FHI 360's Communication for Change (C-Change) project in Jamaica, through funding from USAID/PEPFAR provides technical assistance in social and behavior change communication (SBCC) to improve the quality and scale of Jamaica's response to the HIV and AIDS epidemic. In 2011 the project conducted a qualitative study to understand the stigma and discrimination experienced by men who have sex with men (MSM) in Jamaica with the aim of developing useful materials for anti-stigma and anti-homophobia SBCC and advocacy campaigns. With prevalence data showing that more than a third of the population of MSM in Jamaica are HIV infected (Jamaica National HIV/STI Programme 2010), and with the understanding that stigma and discrimination of MSM is a major barrier to accessing health

and social services that can help mitigate the growing HIV and AIDS epidemic, the study sought to inform critical interventions designed for this marginalized population.

The research characterized stigma and discrimination as actions, deeds, words, behaviors, and attitudes expressed that deny the dignity, respect and/or rights of MSM. It looked to add depth to the understanding of MSM stigma/discrimination and to supplement what was currently being documented through Jamaican quantitative surveys. To do so, this study used hearsay ethnography methodology where 23 trained MSM ethnographers aged 18 to 40 years from five Jamaican parishes went about their daily lives over a three-week period and documented observations, conversations, and personal experiences to understand the dynamics and environments that facilitate and perpetuate stigma and discrimination. Ethnographers met on a weekly basis for debriefing sessions with supervisors. These recorded one-on-one sessions, along with journal entries from ethnographer observations and conversations, were analyzed and interpreted to form the basis for study findings related to 177 documented instances of stigma and discrimination.

Study findings were consistent with previously published studies in other regions of the world showing that MSM are the target of verbal, nonverbal, and physical stigma, discrimination, and abuse where negative labels, stereotypes, insults, and physical attacks are perpetrated against MSM individuals or groups to deny them dignity, respect, and basic human rights. MSM stigma and discrimination was evident in several environments in Jamaica and consistent with a socioecological explanatory model at the institutional, community, and interpersonal levels. More specific results of the study are summarized below in bulleted fashion.

Types of stigma/discrimination

- o Verbal stigma/discrimination, enacted directly or within earshot of the target, was found to be the most common (85 percent, n=155) form observed. Labels such as batty bwoy or batty man, described as “the country’s rifle” and akin to firing a gun, were considered so acceptable that one study respondent felt he had become part of the general arsenal of derogatory words used in heated disputes.

- o Physical discrimination/harassment was less common (5 percent, n=9) with reports of stories of MSM being stabbed, shot, and attacked with machetes and sticks or a target of violent threats due to their sexuality.

- o Nonverbal stigma/discrimination was also manifested (7 percent, n=13), including derogatory looks, shunning, and avoidance.

- o Stigma/discrimination was most commonly enacted when the male was alone (76 percent, n=94), making him an easier target.

Perpetrators of stigma/discrimination

- o While both males and females enacted stigma/discrimination against MSM, the overall profile of the perpetrator was a male (73 percent, n=96) between 18–45 years of age (65 percent, n=64). Males were much more likely to make more negative and threatening comments than females.

- o While in a minority of all documented perpetrators, youth also took part (22 percent, n=22) and were particularly aggressive and offensive.

Interpersonal influence

- o When family members discovered that one of their own was a homosexual, reactions often became violent and involved ejection from the home.

- o MSM experienced stigma/discrimination within their own community, including from friends and partners.

- This was based on divisions between more effeminate vs. masculine MSM and gay vs. nongay-identified MSM.

□ This was often enacted in public places where more masculine and/or straightidentified males would divorce/separate themselves from more effeminate and/or gay-identified males or tell the more effeminate/gay-identified male to “man up” or “tone down their realness.”

Community influence

o The most common environment for stigma/discrimination at the community level was public spaces, including retail spaces, parks, public transportation, and, most commonly, “the road.”

o Stigmatizing/discriminating comments in public spaces often afforded perpetrators an audience. Sometimes said indirectly within earshot of an MSM, these comments were more directly audible to others in the area with the intent of inciting a response and making the incident the focal point of activity.

o Public spaces were often used to express negative opinions about MSM in general and included physical discrimination and harassment by motorists and pedestrians as well as police officers.

o MSM discrimination took place in the rental property market; landlords asked discriminatory questions to determine if the potential tenant was an MSM.

o Discrimination was also documented in the unwillingness of cashiers or store clerks to assist customers deemed to be homosexuals.

Institutional influence

o In educational establishments MSM were a regular target of verbal insults and shunning in dormitories/on campuses; sexual harassment from MSM in positions of power (teachers) took place.

[...] o In a church stigma/discrimination was manifested in both the doctrine preached and in the shunning/discriminatory behaviors of both congregants and religious leaders.

Impact of stigma/discrimination on MSM

Common feelings among MSM ethnographers included:

o Depression and suicidal thoughts to resolve endless emotional pain

o Fear of daily verbal abuse and physical attacks

o Frustration with having to hide oneself and not live freely

o Feelings of anger and acts of retaliation toward perpetrators

In conclusion evidence of MSM stigma/discrimination was found consistently across several environments in Jamaican society, which would imply that a pervasive social norm of attitudinal acceptance and behavioral practice exists. While at least one example in the study reported an individual who chose to speak up and de-escalate an incident, generally Jamaicans seemed to participate in, acquiesce, or passively observe MSM stigma/discrimination when it occurred. [...]

ILGA, *Death threats force leading Jamaican gay rights activist to flee country*, 27 January 2012

<http://ilga.org/ilga/en/article/nneOUsg1Ia>

Maurice Tomlinson’s safety cannot be guaranteed following escalation of death threats – will receive award in London this week.

Maurice Tomlinson, one of the most outspoken advocates for gay rights in Jamaica, has been forced to flee his home and country of birth, Jamaica, after an escalation in death threats against him.

Last August Maurice married his Canadian partner at a ceremony in Toronto but the news was deliberately kept quiet out of safety concerns. However, recent media reports in Jamaica about this event meant that Maurice’s life could not be guaranteed and police warned him they could not offer him any security from vigilantes if he remained in Jamaica. [...]

The Toronto Star, *Porter: Jamaica's leading gay activist, Maurice Tomlinson, married a Torontonian*, 10 January 2012

<http://www.thestar.com/news/gta/article/1111965--porter-jamaica-s-leading-gay-activist-maurice-tomlinson-married-a-torontonian>

[...] Tomlinson is a leading gay activist in Jamaica. In Toronto, he married Tom Decker, a police officer-cum-pastor in the Metropolitan Community Church of Toronto.

[...] "In Canada, I have a husband," he told me from their little red-brick row home in Toronto's east end. "In Jamaica, I have a good friend."

In the past year, Tomlinson has received three death threats for speaking out against the country's virulent homophobia.

He's stopped going to parties and bars and public beaches, he says.

He's right to be scared. Vigilante justice against gay men is common in Jamaica, a country where 82 per cent of people self-identified as homophobic in one recent survey. Last year, two men were chopped to death with machetes because they were gay.

[...] Even the police officer who recorded his first death-threat report "went on a tirade that he hates gays, who deserve to die," says Tomlinson.

UN Human Rights Committee, *Consideration of reports submitted by States parties under article 40 of the Covenant: Concluding observations of the Human Rights Committee: Jamaica*, 17 November 2011

<http://www2.ohchr.org/english/bodies/hrc/hrcs103.htm>

[...] C. *Principal matters of concern and recommendations*

[...] 8. [...] The Committee further regrets reports of virulent lyrics by musicians and entertainers that incite violence against homosexuals (arts. 2, 16, 26). [...]

Jamaica Forum for Lesbians, All-Sexuals and Gays (J-FLAG), *J-FLAG's International Day for Tolerance Message*, 16 November 2011

<http://www.jflag.org/2011/11/j-flag%E2%80%99s-international-day-for-tolerance-message/>

[...] Nonetheless, people continue to report incidents of harassment, violence, home evictions, and mob attacks, among others because they are lesbian, gay, bisexual, transgender. A 2011 study conducted by Prof. Ian Boxhill found that Jamaicans from all social classes, gender and social groups have strong negative views about homosexuality. The research highlights the need for greater tolerance towards the LGBT community so people can claim and enjoy their fundamental rights to life, security, well-being and dignity. [...]

The Jamaica Star, *Homosexuals and buggery law*, 11 November 2011

<http://jamaica-star.com/thestar/20111111/features/features2.html>

A group of young men who were described as homosexuals escaped a severe beating last month when some men began chasing them in downtown Kingston.

The young men had to run for their lives when their attackers told them to leave the area because they were encouraging schoolboys to be homosexuals. Women also joined in and began cursing the young men and described them as being very dangerous to the society.

One of the men commented that he overheard discussions on the radio that the British prime minister had threatened to cut off aid to countries that do not uphold human rights, including the oppression of gays and lesbians.

"I am not saying that people should abuse them, but my fear is that they have no right to indoctrinate the young schoolboys or lure them into sexual activities," one of the men said. He said he was aware that people had sexual preferences but warned that "homosexuals must keep their activities to themselves and be discreet about it".

"Yes, they have no right to come out here looking young schoolboys to spoil them," a woman said.

"I observe gay men forcing themselves on the schoolboys all the time and are even offering them money," the woman added.

"I will beat them if I see them bringing arguments to schoolboys," the man said.

"Although I am definitely against homosexuals, I am not going to break down a house and interfere with two consenting adults. Once they are in the privacy of their home, they should not be disturbed, but if I see them soliciting schoolboys on the street then they must be beaten," the man said.

The recent announcement by the British prime minister has led to groups in Jamaica calling for the government to repeal the buggery law. Some Jamaicans are opposed to the abolition and have pointed out that even if the Government is minded to repeal it, there should be no accommodation for same-sex marriages or unions.[...]

Jamaica Forum for Lesbians, All-Sexuals, & Gays (J-FLAG)/Women for Women (Kingston, Jamaica)/Heartland Alliance for Human Needs & Human Rights/International Gay and Lesbian Human Rights Commission (IGLHRC)/AIDS-Free World (AFW)/The George Washington University Law School International Human Rights Clinic, *Human Rights Violations of Lesbian, Gay, Bisexual, and Transgender (LGBT) people in Jamaica: A Shadow Report Submitted for consideration at the 103rd Session of the Human Rights Committee, October 2011*

http://www2.ohchr.org/english/bodies/hrc/docs/ngos/LGBT_Jamaica103.pdf

[...] *III. Substantive violations*

[...] *A. Article 2(1) and Article 26 (Non-discrimination)*

[...] *1. Government Language of Intolerance and Its Consequences*

[...] Such open dissemination of politicians' homophobic language fosters a culture in which prejudice against LGBT individuals is not only accepted but encouraged, which in turn leads to open violence and discrimination by the civilian population. For example, in 2010, a man named Kenneth Parchment³⁶ was forced out of his sister's house by men from the community who believed him to be gay. These men, including Parchment's own 16-year-old cousin, beat him with boards, stones, and batons.³⁷ Incidents such as this one reflect a culture of homophobia that is embedded in Jamaica to such an extent that violent actions towards persons perceived to be gay go unnoticed by local authorities. Common acceptance of public hatred towards LGBT individuals places them in an extremely vulnerable position, in which their status deprives them of significant rights within the Jamaican community. Persecution of LGBT individuals may persist even in death: in April 2007, a mob attacked a church during the burial of a man who was alleged to be gay, because protesters objected to his internment in the church cemetery.³⁸ The reverend conducting the service stated, "we were conducting the funeral just like any other funeral. Every human being has a right to his or her

³⁶ What Jamaica wants, supra note 28; Buggery laws firm, supra note 11.

³⁷ Michael Lee, Gay Rumours Left me Homeless, JAMAICA STAR ONLINE, July 16, 2010, available at <http://jamaicastar.com/thestar/20100716/news/news5.html>.

³⁸ Byron McDaniel, Burial Riot – Church Stoned at Alleged Homo's Funeral – Pastor, Mourners Duck for Cover, THE JAMAICA STAR ONLINE, April 10, 2010, available at <http://jamaicastar.com/thestar/20070410/news/news1.html>

own lifestyle, and I am disappointed with the behaviour of the people...If we were committing the body of an adulterer, murderer, rapist or child molester there would be no problem.”⁵⁹ Unfortunately, intolerance and violent acts such as these perpetuated by intolerance of LGBT individuals are commonplace throughout Jamaica, and are exacerbated by government complacency and frequent encouragement of this intolerance.

[...] *III. Substantive violations*

[...] *B. Article 6 (Right to Life) and Article 7 (Freedom from Cruel, Inhuman, Degrading Treatment)*

[...] J-FLAG documented that in recent years, attacks against LGBT people increased yearly: There were 27 instances of homophobic incidents in 2009, 51 incidents in 2010, and 62 incidents between January and August 2011.⁶⁴ The mere frequency and magnitude of these crimes illustrate the failure on the part of the state to protect LGBT individuals’ rights to life and physical integrity.

Violent crimes against LGBT individuals are gruesome and frequent. Some of the most striking incidences of these crimes include:

- In June 2004, Brian Williamson, the founder of J-FLAG, was found butchered in his home.⁶⁵
- Also in June 2004, Victor Jarrett was hacked to death in a mob attack triggered by police officers when they publicly accused him of being a “batty man.”⁶⁶
- In November 2005, Steve Harvey, another well-known gay activist, was abducted by a group of assailants and found dead several hours later shot in the back and head.⁶⁷
- In April 2006, rioting students at the University of the West Indies attacked a student they believed to be gay.⁶⁸
- In 2007, after a mob of over 2000 people stoned a group of gay men including gay-rights activist Gareth Williams, police failed to take action against members of the mob and in fact abused members of the victimized group while attempting to isolate them from the mob.⁶⁹
- In November 2008, Reverend Richard Johnson was stabbed 25 times in the rectory of St. Jude’s Anglican Church in Kingston because he was believed to be gay.⁷⁰
- In September 2009, the British honorary consul, John Terry, was murdered. The killer left a note on his body describing him as a “batty man.”⁷¹
- In February 2011, Gay rights activist Maurice Tomlinson received a death threat.⁷²“The Inter-American Commission asked the State of Jamaica to adopt, in agreement with the

³⁹ *Id*

⁶⁴ Interview with Corbin Gordon, *supra* note 10.

⁶⁵ See Andrew Clunis, OUTRAGED! – British Gays use Brian Williamson’s Death to Push Agenda, JAMAICA GLEANER, June 13, 2004, available at <http://jamaica-gleaner.com/gleaner/20040613/news/news1.html> see also HATED TO DEATH, *supra* note 22, at 1.

⁶⁶ Carol J. Williams, In Jamaica, Fatal Attacks Push Homophobia into the Open, THE BOSTON GLOBE, Jan. 16, 2005, available at http://www.boston.com/news/world/articles/2005/01/16/in_jamaica_fatal_attacks_push_homophobia_into_the_open/

⁶⁷ Gary Younge, Jamaican Gay Activist Shot Dead after being Abducted, THE GUARDIAN, Dec. 6, 2005, available at <http://www.guardian.co.uk/world/2005/dec/06/gayrights.garyyounge> Jamaica: HIV/AIDS Activist Steve Harvey Mourned, HUMAN RIGHTS WATCH, Nov. 30, 2005, available at <http://www.hrw.org/news/2005/11/30/jamaica-hiv-aids-activist-steve-harvey-mourned>

⁶⁸ The , *supra* note 23, at 34.

⁶⁹ *Id.*

⁷⁰ Rev. Irene Monroe, Jamaica’s Gay Underground Christians, CHARGE.ORG, Mar. 17, 2010, available at <http://news.change.org/stories/jamaicas-gay-underground-christians>

⁷¹ Steve Bird & Tim Reid, British Honorary Consul, John Terry, Murdered in Jamaica, THE TIMES, Sept. 11, 2009, available at http://www.timesonline.co.uk/tol/news/world/us_and_america/article6829343.ece

beneficiary, the necessary measures to guarantee his life and physical integrity, and to inform the IACHR of the steps taken to investigate the facts that led to the adoption of these precautionary measures.”⁷³ The Jamaican government has yet to contact Mr. Tomlinson and has failed to bring the perpetrator to justice.⁷⁴

[...] *C. Article 3 (Equality between Men and Women)*

[...] The problem of domestic violence is exacerbated for lesbian women, who not only face societal discrimination but experience violence and discrimination within their own families. Women for Women, the primary advocacy group for lesbians in Jamaica, has documented increasing numbers of domestic violence and rape of lesbian women, but also that few women feel they can rely on the police for fear of further victimization from the police themselves.⁸⁴

Gender discrimination also disproportionately affects transgender individuals. In December 2010, the police discovered the dead body of a transgender individual hidden behind a building. The victim was chopped to death.⁸⁵ Recently, a group of men raped a thirteen-year-old transgender individual in Kingston.⁸⁶ News coverage of these incidents did not reveal that any police investigation into these deaths had occurred, and Jamaican activists are not aware of any action taken to seek accountability for these murders of transgender individuals.

In addition to enduring violence and discrimination on the basis of their gender⁸⁷, lesbian women in Jamaica are also at risk of persecution because of their sexual orientation. J-FLAG recorded six cases of corrective rape in 2006, in which men raped women in an attempt to “cure” their sexual preference.⁸⁸ In one case, a seventeen-year-old girl was kidnapped and held in captivity by her mother and pastor for eighteen days. During that time, multiple men repeatedly raped “in the attempt to ‘make her take man’ and ‘live as God instructed.’”⁸⁹ In 2008, four cases of “corrective rapes” were reported to Women for Women, and another three in 2010, including one that tragically ended in murder.⁹⁰ Although J-FLAG tracks the reports of incidents such as these⁹¹, these numbers are likely under-representative of the actual problem of corrective rapes because women do not reveal these attacks to anyone for fear of further attacks from their families, upon whom they may be financially dependent. Furthermore, in many cases women refuse to report the attacks to the police for fear of retribution from the police themselves because of their sexual identity.⁹² In summary, lesbian women have nowhere to turn to seek accountability for or protection from these attacks, since the government of Jamaica refuses to provide them with protection from these abuses.

[...] *D. Article 17 (Right to Privacy)*

⁷² The email was sent in response to Maurice Tomlinson’s letter to the editor supra note 75, and stated, “listen battyman we in jamaica wont endorse r accept you faggots no matter what the fuck u guys try 2 say r do.....get that through ur thick skulls!!!!!!!!!!!!!! we have different culture n upbringing fr north americans or whomever else.....you should consider moving sumwhere there.....in the meantime shut the fuck up r you will fucking die!!!!!!!!!!” Wockner, supra note 76.

⁷³ Inter-American Commission on Human Rights [IACHR], Precautionary Measures No. 80/11, Maurice Tomlinson, Jamaica, Mar. 21, 2011, available at <http://www.cidh.org/medidas/2011.eng.htm>

⁷⁴ Email conversation with Maurice Tomlinson, April 24, 2011, on file with authors.

⁸⁴ The unnatural connexion, supra note 23, at 35

⁸⁵ Kimmo Matthews, Cross Dresser’s Body found in Half-Way-Tree, JAMAICA OBSERVER, Dec. 3, 2010, available at <http://www.jamaicaobserver.com/Woman-s-body-found-in-Half-Way-Tree>

⁸⁶ Telephone Interview with Corbin Gordon, J-FLAG (Sept. 14, 2011)

⁸⁷ Amnesty International, SEXUAL VIOLENCE AGAINST WOMEN AND GIRLS IN JAMAICA: “JUST A LITTLE SEX”, June 21 2006, available at <http://www.amnesty.org/en/library/info/AMR38/002/2006>

⁸⁸ Nelson, supra note 23.

⁸⁹ The unnatural connexion, supra note 19, at 35.

⁹⁰ *Id*

⁹¹ Gordon, supra note 79,

⁹² Nelson, supra note 23

[...] Finally, the widespread attacks that LGBT individuals in Jamaica have suffered in their homes, as described in Section B of this report, also constitute a violation of the Article 17 right to privacy. The persecution and harassment that LGBTI individuals suffer on a regular basis may frequently occur in public places, but also LGBT individuals are not free from it in the privacy of their own homes. For example, Women for Women describes that one of their members who is a lesbian was forced to leave her neighborhood due to the constant harassment, cat-calls and threats that she suffered when she would walk to and from her home with her partner.⁹⁹

[...] *G. Article 18 (Freedom of Religion)*

[...] In Jamaica, LGBT faith groups exist, although they largely are forced to operate underground due to societal persecution and condemnation by faith leaders. Research studies regarding the role of religion in Jamaican culture reflect that attitudes toward sexuality are strongly influenced by religion. In a national survey conducted in 2010 by noted researcher Professor Ian Boxill, the strongest objections to homosexuality were raised on religious grounds and the need to “protect Jamaican society from changing its cultural practices for the worse.” The survey showed that 81.8% of respondents attend church and 82% deemed male homosexuality to be morally wrong, as opposed to 3.6% who did not see it as a moral issue. Of significance is the fact that 30% agreed that someone can be homosexual and also be a Christian, but 56% believe that it is not possible to be a homosexual and be religious at the same time. However, a significant minority (43%) did not share this view.¹¹³ Religious leaders are outspoken about their criticism of LGBT people and their conviction that Christians should unify against them. For example, Wellesley A. Blair, Administrative Bishop for the New Testament Church of God, told the Jamaica Gleaner in February 2007 that he believed “[s]odomites who are caught should be beaten. ‘I believe that when the court orders lashing, some of those Sodomites who are caught and some of the criminals, should be brought in the square of Half-Way Tree and be lashed and send them home.’” He also stated that he planned to “influence the Christian community to target them (politicians) in the next election.”¹¹⁴ In addition to the persecution that LGBT faith groups suffer from other religious leaders who believe that these groups are illegitimate, these groups often fear seeking the tax-exempt status enjoyed by other religious groups for fear of bringing attention to themselves.¹¹⁵ As a result, LGBT religious groups do not receive same benefits that other religious groups receive.

[...] *H. Article 19 (Freedom of Expression) and 20(2) (Incitement to Violence)*

[...] Despite this directive, dancehall music that incites violence against LGBT individuals remains a problem in Jamaica. First, popular dancehall and reggae shows are unregulated, and artists are free to incite violence against LGBT individuals in these public spaces.¹²¹ Second, these songs are also widely accessible on the internet. Lastly, most artists produce edited versions of their songs for airplay, and while the words in the edited versions are less graphically violent, the message remains of hatred towards LGBT individuals remains the same.¹²²

[...] *I. Article 21 (Freedom of Assembly) and 22 (Freedom of Association)*

⁹⁹ Interview with Women for Women, with the GW Clinic, Monday, September 19, 2011, on file with authors.

¹¹³ Homophobia Linked to Education and Socio-Economic Status, Jamaica Forum for Lesbians, All-Sexuals and Gays, May 17, 2011, available at <http://www.jflag.org/2011/05/>

¹¹⁴ See Clarendon Spaldings, The wrath of a bishop, JAMAICA GLEANER, Feb. 28, 2007, available at <http://jamaicagleaner.com/gleaner/20070228/news/news2.html>

¹¹⁵ Monroe, supra note 73; see also The unnatural connexion, supra note 23, at 43.

¹²¹ Email with Maurice Tomlinson, supra note 77.

¹²² Email discussion with Corbin Gordon, Apr. 25, 2011, on file with authors.

[...] Frequent violence against people in Jamaica who are publically associated with gay-rights organizations legitimates these fears. Multiple people who have been associated with LGBT rights have been targeted, including Brian Williamson, the co-founder of J-FLAG, and Steve Harvey, who worked with sex workers and LGBT individuals to prevent the spread of HIV/AIDS. Both these activists were murdered violently in response to their advocacy for LGBT individuals.¹²⁷

[...] *K. Article 24 (Special Protection of Children)*

[...] Prejudicial treatment and bullying of LGBT youth at school and university settings is also increasingly common. J-FLAG recently received a report of bullying targeted at a gay youth in December 2010 at Mico University College in Kingston. During a private conversation, a third-year student was tricked into admitting that he was gay by another student. The other student recorded the conversation and broadcast it over the school's PA system. The student was forced to leave the school.¹³⁴ In another example of violence against LGBT youth in schools, in 2004, an eleventh-grader was nearly killed at Doonan Park Technical High School when the boy's "father learned his son was gay and invited a group to lynch the boy at his school."¹³⁵ According to news reports, as soon as his son's classmates began beating his son, the father drove away from the school to allow them to continue the attack.

[...] A group that works with youth in the Caribbean indicated in a recent report that there exist numerous challenges in working with LGBT children, who are more at risk than their peers to acquire sexually-transmitted diseases. For example, "homophobia and transphobia makes it difficult for outreach workers to identify and reach LGBT youth," making it difficult to educate LGBT youth on specific risks they may face and to support them in challenges they may face as a result of their sexual orientation.¹³⁷ [...]

¹²⁷ Nelson, *supra* note 23.

¹³⁴ Telephone Interview with Corbin Gordon, J-FLAG (Sept. 14, 2011).

¹³⁵ Tim Padgett, *The Most Homophobic Place on Earth?*, TIME, Apr. 12, 2006, available at <http://www.time.com/time/world/article/0,8599,1182991,00.html>

¹³⁷ *Advocates for Youth, Overlooked and at Risk*, p. 3, 2010, available at http://www.advocatesforyouth.org/storage/advfy/documents/overlooked_lgbt_youth_caribbean.pdf

Hear the Children's Cry/Independent Jamaican Council of Human Rights/Jamaica Forum of Lesbians, All-Sexuals and Gays (J-FLAG)/Jamaican Community of HIV Positive Women/Jamaicans for Justice (JFJ)/Mensana/Stand up for Jamaica/Women's Resource and Outreach Centre (WROC), *Jamaica: Civil Society Report on the Implementation of the ICCPR, 20 September 2011*

http://www2.ohchr.org/english/bodies/hrc/docs/ngos/JJSR_Jamaica_HRC103_Annex2.pdf

[...] *Annex A: Further Information & Case Studies on List of Issues Non-Discrimination, and Equal Rights of Men and Women (Art. 2(1), 3, and 26)*

[...] *Question 6:*

Family, friends, neighbours, landlords, healthcare workers and even the police perpetrate discrimination against LGBTI persons:

(a) On April 7, 2010, four gay men who participated in an HIV/AIDS Walk for Tolerance were forced to flee their communities after the media branded it as a gay march. One man fled after his brother held him at gunpoint and another two did so after their homes were stoned. There have also been numerous home invasions, which have left a number of homosexuals homeless.

[...] (c) There have also been numerous reports of bullying of alleged gay students at secondary schools and at wellknown teacher training institutions. For example, two incidents occurred at the Mico University College between December 2010 and January 2011.¹⁰⁷ In the first instance, the student had to flee for his life after a recording of him in an intimate conversation with a student posing as gay was broadcasted throughout the school. The other student had to remain locked in his dorm room on the advice of the school's administration when some vigilante classmates made threats on his life. The lack of response by these institutions raises a concern as to the impact it will have on Jamaica as these newly trained teachers out in the society.

[...] As per paragraph 43, lesbians are regularly subjected to human rights violations. The following are just two examples of the extreme violence experienced by lesbians:

(a) For example, in September 2010, there were two reported cases [*sic*] of such gender-based sexual violence. In one instance, four men raped a woman and used a knife to cut her so she could better 'tek man'. None of these rapes used condoms. Unfortunately, as a result of Jamaica's "poor record in dealing with sexual violence against women and children [...] and the prejudicial/discriminatory way in which it deals with sexual violence, which is the second leading cause of injury to Jamaican women,"¹⁰⁹ lesbians either do not report or if they do, they hide the motive for, and detail of, the assault

(b) Vanessa Campbell was raped and murdered on November 19, 2010. Both her brother and mother have established the motive as being her sexuality based on her own any accounts of verbal harassment she received prior to the incident. The man identified for the murder has been arrested and charged [...]

Jamaica Forum for Lesbians, All-Sexuals and Gays (J-FLAG), *Homophobic Violence on the Increase in Jamaica, 7 July 2011*

<http://www.iglhrc.org/cgi-bin/iowa/article/takeaction/partners/1419.html>

The lack of public policies prohibiting discrimination on the basis of sexual orientation and gender identity in Jamaica has resulted in an increase in homophobic violence in the first half of this year, according to documentation by the Jamaica Forum for Lesbians, All-Sexuals and Gays (J-FLAG).

¹⁰⁷ <http://www.jamaica-star.com/thestar/20101223/news/news1.html>

¹⁰⁹ Planning Institute of Jamaica. (2009), p.116

As a result, between January and June, the Inter-American Commission on Human Rights (IACHR) issued two requests for precautionary measures to protect Jamaican citizens threatened by such violence. Yet, homophobic violence isn't new to Jamaica. The IACHR also expressed concern about such violence in 2008 after its visit to the country.

[...] Jamaicans continue to experience human rights violations at the hands of their family, friends, neighbours, landlord, police or mobs because of their sexual orientation. Since January 2011, fifty-one incidents, including mob attacks, physical abuse, home evictions, and discrimination were reported with forty-seven of these meted out to males. Similar to national statistics on crime and violence, young people, 18 to 29 years, continue to be the main victims of violence based on sexual orientation. Young people made more than 30 of the 51 reports.

“On average, J-FLAG has documented between 30 and 40 cases annually over the past three years, but we have seen an increase in the number of reports which shows that homophobia based harassment and discrimination continues because of the lack of protection of the human rights of homosexuals living in Jamaica by the state,” says Dane Lewis, Executive Director at J-FLAG. [...]

LGBT Asylum News, *In Jamaica, Swedish film crew making LGBT documentary attacked, harassed by police*, 1 June 2011

<http://madikazemi.blogspot.co.uk/2011/06/in-jamaica-swedish-film-crew-making.html>

Jamaican LGBT leader Maurice Tomlinson reports that a Swedish film crew that visited Jamaica recently to record a documentary on the island's human rights situation "got a first-hand look at our notorious homophobia and police excesses."

On Saturday, May 21, the crew went to an inner-city community in Kingston to interview two gay men. The vehicle in which the men and the crew were travelling was set upon by an angry mob armed with machetes and other weapons demanding that the gays leave the area. No one was hurt, and the crew managed to capture the faces of some of their attackers on film. When the crew tried to record some images in downtown Kingston on Wednesday, May 25, a policeman confiscated their equipment on the grounds that they did not have a permit. At the police station, colleagues convinced the confiscating cop to return the crew's camera equipment. The cop also apologised and advised that he was only trying to prevent foreign crews portraying Jamaica in a negative light. [...]

The Jamaica Star, *Mob attacks 'Loving Men'*, 14 March 2011

<http://jamaica-star.com/thestar/20110314/news/news1.html>

Police had to rescue two men from an angry mob in Mandeville, Manchester, on Saturday, after they were seen in a section of the town, walking, holding hands and hugging.

Information reaching THE STAR is that the incident took place about 7 p.m. after both men were seen caressing each other in a popular fast-food restaurant. Their public show of affection reportedly garnered the attention of a mob.

[...] THE STAR understands that after the men left a fast-food outlet, and were walking down a road they were observed acting effeminately and showing affection which disgusted a crowd which had gathered to verbally assault them.

[...] It is understood that the men reportedly stopped and began arguing with the crowd, which then became hostile and began running towards them while hurling obstacles.

The men reportedly ran towards another food outlet in the area where they sought refuge from the crowd which had grown in numbers. The employees of the bakery had to act swiftly

to close the doors of the establishment as the crowd converged and surrounded the building demanding the release of the men.

The Mandeville police were alerted and came to the assistance of the men, who were later taken to the police station for protection.

However, the crowd, apparently not satisfied, followed the police to the station and urged them to release the men in their custody for 'punishment'.

The police, it is understood, relocated the men to the back of the station where they remained until the crowd had dispersed.

Three police confirmed the incident and explained that no one was charged following the attack on the men. [...]

UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Jamaica, 4 January 2011*

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/100/90/PDF/G1110090.pdf?OpenElement>

[...] I. Summary of the proceedings of the review process

[...] A. Presentation by the State under review

[...] 32. 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; and that the Government was committed to ensuring that all citizens were protected from violence. [...]

Jamaica Forum for Lesbians, All-Sexuals and Gays (J-FLAG), *Happy New Year, 1 January 2011*

<http://www.jflag.org/2011/01/>

[...] J-FLAG 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. 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.

This year, 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. For example, there were two mob invasions of the homes of men suspected to be gay in February. On separate occasions, two females were raped by men who attempted to sexually cleanse them and make them heterosexual women. Additionally, two gay men were violently murdered including a cross-dresser known as "Charm" in December, because they identify as gay.

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'. [...]

Department of Sociology, Psychology and Social Work Uwi, Mona, *National Survey of Attitudes and Perceptions of Jamaicans towards same sex relationships, January 2011*

http://www.jflag.org/wp-content/uploads/2011/05/Final_ATTITUDES-AND-PERCEPTIONS-OF-JAMAICANS-TOWARDS-SAME-SEX-RELATIONSHIPS.pdf

EXECUTIVE SUMMARY

This report examines Jamaican views towards homosexuality and attempts to discover what are some possible determinants of attitudes towards homosexuality in the country. This study

uses a mixed method approach driven largely by a nation poll of attitudes and perceptions. For the survey, a nationally representative sample of 1007 adults from 231 communities across Jamaica was interviewed between October and November 2010.

[...] The survey was supported by a qualitative study based on five focus groups conducted across the country between October 2010 and January 2011. Following is a summary of findings from the study.

[...] 5. Most Jamaicans (56%) believe that it is not possible to be a homosexual and be religious at the same time. However, it should be noted that a significant minority (43%) does not share this view, which perhaps suggest that the public is somewhat conflicted on the issue of homosexuality and religiosity.

6. When asked if one can be homosexual and also be a Christian, only 30% agreed with the statement.

7. Most respondents agreed that society was more accepting of female homosexuality (67.1%) and that this was the case because women can do things men cannot do whilst suffering few negative consequences. Also, female homosexuality is rarely considered to be bad or wrong (13%).

8. Most respondents (85.2%) did not think that homosexuality among consenting adults should be legal in Jamaica.

9. In relation to male homosexuality, 82.2% deemed it to be morally wrong as opposed to 3.6% who did not see it as a moral issue. 6.2% of those polled had no opinion on the matter. As for female homosexuality, the results were similar as 75.2% felt that homosexuality was morally wrong.

10. Two homophobia scales indicate that Jamaicans have strong negative views of homosexuality, thereby ranking high on these scales.

11. Negative views of homosexuality tended to be greatest among males, nonuniversity educated persons, those who listened mostly to dancehall and reggae music and those in lower socio-economic groups.

12. In general, the most important finding from this study is that strong negative perceptions and attitudes towards homosexuality cut across all social classes, gender and social groups in Jamaica. [...]

Immigration and Refugee Board of Canada, *Jamaica: How police treat complaints made by lesbian, gay, bisexual, and transgender (LGBT) people (2007 - 2010)*, 10 December 2010

http://www.irb-cisr.gc.ca:8080/RIR_RDI/RIR_RDI.aspx?id=453279&l=e

[...] *Police reaction to incidents of violence against LGBT people*

[...] 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.

References [...]

Amnesty International (AI). 19 April 2010. *Jamaica. Submission to the UN Universal Periodic Review. Ninth Session of the UPR Working Group of the Human Rights Council. November-December 2010.* (AMR 38/001/2010) <<http://www.amnesty.org/en/library/asset/AMR38/001/2010/en/6969d78c-036a-48d9-a4b1-3bd618f99352/amr380012010en.pdf>> [Accessed 22 Nov. 2010]

Caribbean Vulnerable Communities (CVC), Kingston, Jamaica. 30 November 2010. Telephone interview with a representative. [...]

Human Rights Watch. 31 January 2008. "Jamaica: Shield Gays from Mob Attacks."

<http://www.hrw.org/en/news/2008/01/31/jamaica-shield-gays-mob-attacks?print>[Accessed 22 Nov. 2010]

International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA). 20 February 2007. "Police Batter Victim of Homophobic Mob." <<http://ilga.org/ilga/en/article/1031>> [Accessed 30 Nov. 2010] [...]

Jamaica Aids Support for Life (JASL), Jamaica Forum for Lesbians, All-Sexuals and Gays (J-FLAG), Caribbean Vulnerable Communities Coalition (CVC), Sex Workers Association of Jamaica (SWAJ), Women for Women (WfW), The Underlined Response (UR), and International Lesbian, Gay, Bisexual, Trans, and Intersex--Latin America and the Caribbean (ILGA-LAC). 2010. *Submission by Stakeholder LGBTI, Sex Workers and PLWHIV Coalition for the Universal Periodic Review of Jamaica. UN Human Rights Council Ninth Session (November 2010).* (UN Office of the High Commissioner for Human Rights) http://lib.ohchr.org/HRBodies/UPR/Documents/Session9/JM/JASL_JamaicaAidsSupportforLife_JS.pdf [Accessed 30 Nov. 2010]

Jamaica Forum for Lesbian, All-Sexuals and Gays (J-FLAG). 2 December 2010. Telephone interview with the Executive Director. [...]

New Internationalist [Oxford, UK]. 1 May 2008. "Jamaica Constabulary Force: Taking Aim at the Rich and Powerful." (Factiva) [...]

Pink News, Jamaican gay rights activist found stabbed to death, 6 December 2010

<http://www.pinknews.co.uk/2010/12/06/jamaican-gay-rights-activist-found-stabbed-to-death/>

A member of a gay rights organisation has been found stabbed to death in the Jamaican capital of Kingston.

The Jamaica Forum for Lesbians, All-Sexuals and Gays (J-FLAG) said that the 26-year-old's body was found behind an insurance company building on Friday.

He has not been named and the group said his family had not yet been informed, Associated Press reports.

J-FLAG said in a statement: "While the reason behind his death is not yet known, allegations are that his life had been under threat for some time."

The group called for a full investigation into his death.

Police have not yet commented.

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.

Jamaica Forum for Lesbians, All-Sexuals and Gays (J-FLAG), *J-FLAG saddened by untimely passing of community member*, 5 December 2010

<http://www.jflag.org/2010/12/>

J-FLAG is saddened by the murder of a member of the Lesbian, Gay, Bi-sexual and Transgender (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.

This unfortunate event highlights the serious safety and security challenge that confronts the LGBT community in Jamaica, as well as those who engage in sex work. While the reason behind his death is not yet known, allegations are that his life had been under threat for some time. J-FLAG condemns the rampant breach of rights meted out to lesbian, gay, bisexual and transgender (LGBT) Jamaicans, who are often denied their human rights to life, privacy, respect and dignity because of stigma, discrimination and violence. [...]

Gay Lesbian Bisexual Transgender & Queer Jamaica, *In Jamaica, one popular radio host regularly pushes lesbophobia*, 5 December 2010

<http://madikazemi.blogspot.co.uk/2010/12/in-jamaica-one-popular-radio-host.html>

In recent months there has been a sharp rise in serious concerns by members of the lesbian and bisexual women communities about the path being taken by radio personality Ragashanti and his tambourine crew on his new home at Nationwide Radio. This is coming on the back drop of several unconfirmed reports of several cases of rape and sexual abuse including corrective type incidences across the country with two suspected murders. Please bear in mind the incidents have not been confirmed to be outrightly lesbophobic but the word on the street just by observation suggests people are talking about lesbian lifestyles more disparagingly in a long time. [...]

Jamaica Observer, *Cross dresser's body found in Half-Way-Tree*, 3 December 2010

<http://www.jamaicaobserver.com/news/Woman-s-body-found-in-Half-Way-Tree>

Police this afternoon found the body of a cross dresser behind the National Solid Life and General Insurance Branch Limited on Half-Way-Tree Road in St Andrew.

Cops say the body was found at the back of the building with what is believed to be chop wounds.

The cops initially thought the victim was a woman, as the man was dressed in women's clothes. [...]

Gay Lesbian Bisexual Transgender & Queer Jamaica, *'Corrective rape' of lesbians in Jamaica*, 9 October 2010

<http://madikazemi.blogspot.co.uk/2010/10/corrective-rape-of-lesbians-in-jamaica.html>

[...] The last main case that came to my attention earlier this year one of the lesbian two sisters (from one case) who were abused I communicate with one a regular basis and she is upbeat as ever and in fact she has gone into advocacy mode so to speak as a one woman movement sharing her concerns for GLBTQ issues in general and assisting other sisters and

brothers of homophobic violence in what small way she can, the other sister as I was informed is now coming around as I had concerns about her slow return to normality as she reluctantly sought to find the relevant counseling services at the time following the dastardly acts she was forced to perform on the three bastards. One of the three perpetrators has since been tried and sentenced to 29 years imprisonment as he had previous convictions of sexual abuse over his head while the others are out there doing god knows what to women.

[...] *New cases*

I have been able to confirm one that occurred in east Kingston only last Wednesday April 15, 2010 where a twenty year old bisexual sister was lured into a trap deliberately set by her attackers who informed her that she needs to straighten out herself and “stop mek woman fuck yuh” (stop allowing women to fuck you) as one or more of the eight men who savagely took turns raping her repeatedly advised her.

[...] The other two incidents I am tracking and hope to get sufficient details to provide a formal report allegedly occurred in Kingston in March and Clarendon in April respectively details are sketchy for the former but speculation is that the sole victim was attacked while on her way home from her daily activities by three men in her area one of whom has publicly expressed sexual interest in her by making advances but she refused, this is similar to a case that is documented of a student who returned to Jamaica on vacation from the states in 2008 who also suffered a similar fate.

The second case in rural Jamaica happened this month as well and it was a family member who made me aware of the incident as she wants the matter hushed. Her brother by the way is straight. I doubt I will be able to provide anymore information on this one but for as much as the numbers this will prove that the abuse of women continues. [...]

[Author of this article is Mr. H who set up the blog and network page Gay Lesbian Bisexual Transgender & Queer Jamaica]

Internal Gay & Lesbian Human Rights Commission, J-FLAG and Activists Call for End to Violence Against LGBT Community, 24 September 2010

<http://www.iglhrc.org/cgi-bin/iowa/article/takeaction/partners/1215.html>

Despite calls for tolerance by our religious, political and social leaders, attacks against Jamaica's Lesbian, Gay, Bisexual and Transgender population continue unabated. The latest such attacks occurred this September when knife wielding thugs carried out 'corrective rapes' of two lesbians in separate incidents within days of each other. [...]

The Jamaica Star, Mob attacks men for 'funny' dressing, 7 September 2010

<http://jamaica-star.com/thestar/20100907/news/news1.html>

Police yesterday had to save a group of men from an angry mob following a motor vehicle collision which resulted in the death of a senior citizen and the injury of another man on the Old Harbour main road in St Catherine.

The men, who exited their vehicle after the collision, were attacked after they began argument with residents who accused them of being homosexuals because of their attire and effeminate behaviour.

The face-off forced the police, who were quickly on the scene, to rush the men to the Old Harbour Police Station, where a crowd later converged asking for them to be released. "Di bwoy den inna some tight pants like gloves and a fresh demself, and a trace off the people dem who attacked dem," a woman told The Star.

Police told THE STAR that about 1 p.m. the men were travelling in a Honda Accord towards Spanish Town when, upon reaching an area called Grove Farm, their vehicle collided with a

Toyota motor car. The Honda then hit a man selling coconuts along the roadway and also hit a senior citizen from his bicycle.

Both men were taken to hospital, where the senior citizen James 'Jimbo' Baker, 70, died and the other man was admitted with broken legs.

After the men emerged from their car, they were chastised by residents with whom they began arguing. Just as the residents were moving towards the men the police arrived and took them away.

A senior officer at the police station said the five "strangely dressed males" had to be rushed inside.

When The Star visited, the bleached-out face group of men were sitting cosily in an area of the station leading to the superintendent's office. "Mi nu care who want to look, a leave mi want leave now mi child," one of the men said. [...]

Jamaica Aids Support for Life (JASL)/Jamaica Forum for Lesbians, All-sexuals, and Gays/Caribbean Vulnerable Communities Coalition (CVC)/Sex Workers Association of Jamaica (SWAJ)/Women for Women (WfW)/The Underlined Response (UR)/International Lesbian, Gay, Bisexual, Trans, and Intersex – Latin America and the Caribbean (ILGA-LAC) Coalition, *Submission by stakeholder LGBTI, Sex Workers and PLWHIV Coalition for the United Nations Universal Periodic Review of Jamaica, 3 September 2010*

http://lib.ohchr.org/HRBodies/UPR/Documents/Session9/JM/JASL_JamaicaAidsSupportforLife_JS.pdf

[...] *III PROMOTION AND PROTECTION OF HUMAN RIGHTS*

Implementation of international human rights obligations

[...] *10. Cruel and Inhuman Treatment*

i. Examples of attacks on MSM are: April 2006 students rioted at the University of the West Indies in Jamaica and attacked an alleged gay student; February 14, 2007, a group of gay men, including gay-rights activist Gareth Williams, were stoned by a mob of over 2000 in Kingston. The police failed to arrest anyone for the attack and instead took the gay men into custody and subsequently abused them even as they sought to secure them from the mob; April 8, 2007, approximately 100 men attacked a church where 150 people were attending the funeral of a gay man in Mandeville. When called, the police made no arrests and instead are reported to have joined the mob in jeering the gay men; December 2009 a Jamaican police officer was held in lock-up for 12 days for alleged acts of gross indecency with another police officer. He was never charged and eventually released.

ii. In 2008 four (4) cases of rape of lesbians and transgendered women 'to set them straight' were reported to WfW. The women refused to report the matter to the police for fear of further victimization by the police. In 2007 a 17 year old lesbian was held captive by her own mother and pastor for 18 days and raped repeatedly day after day by different religious men in the attempt to 'make her take man' and 'live as god instructed.'

iii. SWAJ reports that its members are regularly harassed, extorted and abused by police officers and private citizens acting under S.63 of the Offences Against the Person Act and its successor Section 23 of the Sexual Offences Act which criminalize adult consensual sex work. On November 20, 2006 a taxi driver used a machete to slash a sex worker after a disagreement over price. The sex worker did not go to the police or the hospital but visited the offices of JASL for treatment because of her fear of stigmatization and treatment by the police and hospital staff. In September 2008 a sex worker's throat was slashed by a client and in 2009 a client succeeded in murdering a sex worker in Kingston. Despite the matters being reported to the police, there were no arrests.

[...] *11. Right to Privacy*

[...] In January, 2008, three gay men were attacked in the privacy of their dwelling by an angry mob who had days before threatened them if they did not leave the community in Mandeville. Two men were hospitalized, one with serious injuries. In February 2010 two homes of gay men were invaded by angry mobs in the parishes of Clarendon and St. Catherine. When called to the scene, the police failed to disburse the mob. In the Clarendon case the gay men were able to repel the attack while in the St. Catherine case the police took the gay men into custody while no members of the mob were arrested.

[...] *14. Right to education*

[...] Perpetuation of violence against LGBTI by intolerant students is seen from the April 2006 student riot at the University of the West Indies, the premier university in the country, where an alleged gay student was attacked [...]

UN Human Rights Council, Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 (c) of the annex to Human Rights Council resolution 5/1: Jamaica, 10 August 2010

http://lib.ohchr.org/HRBodies/UPR/Documents/Session9/JM/A_HRC_WG.6_9_JAM_3_Jamaica_eng.pdf

[...] *I. Background and framework*

[...] *D. Policy measures*

[...] 7. Youth Coalition for Sexual Reproductive Rights (YCSRR) stated that there were several mob related killings of lesbian, gay, bi-sexual and trans-gender persons, for which no one has been prosecuted. It recommended training for the police and other security forces on responding to violence against lesbian, gay, bi-sexual and trans-gender persons.¹² [...]

[...] *II. Promotion and protection of human rights on the ground*

Implementation of international human rights obligations

[...] 2. Right to life, liberty and security of the person

[...] 17. JS1 reported cases of gay men being taken into custody by the police and subsequently abused, and of sex workers being harassed, extorted and abused by the police and private citizens.²⁷ In this regard, JS1 recommended that Jamaica ensure that all allegations of human rights abuses by law enforcement officials are investigated by an independent body.²⁸

[...] 4. Right to privacy, marriage and family life

[...] 37. IACHR indicated that it strongly condemned the high level of homophobia that prevailed throughout Jamaican society. It has resulted in violent killings of persons thought to be gay, lesbian, bisexual or transsexual, as well as stabbings, mob attacks, arbitrary detention and police harassment. The resulting fear made it difficult for these people to access basic services. Also, defenders of the rights of gay, lesbians, bisexuals and transsexuals have been murdered, beaten and threatened, and the police have been criticised in many instances for failing to prevent or respond to reports of such violence. IACHR stated that Jamaica must take measures to ensure that gays, lesbians, bisexuals and transsexuals can associate freely and exercise their rights without fear of attack. These measures could include adoption of public policy, campaigns against discrimination based on sexual orientation, and legislative reforms.⁶⁸ [...]

¹² YCSRR, p. 5

²⁷ JS1, pp. 4–5, para. 10

²⁸ JS1, p. 7, para. 16

⁶⁸ IACHR Observations, p. 8

Amnesty International, Jamaica: Submission to the UN Universal Periodic Review: Ninth session of the UPR Working Group of the Human Rights Council, November-December 2010, 19 April 2010

<http://www.amnesty.org/en/library/asset/AMR38/001/2010/en/6969d78c-036a-48d9-a4b1-3bd618f99352/amr380012010en.pdf>

[...] *C. Promotion and protection of human rights on the ground*

[...] *Human rights of lesbian, gay, bisexual and transgender persons*

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.

On 2 April 2007, a crowd threw stones and bottles at a group of costumed men who were dancing in the carnival procession in Montego Bay. The crowd was apparently angered because the men were supposedly gyrating in a sexually suggestive manner and demanded that they leave the stage. According to eye-witnesses, the men were attacked, chased and beaten by a mob of around 30 or 40 people. At least one of them was injured and had to be hospitalized. In another incident, on 8 April 2007, a crowd surrounded a church in Mandeville and hurled objects through a window at the back of the church. The attacks were directed at persons attending the funeral of someone, who the crowd believed to be homosexual. These two incidents occurred only two months after a group of men were targeted in a similar manner in a pharmacy in Tropical Plaza, Half-Way Tree, in Kingston. A human rights defender told Amnesty International that a mob of at least 200 people gathered outside the store, calling for the men to be beaten to death because they were, or were presumed to be, homosexual. They had to remain in the pharmacy until the police escorted them out. [...]

White, Y.R.G., Swaby, A. And Sandfort, T., Mental Health Needs of Sexual Minorities in Jamaica, *International Journal of Sexual Health*, Vol. 22, No. 2, April 2010, pp. 91-102

<http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2967765/?tool=pubmed>

Abstract

This study examined the prevalence of Axis I disorders and associated risk factors in a sample of sexual minority men and women in Jamaica, a country that is widely known for its high societal rejection of homosexuality. Poor relationships with family, negative or abusive experiences related to one's sexual orientation, and greater openness about one's sexual orientation were independent risk factors for Axis I disorders. Prevention of mental disorders in sexual minorities in Jamaica should focus on rebuilding family support and promoting social acceptance of sexual minorities.

[...] *Results*

Prevalence of Axis I Disorders among Jamaican Sexual Minorities

Twenty-seven percent of participants met DSM-IV-TR criteria for a major Axis I disorder in the past month (Table 1). The most common diagnosis was major depressive disorder, present in 13% of those interviewed. Of the 62 participants interviewed, 8% met criteria for substance use disorder with cannabis for the month leading up to the interview, and 3% for substance use disorder with alcohol. The GAF score was lower among persons with an Axis I disorder ($M = 54$, $SD = 11$ versus $M = 77$, $SD = 13$ in persons without an Axis I disorder; $t(54) = 6.14$, $p < .01$). Lifetime prevalence of Axis I disorders was higher, with most participants (69%) meeting criteria on the SCID-I/NP for ever having had one or more Axis I disorder(s) in their lifetime (Table 1). Again, major depressive disorder was the most

common diagnosis (45%), followed by substance use disorder, which was more common for alcohol than for cannabis.

[...] *Negative and Abusive Experiences*

Fifty-three participants reported having had some form of negative or abusive experience related to their sexual orientation, most of them (42%) within the past month leading up to the interview, and a cumulative percentage of 76% within the past 12 months. The frequency of these abusive incidents was greater than three times per month for more than half of the participants. The most common negative experiences reported were name calling (85%), discrimination (62%), threats of physical violence (49%), and being harassed (42%); physical violence was reported among 19%. Some participants had multiple negative or abusive experiences. Among participants who had such experiences, a minority had ever complained to the relevant authorities (26%), or received counseling (11%) after these events (Table 2). A psychologist was the therapist in three of the six instances where counseling was received. Forty-one percent of these individuals who had negative experiences but who did not access counseling, felt that there was no need; and a substantial proportion (20%) considered the matter as not being “serious enough” or “important enough” to make a complaint.[...]

The Jamaica Star, *Mob attacks four gay men in Jamaica*, 11 March 2010

<http://madikazemi.blogspot.co.uk/2010/03/mob-attacks-four-gay-men-in-jamaica.html>

A police station in St Catherine was the scene of hostility yesterday after residents demanded their own brand of justice for four men who they believe are lovers.

Police reports are that about 5 p.m. the men were at home when one went to a nearby shop and persons started to call him 'fish'.

The man went and reported this to his friends who drove to the shop. They were attacked and their car damaged. They went to report the matter to the police, when a mob converged and demanded that they come out.

[...] The men told THE STAR they were homosexuals.

[...] Up to late last night, the men could not be released as the angry residents remained resolute that they wanted to administer their own form of justice. [...]

Jamaica Observer, *Dancehall impacts the rise of transgender community*, 6 December 2009

<http://www.jamaicaobserver.com/entertainment/Dancehall-impacts-the-rise-of-transgender-Jflag>

The homophobic dancehall culture can stop the rise of local transgendered community, argued the Jamaica Forum for Lesbians All-Sexuals and Gays (JFlag) following the recent party photos of cross-dressers.

JFlag said that the dancehall culture castigates such individuals but fails to crush them.

"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, programmes manager at JFlag 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."

JFlag added that transgendered persons are stepping out, but fear prevents them from fully expressing their gender identity.

The gay lobby estimates that up to 270,000 lesbian, gay, bisexual, and transgendered people live in Jamaica. That represents "between three to 10 per cent of the population". Of that

figure a "smaller percentage" are transgendered persons which includes transvestites (cross-dressers) and transsexuals (surgical augmentation).

"The reality is that this already exists but many don't have the space or the vocabulary with which to express and articulate this," he said.

Not all transgendered persons are private, as the nation's latest celebrity, Barbie (crossdresser) posed in a series of party pictorials published this week. The fashionable Barbie however was not alone and posed with two crossdressing friends. All three were dressed for the spotlight with big hair and tiny skirts and tops. The photos made headlines because Jamaica is arguably the most homophobic country in the western hemisphere. Proponents of this view cite gay murders and attacks but opponents counter stating that most of these murders are committed by gays in crimes of passion. [...]

Los Angeles Times, *For gays, a tropical paradise is also hell: Homophobia is intense on the Caribbean island of Jamaica, where*, 26 July 2009

<http://articles.latimes.com/2009/jul/26/news/adfg-jamaica-gay-bash26>

Even now, about three years after a near-fatal gay bashing, Sherman gets jittery at dusk. On bad days, his blood quickens, his eyes dart, and he seeks refuge indoors.

A group of men kicked him and slashed him with knives for being a "batty boy" -- slang for gay man -- after he left a party before dawn in October 2006. They sliced his throat, torso and back, hissed anti-gay epithets, and left him for dead on a Kingston corner.

"It gets like five, six o'clock, my heart begins to race. I just need to go home, I start to get nervous," the 36-year-old said outside the secret office of Jamaica's sole gay rights group. Like many other gays, Sherman won't give his full name for fear of retribution.

Despite the easygoing image propagated by tourist boards, gays and their advocates say Jamaica is by far the most hostile island toward homosexuals in the already conservative Caribbean. They say gays, typically those in poor communities, suffer frequent abuse. But they have little recourse because of rampant anti-gay stigma and a sodomy law banning sex between men in Jamaica and 10 other former British colonies in the region.

It is impossible to say just how common attacks like the one against Sherman are in Jamaica - - the tormentors are sometimes the police themselves. But many homosexuals in Jamaica say homophobia is pervasive across the sun-soaked island, from the pulpit to the floor of Parliament.

[...] Andrew, a 36-year-old volunteer for an AIDS education program, said he was driven from Jamaica after his ex-lover was killed for being gay -- which police said was just a robbery gone wrong. He then lived in Britain for several years, but returned to Jamaica in 2008 for personal reasons he declined to disclose.

"I'm living in fear on a day-to-day basis," he said softly during a recent interview in Kingston.

"In the community where my ex-lover was killed, people will say to me when I'm passing on the street, they will make remarks like 'boom-boom-boom' or 'batty boy fi dead.' I don't feel free walking on the streets."

Many in this devoutly Christian nation perceive homosexuality as a sin, and insist violence against gays is blown out of proportion by gay activists. Some say Jamaica tolerates homosexuality as long as it isn't advertised.

Jamaica's most prominent evangelical pastor, Bishop Herro Blair, said he sympathizes with those who face intolerance but that homosexuals themselves are behind most of the attacks reported against them.

"Among themselves, homosexuals are extremely jealous," Blair said in a recent interview.

"But some of them do cause a reaction by their own behaviors, for in many people's opinions, homosexuality is distasteful."

Other church leaders have accused gays of flaunting their behavior to "recruit" youngsters, or called for them to undergo "redemptive work" to break free of their sexual orientation.

[...] The dread of homosexuality is so all-encompassing that many Jamaican men refuse to get digital rectal examinations for prostate cancer, even those whose disease is advanced, said Dr. Trevor Tulloch, a urology consultant at Andrews Memorial Hospital in Kingston.

"Because it is a homophobic society, there's such a fear of the sexual implications of having the exam that men won't seek out help," Tulloch said, adding that Jamaica has a high rate of prostate cancer because men won't be screened.

The anti-gay sentiment on this island of 2.8 million has perhaps become best known through Jamaican "dancehall," a rap-reggae music hybrid that often has raunchy, violent themes.

Some reggae rappers, including Bounty Killer and Elephant Man, depend on gay-bashing songs to rouse concertgoers.

"It stirs up the crowd to a degree that many performers feel they have to come up with an anti-gay song to incite the audience," said Barry Chevannes, a professor of social anthropology at the University of the West Indies.

Brooklyn-based writer Staceyann Chin, a lesbian who fled her Caribbean homeland for New York more than a decade ago, said that violence in Jamaica is high -- there were 1,611 killings last year, about 10 times more than the U.S. rate relative to population -- but that it is "extraordinarily" high against gays.

"The macho ideal is celebrated, praised in Jamaica, while homosexuality is paralleled with pedophilia, rapists," Chin said. "Markers that other people perceive as gay -- they walk a certain way, wear tight pants or are overly friendly with a male friend -- make them targets. It's a little pressure cooker waiting to pop."

In 1996, when she was 20, Chin came out as lesbian on the Kingston UWI 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, a poet, performer and lecturer who closes her just-published memoir "The Other Side of Paradise" with a searing account of the attack.

Even in New York, anti-gay Jamaicans sent her hate-filled e-mails after she appeared on Oprah Winfrey's TV talk show in 2007 to discuss homosexuality.

Chin said she didn't know if she would have the courage to come out now as a lesbian in Jamaica.

"The tensions are higher now. People are feeling very much that they have to declare camps," she said.

[...] Many gays from poorer areas of Jamaica say they congregate in private to find safety and companionship.

Once a month, they have underground church services at revolving locations across the island.

Sherman, meanwhile, is trying to move on with his life. But he said he will always remember how, after he was attacked, patrolmen roughly lifted his bloodied body out of their squad car when a man admonished them for helping a "batty boy." A woman shamed them into driving him to a hospital; they stuffed him in the car's trunk.

"Being gay in Jamaica, it's like, don't tell anybody. Just keep it to yourself," he said evenly, with a half smile.

The Jamaica Star, *Accused homosexuals chased in downtown*, 12 June 2009

<http://jamaica-star.com/thestar/20090612/news/news2.html>

Two men accused of being homosexuals were chased in the downtown Kingston yesterday. Inspector Percival Buddan from the City Centre Police Station said both men sought refuge at the station after being chased by the residents. "The police were all here and kept them safe until they were picked up by their private vehicles," said Buddan. Police say the two young men were seen walking along Princess Street about 3 p.m. acting "unusual". It is said that the men walked funny and were interacting with each other. Someone, the police say, brought the people's attention to the men's actions and they were chased and ran into the police station.

Human Rights Watch, Jamaica: Condemn Homophobic Remarks: Prime Minister Should Speak Out Against Violence and Discrimination, Affirm Rights for All, 19 February 2009

<http://www.hrw.org/en/news/2009/02/19/jamaica-condemn-homophobic-remarks>

[...] 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. In January 2008, for example, a mob attacked four men in Mandeville, surrounding their home and demanding they leave the community because they were gay. The mob slashed the inhabitants with sticks, stones, knives, and machetes.

That attack echoed another in the same town on Easter Sunday, April 8, 2007, when a crowd of about 100 men gathered outside a church where 150 people were attending the funeral of a gay man. The crowd broke the windows with bottles and threatened to kill the mourners. Police were called to the scene, but refused to intervene. Officers stopped gay men from leaving and searched their vehicles, but did not restrain or detain members of the mob who threatened mourners with sticks, stones, and batons as they tried to escape.

Earlier that week, on April 2, 2007, a crowd in Montego Bay attacked three men alleged to be gay who were attending a carnival. Witnesses said the crowd chased the men down the street, slashed one man with knives and beat him with a manhole cover. According to local press reports, at least 30-40 people beat another man as he sought refuge in a bar, tearing his clothes from him and striking him as he bled severely from a head wound.

On February 14, 2007, a mob of at least 200 in Kingston surrounded and attacked four men, including J-FLAG's co-chair, calling for the men to be beaten to death because they were gay. When police arrived, instead of protecting the victims, the officers verbally abused them and struck one in the face, head, and stomach. [...]

4. Homophobia and transphobia in government institutions (including but not limited to government statements state owned media, prisons, education, health system)

Jamaica Forum for Lesbians, All-Sexuals and Gays (J-FLAG), *Is Jamaica a more tolerant society?*, 12 July 2012

<http://www.jflag.org/2012/07/>

[...] Many Jamaicans seem to believe the killing of lesbian, gay, bisexual and transgender (LGBT) persons over the years has been a result of domestic disputes and violence among ourselves. The most recent commentators promoting this idea include former Assistant Commissioner of Police, Les Green, and New Nation Coalition Convenor, Betty-Ann Blaine. On Sunday, July 8, 2012, ACP Green was quoted in the Sunday Observer saying murders against gay Jamaicans are perpetrated by gays. The difficulty with Green's statement is that it is buttressed by empirical data and the respectability which his high office confers has given legitimacy to the inaccuracy of his statements. After all, as Ms. Blaine states, "...when Les Green speaks people listen." Therein lies the problem. [...]

Jamaica Observer, *Gay lobby claims not true, says Green*, 8 July 2012

<http://www.jamaicaobserver.com/news/Gay-lobby-claims-not-true--says-Green>

A day before former Assistant Commissioner of Police Les Green left the island at the end of his eight years of service, he rubbished a common claim by the gay community and international rights groups that homosexuals in Jamaica are victims of wanton murder, mob-mauling and marginalisation.

His pronouncement came just weeks after gay lobby group Jamaica Forum For Lesbians All-sexuals and Gays (JFLAG) suggested that two men killed in the New Kingston area were slain because of their sexual preference.

In an interview on Thursday with the Sunday Observer, Green said despite claims by JFLAG that Jamaicans are intolerant of their lifestyle, and are targeting them for death, his experience during his tenure here was totally different.

JFLAG has, for years, contended that gay people have been marginalised in Jamaica, but Green said while that may have been the case in the past, the country has come a long way in tolerating the homosexual lifestyle.

"I think Jamaica is far more tolerant than the public hype. There is a vibrant community in Jamaica and there isn't the sort of backlash that some people say. I think we are much more tolerant and accepting. Just go around and you will see they are more flamboyant in the way they dress and behave as if they are comfortable with it. If that's the case, why are they stigmatised?" Green said.

"It's just the hype from some who claim Jamaica is very anti-homosexual, but the reality is far from that. There are many homosexuals who live and work freely in Jamaica," he said.

Green explained that as a homicide investigator he worked closely with the gay lobby group which referred him to several incidents in which members of their community were murdered.

However, the former Scotland Yard detective said his findings show that the majority of gay killings are carried out by members of the gay community.

"All of those murders that I have investigated have been in relationships and are victims of gay attacks, domestic situations," he said. [...]

U.S. Department of State, *Country Reports on Human Rights Practices for 2011: Jamaica, 24 May 2012*

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dliid=186525>

[...] *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

[...] In August J-FLAG released a public service announcement encouraging families to embrace LGBT family members. The announcement featured former Miss Jamaica World and Miss Jamaica Universe and her gay brother. J-FLAG wanted the announcement to appear on national television, but Television Jamaica refused, reportedly due to criticism from church leaders.

[...] In a December debate leading up to the national elections, then PNP leader Portia Simpson Miller said that she would appoint cabinet ministers based on ability and that sexual orientation would not be a factor, in contrast to former prime minister Golding's statement that he would not appoint a "homosexual" to his cabinet. She also said that she would permit parliament to reexamine the antibuggery law and free members of her party to vote their conscience on this issue. After Simpson Miller's statements became a campaign issue, some candidates and a local newspaper produced anti-LGBT campaign rhetoric and material.

[...] 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 sexual orientation 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.

[...] *Other Societal Violence or Discrimination*

[...] Laws banning same-sex sexual activity and societal attitudes prevented distribution of condoms in prisons and similar institutions [...]

Amnesty International/J-FLAG, *Fifty Years without the Liberty to Love, 17 May 2012*

<http://www.amnesty.org/en/library/asset/AMR38/001/2012/en/49565034-6213-4e45-b917-8d78ccf39a40/amr380012012en.pdf>

[...] The laws of Jamaica, have for too long now, singled out for punishment one group of people on the basis of their sexual orientation alone. These laws have been used to justify the arbitrary arrest, detention and even torture of individuals who are suspected of being gay, lesbian, bisexual or transgender person. They also send a message to the entire population that discrimination, harassment and violence against people who are, or who are perceived to be, 'different', is okay. As a result, lesbian, gay, bisexual and transgender persons face disproportionately high levels of discrimination when accessing healthcare, housing, employment and other services. [...]

C-Change, *Stigma & Discrimination Against Men Who Have Sex with Men: In Jamaica, April 2012*

<http://c-changeproject.org/sites/default/files/Stigma-MSM-Jamaica.pdf>

Executive Summary

FHI 360's Communication for Change (C-Change) project in Jamaica, through funding from USAID/PEPFAR provides technical assistance in social and behavior change communication (SBCC) to improve the quality and scale of Jamaica's response to the HIV and AIDS epidemic. In 2011 the project conducted a qualitative study to understand the stigma and discrimination experienced by men who have sex with men (MSM) in Jamaica with the aim

of developing useful materials for anti-stigma and anti-homophobia SBCC and advocacy campaigns. With prevalence data showing that more than a third of the population of MSM in Jamaica are HIV infected (Jamaica National HIV/STI Programme 2010), and with the understanding that stigma and discrimination of MSM is a major barrier to accessing health and social services that can help mitigate the growing HIV and AIDS epidemic, the study sought to inform critical interventions designed for this marginalized population.

The research characterized stigma and discrimination as actions, deeds, words, behaviors, and attitudes expressed that deny the dignity, respect and/or rights of MSM. It looked to add depth to the understanding of MSM stigma/discrimination and to supplement what was currently being documented through Jamaican quantitative surveys. To do so, this study used hearsay ethnography methodology where 23 trained MSM ethnographers aged 18 to 40 years from five Jamaican parishes went about their daily lives over a three-week period and documented observations, conversations, and personal experiences to understand the dynamics and environments that facilitate and perpetuate stigma and discrimination. Ethnographers met on a weekly basis for debriefing sessions with supervisors. These recorded one-on-one sessions, along with journal entries from ethnographer observations and conversations, were analyzed and interpreted to form the basis for study findings related to 177 documented instances of stigma and discrimination.

Study findings were consistent with previously published studies in other regions of the world showing that MSM are the target of verbal, nonverbal, and physical stigma, discrimination, and abuse where negative labels, stereotypes, insults, and physical attacks are perpetrated against MSM individuals or groups to deny them dignity, respect, and basic human rights. MSM stigma and discrimination was evident in several environments in Jamaica and consistent with a socioecological explanatory model at the institutional, community, and interpersonal levels. More specific results of the study are summarized below in bulleted fashion.

[...] Institutional influence

- o In educational establishments MSM were a regular target of verbal insults and shunning in dormitories/on campuses; sexual harassment from MSM in positions of power (teachers) took place.

- o In health facilities staff and providers often used nonverbal actions and body language to communicate disrespect; staff gossip about MSM patients took place. [...]

C-Change, Layered Stigma Among Health Facility & Social Services Staff: Toward Most-at-Risk Populations in Jamaica, April 2012

<http://c-changeproject.org/sites/default/files/Layered-Stigma-Jamaica.pdf>

[...] *Executive Summary*

FHI 360's Communication for Change (C-Change) project, funded by USAID/PEPFAR, in Jamaica provides technical assistance in social and behavior change communication (SBCC) to improve the quality and scale of Jamaica's response to the HIV and AIDS epidemic. In keeping with its mandate of supporting civil society and government partners in developing evidence based programming and in working to create supportive enabling environments for most-at-risk populations (MARPs), C-Change conducted a study in 2011 on stigma and discrimination (S&D) within health and social services settings toward persons living with HIV (PLHIV), men who have sex with men (MSM), and sex workers (SW).

[...] *Components One and Two: Health Facility and Social Services Workers*

Training Exposure

The majority of respondents were not trained in HIV or working with MARPs.

- o Across different types of training, with the exception of interpersonal communication training, health facilities had more untrained staff than social services organizations.
- o Within health facilities, untrained nonclinical staff outnumbered clinical staff across several training categories.
- o Across all types of health facilities (public, private, NGO), general health facilities reported more untrained staff than did MARP–friendly facilities (although sizable proportions of staff in MARP–friendly facilities were also untrained in HIV prevention, care, and treatment).
- o Regarding the type of health facility, public health facilities had more untrained staff than did private or NGO–owned facilities across all types of training.
- o Location-based differences were also reported in exposure to training. Higher proportions of staff were trained in interpersonal communication ($p \leq .001$) and working with MARPs ($p \leq .01$) in Montego Bay, followed by Ocho Rios, and Kingston.

Fear/Avoidance of Casual Contact with PLHIV, MSM, SW

Fear of HIV transmission and refusal of casual contact with PLHIV and MARPs is one key underlying stigma construct (Nyblade and MacQuarrie 2006).

Regarding fear/avoidance of casual contact with PLHIV and MARPs, between 19 percent and 45 percent of health facility and social services workers reported fear or avoidance desires across measures, such as sharing a bathroom with a colleague or touching someone's sweat or saliva.

- o Greater levels of discomfort or fear were found with higher prevalence among health facility than social services staff.

Between 3 percent and 50 percent of health facility staff expressed fear of HIV transmission or desire for avoidance of contact, depending on the type of clinical interaction and the population served.

- o More fear of HIV transmission was reported based on the complexity of the clinical interaction (i.e., dressing wound vs. suturing/operating).

o Fear of clinical interactions was highest when serving PLHIV (44–50 percent, depending on the type of interaction); among MARPs, desire for avoidance of clinical interaction was highest when serving MSM (6–10 percent, depending on the type of interaction) followed by avoidance desires with SW (3–4 percent).

- o Overall, the desire to avoid interactions with MSM was greater than it was with SW. Training in HIV prevention was positively associated with respondents' lack of fear or desire to avoid casual contact with PLHIV, MSM, or SW.

o While this relationship was found among both health facility and social services staff, the relationship was significantly higher among health services staff (ranging from $p < .05$ to $p < .001$, depending on the population served).

Training in HIV prevention was also positively associated with clinical providers' lack of fear with more clinical contact measures.

Regarding type of health facility, staff at MARP–friendly facilities was less likely to report HIV–transmission fears or avoidance desires than counterparts in general facilities on some measures and with some populations served.

Regarding the type of health facility (public, private, and nongovernmental organization), NGO staff felt less need to avoid PLHIV, MSM, or SW, followed by staff in public, and lastly private health facilities.

Shame, Blame, and Judgment

Values or moral-driven judgments related to those stigmatized are another key stigma construct examined by this study.

While most respondents believed PLHIV and MARPs were deserving of quality care, reported shame, blame, and judgment were high (ranging from 7–83 percent, depending on the category).

o Respondents were most judgmental regarding the belief that homosexuality (63–83 percent) and sex work (75–61 percent) were immoral with significantly more clinical staff than social services staff reporting these judgments ($p < .001$).

o Across most measures, greater levels of shame, blame, and judgment were shown toward MSM, followed by SW, and then PLHIV among both health services and social services staff, demonstrating effects of layered stigma.

o Significant sex differences in responses were found in relation to SW. Females were more likely to feel that SW deserved the same level of care as other clients and to disagree that sex work was immoral than males ($p < .001$, $p < .05$, respectively). Of those health facility staff trained in HIV prevention, less shame, blame, and judgment were reported toward PLHIV and MARPs as compared to untrained staff. Among social services staff, a reverse trend was shown.

On the belief that homosexuality was immoral, significantly fewer health staff in MARP–friendly vs. general facilities believed this was the case ($p < .05$).

On the belief that homosexuality or sex work was immoral, health staff in NGOs vs. those in either public or private health facilities were significantly less likely to believe this ($p < .001$, $p < .05$, respectively).

Enacted Stigma

Enacted stigma was the third stigma construct examined with health facility and social services respondents. Enacted stigma includes unlawful discrimination as well as a wider set of stigmatizing actions (Nyblade and MacQuarrie 2006).

Gossip about PLHIV, MSM, and SW was the most common form of enacted stigma reported among respondents (8–25 percent, depending on type of worker and type of client). A significant number of social services staff reported seeing organizational policies relevant to MARPs violated (13–33 percent, depending on population).

Other forms of enacted stigma (received less care than other patients, assigned by senior provider to junior provider, HIV tested without consent, refused health care services) were less prevalent (1–9 percent, depending on the measure and population).

Concerning health facility type, incidences of enacted stigma were reported more often by private health facility staff than those in public or NGO facilities.

Health facility staff in Montego Bay and social services staff in Ocho Rios were less likely to report instances of enacted stigma toward MARPs than staff in other locations.

Vignette Findings (Vignettes of eight characters were described and participants responded to 10 S&D–related statements for each character/vignette.)

Across both health facility and social services respondents, the highest stigma levels were found for the MSM HIV–positive character followed by the SW HIV–positive character and the non-MSM HIV–positive character, which again demonstrated layered stigma.

Regarding the participant ratings for each character, the magnitude of stigma was highest for the statements related to the belief that the character was responsible for their own illness (72 percent for SW HIV positive and 55 percent for MSM HIV positive) and the belief that the character was a danger to others (46 percent for SW HIV positive and 38 percent for MSM HIV positive).

Social services staff reported higher levels of S&D across all characters (MARP and nonMARP) than did health services staff.

On four of the eight vignettes and some of the related statements, staff at MARP–friendly health facilities reported less S&D than staff at general facilities.

Overall, an inverse relationship was found between respondent training and S&D reported via the vignettes with the trained staff reporting less S&D than untrained staff.

Regarding two of the MARP characters, females were more likely to report less S&D than males based on certain stigma-related statements.

Component Three: Sex Workers Reports of S&D

[...] S&D Experiences with Health Services

[...] Across nearly all stigma measures, MSW reported experiencing higher S&D within the last six months and when seeking health care than FSW.

[...] Conclusions and Recommendations

The study findings support past research indicating widespread stigma toward PLHIV, MSM, and SW in health services in general and specific to Jamaica. Fear of casual contact or desire to avoid contact with PLHIV and MARPs occurred in both clinical and nonclinical settings. Measures of shame, blame, and judgment, particularly as they related to views on immorality toward PLHIV and MARPs, appeared to be the norm. While with less frequency, enacted stigma also was reported. MARPs experienced layered stigma, which threatens their quality of care and services, thereby increasing their vulnerability. Staff training was directly related to the degree to which client S&D was manifested in the health and social services sectors. Moreover, S&D in the health sector varied by type of facility as well as location, demonstrating the need for more MARP-friendly providers. [...]

The Global Forum on MSM and HIV, *Activist criticizes anti-gay rhetoric in Jamaican campaign, 28 December 2011*

<http://www.msmsgf.org/index.cfm/id/11/aid/5598>

KINGSTON, Jamaica (AP) – The leader of Jamaica's sole gay rights group said Tuesday that some ruling-party candidates have aggressively played to anti-gay constituents by resorting to homophobic rhetoric in the final days of the campaign for this week's national elections.

Dane Lewis, executive director of the Jamaica Forum for Lesbians, All-Sexuals and Gays, said Jamaica Labor Party candidates have "unfortunately descended into pulling the sexuality card" in advance of Thursday's tight vote.

"It's been disappointing that they've chosen this road yet again because it seems to historically be their stance during campaigning," said Lewis, adding that his group is not endorsing any political party.

Politicians have routinely railed against homosexuals in Jamaica, where a colonial-era sodomy law bans sex between men and many people in the highly Christian nation perceive homosexuality as a sin.

But during a debate last week with Prime Minister Andrew Holness, opposition chief Portia Simpson Miller called for a review of the law. She argued that professional competence, not sexual orientation, will determine who is selected for a Cabinet post if her People's National Party wins.

Since then, some top Labor candidates have made homophobic comments at political rallies, among them Cabinet minister Daryl Vaz, who said "God created Adam and Eve and not Adam and Steve," prompting applause and anti-gay slurs from his West Portland constituents.

Labor's candidate for West Central St. James, Energy Minister Clive Mullings, asserted that easing up on laws against homosexuality would bring God's wrath down on Jamaica, while West Kingston candidate, Kingston Mayor Desmond McKenzie, used an epithet at a rally while an anti-gay dancehall song played

In a Sunday editorial, the Jamaica Gleaner newspaper called the recent developments "not only sad, but dangerous."

"Some might add cynical and vulgar."

On Tuesday, the opposition People's National Party stressed that Simpson Miller's comments were being distorted by Labor partisans. They said the party is committed to a review of the anti-sodomy law, not its repeal.

It is not yet clear if either side's recent comments will hurt their chances in Thursday's election for the island's 63 seats in Parliament. Recent polls have shown the two main parties in a statistical dead heat.

Despite the easygoing image propagated by the island's tourist boards, Jamaica is by far the most hostile island toward homosexuals in the already conservative Caribbean, gays and their advocates contend.

UN Human Rights Committee, *Consideration of reports submitted by States parties under article 40 of the Covenant: Concluding observations of the Human Rights Committee: Jamaica, 17 November 2011*

<http://www2.ohchr.org/english/bodies/hrc/hrcs103.htm>

[...] *C. Principal matters of concern and recommendations*

[...] 9. The Committee regrets reports of prevalent societal stigmatization of people with HIV/AIDS, which conflates HIV/AIDS with homosexuality. The Committee is concerned that this stigmatization, which is partly fuelled by the laws that criminalize consensual same-sex relationships, hampers access to treatment and medical care by persons living with HIV/AIDS, including homosexuals (arts. 2, 6 and 26). [...]

Jamaica Forum for Lesbians, All-Sexuals, & Gays (J-FLAG)/Women for Women (Kingston, Jamaica)/Heartland Alliance for Human Needs & Human Rights/International Gay and Lesbian Human Rights Commission (IGLHRC)/AIDS-Free World (AFW)/The George Washington University Law School International Human Rights Clinic, *Human Rights Violations of Lesbian, Gay, Bisexual, and Transgender (LGBT) people in Jamaica: A Shadow Report Submitted for consideration at the 103rd Session of the Human Rights Committee, October 2011*

http://www2.ohchr.org/english/bodies/hrc/docs/ngos/LGBT_Jamaica103.pdf

[...] *II. Executive Summary*

[...] Jamaican politicians publically engage in homophobic speech¹², which fosters an atmosphere of intolerance towards LGBT people within the Jamaican population.¹³

[...] *III. Substantive violations*

[...] *A. Article 2(1) and Article 26 (Non-discrimination)*

[...] *1. Government Language of Intolerance and Its Consequences*

The Government of Jamaica endorses and encourages violence and discrimination against LGBT individuals by state and non-state actors through its propagation of homophobic speech. Political leaders in Jamaica exploit the society's homophobia in order to garner votes in elections. For example, during the 2001 elections, the Jamaican Labour Party ("JLP") adopted the song "Chi Chi Man" by T.O.K.²² as a theme song to gain popular support in the

¹² Video: Violence and Venom Force Gay Jamaicans to Hide, WORLDFOCUS 2009, available at <http://worldfocus.org/blog/2009/11/10/violence-and-venom-force-gay-jamaicans-to-hide/8299/>

¹³ See infra pp. 4-6.

²² "Chi Chi man" is a derogatory term used to refer to homosexuals, made popular by the dancehall group T.O.K. In Jamaica, "Chi Chi" refers to wood-eating termites, while "Wood" is one of many words that refers to the penis. See Jamaican Slang Glossary Words and Phrases, SPEAK JAMAICAN.COM, <http://www.speakjamaican.com/glossary> See also Hated to Death: Homophobia, Violence, and Jamaica's HIV/AIDS Epidemic, Human Rights Watch at 13, Nov. 2004, available at <http://www.hrw.org/en/reports/2004/11/15/hated-death-0>

course of its campaign efforts. This song celebrates the burning and killing of gay men.²³ The following is a translation of the original Jamaican Patois lyrics:

Those who get together in a queer's car
Blaze the fire, let's burn them! (Burn them!!)
Those who drink in a queer bar
Blaze the fire, let's kill them! (Kill them!!)
If they bring it to us, hold on, lots of bullets are going to fly
Bullets fly, take up every calico and rat-tat-tat
Rat-tat-tat, every queer has to die Die!
Me and my niggas will make a pact
Queers must die and that's a fact.²⁴

In response to the JLP's successful campaign, the opposition People's National Party ("PNP") adopted the song "Log On to Progress" as its campaign slogan for the 2002 elections, a reference to a popular song about kicking and stomping on gay men.²⁵

Political leaders also use the media to disseminate their messages of hatred towards the LGBT community, justifying their views by appealing to religious doctrine. For example, in September 2010, Prime Minister Bruce Golding defended his view that same-sex conduct should remain illegal in Jamaica on the basis that Jamaica is "[f]irstly ... predominately a Christian country and a fervently Christian country."²⁶ In addition to appealing to religious ideologies, politicians also appeal to the preservation of the Jamaican culture as a way to validate discrimination against LGBT individuals. For example, Prime Minister Golding also stated that "encouragement or recognition of the appropriateness of the homosexual lifestyle is going to undermine the effectiveness of [the] family . . . and, in that process, undermine the basic fabric of a society."²⁷

Golding also appeared on a BBC talk show in 2008 where he stated that he would not be pressured by outsiders to recognize the rights of homosexuals.²⁸

Politicians' public statements about the LGBT community in Jamaica illuminate not only the level of intolerance, but also ignorance of the issues facing that community. For example, in February 2009, Ernest Smith, the JLP Member of Parliament (MP) for South West St. Ann, Jamaica, stated that the JLP was "not saying that gay people should be obliterated from the face of the earth . . . but because your behavioral pattern is in breach of all decency . . . do not try to impose your filth on others, don't force others to accept you and your filth."²⁹ Smith further charged that reports of violence against LGBT individuals in Jamaica were myths.

²³ See Leah Nelson, Jamaican Anti-Gay 'Murder Music' Heard by Millions in the US, ALTERNET, Dec. 31, 2010, available at

http://www.alternet.org/rights/149380/jamaican_antigay_'murder_music'_heard_by_millions_in_the_us/?page=2; The Fear that Spreads Death, THE ECONOMIST, Nov. 25, 2004, available at

<http://www.economist.com/node/3437101>; see also Regional Meeting of LGBT Activists

from CARICOM States on the Inter-American Human Rights System, *The Unnatural connexion: Creating Societal Conflict Through Legal Tools: Laws Criminalizing Same Sex Sexual Behaviors and Identities and their Human Rights Impact in Caribbean Countries*, 25 (2010) (on file with authors) [hereinafter *The Unnatural connexion*]

²⁴ See Murder inna Dancehall, http://www.soulrebels.org/dancehall/u_lyrics_chi.htm (last visited May 1, 2011).

²⁵ Nelson, supra note 23; *The Unnatural connexion*, supra note 23, at 25.

²⁶ *The Unnatural connexion*, supra note 23, at 17 n. 55 (citing Sept. 25, 2010 interview with the Jamaican Prime Minister).

²⁷ *The Unnatural connexion*, supra note 23, at 17 n. 56 (citing Sept. 25, 2010 interview with the Jamaican Prime Minister).

²⁸ What Jamaica Wants' - Church, Gays Divided on PM's BBC Interview, JAMAICA GLEANER, May 21, 2008, available at <http://jamaica-gleaner.com/gleaner/20080521/lead/lead1.html> [hereinafter *What Jamaica Wants*].

²⁹ Video: Violence and Venom Force Gay Jamaicans to Hide, supra note 12.

Instead, he alleged that violence against members of the LGBT community is committed not as a result of anti-gay sentiment, but is committed by other LGBT individuals out of jealousy or other internal conflict³⁰. In blatant disregard of the 2004 revision of the Staff Orders for the Jamaica Civil Service, which prohibits employment discrimination based on sexual orientation³¹, Smith accused the police force of being “overrun with gays.”³² He has since apologized not to the LGBT community, but to the police for making that statement,³³ highlighting the stigma associated to LGBT status in Jamaica. Public intolerance of LGBT individuals prevents those individuals from amassing political influence. Either it is impossible for LGBT individuals to obtain political positions, or they must hide their sexual preference in order to maintain such a position.³⁴ For example, in May 2008 Prime Minister Golding stated on British television that he would not allow homosexuals in his Cabinet.³⁵ [...]

[...] 3. *Effects of Laws Criminalizing Same-sex Sexual Conduct*

[...] Laws criminalizing same-sex conduct have broad consequences for the Jamaican LGBT community. These laws effectively prohibit LGBT individuals from receiving many basic services because securing access to those services would require those individuals to admit to committing an activity that is considered criminal by the law.⁵¹ For example, LGBT individuals have difficulty acquiring health care services adapted to their specific needs because they may either be hesitant to reveal their sexual orientation to health care professionals, or health care professionals may be unwilling to learn or unknowledgeable about specific needs of different populations. This puts LGBT individuals at greater risk of contracting sexually transmitted infections, including HIV, than their heterosexual counterparts, due to a lack of appropriate preventative care.⁵² In its August 2010 submission to the UPR, Jamaica details its efforts to prevent HIV/AIDS. However, the State’s report makes no reference to improving treatment options available to LGBT persons as a means of achieving that goal. In fact, there is no mention whatsoever of issues regarding sexual orientation in the report’s health and HIV/AIDS section.⁵³

Health workers in Jamaica reportedly routinely mistreat patients with HIV or AIDS by providing inadequate care or by denying treatment altogether. In certain cases, doctors are afraid to touch infected patients, effectively preventing them from conducting adequate examinations. Additionally, those with visible HIV symptoms have been denied access to public transportation, making it difficult to access health care facilities. Those who have made it to clinics are sometimes turned away and subjected to abusive comments from health care providers, decreasing the chances that they will get treatment. Cases have been documented in which health workers have released confidential medical information about HIV/AIDS patients to the public and other patients by segregating the HIV positive patients from the other patients.⁵⁴

³⁰ *Id*

³¹ Staff Orders for the Public Service, Section 13.1.9 (2004) (Jam.), at

http://www.oas.org/juridico/spanish/jam_res29.pdf

³² PNP Ernie Smith on Stance against Gays, JAMAICA GLEANER, Feb. 19, 2009 available at

<http://jamaicagleaner.com/gleaner/20090219/lead/lead4.html> (emphasis added).

³³ *Id*

³⁴ An LGBT individual holding office cannot reveal his/her sexual orientation or gender identity without running the risk of being stripped of his/her office. See *The Unnatural Connexion*, supra note 23, at 51.

³⁵ What Jamaica wants, supra note 28; Buggery laws firm, supra note 11.

⁵¹ *The Unnatural Connexion*, supra note 23, at 25.

⁵² HATED TO DEATH, supra note 22, at 44; Statistical evidence shows a correlation between laws criminalizing

same-sex conduct and HIV prevalence among MSM. *The Unnatural Connexion*, supra note 23, at 52.

⁵³ Jamaica UPR Report, supra note 48, at ¶ 55.

⁵⁴ HATED TO DEATH, supra note 22, at 39-44.

[...] *B. Article 6 (Right to Life) and Article 7 (Freedom from Cruel, Inhuman, Degrading Treatment)*

[...] Not only are LGBT individuals targeted by the general population, but they also suffer cruel, inhumane and discriminating conduct at the hands of the Jamaican Constabulary Forces. Jamaican police frequently harass LGBT individuals on the streets. In July 2010, police officers blocked access to the “Hip Strip,” a popular entertainment zone, and harassed groups of men and women perceived to be LGBT.⁷⁵ As recently as February 2011, the police raided a gay bar in Montego Bay. Approximately twenty police officers kicked in the door and forcibly evacuated the bar, beating and pistol-whipping patrons in the process and shouting anti-gay slurs.⁷⁶ Ten victims had to seek medical treatment as a result of the raid.⁷⁷

[...] *H. Article 19 (Freedom of Expression) and 20(2) (Incitement to Violence)*

The Jamaican government has failed to ensure that LGBT freedom of expression is protected. In August, 2011 J-FLAG attempted to air a paid public service announcement (PSA) on Jamaica’s television networks intended to promote tolerance of the LGBT community. However, Television Jamaica refused to air the PSA. Gary Allen, the managing director of Television Jamaica’s parent company stated, “[w]e considered whether we would air it in the context of public opinion and that there has been significant public opinion to consider, particularly the response of the church to the prospects to the ad being aired [...]”.¹¹⁶ He cited concern that the television station could appear to be promoting homosexual conduct because such conduct is criminalized in Jamaica.¹¹⁷ J-FLAG’s executive responded, “since we are not directly or indirectly promoting anything that is illegal, love is not illegal, we don’t see why we shouldn’t be able to go forward.”¹¹⁸

[...] *K. Article 24 (Special Protection of Children)*

[...] In addition to violence and bullying against LGBT youth within schools, little acceptance demonstrated to students of sexual orientations other than heterosexuality. As noted in the New York Times, in November 2007 the Jamaican Gleaner reported that some schools were using textbooks that suggested that same-sex unions were a type of family. Once this information was published, Andrew Holness, the new education minister, swiftly pulled the book from circulation, indicating that his staff was reviewing textbooks “to ensure that they adhere to the moral view of society.”¹³⁶ [...]

UN Human Rights Council, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak: Mission to Jamaica, 11 October 2010*

<http://www2.ohchr.org/english/issues/torture/rapporteur/docs/A-HRC-16-52-Add3.pdf>

[...] *C. Conditions of detention*

⁷⁵ Maurice Tomlinson, Letter to the Editor, Gays Blocked from Hip Strip, JAMAICA GLEANER, July 11, 2010, available at <http://jamaica-gleaner.com/gleaner/20100711/letters/letters2.html>. The “Hip Strip” is a “busy Friday-evening location” in Montego Bay popular with both locals and tourists for its numerous eateries and outdoor entertainment. Id.

⁷⁶ Rex Wockner, Jamaican Gay Bar Raided by Police, PINKPAPER.COM, available at <http://news.pinkpaper.com/NewsStory.aspx?id=4921>

⁷⁷ Id

¹¹⁶ Nadine Wilson, Blow to gay ad – TVJ rejects J-FLAG’s PSA, THE JAMAICA OBSERVER, Aug. 17, 2011, available at http://www.jamaicaobserver.com/news/Blow-to-gay-ad---TVJ-rejects-J-FLAG-s-PSA_9463727

¹¹⁷ Julie Bolcer, Television Jamaica Rejects Gay PSA, THE ADVOCATE, Aug. 17, 2011, available at http://www.advocate.com/News/Daily_News/2011/08/17/Television_Jamaica_Rejects_Gay_PSA/

¹¹⁸ Id

¹³⁶ Marc Lacey, Attacks Show Easygoing Jamaica is Dire Place for Gays, THE NEW YORK TIMES, Feb. 24, 2008, available at <http://www.nytimes.com/2008/02/24/world/americas/24jamaica.html>

[...] 3. *Correctional centres*

[...] 47. 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. In the security section in the Tower Street centre, detainees were locked up in dark, solitary cells without a toilet or water, and had nobody to call for help.

[...] *St. Catherine Adult Correctional Centre, Spanish Town*
Visited on 17 February 2010

Individual cases

Vulnerable Persons Unit

[...] 118. A detainee, aged approximately 50, HIV positive and homosexual, had been charged for a murder and sentenced to 20 years imprisonment. He always received his medicine but reported that because he complained that he was not getting the special diet he needed, he was beaten by a warder who broke one of his ribs. Warders would often enter his cell and insult him. He was also very scared of other detainees because of the heavy discrimination against homosexuals. In church they had a special section for homosexuals. If they sat on other benches, they were beaten by the others. Because of this stigma homosexuals were also prevented from doing many activities. Many detainees spent many more years in jail than what they were sentenced for because their parole hearings were constantly postponed.

[...] 122. Nicholas McIntosh and other detainees complained about discrimination of homosexuals, who were segregated and had no access to church, the gym, school and other common activities.

[...] *Tower Street Adult Correctional Centre, “General Penitentiary”, Kingston*
Visited on 18 February 2010

Individual Interviews

Special Location/ “Gay Section” (E, F, G, H South)

[...] 178. A detainee had been sent to Tower Street in October 2008; he was sentenced to four years imprisonment. He felt discriminated by the other inmates because he was homosexual and had been beaten by officers with batons. He was a musician and would like to use the instruments in the prison, but the other inmates used them and they refused to let him join. He was not accepted in the Rasta choir either because he was a homosexual.

[...] *Windsor Children’s Home for Girls, St. Ann’s Bay*
Visited on 20 February 2010

Individual cases

[...] 205. J.A.F., aged 17, had to spend three years at Windsor for being “uncontrollable”. She complained primarily about the food. The girls had to get up between 6 and 7 a.m. The new arrivals went to school at the compound; the others went to school outside. At 1 p.m. they came back, had lunch and usually spent the afternoon outside playing games or doing sports. They could also work on computers. She alleged that at St. Ann’s Police Station she and her friend were discriminated and treated roughly (called “dogs”) because they were lesbians. She also alleged that at Windsor girls were discriminated against because of their colour of skin: If one had a lighter colour, she would get a nicer room, a TV and other privileges. [...]

Jamaica Aids Support for Life (JASL)/Jamaica Forum for Lesbians, All-sexuals, and Gays/Caribbean Vulnerable Communities Coalition (CVC)/Sex Workers Association of Jamaica (SWAJ)/Women for Women (WfW)/The Underlined Response (UR)/International Lesbian, Gay, Bisexual, Trans, and Intersex – Latin America and the Caribbean (ILGA-LAC) Coalition, *Submission by stakeholder LGBTI, Sex Workers*

and PLWHIV Coalition for the United Nations Universal Periodic Review of Jamaica, 3 September 2010

http://lib.ohchr.org/HRBodies/UPR/Documents/Session9/JM/JASL_JamaicaAidsSupportforLife_JS.pdf

[...] *III PROMOTION AND PROTECTION OF HUMAN RIGHTS*

Implementation of international human rights obligations

[...] *13. Right to Health*

Discrimination against and intolerance of MSM and Sex Workers spreads HIV/AIDS in Jamaica by driving these at risk individuals underground away from HIV/AIDS prevention treatment and care interventions. On March 12, 2010, the Executive Director of UNAIDS, Michel Sidibe, reminded the world that in Jamaica there is a 32 per cent HIV prevalence among men who have sex with men (MSM) versus 1.6 per cent in the general population. UNAIDS also reports that the HIV/AIDS prevalence rate among Jamaican Sex Workers is 9%. The distribution of condoms in prisons is banned because of the anti-sodomy laws with the result that incarcerated MSM engage in unprotected sex-acts which transmits HIV leading to a 3.6% HIV prevalence rate within the male prison population. Jamaican health officials acknowledge that Jamaica's sodomy laws make it difficult for them to work directly with men who have sex with men. In September 2009, Peter Figueroa, former chief, Epidemiology and AIDS, Ministry of Health said: "Bisexual men act as a bridge between the high rate of HIV in the gay community into the general heterosexual population through women... It would be good if we could repeal the sodomy law in Jamaica because that would send a signal to the gay community that they are part of the society."

14. Right to education

The UDHR provides that 'Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.' Despite this, in November 2007 the Jamaican Minister of Education pulled two approved books from high schools (New Steps in Religious Education for the Caribbean Book 3 and C-SEC Home Economics and Beyond) because they mentioned same-sex unions and families. This activity of the Minister reinforced the discrimination against LGBTI individuals and retards the development of a tolerant generation of Jamaicans. [...]

UN Human Rights Council, Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 (c) of the annex to Human Rights Council resolution 5/1: Jamaica, 10 August 2010

http://lib.ohchr.org/HRBodies/UPR/Documents/Session9/JM/A_HRC_WG.6_9_JAM_3_Jamaica_eng.pdf

[...] *I. Background and framework*

[...] *D. Policy measures*

6. JS1 [Joint Submission 1] reported cases of abuse and harassment of gay men and sex workers by police officers.¹⁰ It recommended that Jamaica provide training to all criminal justice officers in international human rights standards in relation to sexuality, sexual orientation and HIV/AIDS. Such training should be fully integrated into existing training programmes to all ranks and should also include the fundamentals of HIV transmission and care.¹¹

[...] *II. Promotion and protection of human rights on the ground*

Implementation of international human rights obligations

¹⁰ JS1, pp. 4–5, paras. 10–11.

¹¹ JS1, p. 7, para. 18.

[...] 2. Right to life, liberty and security of the person

[...] 17. JS1 reported cases of gay men being taken into custody by the police and subsequently abused, and of sex workers being harassed, extorted and abused by the police and private citizens.²⁷ In this regard, JS1 recommended that Jamaica ensure that all allegations of human rights abuses by law enforcement officials are investigated by an independent body.²⁸

[...] *Implementation of international human rights obligations*

[...] 4. Right to privacy, marriage and family life

[...] 40. YCSRR stated that there was systematic exclusion of education services for lesbian, gay, bisexual, transgender and intersex young people, who faced discrimination on the grounds of sexual orientation, gender identity and gender expression. It recommended that Jamaica: ensure equal access to education and equal treatment of lesbian, gay, bisexual, transgender and intersex young people; and that education was directed to the development of each student and responded to the needs of students of all sexual orientation and gender identities.⁷²

[...] 6. Right to social security and to an adequate standard of living

42. IACHR stated that HIV infected persons were denied access to health care. JS1 expressed the view that gay men and sex workers are driven away from HIV/AIDS prevention treatment and care interventions because of discrimination and intolerance against them. JS1 recommended that Jamaica provide training on HIV/AIDS, sexuality and sexual orientation to all personnel in health care facilities and that the training should include the right to privacy and the protection of confidential information. [...]

Amnesty International, Jamaica: Submission to the UN Universal Periodic Review: Ninth session of the UPR Working Group of the Human Rights Council, November-December 2010, 19 April 2010

<http://www.amnesty.org/en/library/asset/AMR38/001/2010/en/6969d78c-036a-48d9-a4b1-3bd618f99352/amr380012010en.pdf>

[...] *C. Promotion and protection of human rights on the ground*

[...] *Human rights of lesbian, gay, bisexual and transgender persons*

[...] Amnesty International is also concerned that statements made by public figures further foment this climate of prejudice. During a parliamentary debate in 2009, 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. [...]

Human Rights Watch, Jamaica: Condemn Homophobic Remarks: Prime Minister Should Speak Out Against Violence and Discrimination, Affirm Rights for All, 19 February 2009

<http://www.hrw.org/en/news/2009/02/19/jamaica-condemn-homophobic-remarks>

Jamaica's leaders should condemn the comments of a governing-party member of parliament who called for gay organizations to be outlawed and demanded life imprisonment for homosexual conduct, Human Rights Watch said today in a Letter to Prime Minister Bruce Golding. Citing endemic violence against lesbian, gay, bisexual, and transgender (LGBT) people in Jamaica, Human Rights Watch urged the government to repeal the colonial-era law against "buggery" and publicly affirm equality before the law.

²⁷ JS1, pp. 4–5, para. 10.

²⁸ JS1, p. 7, para. 16

⁷² YCSRR, pp. 4–5.

During a parliamentary debate 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, 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?" [...]

5. State willingness and ability to provide effective protection to LGBTI persons; (particularly police attitude to LGBTI persons, investigations into crimes perpetrated against LGBTI persons)

Amnesty International/J-FLAG, *Fifty Years without the Liberty to Love*, 17 May 2012

<http://www.amnesty.org/en/library/asset/AMR38/001/2012/en/49565034-6213-4e45-b917-8d78ccf39a40/amr380012012en.pdf>

[...] The laws of Jamaica, have for too long now, singled out for punishment one group of people on the basis of their sexual orientation alone. These laws have been used to justify the arbitrary arrest, detention and even torture of individuals who are suspected of being gay, lesbian, bisexual or transgender person. They also send a message to the entire population that discrimination, harassment and violence against people who are, or who are perceived to be, 'different', is okay.

[...] The perpetrators of the vast majority of these crimes are allowed to walk free with little or no investigation occurring when these incidents are reported to the police. [...]

U.S. Department of State, *Country Reports on Human Rights Practices for 2011: Jamaica*, 24 May 2012

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dlid=186525>

[...] *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

[...] The Jamaica Forum for Lesbians, All Sexuals, and Gays (J-FLAG) continued to report serious human rights abuses, including assault with deadly weapons, "corrective rape" of women accused of being lesbians, 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 J-FLAG received 84 reports of sexually motivated harassment or abuse, which included 71 cases of attempted or actual assault, including at least two killings, and 21 reports of displacements. Members of the police force reportedly were the perpetrators in 12 cases. [...]

Amnesty International, *Annual Report 2012: Jamaica*, 24 May 2012

<http://www.amnesty.org/en/region/jamaica/report-2012#section-9-7>

[...] *Rights of lesbian, gay, bisexual and transgender people*

LGBT organizations reported scores of cases of attacks, harassment and threats against lesbians, gay men and bisexual and transgender people, which in many cases were not fully and promptly investigated. [...]

ILGA, *Death threats force leading Jamaican gay rights activist to flee country*, 27 January 2012

<http://ilga.org/ilga/en/article/nneQUsg1Ia>

Maurice Tomlinson's safety cannot be guaranteed following escalation of death threats – will receive award in London this week.

Maurice Tomlinson, one of the most outspoken advocates for gay rights in Jamaica, has been forced to flee his home and country of birth, Jamaica, after an escalation in death threats against him.

Last August Maurice married his Canadian partner at a ceremony in Toronto but the news was deliberately kept quiet out of safety concerns. However, recent media reports in Jamaica about this event meant that Maurice's life could not be guaranteed and police warned him they could not offer him any security from vigilantes if he remained in Jamaica. [...]

Jamaica Forum for Lesbians, All-Sexuals, & Gays (J-FLAG)/Women for Women (Kingston, Jamaica)/Heartland Alliance for Human Needs & Human Rights/International Gay and Lesbian Human Rights Commission (IGLHRC)/AIDS-Free World (AFW)/The George Washington University Law School International Human Rights Clinic, *Human Rights Violations of Lesbian, Gay, Bisexual, and Transgender (LGBT) people in Jamaica: A Shadow Report Submitted for consideration at the 103rd Session of the Human Rights Committee, October 2011*

http://www2.ohchr.org/english/bodies/hrc/docs/ngos/LGBT_Jamaica103.pdf

[...] *II. Executive Summary*

[...] Violence and discrimination against LGBT individuals is common and widespread.¹⁴ Often the police, the Jamaican Constabulary Force (“JCF”), are complicit in these crimes. Even when the police are not involved, the government is in violation of its obligations under the International Covenant on Civil and Political Rights (ICCPR) for failing to protect, investigate, and prosecute perpetrators of violence and discrimination against individuals on the basis of their sexual orientation or gender identity.¹⁵ Further, the Jamaican government offers no protections to LGBT individuals. Similarly situated individuals in opposite-sex and same-sex relationships are treated differently under Jamaican law.¹⁶ Transgender persons are afforded no legal recognition of their preferred gender, which marginalizes them from the rest of society. Additionally, the atmosphere of intolerance denies LGBT individuals access to minimum state services, such as health care and police protection.¹⁷

[...] *III. Substantive violations*

[...] *A. Article 2(1) and Article 26 (Non-discrimination)*

[...] *2. Jamaica's Failure to Protect and Investigate Violations*

Under the ICCPR, the state has a positive duty to investigate and bring the perpetrators of violations of the Covenant to justice.⁴⁰ However, the government of Jamaica has demonstrated its unwillingness to protect individuals who suffer violence and discrimination on the basis of their LGBT status. In fact, the police are frequent violators and are not held accountable for their actions. Between January 2009 and August 2011, J-FLAG, an organization promoting the human rights of LGBTs, received 17 reports of homophobic incidents perpetrated by the police.⁴¹ For example, in 2008, when Constable Michael Hayden's colleagues found out that he is gay, they stole and destroyed his personal property. Constable Hayden's supervisors took no actions to remedy the situation, despite his numerous reports.⁴² Hayden reported that the other policemen made him uncomfortable and

¹⁴ See *infra* pp. 10-11.

¹⁵ U.N. Human Rights Comm. [ICCPR], General Comment No. 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, ¶ 18, U.N. Doc. CCPR/C/21/Rev.1/Add. 13 (May 26, 2004) [hereinafter General Comment No. 31].

¹⁶ The Family Property (Rights of Spouses) Act, 2003, Part I.2(1).

¹⁷ See *infra* pp. 7-9.

⁴⁰ General Comment No. 31, *supra* note 15, ¶ 18.

⁴¹ Interview with Corbin Gordon, *supra* note 10.

⁴² Gay Cop Demands Rights – ‘I am Proud, Standing Tall’ – Says he is not Being Treated Equally in the Police Force, THE JAMAICA STAR ONLINE, Feb. 1, 2008, available at <http://jamaicastar.com/thestar/20080201/news/news1.html>

that as a result, he feared for his life.⁴³ Overall, there is a widespread phenomena of ongoing failure to properly investigate crimes committed against individuals based on sexual orientation or gender identity. As documented by Human Rights Watch, in Jamaica crimes against LGBT individuals are often dismissed as “crimes of passion” regardless of the strength of evidence that the crime was based on sexual identity.⁴⁴

[...] 3. *Effects of Laws Criminalizing Same-sex Sexual Conduct*

[...] In addition to the lack of access to health care services, LGBT individuals also lack access to protective police services. They are reluctant to report violence because, in addition to police complicity in violence against LGBTs⁵⁵, victims often cannot report the violence without admitting their sexual orientation and therefore incriminating themselves under the laws prohibiting same-sex sexual conduct.

[...] B. *Article 6 (Right to Life) and Article 7 (Freedom from Cruel, Inhuman, Degrading Treatment)*

Article 6 states that “[e]very human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.” Article 7 adds that “[n]o one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.” Despite the obligation that Jamaica has as a state party to the treaty to protect individuals from acts committed by private persons in violation of the ICCPR, the rights to life and to freedom from cruel, inhuman, and degrading treatment of LGBT individuals in Jamaica are frequently violated. The Jamaican government should prevent such violations by exercising due diligence to prevent, punish, investigate or redress the harm caused by such acts.⁶² The Jamaican government has failed to protect LGBT individuals from gruesome violence perpetrated against them by non-state actors. As documented by the Inter-American Commission on Human Rights in its Preliminary Observations after its visit to Jamaica in 2008, “Defenders of the rights of gays, lesbians, bisexuals and transsexuals have been murdered, beaten and threatened, and the police have been criticized for failing in many instances to prevent or respond to reports of such violence.”⁶³ J-FLAG documented that in recent years, attacks against LGBT people increased yearly: There were 27 instances of homophobic incidents in 2009, 51 incidents in 2010, and 62 incidents between January and August 2011.⁶⁴ The mere frequency and magnitude of these crimes illustrate the failure on the part of the state to protect LGBT individuals’ rights to life and physical integrity.

Violent crimes against LGBT individuals are gruesome and frequent. Some of the most striking incidences of these crimes include:

- [...] In 2007, after a mob of over 2000 people stoned a group of gay men including gay-rights activist Gareth Williams, police failed to take action against members of the mob and in fact abused members of the victimized group while attempting to isolate them from the mob.⁶⁹
- [...] In February 2011, Gay rights activist Maurice Tomlinson received a death threat.⁷² “The Inter-American Commission asked the State of Jamaica to adopt, in agreement with

⁴³ *Id.*

⁴⁴ Human Rights Watch, *supra* note 22.

⁵⁵ The unnatural connection, *supra* note 23 pp. 6-7.

⁶² General Comment No. 31, *supra* note 15, ¶ 8.

⁶³ Inter-American Commission on Human Rights, Press release, “IACHR Issues Preliminary Observations on Visit

To Jamaica,” available at: <http://www.cidh.org/comunicados/english/2008/59.08eng.htm>

⁶⁴ Interview with Corbin Gordon, *supra* note 10.

⁶⁹ *Id.*

⁷² The email was sent in response to Maurice Tomlinson’s letter to the editor *supra* note 75, and stated, “listen battyman we in jamaica wont endorse r accept you faggots no matter what the fuck u guys try 2 say r do.....get that through ur thick skulls!!!!!!!!!!!!!! we have different culture n upbringing fr north americans or whomever

the beneficiary, the necessary measures to guarantee his life and physical integrity, and to inform the IACHR of the steps taken to investigate the facts that led to the adoption of these precautionary measures.”⁷³ The Jamaican government has yet to contact Mr. Tomlinson and has failed to bring the perpetrator to justice.⁷⁴

Not only are LGBT individuals targeted by the general population, but they also suffer cruel, inhumane and discriminating conduct at the hands of the Jamaican Constabulary Forces. Jamaican police frequently harass LGBT individuals on the streets. In July 2010, police officers blocked access to the “Hip Strip,” a popular entertainment zone, and harassed groups of men and women perceived to be LGBT.⁷⁵ As recently as February 2011, the police raided a gay bar in Montego Bay. Approximately twenty police officers kicked in the door and forcibly evacuated the bar, beating and pistol-whipping patrons in the process and shouting anti-gay slurs.⁷⁶ Ten victims had to seek medical treatment as a result of the raid.⁷⁷ Because police sometimes perpetrate crimes against LGBT groups, and because the police refuse to act and investigate reports of violence and discrimination, LGBT persons are by and large reluctant to report violence or harassment to the police. If and when they do report physical violence to the police, they are routinely denied help; on numerous occasions the police fail to investigate these complaints and sometimes even arrest and detain those they suspect of being LGBT rather than the perpetrators.⁷⁸ For example, in 2010 an MSM victim who was clobbered by a group of 5 men and women went to the police for assistance. The police told him that “if he was attacked again he should point out the perpetrators,” implying that the first attack was not worth investigating, and signaling lack of police interest in pursuing justice for victims of violence related to sexual orientation or gender identity.⁷⁹

[...] *C. Article 3 (Equality between Men and Women)*

Article 3 of the ICCPR states: “[t]he States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.” Jamaica fails to protect women and transgender women against crimes committed on the basis of their sexual orientation and gender identity. Violence against lesbian women is prevalent in Jamaica and the state is unresponsive. Often, crimes against lesbian women and transgender women are committed in the home, and many are afraid to report sexual crimes committed against them for fear that the police will perpetuate the abuse or humiliate them.⁸¹

[...] Women for Women, the primary advocacy group for lesbians in Jamaica, has documented increasing numbers of domestic violence and rape of lesbian women, but also that few

else.....you should consider moving somewhere there.....in the meantime shut the fuck up r you will fucking die!!!!!!!" Wockner, supra note 76

⁷³ Inter-American Commission on Human Rights [IACHR], Precautionary Measures No. 80/11, Maurice Tomlinson, Jamaica, Mar. 21, 2011, available at <http://www.cidh.org/medidas/2011.eng.htm>

⁷⁴ Email conversation with Maurice Tomlinson, April 24, 2011, on file with authors.

⁷⁵ Maurice Tomlinson, Letter to the Editor, Gays Blocked from Hip Strip, JAMAICA GLEANER, July 11, 2010, available at <http://jamaica-gleaner.com/gleaner/20100711/letters/letters2.html>. The “Hip Strip” is a “busy Friday-evening location” in Montego Bay popular with both locals and tourists for its numerous eateries and outdoor entertainment. *Id.*

⁷⁶ Rex Wockner, Jamaican Gay Bar Raided by Police, PINKPAPER.COM, available at <http://news.pinkpaper.com/NewsStory.aspx?id=4921>

⁷⁷ *Id.*

⁷⁸ Hated to Death: Homophobia, Violence, and Jamaica’s HIV/AIDS Epidemic, Human Rights Watch 10-11, Nov. 2004, available at <http://www.hrw.org/en/reports/2004/11/15/hated-death-0>; The Unnatural connexion, supra note 19, 42.

⁷⁹ The unnatural connexion, supra note 19, at 34.

⁸¹ Telephone Interview with Corbin Gordon, J-FLAG (Sept. 14, 2011)

women feel they can rely on the police for fear of further victimization from the police themselves.⁸⁴

Gender discrimination also disproportionately affects transgender individuals. In December 2010, the police discovered the dead body of a transgender individual hidden behind a building. The victim was chopped to death.⁸⁵ Recently, a group of men raped a thirteen-year-old transgender individual in Kingston.⁸⁶ News coverage of these incidents did not reveal that any police investigation into these deaths had occurred, and Jamaican activists are not aware of any action taken to seek accountability for these murders of transgender individuals.

[...] Furthermore, in many cases women refuse to report the attacks to the police for fear of retribution from the police themselves because of their sexual identity. In summary, lesbian women have nowhere to turn to seek accountability for or protection from these attacks, since the government of Jamaica refuses to provide them with protection from these abuses.

[...] *III. Substantive violations*

[...] *E. Article 14 (Right to Fair Trial)*

[...] In Jamaica, there no specific recognition of hate crimes against individuals who are targeted based on actual or perceived sexual orientation or gender identity. [...]

Amnesty International, Jamaica Submission to the UN Human Rights Committee for the 103rd Session of the Human Rights Committee (17 October – 4 November 2011), 9 September 2011

<http://www.amnesty.org/en/library/asset/AMR38/004/2011/en/0fb9e79e-366a-412b-95cf-4cae963d2951/amr380042011en.pdf>

[...] *NON-DISCRIMINATION (ARTICLES 2 AND 26)*

Rights of lesbian, gay, bisexual and transgender people (Question 6)

[...] The Jamaica Forum for Lesbians, All-Sexuals & Gays (J-FLAG) reported in June that 51 homophobic incidents had been registered in Jamaica between January and June 2011, representing a rise compared to the same period over 2010. These incidents include mob attacks, physical abuse, home evictions and discrimination. Some of the incidents were perpetrated by police officers. For example, just after midnight on 20 February 2011, approximately 20 heavily armed officers raided a gay club in Montego Bay. The police reportedly kicked in the doors of the club, beat and pistol-whipped patrons, and chased patrons from the venue. The police reportedly used homophobic language when intimidating and beating patrons. The police did not disclose the purpose of the raid. At least ten people are reported to have been treated at hospital for injuries received during the raid. Nobody was arrested.

[...] In 2010, interviews conducted by the Jamaican association Women for Women on 11 lesbian, bisexual and transgender women victims of violence found that only one had reported the rape to the police and after two years she was still waiting for the court hearing. The others had not reported the crime because they feared being criminalized on account of their sexual orientation. [...]

⁸⁴ The unnatural connexion, supra note 23, at 35

⁸⁵ Kimmo Matthews, Cross Dresser's Body found in Half-Way-Tree, JAMAICA OBSERVER, Dec. 3, 2010, available at <http://www.jamaicaobserver.com/Woman-s-body-found-in-Half-Way-Tree>

⁸⁶ Telephone Interview with Corbin Gordon, J-FLAG (Sept. 14, 2011)

The Jamaica Gleaner, *Brutality Against MoBay Gays*, 25 February 2011

<http://jamaica-gleaner.com/gleaner/20110225/letters/letters5.html>

THE EDITOR, Sir:

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.

All the while, the officers hurled homophobic slurs which encouraged patrons of other clubs nearby to join in the melee by throwing bottles, stones and other missiles as individuals fled for their lives.

One patron described it as a mob scene, and another who asked a policeman, "If this is how you, as a law-enforcement officer, treat us, how do you expect other people to behave?" was rewarded with several kicks for his effrontery. He later took refuge for several hours in an abandoned building.

At least 10 persons were reported to have been treated at hospital for injuries sustained during the raid, while others decided to nurse their wounds at home.

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. On neither occasion did police disclose the purpose of the raids, but they clearly have one intent, namely, to intimidate and remind lesbians, gays, bisexuals, transgender and intersex individuals that their kind is not welcome in Jamaica, and they certainly don't have the right to assemble and socialise peacefully.

I am, etc.,

MAURICE TOMLINSON

maurice_tomlinson@yahoo.com

Montego Bay, St James

Jamaica Forum for Lesbians, All-Sexuals and Gays (J-FLAG), *Happy New Year*, 1 January 2011

<http://www.jflag.org/2011/01/>

[...] This year, 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. [...] 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'. [...]

Immigration and Refugee Board of Canada, *Jamaica: How police treat complaints made by lesbian, gay, bisexual, and transgender (LGBT) people (2007 - 2010)*, 10 December 2010

http://www.irb-cisr.gc.ca:8080/RIR_RDI/RIR_RDI.aspx?id=453279&l=e

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).

[...] *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.).

[...] *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 30Nov. 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 30Nov. 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.). [...]

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Jamaica Aids Support for Life (JASL), Jamaica Forum for Lesbians, All-Sexuals and Gays (J-FLAG), Caribbean Vulnerable Communities Coalition (CVC), Sex Workers Association of Jamaica (SWAJ), Women for Women (WfW), The Underlined Response (UR), and International Lesbian, Gay, Bisexual, Trans, and

Intersex--Latin America and the Caribbean (ILGA-LAC). 2010. Submission by Stakeholder LGBTI, Sex Workers and PLWHIV Coalition for the Universal Periodic Review of Jamaica. UN Human Rights Council Ninth Session (November 2010). (UN Office of the High Commissioner for Human Rights) http://lib.ohchr.org/HRBodies/UPR/Documents/Session9/JM/JASL_JamaicaAidsSupportforLife_JS.pdf [Accessed 30 Nov. 2010]

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[...] *Windsor Children's Home for Girls, St. Ann's Bay*

Visited on 20 February 2010

Individual cases

[...] 205. J.A.F., aged 17, had to spend three years at Windsor for being "uncontrollable". She complained primarily about the food. The girls had to get up between 6 and 7 a.m. The new arrivals went to school at the compound; the others went to school outside. At 1 p.m. they came back, had lunch and usually spent the afternoon outside playing games or doing sports. They could also work on computers. She alleged that at St. Ann's Police Station she and her friend were discriminated and treated roughly (called "dogs") because they were lesbians. She also alleged that at Windsor girls were discriminated against because of their colour of skin: If one had a lighter colour, she would get a nicer room, a TV and other privileges. [...]

Jamaica Aids Support for Life (JASL)/Jamaica Forum for Lesbians, All-sexuals, and Gays/Caribbean Vulnerable Communities Coalition (CVC)/Sex Workers Association of Jamaica (SWAJ)/Women for Women (WfW)/The Underlined Response (UR)/International Lesbian, Gay, Bisexual, Trans, and Intersex – Latin America and the Caribbean (ILGA-LAC) Coalition, Submission by stakeholder LGBTI, Sex Workers and PLWHIV Coalition for the United Nations Universal Periodic Review of Jamaica, 3 September 2010

http://lib.ohchr.org/HRBodies/UPR/Documents/Session9/JM/JASL_JamaicaAidsSupportforLife_JS.pdf

[...] *III PROMOTION AND PROTECTION OF HUMAN RIGHTS*

Implementation of international human rights obligations

10. Cruel and Inhuman Treatment

i. Examples of attacks on MSM are: April 2006 students rioted at the University of the West Indies in Jamaica and attacked an alleged gay student; February 14, 2007, a group of gay men, including gay-rights activist Gareth Williams, were stoned by a mob of over 2000 in Kingston. The police failed to arrest anyone for the attack and instead took the gay men into custody and subsequently abused them even as they sought to secure them from the mob; April 8, 2007, approximately 100 men attacked a church where 150 people were attending the

funeral of a gay man in Mandeville. When called, the police made no arrests and instead are reported to have joined the mob in jeering the gay men; December 2009 a Jamaican police officer was held in lock-up for 12 days for alleged acts of gross indecency with another police officer. He was never charged and eventually released.

ii. In 2008 four (4) cases of rape of lesbians and transgendered women ‘to set them straight’ were reported to WfW. The women refused to report the matter to the police for fear of further victimization by the police. In 2007 a 17 year old lesbian was held captive by her own mother and pastor for 18 days and raped repeatedly day after day by different religious men in the attempt to ‘make her take man’ and ‘live as god instructed.’

iii. SWAJ reports that its members are regularly harassed, extorted and abused by police officers and private citizens acting under S.63 of the Offences Against the Person Act and its successor Section 23 of the Sexual Offences Act which criminalize adult consensual sex work. On November 20, 2006 a taxi driver used a machete to slash a sex worker after a disagreement over price. The sex worker did not go to the police or the hospital but visited the offices of JASL for treatment because of her fear of stigmatization and treatment by the police and hospital staff. In September 2008 a sex worker’s throat was slashed by a client and in 2009 a client succeeded in murdering a sex worker in Kingston. Despite the matters being reported to the police, there were no arrests.

[...] *11. Right to Privacy*

Sections 76, 77 and 79 of Jamaica’s 19th century Offences Against the Person Act criminalize the private acts of consenting adult male same-sex intimacy. The police have used this provision in the past to harass males perceived to be gay and members of the public regularly invade the homes of alleged gay man. In January, 2008, three gay men were attacked in the privacy of their dwelling by an angry mob who had days before threatened them if they did not leave the community in Mandeville. Two men were hospitalized, one with serious injuries. In February 2010 two homes of gay men were invaded by angry mobs in the parishes of Clarendon and St. Catherine. When called to the scene, the police failed to disburse the mob. In the Clarendon case the gay men were able to repel the attack while in the St. Catherine case the police took the gay men into custody while no members of the mob were arrested. [...]

UN Human Rights Council, *Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 (c) of the annex to Human Rights Council resolution 5/1: Jamaica, 10 August 2010*

http://lib.ohchr.org/HRBodies/UPR/Documents/Session9/JM/A_HRC_WG.6_9_JAM_3_Jamaica_eng.pdf

[...] *I. Background and framework*

[...] *D. Policy measures*

6. JS1 reported cases of abuse and harassment of gay men and sex workers by police officers.¹⁰ It recommended that Jamaica provide training to all criminal justice officers in international human rights standards in relation to sexuality, sexual orientation and HIV/AIDS. Such training should be fully integrated into existing training programmes to all ranks and should also include the fundamentals of HIV transmission and care.¹¹

[...] *II. Promotion and protection of human rights on the ground*

Implementation of international human rights obligations

[...] *2. Right to life, liberty and security of the person*

[...] 17. JS1 reported cases of gay men being taken into custody by the police and subsequently abused, and of sex workers being harassed, extorted and abused by the police

¹⁰ JS1, pp. 4–5, paras. 10–11

¹¹ JS1, p. 7, para. 18

and private citizens.²⁷ In this regard, JS1 recommended that Jamaica ensure that all allegations of human rights abuses by law enforcement officials are investigated by an independent body.²⁸ [...]

Human Rights Watch, *Jamaica: Condemn Homophobic Remarks: Prime Minister Should Speak Out Against Violence and Discrimination, Affirm Rights for All*, 19 February 2009

<http://www.hrw.org/en/news/2009/02/19/jamaica-condemn-homophobic-remarks>

[...] That attack echoed another in the same town on Easter Sunday, April 8, 2007, when a crowd of about 100 men gathered outside a church where 150 people were attending the funeral of a gay man. The crowd broke the windows with bottles and threatened to kill the mourners. Police were called to the scene, but refused to intervene. Officers stopped gay men from leaving and searched their vehicles, but did not restrain or detain members of the mob who threatened mourners with sticks, stones, and batons as they tried to escape.

[...] On February 14, 2007, a mob of at least 200 in Kingston surrounded and attacked four men, including J-FLAG's co-chair, calling for the men to be beaten to death because they were gay. When police arrived, instead of protecting the victims, the officers verbally abused them and struck one in the face, head, and stomach. [...]

²⁷ JS1, pp. 4–5, para. 10

²⁸ JS1, p. 7, para. 16

6. (Limitations in) access to social and economic rights for LGBTI persons

C-Change, *Stigma & Discrimination Against Men Who Have Sex with Men: In Jamaica, April 2012*

<http://c-changeproject.org/sites/default/files/Stigma-MSM-Jamaica.pdf>

Executive Summary

FHI 360's Communication for Change (C-Change) project in Jamaica, through funding from USAID/PEPFAR provides technical assistance in social and behavior change communication (SBCC) to improve the quality and scale of Jamaica's response to the HIV and AIDS epidemic. In 2011 the project conducted a qualitative study to understand the stigma and discrimination experienced by men who have sex with men (MSM) in Jamaica with the aim of developing useful materials for anti-stigma and anti-homophobia SBCC and advocacy campaigns. With prevalence data showing that more than a third of the population of MSM in Jamaica are HIV infected (Jamaica National HIV/STI Programme 2010), and with the understanding that stigma and discrimination of MSM is a major barrier to accessing health and social services that can help mitigate the growing HIV and AIDS epidemic, the study sought to inform critical interventions designed for this marginalized population.

The research characterized stigma and discrimination as actions, deeds, words, behaviors, and attitudes expressed that deny the dignity, respect and/or rights of MSM. It looked to add depth to the understanding of MSM stigma/discrimination and to supplement what was currently being documented through Jamaican quantitative surveys. To do so, this study used hearsay ethnography methodology where 23 trained MSM ethnographers aged 18 to 40 years from five Jamaican parishes went about their daily lives over a three-week period and documented observations, conversations, and personal experiences to understand the dynamics and environments that facilitate and perpetuate stigma and discrimination. Ethnographers met on a weekly basis for debriefing sessions with supervisors. These recorded one-on-one sessions, along with journal entries from ethnographer observations and conversations, were analyzed and interpreted to form the basis for study findings related to 177 documented instances of stigma and discrimination.

Study findings were consistent with previously published studies in other regions of the world showing that MSM are the target of verbal, nonverbal, and physical stigma, discrimination, and abuse where negative labels, stereotypes, insults, and physical attacks are perpetrated against MSM individuals or groups to deny them dignity, respect, and basic human rights. MSM stigma and discrimination was evident in several environments in Jamaica and consistent with a socioecological explanatory model at the institutional, community, and interpersonal levels. More specific results of the study are summarized below in bulleted fashion.

Types of stigma/discrimination

[...] o MSM discrimination took place in the rental property market; landlords asked discriminatory questions to determine if the potential tenant was an MSM.

[...] o In health facilities staff and providers often used nonverbal actions and body language to communicate disrespect; staff gossip about MSM patients took place. [...]

Jamaica Forum for Lesbians, All-Sexuals, & Gays (J-FLAG)/Women for Women (Kingston, Jamaica)/Heartland Alliance for Human Needs & Human Rights/International Gay and Lesbian Human Rights Commission (IGLHRC)/AIDS-Free World (AFW)/The George Washington University Law School International Human Rights Clinic, *Human Rights Violations of Lesbian, Gay, Bisexual, and*

Transgender (LGBT) people in Jamaica: A Shadow Report Submitted for consideration at the 103rd Session of the Human Rights Committee, October 2011

http://www2.ohchr.org/english/bodies/hrc/docs/ngos/LGBT_Jamaica103.pdf

[...] *III. Substantive violations*

[...] *D. Article 17 (Right to Privacy)*

[...] Additionally, due to widespread discrimination, Jamaican transgender people have a difficult time finding professions and are forced into either sex work or seek out aesthetic professions, finding work such as hairdressers or nail technicians⁹⁸. [...]

Jamaica Observer, New Kingston gay and HIV homeless need help — HIV activists, 15 August 2011

http://www.jamaicaobserver.com/news/New-Kingston-gay-and-HIV-homeless-need-help---HIV-activists_9450743#ixzz1V7UcLAow

JAMAICA Aids Support for Life (JASL) is calling on the Government to make provisions to house homeless gay men in New Kingston whose numbers have been steadily increasing over the years.

Chairman of JASL, Ian McKnight, feels that while the issue might not sit well with a number of taxpayers, the situation transcends personal or religious beliefs and, instead, is a matter that should be tackled by the administration.

[...] He argued that because of the level of bigotry among Jamaicans, many stigmatised sections of the population like these men fall through the cracks, with it being socially acceptable not to provide for them. Many of them have taken to strolling the streets as male prostitutes and have been the source of complaints from residents of New Kingston, who say they have become a public nuisance.

[...] McKnight said that while it would be very costly to house all the homeless living in abandoned buildings and gullies in the New Kingston area, he feels that shelter should be provided for those forced out of their homes and communities and onto the streets as a result of their sexual preference.

Many of them, he said, are vulnerable to being beaten by the police, attacked by men riding motorbikes and stoned by those bent on ridding them from society.

Executive director of JASL, Kandas Levermore agreed, on the basis that their HIV status makes these homeless men more vulnerable. [...]

Jamaica Aids Support for Life (JASL)/Jamaica Forum for Lesbians, All-sexuals, and Gays/Caribbean Vulnerable Communities Coalition (CVC)/Sex Workers Association of Jamaica (SWAJ)/Women for Women (WfW)/The Underlined Response (UR)/International Lesbian, Gay, Bisexual, Trans, and Intersex – Latin America and the Caribbean (ILGA-LAC) Coalition, Submission by stakeholder LGBTI, Sex Workers and PLWHIV Coalition for the United Nations Universal Periodic Review of Jamaica, 3 September 2010

http://lib.ohchr.org/HRBodies/UPR/Documents/Session9/JM/JASL_JamaicaAidsSupportforLife_JS.pdf

[...] *III PROMOTION AND PROTECTION OF HUMAN RIGHTS*

Implementation of international human rights obligations

[...] *15. Housing*

Jamaican MSM, SW and young homosexuals are regularly evicted from their homes and left homeless. As a result of their participation in a Walk for Tolerance on April 7, 2010, 4 MSM were displaced from their communities because of threats to their lives. The Underlined

⁹⁸ Email with Maurice Tomlinson, supra note 77.

Response reports that in February of 2010 it dealt with 6 cases of evicted LGBTI youth. JASL operated a shelter for such displaced individuals but was forced to close this due to lack of funding. Home invasions of persons suspected of being gay are regular and in February 2010 there were two such cases with one group of gay men being held in police custody for two (2) days ‘for their safety.’ [...]

Jamaica Aids Support for Life (JASL)/Jamaica Forum for Lesbians, All-sexuals, and Gays/Caribbean Vulnerable Communities Coalition (CVC)/Sex Workers Association of Jamaica (SWAJ)/Women for Women (WfW)/The Underlined Response (UR)/International Lesbian, Gay, Bisexual, Trans, and Intersex – Latin America and the Caribbean (ILGA-LAC) Coalition, *Submission by stakeholder LGBTI, Sex Workers and PLWHIV Coalition for the United Nations Universal Periodic Review of Jamaica, 3 September 2010*

http://lib.ohchr.org/HRBodies/UPR/Documents/Session9/JM/JASL_JamaicaAidsSupportforLife_JS.pdf

[...] *III PROMOTION AND PROTECTION OF HUMAN RIGHTS*

Implementation of international human rights obligations

[...] *12. Right to work and free choice of employment*

[...] There is also no constitutional protection from employment discrimination on the grounds of sexual orientation and gender identity the result being that on May 20, 2008, the Jamaican Prime Minister Bruce Golding felt free to say in a BBC interview that no gays would form part of his cabinet

UN Human Rights Council, *Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 (c) of the annex to Human Rights Council resolution 5/1: Jamaica, 10 August 2010*

http://lib.ohchr.org/HRBodies/UPR/Documents/Session9/JM/A_HRC_WG.6_9_JAM_3_Jamaica_eng.pdf

[...] *II. Promotion and protection of human rights on the ground*

Implementation of international human rights obligations

[...] *4. Right to privacy, marriage and family life*

[...] 38. JS1 noted that there was no constitutional protection from employment discrimination on the grounds of sexual orientation and gender identity.⁶⁹ It also noted that sex work is criminalized, regardless of whether it is freely entered into by consenting adults.⁷⁰

39. JS1 stated that gay men, sex workers and young homosexuals are regularly evicted from their homes and left homeless.⁷¹ [...]

⁶⁹ JS1, p. 6, para. 12

⁷⁰ JS1, p. 6, para. 12

⁷¹ JS1, p. 7, para. 15

Sources consulted (including descriptions of lesser known sources)

C-Change: “Communication for Change. Innovative Approaches to Social and Behavior Change Communication [...] C-Change streamlines formative research and pre- and concept-testing methods and creates easy-to-use frontline teaching tools and hands-on, skills-based training [...] Conduct research and improve monitoring and evaluation to inform program development and implementation [...]”

<http://c-changeproject.org/about-us/our-approach>

ECOI

www.ecoi.net

Gay Lesbian Bisexual Transgender & Queer Jamaica (blog): “I am a 37 y/old single Gay Jamaican previously involved in Interventions at JFLAG & HIV work at Jamaica AIDS Support for Life & still volunteers for other NGOs in similar veins [...] Gay Jamaica Watch blog was started at Sunshine Cathedral Jamaica on 20/2/08 while The GLBTQJA blog was started as JFLAG on 8/5/08 both I have renamed to reflect my points of view, other individual lgbt opinions and to encourage more conversations on LGBTQI issues from a Jamaican standpoint outside of the advocacy structure for solutions [...]”

<http://glbtqjamaica.blogspot.co.uk/>

Global Gayz.com: “GlobalGayz is a gay-owned charitable travel and culture website focused on les-bi-gay-trans life in countries around the world. It is based on actual visits to far and near countries. Presented here are Stories, Links, News Reports and Photo Galleries for more than 190 countries”

<http://www.globalgayz.com/caribbean/jamaica/>

Jamaica Forum for Lesbians, All-Sexuals and Gays (J-FLAG): “The Jamaica Forum for Lesbians, All-Sexuals and Gays was founded on Thursday December 10, 1998 as the first human rights organization in the history of Jamaica to serve the needs of Lesbians, Gays and Bisexuals and Transgendered (LGBT) peoples. J-FLAG was started by a group of 12 business men and women: educators, lawyers, public relations practitioners, advertisers and human rights activists who saw the need to advocate for the protection of LGBT people from state-sanctioned and community violence. In this regard, J-FLAG’s call was for the fair and equal treatment of gays and lesbians under the law and by the ordinary citizen.”

<http://www.jflag.org/about/history/>

Jamaica Observer: Jamaican privately owned newspaper

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Immigration and Refugee Board of Canada, Jamaica Responses to Information Requests

<http://www.unhcr.org/refworld/publisher,IRBC,QUERYRESPONSE,JAM,,0.html>

International Gay and Lesbian Human Rights Commission, Jamaica page

<http://www.iglhrc.org/cgi-bin/iowa/region/103.html>

International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), Jamaica page
<http://ilga.org/ilga/en/countries/JAMAICA/>

LGBT Asylum News (blog): “This website was established in January 2008 to help save 19yo gay Iranian Mehdi Kazemi from deportation to execution by the British government [...] We document the situations in countries from which LGBT people are fleeing hoping for a safe haven and the problems they can face from the asylum system in many countries”.
<http://madikazemi.blogspot.co.uk/p/about-us.html>

Pink News: “Pink News covers religion, politics, entertainment, finance, and community news for the gay, lesbian, bisexual and transgendered community in the UK and worldwide. Founded to produce broadsheet quality journalism for the LGBT community, we cover politics to theology in an intelligent manner”
<http://www.pinknews.co.uk/>

Refworld

<http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain>

The Global Forum on MSM and HIV: “The MSMGF is a coalition of advocates working to ensure an effective response to HIV among MSM. Our coalition includes a wide range of people, including HIV-positive and HIV negative gay men directly affected by the HIV epidemic, and other experts in health, human rights, research, and policy work. What we share is our willingness to step forward and act to address the lack of HIV responses targeted to MSM, end AIDS, and promote health and rights for all. We also share a particular concern for the health and rights of gay men/MSM who: are living with HIV; are young; are from low and middle income countries; are poor; are migrant; belong to racial/ethnic minority or indigenous communities; engage in sex work; use drugs; and/or identify as transgender”
<http://www.msmgf.org/index.cfm/id/76/Mission-Strategy/>

The Jamaica Gleaner: Jamaican privately owned newspaper
<http://jamaica-gleaner.com/gleaner/about/gleaner-fs-december11.pdf>

The Jamaica Star: Jamaican privately owned newspaper by the company that also owns The Jamaica Gleaner.
<http://jamaica-star.com/>
<http://jamaica-gleaner.com/gleaner/about/gleaner-fs-december11.pdf>

The Toronto Star: “The Toronto Star is Canada's largest daily newspaper, with the largest readership in the country. It is published seven days a week in the Greater Toronto Area and is owned by Toronto Star Newspapers Limited, a wholly owned subsidiary of Torstar Corporation”
<http://www.thestar.com/aboutus>