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Jamaica

Country Report for use in refugee claims based on persecution relating to sexual orientation and gender identity

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I. Introduction

This Country Conditions report on human rights violations of LGBT Jamaicans surveys reports by the Canadian, U.S. and U. K. governments, reports by Non-Governmental Organizations and media reports documenting persecution of LGBT persons in Jamaica.

These reports reveal that:

- Overt and violent homophobia pervades Jamaican culture;
- Extreme community violence against persons identified as or presumed to be LGBT is commonplace;
- Anti-sodomy laws and laws against acts of gross indecency are used to harass and extort LGBT individuals;
- Police are ineffective protectors of the human rights of LGBT individuals;
- Police participate in the rights abuses of LGBT individuals;
- LGBT persons are unable to enjoy their homes safely, lack freedom of association and cannot move in public spaces without harassment or assault; and
- Jamaican homophobia has an adverse affect on an LGBT person's ability to access health care and to protect themselves from HIV/AIDS.

II. Legislation

To access the full text of the Jamaica constitution and Jamaican legislation, see:

<http://moj.gov.jm/>.

1. *Offences Against the Person Act*, online:

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

- **Article 76 criminalizes homosexual sex between men**
- **If convicted under Article 76, an individual faces up to 7 years imprisonment**
- **Article 78 criminalizes acts of gross indecency between men; gross indecency is an extremely broad term that can include any kind of physical intimacy**
- **Article 78 also criminalizes those who are a party to gross indecency as well as those who procure or attempt to procure gross indecency**
- **If convicted under Article 78, an individual faces up to 2 years imprisonment**

Unnatural Offences

Article 76: 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: 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.

Proof Of Carnal Knowledge

Article 78: 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.

Outrages on Decency

Article 79: 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 misdemeanour, and being convicted thereof shall be liable

at the discretion of the court to be imprisoned for a term not exceeding two years, with or without hard labour.

2. *The Constitution of Jamaica*, online:

<http://moj.gov.jm/sites/default/files/laws/Constitution%20of%20Jamaica_0.pdf>.

- **Section 13 guarantees freedom from discrimination; sexual orientation is not, however, a protected class**
- **Section 19 guarantees an individual's privacy within their home and family**

Fundamental Rights and Freedoms

Section 13: Whereas every person in Jamaica is entitled to the fundamental rights and freedoms of the individual, that is to say, has the right, whatever his race, place of origin, political opinions, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following, namely-

- a. life, liberty, security of the person, the enjoyment of property and the protection of the law;
- b. freedom of conscience, of expression and of peaceful assembly and association; and
- c. respect for his private and family life, the subsequent provisions of this Chapter shall have effect for the purpose of affording protection to the aforesaid rights and freedoms, subject to such limitations of that protection as are contained in those provisions being limitations designed to ensure that the enjoyment of the said rights and freedoms by any individual does not prejudice the rights and freedoms of others or the public interest.

Section 19(1): Except with his own consent, no person shall be subject to the search of his person or his property or the entry by others on his premises.

III. Case Law

Canada

1. Immigration and Refugee Board

A. *Canada (Public Safety and Emergency Preparedness) v. Livermore*, 2007, TA2-25093

Conditional stay of removal granted

- **Persons living as open homosexuals or as homosexual activists are acutely at risk in Jamaica. A person who is open about their sexuality in Canada may be at risk should they choose to return to Jamaica**

Claimant is recovered drug user with criminal past. She was born in Jamaica in 1964 but became a Permanent Resident in Canada in 1977. In prison, the claimant began a series of lesbian relationships and, outside of jail, had two short-term experiences. She asserted that she was attracted to women now and less attracted to men. However, the claimant stated that “relationships were not important to her now” because “since leaving jail . . . she was too busy trying to put her life together.” She asserted that, were she deported, “her main preoccupation would be looking after herself . . . and that if nobody knew about her sexuality she would be safe.”

The Board was satisfied that the claimant was lesbian on the basis of her own testimony than that of her daughter, who had been aware of the claimant’s sexual preferences for “at least two years.” On the matter of treatment of LGBT persons in Jamaica, it considered “documents tendered by the appellant concerning the treatment of gays and lesbians in Jamaica” and “an opinion obtained by the appellant’s counsel from Amnesty International which painted an overall dangerous and sometimes deadly prospect for persons identified with being gays and lesbians.”

The Board made the following remarks on the claimant’s sexuality:

[31] The appellant is, however, not living as an open lesbian and her relationships with women, which have only recently manifested, were infrequent and currently non-existent. She still has some attraction for men although given her history with them the panel can understand why she would prefer the company of women.

[32] The appellant’s lack of an open lesbian lifestyle, coupled with her admitted ability to live without such relationships, does not suggest to the panel that she would immediately be perceived as a lesbian, although the documents suggest that those living openly or as activists for lesbian rights or lifestyle would be acutely at risk. The panel concludes that the appellant would be at some risk if she were to live openly as a lesbian in Jamaica, and she might face difficulty should the fact of her lifestyle follow her to Jamaica.

Ultimately, the panel granted a conditional stay of removal on the basis of a combination of factors including questionable family support in Jamaica, the claimant's potential for rehabilitation, the presence of her children in Canada, the hardship she would face in re-establishing herself in Jamaica, and the fact that "she would be at some risk if word of her sexuality became known."

B. *X (Re)*, 1996, T95-00305

Application granted

- **False arrest, arbitrary detention and harassment by police, as well as attacks, denial of employment opportunities and eviction by private actors were sufficient to show persecution within the definition of Convention refugee**
- **The claimant's fear of persecution was well-founded because of the high level of public homophobia and lack of state protection for homosexuals in Jamaica**

The claimant had been "falsely arrested, arbitrarily detained, maliciously harassed by police officers, and warned by the authorities not to associate with gay men." Because of his sexual orientation, he had also been "attacked by students while attending University, denied employment opportunities, chased by street gangs, and evicted from rental accommodation." The Board found that these ongoing acts by state and non-state actors amounted to persecution within the definition of a Convention refugee.

Documentary evidence establish that the "high level of public intolerance of homosexuality leaves homosexuals particularly vulnerable to persecution." Popular songs celebrating the "hunt[ing] down and kill[ing of] homosexuals" speak to this high level as did as the experiences of other homosexuals. The government's refusal to repeal sodomy laws, along with evidence of police raids on private residences of gay men, news reports of buggery charges, and a statement by the First Secretary of the Jamaican High Commission in Ottawa that "considering the high crime rate in Kingston, police protection could not be provided to a person who claims persecution on the basis of his sexual orientation" were also considered.

The case was subsequently appealed to the Immigration and Refugee Board of Canada, Immigration Appeal Division in Toronto, Canada. In the case of *Livermore v Canada (Minister of Public Safety and Emergency Preparedness)*, [2011] IADD No 1495, [2011] DSAI no 1495, the Board determined that the appellant had fulfilled the criterion necessary for her to stay in Canada. Consequently, the appeal was allowed and the appellant's removal order was set aside. However, the decision did not consider her sexual orientation. The decision was decided based solely on the claimant failing certain immigration criteria, including subsection 36(1) *a*) of the *Immigration and Refugee Protection Act*, which bars admissibility of permanent residents and foreign nationals if they have engaged in "serious criminality".

2. Federal Court of Canada

A. *Brown v Canada (Minister of Citizenship and Immigration)*, [2011] FCJ No 787; [2011] ACF no 787.

Application for review of board decision allowed.

The case was reviewing the application pursuant to subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c. 27 (the Act) for judicial review of a decision of the Refugee Protection Division of the Immigration and Refugee Board. The applicant was a citizen of Jamaica and his claim was based on a fear of persecution due to his sexual orientation. The applicant hid his sexual relationships with men in Jamaica until he was photographed having sex with a male partner. The applicant was then blackmailed with the photographs, resulting in him fleeing to Canada in August 2005.

After Brown left Jamaica, the photographs were shown to the public and police, causing his then-girlfriend to be harassed and her home vandalized. In May 2006, the applicant married a Canadian citizen and submitted a sponsored spouse application before the marriage broke down due to his sexuality. From November 2008 to July 2009, the applicant was detained for possession of cocaine for the purpose of trafficking. It was during this time that the applicant learnt about refugee protection from other inmates. The applicant filed for refugee protection in July 2009.

In dismissing his application, the Board held that the applicant's four-year delay in claiming refugee status was inconsistent with a person living in fear of persecution. The Board found the applicant presented reasonable explanations for the delay, including a lack of knowledge about the refugee process. At no time did the Board state that it did not believe these explanations. The Board also found that the applicant had not rebutted the presumption of state protection in Jamaica as he had not approached the police at any time, and had failed to provide clear and convincing evidence of Jamaica's inability to protect him. The applicant claimed that he did not have to make submissions about state protection, even so, the documentary evidence demonstrated that homosexuality was illegal in Jamaica and that the police persecute homosexuals.

On application for judicial review, the Federal Court allowed the application. The Court held the Board's rejection of the refugee claim could not rest on the applicant's delay in seeking refugee protection alone. While it was well established that the Board could consider delay in assessing the credibility of a claimant's subjective fear, it was held that such delay was not usually determinative of a refugee claim. The Board's finding that the applicant had not rebutted the presumption of state protection did not follow from the evidence. The Court held this did not fall within the range of possible, acceptable outcomes which were defensible on the facts and law.

B. *Cunningham v Canada (Minister of Public Safety and Emergency Preparedness)*, [2010] FCJ No 782; [2010] ACF no 782.

Application for Judicial Review Allowed.

This case was reviewing an application by Cunningham for judicial review of a Pre-Removal Assessment Officer's decision that the applicant would not face persecution if removed to Jamaica. The applicant, 45, was a citizen of Jamaica. He was an openly gay man and married another man in Canada. He argued that in Jamaica he faced a lifetime of harassment and insults, notwithstanding that he was not then openly gay. The applicant attested that the situation in Jamaica for homosexuals continued to deteriorate following his departure. He sought refugee protection in Canada. At the time of his refugee hearing, the applicant was not married. The Refugee Division determined that the applicant had only suffered discrimination in Jamaica and not persecution and that there were no objective grounds to support the applicant's fear of persecution if he were required to return to Jamaica. The Pre-Removal Officer noted that he did not give consideration to documents which pre-dated the Refugee Board's decision and that he did not give consideration to evidence speaking to humanitarian and compassionate factors not speaking to risk.

The Court held that it was entirely possible that persons in Jamaica already knew the applicant was openly gay in Canada and these persons might pose a risk to the applicant. His same-sex marriage enhanced the risk that his openly gay lifestyle might become known in Jamaica, if it was not already known. The failure to acknowledge this new evidence and to take it into account in determining whether the applicant faced a personalized risk of persecution or a risk to his life or of cruel and unusual treatment or punishment if returned to Jamaica constituted a reviewable error against the standard of review of correctness and against the standard of review of reasonableness. The case was returned to the Immigration and Refugee Board of Canada.

C. Parchment v The Minister of Citizenship and Immigration, 2008, 2008 FC 1140.

Application for judicial review dismissed

- **Although there is sufficient evidence that LGBT Jamaicans are at risk of persecution, claimants must prove that he/she is LGBT on a balance of probabilities**
- **The claimant will not prove she is LGBT on a balance of probabilities if she only produces an affirmation of an unsworn and unsupported declaration**

The claimant came to Canada in 1975 when she was 12. She has four children and a criminal record. She claims that she has been a lesbian since 1999.

Frenette J. determined that gays and lesbians were at risk of persecution in Jamaica:

“[3] On the basis of documentary evidence it was established that in Jamaica, lesbians face a severe risk of discrimination and “unusual, undeserved and disproportionate hardship.”

The Immigration Officer had also noted the risk of persecution for LGBT Jamaicans:

[4] The officer noted that documentary evidence shows gays and lesbians are discriminated against and persecuted in Jamaica. He also writes that police agencies and jail conditions were deplorable and that the judicial system is overburdened

The Immigration Officer, however, found that the claimant had not adduced sufficient evidence to establish her claim that she was homosexual. Frenette J. agreed:

[26] There is no “evidence”, except an affirmation of an unsworn and unsupported declaration of the Applicant as to her sexual orientation.

[27] The officer was therefore correct in considering there was no ‘evidence’ of this fact beyond a balance of probabilities.

D. Rigg v. Canada (Solicitor General), 2007, 2007 FC 1079

Application for judicial review allowed

- **Even if a claimant has not experienced persecution personally, any alleged fear of persecution will not necessarily be considered speculative**
- **The risk of violence a claimant faces should be considered both in light of their sexual orientation and personal circumstances**
- **There is a reviewable error where an Officer concludes there is no risk of persecution based on a highly selective treatment of the evidence**

Claimant was born in Jamaica in 1965 and became a permanent resident of Canada in 1977 but never obtained Canadian citizenship. Claimant is an open homosexual and has a lengthy criminal history.

The claimant had no personal experiences of persecution because she came to Canada before puberty and before she could assert her identity as a lesbian. For this reason, the PRRA officer deemed her claim speculative. Barnes J., however, asserted:

[10] It is not accurate to say that in the absence of personal experiences of persecution, Ms. Rigg’s alleged fear was based on speculation. The documentary evidence [concerning homophobic violence in Jamaica] submitted on her behalf was not speculative. It came from reputable evidentiary sources and it provided strong support for her stated fear of persecution based on her sexual orientation.

Barnes J. also determined that it was not reasonable for the PRRA Officer to assess the claimant’s sexual orientation risk without considering personal circumstances including her drug addiction and criminal past:

[11] As an isolated outsider with a drug addiction and a lengthy criminal record, Ms. Rigg’s situation, were she to return to Jamaica, could only be considered dire. It was

naïve to suggest that homelessness and a relapse of drug addiction would be speculative outcomes for her. Her risk of being a target for violence and abuse in the highly homophobic society of Jamaica could not be fairly assessed in isolation from the other obstacles she would face there.

Barnes J. also determined that the PRRA decision was “profoundly deficient” in its treatment of evidence about the particular risks that lesbians face in Jamaica. The overwhelming evidence showed that lesbians were, as well as gay men, targets of persecution:

[14] It is clear that the PRRA Officer’s conclusion that Ms. Rigg would not be at risk was based on a single observation taken out of context. That conclusion was also completely at odds with all of the other documentary evidence which the Officer essentially ignored. This highly selective treatment of the evidence also constitutes a reviewable error.

E. Ferguson v. The Minister of Citizenship and Immigration, 2008, 2008 FC 1067

Application for judicial review denied

- **Claimants must convince the Immigration Officer that, on a balance of probabilities, they are LGBT.**

The claimant did not adduce sufficient evidence that she was a lesbian. Zinn J. held:

[22] The standard of proof in civil matters and in administrative matters is the balance of probabilities. In this PRRA application the Applicant must prove, on a balance of probabilities, that she would be subject to risk of persecution, danger of torture, risk to life or risk of cruel and unusual treatment or punishment if returned to Jamaica. That is proved by presenting evidence to the officer. In this respect the Applicant also has an evidentiary burden. The Applicant has the burden of presenting evidence of each of the facts that has to be proved. One of those facts involves her sexual orientation . . .

[28] The only evidence presented concerning Ms. Ferguson’s sexual orientation was a statement of her former counsel. There was no supporting or corroborative evidence tendered. The officer found that her former counsel’s statement was not probative . . .

[32] When, as here, the fact asserted is critical to the PRRA application, it was open to the officer to require more evidence to satisfy the legal burden. Had the statement been affirmed by the Applicant in a sworn affidavit submitted with her application, it would have been deserving of somewhat greater weight than it was given. Had it been supported by other corroborative evidence such as evidence from her lesbian partner(s), public statements, and the like, it would have attracted even more weight.

United States of America

1. Court of Appeals (9th Ct.)

A. Bromfield v. Mukasey, Court of Appeals (9th Ct.) 2008
No. 05-75844

Petition granted

- **“In light of the statute criminalizing homosexual conduct and the widespread, targeted violence against homosexuals, all gay men [in Jamaica] are at risk” (para. 13)**
- **To come within the definition of torture in the *Convention Against Torture*, the claimant need only show the government acquiesces in the torture of gay men**

Fletcher J. held that the Immigration Judge was wrong to identify attacks on homosexuals in Jamaica as expressions of random violence:

[6] Whether particular conduct constitutes persecution or ‘random’ violence turns on the perpetrator’s motive . . . If the perpetrator is motivated by his victim’s protected status—including sexual orientation—he is engaging in persecution, not random violence . . . The Country Report [by the State Department on Jamaica] does not describe random violence. Rather it makes clear that homosexuals are the victims of *targeted* violence on account of their sexual orientation.

Fletcher J. also determined that Jamaica’s sodomy laws constituted persecution:

[8] The Offences Against the Person Act is relevant because prosecution under the statute is a form of persecution. Although legitimate criminal protection does not constitute persecution, prosecution motivated by a protected ground does . . . [T]here is no doubt that prosecution of homosexuals under the statute is motivated by a protected ground—the prosecution is because of a protected ground. There is nothing neutral about the government’s use of a statute to prohibit homosexual conduct but not any other sexual activity. Because the prohibition is directly related to a protected ground—membership in the particular group of homosexual men—prosecution under the law will always constitute persecution . . .

In her order for review, Fletcher J. held that “[13] the Jamaican law criminalizing homosexual conduct and the frequency with which that law is enforced” should be examined by the Court.

On the question of whether the claimant was entitled to relief under the *Convention Against Torture*, Fletcher J. held that the claimant “[15] was not required to show that the government would torture him; he could satisfy his burden by showing that the

government acquiesces in torture of gay men . . . Acquiescence requires only that public officials were aware of the torture but ‘remained willfully blind to it, or simply stood by because of their inability or unwillingness to oppose it.’”

The Court found that the claimant had established sufficient involvement by the Jamaican government in the torture of gay men to bring it within the definition under the *Convention Against Torture*.

IV. Government Reports

Canada

1. Immigration and Refugee Board of Canada, *Jamaica: Treatment of homosexuals by society and government authorities; availability of support services* (22 February 2007), online: <http://www.irb-cisr.gc.ca:8080/RIR_RDI/RIR_RDI.aspx?id=450935&l=e>.

- **LGBT Jamaicans face homophobic violence and discrimination on a daily basis**
- **LGBT Jamaicans are vulnerable to homelessness and lack of support**
- **Violent homophobia is a core aspect of Jamaican culture**
- **Homophobia is a component of Jamaican nationalism**
- **Private actors celebrate extreme violence and murder aimed at LGBT persons**
- **Police abuses of LGBT rights are common**
- **The sole gay support organization is subject to anti-gay threats and cannot even publish its address**

In Jamaica, individuals suspected or identified as LGBT are subject to violence and discrimination on a daily basis, have endured “horrific assaults”, been driven from their homes and communities, and been “render[ed] homeless and without support.” Homophobia “suffuses” Jamaican society and is a key component of national identity. The church and Jamaican popular culture are vehemently homophobic. Dancehall musicians celebrate the “shooting, burning, rape, stoning and drowning” of LGBT persons. The murders of two gay rights activists, Brian Williamson (2004) and Steven Harvey (2005), were greeted with enthusiasm by community members. Police were also identified as agents of verbal and physical assault, ineffective protectors of LGBT individuals. LGBT persons and health care workers providing services to members of the LGBT community were also subject to arbitrary arrest and detention. The only LGBT-oriented NGO in Jamaica, the Jamaica Forum for Lesbians, All-Sexuals and Gays, cannot publish its address due to fears of retribution and death threats.

2. Immigration and Refugee Board of Canada, *Jamaica: Whether male homosexuality or lesbianism is illegal and penalties (2000-2004)*, (3 May 2005), online: <http://www.irb-cisr.gc.ca:8080/RIR_RDI/RIR_RDI.aspx?id=428375&l=e>.

- **Jamaican criminal laws prohibit anal intercourse and physical intimacy; no evidence exists describing the frequency with which laws are enforced**

United States of America

1. Bureau of Democracy, Hum. Rts., and Lab., U.S. Dep’t of State, *2010 Human Rights Report: Jamaica* (8 April 2011), online: <<http://www.state.gov/j/drl/rls/hrrpt/2010/wha/154511.htm#>>

- **Law prohibits “acts of gross indecency”, which is generally interpreted as any kind of physical intimacy between men, in public or in private; crime is punishable by 10 years in prison**
- **No law protects person with HIV/AIDS from discrimination; severe discrimination is experienced by members of this group**
- **Growing phenomenon of “corrective rape” allows rapists to justify their actions under the rationale that forcing their victim into sex will somehow convert the injured party to heterosexuality**
- **J-FLAG members have suffered attacks on their home and property**
- **Male inmates deemed by prison wardens to be gay were held in separate facilities for their protection; however, abuse of gay inmates remained rampant**

The International Labour Organization (ILO) worked with the Jamaican Ministry of Labour on a program to reduce the stigma of HIV/AIDS in the workplace. In particular, the ILO program was meant to assist employers in designating policies for workers with HIV/AIDS and prepare health-care facilities in handling HIV/AIDS patients. The Ministry of Labour also conducted workplace education programs surrounding HIV/AIDS. Laws banning homosexual acts and societal attitudes prevented distribution of condoms in prisons and similar institutions. J-FLAG continues to report a plethora of human rights abuses.

2. Bureau of Democracy, Hum. Rts., and Lab., U.S. Dep’t of State, *Jamaica: Country Reports on Human Rights Practices—2007* (11 March 2008), online: <http://www.state.gov/g/drl/rls/hrrpt/2007/100645.htm>.

- **A LGBT NGO has considered sending their spokesperson abroad due to safety concerns**
- **Homosexual men are hesitant to report incidents of abuse for safety concerns**
- **Unsafe prison conditions and inappropriate measures are taken to preserve LGBT prisoners from violence**

In October 2008, members of J-FLAG reported that they were considering sending an AIDS spokesman abroad due to concerns for his safety. MSM victims of hate crimes were also reported as being “hesitant to report incidents against them” because they “fear[ed] for their physical well-being.” Although homophobic violence in the Jamaican prison system is pervasive, few sought redress. When a “foreign homosexual man held in prison complained about harassment and for his safety was moved to a maximum-security prison and placed in solitary confinement for 23 hours a day.”

3. Bureau of Democracy, Hum. Rts., and Lab., U.S. Dep’t of State, *Jamaica: Country Reports on Human Rights Practices—2006* (6 March 2007), online: <http://www.state.gov/g/drl/rls/hrrpt/2006/78897.htm>.

- **NGO documents incidents of homophobic violence that go unreported to authorities due to victims’ fear for their safety**

- **Student mob attacks alleged MSM; no charges and no investigation by police**
- **Murder of gay rights activist**
- **Alleged MSM drowned after being chased off a pier by a mob in Kingston**
- **Acquittal of famous musician in charges related to a violent homophobic assault**

J-FLAG has documented several incidents of homophobic violence over the years, some of which resulted in charges brought before court, while others were never reported to authorities because victims were fearful for their own safety. On April 4, 2006, a student mob chased and beat a man who allegedly made homosexual advances toward a student at the University of the West Indies Mona. No charges were laid and there was no police investigation into the incident. In November 2005, Lenford Harvey, an AIDS activist, was killed on the eve of World AIDS Day. In December 2005, a mob allegedly chased homosexual Nokia Cowen off a pier at Kingston Harbor where he drowned. The police have not identified any suspects in the killing, and the case is no longer being investigated. Well-known dancehall musician Buju Banton was acquitted of all charges related to a 2004 homophobic assault.

United Kingdom

1. British Home Office, *Country of Origin Information Report: Jamaica* (24 December 2009), online: <<http://www.homeoffice.gov.uk/rds/pdfs09/jamaica-231209.doc>>

- **Wildly-popular dancehall culture is viciously homophobic, with many lyrics calling for lesbians and gays to be burned, beaten and shot**
- **The homophobia which pervades music, religion, society and government has combined into a peculiar nationalism – gay-bashing has become a kind of patriotism**
- **2008 survey by the Ministry of Health showed 31.8 percent of gay men in Jamaica are living with HIV**
- **While being gay isn't illegal (only sexual acts are illegal), Jamaica does not have any laws protecting gays and lesbians against violence, abuse and discrimination based on their sexuality**
- **Report published in 2008 from Human Rights Watch notes that police officers have been actively involved in violence against lesbians and gay men**
- **365gay reported on its website in 2008 that a public opinion poll confirmed that 70 percent of the Jamaican population oppose any civil rights for gays**

In 2007, in an effort to combat the growing trend of nationalism based on homophobia, a number of reggae and dancehall acts have signed-up to the 'Reggae Compassionate Act' set up by the gay rights campaign group 'Stop Murder Music.' Precise data on the prevalence of violence against LGBT individuals is difficult to come by as victims often do not report incidents. The legal status and societal attitude is particularly ambiguous when it comes to transgendered individuals.

2. British Home Office, *Operational Guidance Note: Jamaica* (1 June 2009), online: <<http://ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/countryspecificasylumpolicyogms/jamaica.pdf?view=Binary>>.

- **Police criticized for failing to protect individuals from homosexual although there are examples of police investigating crimes against gay men**
- **Internal relocation is not an option for individuals who can be readily identifiable as LGBT**
- **Jamaican MSMs are a particular social group for whom sufficient protection is not available**

Although there are examples of police investigations into the murders of two prominent gay rights activists (Brian Williamson and Steve Harvey), police are “criticized for failing to protect individuals from homophobic violence and for failing to investigate reports of violence against gay men and lesbians by members of the wider community” (3.7.5-6). Although it would be possible for a “habitually discreet” gay or bisexual man to relocate were his sexuality discovered, “a gay or bisexual man [who] would be readily identifiable as such wherever he lived and [does not have internal relocation as] an option” (3.7.9). Although homosexuality alone is not a sufficient condition, Jamaican MSMs are “for the purposes of the Refugee Convention, a particular social group to whom sufficient protection is not available. Therefore, if a gay or bisexual man does have a well-founded fear of mistreatment and he could not avoid the threat by internal relocation or it would be unreasonable for him to do so, a grant of asylum will be appropriate” (3.7.14).

V. Reports from International Agencies and Non-Governmental Organizations

Inter-American Commission on Human Rights

1. Inter-American Commission on Human Rights, *Preliminary Observations on the Commission's Visit to Jamaica*, No. 59/08 (5 December 2008), online: <<https://www.cidh.oas.org/Comunicados/English/2008/59.08eng.htm>>.

- **High levels of homophobia in Jamaica result in violent killings, stabbings, mob attacks, arbitrary detentions by police, and police harassment**
- **LGBT persons lack access to basic services**
- **There exists an inability to associate freely without fear of attack**
- **Police fail to investigate attacks on LGBT people and protect them from homophobic crimes**
- **4 murder reports with a homophobic motive were reported between 2007-2008**

The Commission strongly condemns the high level of homophobia that prevails throughout Jamaican society. This homophobia results in violent killings of persons thought to be LGBT, as well as stabbings, mob attacks, arbitrary detention and police harassment. The resulting fear makes it difficult for people within this group to access certain basic services that might reveal their sexual orientation, for example, medical services. Defenders of LGBT rights 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.

During its visit, the Commission received reports on four murders in circumstances suggesting homophobia over a period of a year and a half. One such murder was reportedly a consequence of the firebombing of the house of a person thought to be homosexual. Another man perceived to be homosexual was chopped to death by machete.

Human Rights Watch

1. Human Rights Watch, *Jamaica: Shield Gays from Mob Attacks* (31 January 2008), online: <<http://www.hrw.org/en/news/2008/01/31/jamaica-shield-gays-mob-attacks>>.

- **Several mob attacks on LGBT persons in Jamaica over 2007 and 2008**
- **Instead of protecting victims, police socialize with mob and assault victims**

In the central Jamaican town of Mandeville in January 2008, a mob of 15-20 men invaded a house inhabited by allegedly homosexual men and beat them violently. One man had his left ear severed, his arm broken in two places and spine damaged; another went missing. The police arrived 90 minutes after the call for help was issued. At an attack on the funeral of a gay man, a mob of 100 men broke church windows with bottles. When police arrived, they “socialized with the mob, laughing along at the situation.” A highway patrol officer told victims: “It’s full time this needs to happen. Enough of you guys.” When police responded to another mob assault in Kingston, the police called

victims “nasty battymen”, struck one of them in the face, head and stomach and, after taking them to the “Halfway Tree Police Station in Kingston . . . refused to take their complaints and ordered them never to return to the station.”

2. Human Rights Watch, *Hated to Death: Homophobia, Violence and Jamaica's HIV/AIDS Epidemic*, 16 Human Rights Watch 6(B) (November 2004), online: <<http://www.hrw.org/sites/default/files/reports/jamaica1104.pdf>>

- **There is pervasive violence (verbal harassment, beatings, armed attacks and murder) against LGBT individuals in Jamaica**
- **Violence affects the ability of LGBT Jamaicans to remain in their homes**
- **There is a lack of safe public spaces where LGBT Jamaicans may congregate**
- **LGBT Jamaicans are denied access to public and private transportation**

Individuals who are suspected of being gay are often assaulted verbally or physically by private actors in Jamaica (11). Houses inhabited by allegedly gay individuals have been terrorized to a point of bomb threats (21), and compelling inhabitants to flee, and leave their possessions (21, 28, 29, 52, 54). In 2004, a group of armed men (allegedly including the popular dancehall musician Buju Banton known for his violently homophobic lyrics) entered a home and assaulted six occupants on the basis of their sexual orientation (52). The inhabitants quickly abandoned the residence, “fearful that they would be killed if they return[ed]; since the intrusion, at least one has received death threats” (53). Another Kingston man said he could not live in his house because an armed mob, which did not want homosexuals in the area, had formed outside his house (53-54).

There is also a lack of safe public space for LGBT Jamaicans. Police target areas frequented by the LGBT population, compelling them to disperse (47-48). The leading LGBT NGO, Jamaica Forum for Lesbians, All-Sexuals and Gays (J-FLAG) has office space but cannot advertised its location “[d]ue to the potential for violent retribution” (48).

Homosexuals and those who are perceived as homosexual are “denied passage” on private and public transportation and, when permitted passage, “are routinely attacked on public buses because of conduct or appearance perceived as homosexual” (50).

- **Police failure to provide adequate protection from violence to LGBT Jamaicans**
- **Jamaican police as agents of persecution and physical violence**
- **Police failure to investigate complaints of abuse from LGBT Jamaicans**
- **Police incite homophobic violence by private actors**
- **Arbitrary arrest, detention and torture of LGBT persons by Jamaican police**
- **Reluctance of LGBT Jamaicans to seek police protection**

In a country where, violence against men who have sex with men (MSM) and women who have sex with women (WSW) is “commonplace”, police are “actively support[ive of] homosexual violence”, “fail to investigate complaints of abuse”, “arrest and detain LGBT complainants” and have, through their actions, been “catalyst[s] for [homophobic] violence” by private actors. (2) Jamaica’s sodomy laws are “used [, by police,] to justify arbitrary arrest and detention, and sometimes torture” of suspected homosexuals. (12)

Human rights violations by police are numerous and, according to testimonies collected by HRW, include instigating a 2004 mob attack on an allegedly gay man who was eventually “chopped, stabbed and stoned to death” (18-19); regular harassment (19, 20); beatings (19, 20); encouraging crowds to beat LGBT persons (20); public humiliating that incites physical violence by private actors (20); incursions into homes of allegedly gay individuals to conduct search for condoms (20); and, threats (20).

Under Jamaican law, police have “broad latitude . . . to detain individuals on ill-defined charges including suspicion of buggery or gross indecency” (22). Human Rights Watch interviewed several persons who claimed to have “been stopped by police while in a car with male friends” (24). Another claimant was arrested by police who, upon release, announced the charge to persons outside to “ensure that the abuse would continue” (24).

When LGBT Jamaicans report human rights violations, they often encounter mockery (28) or, alternately, threats of attack by police (28). As one interviewee stated, “[i]f you make a police report, they start by making you instead of the victim the person that is wrong” (27). The officer in charge of HIV/AIDS training for police explained this dynamic: “The police force has a culture. If they know you’re homosexual, you’ll definitely be discriminated against and stigmatized” (30).

The brutal murder of the highly-visible Jamaican-Canadian gay rights activist Brian Williamson in 2004 demonstrated the failure of police to thoroughly investigate LGBT related hate crimes (31). Police left a blood-covered ratchet knife and a bloody ice pick at the murder scene (31). When a witness came to identify of the detained men in a lineup, police had disguised all the individuals in the lineup, making identification impossible (31).

- **Faulty institutional mechanisms to address police misconduct**

Although complaints of police abuse can be lodged with the Jamaican Constabulary Force, the Bureau of Special Investigations, the Complaints Division of the Office of Professional Responsibility or the Police Public Complaints Authority (PPCA), there are serious doubts as to the effectiveness of these bodies (60-61).

- **Prison system is highly dangerous for MSM inmates**

A prison riot in 1997, motivated by a proposal to distribute condoms in prisons to prisoners and correctional officers, led officers to walk out in protest. (14) Following the

walkout, 16 inmates were killed and more than 50 injured, “apparently targeted because other prisoners believed that they were homosexuals.” (15)

- **Discriminatory treatment by healthcare workers of LGBT Jamaicans**
- **Denial of treatment by medical practitioners to LGBT individuals**
- **Healthcare workers disclose confidential information about the sexual orientation of LGBT patients, exposing them to homophobic violence**
- **LGBT Jamaicans distrust and avoid healthcare system**
- **Homophobia makes MSMs more vulnerable to HIV-infection**

Patients whose health service providers perceive them to be homosexual are subject to abusive comments that incite violence by others (38) or scorn (45). One interviewee reported being denied treatment by a doctor on the basis of his sexuality (38).

Several participants reported “they delayed or avoided seeking treatment for sexually transmitted infections because they had received poor health care when they were known or perceived to be gay; feared mistreatment because they were gay; and were concerned that health workers would publicly disclose their sexual orientation, thus risking their safety” (45). One nurse reported that MSMs were afraid to visit doctors or hospitals even with common ailments like the cold or flu “because they would ask them questions or call them names” (46).

A health worker with the Jamaican AIDS Service stated that “the stigma attached to being gay and fear of discrimination put gay and bisexual men at risk of HIV . . .” In addition to the lack of HIV-prevention materials directed at MSMs, gay Jamaican men avoided buying lubricant “because its purchase is equivalent to announcing one’s sexual orientation”; lubricant prevents condom breakage and diminishes HIV risks (45).

- **Political leaders foster climate of homophobia and LGBT-oriented violence**

In their 2001 and 2002 election campaigns, the Jamaican Labour Party and the People’s National Party, Jamaica’s dominant political parties, used campaign theme songs celebrating homophobic violence (13).

- **Conflicting reports on the frequency with which sodomy laws are enforced**
- **Sodomy laws retain their damaging quality regardless of the frequency of their enforcement**
- **Sodomy laws expose LGBT persons to extortion and theft by police and private actors**

Although high ranking police officials claimed the sodomy laws were seldom enforced, local area lawyers claim they routinely take on cases dealing with MSMs who are charged with sodomy or gross indecency. A St. Ann’s Bay constable also reported that occasional arrests were made under the law. Although prosecutions are seldom

successful, arrests for sodomy are reported in media (23). Moreover, the laws “provide a means to harass, arrest, and in some cases imprison individuals” (24)

According to HRW, MSMs “are easy targets for extortion by both police and private actors” (25). According to testimonies, police have frequently demanded money from MSMs under threats to charge them with sodomy and gross indecency (26).

- **Homophobia limits effective HIV/AIDS treatment and education services**
- **Access to health care in Jamaica is limited by homophobic health workers**
- **Police directly impede government-supported HIV prevention efforts targeting MSMs**
- **Police use loitering laws to impede MSM-targeted HIV/AIDS services**
- **Segregation and degradation of infected individuals in health care settings**
- **Multiple discrimination creates additional barriers for HIV-infected LGBT persons in Jamaica**
- **Fear of being identified as homosexual prevents MSMs from getting tested**
- **Inadequate protection of confidential information exposes individuals to homophobic violence**

The “conflat[ion]” of homosexuality and HIV/AIDS in Jamaica has subjected HIV/AIDS educators to homophobic threats and violence by state and private actors (3). Health care workers mistreated infected individuals; physicians, for example, failed to conduct adequate medical examinations and sometimes refused to touch infected patients. (3)

Healthcare providers “routinely released confidential information” through “discriminatory practices” that included segregating infected individuals and “affirmative disclosure” of status; this put patients at risk of homophobic violence (3).

Several nurses and AIDS service workers interviewed stated that public hospitals and health clinics provide inadequate care to LGBT persons and sometimes even refuse to provide it (36). Workers, according to testimonies, refused to treat serious health concerns including head wounds and genital lesions (37). Hospitals, including Kingston Public Hospital and Cornwall Regional Hospital, isolated persons infected with HIV; these patients were not properly cleaned or clothed and lacked adequate bedding (39). One extremely sick person was neither fed nor given his medication (40).

MSMs infected with HIV face “additional barriers” in Jamaica’s health care system (40). One interviewee claimed to have found an infected friend had soiled himself in a hospital; the nurse’s response was to call out, “Battyman, you shit up yourself. You shitty shitty” (40).

State failure to curb homophobic violence inhibits MSM-oriented prevention programs and impedes access to treatment (13). Fear of being identified as homosexual may prevent MSMs from seeking testing (14).

Ministry of Health officials have confirmed that Jamaica's sodomy laws limit their ability to work directly with, and provide much-needed targeted services to, MSM (4, 33). Police "actively impede" the work of government-supported HIV/AIDS educators, harassing and sometimes arresting and charging individuals found in possession of condoms (4, 33). In 2003, one outreach worker distributing condoms was charged with loitering by police calling him "battyman" (34). Police also target areas where LGBT Jamaicans congregate and, through harassment, undermining outreach work by organizations like the Jamaican AIDS Service (47).

Private actors also impede the success of HIV/AIDS prevention and information services. One NGO, the ASHE Caribbean Performing Arts Foundation, was subjected to threats for a program that included HIV/AIDS and sexuality education. (15)

International Lesbian and Gay Association

1. International Lesbian and Gay Association, *Jamaican Gay Leader Escapes Lynching* (20 February 2007), online: <<http://ilga.org/ilga/en/article/1031>>.

- **Victim's eyewitness account of mob attack at pharmacy and ill-treatment by police (physical assault, insult and refusal to accept complaints)**

Amnesty International

1. Amnesty International, *Jamaica: Submission to the UN Universal Periodic Review* (19 April 2010), online: <http://lib.ohchr.org/HRBodies/UPR/Documents/Session9/JM/AI_AmnestyInternational_UPR9.pdf>.

"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 behavior."

- **Popular culture promotes prejudice against homosexual men**
- **Reports of mob violence against persons perceived as homosexual**

The criminalization of homosexual relations is reflected in the general hostility towards those perceived to be homosexual. In April 2007, a mob of around 30 to 40 people threw stones and bottles at a group of men who were dancing in a carnival in Montego Bay. In a separate incident in April, a crowd surrounded a church and threw objects at those attending the funeral of someone who the crowd believed to have been homosexual.

In February of 2007, a group of men in a pharmacy were unable to leave until the police escorted them out after a mob of at least 200 people gathered outside, calling for the men to be beaten to death because they were presumed to be homosexual.

Furthermore, during a parliamentary debate in 2009, a member of Parliament made discriminatory comments towards gay men and lesbians, questioning their right to form organizations and demanding life imprisonment for homosexual acts. The Prime Minister distanced himself from the comments but declined to repeal the crime of buggery.

2. Amnesty, *“Battybwoys affi dead:” Action against homophobia in Jamaica*, (May 2004), online:

<<http://web.archive.org/web/20090624202721/http://www.amnestyusa.org/lgbt-human-rights/country-information/jamaica/page.do?id=1106567>>.

- **Jamaican popular culture promotes violence toward and murder of gays**
- **Fear prevents individuals from reporting violations**
- **Attacks extend to murder and blocking roads to carry out beatings**
- **Ill-treatment of LGBT victims of hate crimes by police and hospital staff**

Extremely popular musicians, including Elephant Man, Bounty Killer, Beenie Man, TOK, Capleton and Buju Banton, celebrate extreme homophobic violence in their music and advocate execution of gays. Vigilante action against Jamaican MSMs by community members and ill treatment and torture by police were reported to Amnesty International (AI). Since many LGBT are too fearful to report human rights violations, AI believes that the reports it has received “are just the tip of the iceberg.”

Reports included community members blocking a road to beat a local gay man, three armed men attacking a man with rocks and a father encouraging his son’s peers to attack his son (whom he suspects is gay). In 2003, another man was forced to leave his community when his gay friend was murdered by local gunmen; at the time of the report he remained homeless. On complainant reported that, when he went to the hospital after an attack for treatment, he was “verbally abused by staff in the accident and emergency department.”

Police were also culpable in gay rights abuses. Plainclothes police officers, in 2003, attacked a group of gay men socializing in a bar “frequented by the gay community in Kingston.” They also targeted health care workers promoting safe sex to MSMs.

“The risks facing LGBT people in Jamaica are increased because of the lack of effective governmental programmes catering to the needs of the gay and lesbian community. From the lack of effective victim support or witness protection schemes, to ineffective and oftentimes brutal policing, to an absence of refuges, the authorities are, in the organization’s view, unable to protect LGBT people in need.”

Jamaicans for Justice

1. Jamaicans for Justice, *Submission by Shareholder Coalition for the Universal Periodic Review of Jamaica*, UN Human Rights Council Ninth Session (November 2010), online: <http://lib.ohchr.org/HRBodies/UPR/Documents/Session9/JM/JFJ_Jamaicansforjustice_Submission.pdf>.

- **Continued reports of police abuse of homosexual people**
- **Detainment and ill treatment of AIDS awareness workers using anti-sodomy laws**

Jamaica's anti-sodomy laws have enabled police to harass and arrest men who are perceived to be homosexual. There have also been occasional reports of torture, although many often do not seek aid for fear of retribution. The victims of discrimination are also reluctant to report incidents of violence due to mistrust of the police. AIDS awareness workers are also ill-treated due to suspicion of promoting homosexual relations.

Jamaica Aids Support for Life

1. Jamaica Aids Support for Life, *Submission by Stakeholder LGBTI, Sex Workers and PLWHIV Coalition for the Universal Periodic Review of Jamaica* (November 2010), UN Human Rights Council Ninth Session, online: <http://lib.ohchr.org/HRBodies/UPR/Documents/Session9/JM/JASL_JamaicaAidsSupportforLife_JS.pdf>.

“There have been specific violations of the rights to nondiscrimination, privacy, protection from cruel and inhumane treatment, work, health, education and housing. These violations are of interest as they exacerbate the HIV/AIDS pandemic in Jamaica. Jamaica has failed to ratify the full complement of international instruments that provide fundamental human rights protections to LGBT 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.”

- **Jamaica has been labeled as the most dangerous place for gays in the Western hemisphere**
- **Both the police and private citizens regularly use anti-sodomy laws to harass and discriminate against gay men**

In April 2006, students at the University of West Indies attacked another student who was suspected of being gay. In February of 2007, a group of gay men in Kingston were stoned by a mob of over 2000. The police did not arrest anyone and took the gay men into custody. The men were subject to further abuse by the police. In April 2007, when over 100 men attacked the attendees of a funeral of a gay man, police made no arrests and are alleged to have joined the mob. In December 2009, a police officer was imprisoned for 12 days for alleged homosexual relations with another police officer. He was never charged and was later released.

In 2008, there were four cases of rape of lesbians and transgendered women, which was allegedly done “to set them straight.” The women did not report the matter to the police for fear of police abuse. In 2007, a lesbian teenager was held captive by her mother and pastor. She was subjected to rape for 18 days by different religious men, in an attempt to “make her take man” and “live as god instructed”.

- **Police and public regularly invade the homes of alleged gay men**

In January 2008, 3 gay men were attacked in their homes by an angry mob who demanded that they leave the community. In February 2010, two homes of gay men were attacked by angry mobs. Police “failed to disburse the mob” and “took the gay men into custody.” In February of 2010, there were two incidents of home invasions and the two homeowners, who were targeted for being gay, were held in police custody for 2 days “for their safety.”

- **Discrimination has led to problems in health, education and housing**

Fear of being recognized and attacked has led to homosexual men not seeking education or treatment on HIV/AIDS. This has contributed to the spread of the disease in Jamaica. Health workers also regularly face discrimination and abuse for their perceived contribution to the gay community. In November 2007, the Jamaican Minister of Education ordered the removal of two books from high schools in the country because they mentioned same-sex unions and families. Homosexual men are often evicted from their homes due to suspicion that they are gay. In April 2010, four gay men participated in a Walk for Tolerance event and were subsequently displaced from their communities because of death threats. In February 2010, there were 6 cases reported to the JASL of gay youth who had been evicted.

Jamaica Forum for Lesbians, All-Sexuals, & Gays (J-FLAG)

1. Jamaica Forum for Lesbians, All-Sexuals & Gays, *Human Rights Violations of Lesbian, Gay, Bisexual, and Transgender (LGBT) people in Jamaica: A Shadow Report* (October 2011), online:

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

“The human rights situation of Lesbian, Gay, Bisexual, and Transgender (LGBT) people in Jamaica is dire. Jamaican politicians publically engage in homophobic speech, which fosters an atmosphere of intolerance towards LGBT people within the Jamaican population. Violence and discrimination against LGBT individuals is common and widespread. Often the police are complicit in these crimes.”

- **Political leaders have promoted hatred and discrimination against gay people**

In September 2010, former Prime Minister Bruce Golding stated that homosexual

conduct should remain illegal in Jamaica because Jamaica is “predominately a Christian country and a fervently Christian country.” Not only do politicians use the discourse of religion, they also invoke family to legitimize discrimination: “recognition of the appropriateness of the homosexual lifestyle is going to undermine the effectiveness of family. . .in that process, undermine the basic fabric of a society.” In 2008, Golding stated that he would not have any gay men in his cabinet.

In 2009, Ernest Smith, a Member of Parliament for South West St. Ann stated that gay people were offensive to society because of their “behavioral pattern which is in breach of all decency” and even warned gay men “not [to] try to impose your filth on others, don’t force others to accept you and your filth.” Furthermore, he denied reports of violence against gay people in Jamaica as “myths” and said that any conflict is due to jealousy and problems within the gay community.

- **Repeated incidents of mob violence and expulsion from communities upon suspicion of homosexuality**
- **Dismissal of homophobic violence**

In 2010, Kenneth Parchment was forced out of his home by other men in the community who believed he was gay. The men, including Parchment’s own 16-year old cousin, “beat him with boards, stones and batons.” Incidents such as this are so commonplace that it is embedded in Jamaican society and violence goes unnoticed or ignored by the police. The police often fail to investigate crimes, as many are dismissed as “crimes of passion.”

- **Inability to access treatment for and education about HIV/AIDS**
- **Widespread discrimination by medical officials**

Due to the “risk of admitting to committing an activity that is considered criminal by the law,” LGBT individuals cannot acquire necessary health services which results in greater risk of contracting disease. Medical officials routinely mistreat patients with HIV or AIDS with suspicion of their homosexuality. They are often given “inadequate care” or “denied treatment altogether.” Doctors are “afraid to touch infected patients,” and will turn them away from the hospital, often with verbal abuse. Also, those with what are considered to be HIV symptoms have been denied access to public transportation, hindering access to health care facilities.

- **Violent attacks on those known to be activists has led to limitation of the right to organize into pro-LGBT right groups**

J-FLAG has documented increases yearly. In 2009, 27 cases of homophobic violence were reported; in 2010, there were 51 reported incidents; and, between January and August 2011, there were 62 incidents.. Particularly horrific known cases of violence include:

- **June 2004: Brian Williamson, founder of J-FLAG, found butchered in his home**

- **June 2004: Victor Jarrett hacked to death in a mob when police officers publicly accused him of being a “batty man”**
- **November 2005: Steve Harvey, well-known gay activist, abducted and later found dead, shot in his back and head**
- **November 2008: Richard Johnson was stabbed 25 times in a church in Kingston because he was believed to be gay**
- **February 2011: gay rights activist Maurice Tomlinson received death threat; police have not investigated despite a report**

There have been numerous reports of police abuse. In February 2011, police raided a known gay bar in Montego Bay. 20 police officers “kicked in the door, beat and pistol-whipped patrons while shouting anti-gay slurs.” Because of police involvement in many crimes against LGBT individuals, police often refuse to investigate reports of violence and discrimination.

VI. Media Reports Documenting the Persecution of Gays in Jamaica
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1. Maurice Tomlinson, “Violent prejudice against Jamaica's gay people must stop” (January 27, 2012), online: <<http://www.guardian.co.uk/commentisfree/2012/jan/27/violent-prejudice-jamaica-gay-people>>.

- **Jamaican gay lawyer and activist describes his struggles with homophobia in the country**
- **Violence and threats are common; police often do not help homosexuals and police often use anti-gay laws to extort LGBT persons**

The author, a well known LGBT-rights activist in Jamaica and recent recipient of the David Kato Voice and Vision Award, describes the violence faced by LGBT persons in Jamaica. Mr. Tomlinson describes how anti-sodomy and “gross indecency” laws are used to extort LGBT citizens. Mr. Tomlinson goes on to cite a recent survey where 82% of Jamaican people stated they were prejudiced against gay people.

2. “Jamaica lesbians suffer from under-reported violence -rights activist”, (February 3, 2012), online: <<http://www.trust.org/trustlaw/news/jamaica-lesbians-suffer-from-under-reported-violence-rights-activist>>.

- **Violence remains an issue for both gay men AND women**
- **There has been a documented increase in violent incidents against LGBT persons from 2010 to 2011**
- **Despite promising statements made by new Prime Minister, Portia Simpson-Miller, regarding LGBT people in Jamaica, “homophobia still permeates almost every aspect of the Caribbean island’s society”**

3. Lisa Biagiotti, “Gay men in Jamaica must lead two separate lives”, World Focus (18 May 2009), online: <<http://worldfocus.org/blog/2009/05/18/gay-men-in-jamaica-must-lead-two-separate-lives/5399/>>.

- **Extortion and vandalism of homes by homophobic mobs occur**
- **Inefficient response of police and threats by police to incarcerate LGBT victims**
- **Murders of homosexual friends and relatives**

The subject of the story, Alex Brown, reported “back-to-back anti-gay attacks at work and home” and that two young men once attacked his house saying, “We know you’re a *battyman* . . . and you better pay us.” When he refused to pay and denied being gay, the men began to vandalize the exterior of his home. Although the police station was two blocks away, “it took more than an hour for them to arrive.” The men claimed the subject “made a pass at them” and the officer’s response was, “If we find out you’re a

battyman, we'll come over there and lock you up." In 2006, both his best friend and an ex-lover were murdered; his gay uncle was beaten to death in Kingston in the late 1990s.

4. "Trade Ambassador's killer gets 15-year sentence," *Radio Jamaica* (1 April 2009), online: <<http://www.radiojamaica.com/content/view/16831/26/>>.

- **Defendant sentenced to 15 years imprisonment for murdering man he claims made a pass at him.**

Sheldon Pusey sentenced by High Court Judge to 15 years of imprisonment for murder of former trade ambassador. The defendant claimed the victim "gave him spiked liquor and then tried to have sex with him." The victim suffered 30 stab wounds and was found on March 20, 2006.

5. Petrina Francis, "Gay men in hiding: Avoiding health care because of stigma, survey suggests," *Jamaican Gleaner* (11 March 2009), online: <<http://www.jamaica-gleaner.com/gleaner/20090311/news/news4.html>>.

- **Discrimination prevents MSM from accessing health care**

According to a 2008 survey commissioned by the Jamaican Ministry of Health, MSMs are reluctant to "go to health-care providers, as they fear discrimination." There were no safe spaces in which to deal with MSM health problems and "even when meetings were convened MSM shy away from them or hide their sexuality."

6. "Trouble in paradise," *Essence* (March 2009), online: <<http://www.asylumlaw.org/docs/sexualminorities/JamaicaIE033109.pdf>>.

- **Beach assault initiated by police results in murder of LGBT man**
- **LGBT NGO's helpline receives calls everyday from someone at risk**
- **Sociologist contends that an LGBT person's experiences of homophobia are tied to his or her social standing and economic resources**

Interviewee reports a 2004 mob assault against an LGBT friend on a beach that is initiated by three police officers. When the officers walked away from the victim, they told the angry mob, "Beat him because him a battyman." The victim was chopped, stabbed and stoned to death. Allegations that the victim had molested a younger man, the interviewee stated, were false: "People make up stories to justify their attacks." Another individual reported being shootings of himself and his sister because his sister is lesbian. Although one of the assailants is in custody awaiting trial, the brother and sister "live under the constant threat of being recognized by someone from their old neighbourhood."

Both Bishop Herro Blair, an influential pastor, and Minister of Justice Dorothy Lightbourne remained unconvinced that gays were being targeted. A worker with J-

FLAG, however, stated that the LGBT NGO's "help line is called every day by someone at risk."

According to sociologist Robert Carr, Ph.D., a LGBT Jamaican's experience of homophobia is tied to his or her social standing:

. . . [S]ocial standing and economic resources have a lot to do with how homophobia is experienced here. 'Middle-class professionals who can drive their own cars and afford to live in a house are protected from the worst of it,' he says. 'Where you are at your most vulnerable is walking the streets, taking public transportation, living in the tight quarters of poorer communities. The less resources you have to put a wall between you and the outside environment, the more vulnerable you are.'

7. "Outlaw J-Flag – Smith – MP says it could inspire wave of illegal groups," *Jamaica Gleaner* (17 February 2009), online: <<http://jamaica-gleaner.com/gleaner/20090217/lead/lead6.html>>.

- **MP calls the existence of a Jamaican LGBT NGO illegal**

Member of Parliament Ernest Smith, who is also a lawyer, asserted that the "continued existence [of J-FLAG, Jamaica's LGBT NGO] was illegal [and] could lead to other persons forming similar illegal organizations, such as pedophiles and ganja smokers' associations."

8. Tony Grew, "Homophobia a vote winner in Jamaica," *pinknews.co.uk* (24 June 2008), online: <<http://www.pinknews.co.uk/news/articles/2005-8091.html>>.

- **Jamaican PM tells BBC he will not allow LGBT persons to serve in his Cabinet**
- **PM's remarks boost his popularity according to poll**

In a 2008 poll commissioned by the *Jamaica Gleaner*, 45% of respondents said "they are more likely to vote for then incumbent Prime Minister Bruce Golding and his Jamaica Labour Party after he told the BBC that he would never allow gays in his Cabinet." 26% of supporters of Golding's rival party said "they were more likely to vote for Golding after his outburst."

9. Angus Reid Global Monitor, "Jamaicans Reject Basic Rights for Homosexuals," (26 June 2008), online: <http://www.angus-reid.com/polls/view/jamaicans_reject_basic_rights_for_homosexuals/>.

- **Poll finds that 70% of Jamaican adults do not deem homosexuals to be entitled to the same basic rights and privileges as other people in Jamaica**

In a survey of 1,008 Jamaican adults conducted in 2008, revealed that 70% of Jamaicans thought that homosexuals were not “entitled to the same basic rights and privileges as other people in Jamaica,” 26% said they were, and 4% did not know.

10. “Six teens on trial for assaulting classmate,” *Radio Jamaica* (15 May 2008), online: <<http://www.radiojamaica.com/content/view/8148/26/>>.

- **Teens charged with unlawful wounding, assault occasioning bodily harm, resisting arrest and attacking police in relation to the beating of an alleged LGBT 15 year old**

11. Dana Flavelle, “Gay Jamaican officer seeks asylum”, *The Toronto Star* (25 February 2008), online: <<http://www.thestar.com/printArticle/306606>>.

- **Gay activist reports deaths of 13 MSM friends since 2004**
- **Police reportedly refuse to acknowledge there is a problem with gay hate crimes**

After being “routinely attacked and abused” by officers who were “becoming suspicious of his sexual orientation,” an MSM Jamaican police man made a refugee claim to Canada. Gay rights activist Gareth Henry states that “he’s lost 13 gay friends since 2004, yet police refuse to acknowledge there’s a problem, often blaming the dead victim’s lover or other gay men.”

12. Mark Lacey, “Attacks Show Easy Going Jamaica is Dire Place for Gays”, *The New York Times* (24 February 2008), online: <<http://www.nytimes.com/2008/02/24/world/americas/24jamaica.html>>.

- **Country’s public defender advises LGBT persons to avoid flaunting sexuality**
- **Gay police officer reports harassment from fellow officers and indifference on the part of the police force to LGBT human rights violations**
- **Police station Commander doubts ability of LGBT persons to “survive in the open”**

In January 2008, one interviewee was at his home when a mob of 15 to 20 armed men intruded and beat him. He suffered “deep cut marks” on his skull, and had his ear “sliced in half.”

No prosecutions, moreover, had issued from another mob attack on a gay man’s funeral in Mandeville. The country’s public defender “condemned the attack” but “urged Jamaica’s gays to avoid flaunting their sexual orientation. ‘Hold your corners,’ he said in the local vernacular, because ‘it may provoke a violent breach of the peace.’”

A Mandeville police officer who disclosed his sexuality to a Jamaican newspaper claimed he was “harassed regularly by his colleagues because he is gay” and that “police did not take violence against gays seriously.” The commander of a police station in Mandeville, while rejecting the notion that police condone homophobic violence stated: “Based on the response of these mobs [to homosexuals], people get very angry when they come across them . . . I don’t think they can survive in the open.”

13. “Gay cop demands rights,” *The Jamaican Star* (1 February 2008), online: <<http://www.jamaica-star.com/thestar/20080201/news/news1.html>>.

- **Discrimination by police force against gay officer**

After police officer is “almost beaten by a group of men in May Pen, Clarendon,” allegations regarding his sexuality began circulating. His belongings are subsequently thrown out of the barracks a number of times. When he reports the incident to senior officers, “nothing was done.” The officer worries that, even with a transfer, the stigma will follow him.

14. Jamaican Observer, “Golding Says ‘No’ to Homosexuality,” *Jamaican Observer* (8 July 2007), online: <http://www.jamaicaobserver.com/news/html/20070707T160000-0500_125077_OBS_GOLDING_SAYS_NO_TO_HOMOSEXUALITY.asp>.

- **Opposition party leader refuses to consider legislative changes that challenge Jamaica’s homophobic cultural norms**
- **Sociologists predict LGBT-related hate crimes will rise**

The leader of Jamaica’s opposition party, the Jamaica Labour Party (JLP), stated that the party will not challenge Jamaica’s anti-homosexual cultural norms.

Sociologists and “at least one academic” predict growing violence against LGBT persons. One sociologist, Dr Orville Taylor, stated that “there was no question that open affection among homosexuals would prompt violence from Jamaicans.”

15. Petre Williams, “Two MoBay men allegedly caught kissing: charged with gross indecency,” *The Jamaica Observer* (11 January 2003), online: <[http://www.asylumlaw.org/docs/sexualminorities/Jamaica%204%20\(SO\).pdf](http://www.asylumlaw.org/docs/sexualminorities/Jamaica%204%20(SO).pdf)>.

- **Two men are caught kissing and charged with gross indecency**

A 40 year-old and 19 year-old man were caught kissing in a car along the Freeport main road in Montego Bay. When they appeared in court on charges of gross indecency, each was granted bail at a sum of \$20,000. When the case was brought before the court, “the allegation that both men had been caught kissing caused a few raised eyebrows and triggered more than a few loud snickers in the courtroom.” This case was “the first case of this nature to be brought before the court since the start of the year.”

16. Angelo Laurence and Edmond Campell, “Flaunting sexual preference may incite violence”, *Jamaica Gleaner* (25 April 2007), online: <<http://www.jamaicagleaner.com/gleaner/20070425/lead/lead1.html>>.

- **Jamaican public defender advocates “re-acculturating” Jamaicans to be more accepting of LGBT persons, but states gay should avoid flaunting their sexuality**
- **Reminds members of public that sodomy laws still exist**

Jamaica’s Public Defender Earl Witter tells LGBT persons “to avoid flaunting their sexual preferences in the face of those who are repulsed by their behaviour.” Witter asserted that “‘tolerance has its limits’ [and that LGBT persons] should be sensitive to the ‘repulsion that others feel’ and should not be so ‘brazen.’” He also reminded members of the public that sodomy laws still exist. He advocated “re-acculturating” Jamaicans to greater tolerance of LGBT persons.

17. Rex Wockner, “Jamaican Police Quell Anti-Gay Riot At Funeral”, *Just Out* (4 May, 2007), online: <http://www.justout.com/archives/issues/05_04_07/19.pdf>.

- **Homophobic riots at funeral of gay man, carnival and outside a Kingston pharmacy**
- **After rescuing victim of mob attack, police officer assaults victim**

18. “‘Leave ‘gays’ alone!’ - Church, human rights groups, politicians call for end to beatings,” *Jamaica Gleaner* (17 April 2007), online: <<http://www.jamaicagleaner.com/gleaner/20070417/lead/lead5.html>>.

- **Group determines that police need to be more effective in protecting rights of all Jamaicans, including those of sexual minorities**
- **From January to April 2007, there have been 16 homophobic mob attacks**

In a joint forum, church leaders, human rights lobbyists and politicians “made a desperate plea yesterday for Jamaicans to end violence against homosexuals.” Both Bishop Herro Blair (Political Ombudsman and clergyman) and Dr. Carolyn Gomes (executive director of Jamaicans for Justice) stated that the police needed to be more effective in their treatment of LGBT victims of hate crime.

From January to April 2007, there have been 16 mob attacks on homosexuals, according to the Jamaica Forum for Lesbians and All-Sexuals (JFLAG). In 2006, there were 40 such beatings, the group claimed.

19. “Anti-gay attack: Men chased, beaten after MoBay carnival stage display”, *The Jamaica Observer* (April 3, 2007), online: <<http://www.asylumlaw.org/docs/sexualminorities/%20JAMAICA%20OBSERVER.COM040307.pdf>>.

- **Men dancing flamboyantly in carnival are victims to mob attack**

During a Montego Bay carnival, three allegedly gay men begin dancing and are assaulted by a mob, resulting in the hospitalization of one man. According to one woman, “Jamaica has lost its way if men think they can openly flaunt being gay without any consequences . . . We don't want that kind of open gay life in this country.”

20. Zadie Neufville, “Taking a Stand Against Homophobic Violence”, *Shaan online*, online: <http://www.ipsnews.net/hivaid/new_2612_3.shtml>.

- **PM refused to consider changing Jamaica’s sodomy laws**
- **In 1996, four MSMs held naked in public view for four hours**
- **Police intolerance leads to arrests and illegal home invasions designed to embarrass**

Prime Minister refuses to consider changes to Jamaica’s legislation on sex-same intercourse. In 1996, four men were arrested for gross indecency at Kingston's International airport and “were held naked in full view of the public for more than 24 hours.” The men were sexually assaulted when taken to a rape unit and later “were made to clean cells and toilets with their bare hands . . . their cells were left unlocked so other prisoners could beat them.” Police intolerance of homosexuality has led to many arrests and illegal home invasions designed to cause embarrassment.

21. Horace Hines, “Mob beats cross-dresser,” *The Jamaica Observer* (28 April 2007), online: <http://www.jamaicaobserver.com/news/html/20070428T020000-0500_122324_OBS_MOB_BEATS_CROSS_DRESSER.asp>.

- **Cross-dresser is beaten by homophobic mob who follow him to the hospital, delaying his release**

When a cross-dresser was recognized as a male in Falmouth, a mob congregated and began to beat the man “with sticks, stones and whatever weapon they could find.” When the police arrived to take him away, the mob “rushed upon the vehicle demanding the man’s release.” He was eventually admitted to a hospital but “a group of people, who wanted to beat the man on his release, were waiting outside the hospital, which . . . could delay his release. The beating was the second such “in a month in Western Jamaica.”

22. Earl Moxam, “No ease up on buggery restrictions - A-G,” *Jamaica Gleaner* (18 January 2007), online: <<http://www.jamaicagleaner.com/gleaner/20070118/lead/lead3.html>>.

Attorney-General A. J. Nicholson asserts “no intention, whatever, that any section or provision of the Buggery Act is to be amended. Period!”

23. Tim Padgett, “The Most Homophobic Place on Earth?” *Time* (12 April, 2006), online:

<<http://www.time.com/time/world/article/0,8599,1182991,00.html>>

- **In terms of LGBT rights abuses, many LGBT activists consider Jamaica “the worst place any of us have ever seen”**

Interviewee contends Jamaican reggae star Buju Banton famous for his homophobic lyrics “decree[ing] that gays “haffi dead” (“have to die”) assaulted him to the point of damaging one of his eyes.

According to the Human Rights Watch, “Jamaica is the worst place any of us have ever seen” in terms of gay rights abuses. Its culture of homophobic violence “[Jamaica’s] rampant has prompted human-rights groups to confer another ugly distinction: the most homophobic place on earth.”

24. Elton John, “We’ll celebrate our love, but others live in constant fear, *The London Observer* (18 December 2005), online:

<<http://www.guardian.co.uk/uk/2005/dec/18/arts.gayrights>>.

- **Abduction and shooting of gay rights activist Steve Harvey**
- **LGBT hate crimes have reached catastrophic levels**

Before abducting and shooting Steve Harvey, a prominent Jamaican gay rights and AIDS activists, his attackers asked him if he was gay. Amnesty International reports “that violence against gay men and women is at catastrophic levels in Jamaica; you are in danger of vigilante violence as soon as your sexuality becomes known. The police are more likely to join in than offer you protection.”

25. Gary Young, “Troubled Island” (27 April 2006), *The Guardian*, online:

<<http://www.guardian.co.uk/gayrights/story/0,,1762155,00.html>>.

- **Murder of gay rights activist greeted with revelry by community**
- **Information Minister states Jamaica’s treatment of homosexuals will not be influenced by international norms**

Because “there is no acknowledged gay social space in Jamaica,” same-sex couples cannot meet “openly without the threat of violence.” The murder of gay rights activist Brian Williamson was greeted with revelry that one gay rights activist compared to a parade:

Schleifer arrived at Williamson's home not long after the body had been discovered. She found a small crowd singing and dancing. One man called out, "Batty man [derogatory term for a gay man] he get killed." Others were celebrating, laughing and shouting "Let's get them one at a time", "That's what you get for sin". Others sang "Boom bye bye", a line from a well-known dancehall song by Jamaican star Buju Banton about shooting and burning gay men.

"It was like a parade," said Schleifer. "They were basically partying." A few days later the Jamaica Observer ran a letter which read: "To be gay in Jamaica is to be dead."

Information Minister Burchell Whiteman stated that the Jamaican government is "certainly not going to respond to any organization, external to this country, which may want to dictate to us how and when to deal with the laws of our land."

26. "Jamaican Students Riot, Trying to Kill Gay Student," *African Veil* (6 April 2006), online: < <http://www.asylumlaw.org/docs/sexualminorities/Jamaica040606.pdf>>.

- **Students initiate mob attack against MSM student after alleged bathroom proposition**
- **Student mob grows hostile to police attempted to protect victim**
- **Student could face charges if proposition is substantiated**

At the University of the West Indies, a riot started after one student complained that the victim had propositioned him in a washroom. When police officers attempted to protect the boy, the students "threw objects from all directions at the officer." One student managed to stab the alleged MSM, causing "reportedly superficial" injuries. The only mob dispersed when an officer "fired a shot in the air." If the claim that the victim propositioned another male is substantiated, he would face charges."

27. Dr. Mirta Roses Periago, "Time to Stop Homophobic Crimes in Latin America and the Caribbean", *Pan American Health Organization* (March 2006), online: <<http://www.paho.org/English/D/COR-AguaBuena-Article-Eng-Feb-06.htm>>.

- **Director of Pan American Health Organization identifies homophobia as a factor in the spread of HIV**

Homophobia, according to Dr. Periago, Director of the Pan American Health Organization, is "not only a threat to human rights (the right to the sexual orientation of one's choice), but to life itself." According to Dr. Periago, "homophobia contributes to the spread of HIV. Fear of being stigmatized often prevents homosexual men from seeking HIV testing, counseling, and treatment, with the result that they are less likely to adopt measures to protect themselves and others from the virus."

28. Rex Wockner, "Man chased by bashers drowns" *International News #611* (9 January 2006), online: <<http://www.asylumlaw.org/docs/sexualminorities/JamaicaRex010906.pdf>>.

- **Nokia Cowen, an alleged MSM, is chased by mob and, in an attempt to flee, jumps off a pier and drowns**

29. Kelly Cogswell, "Jamaica's Queer Obsession: Is it all that's holding the country together?" *The Gully* (10 March 2005), online:

<http://www.thegully.com/essays/gaymundo/050310_LGBT_jamaica_homoph.html>.

“The state in Jamaica is a pillar of this homophobic nationalism. Cops instigate the violence themselves, ignore it, or cover it up. The government laughs at the mobs and refuses to discipline the cops, overturn the British-era sodomy law, or even consider the idea that homophobia is compounding the growing problem of AIDS in Jamaica.”

30. Carol J. Williams, “In Jamaica, fatal attacks push homophobia into the open”, *Los Angeles Times* (16 January 2005), online:
<http://www.boston.com/news/world/articles/2005/01/16/in_jamaica_fatal_attacks_push_homophobia_into_the_open/>.

- **Murder of gay rights activist greeted with jubilation**
- **Police trigger mob attack on alleged MSM**

“[J]ubilant crowds” dance around the mutilated body of gay rights activist Brian Williamson upon his stabbing in June. In the hacking death of Victor Jarrett on June 18, witnesses claim “three police officers had triggered the attack with their public accusation that he was a ‘batty man,’ derogative slang alluding to anal intercourse.”

31. Jeff Stratton, “Gay in Jamaica -The brutal slaying of an activist spurs an outcry against Bigotry”, *Broward-Palm Beach News* (24 June 2004), online:
<<http://www.browardpalmbeach.com/2004-06-24/news/gay-in-jamaica/>>.

- **Brutal murder of Jamaica’s most visible gay rights activist Brian Williamson**
- **Failure of police to properly investigate murder**

The highly visible murdered gay rights activist, Brian Williamson, “had been the first and only native-born Jamaican to publicly champion gay rights, appearing on television screens across the country and speaking on radio talk shows.” The murder scene was particularly brutal: “Blood was spattered on all four walls of the tiny bedroom in New Kingston, a well-to-do part of the Jamaican capital. The carpet was drenched from multiple wounds to Williamson's head and neck.” The fact that Williamson was so visible leaves many to suspect that the murder was motivated by homophobia. Police, however, appear to have been negligent in investigating the murder and overlooked crucial evidence: ““In the evening, some of Brian’s close friends went back to help clean up the mess and found two more murder weapons laying in the blood—an ice pick and a ratchet knife. That says something about the forensic investigation.””

32. Jamaica Observer, *Charge Those Groups for Sedition*, (Nov. 25, 2004), available at:
<http://www.sodomylaws.org/world/jamaica/jaeditorials006.htm>.

Sergeant David White, Public Relations officer, Jamaica Police Federation: “Dear Editor... Over the past decade we have witnessed the rise of the so-called ‘human rights’ groups and lobbyists selecting the state and the police force as target of their venom...”

“...The government and the police cannot be held responsible for either the careless liaisons by homosexuals or the cultural responses of the population towards gays.”

“...Enough is enough; we are calling on the Minister of Justice to examine these allegations and slap on sedition charges where necessary to both foreign and local agents of provocation.”

33. Bill Andriette, *Horror in Jamaica: 16 Men Burned and Stabbed to Death in Anti-Gay Prison Riots*, (October 1997), available at <http://gaytoday.badpuppy.com/garchive/world/100997wo.htm>.

“August 20th to 23rd. That was when inmates at the two prisons went on a rampage, killing 16 men, most of them singled out as being homosexual. Many were burned to death, some were stabbed or beaten. Around 40 others were injured, some gravely.”

“Where were the guards? From Tuesday, August 19th through Thursday the 21st, they were on a wildcat strike, to protest what they felt was a gay-baiting jibe by Colonel John Prescod, Jamaica's Commissioner of Corrections. At a press conference the week before, Prescod unveiled a plan to combat AIDS, a growing problem in Jamaican jails. Condoms were to be issued, the Commissioner announced, to inmates and warders alike.”

“The implication that guards and prisoners were having sex together did not go down well with either.”

“[W]ith the General Penitentiary and St. Catherine running on skeletal staff, bands of men began roaming the two prisons in pursuit of homosexuals. They were easy to find, since openly gay inmates are kept in segregated cell blocks.”

“In some instances, attackers herded doomed inmates into cells, bound their hands and feet, and piled in foam rubber mattresses, which then were set on fire. Other prisoners were stabbed to death with makeshift weapons and cutlery taken from the prison kitchen.”

“It is possible that those targeted during the uprising were selected particularly because they were known to be HIV-positive. Prisoners' HIV status was supposed to be confidential, but some speculate the information had spread around.”

34. Jamaica Gleaner, *Homos at risk*, (January 2001), available at: <http://www.jamaica-gleaner.com/pages/gay/homosatrisk.html>.

“Homosexual are increasingly becoming the targets of hate crimes in Jamaica but are afraid to press charges against their assailants for fear of bringing attention to their lifestyle.”

“‘Yes, it is something that happens quite frequently,’ explained an officer attached to the

Montego Bay police station. ‘Homosexuals are afraid to report some of the atrocities that have been carried out against them for fear of being exposed so they remain quiet while criminals walk free. Police officers, many of whom are openly hostile towards gays, are also to be blamed for this. As a member of a human rights group, it is my belief that hate crimes, regardless of against whom, are wrong and should be condemned.’”

35. Jamaican Forum for Lesbians and Gays, *Jamaica: Accounts of Anti-gay Violence, The Gully* (7 November 2003), online:

<http://www.thegully.com/essays/gaymundo/031103_lgbt_jamaica_bashin.html>.

- **Collection of 17 testimonials describing verbal and physical assault by state and private actors, extortion, arbitrary arrest and detention, ill-treatment by hospital staff of gay-bashing victims and failure of police to investigate homophobic hate crimes.**

This is a collection of 17 testimonials detailing gay rights violations by state and private actors. In Testimonial 1, a lesbian is assaulted at work by another who is aware of her sexuality and, when her employer enters, she doesn't “divulge any information for fear of what the attacker would say.” In Testimony 2, Police stop safe-sex activists carrying condoms and accuse them of promoting homosexuality and of being homosexuals; the men are arbitrarily arrested, verbally harassed at the police station for three hours and then released without charge. In Testimony 3, members of the community extort money from MSM; complaints to police are brushed off on grounds that the police “do not protect” homosexuals. In Testimony 4, a middle class male is almost run out of a shopping plaza and hit with rocks. Testimony 5 describes verbal harassment and detention by police visited upon a group of 9 men walking along the street. In Testimony 6, the public assault of a hairdresser who was “beaten and dragged for half a kilometer” is described. In Testimony 7, the witness describes the homophobic murder of his best friend. Testimony 8 describes the assault of a couple by young people with “knives, sticks, and small cutlasses”; the police “had not even taken a report . . . noone had been arrested.” A woman in Testimony 9 incited a gang of men to threaten three perceived LGBT men; police refused to help and ejected the men from a compound. Testimony 10 describes the scorn of hospital workers towards bashing victims. Testimony 11 describes police violence. In Testimony 12, a safe house for gay men is destroyed by police officers. Testimony 13 describes community violence and refusal of police to come to an LGBT victim's aid. In Testimony 14, a man describes having a machete thrown at him and being pursued by a homophobic group. The police, in Testimony 15, extort money. Testimony 16 recounts a gay-bashing at a fast food restaurant and, upon an attempt to issue a complaint, verbal abuse from police. After responding to homophobic insults and assaults from neighbours and police with “cussing”, a group of young men is charged with “indecent language;” the case was dropped.

36. Rex Wockner, “Students Beaten at Jamaican University”, (19 February 2001), online:

<http://www.asylumlaw.org/docs/showDocument.cfm?documentID=3762>.

Students at Northern Caribbean University beat four allegedly gay male students with wooden planks. Students involved in the attack face expulsion. The victims of the attack, according to University President Herbert Thompson, are also under investigation to determine if they are in fact gay; the university prohibits homosexuality.

37. Karyl Walker, "Father encourages students to maul 'gay' son at Dunoon Tech", *Jamaica Observer* (Feb. 2004), online: <http://www.jamaicaobserver.com/news/html/20040219T000000-0500_55968_OBS_FATHER_ENCOURAGES_STUDENTS_TO_MAUUL_GAY__SON_AT_DUNOON_TECH.asp>.

"A father, concerned that his son might be gay, turned up at the Dunoon Park Technical High School in east Kingston and apparently encouraged other students to beat the boy, an eleventh grader."

38. Patricia Watson, "Banished" *Jamaica Gleaner* (10 November 2002), online: <http://jamaica-gleaner.com//gleaner/20021110/lead/lead5.html>.

More than 30 MSMs have been "chased out of their homes and communities" and are now "wandering Kingston's streets."

39. Nagra Plunkett, *Boy, mom stoned over 'gay' allegations*, *Jamaica Gleaner* (June 25, 2002), online: <<http://www.asylumlaw.org/docs/sexualminorities/Jamaica6-2-05.pdf>>.

At Cornwall College in Montego Bay, a boy "allegedly caught in a sexual act with another student [the week prior]" and his mother "were stoned and verbally abused by other students on the school's compound." According to one student, the stoning did not begin until the mother threatened to use pepper spray and acid in response to the verbal abuse. One student was suspended for three days.