



Home Office

# **Country Information and Guidance**

## **Jamaica: Sexual Orientation and Gender Identity**

**Version 1.0**

**July 2015**

# Preface

This document provides guidance to Home Office decision makers on handling claims based on – as well as country of origin information (COI) about – sexual orientation and/or gender identity in Jamaica. This includes whether claims are likely to justify the granting of asylum, humanitarian protection or discretionary leave and whether – in the event of a claim being refused – it is likely to be certifiable as ‘clearly unfounded’ under s94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers must consider claims on an individual basis, taking into account the case specific facts and all relevant evidence, including: the guidance contained with this document; the available COI; any applicable caselaw; and the Home Office casework guidance in relation to relevant policies.

## Country Information

The COI within this document has been compiled from a wide range of external information sources (usually) published in English. Consideration has been given to the relevance, reliability, accuracy, objectivity, currency, transparency and traceability of the information and wherever possible attempts have been made to corroborate the information used across independent sources, to ensure accuracy. All sources cited have been referenced in footnotes. It has been researched and presented with reference to the [Common EU \[European Union\] Guidelines for Processing Country of Origin Information \(COI\)](#), dated April 2008, and the European Asylum Support Office’s research guidelines, [Country of Origin Information report methodology](#), dated July 2012.

## Feedback

Our goal is to continuously improve the guidance and information we provide. Therefore, if you would like to comment on this document, please [e-mail us](#).

## Independent Advisory Group on Country Information

The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to make recommendations to him about the content of the Home Office’s COI material. The IAGCI welcomes feedback on the Home Office’s COI material. It is not the function of the IAGCI to endorse any Home Office material, procedures or policy.

IAGCI may be contacted at:

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Information about the IAGCI’s work and a list of the COI documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector’s website at <http://icinspector.independent.gov.uk/country-information-reviews/>



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# Guidance

Date Updated: 13 July 2015

## 1. Introduction

### 1.1 Basis of Claim

1.1.1 Fear of harm or mistreatment by state and/or non-state actors because of the person's actual or perceived:

- a) sexual orientation (i.e. that the person is, or is perceived to be, a lesbian, a gay man or bisexual).
- b) gender identity (i.e. that the person is, or is perceived to be, transgender).
- c) gender recognition (i.e. that the person is, or is perceived to be, transsexual).

For the purposes of this instruction, this is hereafter referred to as 'LGBTI persons'.

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### 1.2 Summary of Issues to Consider

- 1.2.1. Is the person's account a credible one?
- 1.2.2. Do LGBTI persons from Jamaica constitute a particular social group (PSG)?
- 1.2.3. Are LGBTI persons at risk of mistreatment or harm amounting to persecution in Jamaica?
- 1.2.4. Is the person open about their sexual orientation?
- 1.2.5. Are those at risk able to seek effective protection?
- 1.2.6. Are those at risk able to internally relocate within Jamaica to escape that risk?

For further information on considering claims involving sexual orientation see the [Asylum Instruction on Sexual Orientation in Asylum Claims](#), the [Asylum Instruction on Gender Identity Issues in Asylum Claims](#) and the [Asylum Instruction on Gender Recognition in Asylum Claims](#).

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## 2. Consideration of Issues

### 2.1 Is the person's account a credible one?

- 2.1.1 Decision makers must consider whether the material facts relating to the person's account of their actual or perceived sexual orientation and of their experiences as such in Jamaica are reasonably detailed, internally consistent (e.g. oral testimony, written statements) as well as being externally credible (i.e. consistent with generally known facts and the [country information](#)). Decision makers should take into account the possible

underlying factors as to why a person may be inconsistent or unable to provide details of material facts.

- 2.1.2 For further information on these and assessing credibility more generally, see section 5 of the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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## 2.2 Do LGBTI persons from Jamaica constitute a particular social group (PSG)?

- 2.2.1 LGBTI persons in Jamaica are considered to form a particular social group (PSG) within the meaning of the 1951 UN Refugee Convention.
- 2.2.2 The Offences Against the Person Act of 1864 prohibits same-sex conduct between consenting men. Sections 76 and 77 of the Offences Against the Person Act make "the abominable crime of buggery" punishable by "imprisonment and hard labour for a maximum of ten years," while an "attempt" to commit buggery is punishable by seven years' imprisonment. Section 79 prohibits "acts of gross indecency" (generally interpreted as referring to any kind of physical intimacy) between men, in public or in private (see [Legislation](#)).
- 2.2.3 In the Court of Justice of the European Communities judgement for the joined cases of [C-199/12 to C-201/12](#), dated November 2013 ([2013] WLR(D) 427, [2013] EUECJ C-199/12), the Court held that 'the existence of criminal laws, such as those at issue in each of the cases in the main proceedings, which specifically target homosexuals, supports the finding that those persons must be regarded as forming a particular social group.' (Ruling point 1).
- 2.2.4 Although LGBTI persons in Jamaica form a PSG, this does not mean that establishing such membership will be sufficient to make out a case to be recognised as a refugee. The question to be addressed in each case will be whether the particular person will face a real risk of persecution on account of their membership of such a group.
- 2.2.5 For further information on particular social groups, see section 7.6 of the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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## 2.3 Are LGBTI persons at risk of mistreatment or harm amounting to persecution in Jamaica?

- 2.3.1. Consensual sex between adult males is proscribed by law, prosecutions are rarely pursued although no official statistics are available. Jamaican law does not criminalize sexual orientation itself, nor does the government condone discrimination or violence against LGBTI persons (see [Legislation](#)).
- 2.3.2. Nevertheless Jamaica is a deeply homophobic society and there are reports of LGBTI persons facing a high level of both physical and sexual violence from state and non-state agents and many live in constant fear. LGBTI persons are targeted for mob violence, 'corrective rape', extortion, harassment, forced displacement and discrimination and are taunted,

threatened, fired from their jobs, thrown out of their homes, and suffer ill-treatment including being beaten, stoned, raped, or killed (see [Treatment by, and attitudes of, state authorities](#) and [Societal treatment and attitudes](#)).

- 2.3.3. The Jamaican Government acknowledges that there is a need for targeted anti-discrimination legislation to address violations against LGBTI persons citing that families and neighbours often drive LGBTI people from their homes and communities; landlords refuse to rent to LGBTI persons, denying them housing; health providers stigmatise them when they seek services; and employers arbitrarily fire them. The Government has put procedures in place..., but so far has failed to prevent and protect against violence and discrimination, or to punish the perpetrators of crimes against LGBTI persons (see [Treatment by, and attitudes of, state authorities: Government and Societal treatment and attitudes](#)).
- 2.3.4. The country guidance case of [DW \(Homosexual Men; Persecution; Sufficiency of Protection\) Jamaica CG \[2005\] UKAIT 00168](#) (28 November 2005) found that men who are perceived to be gay and have for this reason suffered persecution in Jamaica are likely to be at risk of persecution on return. Men who are perceived to be gay and have not suffered past persecution may be at risk depending on their particular circumstances [Headnote].
- 2.3.5. The Upper Tribunal in the country guidance case of [SW \(lesbians - HJ and HT applied\) Jamaica CG \[2011\] UKUT 251 \(IAC\)](#) (24 June 2011) noted that Jamaica is a deeply homophobic society and that there is a high level of (societal) violence, finding that being a lesbian (actual or perceived) brings a risk of violence, up to and including 'corrective' rape and murder.[para 107(1)]
- 2.3.6. The Upper Tribunal also found at paras 107(3) – 107(8) that:
- Not all lesbians are at risk. Those who are naturally discreet, have children and/or are willing to present a heterosexual narrative for family or societal reasons may live as discreet lesbians without persecutory risk, provided that they are not doing so out of fear;
  - Single women with no male partner or children risk being perceived as lesbian, whether or not that is the case, unless they present a heterosexual narrative and behave with discretion;
  - Because the risks arise from perceived as well as actual lesbian sexual orientation, internal relocation does not enhance safety. Newcomers in rural communities will be the subject of speculative conclusions, derived both by asking them questions and by observing their lifestyle and unless they can show a heterosexual narrative, they risk being identified as lesbians. Perceived lesbians also risk social exclusion (loss of employment or being driven from their homes);
  - A manly appearance is a risk factor, as is rejection of suitors if a woman does not have a husband, boyfriend or child, or an obvious and credible explanation for their absence;
  - In general, younger women who are not yet settled may be at less risk; the risk increases with age. Women are expected to become sexually

active early and remain so into their sixties, unless there is an obvious reason why they do not currently have a partner, for example, recent widowhood;

- Members of the social elite may be better protected because they are able to live in gated communities where their activities are not the subject of public scrutiny. Social elite members are usually from known families, wealthy, lighter skinned and better educated; often they are high-ranking professional people.

2.3.7. For further information on assessing risk, see section 6 of the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

#### 2.4 Is the person open about their sexual orientation?

2.4.1 Although all LGBTI persons have a right to live openly or discreetly based on their personal choice, decision makers should be mindful that often such decisions will be influenced by the treatment of the LGBTI persons in the country of origin.

2.4.2 The Supreme Court decision in [HJ \(Iran\) v Secretary of State for the Home Department \(Rev 1\) \[2010\] UKSC 31 \(07 July 2010\)](#) ('HJ (Iran)') and the CJEC cases of [C-199/12 to C-201/1](#) held that a person is entitled to live freely and openly as a gay or bisexual person and this involves a wide spectrum of conduct which goes beyond merely attracting partners and maintaining relationships with them. It does not require them to show that their sexual orientation plays a prominent part in their life. All that matters is that the person has a well founded fear that they will be persecuted because they are lesbian, gay or bisexual.

2.4.3 [The CJEC cases of C-199/12 to C-201/12](#) also ruled that 'the criminalisation of homosexual acts per se does not constitute an act of persecution. However, a term of imprisonment which sanctions homosexual acts and which is actually applied in the country of origin which adopted such legislation must be regarded as being a punishment which is disproportionate or discriminatory and thus constitutes an act of persecution.' When assessing an application for refugee status, the competent authorities cannot reasonably expect, in order to avoid the risk of persecution, the applicant for asylum to conceal his homosexuality in his country of origin or to exercise reserve in the expression of his sexual orientation (Ruling point 2 and 3).

2.4.4 If a LGBTI person is not open about their sexuality or gender identity, and lives discreetly because they fear that if they were open about their sexuality or gender identity they would face mistreatment, and that fear is well-founded, they will have a well founded fear of persecution.

2.4.5 If the material reason for choosing to live discreetly is because of social pressures, for cultural or religious reasons, or personal choice or because the person believes being open about their sexuality may cause embarrassment to friends or family, then they may not have a well-founded fear of persecution. This is because such social pressures to conceal their sexual orientation are not sufficiently detrimental to constitute 'persecution' ([HJ \(Iran\)](#), paragraph 82).



- 2.4.6 Decision makers must determine the extent to which a person who is 'openly gay' would be exposed to a risk of persecution as a consequence of this. This should be treated as allowing gay persons to be as free as their straight equivalents in the society concerned and to live their lives in the way that is natural to them without persecution.
- 2.4.7 Decision makers must also establish and assess whether where the person is not openly gay the choice to live discreetly is informed and not because of the risk of persecution.

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## 2.5 [Are those at risk able to seek effective protection?](#)

- 2.5.1 In the country guidance case of [DW \(Homosexual Men; Persecution; Sufficiency of Protection\) Jamaica CG \[2005\] UKAIT 00168](#) (28 November 2005) it was held that, as a general rule, the authorities do not provide gay men with a sufficiency of protection. Similarly the Tribunal in the country guidance case of [SW \(lesbians - HJ and HT applied\) Jamaica CG \[2011\] UKUT 251 \(IAC\) \(24 June 2011\)](#) found that the Jamaican state offers lesbians no sufficiency of protection.
- 2.5.2 Since the promulgation of these CG cases, there is continuing evidence that LGBTI people are not provided with effective protection against violence and discrimination and that the authorities have failed to punish those responsible for such human rights abuses. In some cases the police themselves are perpetrators of violence and extortion against LGBTI people and have failed to intervene when attacks are happening, arrest suspects or investigate homophobic crimes (see [Treatment by, and attitudes of, state authorities: Government and Societal treatment and attitudes](#))
- 2.5.3 For further information on assessing the availability or not of state protection, see section 8.1 of the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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## 2.6 [Are those at risk able to internally relocate within Jamaica?](#)

- 2.6.1 Homophobic attitudes are prevalent throughout the country. Where LGBTI persons do encounter local hostility they may be able to avoid this by moving elsewhere in Jamaica, but only if the risk is not present there and if it would not be unduly harsh to expect them to do so.
- 2.6.2 The question of internal relocation was not argued in the country guidance case of [DW](#) and the Tribunal accordingly gave no general guidance on the matter. The Tribunal did however note that there are likely to be difficulties in finding safety through internal relocation.
- 2.6.3 The 2011 country guidance case of [SW](#) found that single women with no male partner or children risk being perceived as lesbian, whether or not that is the case, unless they present a heterosexual narrative and behave with discretion and because the risks arise from perceived as well as actual lesbian sexual orientation, internal relocation does not enhance safety. It was also found that perceived lesbians also risk social exclusion (loss of employment or being driven from their homes). In addition, the Supreme

Court in the case of [HJ \(Iran\)](#) made the point that internal relocation is not the answer if it depends on the person concealing their sexual orientation in the proposed new location for fear of persecution.

- 2.6.4 Decision makers must therefore give careful consideration to the relevance and reasonableness of internal relocation on a case-by-case basis taking full account of the individual circumstances of the particular person.
- 2.6.5 Decision makers need to consider the ability of the persecutor to pursue the person in the proposed site of relocation, and whether effective protection is available in that area. Decision makers must also consider factors such as the age, gender, health, ethnicity, religion, financial circumstances and support network of the person, as well as the security, human rights and socio-economic conditions in the proposed area of relocation, including their ability to sustain themselves.
- 2.6.6 For further information on considering internal relocation, see section 8.2 of the [Asylum Instruction on Assessing Credibility and Refugee Status](#) and the [Asylum Instruction on Internal Relocation](#).

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### 3. Policy Summary

- **Consensual sex between adult males is proscribed by law but prosecutions are rarely pursued.**
- **While LGBTI people are not in general at risk from state actors, some state actors are responsible for acts of violence, abuse and extortion of members of the LGBTI community.**
- **Jamaica is a deeply homophobic society and LGBTI persons who live openly will be at risk of discrimination, intolerance, harassment, ill-treatment and violence by non-state actors which in many cases is likely to amount to persecution.**
- **Caselaw has established that where LGBTI persons do face a real risk of harm or ill treatment by non-state actors, the authorities do not provide effective protection.**
- **Where gay men and lesbians do encounter societal hostility they may be able to avoid this by moving elsewhere in Jamaica, but because the risks arise from perceived as well as actual sexual orientation, internal relocation does not necessarily enhance safety and will depend on the individual circumstances of the person.**
- **Internal relocation will not generally be an option for a single women who may be perceived as a lesbian, whether or not this is the case.**
- **Internal relocation is not the answer if it depends on the person concealing their sexual orientation in the proposed new location for fear of persecution.**
- **Where a LGBTI person is at risk of harm or mistreatment and is unable to relocate to avoid that risk, they should be granted asylum. Where a claim falls to be refused, it is unlikely to be certifiable as**

**'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002.**

For further information on making asylum decisions, see section 9 of the [Asylum Instruction on Assessing Credibility and Refugee Status](#), the [Asylum Instruction on Humanitarian Protection](#) and the [Asylum Instruction on Discretionary Leave](#).

For further information on certification, see the [Asylum Instruction on Non-Suspensive Appeals: Certification Under Section 94 of the NIA Act 2002](#).

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# Country Information

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## 4. Legal Context

### 4.1 Legislation

- 4.1.1 The Offences Against the Person Act of 1864, which is still in force, contains the following provisions:

#### Article 76 (Unnatural Crime)

"Whosoever shall be convicted of the abominable crime of buggery [anal intercourse] committed either with mankind or with any animal, shall be liable to be imprisoned and kept to hard labour for a term not exceeding ten years."

#### Article 77 (Attempt)

"Whosoever shall attempt to commit the said abominable crime, or shall be guilty of any assault with intent to commit the same, or of any indecent assault upon any male person, shall be guilty of a misdemeanour, and being convicted thereof shall be liable to be imprisoned for a term not exceeding seven years, with or without hard labour."

#### Article 78 (Proof of Carnal Knowledge)

"Whenever upon the trial of any offence punishable under this Act, it may be necessary to prove carnal knowledge, it shall not be necessary to prove the actual emission of seed in order to constitute a carnal knowledge, but the carnal knowledge shall be deemed complete upon proof of penetration only."

#### Article 79 (Outrages on Decency)

"Any male person who, in public or private, commits, or is a party to the commission of, or procures or attempts to procure the commission by any male person of, any act of gross indecency with another male person, shall be guilty of a misdemeanour, and being convicted thereof shall be liable at the discretion of the court to be imprisoned for a term not exceeding 2 years, with or without hard labour."<sup>1</sup>

- 4.1.2 The Report of the Working Group on the Universal Periodic Review – Jamaica (UPR WG Report), dated 4 January 2011, stated:

'Regarding the issue of sexual orientation, [the Government of] Jamaica stressed that, although consensual sex between adult males remained proscribed by law, there was no legal discrimination against persons on the grounds of their sexual orientation. Jamaica pointed out that Jamaican law did not criminalize lesbian, gay, bisexual and transgender orientation, nor did the government condone discrimination or violence against lesbian, gay, bisexual and transgender persons. It added that there had been no credible

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<sup>1</sup> Jamaican Government, Ministry of Justice, Offences against the Person Act 1864 (Last amendment 2010), <http://moj.gov.jm/laws/offences-against-person-act> [Date accessed; 12 May 2015]

cases of arbitrary detention and/or harassment of such persons by the police, nor was there any such official policy. Likewise, there was no evidence of any mob-related killing of lesbian, gay, bisexual or transgender persons.’<sup>2</sup>

- 4.1.3 Human Rights Watch (HRW) in their Report ‘Not Safe at Home – Violence and Discrimination against LGBT people in Jamaica’ of October 2014 reported that:

‘Jamaica’s anti-sodomy or “buggery” laws that prohibit same-sex conduct between consenting adult males date to 1864 when Jamaica was a British colony. Sections 76 and 77 of the Offences Against the Person Act make “the abominable crime of buggery” punishable by “imprisonment and hard labour for a maximum of ten years,” while an “attempt” to commit buggery is punishable by seven years’ imprisonment. Section 79 prohibits “acts of gross indecency” (generally interpreted as referring to any kind of physical intimacy) between men, in public or in private. The Sexual Offences Act of 2009 requires men convicted of the “abominable crime of buggery” to register as sex offenders. Prosecutions under these laws are rarely pursued. Nevertheless the laws have a real and negative impact. Criminalizing sexual intimacy between men offers legal sanction to discrimination against sexual and gender minorities, and in a context of widespread homophobia, gives social sanction to prejudice and helps to create a context in which hostility and violence is directed against LGBT people.’<sup>3</sup>

- 4.1.4 According to the U.S Department of State 2014 Country Report on Human Rights Practices, the law (Offences Against the Person Act of 1964) prohibits “acts of gross indecency” (generally interpreted as any kind of physical intimacy) between persons of the same sex, in public or in private, punishable by two years in prison. There is also an “anti-buggery” law that prohibits consensual same-sex sexual conduct between men, which is punishable by up to 10 years in prison, but it was not enforced during 2014.<sup>4</sup>

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## 4.2 Challenges to legislation

- 4.2.1 In August 2014 it was reported that the man who brought a legal challenge to Jamaica's anti-buggery laws in the country's Supreme Court, has

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<sup>2</sup> United Nations Human Rights Council, Report of the Working Group on the Universal Periodic Review – Jamaica, 4 January 2011. Para 31  
<http://www2.ohchr.org/english/bodies/hrcouncil/docs/16session/A-HRC-16-14.pdf> [Date accessed: 12 May 2015]

<sup>3</sup> Human Rights Watch, Not Safe at Home – Violence and Discrimination against LGBT people in Jamaica, October 2014, I. Public Attitudes towards Homosexuality, Criminalization,  
[http://www.hrw.org/sites/default/files/reports/jamaica1014\\_ForUpload\\_1.pdf](http://www.hrw.org/sites/default/files/reports/jamaica1014_ForUpload_1.pdf) [Date accessed: 12 May 2015]

<sup>4</sup> U.S Department of State, Country Reports on Human Rights Practices for 2014 – Jamaica, Section 6. Discrimination, Societal Abuses, and Trafficking in Persons, 25 June 2015,  
<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dliid=236700> [Date accessed: 6 July 2015]

discontinued his case following threats of violence. He attributed his decision to personal threats, the burden that the litigation was putting on his family, and continuing incidents of violence against Jamaica's lesbian, gay, bisexual and transgender (LGBT) community. J-FLAG, which had brought the claim alongside Mr Jaghai, said it understood his situation and that it fully supported his decision. J-FLAG has therefore consented to a Notice of Discontinuance. Dane Lewis, Executive Director of J-FLAG, said: "A law criminalising what two consenting adults do in the privacy of their own home has no place in a free society that values and protects all its citizens. The existence of this law and the closely related cultural hostility experienced by LGBT Jamaicans should be carefully considered in light of the reasons for Javed requesting that the case be discontinued. This is a live example of the ways in which the continued existence and enforcement of the anti-buggery law contributes to the lack of access to justice for sexual and gender minorities in Jamaica."<sup>5</sup>

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### 4.3 Government review of legislation

#### 4.3.1 The US Department of State reported in its annual report covering 2013 that:

'In a December 2011 debate leading up to the national elections, then PNP leader Portia Simpson-Miller said that she would appoint cabinet ministers based on ability and that sexual orientation would not be a factor. She also said that she would permit parliament to re-examine the anti-buggery law and free members of her party to vote their conscience on this issue, although parliament took no action during 2013 to re-examine the law.'<sup>6</sup>

#### 4.3.2 In response to a question from the press at the State opening of Parliament on 3 April 2014, the Jamaican Prime Minister, Portia Simpson-Miller, said that there will have to be consultations with constituents before Jamaica's anti-sodomy law is reviewed. However, she gave no indication whether this consultation will actually take place and refused to provide any timeline, as the issue, she said, "doesn't impact, in a very serious way, the majority of our people."<sup>7</sup>

#### 4.3.3 An Erasing 76 Crimes article in May 2014 reported:

'In an interview on 1 May 2014, Jamaican opposition leader Andrew Holness said that, if he becomes Prime Minister, he would allow gays in his cabinet. This rather innocuous statement represents a major shift from the views of his immediate predecessor, former Jamaican Prime Minister Bruce Golding.

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<sup>5</sup> Erasing 76 Crimes, Fear for family safety dissolves lawsuit vs. anti-gay law. 31 August 2014, <http://76crimes.com/2014/08/31/fear-for-family-safety-dissolves-lawsuit-vs-anti-gay-law/> [Date accessed: 12 May 2015]

<sup>6</sup> U.S Department of State, Country Reports on Human Rights Practices for 2013 – Jamaica, Section 6. Discrimination, Societal Abuses, and Trafficking in Persons, 27 February 2014, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dldid=220454> [Date accessed: 12 May 2015]

<sup>7</sup> Erasing 76 Crimes, Jamaican PM reneges on promised review of sodomy law, 7 April 2014 <http://76crimes.com/2014/04/07/jamaican-pm-reneges-on-promised-review-of-sodomy-law/> [Date accessed: 12 May 2015]

In a 2008 interview Golding declared that gays would not be a part of his administration.

'Holness's declaration is even more remarkable in light of his studied refusal to address the issue during a 2011 national leadership debate. While his opponent, Portia Simpson-Miller, readily supported the inclusion of gays, and proposed a Parliamentary conscience vote to review the country's 1864 British colonially imposed anti-sodomy law, Holness equivocated.

'Simpson-Miller went on to trounce Holness in the ensuing national elections, which she won by a massive landslide.

'Regrettably, once installed as Prime Minister, Simpson-Miller reneged on her promise of the conscience vote and, on April 4, 2014, she said it was simply not a priority for her government because "it did not concern the majority of Jamaicans who are poor," This represented a major betrayal of the LGBT community.

'That statement by the Prime Minister was picked on by the opposition leader, who in late April tried to force her to call a national referendum on the issue.

'In response, Simpson-Miller stated that she had deputized a Government Minister to meet with the LGBT community, however, very little is publicly known about plans for this meeting or if it actually took place.'<sup>8</sup>

- 4.3.4 Amnesty International stated in their 2014-15 Report that a "conscience vote" by MPs on legislation criminalizing consensual same-sex relations, which the government announced would be held before April [2014], did not take place.<sup>9</sup>
- 4.3.5 However in November 2014 it was reported that the Prime Minister, Portia Simpson-Miller said that a Joint Select Committee of Parliament had now begun reviewing the Sexual Offences Act, the Offences Against the Persons Act, the Domestic Violence Act, and the Child Care and Protection Act.<sup>10</sup>
- 4.3.6 In September 2014 the J-FLAG made a written submission to the Joint Select Committee of Parliament Reviewing the Sexual Offences Act and Related Acts in September 2014. The submission articulated the need for a re-definition of 'sexual intercourse' and 'rape' to be gender and orifice neutral; and re-formulating the language throughout the Act so that it is gender neutral in keeping with the proposed gender and orifice neutral definition of sexual intercourse and rape. Other issues articulated included

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<sup>8</sup> Erasing 76 Crimes, Jamaican politician: I would allow gays in cabinet, 5 May 2014 <http://76crimes.com/2014/05/05/jamaican-politician-i-would-allow-gays-in-cabinet/> [Date accessed: 12 May 2015]

<sup>9</sup> Amnesty International, Amnesty International Report 2014-2015: Jamaica, 25 February 2015, Rights of lesbian, gay, bisexual, transgender and intersex people, <https://www.amnesty.org/en/countries/america/jamaica/report-jamaica> [Date accessed: 12 May 2015]

<sup>10</sup> Jamaica Information Service (Government of Jamaica), Gov't Reviewing Laws To Protect Women And Girls, 24 November 2014, <http://jis.gov.jm/govt-reviewing-laws-protect-women-girls/> [Date accessed: 12 May 2015]

addressing the continued retention of 'gross indecency' & the elimination of any conflation between buggery (consensual or non-consensual) with bestiality as found within the current iteration of the Statute and addressing the disparity of available punishments in order to foster justice and equity for survivors of sexual violence, irrespective of their gender or the circumstances of their abuse.<sup>11</sup> A copy of the J-FLAG submission can be found at: <http://jflag.org/wp-content/uploads/2014/03/J-FLAG-Submission-to-the-Joint-Select-Committee-on-the-Review-of-the-Sexual-Offences-Act.pdf>

4.3.7 In August 2014 it was reported that LGBT rights activists in three countries (US, Canada and UK) protested for repeal of Jamaica's anti-gay "buggery law," which provides for up to 10 years in prison for same-sex intimacy.<sup>12</sup>

4.3.8 The report continued:

'Several activists at today's protest have either been forced to flee to Jamaica or have family and friends under threat there. Dwayne Brown, founder of Jamaica Anti-Homophobia Stand, said, "From the safety of our adopted sanctuary countries, we demand an end to the grave injustices perpetrated against our LGBT brothers and sisters. Every day, they must fight for their lives."

"Jamaica's 'Emancipence' celebration is an appropriate time to reflect on the realization of the dream of inclusion captured in our motto 'Out of Many One People,'" stated Maurice Tomlinson, a prominent human rights lawyer forced to flee Jamaica. "We are standing today, as Jamaicans in the Diaspora along with our allies, to affirm that ALL Jamaicans are citizens and deserve the full rights of our citizenship."

'Jason Latty, President of the Caribbean Alliance for Equality, said, "It is imperative for the survival and vitality of the Jamaican people that we move swiftly to repeal the buggery law. My organisation is outraged about the increasing acts of terror directed against LGBT Jamaicans. A nation that does not respect the life and dignity of its people is a nation on the decline."

'Edwin Sesange, Director of the Out and Proud Diamond Group, stated, "This is the time for Jamaica to practice love for all. The buggery law should be scrapped immediately before more lives are lost. The Government of Jamaica and its citizens should work towards achieving equality and justice for all its citizens, including LGBTI people."

"In Jamaica, people masquerading under the guise of 'religious' leaders have carried the banner for hatred and violence directed against LGBTI people," said Rev. Pat Bumgardner, Senior Pastor of Metropolitan Community Church of New York and Executive Director of the Global Justice Institute.

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<sup>11</sup> Jamaica Forum for Lesbians, All-Sexuals and Gays (J-Flag), Engaging Communities Transforming Lives: Annual Report 2014. SOA Review Submission and Campaign, Page 20. <http://jflag.org/wp-content/uploads/2014/08/Annual-Report-JFLAG.pdf> [Date accessed: 12 May 2015]

<sup>12</sup> Erasing 76 Crimes, Protesters call for repeal of Jamaica's anti-gay law, 6 August 2014 <http://76crimes.com/2014/08/06/protesters-call-for-repeal-of-jamaicas-anti-gay-law/> [Date accessed: 12 May 2015]



"Ending the buggery law will help Jamaica celebrate the diversity of God's creation and honor the value, dignity, and worth of all life."

"We plan to hold internationally coordinated protests every Independence Day until all Jamaicans can be considered free at last," concluded Dwayne Brown.<sup>13</sup>

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## 5. Treatment by, and attitudes of, state authorities

### 5.1 Government

#### 5.1.1 HRW in their Report, Not Safe at Home – Violence and Discrimination against LGBT people in Jamaica, October 2014 reported that:

'Justice Minister Mark Golding acknowledged the need for targeted anti-discrimination legislation to address violations against certain groups in society, although he did not specifically mention LGBT people. Nonetheless, police protection remains inadequate, and is among several factors that contribute to the specific vulnerability of LGBT people. Families and neighbours often drive LGBT people from their homes and communities; landlords refuse to rent to LGBT persons, denying them housing; health providers stigmatize them when they seek services; and employers arbitrarily fire them. Many LGBT Jamaicans become effectively homeless, forced to flee their homes and sometimes the country, and denied full citizenship rights. Among the most vulnerable are dozens of gay and transgender Jamaican children and young adults who have been rejected by their families and are living on the streets, where they face violence and harassment by police and the public. The negative public discourse about LGBT people, who are referred to in the most derogatory of terms in public spaces, combined with the risk of physical violence, can have severe psychological implications... the Jamaican Government still offers little in practical terms to prevent and protect against violence and discrimination, or to punish the perpetrators of crimes against LGBT people. Jamaica has neither comprehensive antidiscrimination legislation, nor specific legislation prohibiting discrimination on the grounds of sexual orientation or gender identity. Serious rights abuses based on sexual orientation and gender identity continue, and justice for these crimes remains elusive.'<sup>14</sup>

#### 5.1.2 The same report further noted that 'Homophobic rhetoric is not limited to the cultural sector. During his term as Prime Minister from 2007 to 2011, Bruce Golding of the Jamaica Labour Party (JLP) publicly expressed homophobic views on several occasions. For example, ... in 2010, Golding stated, "The encouragement or recognition of the appropriateness of the homosexual

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<sup>13</sup> Erasing 76 Crimes, Protesters call for repeal of Jamaica's anti-gay law, 6 August 2014 <http://76crimes.com/2014/08/06/protesters-call-for-repeal-of-jamaicas-anti-gay-law/> [Date accessed: 12 May 2015]

<sup>14</sup> Human Rights Watch, Not Safe at Home – Violence and Discrimination against LGBT people in Jamaica, October 2014, Summary, [http://www.hrw.org/sites/default/files/reports/jamaica1014\\_ForUpload\\_1.pdf](http://www.hrw.org/sites/default/files/reports/jamaica1014_ForUpload_1.pdf) [Date accessed: 12 May 2015]

lifestyle is going to undermine the effectiveness of family ... and, in that process, undermine the basic fabric of a society.” A year earlier, in 2009, Ernest Smith, a JLP member of parliament (MP), claimed that LGBT people are merely “seeking publicity” when they report cases of violence. He said: We’re not saying that gay people should be obliterated from the face of the earth ... but because your behavioural pattern is in breach of all decency ... do not try to impose your filth on others, don’t force others to accept you and your filth. In August 2013, Education Minister Ronald Thwaites said at a press conference to launch the new Health and Family Life Education Teachers’ Manual that while the manual promotes tolerance on all grounds, “We will not be grooming Jamaican children for homosexual behaviour.... [W]holesome joyous relationships are between men and women.”<sup>15</sup>

- 5.1.3 The Organization of American States’ Inter-American Commission on Human Rights (IACHR) recognized in its annual report covering 2014 that there has been a shift recently with respect to the way public officials view violence against LGBT persons. For example, the Minister of Justice of Jamaica condemned the killing of Dwayne Jones<sup>16</sup>, and called upon Jamaicans to “embrace the principle of respect for the basic human rights of all persons”. The IACHR praised the commitment of State officials that take a public stance in favor of equality in contexts in which prejudice, discrimination and violence against LGBT persons are widespread.<sup>17</sup>
- 5.1.4 In April 2014, The Gleaner reported that the Minister of Youth announced that the government is in the process of developing new services, initiatives and programmes to address issues affecting various sections of the youth population including Lesbians, Gays, Bisexual and Transgendered (LGBT) individuals. She said new targeted intervention is necessary, if the government is to adequately and effectively address the challenges, concerns and needs of the different types of youth her ministry serves. Some of the other groups include Men who have sex with Men (MSMs) and youth with sexual orientation and gender identity issues.<sup>18</sup>
- 5.1.5 The Jamaica Observer also reported that in April 2014 Jamaica’s Minister of Health said “Strong cultural and religious beliefs have led to the isolation of

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<sup>15</sup> Human Rights Watch, Not Safe at Home – Violence and Discrimination against LGBT people in Jamaica, October 2014, I. Public Attitudes towards Homosexuality, Homophobic Discourse, [http://www.hrw.org/sites/default/files/reports/jamaica1014\\_ForUpload\\_1.pdf](http://www.hrw.org/sites/default/files/reports/jamaica1014_ForUpload_1.pdf) [Date accessed: 12 May 2015]

<sup>16</sup> ‘In July 2013, Dwayne Jones, a 16-year-old transgender teen, was brutally attacked and stabbed to death by a mob at a party in Jamaica’. See Organization of American States, Inter-American Commission on Human Rights (IACHR), Annual Report 2014, 7 May 2015, Chapter V. Para 171, <http://www.oas.org/en/iachr/docs/annual/2014/TOC.asp> [Date accessed 11 May 2015] and Human Rights Watch, Jamaica: Cross-Dressing Teenager Murdered, 1 August 2013, <http://www.hrw.org/news/2013/08/01/jamaica-cross-dressing-teenager-murdered>, date accessed 28 May 2015

<sup>17</sup> Organization of American States, Inter-American Commission on Human Rights (IACHR), Annual Report 2014, 7 May 2015, Chapter V. Para 171, <http://www.oas.org/en/iachr/docs/annual/2014/TOC.asp> [Date accessed 11 May 2015]

<sup>18</sup> The Gleaner, Government to develop programmes for homosexual youth, 16 April 2014, <http://jamaica-gleaner.com/power/52343> [Date accessed: 12 May 2015]

some high-risk groups such as men who have sex with men and sex workers. It will not be easy to tackle these deeply embedded belief systems but we have to succeed [as] failure is not an option. The government remained committed to the fight against injustice and the creation of a level playing field that would allow for justice and health for all." <sup>19</sup>

See also [Government review of legislation](#)

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## 5.2 Police

5.2.1 According to the US Department of State 2014 Country Report on Human Rights Practices: Although individual police officers expressed sympathy for the plight of the LGBT community and worked to prevent and resolve instances of abuse, NGOs reported that the police force in general did not recognize the extent and seriousness of bullying and violence directed against members of the LGBT community and failed to investigate such incidents.' <sup>20</sup>

5.2.2 The J-FLAG's annual report covering 2013 reported:

'J-FLAG continued to benefit from an improved working relationship with the Jamaica Constabulary Force (JCF), including and especially with the Office of the Police Commissioner, Centre for Investigation of Sexual Offences & Child Abuse (CISOCA), and officers at the Half Way Tree Police Station and the New Kingston Police Post.'

'LGBT people have also developed and increased degree of trust for the police and in every division at least one ally can be identified that is willing and able to deal with matters concerning sexual and gender minorities. As a result, there has been an increase of incidents of LGBT victimization reported to the police, which have been documented by J-FLAG.'

'Notably, we have seen where the police have served and protected LGBT people from baying mobs at times, even placing themselves in harm's way to ensure the safety of these citizens, despite the direct conflict with prevailing cultural sentiments.'<sup>21</sup>

5.2.3 The Inter-American Commission on Human Rights (IACHR) reported that there was no structural program aimed at training criminal justice officials (including judges) on rights and standards applicable to LGBT persons and

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<sup>19</sup> Jamaica Observer, Minister: Cultural, religious beliefs driving stigma and discrimination, 11 April 2014, [http://www.jamaicaobserver.com/news/Minister--Cultural--religious-beliefs-driving-stigma-and-discrimination\\_16451678](http://www.jamaicaobserver.com/news/Minister--Cultural--religious-beliefs-driving-stigma-and-discrimination_16451678) [Date accessed: 12 May 2015]

<sup>20</sup> U.S Department of State, Country Reports on Human Rights Practices for 2014 – Jamaica Section 6. Discrimination, Societal Abuses, and Trafficking in Persons, June 2015 <http://www.state.gov//drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dliid=236700> [Date accessed: 6 July 2015]

<sup>21</sup> Jamaica Forum for Lesbians, All-Sexuals and Gays (J-Flag), Promoting Respect for Diversity. Annual Report 2013, Section 10, August 2014, <http://jflag.org/wp-content/uploads/2014/08/J-FLAG-Annual-Report-2013.pdf> [Date accessed: 12 May 2015]

issues surrounding gender identity and HIV/AIDS during 2014. “However, in its response to a questionnaire from the IACHR, the State indicated that there was specific training to police officials regarding human rights standards and non-discrimination, particularly concerning vulnerable persons (lesbian, gay and transgender persons).”<sup>22</sup>

5.2.4 The same source however did also state that:

‘The State [has] developed a diversity policy that guides the members of the JCF in their professional dealings with sexual minorities. Training in international human rights standards is conducted by the Jamaica Police Academy, the Jamaica Constabulary Staff College, and the Caribbean Search Centre.

‘The JCF’s in-service training also includes training in human rights. Officers are familiarized with the major regional and international human rights instruments and the importance of the respect of constitutional rights of all persons irrespective of their sexual orientation and gender identity/expression.’<sup>23</sup>

5.2.5 The same source further noted that ‘The State [Jamaica] has not taken steps to modify laws that allow police broad discretionary power to arrest and detain individuals without warrant or cause. The IACHR received information that acts of violence and discrimination against LGBT persons continue to be widespread and, in turn, pose a serious deterrent to victims, who then choose not to report these crimes. There were reports of abuse and discrimination against LGBT individuals who were either ignored or laughed at when they attempted to report acts of violence, or were themselves the direct victims of police abuse, including arbitrary detention, blackmail, extortion, threats, and cruel and degrading treatment. It was reported that no investigative units have been designated for these violations and most of these crimes --if not all-- remain in impunity’.<sup>24</sup>

5.2.6 However at a hearing on “Follow-up to the IACHR Report on the Situation of Human Rights in Jamaica,” on 27 March 2014, J-FLAG and CVC acknowledged that here was an articulation of a diversity policy in the JCF but nothing much has happened. It is still left to the discretion of individual police officers to institute that diversity policy and there is still a considerable amount of training that must be given to that policy. Despite the training programs in the JCF, police abuse of LGBT persons remains a problem.<sup>25</sup>

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<sup>22</sup> Organization of American States, Inter-American Commission on Human Rights (IACHR), Annual Report 2014, 7 May 2015, Chapter V. Para 186.

<http://www.oas.org/en/iachr/docs/annual/2014/TOC.asp> [Date accessed 11 May 2015]

<sup>23</sup> Organization of American States, Inter-American Commission on Human Rights (IACHR), Annual Report 2014, 7 May 2015, Chapter V. Para 187 - 188.

<http://www.oas.org/en/iachr/docs/annual/2014/TOC.asp> [Date accessed 11 May 2015]

<sup>24</sup> Organization of American States, Inter-American Commission on Human Rights (IACHR), Annual Report 2014, 7 May 2015, Chapter V. Para 165.

<http://www.oas.org/en/iachr/docs/annual/2014/TOC.asp> [Date accessed 11 May 2015]

<sup>25</sup> Organization of American States, Inter-American Commission on Human Rights (IACHR), Annual Report 2014, 7 May 2015, Chapter V. Paras 195.

<http://www.oas.org/en/iachr/docs/annual/2014/TOC.asp> [Date accessed 11 May 2015]

There is no designated investigative unit for hate crimes nor are there effective sanctions for police initiated discrimination and abuse.<sup>26</sup> Civil society organisations have reported that the police target homeless MSM [men who have sex with men] particularly those who identify as transgender. A specific incident occurred in February 2014 where the police rounded up LGBT youth and a judge later held that loitering in a public sewer was not a criminal offence. Reporting to the police is also problematic because victims are faced with a lengthy process, and where complaints have been processed, the investigations have been poor and inadequate.<sup>27</sup>

- 5.2.7 The J-FLAG annual report covering 2014 reported: “Throughout the year, J-FLAG received several reports from LGBT people commending members of the JCF for their improved treatment of members of the community. Special commendations go out to officers in May Pen, Clarendon who showed much compassion and went above the call of duty to a 16 year-old who was being attacked by a large mob in that town in June because of the teen’s sexual orientation and gender expression. We commend the persons who secured the teen until the police arrived.”<sup>28</sup>
- 5.2.8 HRW in their Report ‘Not Safe at Home – Violence and Discrimination against LGBT people in Jamaica’ of October 2014 reported that:  
‘The laws have been used by police to extort money from adults engaged in consensual homosexual sex, by public television stations to justify refusal to broadcast public service announcements making positive statements about LGBT persons and by landlords to justify refusal to rent apartments to them. Though those arrested are rarely if ever prosecuted, gay men who are “outed” through arrest risk violence and other abuse by community members. While the law does not directly reference transgender people, transgender women and homosexuals are often conflated. Gender non-conforming Jamaicans, especially transgender women and gender non-conforming gay men who are publicly visible, are most likely to suffer violence and discrimination.’<sup>29</sup>
- 5.2.9 The same source found the following with regards to police failure to act in light of crimes committed against LGBT persons: ‘HRW interviewed LGBT people who said that when they tried to report a crime, police made derogatory comments and failed or refused to take a report, even well after the Policy on Diversity was established. The fact that police themselves are

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<sup>26</sup> Organization of American States, Inter-American Commission on Human Rights (IACHR), Annual Report 2014, 7 May 2015, Chapter V. Paras 194.

<http://www.oas.org/en/iachr/docs/annual/2014/TOC.asp> [Date accessed 11 May 2015]

<sup>27</sup> Organization of American States, Inter-American Commission on Human Rights (IACHR), Annual Report 2014, 7 May 2015, Chapter V. Paras 195.

<http://www.oas.org/en/iachr/docs/annual/2014/TOC.asp> [Date accessed 11 May 2015]

<sup>28</sup> Jamaica Forum for Lesbians, All-Sexuals and Gays (J-Flag). Engaging Communities Transforming Lives: Annual Report 2014, Police Officers Go Beyond the Call of Duty, Page 5. <http://jflag.org/wp-content/uploads/2014/08/Annual-Report-JFLAG.pdf> [Date accessed: 12 May 2015]

<sup>29</sup> Human Rights Watch, Not Safe at Home – Violence and Discrimination against LGBT people in Jamaica, October 2014, I. Public Attitudes towards Homosexuality, Criminalization, [http://www.hrw.org/sites/default/files/reports/jamaica1014\\_ForUpload\\_1.pdf](http://www.hrw.org/sites/default/files/reports/jamaica1014_ForUpload_1.pdf) [Date accessed: 12 May 2015]

sometimes perpetrators of violence and extortion against LGBT people makes LGBT victims even more unlikely to seek police assistance'.<sup>30</sup> The report describes incidences where the 'police failed to intervene, even as attacks were happening', 'police failing to arrest suspects or investigate homophobic incidents', and despite police being instructed to record hate crimes 'they lack a clear definition of what constitutes such a crime, and documenting these incidents appears to be under-prioritized'.<sup>31</sup>

5.2.10 HRW also documented instances where the police were the perpetrators: 'Cases of police violence toward LGBT people appear to have decreased in the decade since HRW documented such violence in our 2004 report, *Hated to Death*. However, the persistence of even isolated cases is of great concern given the police's role as a source of protection. At the root of much police abuse appears to be the same intolerance and homophobia found in Jamaican society more broadly'. The report recorded specific incidences of verbal abuse, physical abuse, sexual abuse, and extortion.<sup>32</sup>

5.2.11 In an article accompanying publication of their report "Not Safe at Home: Violence and Discrimination Against LGBT People in Jamaica," in October 2014, HRW said:

"LGBT people in Jamaica face intolerable levels of violence and cannot rely on the police," said Graeme Reid, LGBT rights director at Human Rights Watch. "The authorities from the Prime Minister downwards need to call a halt to the violence and discrimination, prosecute anyone responsible, and get homophobic laws off the books."

'The Jamaican police have recently established protocols for addressing hate crimes. But improved protection and non-discrimination mechanisms are still needed, as well as an end to legislation that facilitates abuses, such as the "buggery" laws, HRW said.'

'High levels of violent crime, public mistrust of the police force, low levels of crime reporting, low prosecution rates, and a perception that the criminal justice system is skewed against the poor are factors that affect all Jamaicans. But LGBT Jamaicans, especially those who are poor and unable to live in safer, more affluent areas, are particularly vulnerable.'<sup>33</sup>

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<sup>30</sup> Human Rights Watch, *Not Safe at Home – Violence and Discrimination against LGBT people in Jamaica*, October 2014, III. Police Failures To Act,, [http://www.hrw.org/sites/default/files/reports/jamaica1014\\_ForUpload\\_1.pdf](http://www.hrw.org/sites/default/files/reports/jamaica1014_ForUpload_1.pdf) [Date accessed: 12 May 2015]

<sup>31</sup> Human Rights Watch, *Not Safe at Home – Violence and Discrimination against LGBT people in Jamaica*, October 2014, III. Police Failures To Act,, [http://www.hrw.org/sites/default/files/reports/jamaica1014\\_ForUpload\\_1.pdf](http://www.hrw.org/sites/default/files/reports/jamaica1014_ForUpload_1.pdf) [Date accessed: 12 May 2015]

<sup>32</sup> Human Rights Watch, *Not Safe at Home – Violence and Discrimination against LGBT people in Jamaica*, October 2014, IV. Police as Perpetrators, [http://www.hrw.org/sites/default/files/reports/jamaica1014\\_ForUpload\\_1.pdf](http://www.hrw.org/sites/default/files/reports/jamaica1014_ForUpload_1.pdf) [Date accessed: 12 May 2015]

<sup>33</sup> Human Rights Watch, *Jamaica: Unchecked Homophobic Violence*

## 6. Societal treatment and attitudes

### 6.1 Overview

- 6.1.1. The Report of the Working Group on the Universal Periodic Review – Jamaica (UPR WG Report), dated 4 January 2011, stated that the Jamaican Government had “stressed that the issue of male homosexuality was one of great sensitivity in Jamaican society, in which cultural norms, values, religious and moral standards underlay a rejection of male homosexual behaviour by a large majority of Jamaicans; and that the government was committed to ensuring that all citizens were protected from violence.”<sup>34</sup>
- 6.1.2. According to HRW in October 2014, “Jamaica's a heavily Christian society, and evangelical communities are organizing conferences and marches around any hint of overturning the buggery laws. When rumours swirled last summer [2013] that [Prime Minister] Miller would repeal the buggery laws, 25,000 anti-gay-rights demonstrators and religious leaders took to the streets in protest.”<sup>35</sup>
- 6.1.3. According to the US Department of State 2014 Country Report on Human Rights Practices homophobia is widespread in the country, perpetuated by the country’s dancehall culture through the songs and the behaviour of some musicians. LGBT persons face violence, harassment and discrimination.<sup>36</sup>
- 6.1.4. In an article accompanying publication of their report “Not Safe at Home: Violence and Discrimination Against LGBT People in Jamaica,” in October 2014, HRW said that LGBT Jamaicans are vulnerable to both physical and sexual violence and many live in constant fear. They are taunted, threatened, fired from their jobs, thrown out of their homes, or worse: beaten, stoned, raped, or killed. Human Rights Watch found that police investigations are often inadequate or lacking altogether, in some cases due to homophobia within the police force. Discriminatory laws contribute to the specific vulnerability of LGBT people. HRW said “The Jamaican Government should strike down antiquated "buggery laws" – which outlaw anal sex and all male homosexual conduct – and take measures to protect lesbian, gay,

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Discriminatory Laws, Inadequate Police Protection, 21 October 2014, <http://www.hrw.org/news/2014/10/21/jamaica-unchecked-homophobic-violence> [Date accessed: 12 May 2015]

<sup>34</sup> United Nations Human Rights Council, Report of the Working Group on the Universal Periodic Review – Jamaica, 4 January 2011, Para 32 <http://www2.ohchr.org/english/bodies/hrcouncil/docs/16session/A-HRC-16-14.pdf> [Date accessed: 12 May 2015]

<sup>35</sup> Human rights Watch, Interview: Life for LGBT People in Jamaica, 21 October 2014. <http://www.hrw.org/news/2014/10/21/interview-life-lgbt-people-jamaica> [Date accessed: 12 May 2015]

<sup>36</sup> U.S Department of State, Country Reports on Human Rights Practices for 2014 – Jamaica, Section 6. Discrimination, Societal Abuses, and Trafficking in Persons, June 2015, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dliid=236700> [Date accessed: 2 July 2015]

bisexual, and transgender (LGBT) Jamaicans from discrimination and violence.”<sup>37</sup>

- 6.1.5. During 2014 leading private sector companies launched a human rights programme called ‘Respect Jamaica’. According to J-FLAG, Respect Jamaica is a corporate Jamaica initiative which attempts to engender positive changes in the Jamaican society. The programme addresses discrimination related to colour, race, class, sexual orientation, those with special needs, the youth and elderly, as well as gender, religion, politics and environmental conservation. The Respect Jamaica programme calls on all Jamaicans to stand in support of the marginalised and vulnerable in our communities – whoever they may be – to build our nation.<sup>38</sup>
- 6.1.6. The Jamaica Gleaner reported in October 2014 that ‘A Gleaner-commissioned Bill Johnson poll revealed that 91 per cent of Jamaicans are against repealing anti-sodomy laws’.<sup>39</sup>

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## 6.2 Incidents of harassment or abuse

- 6.2.1 According to the U.S Department of State Country Report on Human Rights Practices 2014 for Jamaica:

‘NGOs continued to report serious human rights abuses, including assault with deadly weapons, “corrective rape” of women accused of being lesbians, arbitrary detention, mob attacks, stabbings, harassment of gay and lesbian patients by hospital and prison staff and targeted shootings of such persons. Stigma and intimidation was likely a factor in preventing victims from reporting incidents of discrimination in employment, occupation and housing.’<sup>40</sup>

- 6.2.2 The U.S Department of State Country Report on Human Rights Practices 2013 for Jamaica reported that:

‘During 2013 J-FLAG noted an increase in the number of reports of sexually motivated harassment or abuse. Advocates attributed this to more widespread citizen awareness of LGBT discrimination, a greater willingness within the community to bring attention to the problem and the expanded availability of channels for reporting incidents of abuse. J-FLAG data showed that young people, ages 18 to 29, continued to bear the brunt of violence based on sexual orientation. This violence created a climate of fear that

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<sup>37</sup> Human Rights Watch, Jamaica: Unchecked Homophobic Violence Discriminatory Laws, Inadequate Police Protection, 21 October 2014, <http://www.hrw.org/news/2014/10/21/jamaica-unchecked-homophobic-violence> [Date accessed: 12 May 2015]

<sup>39</sup> The Jamaica Gleaner, ‘Wise Thinking’ Says Church As Polls Reveal Jamaicans Are Against Repealing Buggery Law, 6 October 2014, <http://jamaica-gleaner.com/power/55835>, date accessed 28 May 2015

<sup>40</sup> U.S Department of State, Country Reports on Human Rights Practices for 2014 – Jamaica, Section 6. Discrimination, Societal Abuses, and Trafficking in Persons, June 2015, <http://www.state.gov/documents/organization/236912.pdf> [Date accessed: 6 July 2015]



prompted many gay persons to emigrate, while the gross indecency laws meant those who remained were vulnerable to extortion from neighbours who threatened to report them to the police as part of blackmailing schemes.<sup>41</sup>

‘Gay men hesitated to report incidents against them because of fear for their physical well-being. Human rights NGOs and government entities agreed that brutality against such persons, primarily by private citizens, was widespread in the community.’<sup>42</sup>

6.2.3 Pink News reported in October 2013 that ‘A 31-year-old lesbian is recovering after being shot in Jamaica reportedly by a police officer. According to the Minority-Insight activist website, Keshema Tulloch, an openly gay woman otherwise known as “Royal” was shot by a police officer at around 10am on Friday 25 October in Kingston. According to the victim’s father, Winston Tulloch, “Royal got into an altercation with a man who called her a ‘sodomite’ (anti-gay slur) and punched her in the face. She then proceeded to chase her attacker with a knife. The man ran to a police officer at the Texaco Gas station. While running towards the police officer and her attacker, the police officer shot her in her arm and she fell to the ground. The police then opened fire and shot her a second time in her chest.” Mr Tulloch claims “the man who physically attacked her was pressured by the police officer to pursue criminal charges (Attempted Assault) against her.”’<sup>43</sup>

6.2.4 The Organization of American States’ Inter-American Commission on Human Rights (IACHR) noted in its annual report covering 2014 that: ‘Between January 2012 and June 2014, there were 198 human rights violations reported to J-FLAG and at least 48 requests for support for asylum-seeking Jamaicans. In 2013, J-FLAG received eight reports of displacement, 16 reports of physical attacks, eight reports of sexual violence, and 10 reports of threats.’

‘Research suggests that almost two in every five Jamaicans believe that the government is not doing enough to protect and promote the human rights of LGBT Jamaicans to freedom from discrimination, violence and other forms of harassment. One in five Jamaicans is deemed to be tolerant and similarly, one in five Jamaicans would support amendments to the Charter of Rights that explicitly protects the rights of LGBT persons.’

‘Violence toward LGBT persons remains worrisome. In this regard, the IACHR condemned the killing of two men on June 13, 2012 who, according

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<sup>41</sup> U.S Department of State, Country Reports on Human Rights Practices for 2013 – Jamaica, Section 6. Discrimination, Societal Abuses, and Trafficking in Persons, 27 February 2014 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220454> [Date accessed: 12 May 2015]

<sup>42</sup> U.S Department of State, Country Reports on Human Rights Practices for 2013 – Jamaica, Section 6. Discrimination, Societal Abuses, and Trafficking in Persons, 27 February 2014. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220454> [Date accessed: 12 May 2015]

<sup>43</sup> Pink News, Jamaica: Lesbian shot in chest and arm by police, 28 October 2013, <http://www.pinknews.co.uk/2013/10/28/jamaica-lesbian-shot-in-chest-and-arm-by-police/>, date accessed 28 May 2014

to the civil society organisations and media outlets, were gay. The bodies appear to have been chopped or mutilated, and were found near several rocks with bloodstains. The murders were held to have occurred in a context of severe violence against LGBT persons in Jamaica. The IACHR reiterates that the State has the obligation to investigate such acts on its own initiative and to punish those responsible; and also to conduct an investigation that takes into account whether the murder was committed because of the gender expression, gender identity or sexual orientation of the victims.’<sup>44</sup>

6.2.5 In their annual report covering 2014, J-FLAG say that during 2014, eighty incidents of discrimination, threats, physical attacks, displacement and sexual violence, among others, were reported to the organisation. The table below provides further information of these reports.<sup>45</sup>

Type of incident	Males	Females	Transgender	Total
Physical attack	49	11	0	60
Threat/Intimidation	16	6	0	22
Blackmail	2	0	0	2
Sexual violence	0	2	0	2
Kidnapping	2	0	0	2
Discrimination	28	5	0	33
Displacement	62	3	0	65

6.2.6 Pink News reported in June 2014 that a gay rights campaigner, Kenrick Stephenson, was murdered outside his home in Jamaica in May 2014, but that ‘Police have yet to make any arrests in connection with the killing and refuse to say if they believe it was motivated by homophobia’.<sup>46</sup>

6.2.7 HRW in their Report ‘Not Safe at Home – Violence and Discrimination against LGBT people in Jamaica’ of October 2014 reported that:

‘Physical and sexual violence, including severe beatings and even murder, are part of the lived reality of many LGBT people in Jamaica. The level of brutality leads many to fear what could happen if their sexual orientation or gender identity is disclosed... In many cases, perpetrators appear to have been private actors who felt that they had the moral authority to “rid the community” of LGBT people and had no fear of arrest from the authorities... Some of the individuals we interviewed had more than one experience of

<sup>44</sup> Organization of American States, Inter-American Commission on Human Rights (IACHR), Annual Report 2014, 7 May 2015, Chapter V. Paras 168-170  
<http://www.oas.org/en/iachr/docs/annual/2014/TOC.asp> [Date accessed 11 May 2015]

<sup>45</sup> Jamaica Forum for Lesbians, All-Sexuals and Gays (J-Flag). Engaging Communities Transforming Lives: Annual Report 2014, Homophobic Incidents Reported, Page 14. <http://jflag.org/wp-content/uploads/2014/08/Annual-Report-JFLAG.pdf> [Date accessed: 12 May 2015]

<sup>46</sup> Pink News, Jamaica: Gay rights activist shot dead outside home, 5 June 2014, <http://www.pinknews.co.uk/2014/06/05/jamaica-gay-rights-activist-shot-dead-outside-home/>, date accessed 28 May 2015

physical violence. These reported acts of violence included rape; being chopped with a machete; being choked; being stabbed with a knife; being shot with a gun; being hit with boards, pipes, sticks, chairs, or brooms; being attacked by groups ranging from 5 to 40 individuals; and being slapped in the face with hands or with guns... Among the various types of physical abuses endured, interviewees identified two forms— mob attacks and arson—as notable for being both extreme and targeted at LGBT people... At least 48 physical assaults that interviewees described to HRW were accompanied by slurs that referred to the victim’s perceived or real sexual orientation or gender identity.

‘Sexual assaults on LGBT people are frequently accompanied by verbal abuse that suggests the assaults are motivated by homophobia and justified by the perpetrators as an attempt to “convert” the victims to heterosexuality.’<sup>47</sup>

- 6.2.8 Pink News reported in March 2015 that ‘Video has emerged reportedly showing the bloodied body of a gay Jamaican man who it is claimed was stoned to death. The video was uploaded and then removed from YouTube last week...Anti-gay slurs, including the phrase “batty man” are repeatedly shouted by a man off camera, along with homophobic chants from other members of the crowd. Unconfirmed social media reports suggest the youth was stoned in Montego Bay and it is believed to have happened in the last few weeks’.<sup>48</sup>

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### 6.3 Mob violence

- 6.3.1 The Organization of American States’ Inter-American Commission on Human Rights (IACHR) recorded in its annual report covering 2014 that:

‘In 2012, an angry mob broke into a house to attack three gay men who were living together in Jones Town, Kingston. Police officers who arrived at the scene were also confronted by villagers for trying to protect the men.’

‘Another resounding case took place in 2012 at the Jamaica’s University of Technology (UTech), when a gay student was chased by mob of male and female students through the university campus. The victim was able to reach the security office, while the mob kept screaming outside. A video shot at the scene shows how at least two guards, instead of protecting the student, went on to slap, kick and punch him in view of the crowd sneaking through the windows. A few months later, the guards were subsequently freed by a Court after the student decided to no longer pursue the case. By mid-2013 mob attacks in Jamaica soared to worrying levels. According to the

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<sup>47</sup> Human Rights Watch, Not Safe at Home – Violence and Discrimination against LGBT people in Jamaica, October 2014, II. Violence against LGBT People, [http://www.hrw.org/sites/default/files/reports/jamaica1014\\_ForUpload\\_1.pdf](http://www.hrw.org/sites/default/files/reports/jamaica1014_ForUpload_1.pdf) [Date accessed: 12 May 2015]

<sup>48</sup> Pink News, Report: Gay man stoned to death in Jamaica, 10 March 2015, <http://www.pinknews.co.uk/2015/03/10/report-gay-man-stoned-to-death-in-jamaica/>, date accessed 28 May 2015

information received by the IACHR, on 1 August, two men inside a patrol car were perceived as gay and a crowd quickly gathered and started harassing the men. Police officers had to disperse the crowd using warning shots and pepper spray. On the very same day, police forces had to be called on to rescue two gay men from another irate crowd, which claimed the men “were engaging in an illegal activity in a house” in St. Catherine. Prior to the police arrival, one of the accused men was attacked by an occupant of the house.’

‘[T]he IACHR received information that on August 10 [2013], police personnel had to rescue a trans woman in Portmore, St Catherine, after an angry mob who had seen her in the community threatened to flog her. On 22 August [2013], another irate mob barricaded five gay men inside of their home in Manchester. The men were reportedly trapped until police arrived and escorted them to safety, to the applause of enraged community members. Additionally, on 26 August [2013], local media reported that two men had to seek refuge after being involved in a motor vehicle accident when angry residents said they appeared to be gay. Police forces had to escort the men out of the police station and away from the angry mob that had gathered outside the premises. Two months later, a mob firebombed a house in which several gay men were living in Porto Bello, St James.’<sup>49</sup>

- 6.3.2 In response to this violence, the IACHR formally requested the Jamaican State to provide specific information on the measures adopted in response to the ongoing situation and to report on any measures or policies that had been adopted to prevent further acts of violence against LGTB persons, or those perceived as such. The government replied expressing that:

[i]t is difficult to investigate mob killings or attacks given that a mob attack often involves large numbers of persons. It is therefore challenging in those circumstances to determine which persons were actively involved and, in the case of a death, which person or persons landed the fatal blow. In cases of mob attacks, it is also challenging to find witnesses who are willing to give evidence. [In Jamaica] [t]here is no legislation which specifically addresses mob attacks against LGBT persons or those perceived as such.<sup>50</sup>

- 6.3.3 Erasing 76 crimes reported that on 15 June 2014 TVJ Prime Time News reported ‘hundreds of people converged in a shopping area in May Pen, in southern Jamaica, after word spread that a gay man had sought refuge in a clothing store. Passersby had been angered when they saw the man putting on lipstick. They assaulted him (“ran him down”) and he took refuge inside the clothing store. Inside, store clerks were concerned for his safety, so they locked the door. They called for help from police, who responded, then stood at the door of the store to keep people from entering... With a police escort the young man emerged from the store, his head covered and quickly got

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<sup>49</sup> Organization of American States, Inter-American Commission on Human Rights (IACHR), Annual Report 2014, 7 May 2015, Chapter V. Paras 173 -175  
<http://www.oas.org/en/iachr/docs/annual/2014/TOC.asp> [Date accessed 11 May 2015]

<sup>50</sup> Organization of American States, Inter-American Commission on Human Rights (IACHR), Annual Report 2014, 7 May 2015, Chapter V. Paras 176.  
<http://www.oas.org/en/iachr/docs/annual/2014/TOC.asp> [Date accessed 11 May 2015]

into a waiting car driven by a police officer. The man was driven to safety after the car made its way through the threatening crowd.<sup>51</sup>

- 6.3.4 Amnesty International also refer to the incident in their 2014-15 Report saying that a mob attacked a young man at a shopping mall in the town of May Pen because he was allegedly seen putting on lipstick. Amnesty International says that there was no police investigation into the incident.<sup>52</sup>

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## 6.4 Corrective rape

- 6.4.1 The Inter-American Commission on Human Rights (IACHR) 2014 annual report stated that:

‘Also, many sources indicate that “corrective” rape in Jamaica is an issue of concern. To name a few of the reported incidents, in 2007 a 17-year-old lesbian was held captive by her own mother and her pastor for 18 days and raped repeatedly day after day by different religious men in the attempt “to make her take men” and “live as God instructed.” In 2008, four more cases were reported. The women refused to report the matter to the police out of fear of further victimization. At least another three episodes of “corrective” rape were reported in 2009. In 2010, a lesbian woman was gang-raped by four men from her community who had complained about her ‘butch’ or ‘manly’ attire. After she was raped, the rapists cut her with a knife ‘so she could better take men.’ A few days after that episode, a known friend of the first woman was driven away at knifepoint, brutally raped and then dumped half-naked. The women refused to go to the police because of the perceived ineffectual nature of their response. It is noteworthy, in this respect, that there exists a precedent in a foreign court granting asylum to a Jamaican lesbian taking into account the high risks of suffering “corrective” rape she would be exposed to if returned to Jamaica.<sup>53</sup>

- 6.4.2 In April 2015 the Human Dignity Trust reported that when Angeline Jackson and a friend were ambushed at gunpoint and sexually assaulted on a wooded trail outside the Jamaican capital in 2009, police initially seemed less concerned about the attack than the fact she is a lesbian. Jackson, a victim of a targeted sexual assault when she was 19, now directs the only registered lesbian and bisexual women's organisation in Jamaica and is determined to help others recover from sexual crimes targeting female

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<sup>51</sup> Erasing 76 crimes, Jamaican police save man threatened for wearing lipstick, 16 June 2014, <http://76crimes.com/2014/06/16/jamaican-police-save-man-threatened-for-wearing-lipstick/> [Date accessed: 12 May 2015]

<sup>52</sup> Amnesty International, Amnesty International Report 2014-2015: Jamaica, 25 February 2015, Rights of lesbian, gay, bisexual, transgender and intersex people, <https://www.amnesty.org/en/countries/americas/jamaica/report-jamaica> [Date accessed: 12 May 2015]

<sup>53</sup> Organization of American States, Inter-American Commission on Human Rights (IACHR), Annual Report 2014, 7 May 2015, Chapter V. Paras 172 <http://www.oas.org/en/iachr/docs/annual/2014/TOC.asp> [Date accessed 11 May 2015]

homosexuals, including so-called "corrective rapes" intended to force them into becoming heterosexual or punish them for not fitting societal norms.<sup>54</sup>

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## 6.5 Homelessness

### 6.5.1. The Organization of American States' Inter-American Commission on Human Rights (IACHR) noted in its annual report covering 2014 that:

'The organisation Jamaica Forum of Lesbians, All-Sexuals and Gays ("J-FLAG") has acknowledged that there has been notable progress toward engendering a more hospitable place for LGBT Jamaicans. In spite of this, J-FLAG notes that the intense cultural antipathy toward sexual and gender minorities continues to be prevalent. Many LGBT Jamaicans continue to report violations of their human rights relating to, among other things, the right to shelter, peace and security.'<sup>55</sup>

### 6.5.2. In a July 2014 briefing, J-FLAG said:

'Over the years, landlords, families, neighbours and/or other community members have forced many LGBT Jamaicans to leave their homes and communities. Between 2009 and 2012, LGBT persons made fifty-three (53) reports of displacement to J-FLAG. In 2012, there were twelve (12) reports, all involving males under 18 years. In 2013, there were eight (8) such reports and the organisation provided some form of housing assistance to fourteen persons.'

'Most persons who are forced to leave their homes and communities eventually find safe accommodation elsewhere. With the support of NGOs, relatives and friends, some even return to their homes and live on tenterhooks. Fearing continued harassment and violence, others leave Jamaica to seek refuge in countries such as Canada, England, the Netherlands and the USA. However, a significant number are forced to live and work on the street. This is especially common among those from the lowest socio-economic stratum.'

'Homelessness among the LGBT community has become increasingly visible. Many of those who become homeless seek refuge on the streets of New Kingston, one of the capital's primary business districts. This continues

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<sup>54</sup> Human Dignity Trust (UK), Jamaican activist Angeline Jackson brings attention to rapes targeting lesbians, 27 April 2015  
<http://www.humandignitytrust.org/pages/NEWS/Persecution%20Alert?NewsArticleID=391> [Date accessed: 12 May 2015]

<sup>55</sup> Organization of American States, Inter-American Commission on Human Rights (IACHR), Annual Report 2014, 7 May 2015, Chapter V. Paras 167.  
<http://www.oas.org/en/iachr/docs/annual/2014/TOC.asp> [Date accessed 11 May 2015]

to generate media attention both locally and internationally. Displaced LGBT people have also sought refuge in abandoned homes and buildings.<sup>56</sup>

‘Reports made to J-FLAG indicate that homelessness among LGBT persons is almost always the result of discrimination or violence. This is largely based on negative beliefs about the sexual orientation of LGBT persons. An antiquated “buggery law” as well as a deep-rooted culture of heteronormativity and homo-negativity among many Jamaicans fuel this discrimination. As a consequence, LGBT people such as Dwayne Jones have been forced to leave their homes and communities, families, friends, and loved ones and seek refuge on the streets. With the support of organisations such as J-FLAG, as well as relatives and friends, some homeless LGBT persons eventually find safe accommodation elsewhere or return to their homes. Others leave Jamaica to seek asylum abroad. However, some are forced to remain on the streets or find shelter in abandoned or unused buildings...’

‘Government programmes targeting people who become homeless as a result of mental illness, substance use, HIV and AIDS are available. However, no such programmes exist for LGBT persons who have been made homeless as a result of sexuality or gender identity-based discrimination. Organisations providing, or have provided one or more services in this regard include the National Council on Drug Abuse (NCDA), Open Arms Drop-in Centre, Dwayne’s House, Colour Pink Group, J-FLAG, Jamaica AIDS Support for Life (JASL) and the Sex Workers’ Association of Jamaica (SWAJ).<sup>57</sup>

6.5.3. The Organization of American States’ Inter-American Commission on Human Rights (IACHR) noted in its annual report covering 2014 that:

‘There have been instances where police have arrested and removed homeless LGBT youth from the New Kingston business district. The Inter-American Commission stresses the paramount importance for the State to address the issue of homelessness to the National Committee on Homelessness and includes LGBT persons in that response.

‘On 25 June 2014, during the 2014/15 Sectoral Debate, the State announced that it would increase its budgetary support to all local authorities for their homeless program to the sum of JA\$21million (up from JA\$16million the previous year). J-FLAG has welcomed this budgetary allocation in the hopes that funds can address homelessness among LGBT persons which is often the result of discrimination or violence and has made mention of Parliamentary support to address the issue of homelessness among LGBT persons. J-FLAG has noted that the Ministry of Local Government and

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<sup>56</sup> Jamaica Forum for Lesbians, All-Sexuals and Gays (J-Flag), (re)Presenting and Redressing LGBT Homelessness in Jamaica, July 2014, <http://jflag.org/wp-content/uploads/2014/07/rePresenting-and-Redressing-LGBT-Homelessness-in-Jamaica-JFLAG.pdf> [Date accessed: 12 May 2015]

<sup>57</sup> Jamaica Forum for Lesbians, All-Sexuals and Gays (J-Flag), (re)Presenting and Redressing LGBT Homelessness in Jamaica, July 2014, Contextualizing Homelessness: LGBT Persons and What is Being Done by Stakeholders, <http://jflag.org/wp-content/uploads/2014/07/rePresenting-and-Redressing-LGBT-Homelessness-in-Jamaica-JFLAG.pdf> [Date accessed: 12 May 2015]

Community Development has completed preliminary work on a Homelessness Policy, but that it has not developed it into a policy document. Additionally, the State has not formulated homelessness programs geared specifically toward LGBT persons who have been made homeless as a result of sexuality or gender identity-based discrimination.’<sup>58</sup>

6.5.4. The J-FLAG annual report covering 2014 reported:

‘The issue of displacement and homelessness among members of the LGBT community continued to make headlines in 2014. The coverage and handling of the issue by some leaves a lot to be desired. However, commendations must be given to several politicians for their response to the issue. Julian Robinson - whose constituency has some of the most visible members of the LGBT community who are homeless - has been actively working towards a solution. He recently announced that funding has been secured to help address the situation. Lisa Hanna, the Minister of Youth and Culture announced in 2014 that her ministry was in the process of developing new services, initiatives and programmes to address issues affecting various sections of the youth population including (LGBT) individuals. The Mayor of Kingston and St Andrew and Councillor for the Trafalgar Division are also working assiduously with different stakeholders to address homelessness.’<sup>59</sup>

6.5.5. In their October 2014 report, HRW stated that ‘Eviction and homelessness shape the lives of many LGBT Jamaicans. HRW interviewed LGBT people who had been forced to move: kicked out of their homes by family members, driven from home by community members who threatened to kill them, and in some cases violently attacked and forced to flee. Some had moved many times, often with short notice... According to Ivan Cruickshank of Caribbean Vulnerable Communities, LGBT-identified youth comprise up to 40 percent of the nation’s homeless youth population. These young men tend to fall through the cracks, as neither government services nor civil society organisations have developed services that can fully address their health or psychosocial needs. Both in New Kingston and Montego Bay, police evict them from their squatted or makeshift homes. Living at the margins of Jamaican society, they are vulnerable to rape, violence, and disease. HRW found that many young LGBT people were almost entirely uprooted, having been expelled by their families and forced to move on from each place that briefly became home.’<sup>60</sup>

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<sup>58</sup> Organization of American States, Inter-American Commission on Human Rights (IACHR), Annual Report 2014, 7 May 2015, Chapter V. Paras 180 – 181.  
<http://www.oas.org/en/iachr/docs/annual/2014/TOC.asp> [Date accessed 11 May 2015]

<sup>59</sup> Jamaica Forum for Lesbians, All-Sexuals and Gays (J-Flag), Engaging communities Transforming lives: Annual Report 2014, Parliamentarians Seek Solution to Address Homelessness, Page 7.  
<http://jflag.org/wp-content/uploads/2014/08/Annual-Report-JFLAG.pdf> [Date accessed: 12 May 2015]

<sup>60</sup> Human Rights Watch, Not Safe at Home – Violence and Discrimination against LGBT people in Jamaica, October 2014, V. Public and Private Sector Discrimination, Housing Discrimination,  
[http://www.hrw.org/sites/default/files/reports/jamaica1014\\_ForUpload\\_1.pdf](http://www.hrw.org/sites/default/files/reports/jamaica1014_ForUpload_1.pdf) [Date accessed: 12 May 2015]



- 6.5.6. In January 2015, Erasing 76 Crimes reported that “Jamaican activists who balk at the idea of forcing LGBT youths to live on the streets are trying to find a feasible alternative now that police have ousted dozens of youths from Shoemaker Gully, a drainage channel in New Kingston. The youths had lived in that gully for two years after being expelled from their homes for being gay, then rousted out of abandoned buildings. Police have repeatedly raided the gully — most recently just before Christmas. Again and again, the youths were arrested, warned, released and then allowed to return to their only home — the gully. At Christmastime 2014, however, the gully was sealed so they could not return to it.”<sup>61</sup>
- 6.5.7. Erasing 76 Crimes further reported that on 15 April 2015 “some patrons of the Clocktower Plaza in Kingston decided to “cleanse” the premises of gays. This shopping venue was one of the few spaces in the capital that gays could hang out in relative peace, although they had to travel in groups. On this occasion, their congregation worked against them and made it easier for the mob to identify and attack them. The number of gay and trans persons in the plaza had recently increased as the gully that some homeless LGBTI youth had been forced to live in was raided by police earlier this year. The youngsters were forcibly ejected and the gully was closed off. With nowhere else to go, they resorted to seeking shelter in the nearby plaza like the itinerant souls that they are.”<sup>62</sup>
- 6.5.8. The report continued “The Government of Jamaica had promised to address this situation, and the matter was even discussed in the nation’s Parliament by the MP for the area where the gully is located. However....[this has] gone unfulfilled. ....There is usually a spike in anti-gay attacks in Jamaica during the months of June, July and August. This coincides with the summer school break as unemployed and bored high school and university kids make a sport out of gay-bashing. As elsewhere, Jamaica’s plazas will be swarming with young people during summer and these spaces will be very dangerous for gays and other gender and sexually non-conforming individuals. Without a permanent shelter, homeless LGBT youth will have very little option but to take their chances in the plazas.”<sup>63</sup>

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## 6.6 Employment

- 6.6.1. In their October 2014 report, HRW stated that ‘the 2004 Staff Orders for the Public Service, which bans discrimination on the grounds of sexual orientation in civil service, is the only legal protection in Jamaica against employment discrimination on the basis of sexual orientation or gender

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<sup>61</sup> Erasing 76 Crimes, Jamaica: LGBT youths can’t even call a gully their home, 6 January 2015. <http://76crimes.com/2015/01/06/jamaica-lgbt-youths-cant-even-call-a-gully-their-home/> [Date accessed: 12 May 2015]

<sup>62</sup> Erasing 76 Crimes, Evicted gay youths under attack (again) in Jamaica, 16 April 2015. <http://76crimes.com/2015/04/16/evicted-gay-youths-under-attack-again-in-jamaica/> [Date accessed: 12 May 2015]

<sup>63</sup> Erasing 76 Crimes, Evicted gay youths under attack (again) in Jamaica, 16 April 2015. <http://76crimes.com/2015/04/16/evicted-gay-youths-under-attack-again-in-jamaica/> [Date accessed: 12 May 2015]

identity. There is no equivalent protection for workers in the private sector. LGBT people in Jamaica face discrimination when seeking and maintaining employment. We interviewed five LGBT people who had lost employment primarily because of their assumed sexuality. Others said they move regularly to protect themselves from violence; the constant movement of homes, or homelessness, also hampers their ability to find and hold a job.<sup>64</sup>

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## 6.7 Healthcare

### 6.7.1. HRW has noted in their Report, Not Safe at Home – Violence and Discrimination against LGBT people in Jamaica, October 2014, that:

‘LGBT patients faced a combination of ignorance and discrimination in accessing healthcare, including incidences of homophobia and transphobia among health workers. In some cases, the fear of negative responses from health care providers keeps LGBT individuals from accessing care. When they do access care, many told HRW they are not comfortable sharing information about their sexual orientation or HIV status. Several LGBT people told HRW that nurses, doctors, and other staff had disclosed their confidential information to others—a lack of privacy not confined to LGBT people.’<sup>65</sup>

‘A 2007 study of LGBT Jamaicans found that they had disproportionately higher rates of mental health issues, and many interviewees said they constantly struggle with the stress associated with keeping their sexuality hidden in order to stay safe from harm. Some spoke of wanting to commit suicide. Given the risk of violence and discrimination, many LGBT people remain closeted in order to protect themselves.’<sup>66</sup>

### 6.7.2. The J-FLAG annual report covering 2014 reported:

‘The National HIV Programme of the Ministry of Health and the National Family Planning Board continue to do great work to promote the rights of LGBT Jamaicans. In 2014, they partnered with J-FLAG to sensitise healthcare workers on how to deal with members of the LGBT community and establish LGBT friendly public health facilities to ensure greater access

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<sup>64</sup> Human Rights Watch, Not Safe at Home – Violence and Discrimination against LGBT people in Jamaica, October 2014, V. Public and Private Sector Discrimination, Employment Discrimination, [http://www.hrw.org/sites/default/files/reports/jamaica1014\\_ForUpload\\_1.pdf](http://www.hrw.org/sites/default/files/reports/jamaica1014_ForUpload_1.pdf) [Date accessed: 12 May 2015]

<sup>65</sup> Human Rights Watch, Not Safe at Home – Violence and Discrimination against LGBT people in Jamaica, October 2014, V. Public and Private Sector Discrimination, Health Care Discrimination, [http://www.hrw.org/sites/default/files/reports/jamaica1014\\_ForUpload\\_1.pdf](http://www.hrw.org/sites/default/files/reports/jamaica1014_ForUpload_1.pdf) [Date accessed: 12 May 2015]

<sup>66</sup> Human Rights Watch, Not Safe at Home – Violence and Discrimination against LGBT people in Jamaica, October 2014, Summary, [http://www.hrw.org/sites/default/files/reports/jamaica1014\\_ForUpload\\_1.pdf](http://www.hrw.org/sites/default/files/reports/jamaica1014_ForUpload_1.pdf) [Date accessed: 12 May 2015]

to health services. This partnership continues to bear fruit as improvements have been noted in the delivery of healthcare to this vulnerable group.’<sup>67</sup>

- 6.7.3. However, the Organization of American States’ Inter-American Commission on Human Rights (IACHR) noted that it ‘remains concerned about the challenges highlighted by civil society organisations including the under-coverage of testing and treatment, and the commitment to ensuring that confidentiality of patients is respected and the lack of sanctions for healthcare workers who breach patient confidentiality. Lack of adherence to confidentiality of patient’s medical diagnoses, criminalization of same sex acts, sex work, and drug use contribute to the lack of access to HIV services. The high prevalence of HIV among MSM has been attributed to lack of targeted programs and lack of legislation to address issues of stigma and discrimination toward that population. Civil society organisations have indicated that there is also no specific intervention, program or outreach specifically for lesbian and bisexual women from the organisations that work on the national HIV/AIDS response. The IACHR expresses concern over this omission given the incidences of corrective rape of lesbian and bisexual women that heightens their vulnerability to contracting HIV. Despite this risk, there has been no research into the actual levels of HIV in within the lesbian and bisexual population. In this regard, civil society organisations have urged the State’s health sector to recognize the increased risk of lesbian and bisexual women to HIV infection by creating targeted interventions for this community, and that the National HIV Program disaggregate data based on the sexual orientation of women as well as men. J-FLAG has noted that many LGBT persons do not seek health services for various reasons including fear of disclosing their sexual orientation or sexual practices to public health workers.’<sup>68</sup>

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## 6.8 Media

- 6.8.1 The Organization of American States’ Inter-American Commission on Human Rights (IACHR) noted in its annual report covering 2014 that:
- ‘Public policy campaigns, which seek to promote tolerance, have faced backlash from media channels. The Office of the Special Rapporteur for Freedom of Expression was informed of the decision by television channels CVMTV and Television Jamaica not to authorize dissemination of the commercial “Love & Respect,” which apparently seeks to promote tolerance of diverse sexual orientations. The Broadcasting Commission found no legal reason not to broadcast the advertisement.’

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<sup>67</sup> Jamaica Forum for Lesbians, All-Sexuals and Gays (J-Flag), Engaging communities Transforming lives: Annual Report 2014, Government Entities Promote the Rights of LGBT Jamaicans, Page 7. <http://jflag.org/wp-content/uploads/2014/08/Annual-Report-JFLAG.pdf> [Date accessed: 12 May 2015]

<sup>68</sup> Organization of American States, Inter-American Commission on Human Rights (IACHR), Annual Report 2014, 7 May 2015, Chapter V. Paras 182-184 and Paras 201-203. <http://www.oas.org/en/iachr/docs/annual/2014/TOC.asp> [Date accessed 11 May 2015]

‘Additionally, the Office of the Special Rapporteur expresses its concern over the promotion in some media outlets of outwardly discriminatory and homophobic messages that could incite violence against members of the LGBT community, especially when those messages come from shapers of public opinion. According to the information received, during 2013 some media systematically published articles that could incite violence against LGBT individuals, by disseminating messages that encourage hatred against the members of that community.’

‘Caribbean Vulnerable Communities (“CVC”) has noted a lack of balance and input from the State aimed at providing information in defense of human rights and human rights defenders as well as providing public education to counter some of the homophobic and divisive demonizing rhetoric. The State’s lack of input in this regard does not only negatively affect the national HIV response or LGBT rights, but it is a regional impact that has led to the Caribbean Community (“CARICOM”) questioning its provision of funding for education for sexual and reproductive rights.’<sup>69</sup>

- 6.8.2 The J-FLAG annual report covering 2014 reported that there was a tremendous increase in attention on LGBT issues in the media in 2014. There were several editorials on LGBT issues in the two leading print media, many commentaries written and numerous current affairs programmes dealing with LGBT issues. Notably, there were two television programmes on the leading current affairs programmes Impact and All Angles that were specifically geared to issues related to transgender people. This heightened interest resulted in many media engagements by J-FLAG. Notably, the Executive Director, Dane Lewis, published an article in the Jamaica Gleaner that essentially “clarified the J-FLAG agenda” This was necessary in light of the preconceptions about the organisation that were held and presented in the media by opponents of a nefarious gay lobby that is insistent on promoting a “gay agenda” that will be to the detriment of the nation, families especially.<sup>70</sup>
- 6.8.3 HRW has noted in their Report, Not Safe at Home – Violence and Discrimination against LGBT people in Jamaica, October 2014, that:  
‘Media reflect and fuel widespread homophobia in Jamaican society. Broadsheets publish cartoons that stereotype, ridicule, foment hate against, and demonize LGBT people.’<sup>71</sup>

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<sup>69</sup> Organization of American States, Inter-American Commission on Human Rights (IACHR), Annual Report 2014, 7 May 2015, Chapter V. Paras 182-184 and Paras 201-203. <http://www.oas.org/en/iachr/docs/annual/2014/TOC.asp> [Date accessed 11 May 2015]

<sup>70</sup> Jamaica Forum for Lesbians, All-Sexuals and Gays (J-Flag). Engaging communities Transforming lives: Annual Report 2014, Media, Page 28. <http://jflag.org/wp-content/uploads/2014/08/Annual-Report-JFLAG.pdf> [Date accessed: 12 May 2015]

<sup>71</sup> Human Rights Watch, Not Safe at Home – Violence and Discrimination against LGBT people in Jamaica, October 2014, I. Public Attitudes towards Homosexuality, Homophobic Discourse, [http://www.hrw.org/sites/default/files/reports/jamaica1014\\_ForUpload\\_1.pdf](http://www.hrw.org/sites/default/files/reports/jamaica1014_ForUpload_1.pdf) [Date accessed: 12 May 2015]

# Version Control and Contacts

## Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors then email [the Country Policy and Information Team](#).

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email [the Guidance, Rules and Forms Team](#).

## Clearance

Below is information on when this version of the guidance was cleared:

- version **1.0**
- valid from **13 July 2015**
- this version approved by **Sally Weston, Deputy Director, Head of Legal Strategy,**
- approved on: **24 June 2015**

## Changes from last version of this guidance

First version in updated template

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