



August 2011

A commentary on the May 2011 Jamaica Operational Guidance Note

This commentary identifies what the ‘Still Human Still Here’ coalition considers to be the main inconsistencies and omissions between the currently available country of origin information (COI) and case law on Jamaica and the conclusions reached in the May 2011 Jamaica Operational Guidance Note (OGN), issued by the UK Border Agency. Where we believe inconsistencies have been identified, the relevant section of the OGN is highlighted in blue.

An index of full sources of the COI referred to in this commentary is also provided at the end of the document.

This commentary is a guide for legal practitioners and decision-makers in respect of the relevant COI, by reference to the sections of the Operational Guidance Note on Jamaica issued in May 2011. To access the complete OGN on Jamaica go to: <http://www.bia.homeoffice.gov.uk/sitecontent/documents/policyandlaw/countryspecific/asyumpolicyogns/>

The document should be used as a tool to help to identify relevant COI and the COI referred to can be considered by decision makers in assessing asylum applications and appeals. This document should not be submitted as evidence to the UK Border Agency, the Tribunal or other decision makers in asylum applications or appeals. However, legal representatives are welcome to submit the COI referred to in this document to decision makers (including judges) to help in the accurate determination of an asylum claim or appeal.

The COI referred to in this document is not exhaustive and should always be complemented by case-specific COI research.

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2. Country Assessment

2.4 Internal relocation

Excerpt from the May 2011 Jamaica OGN

2.4.4 The law provides for freedom of movement within the country.²² It may be practicable for applicants who may have a well-founded fear of persecution in one area to relocate to other parts of Jamaica where they would not have a well-founded fear and, taking into account their personal circumstances, it would not be unduly harsh to expect them to do so.

The highlighted sentence suggests that an internal relocation alternative exists for most Jamaican claimants. However, this paragraph does not refer to some later findings within the same OGN and further does not take into consideration the latest Jamaica Country Guidance (CG) case or some additional Country of Origin Information (COI) pertaining to economic difficulties and discriminatory practices experienced by women:

- a) Based on the CG determination of [DW \(Homosexual Men; Persecution; Sufficiency of Protection\) Jamaica CG \[2005\] UKAIT 00168 \(28 November 2005\)](#) the OGN affirms in paragraph 3.7.7 that gay men or those perceived as such would not be able to relocate. Paragraph 3.7.7 in the section '3.7 Gay men, lesbians, bisexual and transgender persons' states:

3.7.7 In general the Jamaican authorities do not provide gay men, lesbians and bisexuals or those perceived as such with effective protection. There are also likely to be difficulties in finding safety through internal relocation. The law provides for freedom of movement within the country and Government generally respects this right in practice.³⁷ **However, in the case of DW (Homosexual Men; Persecution; Sufficiency of Protection), it was found that in a country like Jamaica, where homophobic attitudes are prevalent across the country, it would be unduly harsh to expect a gay man or someone who is perceived as such to relocate. 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** [Emphasis added]

- b) The most recent CG case [SW \(lesbians - HJ and HT applied\) Jamaica CG \[2011\] UKUT 251 \(IAC\) \(24 June 2011\)](#) found that an internal relocation option does not necessarily apply to single women who might be perceived to be lesbians. In *SW (Jamaica)* the Court concluded that, amongst other:

[...] (4) *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.*

(5) *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).*

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(6) 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.

(7) 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. [...]

c) The following sources highlight the economic difficulties and discriminatory practices that are prevalent throughout Jamaica that might impact on a woman's internal relocation option:

- [Government of Jamaica, Unemployment Rates By Age Group 2010 – 2011, Undated \[Last accessed: 11/07/2011\]](#)

AGE GROUP	2009				2010				2011
	January	April	July	October	January	April	July	October	January
BOTH SEXES									
	11.1	11.4	11.3	11.6	13.5	12.4	11.6	12.0	12.9
15 - 19	39.4	42.5	37.3	43.1	47.4	44.8	43.5	53.5	39.0
20 - 24	21.3	21.4	24.7	26.4	26.4	29.8	26.1	25.7	28.1
25 - 34	13.6	14.3	13.0	12.4	15.6	13.2	13.5	13.0	15.3
35 - 44	8.2	8.4	8.8	9.0	11.5	9.8	8.7	9.6	8.4
45 - 54	5.7	6.0	6.2	6.4	7.4	6.6	6.1	6.7	7.7
55 - 64	4.6	4.6	3.8	4.2	4.4	5.8	5.3	4.7	5.4
65 and over	3.8	3.8	2.0	3.0	3.5	1.8	1.8	2.4	1.9
MALE									
TOTAL	8.5	9.2	8.4	8.1	10.5	9.3	8.1	9.0	9.5
14 - 19	33.2	38.8	33.0	35.4	41.1	39.6	39.0	43.4	28.5
20 - 24	16.6	19.0	20.0	19.3	19.6	24.4	19.7	21.3	21.5
25 - 34	9.6	11.3	9.4	7.6	11.6	9.5	8.4	8.3	10.7
35 - 44	5.8	5.5	5.2	5.2	8.9	5.4	5.3	6.8	5.7
45 - 54	4.9	4.3	4.4	5.2	6.5	5.2	4.5	5.5	6.6
55 - 64	4.4	5.2	3.6	4.0	4.3	5.9	4.3	4.9	5.1
65 and over	3.8	3.6	1.9	3.9	3.2	1.8	1.5	3.4	1.8
FEMALE									
TOTAL	14.3	14.2	14.9	15.9	17.1	16.2	15.9	15.7	16.8
14 - 19	48.2	48.9	43.7	54.8	56.5	55.4	51.4	67.5	54.3
20 - 24	26.9	24.3	31.0	35.3	35.0	36.3	33.7	30.9	35.6
25 - 34	18.0	17.7	16.9	17.7	19.9	17.1	19.2	18.5	20.1
35 - 44	10.9	11.8	12.8	13.2	14.4	14.8	12.5	12.6	11.2
45 - 54	6.6	8.0	8.6	7.8	8.4	8.4	8.1	8.1	9.0
55 - 64	4.9	3.7	4.1	4.6	4.5	5.8	6.9	4.4	6.0
65 and over	3.7	4.2	2.3	1.4	4.3	1.9	2.2	0.0	2.2

- [U.S. Department of State, Trafficking in Persons Report 2011: Jamaica, 27/06/2011](#)
[...] Jamaica is a source, transit, and destination country for adults and children subjected to sex trafficking and forced labor. NGOs report that the most common form of trafficking in Jamaica is sex trafficking, which allegedly occurs in night clubs, bars, and private homes. [...]

- [U.S. Department of State, Country Report on Human Rights Practices 2010: Jamaica, 08/04/2011](#)
[...] Although the law accords women full legal equality, including equal pay for equal work, in practice women suffered from discrimination in the workplace and often earned less than their male counterparts. According to the World Economic Forum's 2010 Global Gender Gap Report, women earned 36 percent less than men for comparable work. The BWA, reporting to the minister of development, oversaw programs to protect the legal rights of women. These programs had limited effect but raised awareness of problems affecting women. Women sought jobs and served in almost every occupation in both the public and private sectors.[...]

- [UN Human Rights Council, Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 \(c\) of the annex to Human Rights Council resolution 5/1: Summary of stakeholders' information to the Working Group on](#)

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[the Universal Periodic Review on the promotion and protection of human rights, 10/08/2010](#)

[...] 8. The Inter-American Commission on Human Rights (IACHR) stated that although Jamaica has taken important steps in protecting the rights of women in relation to discrimination and violence, these efforts have yet to change the lives of many women who continue to face different forms of discrimination. Jamaica must act to translate its obligations under national and international law into practice.

9. JS2 indicated that the major problems facing women included domestic violence, gender inequality, stereotyped roles for men and women, slow pace of legal reform relating to anti-discrimination legislation and the lack of sexual harassment legislation, and economic reliance of women on men because of female poverty. [...]

➤ [Inter-American Commission on Human Rights, IACHR ISSUES PRELIMINARY OBSERVATIONS ON VISIT TO JAMAICA, 05/12/2008](#)

[...] Both State and civil society representatives reported that the situation of poverty and exclusion found, for example, in many inner city areas has a disproportionate impact on women. These sources reported that the economic situation of women and their families is affected by greater rates of unemployment and lower salaries than men, and that this produces especially serious consequences for the many single mothers, aunts and grandmothers raising children. [...]

➤ [World Health Organization, Health in the Americas 2007: Jamaica, October 2007](#)

[...] According to a 2004 Millennium Development Goals (MDG) report prepared by the Planning Institute of Jamaica (5), half of the country's poor were children under age 18 and 10% were elderly. Two-thirds of all female-headed households were living at or below the poverty line. Despite lower poverty rates among the urban population, poverty was extreme in some inner-city areas. The employment rate in 2005 was 63.9%, with a male participation rate of 72.9% and a female participation rate of 55.4%. The average unemployment rate for that year was 11.3%, down from 15.5% in 2000. Disaggregation by gender showed that the female unemployment rate (15.8%) continued to be more than twice that of males (7.6%) (1, 6). [...]

➤ [UN Committee on the Elimination of Discrimination against Women, Concluding comments of the Committee on the Elimination of Discrimination Against Women: Jamaica, 25/08/2006](#)

[...] 13. The Committee remains deeply concerned about the persistence of strong patriarchal attitudes and deep-rooted stereotypes regarding the roles, responsibilities and identities of women and men in all spheres of life, which are discriminatory of women. The persistence of such values underpins discrimination against women in many spheres, and condones gender-based violence and promiscuous behaviour by men. The Committee regrets that no sustained, systematic action has yet been taken by the State party to modify or eliminate stereotypes and negative cultural values and practices that discriminate against women and prevent them from enjoying their human rights and continue to constitute a severe obstacle to the full implementation of the Convention.

[...] 27. The Committee is concerned that apparently no temporary special measures have been put in place by the State party to accelerate the achievement of de facto equality of women and men, as provided for in article 4, paragraph 1, of the Convention, and that the Government lacks a clear understanding of the purpose of, and need for, temporary special measures provided for under the Convention.

[...] 33. The Committee is concerned that, despite high educational qualifications, women continue to be underpaid and underemployed, and face horizontal and vertical sex segregation in the labour market. The Committee is also concerned about the lack of legislation prohibiting sexual harassment in the workplace, and the vulnerable situation of domestic workers who are entitled to receive maternity benefits under the National Insurance Scheme.

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[...] 37. The Committee is concerned that insufficient attention is being paid to the gender-specific impact on women, particularly rural women, of economic adjustment and trade liberalization programmes as a cause of poverty. It is also concerned with the poor living conditions rural women face, especially in the country's interior. While noting the number of interventions for rural women, it is concerned that these are scattered and welfare oriented rather than aimed at rural women's empowerment, and indicate the absence of a holistic approach to implementation of article 14 of the Convention. While noting that the State party has placed a high priority on its National Poverty Eradication Programme, the Committee regrets the lack of data provided on its impact on women.

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3.6 Criminal gang violence

Excerpt from the May 2011 Jamaica OGN

3.6.10 *Conclusion.* General lawlessness, poverty or a lack of access to resources will not, in themselves, be sufficient to warrant the grant of asylum or humanitarian protection. Claimants who fear a criminal gang who are able to demonstrate that the gang poses a real and serious threat may be at risk of persecution in Jamaica. Unless reasonably likely to be admitted into the Witness Protection Programme, a person targeted by an organized criminal gang will not normally receive effective protection in his home area.

The guidance provided in paragraph 3.6.10 and highlighted in blue above suggests that if a victim of criminal gang violence is admitted into the Witness Protection Programme they will be out of reach of their perpetrator(s) and effective protection will be provided. COI provided in section '2.3 Actors of protection' supports this guidance as follows:

Excerpt from the May 2011 Jamaica OGN

2.3.14 A Witness Protection Programme is provided for by the Justice Protection Act (Act 23 of 2001). The U.S. Department of State has reported that some criminal trials were dismissed because witnesses failed to come forward as a result of threats, intimidation, or murder. Some of those who came forward qualified for the witness protection program, but many either refused protection or violated the conditions of the program. According to the JCF, no participant in the witness protection program who abided by the rules of the program has ever been killed.¹⁷

However, COI provided in the subsequent paragraph, 2.3.15 has not been taken into account in the guidance provided for this particular category of applicants:

Excerpt from the May 2011 Jamaica OGN

2.3.15 Following a mission to Jamaica in 2008, the IACHR reported "severe deficiencies in the criminal justice process, ranging from the inability to assure witness protection to extended delays in criminal cases".¹⁸ The Assistant Commissioner of Police, Owen Ellington, also stated in 2008 that "the protection of witnesses is being breached by the practice of accused criminals who gain access to sensitive witness information"¹⁹. In January 2011 Ellington further stated that the guidelines governing the operations of the Witness Protection Programme were not being properly followed by police personnel and this "resulted in delays in the processing of witnesses waiting to be placed on the programme as well as to the programme itself".²⁰

The COI cited below, which post-dates the February 2007 CG case of [AB \(Protection, criminal gangs, internal relocation\) Jamaica CG \[2007\] UKAIT 00018 \(22 February 2007\)](#) highlights that effective protection cannot always be guaranteed for those entering the Witness Protection Programme and suggests that the conclusions of the CG case AB and the related guidance reached in the OGN in paragraph 3.6.10 are no longer valid. The following sources are available in the public domain:

- [Jamaica Observer, DPP laments lack of resources for witness protection, 19/06/2011](#)
[...] DIRECTOR of Public Prosecutions (DPP) Paula Llewellyn wants more resources to be channelled into the Government's witness protection programme, especially given the increase in the number of key witnesses to major crimes who refuse to enter the programme. "Witness intimidation is at its highest. What I would really recommend is that more needs to be done in respect of the Witness Protection Programme, because you can have all the jurors, but if you

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don't have the witnesses the case is going to go through the window," Llewellyn told a meeting of the Observer Press Club on Friday. "They (Ministry of National Security) have a good record notwithstanding the challenges of resources. They have a pretty good system worked out and they have a very good rate in terms of who are protected on the programme, but we have several people who need to go on the programme," Llewellyn said. The DPP, who was accompanied by her deputies and other members of her staff, said while she was well aware that "competing challenges and interests" were the deciding factor in how resources are to be allocated, the programme clearly needed more fiscal support. "They (security officials) are trying, but because of the need for more capacity, it needs more resources," the DPP said, adding that "some witnesses have refused to go on the programme because they do not believe it will properly replicate the comfort of their environment". [...]

- [Jamaica Observer, PSOJ cites biases in Witness Protection Programme, 22/02/2011](#)
[...] CHAIRMAN the Private Sector Organisation of Jamaica's Standing Committee on National Security Lieutenant Commander George Overton says the much-touted Witness Protection Programme has been failing some Jamaicans because of biases. "There is a lot of talk about the Witness Protection Programme. I don't think any of us are really privy to the depths of it, but in truth and in fact it seems to have selective functioning," Overton told Observer editors and reporters at the newspaper's weekly Monday Exchange yesterday. "There are matters which are treated with urgency and those persons will be given the protection that they need; there are other matters that are as important that are not given the same treatment," he said when prodded further. [...]
- [The Jamaican Gleaner, Murder Toll Soars Despite Police Efforts, 01/04/2010](#)
[...] While unable to confirm the number of murders since Tuesday night, Assistant Commissioner of Police Les Green has blamed the killings on the influx of illegal weapons and ammunition into the island. "The lack of efficient tools is preventing law-enforcement officers from doing their jobs," argued Green. "Witnesses are fearful and there is a witness-protection programme which is limited." [...]
- [Jamaicans for Justice, Reform Matters: Quarterly e-Brief on Justice Reform, July-September 2009](#)
[...] In addition to the difficulties in collecting and preserving admissible evidence and the extremely low prosecution rate for cases of police shootings, there are a number of factors within the court system that have contributed to the near nonexistent conviction rate for lawful police killings. These include problems with juror and witness unavailability. The failure to properly subpoena jurors has historically led to the use of repeat jurors in Coroners' Courts throughout the island who are perceived to have developed a bias in favour of the police. Witness absenteeism, intimidation and weak witness protection system have also contributed to deficiencies in the court system allowing for adjournments and cases prolonging for years. [...]

The lack of potential witnesses who enter the witness protection programme should also be seen in light of high levels of corruption in the Jamaican police force as stated in the following paragraphs in the current OGN:

Excerpt from the May 2011 Jamaica OGN

2.3.8 The JCF Anti-Corruption Branch, headed by a British police officer hired as assistant commissioner of police, has responsibility for addressing corruption in the force, and improvements have been noted. However, suspicions of corruption and impunity within the force remained, despite a notable increase in the number of arrests of officers for corruption.

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[...] 3.6.9 However according to Amnesty International the JCF has not only failed to protect people from violent crime, it has contributed to the public security problem. A large number of people are killed by the police every year. In many cases the available evidence indicates that fatal shootings were probably the result of excessive use of force and some may have amounted to extrajudicial executions. **Amnesty International goes on to say that flawed investigations, corruption and a failing justice system have contributed towards police impunity.**

The following COI corroborates the high level prevalence of corruption and impunity for human rights abuses in the Jamaican police force:

- [Amnesty International, A long road to justice? Human rights violations under the state of emergency, 23/05/2011](#)
[...] Although the available evidence indicates that many fatal shootings by police are probably the result of excessive use of force and some may have amounted to extrajudicial executions, flawed investigations, corruption and a failing justice system have provided impunity for the officers responsible. Between 2000 and 2010, more than 2,220 fatal shootings by police have been reported, yet only two police officers have been convicted for their involvement in killings. [...]
- [Freedom House, Freedom in the World: Country Report: Jamaica, 13/01/2011](#)
[...] Corruption remains a serious problem in Jamaica. Government whistleblowers who object to official acts of waste, fraud, or abuse of power are not well protected by Jamaican law, as is required under the Inter-American Convention against Corruption.
[...] Jamaica was ranked 87 out of 178 countries surveyed in Transparency International's 2010 Corruption Perceptions Index. [...]
- [UN Human Rights Council, Report of the Working Group on the Universal Periodic Review: Jamaica, 04/01/2011](#)
[...] 44. [...] Canada noted with concern reports of abuse of power and use of excessive force by the police, as well as the lack of accountability, impunity and corruption within the police force. [...]
- [Jamaicans for Justice, State of Jamaica: NGO Report on the implementation of the ICCPR, October 2010](#)
[...] ABUSE OF POWER BY POLICE
54. Police abuse of power and use of excessive force, lack of accountability, corruption within the police force and outright impunity for whatever action the police may take (including killing of innocent citizens being billed as "collateral damage") have been recognized by the police authorities themselves in numerous reports and have lead to a public security crisis in Jamaica. This situation has been well-documented and analysed by both the government and the national and international NGOs operating in Jamaica, as well as the civil society representatives. [...]

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3.7 Gay men, lesbians, bisexual and transgender persons

Excerpt from the May 2011 Jamaica OGN

3.7.7 In general the Jamaican authorities do not provide gay men, lesbians and bisexuals or those perceived as such with effective protection. There are also likely to be difficulties in finding safety through internal relocation. The law provides for freedom of movement within the country and Government generally respects this right in practice.³⁷ However, in the case of *DW (Homosexual Men; Persecution; Sufficiency of Protection)*, it was found that in a country like Jamaica, where homophobic attitudes are prevalent across the country, it would be unduly harsh to expect a gay man or someone who is perceived as such to relocate. 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.

The guidance reached in the OGN with regards to this particular group of claimants is still accurate, but a new CG case (see below) has highlighted the risks of ill-treatment to actual or perceived lesbians. In addition there is a lack of COI in relation to the ill-treatment of transgender persons.

As the country information included in the OGN demonstrates, there is no evidence of improvement in the levels of persecution and ill-treatment of gay men in Jamaica since the 2005 CG case of [DW \(Homosexual Men; Persecution; Sufficiency of Protection\) Jamaica CG \[2005\] UKAIT 00168 \(28 November 2005\)](#). Since that determination, the Upper Tribunal (Immigration and Asylum Chamber) have promulgated the CG determination relating to risk to lesbians (actual or perceived) [SW \(lesbians - HJ and HT applied\) Jamaica CG \[2011\] UKUT 251 \(IAC\) \(24 June 2011\)](#), which accepts that ‘open’ lesbians are at risk of “curative rape” and even murder, and if they do not live a heterosexual narrative, they will also be at real risk of persecution. Consequently, gay, lesbian and bisexual asylum seekers are an accepted ‘at risk’ group, whether their sexual identity is actual or perceived, which addresses the second limb of Lord Rodger’s guidelines in paragraph 82 of [HJ \(Iran\) v Secretary of State for the Home Department \(Rev 1\) \[2010\] UKSC 31 \(07 July 2010\)](#).

The findings of the Tribunal in *SW* regarding having to live a heterosexual narrative to evade identification is dependent on the country background evidence on what occurs to those who do not conform to heterosexual gender-sex roles imposed from a male heterosexual standpoint. The point with respect to enquiries about a stranger in the neighborhood is also accepted in the CG determination relating to gay men from Afghanistan [AJ \(Risk to Homosexuals\) Afghanistan CG \[2009\] UKAIT 00001 \(05 January 2009\)](#) and should find resonance when analysing risk to LGBT claimants in the majority of countries of origin.

In *SW* the Court found that:

[...] (4) 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.

(8) 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).

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(9) 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.

(10) 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. [...]

Information, which post-dates the country background evidence before the Upper Tribunal in SW, continues to support these findings, as indicated below:

- [UN Human Rights Council, Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 \(c\) of the annex to Human Rights Council resolution 5/1: Summary of stakeholders' information to the Working Group on the Universal Periodic Review on the promotion and protection of human rights, 10/08/2010](#)

[...]37. IACHR indicated that it strongly condemned the high level of homophobia that prevailed **throughout Jamaican society**. It has resulted in violent killings of persons thought to be gay, lesbian, bisexual or transsexual, as well as stabbings, mob attacks, arbitrary detention and police harassment. [...]

Transgender persons

With regards to what the OGN describes in the title of section 3.7 as "Transgender persons", no country evidence is cited in the OGN relating to these people. The following sources document the ill-treatment of transgender persons in Jamaica:

- [Jamaica Forum for Lesbians, All-Sexuals and Gays, 01/01/2011](#)
[...] This year, we have received and documented over forty incidences of human rights abuses meted out to members of the lesbian, gay, bisexual and transgender community in Jamaica.
[...] Additionally, two gay men were violently murdered including a cross-dresser known as "Charm" in December, because they identify as gay [...]
- [Jamaica Observer, Cross dresser's body found in Half-Way-Tree, 03/12/2010](#)
[...] POLICE this afternoon found the body of a cross dresser behind the National Solid Life and General Insurance Branch Limited on Half-Way-Tree Road in St Andrew. Cops say the body was found at the back of the building with what is believed to be chop wounds. The cops initially thought the victim was a woman, as the man was dressed in women's clothes [...]
- [Jamaica Observer, Dancehall impacts the rise of transgender community, 06/12/2009](#)
[...] The homophobic dancehall culture can stop the rise of local transgendered community, argued the Jamaica Forum for Lesbians All-Sexuals and Gays (JFlag) following the recent party photos of cross-dressers. JFlag said that the dancehall culture castigates such individuals but fails to crush them. "The genre of music called dancehall ... has certainly played its part in preventing the kind of dialogue that would allow for a greater understanding of this particular minority grouping," asserted Jason McFarlane, programmes manager at JFlag in response to Observer queries. "(But) homophobia does not prevent the emergence of transgendered persons it only prevents dialogue around transgender issues as many have not yet dealt with the reality of homosexuality." JFlag added that transgendered persons are stepping out, but fear prevents them from fully expressing their gender identity. The gay lobby estimates that up to 270,000 lesbian, gay, bisexual, and transgendered people live in Jamaica. That represents "between three to 10 per cent of the population". Of that figure a "smaller percentage" are transgendered persons which includes transvestites (cross-dressers) and transsexuals (surgical augmentation).

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

➤ [Jamaica Observer, Mob bears cross dresser, 28/04/2007](#)

[...] A cross-dresser was set upon and severely beaten by a mob in Falmouth's Water Square yesterday morning. Police who were called to the scene had to fire warning shots to disperse the stone-throwing, stick-wielding mob, which succeeded in tearing off the man's black-and-white form-fitting blouse and jet black wig. According to eyewitnesses, the man was spotted at approximately 8:30 am in the town centre apparently waiting for transportation. He was wearing heavy make-up, high-heeled shoes, a long pair of shiny earrings, a black leather jacket over a snug black-and-white blouse, a tight-fitting pair of jeans, a black wig, a pair of sunglasses and a handbag slung over his broad shoulders. It was not clear yesterday how the alarm was first raised. However, the Observer was told that the assault began as soon as someone in the busy square shouted that the person was actually a man wearing female attire. The news of the man's presence in the community spread rapidly and in a matter of minutes scores of angry residents converged on the scene and began to rain blows all over the cross-dresser's body with sticks, stones and whatever weapon they could find. "Where is the police station at?" the frightened man screamed. During the melee, the wig the man was wearing fell off and wads of newspaper stuffed in a brasserie to lift the man's chest dislodged, while a cosmetic kit containing lipsticks of varying colours was thrown from a bag he was carrying, much to the amusement of the large crowd who stood watching. "B***y boy fe dead," persons among the mob shouted. The sentiments were echoed by the rest of the riled-up crowd. "Falmouth no pet no b***y boy. We no want none a them bout here," one woman yelled. After the mob dispersed, the victim was whisked off in a police service vehicle, much to the disapproval of the crowd who rushed upon the vehicle demanding the man's release. "If you ever did see him. Him dress hotter than you and me," one young girl was overheard telling her friend. "Nu worry man, we gi him a proper [beating]," one man said proudly. The man was admitted to hospital. However, a police spokesman said last night that a group of people, who wanted to beat the man on his release, were waiting outside the hospital, which, he said, could delay his release from the health facility [...]

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3.8 Victims of domestic violence

Excerpt from the May 2011 Jamaica OGN

3.8.11 The effectiveness of protection available to victims of domestic violence through the enforcement of legislative provisions and the availability of access to shelters and assistance will need to be considered in the context of the individual circumstances of the applicant.

3.8.12 Domestic violence is widespread in Jamaica. While protection can be effective in individual cases and **internal relocation can be an option for those facing domestic violence**, the grant of asylum or Humanitarian Protection may be appropriate where there are specific reasons why effective protection would not be available to the individual applicant or where it would be unduly harsh to expect them to relocate internally.

3.8.13 While it is generally possible for applicants to relocate to other parts of Jamaica to escape domestic violence, the personal circumstances of an individual applicant should be taken into account when assessing whether it would not be unduly harsh to expect them to internally relocate.

Given the recent CG determination in [SW \(lesbians - HJ and HT applied\) Jamaica CG \[2011\] UKUT 251 \(IAC\) \(24 June 2011\)](#) and the economic difficulties and discriminatory practices experienced by Jamaican women it can be argued that an internal relocation option does not necessarily apply to single women (see COI provided on p. 3 of this review).

Excerpt from the May 2011 Jamaica OGN

3.8.9 Similarly, **it also appears that inadequate shelters exist to accommodate victims of domestic violence** as Amnesty International urged the Jamaican government to “ensure the immediate establishment of more shelters for women victims of physical and sexual violence” and noted that “there is currently only one shelter located in Kingston”, Jamaica’s capital.⁴⁸ The UN Working Group on the Universal Periodic Review on Jamaica also recommended that more shelters be established as a matter of priority.⁴⁹

[...] 3.8.11 The effectiveness of protection available to victims of domestic violence through the enforcement of legislative provisions and **the availability of access to shelters and assistance will need to be considered in the context of the individual circumstances of the applicant.**

The OGN provides inconsistent guidance with regards to the availability of shelters. As per the highlighted sentences above, paragraph 3.8.9 states that “it appears that inadequate shelters exist”, but in the guidance provided at paragraph 3.8.11 finds that “the availability of access to shelters and assistance will need to be considered”. Additional COI available in the public domain corroborates the position that access to assistance would be extremely limited, if available at all, as only one shelter exists:

- [The Caribbean NGO Database, Woman’s INC – Kingston, Undated](#) (last accessed: 08/07/2011)

[...] CRISIS CENTRE

[...] The Crisis Centre in Kingston offers walk-in counselling services from 9:00 a.m. – 5:00 p.m. and telephone counselling 24 hours per day every day of the year. The Crisis Centre in Montego Bay (1991) is generally open 9-a.m-5 p.m. Mon. -Fri. Unfortunately the Montego Bay location does not have a 24-hour hotline or a shelter.

[...] CRISIS SHELTER

The Crisis Shelter functions as an emergency temporary residence for women in crisis. The location is kept confidential to protect the safety of the women. The cases are usually abused

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women, incest, rape, or temporary homelessness due to domestic violence. In many cases small children and babies are involved. The victims are generally seen at the Crisis Centre, the cases assessed and then sent to the Shelter. When the incident occurs during the night, the Volunteer on the Hotline, with the agreement of the 'Back-up' counsellor, may refer the victims to the Police who will escort the person to the Shelter, providing there is space. A housemother attends to the smooth running and supervision of the Shelter that was opened in 1987 and continues to be the only one of its kind in Jamaica. [...]

➤ [UN Human Rights Council, Report of the Working Group on the Universal Periodic Review: Jamaica, 04/01/2011](#)

[...] 99. The following recommendations enjoy the support of Jamaica, which considers that they have already been implemented or are in the process of implementation:

[...] 99.26. Establish within the Police Service a domestic violence and victims support unit (Ghana);

99.27. Establish more shelters for women victims of violence (Norway); [...]

➤ [Jamaicans for Justice / Shareholder Coalition, Submission by Shareholder Coalition for the United Nations Universal Periodic Review of Jamaica, 03/09/2010](#)

[...] Women's rights

[...] Recommendations

[...]54. The Government must:

a. furnish financial aid as well as policy and programme support for activities relating to gender equality and human rights.

b. take concrete steps to increase women's gainful employment, thus reducing their vulnerability.

c. immediately introduce a state-funded public education programme aimed at preventing rape and sexual crime and to provide victim support

d. establish a network of shelters to provide for victims and persons threatened with crimes of sexual violence

e. provide special education and employment outreach to rural women [...]

➤ [Amnesty International, Jamaica: Submission to the UN Universal Periodic Review: Ninth session of the UPR Working Group of the Human Rights Council, November-December 2010, 19/04/2010](#)

[...] However, the high incidence of violence, combined with the low clear-up rate for sexual crimes and reticence in reporting of sexual crimes, suggests that more vigorous efforts are needed to enforce the law and to bring perpetrators to justice. According to many women's organizations, more resources should be invested in promoting rights awareness among women and girls and in the creation of more shelters for women victims of violence (there is currently only one shelter located in Kingston). [...]

➤ [Jamaica Observer, Woman Inc's crisis shelter, 08/12/2008](#)

[...] She was to become another one of the many abused females who have sought help from the shelter since it was established 20 years ago. Even with the increase in domestic violence and gender-based violence, it is still the only one of its kind in Jamaica. Maria Ranking, the centre's counsellor, says the shelter provides a nurturing environment to the women whose continued abuse over time leads to depression.

[...]Given the shortage of space and the demand they are getting from women, Ranking says they can only keep a family for 10 days. The shelter can only accommodate 12 persons at a time. [...]

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