

# JAMAICA 2022 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Jamaica is a constitutional parliamentary democracy. The Jamaica Labour Party, led by Prime Minister Andrew Michael Holness, held 48 of the 63 seats in the House of Representatives. International and local election observers deemed the elections in September 2020 to be transparent, free, fair, and generally peaceful.

The Ministry of National Security is the ministerial home of the Jamaica Defense Force and directs policy of the security forces. The prime minister has authority over the Jamaican Defense Board and as chairman of the board has responsibility for defense-related matters including command, discipline, and administration. The prime minister is the ultimate arbiter of all defense matters, although the minister of national security is the de facto minister of defense. The Jamaica Constabulary Force is the country's police force, which also falls under the Ministry of National Security. It has primary responsibility for internal security and has units for community policing, special response, intelligence gathering, and internal affairs. When the prime minister and Parliament declare a state of emergency, the Jamaica Defense Force has arrest authority and partners with the Jamaica Constabulary Force. The Passport, Immigration, and Citizenship Agency is responsible for migration. Civilian authorities at times did not maintain effective control over the security forces. There were reports that members of the security forces committed abuses.

Significant human rights issues included credible reports of: unlawful and arbitrary killings by government security forces; cruel, inhuman, or degrading treatment by the government; harsh and life-threatening conditions in prisons and detention facilities; arbitrary arrest and detention; serious government corruption; lack of investigation of and accountability for gender-based violence; and the existence of a law criminalizing consensual same-sex sexual conduct between adults, although the government did not enforce the law during the year.

The government took some steps to investigate and prosecute officials who committed human rights abuses. Nonetheless, there were credible reports that

some officials alleged to have committed human rights abuses were not subject to full and swift accountability. The government did not effectively implement the law on corruption. There were numerous credible allegations of government corruption, including by officials who sometimes engaged in corrupt practices with impunity, according to media reports and government audits.

## **Section 1. Respect for the Integrity of the Person**

### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

There were numerous reports during the year that government security forces committed arbitrary and unlawful killings, and there were hundreds of complaints of abuse and wrongful harm. Most complaints and reports cited the Jamaica Constabulary Force (JCF), both in its roles as an independent agency and as part of joint military-police activity. There were also several reported incidents involving the Jamaica Defense Force (JDF).

The total number of fatalities involving security forces, justifiable or otherwise, increased over prior years, with 131 reports as of December 13. The government filed extortion and murder charges against several JCF officers following a killing in Kingston in July. The Independent Commission of Investigations (INDECOM) investigated police for several fatal shootings, including shooting and killing an unarmed boy, age 16, in August. In November a JDF soldier fatally shot a Kingston man during a clash under a state of emergency.

Comments in September by Deputy Prime Minister and Minister of National Security Horace Chang suggested that security forces should not hesitate to use lethal force and that taxpayer-funded services, including ambulance services, should not be expended on suspected violent criminals.

Charges against members of the security forces took years to process, primarily due to investigatory backlogs, trial delays, and appellate measures. Numerous cases awaited prosecution.

## **b. Disappearance**

There were no reports of disappearances by or on behalf of government authorities.

## **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, and Other Related Abuses**

The constitution prohibits torture and punishment determined to be inhuman or degrading, although there is no definition of torture in the law.

Community protests erupted after some shootings by security forces, including a nonfatal shooting in April by police of a taxi driver in the town of Portmore who failed to obey a police order to stop.

There were allegations of cruel, inhuman, and degrading treatment or punishment of individuals in police custody and in correctional facilities. INDECOM investigated reports of alleged abuse committed by police and prison officials, including the alleged severe beating in August of two inmates at the Horizon Adult Remand Centre in what media reported may have been retaliation for the killing of a corrections officer employed at the facility.

Most reports of abuse to INDECOM described intimidation, excessive physical force in restraint, and restricted access to medical treatment. Reports included several credible allegations of sexual assault by security forces in the year. Representatives of nongovernmental organizations (NGOs) expressed concern that there was underreporting by victims, particularly by the vulnerable or persons with mental disabilities.

INDECOM investigated actions by members of the security forces and other state agents that resulted in death, injury, or the abuse of civil rights. As of December, INDECOM was investigating 733 complaints received during the year of the abuse of power by police, including wrongful deaths, assaults, and mistreatment. INDECOM forwarded its recommendations to the Office of the Director of Public Prosecutions, which determined whether police should be charged. INDECOM remained one of the few external and independent oversight commissions that monitored security forces. INDECOM reported a backlog in cases due to significant delays in obtaining DNA, ballistics, and chemistry reports from other

government agencies.

The government rarely criminally prosecuted members of the security forces for abuses. Many cases faced significant delays due to court backlogs.

Citizens often accused security forces of acting with impunity due to the rarity of successful prosecutions against security force members for abuses. There were reports of unlawful arrests for which officers were not punished or disciplined. The government had procedures for investigating complaints of unlawful behavior by security forces, including investigations by INDECOM and the JCF's Inspectorate and Professional Standards Oversight Bureau, but the government did not always use these procedures. Civil society organizations conducted training for police recruits in human rights protections.

### **Prison and Detention Center Conditions**

Conditions in prisons and detention facilities were harsh and life threatening due to gross overcrowding, physical abuse, limited food, poor sanitary conditions, inadequate medical care, and poor administration. Prisoners with mental disabilities and children in juvenile correctional facilities represented the most vulnerable populations facing harsh conditions.

**Abusive Physical Conditions:** Correctional facilities were significantly overcrowded. At times, cells in the maximum-security facility at Tower Street held three times the intended capacity. Cells were dark and dirty, with poor bathroom and toilet facilities and limited ventilation. The country's two maximum-security correctional facilities, St. Catherine Adult Correctional Centre and Tower Street Adult Correctional Centre, were constructed in 1714 and 1845 respectively, and did not receive regular maintenance, creating dangerous conditions in dilapidated buildings.

Allegations of abuse were particularly frequent at juvenile detention centers. In February, media reported security personnel shot and killed a juvenile detainee who was trying to escape the Metcalfe Street Secure Juvenile Remand Centre. According to a government official, security personnel are authorized to use a baton or firearm to stop an escapee and have no authority to use other, nonlethal, forms of deterrence.

Prisoners sometimes did not receive required medication, including medication for HIV, according to the UN Program on HIV and AIDS. The HIV prevalence rate among incarcerated populations, at more than 6.9 percent, was reportedly as much as four times that of the general population. Two full-time psychiatrists and four part-time psychiatrists, an increase from 2020, cared for at least 262 inmates diagnosed with mental disabilities in 11 different facilities.

**Administration:** Independent authorities investigated allegations of abuse and inhuman conditions. Investigations were infrequent, and the number of official complaints likely underrepresented the scope of the problems, according to a human rights NGO.

**Independent Monitoring:** Justices of the peace and representatives from the Police Civilian Oversight Authority (PCOA) regularly visited correctional centers and detention facilities (lockups and remand centers). Justices of the peace reported their findings to the Ministry of Justice, while the PCOA submitted reports to the Ministry of National Security. Both entities made recommendations to improve overall conditions. Citizen groups and NGOs stated the ministries rarely acted on these recommendations.

INDECOM investigated actions by staff members at correctional facilities and other state agents that resulted in death, injury, or the abuse of civil rights. INDECOM's legal mandate requires it to investigate all prisoner deaths that occur at a correctional facility, including deaths reported as a result of natural causes.

#### **d. Arbitrary Arrest or Detention**

The constitution prohibits arbitrary arrest and detention but allows arrest if there is "reasonable suspicion of [a person] having committed or ... about to commit a criminal offense." The law provides for the right of any person to challenge in court the lawfulness of his or her arrest or detention, and the government generally observed these requirements. Abuses arose, however, because police regularly ignored the "reasonable suspicion" requirement. Detention rates were high, particularly in areas subject to focused law enforcement operations, and arraignment procedures were very slow.

The country suffered from high levels of homicide, crime, and violence. The

declaration of a state of emergency (SOE) grants the police and military the ability to search, seize, and arrest citizens without a warrant, as was implemented in June throughout the parish of St. Catherine and in November across much of the country. The prime minister may declare an SOE for 14 days or fewer; extensions require parliamentary approval. In June, the Supreme Court found some elements of the SOE regulations relating to indefinite detention to be unconstitutional.

The government may identify zones of special operations (ZOSOs), which confer to security forces some additional detention authorities such as are found in SOEs. During the year, the prime minister declared or extended seven ZOSOs that the government viewed as necessary to reduce crime and violence. Some communities operated as ZOSOs for most of the year. Arbitrary and lengthy detentions took place in ZOSOs. Very few of these detentions resulted in charges.

### **Arrest Procedures and Treatment of Detainees**

Police may arrest without a warrant when a felony, treason, or breach of the peace is committed or attempted in an officer's presence. Following an arrest, the officer is required to inform the suspect of the offense(s) for which the individual was arrested.

An officer may execute a warrant that is lawfully issued by a judge or justice of the peace without being in possession of the warrant. The officer must produce the warrant as soon as practical after the arrest if the suspect requests it. The decision to charge or release must be made within 48 hours, although a judge or justice of the peace may extend the period of custody.

Security forces did not always follow these official procedures. According to government officials and civil society organizations, public perception was that police sometimes made arrests regardless of judicial authorization.

There were reports of arrests and prolonged periods of detention in which police did not inform the suspect of the official charges. There were multiple reports that detainees did not have access to legal counsel and that apprehended suspects could not notify family members. Every person charged with an offense is entitled to consideration for bail, although those charged with murder, treason, or other crimes punishable by imprisonment may be denied bail on "substantial grounds"

that they would fail to surrender to authorities or would commit another offense while on bail. The procedure lent itself to low-level corruption in which police would accept bribes to forgo an arrest.

**Arbitrary Arrest:** Most cases of arbitrary detention were in the parishes of St. James, St. Catherine, Kingston, and St. Andrew. The government declared ZOSOs and deployed the military to these areas to support police. Under these orders, security forces carried out wide-ranging campaigns of detention and incarceration in attempts to contain violence. There were few official investigations or prosecutions of security force members involved in arbitrary arrests. Citizens accused of crimes enjoyed effective legal representation in judicial criminal proceedings and successfully challenged unlawful arrests and detentions within the court system.

**Pretrial Detention:** Lockups are intended for short-term detentions of 48 hours or less, but often the government held suspects in these facilities for much longer periods without charge or while awaiting trial. A lack of administrative follow-through after an arrest created situations where persons were incarcerated without any accompanying paperwork. In some cases – days, weeks, months, or years later – authorities could not ascertain the reason for the arrest.

### **e. Denial of Fair Public Trial**

The constitution provides for an independent judiciary, and the government generally respected judicial independence and impartiality. A backlog of criminal cases in most courts, however, led to the denial of a fair public trial for thousands of citizens. Criminal proceedings sometimes extended for years. Cases were delayed primarily due to incomplete files and the failure of witnesses, parties, attorneys, or investigating officers to appear.

The criminal courts decreased the court case backlog, especially at the parish court level, through additional training, additional equipment, and an increase in the use of plea bargains. The case clearance rate for the second quarter of the year was 118 percent, which meant for every 100 new cases that entered the courts, 118 were concluded.

## **Trial Procedures**

The constitution provides for the right to a fair and public trial, and the judiciary generally enforced this right.

## **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

## **Civil Judicial Procedures and Remedies**

There is an independent and impartial civil judiciary process. Complainants may bring human rights abuse cases to the courts for civil remediation, but awards were difficult to collect. The government is required to undertake pretrial negotiation or mediation to settle out of court.

## **f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

Although the constitution prohibits arbitrary or unlawful interference, the law gives broad powers of search and seizure to security personnel. The law allows warrantless searches of a person, vehicle, ship, or boat if police have a reasonable suspicion of criminal activity. On occasion, police were accused of conducting searches without warrants or reasonable suspicion.

In the areas with ZOSOs and SOEs, government security forces took biometrics from temporarily detained persons. The Office of the Public Defender and civil society organizations challenged this practice, arguing that retaining the information and failing to delete it after police released the detained person effectively criminalized persons who subsequently were not charged. Security forces detained wide swaths of the population in ZOSOs and SOEs under broad arrest authorities.

## **Section 2. Respect for Civil Liberties**

### **a. Freedom of Expression, Including for Members of the Press and**



## **Other Media**

The constitution provides for freedom of expression, including for members of the press and other media, and the government generally respected this right. An independent media, generally effective judicial protection, and a functioning democratic political system combined to promote freedom of expression, including for members of the media.

## **Internet Freedom**

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that the government monitored private online communications without appropriate legal authority.

## **Restrictions On Academic Freedom and Cultural Events**

The Broadcasting Commission barred certain lyrics and music videos, including songs referring to violent sex; gender-based violence; violence towards children and other vulnerable persons; or questions of race. Such lyrics were expunged prior to broadcast. The Broadcasting Commission instituted additional prohibitions in October against music and television programs deemed to be glorifying criminal activities such as financial scamming and gun crimes.

## **b. Freedoms of Peaceful Assembly and Association**

The constitution provides for the freedoms of peaceful assembly and association, and the government generally respected these rights.

## **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

## **d. Freedom of Movement and the Right to Leave the Country**

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these related rights. The government did not provide documentation in a timely fashion for Jamaican

nationals ordered removed from foreign countries, leaving some individuals awaiting repatriation for more than a year.

### **e. Protection of Refugees**

The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to refugees, returning refugees, or asylum seekers, as well as other persons of concern.

**Access to Asylum:** The law does not provide clear procedures for the granting of asylum or refugee status, and the government has not established a consistent system for providing protection to refugees. The government handles each potential asylum seeker administratively on an individual basis. Through registration, the government may grant Jamaican citizenship to persons with citizenship in another Commonwealth country.

## **Section 3. Freedom to Participate in the Political Process**

The law provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

### **Elections and Political Participation**

**Recent Elections:** In national elections in September 2020, the Jamaica Labour Party won 48 of the 63 seats in the House of Representatives. Observers judged the elections to be transparent, free, fair, and generally peaceful.

**Participation of Women and Members of Minority Groups:** No laws limit participation of women or members of minority groups in the political process, and they did participate.

## **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for corruption by officials, but the government generally did not implement the law effectively. There were numerous reports of

government corruption, and corruption was a significant problem of public concern. Media and civil society organizations criticized the government for being slow and at times reluctant to prosecute corruption cases.

**Corruption:** A March 10 report by the Integrity Commission, an independent anticorruption body, alleged then Minister without Portfolio and current Member of Parliament Robert Montague improperly granted gun permits to six persons with criminal records while he was minister of national security from 2016 to 2018. Montague was not charged. He resigned from his position in government but retained his position within the Jamaica Labour Party.

People's National Party Senator Peter Bunting was implicated in the same Integrity Commission report for improperly granting gun permits while minister of national security from 2012 to 2016. Bunting was not charged, and the investigation continued as of November.

In July, former Member of Parliament Horace Dalley was fined after pleading guilty to the charge of failing to file mandatory financial declarations under the Integrity Commission Act for the years 2020-21.

## **Section 5. Governmental Posture Towards International and Nongovernmental Investigation of Alleged Abuses of Human Rights**

Domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials, however, including Prime Minister Holness, publicly criticized the work of domestic human rights groups as contributing to the country's high rate of violent crime. The government then failed to protect human rights advocates from death threats and other intimidation caused in part by this criticism.

**Government Human Rights Bodies:** The Office of the Public Defender investigates abuses of constitutional rights and engages with claimants in a process to seek remediation from the government. The Office of the Public Defender is not authorized to appear in court but may retain attorneys to represent claimants. The

Office of the Public Defender may not investigate cases affecting national defense or actions investigable by a court of law. Although the Office of the Public Defender is generally considered independent, parliament may ignore its findings or decline to act on recommended actions. This limited the overall efficacy of the public defender.

## **Section 6. Discrimination and Societal Abuses**

### **Women**

**Rape and Domestic Violence:** The rape of a woman is legally defined only as forced penile penetration of the vagina by a man; it is illegal and carries a penalty of 15 years' to life imprisonment. Forced anal penetration of a woman or man is not legally defined as rape and may be punished by a maximum of 10 years in prison. This strict definition created wide discrepancies between cases that otherwise had similar elements of rape. The government did not always enforce the law with respect to the vaginal rape of a woman and was even less effective in cases involving male victims, according to civil rights groups.

Married women do not have the same rights and protections as single women. By law, marriage always implies sexual consent between husband and wife. The law criminalizes spousal rape only when one of the following criteria is met: the act occurs after legal separation or court proceedings to dissolve the marriage; the husband is under a court order not to molest or cohabit with his wife; or the husband knows he has a sexually transmitted disease.

Advocacy groups contended that rape was significantly underreported because victims had little faith in the judicial system and were unwilling to endure lengthy criminal proceedings. Sexual violence and intimate partner violence were widespread.

The government operated a Victim Service Division (VSD) to provide direct support to all crime victims, including crisis intervention, counseling, and legal advocacy. The VSD managed 13 independent offices throughout the country, each with its own hotline and staff of trained providers. The VSD coordinated with a network of NGOs capable of providing services such as resiliency counseling and

operating shelters, although overall NGO capacity was limited. Few government services sensitive to the impact of trauma on their constituents were available.

The Child Protection and Family Services Agency (CPFSA) provided similar services exclusively for children, although both the VSD and the CPFSA were too understaffed to provide comprehensive care to the populations they served. There were insufficient shelters in the capital area for women and children, and even fewer were available outside the capital area, or for males. Police and first responders continued to receive training from an international NGO regarding referral mechanisms and services available to child crime victims.

**Sexual Harassment:** The government began implementing the 2021 Sexual Harassment Act, which created a legal definition of sexual harassment in private workplaces and public institutions. The law provides legal recourse for victims, including a Sexual Harassment Tribunal that can receive complaints up to six years after an act of sexual harassment and is empowered to impose fines. According to the Caribbean Policy Research Institute, a regional think tank, one in four women reported being sexually harassed during their lifetime.

**Reproductive Rights:** There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

Access to contraception and skilled health attendance during pregnancy and childbirth were available, although availability was limited in impoverished or rural communities. While social and religious pressure against contraception created significant barriers to access, contraceptives were generally available and affordable. Minors were required by law to have parental consent to access contraception.

Women had access to emergency health care, including for the management of consequences arising from abortions. The standard of care varied widely, however, especially in rural communities. The government provided access to sexual and reproductive health services for sexual violence survivors. Emergency contraceptives were provided to sexual violence survivors as part of the standard medical response to rape.

**Discrimination:** Although the law provides the same legal status and rights for

women as for men, including equal pay for equal work, the government did not enforce the law effectively. Women encountered discrimination in the workplace. Women often earned less than men while performing the same work. Women were restricted from working in some factory jobs. Domestic workers were particularly vulnerable to workplace discrimination and sexual harassment. Lesbian, bisexual, transgender, queer, or intersex women, women living in rural areas, and women with disabilities reported significantly higher levels of discrimination, particularly in employment.

## **Systemic Racial or Ethnic Violence and Discrimination**

The constitution provides for the right to freedom from discrimination based on race and skin color, but there are no laws or regulations prohibiting discrimination on the grounds of ethnicity.

The population was 92 percent Black, and there were few reports of racial discrimination. Some media sources reported incidents of colorism (favoring lighter-skinned persons within an ethnic group) by employers or against patrons in upper-class restaurants. Speaking at a political rally in September, opposition politicians decried reduced opportunities and more frequent police violence faced by Black citizens. The government did not investigate these incidents.

While the public-school curriculum includes robust discussions of race, there were no government programs designed specifically to counter racial or ethnic biases.

## **Children**

**Birth Registration:** Every person born in the country after independence in 1962 is entitled to citizenship. Children outside the country born to or adopted by one or both Jamaican parents, as well as persons married to Jamaican spouses, are entitled to citizenship. Birth registration was provided on a nondiscriminatory basis.

**Child Abuse:** The law bans child abuse and mistreatment in all its forms, including neglect. The penalties are a large fine, a prison sentence with hard labor for a term not exceeding five years, or both.

The law bans corporal punishment in all government-run children's homes and

places of safety (government-run or regulated private institutions). The law requires anyone who knows of or suspects child abuse in any form to make a report to the National Children's Registry. There is a potential penalty of a large fine, six months' imprisonment, or both for failure to report. In March, the government began operating a child-friendly space in Falmouth, where law enforcement provided child crime victims with assistance and service referrals in a trauma-informed setting. The CPFSA and the Office of the Children's Advocate maintained child abuse hotlines.

Corporal punishment and other forms of child abuse were prevalent. NGOs expressed concern regarding the role of sexual abuse in the transmission of HIV to girls and young women; approximately 45 percent of adolescent mothers with HIV were sexually abused as children. Physical punishment in schools remained commonplace.

The risk of sexual assault reportedly was three times higher for children than adults. Girls disproportionately experienced sexual harassment, gender-based violence, and sexual abuse. Cases were widespread and varied.

Boys experienced disproportionately high levels of physical violence, including corporal punishment both at home and at school. Boys experienced disproportionately poor educational outcomes, with UNICEF reporting that most adolescents not attending school were boys and that only a small minority of tertiary education enrollees were boys.

**Child, Early, and Forced Marriage:** The legal minimum age for marriage is 18, but children may marry at age 16 with parental consent.

**Sexual Exploitation of Children:** The law criminalizes the commercial sexual exploitation of children, which includes the production, possession, importation, exportation, and distribution of child pornography. The crime carries a maximum penalty of 20 years' imprisonment and a large fine. The law prohibits child sex trafficking and prescribes a penalty of up to 30 years' imprisonment. There were continued reports of the commercial sexual exploitation of children and child sex trafficking.

The law criminalizes sexual relations between an adult and a child younger than

age 16 and provides for penalties ranging from 15 years' to life imprisonment.

**Institutionalized Children:** The government placed some children with disabilities who lacked sufficient parental care in orphanages run by the government called "Places of Safety." There was a small number of reports of children being placed in these facilities over the objections of their biological parents or other caretakers.

## **Antisemitism**

Approximately 500 persons in the country practiced Judaism. There were no reports of antisemitic acts.

## **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report>.

## **Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation, Gender Identity or Expression, or Sex Characteristics**

**Criminalization:** The law criminalizes consensual sexual conduct between men, with penalties of up to 10 years in prison with hard labor. Attempted sexual conduct between men is also criminalized, with penalties up to seven years in prison. Physical intimacy, or the solicitation of such intimacy, between men, in public or private, is punishable by two years in prison under gross indecency laws. The Inter-American Commission on Human Rights stated the law legitimizes violence towards lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI+) persons.

The government did not provide information as to whether the government prosecuted consensual sexual conduct between men, but LGBTQI+ advocacy groups reported that the government did not prosecute this conduct.

**Violence against LGBTQI+ Persons:** Two LGBTQI+ community members were killed in their home in August. While the motive for the killings remained unclear,



advocacy groups accused local media of insensitivity and misgendering the victims in subsequent reporting. The NGO Equality for All Foundation reported that during the year it received 13 complaints of violence against LGBTQI+ persons, a number of cases similar to previous years. Many of the cases reported during the year occurred in prior years. Underreporting of anti-LGBTQI+ violence was a problem, since many victims were reluctant to go to the police due to expected inaction by police. A local NGO reported that government officials, including police, had improved their response to LGBTQI+ rights violations. Many LGBTQI+ children faced persecution and bullying in their homes or communities; those who fled these abusive conditions were highly vulnerable to sex trafficking.

**Discrimination:** The law does not prohibit discrimination by state and nonstate actors based on sexual orientation, gender identity or gender expression, or sex characteristics. LGBTQI+ individuals experienced discrimination in many areas, including housing, employment, marriage, and protections against domestic violence.

**Availability of Legal Gender Recognition:** Transgender persons are not legally allowed to register a change of gender.

**Involuntary or Coercive Medical or Psychological Practices Specifically Targeting LGBTQI+ Individuals:** LGBTQI+ advocates reported that churches, families, and other faith-based organizations employed coercive psychological measures in attempts to “convert” LGBTQI+ individuals. There are no laws specifically prohibiting these practices. Advocates reported that some families sought unnecessary surgical procedures for intersex children, although these procedures were carried out in a quiet and nonsystematic way. A study by Equality for All indicated that nearly 50 percent of citizens supported or believed in the efficacy of “conversion therapy” to alter gender identity or sexual orientation.

**Restrictions of Freedom of Expression, Association, or Peaceful Assembly:** There are no legal restrictions against LGBTQI+ gatherings or expressing opinions on LGBTQI+ issues.

## **Persons with Disabilities**

The law prohibits discrimination against persons with disabilities, although it does not mandate accessibility standards. A new Disabilities Act came into effect in February, mandating increased accessibility, bolstering protections against employment discrimination, and revamping the process for certifying disability. Persons with disabilities encountered difficulties accessing education, employment, health services, public buildings, communications, transportation, and other services due to the lack of accessible facilities. The government did not provide all information in accessible formats.

There were reports of violence against persons with disabilities. In February, police arrested five minors for allegedly beating to death an elderly man suffering from mental illness after he reported them for trespassing on his property.

Some advocates for the disabled community complained that the government-run Jamaica Council for Persons with Disabilities insufficiently addressed community concerns and did not allocate resources effectively.

There were limitations in access to primary school education for children with disabilities, although the constitution provides all children the right to primary education. Media reported that some children with disabilities, particularly in rural areas, received no education at all. There was a lack of suitably trained teachers to care for and instruct students with disabilities. Postprimary and postsecondary educational services, vocational training, and life skills development opportunities were limited. Health care reportedly was sometimes difficult to access, especially for persons with hearing disabilities and persons with mental disabilities. Access problems were more pronounced in rural regions.

## **Other Societal Violence or Discrimination**

Civil society groups, international organizations, and government officials cited stigma and discrimination as factors contributing to low numbers of individuals being treated for HIV. The country's legal prohibition of consensual sexual conduct between men disproportionately affected HIV treatment for subpopulations such as men who have sex with men and individuals who are

LGBTQI+, where HIV infection levels were higher than average. Some individuals with HIV reported difficulty obtaining medical care, to the extent that some delayed seeking medical attention or traveled abroad to receive treatment.

The government collaborated with international programs to address HIV-related stigma and discrimination. Measures included training health-care providers on human rights and medical ethics; sensitizing lawmakers and law enforcement officials; reducing discrimination against women in the context of HIV; improving legal literacy; providing legal services; and monitoring and reforming laws, regulations, and policies relating to HIV.

The law prohibits HIV-related discrimination in the workplace and provides some legal recourse to persons with HIV who experience discrimination. In rural areas and poor urban areas, there was less knowledge of government services and programming related to HIV.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law provides for the right of workers to form or join independent unions and to bargain collectively. The law does not provide for the right to strike, although the constitution provides for the freedoms of peaceful assembly and association. The law prohibits antiunion discrimination and provides for the Industrial Disputes Tribunal (IDT) to reinstate a worker who was unjustifiably dismissed. The law makes it a criminal offense to prevent or deter a worker from exercising the right to participate in trade union activities or to dismiss, penalize, or otherwise discriminate against a worker for exercising these rights.

Aspects of the law limit the ability of some workers to organize. The government defines the following 10 categories of services as essential: water, electricity, health, hospital, sanitation, transportation, firefighting, police and corrections, overseas telecommunication, and telephone services. Before workers in these categories may legally strike, they must take their dispute to the Ministry of Labor and Social Security and attempt to settle the dispute through negotiation.

An International Labor Organization (ILO) representative confirmed that the ILO

continued to raise concerns that the country's definition of essential services was too broad. The ILO reported the issue remained unresolved by the government. The government prohibits unionizing in export-processing zones, which are industrial areas with special tax and trade incentives to attract foreign investment. The ILO expressed concern that penalties may be imposed on workers for their membership and participation in an unregistered trade union. The ILO also expressed concern that the government may inspect unions and request information about trade union finances at any time.

The law mandates that in the case of doubt or dispute as to whether workers may exercise bargaining rights, the labor and social security minister must conduct a secret ballot requiring that a majority of workers vote. If two or more unions each represent less than 30 percent of workers eligible to vote, the minister grants joint bargaining rights to each of those unions. In 2021, the ILO observed that the Labor Relations and Industrial Disputes Act's complex, percentage-based system for determining whether a union has standing to bargain could prevent workers from exercising their right to bargain.

The minister of labor and social security may apply through the Supreme Court to curtail an industrial action such as a strike or lockout when the minister determines the action may be harmful to national security or the national economy or may have the potential to endanger the lives of a substantial number of persons. The minister refers such cases to compulsory arbitration. The IDT hears cases when management and labor fail to reach agreement, including cases involving nonunionized workers.

The government generally respected freedom of association and the right to collective bargaining in the formal sector, except in export-processing zones. Worker organizations operated without interference, although the government maintained the right to monitor their activities. While employers generally respected the law prohibiting antiunion discrimination, some labor unions reported that private-sector workers feared management retaliation against unionization. For example, it was not uncommon for private-sector employers to dismiss union workers and rehire them as contractors with fewer worker protections.

The government enforced the law in most cases, but burdensome legal procedures

allowed firms and other large employers to appeal and delay resolution of their cases for years. While cases by law should be resolved within 21 days, the IDT took several months to decide most cases. Parties could apply for judicial review by the Supreme Court. Penalties were commensurate with those under other laws involving denials of civil rights. The government sometimes applied penalties against violators.

## **b. Prohibition of Forced or Compulsory Labor**

The law criminalizes all forms of forced or compulsory labor as well as trafficking in persons. The National Task Force Against Trafficking in Persons continued its outreach to sensitize citizens on trafficking-in-persons crimes, including forced labor. The task force also facilitated sensitization training programs for all levels of government, including police, labor officers, health-care officials, and prosecutors.

The government did not effectively enforce the laws on forced or compulsory labor or trafficking in persons. There were no arrests or convictions made for labor trafficking. Most violators were not held criminally accountable, and few victims were identified. The country continued to be a source and destination for persons subjected to forced labor, including in domestic work, begging, and the informal sector. Children were subjected to forced labor in domestic work, and gang members subjected boys to forced criminal activity.

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report>.

## **c. Prohibition of Child Labor and Minimum Age for Employment**

See the Department of Labor's *Findings on the Worst Forms of Child Labor* at <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings>.

## **d. Discrimination with Respect to Employment and Occupation**

The Charter of Fundamental Rights and Freedoms provides for the right to freedom from discrimination based on gender, race, place of origin, social class, skin color, religion, and political opinion. The law and regulations do not prohibit

discrimination on the grounds of ethnicity, nationality, sexual orientation, or gender identity. Ministry of Labor and Social Security policy prohibits discrimination based on HIV status.

Few cases of employment discrimination were filed during the year, but underreporting was likely due to strong stigma in the workplace against older women, persons with disabilities, members of the LGBTQI+ community, and persons with HIV or AIDS. Although the law requires equal pay for male and female employees, NGOs focusing on gender equality reported the law was not enforced. Women's salaries were less than men's for equivalent jobs, and women were concentrated in lower-paying occupations (also see section 6). The World Economic Forum reported that women received salaries that were approximately 75 percent of men's salaries.

Disability advocacy groups reported that persons with disabilities often lacked access to the workplace. A new Disabilities Act came into effect in February, mandating increased accessibility and bolstering protections against employment discrimination (see section 6). The law prohibits wage discrimination due to disability.

Penalties for violations were commensurate with penalties under other laws related to civil rights. The government sometimes applied penalties to violators. According to major unions and labor rights organizations, persons subject to workplace discrimination had little confidence that effective legal recourse was available to them.

## **e. Acceptable Conditions of Work**

**Wage and Hour Laws:** The minimum wage was above the nationally estimated poverty line. Most workers received more than the legal minimum wage.

The law provides for a standard 40-hour workweek and mandates at least one day of rest per week. Employers are required to compensate work in excess of 40 hours per week at overtime rates, a provision most employers respected. The law provides for paid annual holidays. The government did not universally apply the law that restricts workdays to 12 hours or less.

**Occupational Safety and Health:** The Occupational Safety and Health (OSH) Department maintained and enforced OSH standards under ILO guidelines appropriate for Jamaica's main industries. Department inspectors actively identified unsafe conditions through conducting inspections, investigating accidents, warning violators, and granting them a period in which to correct violations. The department can bring violators to court if they do not correct violations within given time frames. The law has no provisions that explicitly give workers the ability to remove themselves from hazardous conditions without jeopardy to employment, although the IDT may reinstate workers who were unfairly dismissed.

**Wage, Hour, and OSH Enforcement:** The law stipulates penalties and fines, and the minister of labor and social security has the authority to increase any monetary penalty. Legal fines or imprisonment for OSH violations were not commensurate with penalties for similar crimes. The Ministry of Labor and Social Security gained compliance in the vast majority of cases by threatening legal action. The ability of defendants to repeatedly appeal a case dulled the effectiveness of penalties.

The government did not effectively enforce the law. The number of inspectors was insufficient to enforce compliance, and the inspections took place only in the formal sector. Penalties were rarely applied to violators.

**Informal Sector:** Local think tanks and labor leaders estimated the informal economy generated more than 40 percent of GDP and accounted for approximately 30 percent of the labor force, with higher concentrations in industries such as construction and domestic work, as well as illicit activities such as financial scamming. Informal sector workers were covered by wage, hour, OSH, and other labor laws. The Ministry of Labor and Social Security sometimes provided social protections. Most violations pertaining to acceptable conditions of work occurred in the informal sector.