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U.S. Department of State

Jamaica Country Report on Human Rights Practices for 1997

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JAMAICA

Jamaica is a constitutional parliamentary democracy and a member of the Commonwealth of Nations. Two political parties have alternated in power since the first elections under universal adult suffrage in 1944; a third major party was established in late 1995. Prime Minister Patterson's People's National Party (PNP) won 50 of the 60 seats in Parliament in national elections on December 18. The general election campaign was significantly less violent than previous electoral campaigns. However, there continued to be intimidation of voters and party agents and restrictions on the free movement of voters. The judiciary is independent but lacks adequate resources.

The Jamaica Constabulary Force (JCF) has primary responsibility for internal security, assisted by the Island Special Constabulary Force. The Jamaica Defence Force (army, air wing, and coast guard) is charged with supporting the JCF in maintaining law and order, although it has no powers of arrest. While civilian authorities generally maintain effective control of the security forces, some members of the security forces committed human rights abuses.

The economy is based on primary products (bauxite and alumina, sugar, bananas), services (tourism, finance), and light manufacturing (garment assembly). The Government promoted private investment to stimulate economic growth and modernization, pursuing in the process a sometimes painful program of structural adjustment. Annual per capita income is \$2,170, but this figure is misleading as there is a and widening gap between the wealthy and the impoverished.

The Government generally respects the human rights of its citizens; however, problems remained in certain areas. Although members of the security forces committed extrajudicial killings and beatings and carried out arbitrary arrests and detentions, the Government moved effectively to punish some of those involved. Prison and jail conditions remained poor, with overcrowding, brutality against detainees, dismal sanitary conditions, and inadequate diet the norm. The judicial system was overburdened and lengthy delays in trials were common. Economic discrimination and violence against women remained problems, as did mob violence against those suspected of breaking the law.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Political and Other Extrajudicial Killing

The security forces frequently employed lethal force in apprehending criminal suspects, usually in the guise of shoot-outs. This resulted in the killing by police of 149 people during the year. While allegations of "police murder" were frequent, the validity of some of the allegations was suspect. This problem is the result of unresolved, long-standing antipathy between the security forces and certain communities, especially among the urban poor. The JCF conducted both administrative and criminal investigations into incidents involving fatal shootings by the police. The JCF policy statement on the use of force incorporates U.N.-approved language on basic principles on the use of force and firearms by law enforcement officials.

Political violence lessened considerably from 1996. However, the opposition Jamaica Labor Party (JLP) accused the security forces of targeting the opposition leader's West Kingston constituency for special attention, culminating in a May 6-7 confrontation with residents of Tivoli Gardens. In this confrontation, the police shot and killed four persons (three women and one child) and injured nine others by gunfire. All the victims were unarmed civilians. No member of the security forces was injured, and no arrests were made. Despite the apparent use of excessive force, the Government refused calls to convene a commission of inquiry and took no action against any member of the security forces.

There were no new developments in the beating death of a 22-year-old man in a West Kingston police station in April 1996. There were also no new developments in the May 1996 death of a man held in the Port Antonio jail, nor in the murder trial of a JCF officer accused in two July 1993 killings. No action was reported in the civil lawsuits brought by relatives of two men who died in the Constant Spring jail in 1992.

Vigilantism, involving spontaneous mob executions in response to crime, continued to be a problem. There were 20 vigilante killings in 1995, 21 in 1996, and 16 in 1997. Official investigations into such killings generally do not uncover any information, as the persons and the community involved usually band together to intimidate potential witnesses. In one case, a mob stoned to death a foreigner in Montego Bay after his car hit a vendor's stand. The official investigation uncovered only one witness who was willing to testify, despite the fact that the murder happened in daylight on a busy street. The first trial of the accused assailants resulted in a hung jury, but the public prosecutor planned to try the defendants again. In other cases, four suspected robbers were killed with machetes in rural St. Mary in July. In February a man was killed by machete after attacking an elderly woman in rural St. Andrew. No arrests were made in either case.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits torture and other abuse of prisoners and detainees. However, reports of physical abuse of prisoners by guards continued, despite efforts by the Government to remove abusive guards and improve procedures.

In April the Police Commissioner condemned the excessive use of force by police in Hopewell, Hanover, who shot six persons who were demonstrating against substandard roads and water supply. The authorities charged three policemen with unlawful wounding; no trial date had been set by year's end. In June the appeal of three policemen who were convicted of rape in 1994 was denied; the convicted policemen are to serve 8-year prison terms.

Prison conditions remained poor, with overcrowding, inadequate diet, poor sanitary conditions, and insufficient medical care the norm. In August violence erupted at both men's maximum security prisons after prison warders engaged in a mass sickout. Inmates killed 16 of their fellow prisoners, many of them because they had been identified as homosexuals. The Government convened a commission of inquiry, which was still investigating the matter at year's end.

The Government allowed private groups, voluntary organizations, international human rights organizations, and the media to visit prisons and monitor prison conditions.

d. Arbitrary Arrest, Detention, or Exile

In 1994 Parliament repealed the Suppression of Crimes Act of 1974, which permitted warrantless searches and the arrest of persons "reasonably suspected" of having committed a crime. The Jamaica Constabulary Force Act, however, now contains several of these provisions, and there were continued reports that the police abused these provisions. In March the Jamaican Bar Association (JBA) protested that the police were unlawfully detaining and fingerprinting groups of citizens in poor, inner city areas. At the time, the Police Commissioner disavowed the practice and ordered it discontinued; however, both the JBA and the Jamaica Council on Human Rights state that the practice continues.

The law requires police to present a detainee in court within 48 hours of detention, but the authorities continued to detain suspects, especially those from poor neighborhoods, without bringing them before a judge within the prescribed period. Magistrates inquire at least once per week into the welfare of each person listed by the JCF as being detained. There is a functioning bail system.

Foreign prisoners must pay for their own deportation once they have completed their sentences. If they cannot afford to pay, they are jailed until relatives or consulates can arrange for transportation. In effect this constitutes an additional prison term for indigent foreigners.

The Constitution prohibits exile, and no instances of exile occurred.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, which exists in practice. However, the judicial system is overburdened and operates with inadequate resources.

Three courts handle criminal matters at the trial level. Resident magistrates try lesser offenses

(misdemeanors). A Supreme Court judge tries felonies, except that felonies involving firearms are tried before a judge of the Gun Court. Defendants have the right to appeal a conviction in any of the three trial courts to the Court of Appeal, which is the highest court. The Constitution allows the Court of Appeal and the Parliament to refer cases to the Judicial Committee of the Privy Council in the United Kingdom as a final court of appeal.

The lack of sufficient staff and resources hinders due process. Trials in many cases are delayed for years, and other cases are dismissed because files cannot be located. The Government initiated a night court in September 1995, which has had some success in reducing the backlog of cases.

While the defendant's right to counsel is well-established, the courts appoint counsel for indigents only in cases of a serious offense (e.g., murder, rape, robbery, and gun offenses). However, the law does not consider many offenses, including wounding with intent to cause great bodily harm, as "serious." Thus the courts try many defendants without benefit of counsel.

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence

The Constitution prohibits arbitrary intrusion by the State into the private life of the individual. The revised Jamaica Constabulary Force Act continues to give security personnel broad powers of search and seizure similar to those granted by the former Suppression of Crimes Act.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government respects these rights in pr