



U.S. DEPARTMENT of STATE

Jamaica

Country Reports on Human Rights Practices - [2006](#)

Released by the Bureau of Democracy, Human Rights, and Labor
March 6, 2007

Jamaica is a constitutional parliamentary democracy with a population of approximately 2.7 million. In the generally free and fair 2002 elections, Prime Minister P.J. Patterson's People's National Party (PNP) won 34 of the 60 seats in the House of Representatives. In March Portia Simpson-Miller replaced Patterson as prime minister and president of the party in an internal PNP election. The civilian authorities generally maintained effective control of the security forces.

While the government generally respected the human rights of its citizens, there were serious problems in some areas, including: unlawful killings committed by members of the security forces; mob violence against and vigilante killings of those suspected of breaking the law; abuse of detainees and prisoners by police and prison guards; poor prison and jail conditions; continued impunity for police who commit crimes; an overburdened judicial system and frequent lengthy delays in trials; violence and discrimination against women; trafficking in persons; and violence against suspected or known homosexuals.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

While the government or its agents did not commit any politically motivated killings, security forces committed some unlawful or unwarranted killings during the year.

The police frequently employed lethal force in apprehending criminal suspects, which resulted in 189 deaths (including 10 police officers) as of early December, compared with 160 deaths (including 13 police officers) for the same period in 2005. While allegations of "police murder" remained frequent, the validity of some allegations was suspect. The country faced a critical crime situation with a homicide rate exceeding 45 per 100,000 persons, a reduction from the 2005 rate of 62 per 100,000. Well-armed gangs that trafficked in narcotics and guns controlled many inner-city communities. The gangs often were equipped better than the police force and conducted coordinated ambushes of joint security patrols.

On August 19, police killed four men in Alexandria, Chapelton. Police stated that a shoot-out led to their deaths. Residents of the community protested the killings, claiming that there was no shoot-out and that guns were planted on the dead men. At year's end the police Bureau of Special Investigations (BSI) was investigating the case.

During the year one detainee died while in police custody. On April 5, a police officer set fire to a detainee who was in custody at the St. James police headquarters lock-up in Montego Bay. The police commissioner suspended five police officers the next day, and the case was under review by the Jamaica Constabulary Force's (JCF) Professional Standards Branch at year's end.

BSI concluded its investigation into the August 2005 killing of 16-year-old Jeff Smellie by police in Kingston. At year's end the case was being reviewed by the Department of Public Prosecutions (DPP).

At year's end BSI continued its investigation of the December 2005 police killing of Nichols Weir and Donald Allen in Portmore, St. Catherine.

The 2004 police killing of three men in Burnt Savannah, Westmoreland, was before the coroner's court to determine whether criminal charges should be brought against any members of the JCF.

Similarly, the 2004 killing by Jamaica Defence Force (JDF) soldiers of Sandra Sewell and Gayon Alcott in August Town, St. Andrew, went before the coroner's court in July, but no verdict was reached by year's end.

No formal charges were filed in the 2004 police killing of 15-year-old Donovan Hayles and 7-year-old Shakeira Thompson in Old Braeton, St. Catherine, which was sent to the DPP in 2005.

The six members of the JCF's disbanded Crime Management Unit, including Senior Superintendent Reneto Adams, charged in connection with the 2003 killing of four people at a home in Crawle, Clarendon, were reinstated to the JCF, after a judge ordered charges dropped

against three of them, and a jury found the remaining three officers not guilty.

Authorities tried five police officers for the 2003 police killing of two elderly men in the community of Flankers, St. James. In July the judge released one of the officers based on lack of evidence, and a jury found the four others not guilty.

It can take many years to bring police officers to trial for unlawful killings. Authorities set a trial date of March 15, 2007 for three police officers charged with the 2001 killing of Richard Williams. A fourth officer involved in the killing was reported to be "on the run." Authorities also set a trial date of March 19, 2007 for the three police officers charged in 2003 with the 1999 killing of Noel Barnes in a shoot-out with police.

In the case of the 2000 police killing of Janice Allen, her family appealed the dismissal of the case against the responsible police officer. In June the case went before an appeals court panel of judges. On December 20, the Court of Appeal upheld the original ruling, and the case was being taken to the Privy Council.

Vigilantism and spontaneous mob killings in response to crime continued to be a problem. There were 14 vigilante killings during the year, with varying motives. On April 1, a vigilante mob killed a man thought to have stolen a cow the preceding week.

b. Disappearance

There were no reports of politically motivated disappearances.

In December 2005 authorities charged Lawrence Clayton, a police officer, with false imprisonment for his role in the 2004 police abduction of two men in Kingston. At year's end the case was before the court. The victims had not been found.

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

Although the law prohibits such practices, reports of physical abuse of prisoners by guards continued, despite efforts by the government to remove abusive guards and improve procedures.

At year's end police were reviewing the case of one correctional officer under investigation for aiding with a 2005 prison escape.

The Ministry of National Security reviewed 2005 charges by a former prison doctor for the St. Catherine Adult Correction Center in Spanish Town, who alleged that mass rapes, particularly of mentally ill inmates and inmates serving time for nonviolent offenses, occurred at the prison during the year. The corrections commissioner referred to the doctor as "disgruntled" and noted that he quit work in 2002. The investigation found one case reported in 2004 in which one inmate who claimed he was victimized by another was of "unsound mind," and it could not corroborate the other allegations made by the doctor.

Prison and Detention Center Conditions

Prison conditions remained poor, primarily due to overcrowding and poor sanitary conditions. The Department of Correctional Services took measures during the year to improve catering services and also entered into a new contract for insect and rodent control for all facilities. Medical care also was poor; primarily a result of having few doctors on staff.

Men and women were incarcerated in separate facilities under similar conditions, except that women's prisons were generally not overcrowded.

Although the law prohibits the incarceration of children in adult prisons, some juveniles were held with adults in jails. Adults and juveniles were segregated in the prison system. The majority of pretrial detainees were held in police custody either in police stations or in remand centers, generally separate from convicted prisoners.

When prisoners raise allegations of abuse by correctional officers, the charges are first reviewed by corrections officials, then by an inspector from the Ministry of National Security, and finally by the police. Authorities file charges against correctional officers for abuse if evidence is found to support the allegations.

In general the government allowed private groups, voluntary and religious organizations, local and international human rights organizations, and the media to visit prisons and monitor prison conditions, and such visits took place during the year.

d. Arbitrary Arrest or Detention

The law permits the arrest of persons "reasonably suspected" of having committed a crime. While the law prohibits arbitrary arrest, security forces performed "cordon and search" operations, during which they detained persons and took them into custody for processing.

Role of the Police and Security Apparatus

The JCF has primary responsibility for internal security and is assisted by the Island Special Constabulary Force. The JDF is charged with national defense, marine narcotics interdiction, and JCF support. The JDF has no mandate to maintain law and order and no powers of

arrest (with the exception of the JDF coast guard in the maritime domain) unless so ordered by the prime minister. The Jamaica Regiment (JDF infantry forces) was detached as part of a joint internal security operation to assist the JCF in patrolling certain communities. The prime minister occasionally authorized the JDF to cordon and search with the JCF. The Ministry of National Security oversees the JCF and the JDF.

The JCF is headed by a commissioner who delegates authority through the ranks to its constables. The force maintains divisions focusing on community policing, special response, intelligence gathering, and internal affairs. Faced with a high rate of killings, the JCF generally was not effective. Although the homicide rate declined from 2005, the country still experienced one of the highest levels of violent crime in its history, and the perception of corruption and impunity within the force was a serious problem that contributed to a lack of public confidence in the institution. The Professional Standards Branch of the JCF, with responsibility to tackle corruption in the force, has never been able to charge or have dismissed even one senior police officer. Human rights groups identified systematically poor investigative procedures and weak oversight mechanisms.

In March 2005 Mark Shields, formerly of the London Metropolitan Police, joined the JCF as deputy commissioner of police in charge of crime, hired for a four-year period with primary responsibility to reduce the homicide rate. During the year two additional officers from the United Kingdom joined the JCF and assumed the organized crime, firearms, and coastal security portfolios.

The JCF conducted both administrative and criminal investigations into all incidents involving fatal shootings by the police. The JCF's BSI, which employed 23 investigators, specifically addressed police shootings. The BSI completed 452 investigations and sent 280 investigations of shooting incidents to the DPP during the year. The DPP ruled on 238 cases and sent an undetermined number to criminal courts. No officer was found criminally liable during the year. The BSI supplemented the JCF Office of Professional Responsibility, which investigated police corruption and other misconduct, and the civilian Police Public Complaints Authority, which oversaw investigations by the other two bodies and could initiate its own investigations.

The JCF continued an initiative of community policing to address the problem of long-standing antipathy between the security forces and many poor inner-city neighborhoods. The initiative included assigning JCF officers to targeted schools as resource officers to stem school violence and serve as liaison between the students, faculty, parents, and the police. The police academy includes training for policemen on citizens' rights and human rights.

Human rights advocates contended that police did not consider killings by vigilante mobs a priority and expressed concern that the perpetrators rarely were charged (see section 1.a.).

Arrest and Detention

Arrests normally require warrants signed by a police officer of the rank of station sergeant or higher; however, arrests may be made without warrants. The law requires detained suspects to be charged or released within 24 hours of arrest. The law also requires police to contact duty counsel (a private attorney who volunteers to represent detainees at police stations and until cases go to trial), if requested by the detainee upon detention; however, authorities continued to wait until after detainees had been identified in an identification lineup before contacting duty counsel for them. There was a functioning bail system. The state provides indigent detainees access to counsel through the legal aid program, and detainees were provided with prompt access to family members.

There were reports of arbitrary arrest during the year, and the authorities continued their cordon and search policy in neighborhoods where they believed certain suspects may be present. During these operations, conducted by the JCF sometimes in conjunction with the JDF, authorities detained groups of people and took them to a police station or other safe area where they were processed and held pending determination whether they were the suspects the police were looking for. By law, unless special permission is granted by a justice of the peace or a resident magistrate, persons must be released within 24 hours if they have not been charged with a crime.

Although the law requires police to present a detainee in court within a reasonable time period, in practice authorities continued to detain suspects for lengthy periods (often up to two or three years), which the government attributed to an overburdened court system (see section 1.e.). Magistrates were required to inquire at least once a week into the welfare of each person listed by the JCF as detained.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected this provision in practice. However, the judicial system was overburdened and operated with inadequate resources. Most judges were appointed after serving in the public prosecutor's office, and it was very difficult for a private attorney or one who specialized in defense to be appointed as a judge. Human rights groups stated that this made the independence of the judiciary very fragile, owing to judges' strong ties to the prosecutor's office.

The judiciary's lack of sufficient staff and resources hindered due process, and the BSI also had a large backlog. Trials in many cases were delayed for years, and other cases were dismissed because files could not be located or had been destroyed. A night court continued to operate in an effort to reduce the backlog of cases. The Supreme Court used mediation through the Dispute Resolution Foundation as an alternative to traditional trials, which alleviated some of the backlog in that court. The resident magistrate's courts also used alternative dispute resolution in limited cases.

There was a general lack of confidence in the police's witness protection program, which led to the dismissal of a number of cases involving killings. In a culture in which it is widely believed that "informers will die," some criminal trials were dismissed because witnesses failed to come forward as a result of threats and intimidation. 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.

The court system includes justices of the peace, resident magistrate's courts, and the Supreme Court, which has unlimited jurisdiction in civil and criminal matters. 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 in the country. The Privy Council in the United Kingdom is the final court of appeal.

Trial Procedures

Most trials are public and use juries. Defendants are presumed innocent, have the right to counsel, and have the right to confront witnesses against them. Legal Aid attorneys were available to defend the indigent, except those charged with certain offenses under the Money Laundering Act or Dangerous Drugs Act. The public defender may bring cases for persons who have had their constitutional rights violated. Although the Public Defender's Office contracted private attorneys to represent clients, funds were insufficient to meet the demand, and such attorneys sometimes requested payment from clients.

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 for civil remediation to the courts, but awards can be difficult to collect. The civil authority does not always have enough money to award each case and, consequently, a backlog of awards developed. There is a process to undertake pretrial negotiations between the complainant and the state in order to avoid trial. However, local human rights lawyers complained that the state did not take full advantage of this alternative.

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

Although the constitution prohibits such actions, the Constabulary Force Act gives security personnel broad powers of search and seizure. This act allows search without a warrant of a person on board or disembarking from a vehicle, ship, or boat, if a police officer has good reason to be suspicious. In practice the police conducted searches without warrants. There were no allegations of unauthorized wiretapping by the police.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and of the press, and the government generally respected these rights in practice.

The independent media were active and expressed a wide variety of views without restriction. However, some local media professionals expressed concern that the country's libel laws limited their freedom of expression. Specifically, news outlets reported the need to self-censor investigative reports because of the potential for courts to award high damages in cases of defamation. In one case the Privy Council awarded a libel judgment of approximately \$540,000 (J\$35 million). That case led one media professional to bring a challenge to government libel laws at the Inter-American Commission on Human Rights in 2005. The Press Association of Jamaica and the Media Association of Jamaica continued to advocate changes in the libel laws, which they stated had a "chilling effect" on the media's ability to report effectively, especially on political issues.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion

The law provides for freedom of religion, and the government generally respected this right in practice.

Societal Abuses and Discrimination

Members of the Rastafarian community complained that law enforcement officials unfairly targeted them. However, it was not clear whether such complaints reflected discrimination on the basis of religious belief or were due to the group's illegal use of marijuana as part of Rastafarian religious practice. In 2003 a parliamentary joint select committee on marijuana recommended decriminalization of possession of small quantities of marijuana. In April the Senate passed a resolution to have the committee reconvene and conclude its deliberations, but by year's end the committee had not met.

There was a small practicing Jewish congregation in the country. There were no reports of societal abuses or discrimination, including anti-Semitic acts.

For a more detailed discussion, see the [2006 International Religious Freedom Report](#).

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

The law provides for these rights, and the government generally respected them in practice.

The law prohibits forced exile, and there were no reports that it occurred.

Protection of Refugees

The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, but the government has established a system for providing protection to refugees. In practice the government provided protection against refoulement, the return of persons to a country where they feared persecution, and handled refugee or asylum cases administratively. The government cooperated with the office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

The government provided temporary protection to a number of persons who did not qualify as refugees under the UN treaties. Immigration officers interviewed all Haitians who arrived during the year, determined that none qualified for refugee status, and repatriated all of them.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic elections held on the basis of universal suffrage.

Elections and Political Participation

All citizens age 18 and over have the right to vote by secret ballot. However, in recent elections voters living in "garrison communities" in inner-city areas dominated by one of the two major political parties often faced substantial influence and pressure from politically connected gangs and young men hired by political parties, which impeded the free exercise of their right to vote.

In 2002 P.J. Patterson's PNP won 34 of the 60 seats in the popularly elected House of Representatives. In March the PNP annual conference elected Portia Simpson-Miller to replace Patterson as party president, and on March 30 she was sworn in as the seventh prime minister (and the first woman to hold the office). At year's end, the PNP held 34 seats in the House of Representatives and 13 of the 21 seats in the appointed Senate.

There were seven women in the 60-seat House of Representatives, and five women in the 21-seat Senate. Including the prime minister, three of the 14 cabinet members were women.

Government Corruption and Transparency

There was a widespread public perception of corruption in the executive and legislative branches of government, as well as in the ranks of the JCF. The nongovernmental organization (NGO) Transparency International reported a serious level of perceived corruption in the country. According to a media poll, the public believed over half of the JCF was corrupt and considered nearly 50 percent of all government employees corrupt. A newspaper article carried a police officer's account of drug-trafficking (and protection of drug traffickers), bribery, and close connections between JCF members and the gang leaders in the garrison communities.

In August the national security minister said that "there is no doubt that we have suffered from the confluence of criminality and politics. Violence became an element too closely linked with political life and that brought unsavory elements into the political process." He also expressed concern that individuals with criminal connections could influence both the political process and even be elected to parliament.

On February 8, unknown assailants shot and killed Andrew Hope, a local "don," or gang leader in a garrison community. In 2004 it was discovered that a prominent politician had an automobile coregistered in her name and that of Hope. The politician, a member of parliament, represents the district where the gang is based. At year's end the JCF had not identified any suspects in the killing.

On July 24, Vin Lawrence, former chairman of the government-operated Urban Development Corporation (UDC) resigned from the UDC and several other government boards, after the contractor general accused the UDC of deliberately withholding information regarding cost

overruns at the Sandals Whitehouse hotel project. The UDC was the project manager and a one-third partner in a \$70 million (J\$4.6 billion) project that incurred cost overruns of \$43 million (J\$2.8 billion). At year's end the Public Accounts Committee of parliament was investigating the incident.

In October Colin Campbell resigned as minister of information and development and PNP general secretary but retained his position as a senator after it was revealed that he may have presented Trafigura, a Dutch company, with a government invoice for services that had not been rendered. Trafigura then paid approximately \$500,000 (J\$31 million) to an account entitled "Colin Campbell Our Candidate," funds that were used to pay for the PNP's annual conference. The PNP later agreed to repay the funds to Trafigura but had not done so by year's end.

Reports indicated that more than 5,000 civil servants failed to file, or filed late or incomplete, financial declarations that are required under the Corruption Prevention Act.

The Access to Information Act (ATI), which went into effect in January 2005, provides public access to information held by government ministries and agencies. However, there were reports that some legitimate requests for information were not granted, and in January a Joint Select Committee of parliament undertook a review of the ATI to consider its effectiveness from the standpoint of end-users as well as that of the public officials providing service under the act. The ATI Advisory Stakeholders Committee submitted recommendations for amendments to the law and changes in procedure to the Joint Select Committee, but the committee had not submitted its views to parliament by year's end.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups and other international bodies generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views.

The Independent Jamaica Council for Human Rights was the country's only formal organization concerned with all aspects of human rights. The NGO Jamaicans for Justice (JFJ) focused on the issues of police impunity, extrajudicial killings, and excessive use of force by the police and wrote a weekly newspaper column. JFJ reported that undercover police regularly attended its meetings. Some members of the police and the DPP were outspoken in their criticism of the organization. The group used to sit on the board of the Ministry of Justice's Justice Consultative Committee; however, that committee reportedly has not met since 2004.

The Public Defender's Office brings cases on behalf of those who charged that their constitutional rights were violated. The office contracted private attorneys to bring suits against the government on behalf of private citizens.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, place of origin, political opinions, color, or creed. The government generally enforced these prohibitions in practice, although there continued to be widespread discrimination on the basis of political opinion in the distribution of scarce governmental benefits, including employment, particularly in the garrison communities.

Women

Social and cultural traditions perpetuated violence against women, including spousal abuse. Violence against women was widespread, but many women were reluctant to acknowledge or report abusive behavior, leading to wide variations in estimates of its extent. The law provides remedies for domestic violence, including restraining orders and other noncustodial sentencing. Breaching a restraining order is punishable by a fine of up to approximately \$166 (J\$10,000) and six months' imprisonment. There was a general reluctance by the police to become involved in domestic issues, which led to cases not being pursued vigorously when reported. The Bureau of Women's Affairs operated crisis hot lines and shelters and managed a public education campaign to raise the profile of domestic violence.

Rape was illegal and carried a penalty of up to 25 years' imprisonment with hard labor. By early December, 635 incidents of rape were reported (not including statutory rape), a decrease of 7 percent over the same period in 2005, but NGOs stressed that the vast majority of rapes were not reported. Moreover, these statistics may be misleading because the decrease may have been due to a lack of confidence in the police. The JCF rape investigative and juvenile unit, which was headed by a female deputy superintendent, handled sex crimes.

Although the law prohibits prostitution, it was widespread, particularly in tourist areas. Trafficking in women for prostitution was a problem (see section 5, Trafficking).

There is no legislation that addresses sexual harassment, and it was a problem. There were reports of sexual harassment of women by the police, but some observers believed that women often did not report such incidents because there was no legal remedy.

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. The Bureau of Women's Affairs, 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.

There was an active community of women's rights groups, including Women's Media Watch, the Women's Political Caucus, the St. Peter Claver Women's Housing Cooperative, the Women's Construction Collective, the Sistren Theatre Collective, Woman Inc., and the Centre for

Gender and Development Studies at the University of the West Indies. Among the major concerns of these groups was the protection of victims of sexual abuse, participation of women in the political process, and legislative reforms affecting women.

Children

The government was committed to improving children's welfare. The Ministry of Education, Youth, and Culture is responsible for implementation of the government's programs for children. In January the government established an Office of the Children's Advocate, mandated under the 2004 Child Care and Protection Act. The position has broad responsibilities for reviewing laws, policies, practices, and government services affecting children; providing legal services and investigating complaints against government; and publishing reports and issuing best practice guidelines regarding any matter concerning the rights or best interests of children. At year's end, however, staffing shortages and lack of infrastructure limited the office's ability to address all the reports and calls it received.

Public primary education was free, universal, and compulsory for students between the ages of six and 11, and the Ministry of Education reported that 99 percent of children in that age group were enrolled in school. However, economic circumstances obliged thousands of children to stay home to help with housework and avoid school fees. As a result, attendance rates at primary schools averaged 78 percent, although some rural areas reported attendance as low as 50 percent. More than 70 percent of children between the ages of 12 and 16 had access to secondary school, and the UN Children's Fund reported that most children completed secondary education.

Medical care was widely available, and boys and girls enjoyed equal access.

There was no societal pattern of abuse of children; however, there were numerous reports of rape and incest, particularly in inner cities. NGOs reported that inner city gang leaders and sometimes even fathers initiated sex with young girls as a "right." As of early December, there were 397 cases of carnal abuse reported, a 31 percent increase over the same period in 2005. However, this may have been in part due to increased reporting and not necessarily an increase in the number of crimes. The government expressed concern about child abuse and acknowledged that incidents were underreported. The Child Development Agency (CDA) held training sessions to familiarize police officers with the rights of children and to prepare them to enforce the Child Care and Protection Act.

Child prostitution and trafficking for the purposes of sexual exploitation were problems (see section 5, Trafficking).

Trafficking in Persons

The country was a source for women and children trafficked for purposes of sexual exploitation and labor. In a 2005 exploratory assessment, the International Organization for Migration (IOM) stated that some trafficking occurred in the country, primarily for sexual exploitation. The report also stated there may be trafficking, including that of children, within the country for domestic servitude and forced labor.

Although the law did not specifically prohibit trafficking in adults, there were laws against assault and fraud, and other laws established various immigration and customs regulations that could be used against this practice. On December 5, the lower house of parliament approved a comprehensive new antitrafficking law and sent it to the Senate, which was scheduled to consider it in January 2007.

The International Labor Organization (ILO) estimated that several hundred minors were involved in the country's sex trade.

Groups at a special risk for trafficking included migrants from rural areas who sought work in cities and tourist areas, usually in the sex industry.

The Child Care and Protection Act specifically prohibits the sale or trafficking of minors and provides that violators receive the maximum penalty under the law. This law subjects convicted traffickers to a fine or imprisonment with hard labor for a term not exceeding 10 years, or both. It also provides that no person under the age of 18 years may be employed in a night club. Police raided some night clubs and charged six persons with trafficking during the year. Authorities rescued nine trafficking victims during the year, six over age 18 and three between the ages of 13 and 17.

The CDA managed facilities for at-risk children, and the government provided funding to NGOs that worked to reintegrate child laborers who were victims of trafficking.

In August 2005 the government launched a year-long educational campaign to educate citizens regarding the dangers of trafficking in persons; the campaign continued throughout the year. The government formed a National Task Force Against Trafficking in Persons and created a specialized police antitrafficking unit within the Organized Crime Division of the JCF. A main focus of this unit was to compile data on trafficking investigations and related legal proceedings. Six officers staffed the unit. The new officers did not receive IOM training, but they were trained by other officers who had been exposed to IOM training. Three major crime hot lines were available to receive reports of trafficking 24 hours per day.

Persons with Disabilities

There were no laws prohibiting discrimination against persons with disabilities nor any laws mandating accessibility for persons with disabilities, and such persons encountered discrimination in employment and denial of access to schools. Health care and other state services were reported to be universally available. Several government agencies and NGOs provided services and employment to various groups of persons with disabilities, but there was no government agency specifically charged with assisting persons with disabilities.

Other Societal Abuses and Discrimination

The Offenses Against the Person Act prohibits "acts of gross indecency" (generally interpreted as any kind of physical intimacy) between men, in public or in private, which are punishable by 10 years in prison.

The Jamaica Forum for Lesbians, All Sexuals, and Gays (J-FLAG) continued to report human rights abuses, including police harassment, arbitrary detention, mob attacks, stabbings, harassment of homosexual patients by hospital and prison staff, and targeted shootings of homosexuals. Police often did not investigate such incidents. J-FLAG documented a number of instances of homophobic violence during the year, some of which resulted in charges brought to court, while others were never reported to authorities by reason of fear.

On April 4, an angry mob of students chased and beat a man accused of making homosexual advances toward a male student at the University of the West Indies Mona campus. Campus security extracted the alleged homosexual from the mob scene and took him to the police station. At year's end no charges had been made, nor had there been a police investigation into the incident.

On June 29, two women believed to be lesbians, Candice Williams and Phoebe Myrie, were killed. It was reported that an estranged male partner of Williams was the primary suspect in the killings and that the relationship between the women may have been the motive. However, no arrests were made.

In November 2005 Lenford "Steve" Harvey, who operated Jamaican AIDS Support for Life, was killed on the eve of World AIDS Day. Authorities arrested six suspects for the robbery and murder of Harvey and held the same suspects in connection with a similar robbery/murder in which a heterosexual man was killed. Police cited this as evidence that Harvey's murder was not a hate crime, but civil society groups maintained that Harvey would not have been killed had he been heterosexual. Authorities set an early 2007 trial date for the four male suspects; at year's end no date had been set to try the two female suspects.

In December 2005 a homophobic mob allegedly chased homosexual Nokia Cowen off a pier at Kingston Harbor where he drowned. At year's end the police had not identified any suspects in the killing, and the case was no longer being investigated.

In May a court sentenced Dwight Hayden to life imprisonment for the 2004 killing of Brian Williamson, a prominent homosexual rights activist and founding member of J-FLAG.

On January 16, a court acquitted famous dancehall artist Mark Myrie, a.k.a. Buju Banton, of all charges related to a 2004 assault in a house in Kingston when a group of armed men beat six men while shouting homophobic insults.

Male inmates deemed by prison wardens to be homosexual were held in a separate facility for their protection. The method used for determining their sexual orientation was subjective and not regulated by the prison system, although inmates were said to admit their homosexuality for their own safety. There were numerous reports of violence against homosexual inmates, perpetrated both by the wardens and by other inmates, but few inmates sought recourse through the prison system.

Homosexual men were hesitant to report incidents against them because of fear for their physical wellbeing. Human rights NGOs and government entities agreed that brutality against homosexuals, both by police and private citizens, was widespread in the community.

No laws protected persons living with HIV/AIDS from discrimination. Human rights NGOs reported severe stigma and discrimination against this group. The ILO worked with the Ministry of Labor on a program to reduce the stigma of HIV/AIDS in the workplace and to assist employers in designing policies for workers with HIV/AIDS. Although health care facilities were prepared to handle patients with HIV/AIDS, health care workers often neglected such patients.

Section 6 Worker Rights

a. The Right of Association

The law provides for the right to form or join a trade union, and unions functioned freely and independently of the government. Approximately 20 percent of the work force of 1.2 million was unionized. Some union workers charged that private sector employers laid them off and then rehired them as contractors with reduced pay and benefits, a practice that was legal as long as workers received severance pay.

b. The Right to Organize and Bargain Collectively

The law permits unions to conduct their activities without interference, and the government protected this right in practice. An independent Industrial Disputes Tribunal (IDT) hears cases when management and labor fail to reach agreement. Any cases not resolved by the IDT pass to the civil courts. The IDT generally handled 35 to 40 cases each year. Most were decided within 90 days, but some took longer to resolve due to the complexity of the dispute or delays requested by the parties.

Collective bargaining is denied to a bargaining unit if no single union represents at least 40 percent of the workers in the unit in question or when the union seeking recognition for collective bargaining purposes does not obtain 50 percent of the votes of the total number of workers (whether or not they are affiliated with the union). The ILO Committee of Experts (COE) considered that, where there was no collective bargaining agreement and where a trade union did not obtain 50 percent of the votes of the total number of workers, the union should be able to negotiate at least on behalf of its own members.

The law neither authorizes nor prohibits the right to strike, and strikes occurred: of 220 disputes reported to the Ministry of Labor, 21 resulted in strikes. Striking workers could interrupt work without criminal liability but could not be assured of keeping their jobs, although there were no reports of any workers losing their jobs over a strike action during the year. Workers in 10 broad categories of "essential services" are prohibited from striking, a provision the ILO repeatedly criticized as overly broad. However, despite this prohibition, some workers who provide essential services went on strike by staging a "sick-out."

Domestic labor laws applied equally to the "free zones" (export processing zones), but there were no unionized companies in any of the three publicly owned zones. Organizers attributed this circumstance to resistance to organizing efforts by foreign owners in the zones, asserting that there was an unwritten agreement among them to prevent free zone workers from participating in trade unions.

c. Prohibition of Forced or Compulsory Labor

The law does not specifically prohibit forced or compulsory labor, including by children, but other than child prostitution, there were no reports that such practices occurred (see section 5).

The COE's annual report reiterated its recommendation that the government amend prison rules so as to ensure that no prisoners may work for private individuals or companies except under conditions of a freely accepted employment relationship, which would bring the rules into conformity with ILO Convention 29 on Forced Labor. The Ministry of Labor stated that prisoners do not work privately unless they have approval from the commissioner, and those prisoners who work privately freely accept the employment and receive normal wages.

d. Prohibition of Child Labor and Minimum Age for Employment

The Child Care and Protection Act provides that children under the age of 12 shall not be employed except by parents or guardians and that such employment may be only in domestic, agricultural, or horticultural work. It also prohibits children under the age of 15 from industrial employment. The police are mandated with conducting child labor inspections, and the CDA is charged with finding places of safety for children. However, according to CDA officials, resources to investigate exploitative child labor were insufficient. Children under the age of 12 peddled goods and services or begged on city streets. There were also reports that underage children were employed illegally in fishing communities and in prostitution (see section 5).

e. Acceptable Conditions of Work

The government sets the minimum wage, after receiving recommendations from the National Minimum Wage Advisory Commission. The minimum wage was approximately \$42 (J\$2,800) per week for all workers except private security guards, whose minimum was approximately \$62 (J\$4,140) per week. The minimum wage did not provide a decent standard of living for a worker and family, but most workers were paid more than the legal minimum. The Ministry of Labor administered and enforced the minimum wage.

The law provides for a standard 40-hour workweek and mandates at least one day of rest per week. Work in excess of 40 hours per week or eight hours per day must be compensated at overtime rates, a provision that was observed widely, except by some security guard companies. The law does not prohibit excessive compulsory overtime, and some employees, including security guards, regularly were required to work 12-hour shifts without overtime compensation. There were differing practices among security guard companies, but workers were generally not paid for overtime unless they worked more than 12 hours.

The Ministry of Labor's Industrial Safety Division sets and enforces industrial health and safety standards, mainly through factory inspections. Insufficient staffing in the Ministries of Labor, Finance, National Security, and the public service contributed to the difficulties in enforcing workplace regulations. At year's end the Industrial Safety Division had 16 officers, who conducted 2,333 planned inspections, 31 special inspections, and 40 accident investigations. Violators were warned and given a time period in which to correct the violation. If the violation was not corrected within that time, the violator was taken to court.

The law provides workers with the right to remove themselves from dangerous work situations without jeopardy to their continued employment if they are trade union members or covered by the Factories Act. The law does not specifically protect other categories of workers in those circumstances.