

JAMAICA 2016 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Jamaica is a constitutional parliamentary democracy. In national elections on February 25, the Jamaica Labor Party (JLP) led by Prime Minister Andrew Michael Holness won a majority 32 of the 63 seats in the House of Representatives needed to form the government. International election observers from the Organization of American States deemed the elections transparent, free, and fair but noted isolated incidents of violence prior to and on election day.

Civilian authorities maintained effective control over the security forces.

The most serious human rights problems were an overburdened, underresourced, and dysfunctional judicial system, which obstructed access to justice for victims of crime and their families and facilitated widespread corruption and impunity. There was also an increased number of fatalities at the hands of government security forces, many of which were suspected to be carried out unlawfully and the majority of which appeared to occur during planned security force operations rather than at random events.

Other human rights problems included inadequate and overcrowded prison and jail conditions; violence and discrimination against women and against lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons; and violence against and sexual abuse of children.

The government charged a much larger number of police officers with abuses than in the previous year. A lack of willing witnesses and inefficiencies in the judiciary, however, continued to plague the justice system, and trials languished.

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

a. Arbitrary Deprivation of Life and other Unlawful or Politically Motivated Killings

While there were no reports that the government or its agents committed politically motivated killings, there were reports that government security forces committed arbitrary or unlawful killings. Independent Commission of Investigations (INDECOM) statistics indicated that 92 persons were killed by government

security forces through October, an approximately 10 percent increase over the same period in 2015.

Narcotics traffickers, criminal networks, and gangs created a widespread culture of criminality and contributed to the country's very high homicide rate.

On April 13, INDECOM arrested and charged two police officers for unlawfully killing a man in Westmoreland Parish.

A government-established commission completed its inquiry and in June released its final report into the activities of the security forces during the 2010 Tivoli Gardens security operation that left at least 73 civilians and one security force member dead. The report recommended the government provide an apology, facilitate reparations, and implement police reform. The report provided numerous other recommendations aimed at holding security forces accountable and preventing the "large-scale loss of lives during the operations of the security forces." The government established on September 13 a cabinet-level committee to review the recommendations and determine appropriate steps for implementation. The Jamaica Constabulary Force (JCF) removed three senior leaders from positions of responsibility because of the commission's report.

b. Disappearance

There were no reports of politically motivated disappearances.

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

Although the constitution prohibits torture, there is no legal definition of it. INDECOM arrested on July 4 and charged on July 13 the five members of the JCF Mobile Reserve Division involved in the shooting injury of a student on June 30. INDECOM arrested Senior Superintendent Anthony Castelle and District Constable Rohan McIntosh of the JCF in Montego Bay on May 19 for unlawful wounding. Reports of physical abuse of individuals in custody by security personnel continued, but there were fewer reports compared with the previous year, according to the country's Department of Correctional Services. INDECOM investigated all reports of abuse by prison officials. The parliament-commissioned Office of the Children's Advocate (OCA) investigates reports of abuse and other rights violations committed against juvenile offenders housed in remand and

correctional facilities operated by the Department of Correctional Services (DCS). OCA investigations can lead to proceedings against the officials or the DCS.

Prison and Detention Center Conditions

Dilapidated buildings, inconsistent health care, and overcrowding in some facilities presented challenges to the prison and detention center systems. The nongovernmental organization (NGO) Jamaicans for Justice reported that, because each prisoner is initially received at one of two high-security institutions, overcrowding at high-security facilities remained a significant problem, while there was vacant capacity at low- and medium-security remand centers.

Physical Conditions: Overcrowding and difficult conditions remained in some facilities. Cells in some facilities had little natural light, inadequate artificial light, subpar bathroom and toilet facilities, and limited ventilation. Female prisoners generally were provided better conditions than male inmates.

At the maximum security St. Catherine Adult Correctional Institution, inmates remained in their cells from 6 p.m. to 6 a.m. with a slop bucket to use but no other means to address their hygienic needs. Bedbugs were a problem.

Lock-up cells were crowded, with up to 11 persons per cell. Detainees claimed authorities allocated cellmates 15 minutes two or three times a day to bathe, use the bathroom, and fill water bottles.

Medical care was limited. The system employed three full-time and several part-time doctors, one full-time nurse, and one dentist, and accessed the public medical system when necessary. Four part-time psychiatrists cared for at least 225 inmates diagnosed as having mental disabilities in 11 facilities across the island. Prisoners could not obtain dentures, but prisons accommodated the dietary needs of those with dental impairments.

Administration: There was no specific prison ombudsman. Official complaints and investigations were infrequent. Independent authorities investigated credible allegations of inhuman conditions. The OCA investigated complaints concerning children in conflict with the law. Children detained in juvenile correctional or remand facilities lodged complaints directly with the OCA. The OCA accepted complaints on behalf of children from the independent, civilian-constituted Juvenile Boards of Visitors appointed for each juvenile facility. Despite the

OCA's legal mandate to investigate and address allegations of child rights abuse, the DCS at times resisted OCA authority, resulting in delayed investigations.

Independent Monitoring: The government allowed private groups, voluntary and religious organizations, local and international human rights organizations, and media to visit prisons and monitor prison conditions, and such visits took place during the year. Justices of the peace and representatives from the Police Civilian Oversight Authority visited police-run lock-ups regularly.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest, although it permits the arrest of persons "reasonably suspected" of having committed a crime. Security forces occasionally performed "cordon and search" operations and enforced curfews, during which they detained persons and took them into custody. Security forces may legally hold a suspect for 48 hours before the individual must be charged or released.

Role of the Police and Security Apparatus

The JCF has primary responsibility for internal security. The Jamaica Defense Force (JDF), including the Coast Guard, has responsibility for national defense, maritime narcotics interdiction, and JCF support. The JCF often conducted joint operations with the support of the JDF in particular high-crime areas. The Ministry of National Security exercises the prime minister's authority for oversight of the JCF and JDF. The JCF maintained divisions for community policing, special response, intelligence gathering, and internal affairs. The Passport, Immigration, and Citizenship Agency has responsibility for migration. Civilian authorities maintained effective control over the JCF and JDF. The government made limited efforts to investigate and punish abuse and corruption in general.

INDECOM investigates actions by members of the security forces and other agents of the state that result in death or injury to persons or the abuse of the rights of persons and, when appropriate, forwards cases to the director of public prosecutions (DPP) for prosecution.

Lengthy trials with numerous delays continued to be a systemic problem (not confined to cases involving police officers). As of October 14, the DPP and INDECOM had 100 active cases of criminal charges against 93 government security officials for their alleged involvement in unlawful killings or other abuses.

On July 1, a seven-member jury found JCF Constable Wayne Hamil guilty of wounding with intent for the unlawful shooting of a civilian in Hanover in 2014.

Arrest Procedures and Treatment of Detainees

Police officers may arrest without warrant where a felony, treason, or breach of the peace is committed or attempted in the officer's presence. Upon arrest the officer is required to tell a suspect in clear language the offense(s) for which the individual has been arrested. Any officer may execute any warrant lawfully issued by a judge or justice of the peace for the apprehension of a person charged with any offense, without being in possession of the warrant. The officer must produce the warrant on demand of the suspect as soon as practical after the arrest. The decision to charge or release must be resolved within 48 hours, although a judge or justice of the peace may extend the period of custody.

The constitution provides for legal assistance if someone does not have sufficient means to pay for legal representation and provides that a civil organization may initiate an application on behalf of a detainee or a person with a mental disability. If a detainee requests access to counsel, the law requires police to contact duty counsel (a private attorney who volunteers to represent detainees at police stations and until cases go to trial) under the Legal Aid Program. There was a functioning bail system. Authorities allowed detainees prompt access to family members.

The law requires justices of the peace and judges to inquire at least once a week into the welfare of each person listed by the JCF as detained.

Pretrial Detention: Police administered lock-ups, which lack a legal or regulatory framework, according to Jamaicans for Justice. Lock-ups are intended for short-term detentions of 48 hours or less, but often detainees were held in these facilities without charge for longer periods.

Detainee's Ability to Challenge Lawfulness of Detention before a Court: Persons arrested or detained are entitled to, but have a very limited capacity to, challenge in court the legal basis or arbitrary nature of their detention and obtain prompt release and compensation if found to have been unlawfully detained.

e. Denial of Fair Public Trial

The law provides for an independent judiciary. The independent Court Management Services maintained its own budget, but the Ministry of Justice

provided resources for the judiciary's large items such as vehicles for judges, the introduction of new technologies, and new court buildings.

Trials are often delayed for years, and at times cases are dismissed due to delay tactics, including no-shows by witnesses, challenges in impaneling juries, antiquated rules of evidence, and lack of equipment for collecting and storing evidence, among other reasons. For example, drug evidence collected in an arrest must be stored in its entirety; samples or photographs are not acceptable. Storage facilities were inadequate and understaffed, and evidence occasionally disappeared, deteriorated in the warehouse, or could not be located when needed.

The parish courts, which handle more than 90 percent of the cases in the court system, operated night courts to reduce the backlog. The Supreme Court and parish courts alleviated some of the civil case backlog by using alternative dispute resolution in place of traditional trials and recruiting judges out of retirement to serve.

There is a witness protection program, but many eligible witnesses 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.

Trial Procedures

The constitution provides defendants a presumption of innocence and the right to counsel and to confront witnesses against them. Defendants have the right to be informed of the charges against them and the right to a fair public trial. The Supreme Court tries serious criminal offenses, including all murder cases. Citizens' reluctance to serve as jurors resulted in a persistent problem of seating jurors, which contributed to the judicial backlog. Defendants are provided ample time to prepare defense and are not compelled to confess guilt. They have the right to appeal. Legal Aid attorneys were available to defend the indigent, except those charged with certain offenses under the Money Laundering Act or the Dangerous Drugs Act, as well as defendants not liable to incarceration. The Office of the Public Defender may bring cases on behalf of persons who claim violations of their constitutional rights but cannot appear in court on their behalf.

The OCA provides legal representation for all children who require assistance before the courts. The law allows the OCA to intervene in court proceedings and

to initiate proceedings against individuals or government entities that breach the rights of children.

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 are difficult to collect. The government is required to undertake pretrial negotiations or mediation in an attempt to settle out of court, but it often did not do so. When there are settlements, the government often lacks the funds to pay, resulting in a backlog of awards.

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

Although the constitution prohibits such actions, the law gives security personnel broad powers of search and seizure. The law 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. Police often conducted searches without warrants when there was a reasonable suspicion.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and press, and the government generally respected these rights. An independent press, generally effective judicial protection, and a functioning democratic political system combine to promote freedom of speech and press. Independent media are active and express a wide variety of views without restriction.

Internet Freedom

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

International Telecommunication Union, 43 percent of the population used the internet in 2015.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom.

The Jamaica Broadcasting Commission bars certain lyrics and music videos, including songs referring to violent sex or violence against women, children, and other vulnerable persons, and expunges lyrics deemed inappropriate to broadcast.

b. Freedom of Peaceful Assembly and Association

The law provides for the freedoms of assembly and association, and the government generally respects these rights.

c. Freedom of Religion

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

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation. The government generally respected these rights.

The government cooperates with the International Organization for Migration, UN Children's Fund, Office of the UN High Commissioner for Refugees, and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, or other persons of concern.

Protection of Refugees

Access to Asylum: The constitution provides for the granting of asylum or refugee status. Although the government does not have a system or regulatory framework for processing and providing protection to refugees, it handles refugee and asylum cases administratively. The government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened.

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 general elections held February 25, the JLP won a majority 32 of the 63 seats in the House of Representatives. Following the very close election, power transferred peacefully from the People's National Party to the JLP. Andrew Holness was sworn in as prime minister on March 3. International election observers from the Organization of American States deemed the elections transparent, free, and fair, but noted isolated incidents of violence prior to and on election day.

Participation of Women and Minorities: No laws or cultural practices limit participation of women and members of minorities 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 did not implement and enforce the law effectively, and officials reportedly engaged in corrupt practices with impunity. The Ministry of Justice and the Attorney General's Office have overall responsibility to combat official corruption.

Because of the government's weak efforts to prosecute officials' alleged corrupt practices, corruption remained a significant systemic problem of public concern. Media and civil society organizations continued to criticize the director of public prosecutions for being slow and at times reluctant to prosecute corruption cases. The Major Organized Crime and Anti-Corruption Agency (MOCA), which is part of the JCF, conducted raids on and uncovered corruption in several parish councils.

Corruption: Through September 18, MOCA arrested and charged eight officials for public-sector corruption and 18 police officers for corruption. Through June courts reached 13 convictions, 3 acquittals, and 12 dismissals. As of September 30, 114 corruption cases were pending in the courts.

Financial Disclosure: The law requires public servants earning two million Jamaican dollars (JMD) (\$16,800) or more per year to disclose income, liabilities, and assets annually to the Integrity Commission, and the law carries administrative sanctions for noncompliance. Several high profile public officials, including the prime minister and opposition leader, released their Integrity Commission submissions to the public.

Public Access to Information: The law authorizes public access to government information. The last mandatory review of the law concluded in 2010, and the government implemented the law satisfactorily. The law does not include a mechanism to sanction or penalize officials who do not respond to access-to-information applications. Documents exempt from disclosure include those classified for national security reasons; those considered confidential to protect essential public interests or the private or business affairs of others; cabinet documents; investigative documents compiled for law enforcement proceedings; those affecting the national economy, personal privacy, or the government's deliberative process; and documents subject to legal privilege. The government must inform all requesters in writing within 30 days of receipt of the application if it intends to disclose the information and of the right to appeal disclosure denials. Civil society and media often complained that the government routinely violated the 30-day period and failed to cooperate when processing applications.

Section 5. 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 operate without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views.

Government Human Rights Bodies: The Office of the Public Defender investigates abuses of constitutional rights and engages with clients and the government in a process to seek remediation from the government, but the office is not authorized to appear in court. The OCA is another independent government body that provides services for children when government authorities or others allegedly violate their rights. The OCA has the authority in its own right to sue the government on behalf of any child.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

Women

Rape and Domestic Violence: Rape is illegal and carries a maximum penalty of 25 years' imprisonment. The law criminalizes spousal rape only under the following conditions: when spouses have separated or begun proceedings to dissolve the marriage; when the husband is under a court order not to molest or cohabit with his wife; or when the husband knows he suffers from a sexually transmitted infection. The law criminalizes sexual relations by an adult with a child--male or female--under the age of 16 and provides for penalties ranging from 15 years to life imprisonment. The JCF reported 374 rapes through October 9, approximately a 19 percent decrease from the same period in 2015. The government's 2015 *Economic and Social Survey of Jamaica* indicated that from January to September 2015, hospital emergency rooms received 948 cases of sexual assault, which was 13 percent of total emergency room visits.

The JCF Center for Investigation of Sexual Offenses and Child Abuse (CISOCA) comprised a multidisciplinary team, which included police officers, social workers, and counselors from the Victim Support Unit. CISOCA handled sex crimes and offered integrated services, including providing legal information. CISOCA officers received tailored training on sexual offense investigations.

The law prohibits domestic violence and provides remedies, including restraining orders and other noncustodial sentencing, but violence against women continued to be a severe problem and studies reported that domestic violence was widespread. Breaching a restraining order is punishable by a fine of up to 10,000 JMD (\$78) and six months' imprisonment. The NGO Woman Inc. reported that women frequently complained that police failed to treat domestic violence as a crime and take the required reports. The Ministry of Justice's Victim Support Unit, and NGOs including Woman Inc., Dispute Resolution Foundation, and Women's Center of Jamaica Foundation, as well as various faith-based institutions, offered counseling and other services countrywide. NGOs expressed concern that resources were insufficient for police investigations of gender-based violence and for counseling and shelter for victims.

Sexual Harassment: No legislation addresses sexual harassment, and no legal remedy exists for victims of sexual harassment. According to reports, authorities may use the Offenses against the Person Act in cases of physical sexual harassment and, under labor law, employers may be held liable for not providing a safe workspace, although through November 17 no charges were filed using either mechanism.

Reproductive Rights: Couples and individuals have the right to decide the number, spacing, and timing of their children, manage their reproductive health, and have access to the information and means to do so, free from discrimination, coercion, or violence. Access to information on modern contraception and skilled health attendance during pregnancy and at delivery was widely available. The UN Population Fund (UNFPA) reported that 68 percent of women ages 15-49 use a modern contraceptive method, while 10 percent of women have an unmet need for family planning. Women have access to emergency health care, including for the management of consequences arising from abortions; however, the standard of care varied widely, especially in rural communities.

According to UNFPA estimates, 99 percent of births were attended by skilled health personnel. The major challenges to reducing maternal deaths in the country were the prevalence of unsafe abortions, inadequate public education, early pregnancy, violence, and HIV/AIDS.

Discrimination: Although the law provides for the same legal status and rights for women as for men, including equal pay for equal work, women suffered from discrimination in the workplace and often earned less than men (see section 7.d.). Domestic workers were particularly vulnerable to workplace discrimination and sexual harassment. Women sought jobs and served in almost every occupation in both the public and private sectors.

Children

Birth Registration: Every person born in the country after August 5, 1962, is entitled to citizenship. Persons outside the country born to or adopted by one or more Jamaican parents, as well as those married to Jamaican spouses, are entitled to citizenship. There is universal birth registration, either in the hospital at the time of birth or at a local registrar's office if the child is not born in a hospital.

Child Abuse: Child abuse, including sexual abuse, was substantial and widespread. NGOs reported that gang leaders, sometimes including fathers, initiated sex with young girls as a "right," and missing children often were fleeing violent situations and sexual abuse. During the year the JCF implemented a "Child Interaction Policy." The Office of Children's Registry (OCR) receives, records, processes, and stores data relating to the mistreatment and abuse of children. The law requires anyone who knows of or suspects child abuse to make a report to the

OCR, with a penalty of up to 500,000 JMD (\$3,900) and/or six months' imprisonment for failure to do so.

The Child Development Agency (CDA) under the Ministry of Education, Youth, and Information provides housing and day-to-day care for orphans, destitute children, and those with unsuitable parents, and administers the foster care and adoption programs.

The Office of the Children's Advocate (OCA) has broad responsibilities for reviewing laws, policies, practices, and government services affecting children, as well as providing legal services to protect the best interests of children. The OCA has an investigative function that gives it concurrent jurisdiction with the police whenever a child is the victim or complainant. The OCA also has the power to investigate government agencies and officials and to institute legal proceedings against agents of government. Through September the OCA received 253 complaints directly from individuals and an additional 350 referrals from the OCR. It conducted preliminary investigations in some cases and referred other cases to appropriate government institutions.

Corporal punishment is illegal in early childhood centers and for all children in state care, but it remained legal elsewhere, including in schools.

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

Sexual Exploitation of Children: The law prohibits sexual intercourse with a person less than 16 years old, the minimum age for consensual sex. Sexual relations by an adult with a child under the age of 16 is punishable by up to life imprisonment. The law provides for a Sex Offenders Registry, which the Department of Corrections administers and police enforce. In 2015 the number of cases of persons reported to police for sexual intercourse with a minor was 769, a 13 percent decrease from the prior year. In 2016 through October 9, there were 306 reported cases.

The law criminalizes the commercial sexual exploitation of children and applies to the protection, possession, importation, exportation, and distribution of child pornography. It carries a maximum penalty of 20 years' imprisonment and a fine of 500,000 JMD (\$3,900). There were reports of children being involved in commercial sexual exploitation. The OCA investigated sex crimes when the victim was below 18 years of age. Depending on the case, the complaint was

lodged directly with the OCA or referred to the OCA from the Office of Children's Registry for investigation.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at travel.state.gov/content/childabduction/en/legal/compliance.html.

Anti-Semitism

Approximately 500 persons in the country practiced Judaism. There were no reports of anti-Semitic acts.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip/rls/tiprpt/.

Persons with Disabilities

While the law prohibits discrimination against persons with disabilities, it does not mandate accessibility standards. The 2014 Disabilities Act, passed by parliament but still not signed into law, would provide for the "full and effective participation and inclusion in the society for persons with disabilities on an equal basis with others" and establish a disabilities rights tribunal to hear complaints. Persons with disabilities continued to encounter discrimination in employment and access to schools, usually due to the state of the infrastructure, which limited access to buildings and provided few special facilities.

Limitations in access to education were particularly pronounced at the primary school level, due to insufficient access to facilities for persons with disabilities. There was also a lack of suitably trained faculty to care for and instruct students with disabilities. There were fewer reports of problems in secondary schools. Tertiary institutions, including community colleges, increasingly drafted policies to promote full inclusion of persons with disabilities. Health care reportedly was universally available.

The Ministry of Labor and Social Security (MLSS) has responsibility for the Jamaica Council for Persons with Disabilities. The council distributes economic empowerment grants of up to \$50,000 JMD (\$420) to persons with disabilities to

provide assistive aids and to help them develop small businesses. The ministry also has responsibility for the Early Stimulation Project, an education program for children with disabilities, and for the Abilities Foundation, a vocational program for older persons with disabilities.

National/Racial/Ethnic Minorities

Maroons--descendants of slaves who escaped to the mountainous interior in the 17th and 18th centuries--considered themselves a group apart and maintained some cultural traditions distinct from those of the larger society. While formal education was not available within Maroon communities beyond the junior high school level, Maroons were able to attend high school in nearby communities.

Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity

The law prohibits “acts of gross indecency” (generally interpreted as any kind of physical intimacy) between persons of the same sex, in public or in private, and provides a penalty of two years in prison for the offense. There is also an “antibuggery” law that criminalizes consensual and nonconsensual anal intercourse, punishable by up to 10 years in prison. During the year the law was enforced only in cases of sexual assault and child molestation and was not used to prosecute consensual same-sex sexual conduct between men. Homophobia was widespread in the country.

The NGO J-FLAG reported that through June there were 53 incidents of physical and verbal assault against 35 LGBTI persons, including 24 cases of physical assault, 11 of verbal assault, 12 involving threats and intimidation, one case of arson, and one case of harassment by a police officer. The JCF reports that most incidents involving the LGBTI population are not reported to police.

HIV and AIDS Social Stigma

The most recent HIV and AIDS legal environment assessment for the country (2013) revealed a dramatic reduction of HIV prevalence among sex workers and that the country was close to eliminating the transmission of HIV and AIDS between mother and child. The country’s National HIV/AIDS Workplace Policy prohibits HIV-related discrimination in the workplace. Nevertheless, criminalization of private, consensual same-sex acts, sex work, and drug use

continued to foster stigma and discrimination against the most vulnerable populations and impede their access to health information and services.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law, including related regulations and statutes, provides for the rights of workers to form or join unions and to bargain collectively. The freedom to strike is granted pursuant to the constitution in the Charter of Fundamental Rights and Freedoms provision for peaceful assembly and association. The law prohibits antiunion discrimination and provides for the Industrial Disputes Tribunal (IDT) to reinstate a worker if a dismissal is found to be unjustified.

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.

The government defines workers in 10 categories as “essential services,” the interruption of which would endanger the life, personal safety, or health of the whole or part of the population. Before they can legally strike, these workers must first take disputes to the MLSS and must allow the ministry to attempt to settle their disputes amicably. The International Labor Organization (ILO) continued to raise concerns about the country’s broad definition of these 10 categories.

The law denies collective bargaining to a bargaining unit if no single union represents at least 40 percent of the workers in the unit, or when the union seeking recognition obtains support from fewer than 50 percent of the workers (whether or not they are members of the union).

Although the government in general attempted to enforce applicable laws, the effectiveness of applicable remedies and penalties was mitigated by the ability of defendants to appeal and tie up their cases in the court system for years. The independent IDT hears cases when management and labor fail to reach agreement, including those involving nonunionized workers. While cases are, by law, to be resolved within 21 days, the tribunal decided most cases in four to five months. Some took longer to resolve due to the complexity of the dispute or delays requested by involved parties. The IDT decisions are formal and binding unless challenged specifically on a point of law. Parties may apply for judicial review of the award by the Supreme Court.

Freedom of association and the right to collective bargaining generally were respected. Worker organizations operated without interference by government or political parties. While employers generally respected the law prohibiting antiunion discrimination, some labor unions reported that private-sector workers were fearful of management retaliation against unionization. Both management and workers were often unaware of their rights and obligations. It was not uncommon for private-sector employers to lay off union workers and rehire them as contractors. The International Trade Union Confederation reported that this hampered workers' ability to organize and bargain collectively.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor. A national task force consisting of government entities continued its interministerial and public outreach to sensitize citizens to forced labor.

While the government investigated some suspected cases of forced labor, it often did not effectively enforce applicable laws.

Also see the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip/rls/tiprpt/.

c. Prohibition of Child Labor and Minimum Age for Employment

The minimum age for general employment is 15, with strict prohibitions on employing children under age 13 in any type of work. The law permits children between ages 13 and 15 to engage in "light work," but the MLSS has yet to define light work activities, except for the general guidance that such activities should not disrupt a child's education or be harmful to their health.

The government did not effectively enforce its child labor laws. The MLSS Child Labor Unit (CLU) is responsible for monitoring and controlling child labor, although its resources and ability were limited. The CLU received reports from the public and was assisted by the Occupational Safety and Health Department (OSHD) in identifying incidents of child labor in industrial establishments covered under the Factories Act. The OSHD did not identify instances of children working on construction sites or receive any such reports. The JCF assists with investigations, depending upon the nature and severity of the case, especially in

cases involving the worst forms of child labor, including trafficking and sexual exploitation.

The government did not adequately track the number of children involved in child labor. During the year the government collaborated with the ILO on a four-year project to increase its capacity to collect data on child labor. In January the Statistical Institute of Jamaica (STATIN), in collaboration with the ILO, held a two-day workshop to raise awareness about child labor and discuss child labor statistics collected by the International Conference for Labor Statisticians. The workshop included agency representatives from the MLSS, STATIN, and CDA. In July the MLSS and Jamaica Employer's Federation, in collaboration with the ILO, held a seminar for businesses about ending child labor in supply chains.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at www.dol.gov/ilab/reports/child-labor/findings/.

d. Discrimination with Respect to Employment and Occupation

Laws and regulations prohibit discrimination on the grounds of race, sex, gender, place of origin, social status, color, disability, religion, or political opinions. The law does not prohibit discrimination based on sexual orientation or gender identity or HIV-positive status. There were no reports of cases filed for discrimination in employment or occupation during the year.

e. Acceptable Conditions of Work

The minimum wage, which the government reviews each year, was 6,200 JMD (\$48) per week. According to the Planning Institute of Jamaica's 2014 statistics, the official poverty line estimate for male and female adults, respectively, was 169,044 JMD (\$1,320) and 124,873 JMD (\$1,035) annually, as compared to the annual minimum wage of 291,200 JMD (\$2,270).

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 must be compensated at overtime rates, a provision employers generally respected. The law also provides for paid annual holidays. The law restricting work in excess of 12 hours in a day is not applicable to all workers.

Insufficient staffing in the Ministries of Labor and Social Security, Finance and Public Service, and National Security contributed to difficulties in enforcing

workplace regulations. The government sets occupational safety and health standards, which were appropriate for the main industries in the country but were not effectively enforced. Legal fines up to 500,000 JMD (\$3,900) or imprisonment of up to six months were not sufficient to deter violations due to lengthy delays in their application.

The MLSS employed 16 inspectors, an insufficient number to enforce compliance with labor laws and report on minimum wage, health, and safety violations in workplaces throughout the country. The MLSS Industrial Safety Division enforces industrial health and safety standards, mainly through factory inspections. The safety division conducted inspections, investigated accidents, warned violators, and gave them a period in which to correct the violation. If the violation was not corrected within that time, the violator was taken to court. Penalties and fines are stipulated by law, and the minister of labor and social security has authority to increase any monetary penalty so specified. The ability of defendants to appeal a case in the court system for years mitigated the effectiveness of penalties.

Most workers received more than the legal minimum, and some minimum wage earners held two or more jobs. There were reports that domestic workers received less than the minimum wage. Some unofficial sources estimated that up to 40 percent of citizens worked in the informal sector.