Home Office

Country Information and Guidance

Jamaica: Women fearing domestic violence

Version 1.0

July 2015

Preface

This document provides guidance to Home Office decision makers on handling claims based on mistreatment or harm – as well as country of origin information (COI) about – domestic violence in Jamaica. This includes whether claims are likely to justify the granting of asylum, humanitarian protection or discretionary leave and whether – in the event of a claim being refused – it is likely to be certifiable as 'clearly unfounded' under s94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers must consider claims on an individual basis, taking into account the case specific facts and all relevant evidence, including: the guidance contained with this document; the available COI; any applicable caselaw; and the Home Office casework guidance in relation to relevant policies.

Country Information

The COI within this document has been compiled from a wide range of external information sources (usually) published in English. Consideration has been given to the relevance, reliability, accuracy, objectivity, currency, transparency and traceability of the information and wherever possible attempts have been made to corroborate the information used across independent sources, to ensure accuracy. All sources cited have been referenced in footnotes. It has been researched and presented with reference to the Common EU [European Union] Guidelines for Processing Country of Origin Information (COI), dated April 2008, and the European Asylum Support Office's research guidelines, Country of Origin Information report methodology, dated July 2012.

Feedback

Our goal is to continuously improve the guidance and information we provide. Therefore, if you would like to comment on this document, please e-mail us.

Independent Advisory Group on Country Information

The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to make recommendations to him about the content of the Home Office's COI material. The IAGCI welcomes feedback on the Home Office's COI material. It is not the function of the IAGCI to endorse any Home Office material, procedures or policy.

IAGCI may be contacted at:

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Information about the IAGCI's work and a list of the COI documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector's website at http://icinspector.independent.gov.uk/country-information-reviews/

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Guidance

Date Updated: 13 July 2015

1. Introduction

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1.2.5. Is a woman able to internally relocate within Jamaica to escape the risk of domestic violence?

For further information on considering claims from women, see also the Asylum Instruction on Gender Issues in Asylum Claims.

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2. Consideration of issues

2.1 Is the person's account a credible one?

2.1.1. Decision makers must consider whether the material facts relating to the person's account of domestic violence and of their experiences in Jamaica are reasonably detailed, internally consistent (e.g. oral testimony, written statements) as well as being externally credible (i.e. consistent with generally known facts and the country information). Decision makers should take into account the possible underlying factors as to why a person may be inconsistent or unable to provide details of material facts.

2.1.2. For further information on these and assessing credibility more generally, see section 5 of the Asylum Instruction on Assessing Credibility and Refugee Status and also the Asylum Instruction on Gender issues in the asylum claim.

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2.2 Do women from Jamaica constitute a particular social group (PSG)?

2.2.1 Women in Jamaica form a particular social group within the meaning of the 1951 UN Refugee Convention. This is because they share an immutable (or innate) characteristic – their gender - that cannot be changed; and have a distinct identity in their home society.

2.2.2 Although women in Jamaica form a PSG, this does not mean that establishing such membership will be sufficient to make out a case to be recognised as a refugee. The question to be addressed in each case will be

whether the particular person will face a real risk of persecution on account of their gender.

2.2.3 For further information on particular social groups, see section 7.6 of the Asylum Instruction on Assessing Credibility and Refugee Status.

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2.3 Are women in Jamaica at risk of domestic violence amounting to persecution?

2.3.1. There are no available statistics on the prevalence of domestic violence in Jamaica but by all accounts it is a serious and widespread problem. Several reports note high rates of domestic and sexual violence and suggest that incidents of domestic violence are underreported due to the prevalence of social and cultural norms, including stigma, and fear of retribution or further violence. It has been reported that many women fail to seek help due to fear, ignorance of the law and embarrassment, and that many women only seek help after their circumstances have become particularly severe. Other reports have suggested that the length of time taken to investigate and prosecute cases might be a deterrent to report cases of domestic violence. (see Prevalence of Domestic Violence and Police Effectiveness).

2.3.2. The onus is on the person to substantiate a claim that they would face domestic violence on return to Jamaica.

2.3.3. For further information on assessing risk, see section 6 of the Asylum Instruction on Assessing Credibility and Refugee Status.

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2.4 Is there effective protection for female victims of domestic violence?

2.4.1. Despite the protections provided in law, there has been criticism of the length of time taken to investigate and prosecute cases, deterring women from reporting crimes. It is reported that the courts are overburdened and that the absence of adequate court infrastructure, human and financial resources were seriously hampering the justice system. It has also been reported that amongst some police officers domestic violence is not always viewed as a crime and that there is insufficient awareness and training among judges, prosecutors, police officers and health professionals about violence against women. Fear of shame, disgrace and social stigma further prevent women from seeking protection (see Legislation and other government initiatives and Police Effectiveness).

2.4.2. While there are a number of women's rights groups in Jamaica, only one shelter exists which is operated by an NGO. NGOs expressed concern that there was insufficient funding for police investigations of gender-based violence and for counselling and shelter for victims (see Support Groups)

2.4.3. The authorities in Jamaica are in general willing and able to provide effective protection. In the country guidance case of AB (Protection –criminal gangs-internal relocation) Jamaica CG [2007] UKAIT 00018 the Tribunal, before going on to consider whether the Jamaican authorities can protect persons who face a real risk in the form of targeting by criminal gangs, considered whether more generally the authorities are willing and able to provide effective protection and found that there is in general a sufficiency of state

protection in Jamaica [para 150 of determination]. In doing so, the Tribunal reconfirmed the guidance given in JS (Victims of gang violence, Sufficiency of protection) Jamaica [2006] UKAIT 00057 (21 July 2006) which found that "There is clear evidence that in general the Government of Jamaica is not only willing, but also able to provide through its legal system a reasonable level of protection from ill-treatment to its citizens who fear criminal acts in Jamaica and to those who fear retribution for testifying against criminals." [headnote].

2.3.4. There are reports that women's recourse to justice is sometimes limited given the inadequate enforcement of legislative provisions and the lack of access to shelter and assistance. (see Prevalence of Domestic Violence and Police Effectiveness). The onus is on the person to demonstrate why they believe they would be unable to access effective protection.

2.3.1 See also the Asylum Instructions on Assessing Credibility and Refugee Status and Gender issues in the asylum claim.

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2.5 Is a woman able to internally relocate within Jamaica to escape the risk of domestic violence?

2.5.1. Decision makers must give careful consideration to the relevance and reasonableness of internal relocation on a case by case basis, taking full account of the individual circumstances of the particular person.

2.5.2. As regards the relevance of internal relocation, decision makers need to consider the ability of the persecutor to pursue the person in the proposed site of relocation, whether effective protection is available in that area and any previous attempts to internally relocate.

2.5.3. In assessing whether women who are fleeing domestic violence have a viable internal relocation alternative, decision makers must not only have regard to the availability of shelters/centres but also to the situation women will face after they leave such centres.

2.5.4. It may be possible for a woman to relocate to other parts of Jamaica to escape domestic violence. The personal circumstances of the individual should be taken into account when assessing whether it would be reasonable to expect them to do so. Decision makers must also consider factors such as the age, gender, health, ethnicity, religion, level of education, financial circumstances and support network of the person, as well as the security, human rights and socio-economic conditions in the proposed area of relocation, including their ability to sustain themselves.

2.5.5. In the Country Guidance case of SW (lesbians - HJ and HT applied) Jamaica CG [2011] UKUT 251 (IAC) (24 June 2011) the Upper Tribunal found that "single women with no male partner or children risk being perceived as lesbian, whether or not that is the case, unless they present a heterosexual narrative and behave with discretion... Newcomers in rural communities will be the subject of speculative conclusions, derived both by asking them questions and by observing their lifestyle and unless they can show a heterosexual narrative, they risk being identified as lesbians. Perceived lesbians also risk social exclusion (loss of employment or being driven from

their homes). A manly appearance is a risk factor as is rejection of suitors if a woman does not have a husband, boyfriend or child, or an obvious and credible explanation for their absence."[para 107 (3), (4) and (5) of determination].

2.5.6. For further information on considering internal relocation, see section 8.2 of the Asylum Instruction on Assessing Credibility and Refugee Status and the Asylum Instruction on Internal Relocation.

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3. Policy summary

- **Although there have been a number of legislative and other measures undertaken to improve the situation, domestic violence in Jamaica remains a serious and widespread problem.**
- **Protection is provided in law and the authorities in Jamaica are in general willing and able to provide effective protection.**
- **Women's recourse to justice and effective protection is sometimes limited due to the inadequate enforcement of legislative provisions. However there are a number of non governmental organisations (NGOs) in Jamaica which are active in providing support to victims of gender based violence that may be able to assist a woman to avail themselves of the protection of the state**
- **Internal relocation to avoid risk from domestic violence is possible, as long as it would not on the particular facts of the case be unduly harsh to expect the woman to do so.**
- **Women applicants who can demonstrate that they have a well-founded fear of persecution as a result of domestic violence and have no recourse to effective state protection or internal relocation should be granted asylum as a member of a particular social group.**
- **Where a claim falls to be refused, it is likely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002.**

For further information on making asylum decisions, see section 9 of the Asylum Instruction on Assessing Credibility and Refugee Status, the Asylum Instruction on Humanitarian Protection and the Asylum Instruction on Discretionary Leave.

For further information on certification, see the Asylum Instruction on Non-Suspensive Appeals: Certification Under Section 94 of the NIA Act 2002.

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Date Updated: 13 July 2015

4. Background

4.1 The UN Human Rights Council's Universal Periodic Review of Jamaica in 2010 stated that there is an unacceptably high level of violence against women and girls in Jamaica.[1] In June 2013, the UN Economic, Social and Cultural Rights Committee expressed "its profound concern at high rates of domestic and sexual violence, and the lack of a comprehensive strategy to address the phenomenon" in Jamaica.[2]

4.2 The Amnesty International Report 2014/15 recorded that sexual violence against women and girls remains a concern.[3] According to the U.S Department of State 2014 Country Report on Human Rights Practices social and cultural norms perpetuate violence against women, including spousal abuse.[4]

4.3 An October 2014 article on WeJamaicans.com reported that:

> 'Unfortunately, domestic violence against women in Jamaica continues to be a perennial problem.....It is ironic that a country like Jamaica, which has women in many key positions of leadership, should have its women suffer so heavily from the blows of domestic violence. The Chief Justice, Senior Resident Magistrate, Director of Public Prosecutions, Auditor General and the Prime Minister are only some of the women in key, top and leading positions in Jamaica. In most cases, it is male spouses who exact domestic violence on their female counterparts....'
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> 'The common thought is that once a woman experiences domestic violence, she should expunge herself from the situation, meaning the relationship. However, in fairness to some of those who stay in the abusive relationships, they really do not have much of a choice. The first reason is that women earn less than men, generally speaking. Hence, with a lack of earning

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[1] UN Human Rights Council, National report submitted in accordance with paragraph 15 (a) of the annex to Human Rights Council resolution 5/1* Jamaica, , 20 August 2010, IV. Promotion and protection of human rights A. Gender Issues, Para 29. http://lib.ohchr.org/HRBodies/UPR/Documents/Session9/JM/A_HRC_WG.6_9_JAM_1_E_Jamaica-eng.pdf Date accessed 30 April 2015

[2] UN Committee on Economic, Social and Cultural Rights (CESCR), Concluding observations on the combined 3rd and 4th periodic reports of Jamaica, adopted by the Committee at its 50th session, 29 April-17 May 2013: Committee on Economic, Social and Cultural Rights , 10 June 2013, E/C.12/JAM/CO/3-4. Para 19. http://www.refworld.org/docid/52d54a854.html Date accessed 29 April 2015.

[3] Amnesty International, Amnesty International Report 2014/15: Jamaica, 25 February 2015, Violence against women and girls. https://www.amnesty.org/en/countries/americas/jamaica/report-jamaica/ Date accessed 9 March 2015

[4] U.S Department of State, Country Reports on Human Rights Practices for 2014: Jamaica, June 2015, Section 6. Discrimination, Societal Abuses, and Trafficking in Persons' http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dlid=236700 Date accessed 6 July 2015

power, they stay in the relationship because they are dependent on the abuser, financially and maybe otherwise.' [5]

4.4 The UN Human Rights Council, in a February 2015 summary of evidence submitted by stakeholders to the universal periodic review, noted that:

'JS2 [Joint Submissions 2] indicated that the major problems facing women included domestic violence, gender inequality, stereotyped roles for men and women, slow pace of legal reform relating to anti-discrimination legislation and the lack of sexual harassment legislation, and economic reliance of women on men because of female poverty.'[6]

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5. Legislation and government initiatives

5.1 The UN Human Rights Council's Universal Periodic Review of Jamaica in 2010 stated that:

'... a number of legislative provisions have been implemented to ensure that the rights of women are given adequate protection. The Domestic Violence (Amendment) Act of 2004 provides for men and women who have been victims of domestic violence to apply for the protection of the courts. This Act broadened the categories of women protected to include not just married women, but also women in common-law and visiting relationships.

'The Sexual Offences Act, which was passed in 2009, repeals the Incest (Punishment) Act and certain aspects of the Offences Against the Person Act and creates new provisions for the prosecution of rape and other sexual offences, including marital rape, anonymity of complainant in rape and other sexual offences, as well as incest.

'In addition to the legislative measures, the Government, through the Bureau of Women's Affairs which is the main state agency responsible for gender issues, has implemented projects aimed at addressing gender-based violence and sexual harassment.' [7]

5.2 In its June 2011 report to the UN Economic and Social Council, the government of Jamaica added:

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[5] WeJamaicans.com, The issue of domestic violence against women, 2 October 2014 http://www.wejamaicans.com/issue-domestic-violence-women/ Date Accessed 17 April 2015

[6] UN Human Rights Council, Summary prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15 (c) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21: Jamaica, 12 February 2015, A/HRC/WG.6/22/JAM/3, Para 9, http://www.refworld.org/docid/5539fd2f4.html [accessed 26 May 2015]

[7] UN Human Rights Council, National report submitted in accordance with paragraph 15 (a) of the annex to Human Rights Council resolution 5/1* Jamaica, , 20 August 2010, IV. Promotion and protection of human rights A. Gender Issues,
Para 29 – 31.
http://lib.ohchr.org/HRBodies/UPR/Documents/Session9/JM/A_HRC_WG.6_9_JAM_1_E_Jamaica-eng.pdf Date accessed 30 April 2015

‘[The Domestic Violence (Amendment) Act, 2004] continues to be used as a means of redress for women and children. It provides occupation, protection and ancillary orders for victims of domestic violence. The Act also makes special provision for women involved in residential and non-residential relationships. Proceedings under the Act may now be initiated by a third party on behalf of an abused woman and damage to property has now been recognised as a form of domestic violence.’

‘The Sexual Offences Act was passed by the House of Representatives and the Senate in 2009. It amends aspects of the Offences Against the Person Act to make new provisions for the prosecution of rape and other sexual offences. It seeks to also repeal the Incest (Punishment) Act by establishing incest offences under the Sexual Offences Act in replacement of those under the Incest (Punishment) Act. It modernizes the law relating to sexual offences both in substantive and procedural respects to afford greater protection to women and children. The number of proposed changes to the law relate to rape including marital rape, anonymity of complainant in rape and other sexual offences, as well as incest.’

‘The [Victims] Charter seeks to correct the imbalances between the protection of the rights of offenders and the human rights of victims. The Charter includes (a) the compensation of victims, with state responsibility for funding any proposed compensation scheme, (b) the protection by the State of children and other vulnerable groups within communities, (c) an understanding of the causes and consequences of family and domestic violence, and (d)volunteerism in victim support within communities.’ [8]

‘It should be noted that support to victims is provided by the Victim Support Unit of the Ministry of Justice. The Unit, the first of its kind in the Caribbean, was established in 1998 and has offices in all 14 parishes that provide advocacy, advice and counselling services to individuals against whom crimes and offences have been committed. A National Coordinator heads the Unit and in each parish there is a parish coordinator and a social worker. The Unit is also assisted by groups of volunteers selected in each district within the parish. In addition, Neighbourhood Watch Networks supported by the Ministry of National Security are being strengthened to enhance citizen protection. In 2008, the Unit served a total of 10,225 clients – 310 less than in 2007. Of the total number of clients seen, 47.7 per cent were new clients.’[9]

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[8] UN Committee on Economic, Social and Cultural Rights (CESCR), Implementation of the International Covenant on Economic, Social and Cultural Rights : combined 3rd and 4th periodic reports submitted by States parties under articles 16 and 17 of the Covenant: Jamaica, 14 June 2011, E/C.12/JAM/3-4, paras 88-90, http://www.refworld.org/docid/5069596d2.html [accessed 29 April 2015]

[9] UN Committee on Economic, Social and Cultural Rights (CESCR), Implementation of the International Covenant on Economic, Social and Cultural Rights : combined 3rd and 4th periodic reports submitted by States parties under articles 16 and 17 of the Covenant: Jamaica, 14 June 2011, E/C.12/JAM/3-4, para 91, http://www.refworld.org/docid/5069596d2.html [accessed 29 April 2015]

'The Bureau of Women's Affairs (BWA), along with other Government agencies, NGOs and community-based organisations (CBOs), continues to conduct gender-based violence and human rights education workshops as part of a comprehensive public education programme and integrated prevention strategy to eliminate attitudes that foster, justify, and tolerate violence. Workshops are conducted in a number of organisations, schools, communities and churches across the island. The groups that have been sensitized include students, community members, police officers, guidance counsellors, social workers, service clubs and members of the justice system. Many of the programmes also target rural women. In 2008, for example, the BWA conducted 22 workshops on gender based violence with 2,446 participants in rural communities, 77 per cent of whom were women.'[10]

5.3 The Bureau of Women's Affairs is mandated to mobilize the Government to address the problems that confront women, given the impact of patriarchy and sexism. These problems include high rates of unemployment, violence against women in various forms such as spousal abuse, rape, incest and sexual harassment. The objective is to enable women to recognize their full potential as individuals and to create avenues for their full integration in National Development. The three main functions of the Bureau are Research and Policy Development, Public Education and Training and Project Planning and Monitoring.[11]

5.4 According to the US Department of State 2014 Country Report on Human Rights Practices '[t]he law prohibits domestic violence and provides remedies including restraining orders and other non-custodial sentencing. Breaching a restraining order is punishable by a fine of up to J$10,000 ($96.15) [c£57] and six months' imprisonment.' [12]

5.5 The same report also noted that:

'Rape is illegal and carries a maximum penalty of 25 years' imprisonment. The law criminalizes spousal rape, but only in the following circumstances: when the parties have separated or when proceedings to dissolve the marriage or have it annulled have begun, 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. Human rights groups continued to advocate for a more comprehensive law on spousal rape. The JCF [Jamaica Constabulary Force] reported 488 rapes through September [2014]. ... The Bureau of Women's Affairs (BWA) believed that the true

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[10] UN Committee on Economic, Social and Cultural Rights (CESCR), Implementation of the International Covenant on Economic, Social and Cultural Rights : combined 3rd and 4th periodic reports submitted by States parties under articles 16 and 17 of the Covenant: Jamaica, 14 June 2011, E/C.12/JAM/3-4, para 92, http://www.refworld.org/docid/5069596d2.html [accessed 29 April 2015]

[11] The Office of the Prime Minister, Bureau of Women's Affairs, Undated, http://opm.gov.jm/agencies/bureau-of-gender-affairs/ Date accessed 17 April 2015

[12] U.S Department of State, Country Reports on Human Rights Practices for 2014: Jamaica, Section 6. Discrimination, Societal Abuses, and Trafficking in Persons', June 2015 http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dlid=236700 Date accessed 6 July 2015

incidence was significantly higher than these statistics indicated, given the problem of under-reporting, due to fear of stigma, retribution or further violence. The JCF Centre for Investigation of Sexual Offences and Child Abuse, led by a female deputy superintendent, handled sex crimes.'

'The National Policy for Gender Equality, aimed at providing equal opportunities for men and women in social, political and economic life, established Gender Focal Points (GFPs) in each of the ministries, which were committees of selected senior-level representatives, charged with developing, implementing, and monitoring gender-sensitive policies and programming'. [13]

5.6 In November 2014 the Jamaica Information Service stated that:

'Several laws are currently being reviewed as the Government intensifies its drive to protect the nation's women and girls and eliminate acts of violence against them. This was disclosed by Prime Minister, the Most Hon. Portia Simpson Miller, in a speech read by Information Minister, Senator the Hon. Sandrea Falconer, at a church service held on 23 November 2014 at the Constant Spring Church of God in Kingston, to commemorate International Day for the Elimination of Violence Against Women.'[14]

'[The Prime Minister stated that] a Joint Select Committee of Parliament is now reviewing the Sexual Offences Act, the Offences Against the Persons Act, the Domestic Violence Act, and the Child Care and Protection Act. [She said] "the committee will focus on offences as well as the punishment of crimes such as the murder of pregnant women, the assault of women, children and the elderly as well as sexual crimes." The Prime Minister stressed that violence against women is unacceptable and illegal, and the Government will continue to put measures in place to provide greater security and protection for women in the fight to eliminate violence against them. [She also stated that] work is also far advanced on Jamaica's sexual harassment legislation, which will provide an avenue of redress for women, who are so violated. [She called on] all citizens to play their part in addressing acts of violence against women and girls.[15]

'Mrs Simpson Miller continued by stating 'the Government can do its part but it is the responsibility of all of us to do all that we can to give all women and girls a new reality and a different outlook, by breaking the culture of violence and the culture of silence on this issue.' ... 'The Prime Minister said the Government will continue the education of citizens and build public

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[13] U.S Department of State, Country Reports on Human Rights Practices for 2014: Jamaica, Section 6. Discrimination, Societal Abuses, and Trafficking in Persons, June 2015, http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dlid=236700 Date accessed 6 July 2015

[14] Jamaica Information Service, Gov't Reviewing Laws to Protect Women and Girls, 24 November 2014, http://jis.gov.jm/govt-reviewing-laws-protect-women-girls/ Date accessed 17 April 2015

[15] Jamaica Information Service, Gov't Reviewing Laws to Protect Women and Girls, 24 November 2014, http://jis.gov.jm/govt-reviewing-laws-protect-women-girls/ Date accessed 17 April 2015

awareness of gender-based violence and violence against women, and ultimately engender a culture of peace and respect for all.'[16]

5.7 The UN Human Rights Council, in a February 2015 summary of evidence submitted by stakeholders to the universal periodic review, noted that:

'AI stated that the Sexual Offences Act criminalized marital rape, but was very limited in its application and recommended Jamaica to amend it in order to criminalize marital rape in all circumstances.'[17]

5.8 In March 2015 the Jamaican Gleaner reported that:

'Prime Minister Portia Simpson Miller is urging Jamaicans to end all forms of discrimination and violence against women and girls. According to Simpson Miller, Jamaica has made considerable progress towards empowering women through improved access to quality education and training and improved participation in high-level decision-making. She says there has also been progress amongst many initiatives including facilitating the growth of small and medium-sized enterprises, expanding health care and services for women and girls and through poverty reduction programmes. The Prime Minister also pointed to Jamaica's ranking in a recent International Labour Organisation Survey which found that the country has the greatest proportion of women managers and business leaders.'[18]

5.9 Full copies of the Domestic Violence Act[19] and the Sexual Offences Act[20] can be found on the Jamaican Ministry of Justice website.

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6. Prevalence of domestic violence

6.1 In a response provided in February 2012 to the UN Committee on the Elimination of Discrimination against Women (CEDAW), the government of Jamaica stated:

'[The Statistics Unit of Jamaica Constabulary Force] have indicated their inability to provide data on the number of women who have been killed annually by their husbands, intimate partners or ex-husbands since 2007 as the information is not disaggregated in this manner. However, the National Family Planning Board, with funding from USAID, conducted a 2008 Reproductive Health Survey, which reported statistics and gave some data

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[16] Jamaica Information Service, Gov't Reviewing Laws to Protect Women and Girls, 24 November 2014, http://jis.gov.jm/govt-reviewing-laws-protect-women-girls/ Date accessed 17 April 2015

[17] UN Human Rights Council, Summary prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15 (c) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21: Jamaica, 12 February 2015, A/HRC/WG.6/22/JAM/3, Para 32, http://www.refworld.org/docid/5539fd2f4.html [accessed 26 May 2015]

[19] Jamaican Ministry of Justice, Domestic Violence Act, 1996 (last amended 2004) http://moj.gov.jm/laws/domestic-violence-act

[20] Jamaican Ministry of Justice, Sexual Offences Act, 2011,

on intimate partner violence (IPV). In summary, it explained that among every partnered female 15-49:

– 1 in 3 had experienced some combination of IPV during her lifetime

– 1 in 5 had experienced physical or sexual IPV in her lifetime

– 1 in 2 (48%) have experienced at least one controlling behaviour and

– 8% reported ever having been forced to have sex by an intimate partner[21]

6.2 The OECD Development Centre's 2014 Social Institutions and Gender Index (SIGI) stated that 35% of women in Jamaica have experienced physical and/or sexual violence from an intimate partner at some time during their lives[22]. (The equivalent figure given in respect of the UK is 29%[23]).

6.3 The same source continued:

'Although there is no nation-wide prevalence data on domestic violence, the government reported to the CEDAW Committee in 2011 that a number of actions taken under the Domestic Violence Act, including a domestic violence module in police training courses, setting up Domestic Violence Desks in parishes with high reports of domestic violence, the creation of Victim Support Units which provide emotional support, counselling and other services to victims of violence in 14 parishes, and educational programmes on domestic and sexual abuse in select schools have led to an overall increase in the number of incidents of violence reported.'

'Violence against women remains a serious problem in Jamaica although cases are underreported due to the prevalence of social and cultural norms.'[24]

6.4 According to Amnesty International Report 2014/15 for Jamaica:

'Police statistics from the 2013 Economic and Social Survey published in April 2014 by the Planning Institute of Jamaica showed that 814 cases of rape were recorded in 2013, and that 128 women were murdered in 2013... Following a Senate motion in October 2013 calling for greater legislative protection for women and girls, a joint select committee of Parliament was finally established in July 2014 to review the Sexual Offences Act, Offences against the Person Act, Domestic Violence Act, and the Child Care and Protection Act, with the objective of improving protection for women,

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[21] UN Committee on the Elimination of Discrimination Against Women (CEDAW), Responses to the list of issues and questions with regard to the consideration of the combined 6th and 7th periodic report: Jamaica, 24 September 2012, CEDAW/C/JAM/Q/6-7/Add.1, Violence against women, para 7, http://www.refworld.org/docid/506056262.html [accessed 29 April 2015]

[22] OECD Development Centre, Social Institutions and Gender Index (SIGI): Jamaica, Undated http://genderindex.org/country/jamaica Date accessed 30 April 2015

[23] OECD Development Centre, Social Institutions and Gender Index (SIGI): United Kingdom, Undated, http://genderindex.org/country/united-kingdom Date accessed 30 April 2015

[24] OECD Development Centre Social Institutions and Gender Index (SIGI): Jamaica, Undated, http://genderindex.org/country/jamaica Date accessed 30 April 2015

children, persons living with disabilities and the elderly from violence and abuse.'[25]

6.5 The UN Human Rights Council, in a February 2015 summary of evidence submitted by stakeholders to the universal periodic review, noted that:

'AI [Amnesty International] reported that statistics showed 814 cases of rape recorded in 2013 and 128 women murdered in the same year. IACHR [Inter-American Commission on Human Rights – Organization of American States] reported impunity had prevailed with respect to most of these acts. IACHR reported that despite a significant number of efforts from the State, women continued to suffer different types of violence, including domestic violence, sexual harassment, rape, and incest, among others. IACHR reported that domestic violence was not always viewed as a crime, in part due to the perceived lower social status of females in Jamaica. AI recommended Jamaica to ensure satisfactory investigation and prosecution of cases of gender-based violence.'[26]

6.6 The Jamaica Gleaner reported in June 2014 that 'At least 24 lovers' quarrels ended in murder in the first five months of this year [2014] as domestic violence continued to lead to bloodletting across the island. A further 39 cases of assault, five shootings and six incidents of wounding with intent were reported to the police as resulting from domestic clashes. However, gender specialists, psychologists and even the cops accept that this is just the tip of the iceberg in terms of the number of violent incidents that have occurred since the start of this year when love turned sour. "For every one that is reported, there are at least another five or six cases that are unreported," declared Joyce Hewett, past president of Woman Incorporated. For psychologist Leahcim Semaj, domestic violence has reached crisis levels in Jamaica'.[27]

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7. Police effectiveness

7.1. Freedom House reported in August 2014 that 'legal protections for women are poorly enforced and violence and discrimination remain widespread. A number of highly publicized rape cases of young girls have led to public

[25] Amnesty International, Amnesty International Report 2014/15: Jamaica, Violence Against Women and Girls, 25 February 2015, https://www.amnesty.org/en/countries/americas/jamaica/report-jamaica/ Date accessed 30 April 2015

[26] UN Human Rights Council, Summary prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15 (c) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21: Jamaica, 12 February 2015, A/HRC/WG.6/22/JAM/3, Para 30, http://www.refworld.org/docid/5539fd2f4.html[accessed 30 April 2015]

[27] The Jamaica Gleaner, Till Death Do Us Part, 8 June 2014, http://jamaica-gleaner.com/gleaner/20140608/lead/lead1.html, date accessed 26 May 2015

protests and a renewed debate about prevention and punishment of the crime'.[28]

7.2. According to the US Department of State 2014 Country Report on Human Rights Practices 'the NGO Woman Inc. reported that women frequently complained that police failed to treat domestic violence as a crime and take the necessary reports. Studies reported domestic violence was widespread. The JCF [Jamaica Constabulary Force] conducted domestic-abuse sensitivity training for police officers in downtown Kingston…NGOs expressed concerns there was insufficient funding for police investigations of gender-based violence and for counselling and shelter for victims. Woman Inc., with a small subsidy from the government, operated the only shelter for battered women in the country'. [29]

7.3. The Jamaica Gleaner, a daily newspaper, reported that in March 2013, an attorney and women's rights activist indicated, while speaking at a Kingston luncheon organised for International Women's Day, that Jamaican women "fail to seek help" due to "fear, ignorance of the law and embarrassment" and that "many women only seek help when the circumstances are dire"[30]

7.4. The OECD Development Centre's Social Institutions and Gender Index noted that:

'Both the CEDAW Committee and Amnesty International [in 2012 and 2010 respectively] suggest that the length of time taken to investigate and prosecute cases remains an issue in Jamaica, deterring women from reporting crimes, and the CEDAW Committee concludes that "[t]here is insufficient awareness and training among judges, prosecutors, police officers and health professionals on violence against women." '[31]

7.5. According to Amnesty International Report 2014/15 for Jamaica, the Jamaican justice system suffers from:

'Overburdened courts led to continued delays in the justice system. In February, the National Security Minister stated there was a backlog of approximately 40,000 cases. In June, the Chief Justice said that the unavailability of forensic evidence, outstanding statements and ballistic

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[28] Freedom House, Freedom in the World 2014 – Jamaica, 1 August 2014, G. Personal Autonomy and Individual Rights https://freedomhouse.org/report/freedom-world/2014/jamaica#.VWRpkdJViko, Date accessed 6 March 2015

[29] U.S Department of State. Country Reports on Human Rights Practices for 2014: Jamaica, Section 6. Discrimination, Societal Abuses, and Trafficking in Persons, June2015, http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dlid=236700Date accessed 6 July 2015

[30] The Jamaica Gleaner, Women Urged To 'Take Advantage Of The Laws', 10 March 2013, http://jamaica-gleaner.com/gleaner/20130310/lead/lead7.html [accessed 30 April 2015]

[31] OECD Development Centre, Social Institutions and Gender Index (SIGI): Jamaica, Undated,. http://genderindex.org/country/jamaica [accessed 30 April 2015]

reports, as well as an absence of adequate court infrastructure, human and financial resources, were seriously hampering the justice system.'[32]

7.6. In their submission to the UN Human Rights Council in March 2015 for the universal periodic review, the Jamaica Forum for Lesbians, All-Sexuals and Gays (J-FLAG) stated:

'J-FLAG has developed, and continues to improve its relationship with the Jamaica Constabulary Force (JCF) and commends the Office of the Police Commissioner for proceeding with the recommendation to promote greater respect for LGBT persons ...J-FLAG, the LGBT community and allies have identified key police officers at a number of police stations who have made themselves available to respond to homophobic crimes and other incidents of violence such as domestic and intimate partner violence that affect persons who are LGBT... Notwithstanding, some LGBT persons continue to report that they experience antagonism from some police officers and at some police stations, which accounts for hesitation to report incidents of crime and violence against their person.' [33]

7.7. The UN Human Rights Council, in a February 2015 summary of evidence submitted by stakeholders to the universal periodic review, noted that:

'IACHR [Inter-American Commission on Human Rights – Organization of American States] recommended that Jamaica eradicates the discrimination and the prevailing socio-cultural patterns which promote the repetition of violence against women and ensures that public officials involved in prosecuting cases of violence and discrimination against women are properly educated about women's rights under domestic and international laws.'[34]

7.8. For further information regarding the Jamaica Constabulary Force (JCF), including effectiveness and government efforts to strengthen the force see information response produced by the Canadian Immigration and Refugee Board on 9 February 2015.[35]

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[32] Amnesty International, Amnesty International Report 2014/15: Jamaica, Justice system, 25 February 2015, https://www.amnesty.org/en/countries/americas/jamaica/report-jamaica/ Date accessed 30 April 2015

[33] Jamaica Forum for Lesbians, All-Sexuals and Gays (J-FLAG), Universal Periodic Review of Jamaica, Submission by J-FLAG for the Universal Periodic Review UN Human Rights Council Twenty Second Session (April/May 2015), Undated, para 14, http://www.upr-info.org/sites/default/files/document/jamaica/session_22_-_mai_2015/jflag_upr22_jam_e_main.pdf, date accessed 26 May 2015

[34] UN Human Rights Council, Summary prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15 (c) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21: Jamaica, 12 February 2015, A/HRC/WG.6/22/JAM/3, Para 31, http://www.refworld.org/docid/5539fd2f4.html [accessed 26 May 2015]

[35] Immigration and Refugee Board of Canada, Jamaica: The Jamaica Constabulary Force (JCF), including effectiveness and government efforts to strengthen the force (2011-2015), 9 February 2015, JAM105038.E, http://www.irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx?doc=455717&pls=1 [accessed 1 May 2015]

7.9. For information regarding the procedures for lodging complaints against the police see the information response produced by the Canadian Immigration and Refugee Board on 11 February 2015.[36]

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8. State and non-state support groups and shelters

State support groups

8.1. According to the US Department of State 2014 Country Report on Human Rights Practices 'A Victim Support Unit, located within the Ministry of National Security, operated in all 14 parishes. It provided counselling, emotional support and other services to victims of gender-based violence in volatile communities. NGOs expressed concerns there was insufficient funding for police investigations of gender-based violence and for counselling and shelter for victims. Woman Inc., with a small subsidy from the government, operated the only shelter for battered women in the country...'[37]

NGOs

8.2. The USSD report for 2014 observed that: 'Woman Inc., with a small subsidy from the government, operated the only shelter for battered women in the country...There was an active community of women's rights groups, which focused on the protection of victims of sexual abuse, participation of women in the political process, and legislative reforms affecting women.'[38]

8.3. Woman Inc. is a voluntary, non-profit, NGO, founded in 1984. It draws upon the creative energies of women from all walks of life that are dedicated to providing assistance to victims of rape, incest, domestic crisis, sexual harassment at the workplace and domestic violence. The organisation operates through various sub-committees: Facilities, Fundraising, Legal Reform, Public Relations and Public Education. There is an Executive Committee, which is elected each year at an Annual General Meeting. This committee establishes and monitors all policies governing organisational activities.[39]

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[36] Immigration and Refugee Board of Canada, Jamaica: Requirements and procedures to lodge a complaint against a police officer; requirements and procedures to obtain a police report; alternative mechanisms available for lodging a complaint against a police officer; effectiveness of complaint mechanisms (2013-January 2015), 11 February 2015, http://www.irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx?doc=455726&pls=1 [accessed 30 April 2015]

[37] U.S Department of State. Country Reports on Human Rights Practices for 2014: Jamaica, Section 6. Discrimination, Societal Abuses, and Trafficking in Persons, June 2015, http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dlid=236700 Date accessed 6 July 2015

[38] U.S Department of State. Country Reports on Human Rights Practices for 2014: Jamaica, Section 6. Discrimination, Societal Abuses, and Trafficking in Persons, June 2015 http://www.state.gov/documents/organization/220666.pdf Date accessed 6 July 2015

[39] The Caribbean NGO Database, Woman's Inc.- Kingston, Undated, http://www.ngocaribbean.org/index.php/womans-inc-kingston/ Date accessed 17 April 2015

8.4. The organisational services consist of the Crisis Centre; a Crisis Shelter; a 24-hour Hotline; a Public Education Programme aimed at Primary and Secondary Schools, community groups, church groups, and the general public; a Legal Reform Committee that lobbies for Legislative change and a Resource Room. In addition, the Organisation provides, through its Public Education Programme, sensitisation training for members of the Jamaica Constabulary Force.[40]

8.5. The Crisis Centre has been in existence since February 1985. It provides professional and specialised advice and outreach support to women, (and men), that have, or are experiencing matters concerning rape, incest, domestic violence and domestic crisis. The Centre seeks to assist women in working toward self-empowerment and to gain the necessary insights to handle their particular crisis. As women are empowered, they become more self-assured and this contributes to positive self-esteem and independence. The Crisis Centre in Kingston offers walk-in counselling services from 9:00 a.m. – 5:00 p.m. and telephone counselling 24 hours per day every day of the year. The Crisis Centre in Montego Bay (1991) is generally open 9:00 a.m – 5:00 p.m. Monday - Friday. Unfortunately the Montego Bay location does not have a 24-hour hotline or a shelter.[41]

8.6. The Crisis Shelter functions as an emergency temporary residence for women in crisis. The location is kept confidential to protect the safety of the women. The cases are usually abused women, incest, rape, or temporary homelessness due to domestic violence. In many cases small children and babies are involved. The victims are generally seen at the Crisis Centre, the cases assessed and then sent to the Shelter. When the incident occurs during the night, the Volunteer on the Hotline, with the agreement of the 'Back-up' Counsellor, may refer the victims to the Police who will escort the person to the Shelter, providing there is space. A housemother attends to the smooth running and supervision of the Shelter that was opened in 1987 and continues to be the only one of its kind in Jamaica.[42]

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[40] The Caribbean NGO Database, Woman's Inc.- Kingston, Undated, http://www.ngocaribbean.org/index.php/womans-inc-kingston/ Date accessed 26 May 2015
[41] The Caribbean NGO Database, Woman's Inc.- Kingston, Undated, http://www.ngocaribbean.org/index.php/womans-inc-kingston/ Date accessed 26 May 2015
[42] The Caribbean NGO Database, Woman's Inc.- Kingston, Undated, http://www.ngocaribbean.org/index.php/womans-inc-kingston/ Date accessed 26 May 2015

Version Control and Contacts

Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors then email the Country Policy and Information Team.

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email the Guidance, Rules and Forms Team.

Clearance

Below is information on when this version of the guidance was cleared:

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First version in updated template

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