



Refugee Documentation Centre (Ireland)
LEGAL AID BOARD

Jamaica: Researched and compiled by the Refugee Documentation Centre of Ireland on 19 February 2010

Treatment of Homosexuals in Jamaica.

The *United States Department of State* reports under section "Other Societal Abuses and Discrimination":

"The Jamaica Forum for Lesbians, All Sexuals, and Gays (J-FLAG) continued to report human rights abuses, including arbitrary detention, mob attacks, stabbings, harassment of homosexual patients by hospital and prison staff, and targeted shootings of homosexuals. Police often did not investigate such incidents.

J-FLAG members also suffered attacks on their property, home intrusions as people demanded to know the number of persons and beds in a home, and in one instance, a fire bombing at the home of two men that left one of them with burns on more than 60 percent of his body. In addition homosexuals faced death and arson threats, with some of these directed at the J-FLAG offices. J-FLAG did not publicize its location due to such threats, and its officials reported feeling unsafe having meetings with clients at the organization's office.

In February a mob broke into the home of four presumed homosexual men, killing three of them. The fourth was missing and presumed dead. The men had reported being harassed for their perceived sexual orientation prior to the fatal attack. Police made some inquiries in the case but did not conduct a full investigation or make any arrests by year's end.

The trial of six suspects arrested for the 2005 robbery and murder of Lenford "Steve" Harvey, initially begun and then postponed in 2007, was scheduled to recommence in January 2009.

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

Homosexual men were hesitant to report incidents against them because of fear for their physical well-being. Lesbian women were subject to sexual assault as well as other physical attacks. Human rights NGOs and government entities agreed that brutality against homosexuals, primarily by private citizens, was widespread in the community." (United States (25 February 2009) *2008 Country Reports on Human Rights Practices – Jamaica*)

Amnesty International reports under section "Discrimination – lesbian, gay, bisexual and transgender people":

"There were continuing reports of mob violence against people, mostly men, perceived to be involved in same-sex relationships. The true extent of attacks on gay men was unknown as the subject is taboo and people do not report attacks for fear of exposure.

In August, a Molotov cocktail (petrol bomb) was thrown into a house in Clarendon, south central Jamaica, occupied by two men who were alleged to be gay. As the emergency services arrived, a small jeering crowd assembled outside the house. One of the men received burns covering 60 per cent of his body and was hospitalized for three weeks." (Amnesty International (28 May 2009) *Amnesty International Report 2009 – Jamaica*)

Freedom House states:

"Amnesty International has identified homosexuals as a marginalized group that is targeted for extreme harassment and violence. Same-sex intercourse is punishable by 10 years' imprisonment at hard labor. In recent years, several Jamaicans have been granted asylum in Britain on the grounds that they were in danger because of their homosexuality. The antigay lyrics of Jamaican entertainers, particularly reggae singers, remain a source of contention. In 2004, Brian Williamson, a spokesperson for the advocacy group Jamaica Forum for Lesbians, All-Sexuals, and Gays (J-FLAG), was brutally murdered in his New Kingston apartment. The perpetrator was sentenced to life in prison in 2006. Separately, Steve Harvey, a well-known activist on behalf of HIV/AIDS-related causes, was killed in 2005, and four people were later charged in the killing. In 2008, prominent J-FLAG member Gareth Henry fled to Canada and filed for refugee status following an escalating series of threats against his life. The government remains resistant to decriminalizing homosexuality." (Freedom House (16 July 2009) *Freedom in the World 2009 – Jamaica*)

The *Immigration and Refugee Board of Canada* states:

"Some Jamaican star performing artists advocate the "shooting, burning, rape, stoning and drowning of gay people" in their song lyrics (AI June 2004; The Gully 10 Mar. 2005). Human Rights Watch (HRW) indicates that religious institutions in Jamaica are intolerant of homosexuality, as are politicians who use "antigay slogans and rhetoric" (Nov. 2004, 12, 13). The Gully, an online gay magazine (10 May 2006), explains:

[T]he homophobia which suffuses the music, religion, society and government has combined into a peculiar nationalism [...] For people that believe this, gay-bashing has become a kind of patriotism, an act in defence of the nation, and an integral part of the Jamaican identity (ibid. 10 Mar. 2005)." (Immigration and Refugee Board of Canada (22 February 2007) *Jamaica: Treatment of homosexuals by society and government authorities; availability of support services (2004 - 2006) JAM101933.E*)

International Lesbian, Gay, Bisexual, Trans and Intersex Association states under section Law – Male to Male relationship:

“Are male to male sexual relationships legal?
Not Legal” (International Lesbian, Gay, Bisexual, Trans and Intersex Association
(No date) *Law*)

Also in the same report under section Female to Female Relationships:

“Are female to female sexual relations legal?
Legal” (Ibid)

The *United Kingdom Home Office* states:

“The Jamaica Forum for Lesbians, All-Sexual and Gays (J-Flag) website, accessed 12 October 2009, noted that: “The Offences Against Persons Act prohibits ‘acts of gross indecency’ between men, in public or in private. (This is a very general term which can be interpreted to mean any kind of physical intimacy).” The Act goes on to state:

Article 76 (Unnatural Crime); ‘Whosoever shall be convicted of the abominable crime of buggery [anal intercourse] committed either with mankind or with any animal, shall be liable to be imprisoned and kept to hard labour for a term not exceeding ten years.’

Article 77 (Attempt); ‘Whosoever shall attempt to commit the said abominable crime, or shall be guilty of any assault with intent to commit the same, or of any indecent assault upon any male person, shall be guilty of a misdemeanour, and being convicted thereof shall be liable to be imprisoned for a term not exceeding seven years, with or without hard labour.’

Article 78 (Proof of Carnal Knowledge); ‘Whenever upon the trial of any offence punishable under this Act, it may be necessary to prove carnal knowledge, it shall not be necessary to prove the actual emission of seed in order to constitute a carnal knowledge, but the carnal knowledge shall be deemed complete upon proof of penetration only.’

Article 79 (Outrages on Decency); ‘Any male person who, in public or private, commits, or is a party to the commission of, or procures or attempts to procure the commission by any male person of, any act of gross indecency with another male person, shall be guilty of a misdemeanour, and being convicted thereof shall be liable at the discretion of the court to be imprisoned for a term not exceeding 2 years, with or without hard labour.’” (United Kingdom Home Office (24 December 2009) *Country of Origin Information Report – Jamaica*)

TIME reports:

“In the past two years, two of the island's most prominent gay activists, Brian Williamson and Steve Harvey, have been murdered — and a crowd even celebrated over Williamson's mutilated body. Perhaps most disturbing, many

anti-gay assaults have been acts of mob violence. In 2004, a teen was almost killed when his father learned his son was gay and invited a group to lynch the boy at his school. Months later, witnesses say, police egged on another mob that stabbed and stoned a gay man to death in Montego Bay. And this year a Kingston man, Nokia Cowan, drowned after a crowd shouting "batty boy" (a Jamaican epithet for homosexual) chased him off a pier. "Jamaica is the worst any of us has ever seen," says Rebecca Schleifer of the U.S.-based Human Rights Watch and author of a scathing report on the island's anti-gay hostility.

Jamaica may be the worst offender, but much of the rest of the Caribbean also has a long history of intense homophobia. Islands like Barbados still criminalize homosexuality, and some seem to be following Jamaica's more violent example. Last week two CBS News producers, both Americans, were beaten with tire irons by a gay-bashing mob while vacationing on St. Martin. One of the victims, Ryan Smith, was airbused to a Miami hospital, where he remains in intensive care with a fractured skull." (TIME (12 April 2006) *The Most Homophobic Place on Earth?*)

The New York Times reports:

"Being gay in Jamaica is not easy. For years, human rights groups have denounced the harassment, beating and even killing of gays here, to little avail. No official statistic has been compiled on the number of attacks. But a recent string of especially violent, high-profile assaults has brought fresh condemnation to an island otherwise known as an easygoing tourist haven.

"One time may be an isolated incident," said Rebecca Schleifer, a researcher for Human Rights Watch who has studied the issue and regularly gets calls from the island from gays under attack. "When they happen on a repeated basis across the country, it is an urgent problem that deserves attention at the highest levels."

Disapproval of gays is an entrenched part of island life, rooted, Jamaicans say, in the country's Christian tradition. The Bible condemns homosexuality, they say. But critics say islanders are selective in the verses they cite, and the rage at gay sex contrasts sharply with Jamaicans' embrace of casual sex among heterosexuals, which is considered part of the Caribbean way." (The New York Times (24 February 2008) *Attacks Show Easygoing Jamaica Is Dire Place for Gays*)

Also in the same article:

"A couple of weeks back, a local tabloid, The Jamaica Star, ran a screaming headline when a local police officer, disturbed by the attack on the dinner party guests, decided to disclose his sexual orientation to the paper. He said he had been harassed regularly by his colleagues because he is gay. He said the police did not take violence against gays seriously.

"Jamaica's motto is 'Out of Many, One People,' and I say, 'What about us?' " said the police officer, Michael Hayden.

Mr. Hayden, who has since taken leave from the force, is in hiding out of fear that his colleagues might kill him.

Not even funerals are safe for gays. A year ago, just down the road from the disrupted dinner party, a gay businessman's funeral was interrupted by a mob that gathered outside the church. The mob, outraged that effeminate mourners wearing tight pants and shirts had dared to show up, threw bottles and rocks through the church's windows, then barged inside and ordered that the service be stopped.

The pastor, who had not known the dead man was gay, pressed on, furious at the protesters for what he considered a defiling of his church. "The same religion they use to justify these attacks, I use to show what they do is wrong," said the pastor, the Rev. Amos Campbell, of True Vine True Holiness Church.

No one was prosecuted in the episode." (Ibid)

The *Los Angeles Times* reports:

"Even now, about three years after a near-fatal gay bashing, Sherman gets jittery at dusk. On bad days, his blood quickens, his eyes dart, and he seeks refuge indoors.

A group of men kicked him and slashed him with knives for being a "batty boy" -- slang for gay man -- after he left a party before dawn in October 2006. They sliced his throat, torso and back, hissed anti-gay epithets, and left him for dead on a Kingston corner." (Los Angeles Times (26 July 2009) *For gays, a tropical paradise is also hell - Homophobia is intense on the Caribbean island of Jamaica, where*)

The same article also states:

"Despite the easygoing image propagated by tourist boards, gays and their advocates say Jamaica is by far the most hostile island toward homosexuals in the already conservative Caribbean. They say gays, typically those in poor communities, suffer frequent abuse. But they have little recourse because of rampant anti-gay stigma and a sodomy law banning sex between men in Jamaica and 10 other former British colonies in the region.

It is impossible to say just how common attacks like the one against Sherman are in Jamaica -- the tormentors are sometimes the police themselves. But many homosexuals in Jamaica say homophobia is pervasive across the sun-soaked island, from the pulpit to the floor of Parliament." (Ibid)

Human Rights Watch states under section IV Background:

"Violence against men who have sex with men, ranging from verbal harassment to beatings, armed attacks, and murder, is pervasive in Jamaica. Physical attacks against gay men and men perceived to engage in homosexual conduct are often accompanied by expressions of intent to kill the victim, such as

"Battyman fi dead" [gay men must die]. They are reluctant to appeal to the police for protection, as police routinely deny them assistance, fail to investigate complaints of homophobic violence, and arrest or detain men whom they suspect of being gay. In some cases, the police attack them and promote homophobic violence by others. Women who have sex with women are also targets of community violence and police harassment; and, as with men who have sex with men, their complaints of violence are often ignored by police." (Human Rights Watch (15 November 2004) *Hated to Death*)

The same report also states:

"Providing HIV education and prevention services to men who have sex with men is extremely difficult because they are forced to remain invisible due to prejudice and abuse. According to studies conducted by Jamaican and Caribbean regional health bodies, many Jamaican men who have sex with men lead dual lives and marry, have girlfriends, and have children while also engaging in same sex relationships. Fear of being identified as homosexual may keep many people from seeking HIV testing and also from disclosing homosexual conduct as a possible risk factor if they test positive for HIV. The invisibility of men who engage in homosexual conduct makes effective communication difficult, even among the men themselves. And the lack of information about their lives, practices, and community to guide public health interventions compromises an effective response to the epidemic." (Ibid)

Also in the same report:

"Although the risk of female-to-female HIV transmission is generally estimated to be small, [31] many women who have sex with women also have sex with men. Many Jamaican lesbians face strong pressure to establish relationships with men and to have children because doing so is a critical part of establishing their identity as adult women." (Ibid)

In the same report, under section "VI Government response":

"Jamaica acknowledges in its official policy documents the role that homophobia plays in driving the country's HIV/AIDS epidemic, and lists as a key priority the development of legislation and policy to protect the human rights of people living with and affected by HIV/AIDS.[183] Despite these stated commitments, there exist few policy or legal protections for people living with HIV/AIDS or people whose marginalized status puts them at high risk of infection. The vast majority of people living with HIV/AIDS remain without access to lifesaving antiretroviral medicines. While some ministries (such as the Ministry of Education) have drafted national AIDS policies, the lack of institutional commitment and intersectoral coordination among them hampers the government's response to the epidemic. And the lack of high-level political commitment to addressing homophobic violence further weakens efforts to fight HIV/AIDS." (Ibid)

References

Amnesty International (28 May 2009) *Amnesty International Report 2009 – Jamaica*

<http://thereport.amnesty.org/en/regions/americas/jamaica>

(Accessed 17 February 2010)

Freedom House (16 July 2009) *Freedom in the World 2009 – Jamaica*

<http://www.freedomhouse.org/template.cfm?page=22&year=2009&country=7632>

(Accessed 17 February 2010)

Human Rights Watch (15 November 2004) *Hated to Death*

<http://www.hrw.org/en/reports/2004/11/15/hated-death?print>

(Accessed 17 February 2010)

Immigration and Refugee Board of Canada (22 February 2007) *Jamaica: Treatment of homosexuals by society and government authorities; availability of support services (2004 - 2006) JAM101933.E*

http://www2.irb-cisr.gc.ca/eng/rir/index_e.cfm?action=record.viewrec&gotorec=450935

(Accessed 17 February 2010)

International Lesbian, Gay, Bisexual, Trans and Intersex Association (No date) *Law*

<http://ilga.org/ilga/en/countries/JAMAICA/Law>

(Accessed 17 February 2010)

Los Angeles Times (26 July 2009) *For gays, a tropical paradise is also hell - Homophobia is intense on the Caribbean island of Jamaica, where*

<http://articles.latimes.com/2009/jul/26/news/adfg-jamaica-gay-bash26>

(Accessed 18 February 2010)

The New York Times (24 February 2008) *Attacks Show Easygoing Jamaica Is Dire Place for Gays*

<http://www.nytimes.com/2008/02/24/world/americas/24jamaica.html?pagewanted=1&r=1>

(Accessed 17 February 2010)

TIME (12 April 2006) *The Most Homophobic Place on Earth?*

<http://www.time.com/time/world/article/0,8599,1182991,00.html>

(Accessed 17 February 2010)

United Kingdom Home Office (24 December 2009) *Country of Origin Information Report – Jamaica*

<http://www.homeoffice.gov.uk/rds/pdfs09/jamaica-231209.doc>

(Accessed 17 February 2010)

United States (25 February 2009) *2008 Country Reports on Human Rights Practices – Jamaica*

<http://www.state.gov/g/drl/rls/hrrpt/2008/wha/119165.htm>

(Accessed 17 February 2010)

This response was prepared after researching publicly accessible information currently available to the Refugee Documentation Centre within time constraints. This response is not and does not purport to be, conclusive as to the merit of any particular claim to refugee status or asylum. Please read in full all documents referred to.

Sources Consulted:

Amnesty International

European Country of Origin Information Network

Freedom House

Google

Human Rights Watch

Immigration and Refugee Board of Canada

International Lesbian, Gay, Bisexual, Trans and Intersex Association

Lexis Nexis

Los Angeles Times

Refugee Documentation Centre Library

Refugee Documentation Centre Query Database

The New York Times

TIME

UNHCR Refworld

United Kingdom Home Office

United States Department of State

Yahoo