

## **Expert Report – Deportees in Jamaica**

This report is intended to supplement available country information. In sharing findings regarding the realities for deported persons on the ground in Jamaica, I hope this report can assist the courts in reaching the best decisions based on the available facts. I have written several expert reports for the courts, and here I bring these together in a more general report, which I hope can be publically accessed to assist lawyers and the courts. I am happy to sign excerpts from this report for lawyers, and to provide oral evidence at the tribunal where necessary.

### **My qualifications**

I recently completed my DPhil in Anthropology at the University of Oxford (passed viva in August 2018). My doctoral research focused on deportation from the UK to Jamaica.

I most recently returned from Jamaica in April 2019, having spent 4 weeks on the island. I spent 5 weeks in Jamaica in 2017, 2 months in Jamaica in 2016 and 4 months in 2015/16. During my time in Jamaica, I have met over 100 deported persons who had been returned by the British government. Their circumstances and biographies vary, as one might expect, but I got to know many of them well, and observed the kinds of issues they face upon return. I worked with an NGO – the National Organisation of Deported Migrants (NODM) – and I also met with their sister organisation, a homeless shelter in Kingston where a number of deported persons live. The British High Commission in Jamaica (BHC) funds both NODM and the homeless shelter. I also spoke with individuals working at a governmental level on issues surrounding deportation and resettlement, both in the Jamaican administration and in the British High Commission.

My research is ethnographic, and I engaged with deportees in everyday contexts over the course of three years. I observed obstacles to their reintegration in Jamaica, and in this way, my research findings offer more detailed insights into conditions on return than other studies. I investigated how people adjusted to Jamaica, and the problems they faced in securing housing, employment and integrating back into family and cultural settings. I spoke with a range of deported people with very different experiences of reintegration, and travelled all over the island.

I have also read widely on issues of crime, policing, insecurity, and violence in Jamaica – both the academic literature, human rights reports, and extensively in the Jamaican media. I have a specific interest in homophobic violence. I attended a conference organised by J-FLAG<sup>1</sup> – the main gay rights organisation in Jamaica – and met with their staff with regards to how these issues are relevant for deported persons.

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<sup>1</sup> See <http://jflag.org/>

My on the ground experiences and observations are fresh, and in this report I seek to avoid all hyperbole and conjecture. I base the description and analysis below both on concrete research findings, and on a thorough review of reports, academic literature, and media stories.

## **1 – Family support**

### **Length of time in the UK – lack of family support in Jamaica**

- 1) In my research, I have met over 100 deported persons. Most return and live with family members. Sometimes, deported persons have familiar loved ones to return to, and work to rebuild their lives with these support network as their foundation. In my experience, this latter group tend to be people who emigrated from Jamaica as adults and have only been away from the island for a few years.
- 2) In other cases, family members are estranged, and this can create tensions, in some cases leading to homelessness – it was estimated in 2010 that 10% of homeless persons in Jamaica are deportees<sup>2</sup>. In my experience, many deportees move in with family members who they do not remember or have never met, such as uncles, aunties or cousins.
- 3) The stigma attached to deportees is pervasive in Jamaica<sup>3</sup>. In the context of socio-economic pressure, hospitality of family members is often thin and short-lived. I know of several deportees who lived with family members for a few weeks or months, only to become homeless later when things did not work out. Most family members of deported persons are not wealthy, and struggle in conditions of poverty.
- 4) Given unemployment and poverty levels in Jamaica<sup>4</sup>, many deportees find themselves adding to the strain of these households. I found that most deportees returned to uneasy family relations, even when they expected to be well received and even when excited to return. While this manifests itself in different ways for different individuals, it is worth noting that family is no guarantee of security and is often a site of conflict<sup>5</sup>. In my experience even close relationships can turn sour in the context of deportation, joblessness and poverty.
- 5) Those who are most estranged from family in Jamaica, and have the thinnest

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<sup>2</sup> See <http://www.jamaicaobserver.com/news/1500-Jamaicans-homeless-and-counting>

<sup>3</sup> See <http://www.migrationpolicy.org/article/rebuilding-self-and-country-deportee-reintegration-jamaica>

<sup>4</sup> See the World Bank, who note overall unemployment rate at 13.7% and nearly 30% for young adults: <http://www.worldbank.org/en/country/jamaica/overview>

<sup>5</sup> See Tanya Golash-Boza “Forced Transnationalism: Transnational Coping Strategies and Gendered Stigma among Jamaican Deportees” (*Global Networks*, 2014, 14: 63-79).

forms of support (sometimes none at all), tend to be those who left Jamaica as children and did not maintain contact with the country of their birth. Some have no family members to return to and end up homeless (see section on housing/homelessness).

- 6) Without family support, deported persons who have often forgotten how things operate both practically and culturally in Jamaica, tend to face myriad difficulties on return.

### **Family in the UK – ‘modern means of communication’**

- 7) The Home Office regularly suggest that deported persons can maintain family contacts through ‘modern forms of communication’. Again, this is not borne out by my experience working with deported persons. It is, in fact, very difficult for people to sustain relationships. It is often argued that family members can maintain contact over the phone or Skype.
- 8) However, there is very little provision for Wi-Fi in Jamaica. It is expensive and often unreliable. I know from my own experience that accessing Wi-Fi outside of the university campus was difficult, and I was unable to make video calls to my family, or to be sure that my calls would not be cut out, or of low quality (with delays, feedback, and poor sound quality). Many deported persons prefer to use the application ‘WhatsApp’ to communicate, but this is only a messaging and file-sharing service, and data packages are costly. It is easy enough to use mobile data provisions to use WhatsApp, but harder to engage in video calls. As such, video calls are not always an option.
- 9) Many of the participants of my research spoke painfully of relationship breakdown with partners and children. It was common to hear that people could not bear the costs of communicating daily, and that the time difference became a real obstacle.
- 10) Moreover, the Home Office often suggest that family members can visit Jamaica should they wish to. However, it is important to acknowledge the obvious issue of cost. Many deported persons I knew desperately wanted their family to visit, but flight tickets, at around £600-800 return, were out of reach for most. While the Home Office might view the issue of cost as something outside of their control, it is important to recognise that the ability to visit Jamaica, for most families affected by deportation, is an empty right, because it is simply too expensive. This has been made more difficult by the Covid-19 pandemic.

## **2 – Crime/violence/extortion**

11) I have read widely on crime in Jamaica, and spoken with many people affected by it. While I was in Jamaica there was a significant spike in the murder rate, with over 1,350 murders in 2016.<sup>6</sup> In 2015 there was roughly a 20% increase in the murder rate on 2014<sup>7</sup>, and in 2016 there was an 11% increase again.<sup>8</sup> In 2017, the number rose further to over 1,525 murders. In 2017 the murder rate was 55.8 per 100,000, and over 300 per 100,000 in some areas. By comparison, the murder rate in England and Wales is 1.22.<sup>9</sup>

12) Most homicides today are attributed to inter and intra-gang warfare, feuds and vendettas, and revenge killings.<sup>10</sup> An analysis of all homicide cases between 1998 and 2002 found that the majority of homicide victims were male (89%) between 15 and 44 years of age (80%) and that the two main motives of homicide were disputes (29%) and reprisals (30%).<sup>11</sup>

13) Renowned Jamaican criminologist, Anthony Harriott, argues that retaliatory violence in Jamaica tends to escalate rapidly due to the lack of a “developed cultures of violence, where more sophisticated rules govern the process of retaliation”. Such rules determine who is a legitimate victim, often prohibiting retaliation against women, children and the elderly, and stipulate the rule for ending the cycle of vengeance.<sup>12</sup>

14) According to Jamaican sociologist and community worker, Horace Levy:

Violence between families, or feuds, which are long lasting, persisting over years or even decades, are more difficult to control, much less bring to an end. Family feuds are extremely dangerous to communities. They tend to be intractable because, based on reprisal demands strengthened by blood ties and religious beliefs – eye for eye - they will erupt into violence even after calm has been restored

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<sup>6</sup> <http://jamaica-gleaner.com/article/lead-stories/20170108/no-shot-nah-bus-murder-free-2016-august-town>

<sup>7</sup> [http://www.jamaicaobserver.com/news/Jamaica-homicides-jump-20-per-cent--highest-level-in-5-years\\_48331](http://www.jamaicaobserver.com/news/Jamaica-homicides-jump-20-per-cent--highest-level-in-5-years_48331)

<sup>8</sup> <http://jamaica-gleaner.com/article/lead-stories/20170108/no-shot-nah-bus-murder-free-2016-august-town>

<sup>9</sup> United Nations Office on Drugs and Crime. <https://dataunodc.un.org/crime/intentional-homicide-victims>

<sup>10</sup> Ward, Elizabeth, Kaodi McGaw, Damian Hutchinson, and Erica Calogero. “Assessing the Cost-Effectiveness of the Peace Management Initiative as an Intervention to Reduce the Homicide Rate in a Community in Kingston, Jamaica.” *International Journal of Public Health* 63, no. 8 (November 2018): 987–92.

<sup>11</sup> Lemard, G., and D. Hemenway. “Violence in Jamaica: An Analysis of Homicides 1998–2002.” *Injury Prevention* 12, no. 1 (February 1, 2006): 15–18.

<sup>12</sup> Harriott, Anthony. *Understanding Crime in Jamaica: New Challenges for Public Policy*. Kingston: Univ. of the West Indies Press, 2003. Pp. 99-101

at community level for years. This is often because the feuds are fed by distant family members supplying money and weapons or supporting claims to family land.”<sup>13</sup>

15) Government intelligence suggests that there are around 200 active gangs operating throughout the island.<sup>14</sup> Gangs can be divided into (1) Organized criminal gangs, involved in transnational drugs and guns trade, money laundering, and novel types of financial crime; (2) Community gangs and “defense crews”, which control local “turf”, often engage in extortion, and function as an alternative law and order mechanisms in the absence of adequate law enforcement mechanisms, and; (3) Corner crews (or “street gangs”), which are local youth fraternities mainly set up to facilitate mutual aid and carry out petty crimes.<sup>15</sup>

16) Increasingly, the Jamaican police force and the army have been implementing curfews and states of emergency in different parts of Kingston, Montego Bay and Spanish Town to attempt to quell murderous gang violence.<sup>16</sup>

“Jamaica has one of the highest violent crime rates in the world, and police response is often seen to be lacking. Indeed, a majority of Jamaicans believe that the justice system is corrupt and that “powerful criminals go free”; only 9 percent of Jamaicans believe police “treat people equally”; and only 12 percent believe they show “courtesy to ordinary civilians.””<sup>17</sup>

17) According to the Government of Jamaica, firearms were used to commit 73% of all murders.<sup>18</sup> Only around 40% of these murders are cleared up by the police.<sup>19</sup> Police are unable to control or resolve most violent crimes, and this explains the huge business in private security services among wealthy Jamaicans.<sup>20</sup>

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<sup>13</sup> Levy 2012, Youth Violence and Organized Crime in Jamaica (see above, 6) p. 31

<sup>14</sup> UK Home Office. “Country Policy and Information Note Jamaica: Fear of Organised Criminal Groups.” London, August 2019, p. 17

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/824431/Jamaica-Org-Crim-Groups-CPIN-v3.0-August\\_2019.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/824431/Jamaica-Org-Crim-Groups-CPIN-v3.0-August_2019.pdf).

<sup>15</sup> Levy, Horace. Inner City Killing Streets: Reviving Community. Kingston: Arawak Monographs, 2009. Levy, Horace. “Youth Violence and Organized Crime in Jamaica: Causes and Counter-Measures—an Examination of Linkages and Disconnections, Final Technical Report.” Kingston: The University of the West Indies—Institute of Criminal Justice and Security, 2012.

<sup>16</sup> See e.g. <https://www.independent.co.uk/travel/news-and-advice/jamaica-state-of-emergency-travel-safety-advice-uk-foreign-office-a8263396.html> and <http://jamaica-star.com/article/news/20180924/lockdown-denham-town-residents-sceptical-about-state-emergency>

<sup>17</sup> Human Rights Watch, Not Safe at Home – Violence and Discrimination against LGBT people in Jamaica, October 2014 [http://www.hrw.org/sites/default/files/reports/jamaica1014\\_ForUpload\\_1.pdf](http://www.hrw.org/sites/default/files/reports/jamaica1014_ForUpload_1.pdf)

<sup>18</sup> See <http://intranet.cda.gov.jm/wp-content/uploads/2014/06/ESSJ-2013-FINAL-PDF.pdf> (page 303, 24.5)

<sup>19</sup> See <http://intranet.cda.gov.jm/wp-content/uploads/2014/06/ESSJ-2013-FINAL-PDF.pdf> and <https://www.osac.gov/pages/ContentReportDetails.aspx?cid=17248>

<sup>20</sup> See here: <https://www.osac.gov/pages/ContentReportDetails.aspx?cid=17248>

18) In urban Jamaica, homicide rates and gang violence have reached such levels that several state of emergencies, curfews, and deployments of military personnel have been enacted in recent months, especially in Montego Bay, Spanish Town and the Kingston Metropolitan Area.<sup>21</sup>

19) While many homicides are defined as gang-related, a significant percentage (32.4%) of homicides are based on personal vendettas and arguments that have 'got out of hand'<sup>22</sup>. In some cases, these murderous acts are wrought upon whole families, often many years after the event.<sup>23</sup> Many of these murders are based on political and gang feuds.<sup>24</sup>

### **The marked vulnerability of 'deportees'**

20) In my experience, deported persons are especially vulnerable to crime in Jamaica, and regularly become targets for robberies and different forms of extortion. This was a finding that came up time and time again in my research. I heard numerous examples of newly deported persons being mugged, sometimes in broad daylight, because they were instantly recognisable as 'foreigners'. This has only intensified in the context of much greater media coverage of deportation charter flights.<sup>25</sup>

21) This is especially likely to cause stigma and resentment given that recent charter flights have been constructed as 'convict flights' transporting 'serious criminals'.<sup>26</sup> For example, in relation to the February 2020 flight, the Jamaican High Commissioner, Seth Ramocan told the Guardian: "*We have been told they have committed extremely dangerous criminal activity, and not only that but repeat crimes.*"<sup>27</sup> This claim that those booked on the flight have 'committed extremely dangerous criminal activity' echoes similar claims made in 2019.<sup>28</sup>

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<sup>21</sup> Most recently: <http://www.independent.co.uk/travel/news-and-advice/jamaica-state-of-emergency-montego-bay-extended-may-uk-tourists-st-james-a8195696.html>

<sup>22</sup> Refer to the Economic and Social Survey for a comprehensive break down of statistics on violent crime and homicides (see <http://intranet.cda.gov.jm/wp-content/uploads/2014/06/ESSJ-2013-FINAL-PDF.pdf>)

<sup>23</sup> <http://jamaica-gleaner.com/article/lead-stories/20151010/six-murdered-gruesome-hanover-slaughter>

<sup>24</sup> See e.g. <http://jamaica-gleaner.com/article/news/20160515/relatives-hunted-families-pay-their-lives-gangsters-target-their-enemies-folks>; <http://jamaica-gleaner.com/article/news/20170829/clarendon-violence-continues-four-persons-shot-one-fatally>; and the work of Thomas, Deborah (2011) *Exceptional Violence: Embodied Citizenship in transnational Jamaica*, Duke University Press.

<sup>25</sup> See e.g. <https://www.theguardian.com/uk-news/2020/dec/02/home-office-proceeds-with-disputed-jamaica-deportation-flight>

<sup>26</sup> See this article: <http://jamaica-gleaner.com/article/lead-stories/20190122/convict-flight-britain-deport-dozens-jcans-chartered-plane>

<sup>27</sup> <https://www.theguardian.com/uk-news/2020/feb/05/home-office-told-to-act-as-detainees-unable-to-contact-lawyers>

<sup>28</sup> See Home Office blog here: <https://homeofficemedia.blog.gov.uk/2019/02/06/todays-returns-flight-to-jamaica/>

22) In relation to recent deportation charter flights from the UK to Jamaica (in 2016, 2017, 2019, and 2020), there has consistently been extensive coverage in the Jamaican media. In the two main newspapers, on radio, and on television news, the arrival of charter flights is a newsworthy story, one that has become increasingly controversial in light of the ‘Windrush Scandal’. As in previous years, anyone deported by charter flight is likely to be greeted by photographers, news film crews, and columnists looking for interviewees and soundbites.<sup>29</sup> This reception makes it much more difficult for people to return discreetly, which is especially worrying for those concerned about their safety.

23) The Guardian newspaper reported in May 2019 that five men had been killed after being deported in the previous year:

‘The killings took place after the men were sent back to Jamaica – which has one of the highest per capita murder rates in the world – despite strict rules prohibiting deportations to countries in which an individual’s life may be in danger. The government does not routinely monitor what happens to people who have been deported. But through interviews and archive research, the Guardian has verified the deaths of the five men and been told by other returnees that they fear for their lives’<sup>30</sup>

24) The Guardian newspaper covered the risks faced by people deported on last year’s flight. They reported that:

According to five of those on the plane who were interviewed by the Guardian, many are now living in fear. And after the killings of five people deported from the UK to Jamaica since March last year, they say some are in hiding because they are worried they could be next.

It has been rumoured that one man who was on the flight has been killed. Another person told the Guardian he was shot at several times but survived. He said he was ambushed in a shop days after arriving back in Jamaica by a group of armed men he knew from when he previously lived there.

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<sup>29</sup> For examples of articles featuring pictures and interviewees with deported people as soon as they live the compound where they are re-registered, see these articles. In 2016, see here: <http://jamaica-gleaner.com/article/lead-stories/20160907/plane-full-deportees-expected-london-today-demonstrators-protest>. In 2017, see here: <http://jamaica-gleaner.com/article/lead-stories/20170308/more-deportees-jamaica-braces-their-arrival-uk-today> and here: <http://jamaica-gleaner.com/article/lead-stories/20170309/most-us-never-went-steal-or-traffic-drugs-32-deportees-arrive-charter>. In 2019, see here: <http://jamaica-gleaner.com/article/lead-stories/20190205/uk-allowed-dictate-terms-deportees-return-says-immigration-attorney>.

<sup>30</sup> See here: <https://www.theguardian.com/uk-news/2019/may/09/revealed-five-men-killed-since-being-deported-uk-jamaica-home-office>



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The men say intense publicity about the charter flight and the fact that their faces appeared in Jamaican media after the flight arrived in Kingston has further increased the risks. Many have lived a large part of their lives in the UK and some have strong British accents, which they say further identifies them.

One man who was on the February charter flight and is living in hiding said: "I'm too scared to leave the house. I left Jamaica when I was 14 and lived in the UK for 25 years before I was deported. This has always been a violent country, but things have got much worse. Nowadays it affects everyone. Things are so bad here that even the police are scared."

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A young man who was on the February charter flight and has lived most of his life in the UK said he rarely ventured further than the balcony of where he is staying for fear of being shot. He said he had deleted all social media from his phone as he feared it could make him a target for gangs. "My life is not safe here. My entire family is in the UK. It's a breach of my human rights to deport me here," he said.

Another deportee, who says he was pressured into returning voluntarily to Jamaica weeks before the charter flight, after being given a non-custodial sentence for personal possession of drugs, knew some of the deportees who have been murdered in the past few months and fears he might be next.

25) The Guardian newspaper also reported that a number of people on the February 2020 charter flight have gone into hiding in Jamaica for fear of their lives. Several deported people feared being targeted by gangs, and "said they were staying in secret locations and were afraid to go outside".<sup>31</sup> While each individual case is unique and the risks specific, this more general experience of fear, social stigma and isolation reflects the facts that some deported people are targeted when they return. Deported people are targeted even when they are evidently "low-profile". The people who have been killed in recent years, the many others who have been violently attacked, and the others who are in hiding are not wanted as "high-profile" gang-members, but rather become subjected to violence for reprisals, extortion, exploitation, or robbery, based on their known associates, family links, and status as deported persons. In my own research, I met many people who were attacked, who were seeking to hide and

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<sup>31</sup> <https://www.theguardian.com/uk-news/2020/feb/14/jamaicans-deported-by-home-office-go-into-hiding-fearing-for-lives>



keep a low profile. I also met two people who were subsequently murdered and I heard about several others being killed within a few years of return. Most of these did not elicit news stories, in Jamaica or internationally.

- 26) Also relevant here, in January 2021 a series of brutal murders of homeless people shook the island. In late January, four homeless individuals were killed on the streets, sometimes while they slept, in the centre of Kingston. The four individuals were murdered with a machete. Two others were wounded. It was unclear whether the attacks were all committed by one person, and why so many homeless people were targeted.<sup>32</sup> I have not been able to find any information on whether the perpetrator(s) have been charged/convicted.
- 27) I spent time with one of my primary research participants down by the courthouse where some of these murders happened, and I met several homeless individuals who would hang out and sleep in that area of the city. Several of the people I met were deported migrants, from the UK and North America. Therefore, some of the victims of these attacks are likely to have been deported migrants – given the preponderance of deported migrants among the street homeless in this area of Kingston – and these murders, while extraordinary and unprecedented in their scale and brutality, point to the vulnerabilities and hardships faced by homeless people, many of whom are deported migrants.
- 28) The relevant point here is that stigmatised ‘deportees’ are very visible, and therefore vulnerable to crime, in a country more generally defined by high levels of violent crime.<sup>33</sup> All research on deportation in Jamaica has identified these themes of stigma and the increased risk of becoming a victim of crime (see here<sup>34</sup>)(see previous reports). Moreover, if deported people fall into homelessness, he would be vulnerable to the troubling forms of extreme violence and murder evident in recent months.
- 29) According to the UK Foreign Office travel advice: ‘Gang violence and shootings are common, although usually confined to inner city neighbourhoods. Be especially

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<sup>32</sup> <https://jamaica-gleaner.com/article/lead-stories/20210126/homeless-horror-streets-filled-trembling-four-chopped-death-kingston> and [https://www.jamaicaobserver.com/latestnews/Homeless\\_people\\_urged\\_to\\_use\\_shelters\\_after\\_5\\_killed](https://www.jamaicaobserver.com/latestnews/Homeless_people_urged_to_use_shelters_after_5_killed) and <https://www.reuters.com/article/us-jamaica-murder-idUSKBN29V2RE>

<sup>33</sup> Organization of American States, Inter-American Commission on Human Rights (IACHR), Annual Report 2014, Chapter V. <http://www.oas.org/en/iachr/docs/annual/2014/TOC.asp>

<sup>34</sup> See <http://www.law.georgetown.edu/academics/centers-institutes/human-rights-institute/fact-finding/upload/jamaica-report.pdf>, and Bernard Headley, with Michael D. Gordan & Andrew MacIntosh, *Deported Volume 1: Entry and Exit Findings Jamaicans Returned Home From the U.S. Between 1997 and 2003*, at 5-7 (2005), and [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/479438/Coming\\_Home\\_Booklet.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/479438/Coming_Home_Booklet.pdf)

cautious if you're travelling to West Kingston, Grant's Pen, August Town, Harbour View...'.

30) All research on deportation in Jamaica has identified these themes of stigma and the increased risk of becoming a victim of crime (see here<sup>35</sup>).

31) Importantly, there is a significant stigma surrounding deportation, with deported persons defined by many people in the community as unwanted failures.<sup>36</sup> It is often assumed that deported persons are relatively wealthy, or in receipt of remittances from the country they were deported from, and they are consequently targeted for robbery. Keeping one's head down in these circumstances is difficult, and learning how to navigate the moral economy in Jamaica takes a real perceptiveness and solid links with family and friends on the island.

32) It seems important to stress here that crime is intensely social in Jamaica. That is, people who control resources, neighbourhoods, garrison communities – often referred to as 'Dons' – do so as community leaders.<sup>37</sup> They know who people are, their stories, needs, resources and vulnerabilities. Their authority works through intimate knowledge of community and family lives.<sup>38</sup> It is in this context, that 'deportees' face marked vulnerability to crime, simply because they do not know people, and people do not know them. For people seeking to remain discreet and avoid being identified by specific individuals and groups, the realities of being a hyper-visible 'deportee' make this very difficult.

33) It is worth noting that the Foreign Office-produced booklet designed for people facing deportation to Jamaica provides a list of do's and don'ts. Do's include "travel where possible in the day – if you are going somewhere unfamiliar ask someone to meet you on arrival; keep your cash and personal items hidden from view (phones and wallets etc should be kept in your pocket); try to be 'Jamaican' – use local accents and dialect (overseas accents can attract unwanted attention); try to find lodgings in areas that are considered safe". Many deported people are simply unable to 'act Jamaican', and unable to find lodgings in a safe area.

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<sup>35</sup> See <http://www.law.georgetown.edu/academics/centers-institutes/human-rights-institute/fact-finding/upload/jamaica-report.pdf>, and Bernard Headley, with Michael D. Gordan & Andrew MacIntosh, *Deported Volume 1: Entry and Exit Findings Jamaicans Returned Home From the U.S. Between 1997 and 2003*, at 5-7 (2005), and [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/479438/Coming\\_Home\\_Booklet.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/479438/Coming_Home_Booklet.pdf)

<sup>36</sup> See Tanya Golash-Boza "Forced Transnationalism: Transnational Coping Strategies and Gendered Stigma among Jamaican Deportees" (*Global Networks*, 2014, 14: 63-79).

<sup>37</sup> For example see this collected works: <http://uwipress.com/reviews/understanding-crime-jamaica-new-challenges-public-policy>

<sup>38</sup> Jamaica Gleaner (2012) 'Garrisons: Empire of the Dons'. <http://jamaica-gleaner.com/gleaner/20120227/cleisure/cleisure4.html>

- 34) Deportees who left Jamaica as children, and who went to school in the UK, are unable to hide from their neighbours the fact that were ‘deportees’. While the consequences of this visibility are different for different individuals, it is important to stress that there is no hiding that fact. This has implications for their ability to safely seek internal relocation (see below)

### **3 – Reintegration: Language, Health, Housing and Employment**

#### **Language**

- 35) In Home Office decision letters, they usually state that English is the official language of Jamaica. However, in everyday settings Jamaican patois predominates.

According to some Caribbean linguists, only 1% of Jamaicans speak English as their first language. The rest speak "patois", "Creole", "Afro-English", or "Jamaican" as it's variously known<sup>39</sup>.

- 36) As argued by Professor Hubert Devonish at the University of West Indies: "Patois is the language of the home; English is something children learn at school<sup>40</sup>", and as such English is the second language in Jamaica, one in which many Jamaicans lack proper literacy<sup>41</sup>. Jamaican patois is "a distinct language with its own rules of grammar that students need to understand<sup>42</sup>" (Cooper, also cite Christie, 2007).

- 37) There is an ongoing debate about language in Jamaican society and policy, but there is no one arguing that English is the main language spoken by most Jamaicans. Jamaican patois, whether defined as a language, creole, or dialect, has different grammar, syntax, and vocabulary, and many deported persons, especially those who left Jamaica as children, are not fluent in patois. This can cause problems. As noted in the Home Office booklet ‘Coming Home to Jamaica’: deported persons should “try to be ‘Jamaican’ – use local accents and dialect (overseas accents can attract unwanted attention)”. For many deported persons, this is not a realistic prospect.

- 38) In other words, shedding one’s English vernacular and speaking in convincing Jamaican patois is for many an impossible task. In many decision letters, the

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<sup>39</sup> The Guardian (2002). Available here: <https://www.theguardian.com/education/2002/mar/22/tefl>

<sup>40</sup> In Guardian (2002): <https://www.theguardian.com/education/2002/mar/22/tefl>

<sup>41</sup> <http://jamaica-gleaner.com/article/commentary/20160626/carolyn-cooper-que-pasa-jamaica-wa-gwaan>

<sup>42</sup> <http://jamaica-gleaner.com/article/commentary/20160626/carolyn-cooper-que-pasa-jamaica-wa-gwaan>; see also Christie, P. (2007) Language in Jamaica, *Arawak Publications*

Home Office selectively quote from this ‘Coming Home’ booklet in outlining the support services available in Jamaica – some of which I question below – while ignoring these discussions about risks, language and avoiding unwanted attention. When the Home Office states that ‘English is the official language in Jamaica’, this has the potential to be deeply misleading.

## Housing

39) In Jamaica, rental prices for secure lodgings, in secure surroundings, are roughly equivalent to rent prices in England (outside of London). Across the island, low-income neighbourhoods are characterised by high levels of generalised violence, and tightly-knit communities. This is by no means an overgeneralisation. Having travelled the island extensively, and read widely in the social sciences literature covering Jamaica, I can say with certainty that the majority of low-income Jamaicans live in a community which is tightly-knit and defined by significant, although varying, levels of violence<sup>43</sup>. As a result, I know very few deported persons who live in communities where they do not have family members. Put simply, if you are returning to the island poor, it is important to know people – especially in areas with available housing in urban centres like Kingston, Spanish Town, Montego Bay, Ocho Rios and Negril. Living in tight-knit communities without social support makes some deported people hypervisible, and thus at risk of extortion and violence.

40) The vast majority of people deported to Jamaica end up living in low-income neighbourhoods in urban settings. In these places, many deported people are vulnerable to extortion and robbery. Extortion is pervasive and everyday in low-income areas of urban Jamaica<sup>44</sup>, with local ‘badmen’ asking people for money for their protection (in the context of turf wars and lack of security).<sup>45</sup> There is not space here to examine the social, political and economic constitution of Jamaican society, but suffice it to say that for poor Jamaicans there is a distinct lack of state provision for welfare needs, and the state is notably absent in terms of providing security for urban residents.<sup>46</sup> Urban Jamaica is marred by internecine turf wars over control of territory, extortion rackets, and government contracts, in the

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<sup>43</sup> Farquharson, J. T. (2005). *Fiya-bon: the socio-pragmatics of homophobia in Jamaican (Dancehall) culture*. In S. Muhleisen & B. Migge (Eds.), *Politeness and face in Caribbean Creoles* (pp. 101–118). Amsterdam, The Netherlands: Blackwell.

<sup>44</sup> See for example from the Daily Gleaner: “Extortion Capital...Criminals Rake in more than \$1 Million a day in Spanish Town” (<http://jamaica-gleaner.com/article/lead-stories/20150515/extortion-capital-criminals-rake-more-1-million-day-spanish-town>); “Extortion: Culture of Silence” (<http://jamaica-gleaner.com/gleaner/20140410/lead/lead1.html>)

<sup>45</sup> See: <http://jamaica-gleaner.com/article/commentary/20151008/political-garrisons-and-war-against-democracy>

<sup>46</sup> Gray, O. (2004). *Demeaned but empowered: the social power of the urban poor in Jamaica*. Kingston, Jamaica: University of the West Indies Press; Stone, C. (1980). *Democracy and clientelism in Jamaica*. New Brunswick, NJ; London: Transaction Publishers; Stone, C. (1986). *Class, state, and democracy in Jamaica*. New York; London: Stanford, Calif: Praeger; Hoover Institution Press.

context of entrenched poverty and extra-legal forms of authority and control.<sup>47</sup> As such, local economics and politics are governed by criminal modes of control – even as these systems are connected to two-party politics (i.e. the garrison phenomenon).<sup>48</sup>

- 41) In such contexts, there is a complex moral economy surrounding payment for protection, and deported persons often do not understand ‘the rules of the game’. Moreover, they usually do not know people in the area, and as such are especially likely to face burdensome requests for money.<sup>49</sup>
- 42) It is therefore essential that deported persons either have family support or personal resources and resilience if they are going to survive in Jamaica. For those without family support, and no means of paying rent, it is very common to end up homeless. Deported people make up a significant proportion of the homeless population in Jamaica.<sup>50</sup>

## Homelessness

- 43) For homeless men in Jamaica, there are two functioning homeless shelters in Kingston (Open Arms Drop-In Centre and The Marie Atkins Shelter) and one in Montego Bay (Open Heart). In all of these shelters, there are a significant proportion of residents who have been deported. This reflects the fact that among the street homeless population too, deported persons from the US and the UK make up a significant proportion.<sup>51</sup>
- 44) During my time in Jamaica I regularly visited Open Arms Drop-In Centre in East Kingston, which has a contract with the British High Commission to house destitute deportees returned from the UK. The shelter is usually full, but deported people from the UK can sometimes secure a bed in the dormitory at Open Arms. Open Arms offers accommodation for people for up to six months.
- 45) While I very much support the important work performed by Open Arms Drop In Centre, I have to declare that this shelter is not a secure place, and residents there often complain about break-ins, threats of violence – some even fear for their lives.

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<sup>47</sup> Harriott, A. (2003). *Understanding crime in Jamaica : new challenges for public policy*. Jamaica: University of the West Indies Press; Harriott, A. (2008). *Organized crime and politics in Jamaica : breaking the nexus*. Jamaica: Canoe Press.

<sup>48</sup> Gray, O. (2004). *Demeaned but empowered : the social power of the urban poor in Jamaica*. Kingston, Jamaica: University of the West Indies Press; <http://jamaica-gleaner.com/article/commentary/20151008/political-garrisons-and-war-against-democracy>

<sup>49</sup> This has been a central finding from my own qualitative research and conversations with deported persons, local Jamaicans, and state officials.

<sup>50</sup> See <http://www.jamaicaobserver.com/news/1500-Jamaicans-homeless-and-counting> and <http://jamaica-gleaner.com/gleaner/20110306/lead/lead3.html>

<sup>51</sup> Ibid and <http://jamaica-gleaner.com/gleaner/20110306/lead/lead3.html>

- 46) Recently, on two occasions, men entered the compound and stole personal items from those inside. On one of these occasions a resident was beaten up, and it was reported that the assailants were armed. Those breaking came from neighbouring 'Dunkirk', a garrison community in which levels of extreme poverty and violent crime are high<sup>52</sup>.
- 47) I have known other men leave the shelter for fear that they are hypervisible as stigmatised deportees in this violent part of Kingston.
- 48) The Marie Atkins shelter is very near to the centre of downtown Kingston. I visited once, and knew three people who had spent some nights there. People are required to leave the premises in the day, although when I visited there were some unwell and elderly men sitting or lying in the compound. The shelter is extremely basic and there were around 50 single beds. The men I knew who had stayed there were forced to stay on the floor. The centre is severely overcrowded, and one man I knew, who spent two or three nights there, told me he felt very unsafe there. He witnessed violence between residents, and in fact decided he preferred to stay out on the streets (despite his fears about violence in downtown Kingston).
- 49) Open Heart in Montego Bay is another homeless shelter providing beds for around 10-12 men. I have visited the centre twice. Open Heart recommend that homeless people should stay in Open Arms in Kingston, unless they have family in Montego Bay. This is due to their limited capacity.
- 50) Deported individuals who fall into homelessness are at severe risk of violence and criminality (see section below)

## Employment

- 51) Unemployment levels are high in Jamaica; the rate is currently estimated at around 9.6%.<sup>53</sup> This is much higher for certain populations, especially young adults (estimated at between 20-25% for young adults aged 16-24).<sup>54</sup> In my experience deported persons find it especially hard to find employment, especially in the first eighteen months of their return.

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<sup>52</sup> See e.g. Eight Dunkirk Men Listed As Persons Of Interest (<http://jamaica-gleaner.com/power/45343>); Terror in the East: Rockfort Residents Living in Hell (<http://jamaica-gleaner.com/gleaner/20140216/lead/lead1.html>); see also: <http://jamaica-gleaner.com/gleaner/20110705/lead/lead4.html>; <http://jamaica-gleaner.com/article/news/20141023/police-list-five-people-interest-following-deadly-rockfort-shooting>

<sup>53</sup> <http://jamaica-gleaner.com/article/news/20180502/unemployment-rate-falls-record-96>; <http://www.worldbank.org/en/country/jamaica/overview>

<sup>54</sup> See *ibid* and <https://www.imf.org/en/News/Articles/2017/11/13/na111417-crime-and-youth-unemployment-in-the-caribbean>



- 52) When deported persons return, they need to acquire documentation and identification before they can even apply for jobs. There are a number of obstacles that deported persons face. They first need their birth certificate before they can apply for other identification, like a Tax Registration Number, a National ID, and a Passport. Securing the birth certificate and then these national forms of identification takes times and cost money. Many deported persons are not in possession of a Jamaican passport – instead they fly with an emergency travel document – and many employers prefer to see either a passport or National ID before offering a job. Passport replacements are expensive for those with few resources, and take weeks to come back.
- 53) With all forms of identification, the application and photos must be signed by a Justice of the Peace, who is supposed to have known the individual for over two years. With the national ID, it can take upwards of 6 months for this to be processed and returned. I know few people who acquired a national ID within the first year of their return.
- 54) Importantly, employers require a police check, and the vast majority will not hire anyone without a clean record. The Jamaican government keep a record of offences committed while abroad, and this can preclude deported persons from finding employment. In the last four years, most people who have been deported following criminal convictions are unable to secure a clean police check – especially those convicted of drugs and sexual offences. For individuals with a criminal history, it is likely that their records will be listed and they will be unable to secure a clear police certificate to secure employment.
- 55) All deported persons find it incredibly difficult to find work in a highly constricted labour market, defined by marked unemployment and chronic underemployment, with the majority of people working in the informal economy. Even with skills, qualifications and experience, and after securing the relevant documentation, it is still very difficult for deported persons to find work.
- 56) When individual ‘deportees’ appear for job interviews, clearly having been out of the country for many years, they run the risk of being stigmatised as deportees and facing discrimination on that basis. The issue of stigma and employment discrimination has been identified by a number of researchers, including myself.<sup>55</sup>
- 57) The employment prospects for deported persons are slim, especially in the first

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<sup>55</sup> Elliott, L. 2010. The Legal Rights of Deported Persons in Jamaica. Paper prepared for Legal Department, Jamaicans For Justice (JFJ); Tanya Golash-Boza “Forced Transnationalism: Transnational Coping Strategies and Gendered Stigma among Jamaican Deportees” (*Global Networks*, 2014, 14: 63-79); Bernard Headley, with Michael D. Gordan & Andrew MacIntosh, *Deported Volume 1: Entry and Exit Findings Jamaicans Returned Home From the U.S. Between 1997 and 2003*, at 5-7 (2005); Migration Policy Institute (2016) ‘Rebuilding Self and Country: Deportee Reintegration in Jamaica’. <http://www.migrationpolicy.org/article/rebuilding-self-and-country-deportee-reintegration-jamaica>.



few months of return. Deported people find it difficult to navigate bureaucracy and secure the national identification necessary to apply for work, especially if they have been away for a long time, and return without family support.

58) There is also some evidence that unemployment has increased due to the covid pandemic, which is unsurprising given the centrality of tourism to the economy. In July 2020, government statistics suggested that there was a 10.8 % reduction in the number of employed persons, as compared to the previous year.<sup>56</sup> Meanwhile, in November 2020 the World Bank reports “that a minimum of 50,000 employees directly employed in the tourism sector have been laid off, and this figure could be even higher when considering indirect impacts and the informal sector.”<sup>57</sup>

### NGO Support Services

59) In relation to local NGOs, it is important to recognise that the ‘Coming Home to Jamaica’ booklet is now out of date. Things have changed significantly in the last few years, and so I will provide a brief updated account of available provision.

60) Firstly, there are no organisations that can assist deported people to find housing, employment or social welfare support (indeed, such welfare support is unavailable). This has never been the case, and NGOs like the National Organization of Deported Migrants and Open Arms Development Centre have never been able to offer financial assistance, help people find housing beyond emergency accommodation at Open Arms, and certainly not to find employment.

61) Having spent many months in Jamaica, working with and observing these organisations, I have several reservations about how effectively they are able to meet their mission statements, and I want to point to some of the important discrepancies between stated aims and implemented practices.

62) For example, the National Organization of Deported Migrants (NODM), who I have worked with extensively and continue to communicate with roughly fortnightly. NODM have since 2010 been collecting people from the airport, and helping them secure documentation and clear any possessions through customs. They are a small team, and they are dedicated, but they are not, and nor have they ever been, able to successfully help people find work, housing or offer financial support.

63) The UK government has funded NGOs in Jamaica to provide support services for deported people, and these services do make a real difference. In particular,

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<sup>56</sup> See e.g. <https://jis.gov.jm/covid-19-impacts-number-of-employed-persons/> and

<sup>57</sup> <https://blogs.worldbank.org/latinamerica/return-paradise-poverty-perspective-jamaicas-covid-19-recovery-response>

NODM have been funded to collect people from the airport and assist deported people to secure national documents and clear personal items through customs. I have volunteered with NODM for several months, and remain in contact with them, and can attest to how important these services have been (since 2010). However, the Home Office discontinued NODMs funding in April 2019.<sup>58</sup> The UK did later reverse its decision and committed to maintaining its funding for NODM – although on a much reduced and piecemeal basis.<sup>59</sup> NODM now has to invoice for services rather than receiving a full grant with attached job posts. This means it is unclear how NODM will employ staff to collect deported people from the airport, and the staff who were responsible for redocumentation are no longer sure if and when they will be working, and how they will be paid. In other words, it is not clear that the new funding arrangement is tenable (and it has yet to be put into practice because there has been a reduction in removals to Jamaica in light of the Windrush Scandal).<sup>60</sup> In summary, NODM has provided important services to deported people in the last few years, but they are currently not able to perform that work.

64) To repeat, NODM have helped people acquire national documentation, and collected people from the airport and transported them to family members, but they are currently at the time of writing unable to perform this work. Further, there has never been any substantive support available to help deported people find work, and certainly no available financial support. Moreover, the provision for homelessness is profoundly lacking (see further evidence on homelessness above).

65) Since December 2019, it has become clear that NODM is no longer operational. The pandemic has slowed the rate of deportations, and the organisation is no longer employing staff. The former president, a key contact for me in Jamaica, has not been working in his former role as project co-ordinator and there are no signs that NODM will be paid to assist deported migrants again. Even if the UK government does decide to contract NODM for a future charter flight or an individual deportation, my previous cautionary comments remain. It is not clear how an organisation can maintain any structure, processes, or experience by simply waiting for very irregular, short-term, and uncertain contracts to assist deported persons.

### **Social security/benefits**

66) There are available non-contributory benefits for families with children called

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<sup>58</sup> Emily Dugan, “The Home Office Pulled Funding For A Charity Helping People It Deported To Jamaica, Days Before Announcing Windrush Compensation”, *BuzzFeed News*, April 8, 2019

<sup>59</sup>; Emily Dugan, “The Home Office Says It Will Continue Funding A Charity That Helps People The UK Deported To Jamaica”, *BuzzFeed News*, April 9 2019.

<sup>60</sup> Personal correspondence with president of NODM

PATH benefits, which are distributed in instances where the family are considered particularly ‘poor and vulnerable’, but this does not assist those is returning without any responsibility for Jamaican national children.<sup>61</sup> All other disability and out-of-work benefits are contributory and thus rely on having paid into an insurance scheme.<sup>62</sup> There are no non-contributory disability benefits, and no unemployment benefits. All benefits are only available to Jamaican citizens, and so returning family members with British citizenship will be ineligible (which is relevant for partners and children who might be returning with individuals removed to Jamaica).

### **Mental health provision**

67) I am not qualified to speak as an expert on mental health provision in Jamaica (for more information see link)<sup>63</sup>. For individuals with mental ill health, it is worth referring to the full report on deportation and mental illness, conducted by academics at Georgetown:

“For people with mental disabilities who are deported to Jamaica, the elements of the right to health are often not met. For example, health care, goods, and services may not be physically accessible because of the high cost of transportation, or they may not be economically accessible because of the inability of deported persons to access money they earned prior to deportation coupled with the high cost of medication in Jamaica. The obstacles faced by deported persons with mental disabilities fall into three general categories: difficulties in obtaining and affording medication in Jamaica, limited access to medical records, and barriers to accessing quality medical treatment.”<sup>64</sup>

68) A report by the World Health Organisation written in 2009 also identifies the lack of sufficient provision:

“There is one mental hospital in the country with a bed capacity of 32 beds per 100,000 population. The number of beds in the mental hospital has decreased by 23% in the last 5 years. The patients admitted to the mental hospital are diagnosed primarily with schizophrenia 79% and most admissions are involuntary... The majority of clinical services are

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<sup>61</sup> See here: <https://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/1694.pdf>

<sup>62</sup> <https://www.ssa.gov/policy/docs/progdesc/ssptw/2014-2015/americas/jamaica.html>

<sup>63</sup> Georgetown University Law Center, Human Rights Institute (2011) ‘Sent ‘Home’ with Nothing: The Deportation of Jamaicans with Mental Disabilities’, available at:

[http://scholarship.law.georgetown.edu/cgi/viewcontent.cgi?article=1005&context=hri\\_papers](http://scholarship.law.georgetown.edu/cgi/viewcontent.cgi?article=1005&context=hri_papers)

<sup>64</sup> Georgetown University Law Center, Human Rights Institute (2011) ‘Sent ‘Home’ with Nothing: The Deportation of Jamaicans with Mental Disabilities’, available at:

[http://scholarship.law.georgetown.edu/cgi/viewcontent.cgi?article=1005&context=hri\\_papers](http://scholarship.law.georgetown.edu/cgi/viewcontent.cgi?article=1005&context=hri_papers)

provided by nurses, which represents 6 per 100,000 under the supervision of the psychiatrists which is 1 per 100,000. There is a dearth of psychologists, social workers and occupational therapists in the island due to the unattractive remuneration in the public sector. Most psychiatrists provide both public and private services. While few psychiatrists emigrate to other countries, a significant number of nurses emigrate on a yearly basis. Consumers, non-government, community based and family associations interact closely with the mental health services... Six percent (6%) of health care expenditures by the government health departments is directed towards mental health. Of all the expenditures spent on mental health, (80%) is directed towards mental hospitals”.<sup>65</sup>

The proportion of government spending allocated to healthcare has been falling in recent years, in the context of economic crises, austerity, and crippling debt.<sup>66</sup> Only 6% of this overall spend is then allocated to mental health, and much of this goes toward running and staffing Belle Vue Mental Hospital. Steps have been taken in recent years to focus more on mental health care in the community, but there is still a significance shortfall.<sup>67</sup>

69) In Kwame McKenzie’s (MD) report on community health services in Jamaica, written for the Pan American Health Organization, it is noted that initiatives designed to increase the remit of community mental health care are a step in the right direction, but they are still woefully under-resourced in the context of enforced austerity.<sup>68</sup> It is worth quoting several excerpts from Dr McKenzie’s report:

“By crude estimates, there are 500,000 persons in Jamaica who have mental health problems (2). The number of patients on the books of the community services has increased from 7,779 in 1995 to 10,907 in 2000 (6). Community services treat patients with serious mental illness. There is little or no service for people with more common mental disorders such as anxiety disorders and mild depression”

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<sup>65</sup> WHO-AIMS Report on Mental Health System in Jamaica, *Pano/WHO*, 2009 Kingston Jamaica, available at: [https://www.who.int/mental\\_health/jamaica\\_who\\_aims\\_report.pdf](https://www.who.int/mental_health/jamaica_who_aims_report.pdf)

<sup>66</sup> Jake Johnston, “Partners in Austerity: Jamaica, the United States and the International Monetary Fund,” *Center for Economic and Policy Research* (Washington DC: CEPR, 2015); Mullings, “Neoliberalization, social reproduction and the limits to labour”; Sheller, *Consuming the Caribbean*.

<sup>67</sup> [Abel, W.](#), [Sewell, C.](#), [Parkinson, E.](#) and [Brown, T.](#) (2011), “Mental health services in Jamaica: from institution to community”, *Ethnicity and Inequalities in Health and Social Care*, Vol. 4 No. 3, pp. 103-111

<sup>68</sup> Kwame McKenzie, MD. 2008. Jamaica: Community Mental Health Services. Pan American Health Organization (PAHO), full report available online here: <https://www.paho.org/hq/dmdocuments/2008/MHPDoc.pdf>

“Medications for treating mental health problems are limited and their availability varies district by district. Older antipsychotic drugs are usually available, but there is only limited availability of the newer, more expensive anti-psychotics”

...

“Caregivers considered a lack of money and the need to pay for prescriptions as a deterrent for coming to the clinic. Government assistance did not seem to counter this, because of the stigma attached to being considered eligible for assistance. In fact, some of this stigma seemed to have shaped the way in which the system was enacted. For instance, in one district the decision about whether the patient should be asked to pay for medication or not was made by the pharmacist. The pharmacists had to decide whether or not to ask for proof that a patient requesting assistance was in genuine need, but pharmacists do not like asking such questions. With no guidelines in force, the pharmacist often relies on cues such as how the patient is dressed to make a decision”

...

“Community mental health services are fragmented in Jamaica. The range of services and access to them is limited”<sup>69</sup>

- 70) The report also makes clear that there are far too many patients for the number of mental health professionals:

“As of this writing, there are 41 MHOs [Mental Health Officers] in the country, which includes five regional supervisors and one national coordinator. Nationwide, the total active caseload is more than 14,000 patients. The average caseload of an MHO is 500 patients, but some of these may not be active. They see more than 200 patients a month. Care is, however, shared with regional psychiatrists, district medical officers and, more often than not, the patient’s family. Indeed, it is hard to envisage community care in Jamaica working without robust family support networks. The family acts to support, to offer home treatment, to ensure compliance and to monitor patient’s mental state and risk. With minimal financial aid and rehabilitation, the family is vital for sustained recovery”

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<sup>69</sup> *ibid*

Dr. McKenzie emphasises that family are “vital for sustained recovery”, and suggests that “it is hard to envisage community care in Jamaica working without robust family support networks”. This does not bode well for deported migrants who do not have family support on the island. Dr McKenzie’s report also highlights the heavy caseload for mental health practitioners, which means that many people do not receive adequate care and treatment. Indeed, throughout the report, as Dr McKenzie describes how Jamaicans come into contact with mental health services, it becomes clear that Mental Health Officers are mainly responding to severe individual crises, as in cases where a person needs to be sectioned, and thus the provision is more emergency centred rather than based on proactive support for people suffering with mental ill-health (as in the UK).

- 71) In Dr McKenzie’s report, he also explains how individuals are referred to mental health professionals:

“Referral can be from any source—social worker, probation officer, or family member. Routine referrals also come from prenatal clinics, well-baby clinics, primary care practitioners at all levels, nurses in various hospital clinics, the police, the courts, and self referrals. These referral systems are informal and have been established mostly by contact between different services. They vary from area to area, depending on the closeness of the relationship between different MHO teams and other parts of the service”<sup>70</sup>

The concern for deported individuals is that they might fall between the gaps within this rather patchy referral process.

- 72) Often, the mental health of deported people deteriorates in the context of family separation, destitution, social isolation and cultural alienation, and there is a profound lack of mental health provision if he were to require support and medication. An article published in 2017 in the Jamaica Gleaner gives a picture of the current shortfall in provision, and it is worth quoting at length:

“Despite a significant improvement in the treatment of persons with mental illnesses in Jamaica over the past 50 years, a task force established by Health Minister Dr Christopher Tufton has concluded that there is much more that is needed to be done to adequately address this issue.

After 12 meetings over nine months, the Mental Health and Homelessness Task Force has submitted several recommendations on how to more efficiently treat persons with mental health problems.

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<sup>70</sup> *ibid*

According to the task force, just under 108,000 visits were made to public health facilities in 2015 by Jamaicans seeking treatment for mental illness. Of this number, the vast majority (83,438) were diagnosed with schizophrenia or psychosis.

"Jamaica has become plagued by very high rates of violence, giving rise to many children and adults with post-traumatic stress disorder, personality disorders, depression and anxiety. Family unions are weak and frequently unstable with poor parenting skills," said the Dr Earl Wright-chaired 24-member task force in its report to Tufton, which has been seen by our news team

"The community mental health services are severely under-resourced and unable to cope with the many needs, including early diagnosis and treatment. Stigma and discrimination towards persons with mental illness needs to decrease and social support for families with mentally ill persons is woefully inadequate, resulting in many such persons being deserted in hospitals or becoming homeless," added the task force.

In its report, the task force noted that depression and anxiety are much more common and often go undiagnosed and untreated but contribute to increased morbidity and complications for other non-communicable diseases.

The task force emphasised that Jamaica faces serious social and economic challenges, including, but not limited to, high unemployment rate, weak family structures and inadequate access to social services such as housing, water, and supportive home care, resulting in many falling through the existing social safety net.

"Such persons include children, adults and the elderly who are abandoned in hospitals by families who find it difficult to cope," the report read. "Many other persons resort to living on the streets or in temporary shelters. This issue is associated with a growing concern in the society about the homeless and the destitute and a need for the Government to find ways to address this problem."

One of the many recommendations coming out of the report is for amendments to be made to the Mental Health Act, which is believed to be obsolete.<sup>71</sup>

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<sup>71</sup> Jamaica Gleaner (2017), *Mental Health Crisis*, available at: <http://jamaica-gleaner.com/article/news/20170219/mental-health-crisis-108000-visits-persons-mental-illness-public-facilities>



- 73) The reports cited above all refer to the profound stigma surrounding mental illness in Jamaica.<sup>72</sup> The report by Georgetown University cites research on the stigma towards mentally ill people in Jamaica,<sup>73</sup> which negatively impacts the ability of individuals and families to openly access support and healthcare. The report then suggests that this stigma is combined with the more general stigma directed at deported migrants.<sup>74</sup> This results in marked forms of stigmatisation and exclusion for deported migrants with mental disabilities due to their ‘dual status’, who often lack the knowledge and networks to access available support. As the researchers at Georgetown University put it:

“Stigma and discrimination also contribute to the challenges that deported persons with mental disabilities face in Jamaica. Due to the relatively high number of deportations to Jamaica that result from criminal convictions (mainly for petty or nonviolent offenses), there is a widespread assumption that all deported persons have committed a serious crime abroad and thus present a security threat. This stigma remains in spite of little hard evidence that deported persons commit crimes once returned to Jamaica. Moreover, persons with mental disabilities are widely perceived as unmanageable and violent. Individuals who have a mental disability and who have been deported therefore face increased stigma due to their dual status. Additionally, there is no legal recourse for persons who have been discriminated against because of their mental disability or status as a deported person, further marginalizing those individuals who fall into these categories. As a result of stigma, discrimination, and a lack of legal recourse to ameliorate their combined effects, it is particularly challenging for mentally disabled deported persons to obtain employment, find adequate shelter, and even maintain personal safety”<sup>75</sup>

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<sup>72</sup> Kwame McKenzie, MD. 2008. Jamaica: Community Mental Health Services. Pan American Health Organization (PAHO), full report available online here: <https://www.paho.org/hq/dmdocuments/2008/MHPDoc.pdf>; and Georgetown University Law Center, Human Rights Institute (2011) ‘Sent ‘Home’ with Nothing: The Deportation of Jamaicans with Mental Disabilities’, available at:

[http://scholarship.law.georgetown.edu/cgi/viewcontent.cgi?article=1005&context=hri\\_papers](http://scholarship.law.georgetown.edu/cgi/viewcontent.cgi?article=1005&context=hri_papers); and Gibson et al., Internalizing stigma associated with mental illness: findings from a general population survey in Jamaica, 23(1) Pan Am. J. Pub. Health 26, 27 (2008).

<sup>73</sup> E.g. Gibson et al., Internalizing stigma associated with mental illness: findings from a general population survey in Jamaica, 23(1) Pan Am. J. Pub. Health 26, 27 (2008); and Carlotta M. Arthur et al., “Mad, Sick, Head Nuh Good”: Mental Illness Stigma in Jamaican Communities, 47(2) Transcultural Psychiatry 252, 264 (2010)

<sup>74</sup> See Tanya Golash-Boza “Forced Transnationalism: Transnational Coping Strategies and Gendered Stigma among Jamaican Deportees” (*Global Networks*, 2014, 14: 63-79).

<sup>75</sup> Georgetown University Law Center, Human Rights Institute (2011) ‘Sent ‘Home’ with Nothing: The Deportation of Jamaicans with Mental Disabilities’, available at: [http://scholarship.law.georgetown.edu/cgi/viewcontent.cgi?article=1005&context=hri\\_papers](http://scholarship.law.georgetown.edu/cgi/viewcontent.cgi?article=1005&context=hri_papers)

- 74) In my own work, I met a number of deported persons with both mental and physical disabilities, and most were simply unable to afford medication and treatment. Medication is expensive in Jamaica, and most deportees must do without – sometimes with severe consequences. As the Georgetown University report notes: “Many medications are beyond the financial reach of most Jamaicans even when subsidized, running up to US\$300-\$400 per month. As a result, for many deported persons with mental disabilities, necessary medication is not economically accessible”<sup>76</sup>. There are also “too few mental health workers in Jamaica. The country has about twenty-five psychiatrists across the island, or less than one psychiatrist per 100,000 Jamaicans”.<sup>77</sup>
- 75) Furthermore, the deported people I met often complained that they had developed mental health problems post deportation. In the context of social and cultural alienation, poverty, and fears of serious violence, some deported people without networks of social support complained of suicidal thoughts, depression and feelings of paranoia. One man I met was sectioned and kept in Belle Vue Mental Hospital for 6 weeks after becoming paranoid, hearing voices and suffering a severe mental breakdown with psychosis. This particular individual was not diagnosed with any mental health conditions in the UK; his problems developed in the three years he spent in Jamaica. Many other people explained to me either that they had developed depression and anxiety since return, or that their previous conditions had worsened since returning to Jamaica. This indicates that mental conditions often worsen following deportation, especially for individuals without any family support in Jamaica.

## **4 State protection and internal relocation**

### **Police protection**

- 76) Concerns over certain police practices and factors affecting law enforcement efficacy have been reported in a number of human rights and news sources.<sup>78</sup> Given the crime and homicide rate in Jamaica, especially in lower-income urban areas, acts of violence, even murder, are rarely fully investigated. Mistrust in the police is near total in Jamaica, owing to rampant corruption, political protectionism, and excessive use of force against civilians.<sup>79</sup>

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<sup>76</sup> *ibid*

<sup>77</sup> *ibid*

<sup>78</sup> <http://www.refworld.org/docid/45f1475b1a.html>; see also: Amnesty International (AI). 2005. *Amnesty International Report 2005*, see more recently Amnesty’s ‘Jamaica Report’ 2017-18: <https://www.amnesty.org/download/Documents/POL1067002018ENGLISH.PDF>

<sup>79</sup> Harriott, Anthony. *Police and Crime Control in Jamaica: Problems of Reforming Ex-Colonial Constabularies*. Kingston, Jamaica: The University of the West Indies Press, 2000.

- 77) Levels of corruption within the police are high,<sup>80</sup> and access to justice is profoundly circumscribed for low-income Jamaicans.<sup>81</sup> Scholars and professionals have repeatedly called attention to Jamaica's dysfunctional mechanism of law enforcement and criminal justice. As noted by Uildriks (2009):

Jamaica could [...] be regarded as turning into a failed state because police and other state institutions have been unable to prevent the upsurge of violence, and the fact that most killings—gang-related and otherwise—have gone unresolved. State control has manifestly broken down, with informal leadership dominating certain areas of the island. The level of violence is so great that even if the Jamaican police were a professional and dedicated police force, a thorough police investigation [...] would be logistically impossible [...]. The sheer numbers involved make it impossible for either the police or wider criminal justice system to respond to the vast majority of cases in terms of a thorough investigation and subsequent prosecution [...] the principles of the rule of law (including the principle of the state's monopoly on the legitimate use of force) perhaps apply in theory but are in practice ignored.<sup>82</sup>

- 78) Perhaps the clearest indication of this lack of protection and dysfunction is illustrated by the issue of extrajudicial police killings. To my knowledge, Shackelia Jackson's campaign with Amnesty International is the first to bring this issue to international attention, and hopefully public scrutiny. As Amnesty International state:

'In the last decade, police in Jamaica have killed more than 2,000 people – mostly young men from inner-city, marginalized communities. Since January 2017, the numbers of killings by the police have increased dramatically, and most cases still haven't reached the courts.'<sup>83</sup>

- 79) It is worth noting that extra-judicial killings by the police are often based on police officers' association with certain criminal networks and community leaders.<sup>84</sup> In other words, these killings are not always random events, explicable in terms of crime-fighting shoot outs, but are often based on police connections to criminal networks.<sup>85</sup>

- 80) The danger, in this case, is that someone who is targeting an individual deported person might be able to rely on associations with certain police officers, thus

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<sup>80</sup> See US State Department report here: <https://www.state.gov/j/inl/rls/nrcrpt/2015/vol1/238984.htm>

<sup>81</sup> Organization of American States, Inter-American Commission on Human Rights (IACHR), Annual Report 2014, Chapter V. <http://www.oas.org/en/iachr/docs/annual/2014/TOC.asp>

<sup>82</sup> Uildriks, Niels A., ed. Policing Insecurity: Police Reform, Security, and Human Rights in Latin America. Lanham: Lexington Books, 2009, p. 98.

<sup>83</sup> <https://www.amnesty.org/en/get-involved/take-action/w4r-jamaica-shackelia/>

<sup>84</sup> <http://jamaica-gleaner.com/article/lead-stories/20171204/police-corporal-among-25-alleged-gangsters-arrested-major-crackdown>

<sup>85</sup> <http://jamaica-gleaner.com/article/news/20150901/jcf-says-its-working-rid-force-criminals>

acquiring impunity.<sup>86</sup> It is worth situating this risk in relation to widespread police corruption and involvement with criminal networks. As the eminent Jamaican professor of criminology Anthony Harriott notes:

“Some constables have become major players in large international drug trafficking and local distribution networks. Others operate at lower levels, for example regularly spending their vacations engaging in street level drug trading in the USA, where some have been convicted of these crimes. Entrepreneurial corruption tends to lead to the development of stable relations between police and criminals and an interchangeability or blurring of the distinction between the two. With successful accumulation and the establishment of regular businesses, they tend to remain in the force simply to better protect their illegal projects.”<sup>87</sup>

81) I spoke with one police officer in Kingston during my research who told me:

‘If a deportee get killed and have no family, especially if he involve in crime, what you expect the police gonna spend all their time and resources looking for who kill him?’<sup>88</sup>

82) In this interview, I was investigating how ‘deportees’ face stigma and lack state protection; the police officer here points to a form of acquiescence in gang violence through police neglect and lack of capacity.<sup>89</sup>

83) Responding to such high levels of gang activity and violent crime, the Government of Jamaica has been taking steps towards improving the country’s security and law enforcement framework. These involve the introduction of new legislation (such as the Anti-Gang Law, Anti Money-laundering provisions), the establishment of oversight bodies (INDECOM, MOCA), and introduction of new technologies and new policing methods. It is clear, however, that without a thorough and far-reaching police reform, many of these novelties will end up producing meagre results at best. For example, as of November 2018, there have been 448 reported cases of arrest under the ‘Anti-Gang’ act but only 2 convictions.<sup>90</sup> According to a British consultant that worked with the JCF on developing forensic capacities and implementing DNA technology, the whole legal

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<sup>86</sup> See Crime and Violence in Jamaica, IDB Series on Crime and Violence in the Caribbean. Anthony D. Harriott & Marlyn Jones, June 2016

<sup>87</sup> Anthony Harriott (2000) *Police and Crime Control in Jamaica*, University of West Indies Press; see also: <http://jamaica-gleaner.com/article/news/20150901/jcf-says-its-working-rid-force-criminals>

<sup>88</sup> Interview with off duty police officer (who must remain anonymous) on October 26<sup>th</sup> 2016

<sup>89</sup> See also Caribbean Human Development Report 2012, United Nations Development Programme, and Crime and Violence in Jamaica, IDB Series on Crime and Violence in the Caribbean. Anthony D. Harriott & Marlyn Jones, June 2016, and Amnesty’s ‘Jamaica Report’ 2017-18: <https://www.amnesty.org/download/Documents/POL1067002018ENGLISH.PDF>

<sup>90</sup> UK Home Office. “Country Policy and Information Note Jamaica: Fear of Organised Criminal Groups.” London, August 2019

and technical apparatus is ready but is not put into use do to political and organizational pushbacks.<sup>91</sup>

- 84) Corruption in the Force takes many forms and reaches the highest echelons of the institution. Petty corruption is prevalent in traffic stops and in police collecting extortion from businesses and operators of public transportation. Policemen were found to be involved in the illicit drugs and arms trade, supplying weapons and ammunition to criminals from government stockpiles, and protecting prominent gang members in exchange for bribes. US Bureau of International Narcotics and Law Enforcement Affairs (2016) cited in the HO Country Information Note states:

The government and law enforcement authorities are committed to combating narcotics and illicit trafficking. However, their efforts were only moderately effective in 2015 because of a lack of sufficient resources, corruption, an inefficient criminal justice system, and the inability of lawmakers to adopt meaningful legislation to combat corruption. As a matter of policy, the Jamaican government does not encourage or facilitate illegal activity associated with drug trafficking or the laundering of proceeds from illicit drug transactions. Jamaican law penalizes official corruption; however, corruption remains entrenched, widespread, and compounded by a judicial system that has a poor record of successfully prosecuting corruption cases against high-level law enforcement and government officials.<sup>92</sup>

- 85) It is important to question whether deported people can access to the witness protection scheme. Firstly, people are only eligible when they are currently serving as a witness in a criminal case. A review of witness protection programmes provided by academics at in Canada defines the eligibility for the Jamaican witness protection programme as:

‘Witnesses of major crimes who want to testify in court and whose safety and security are at risk. Witnesses are required to remain in the program until after the case is tried and it is deemed safe for that person to leave the program.’<sup>93</sup>

Most deported people will not be acting as a witness in court, but rather face various risks as a result of threats made against them in the past, either in the UK or Jamaica. Most are therefore ineligible for witness protection schemes.

- 86) The same report also notes that:

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<sup>91</sup> Eilat Maoz, “The Meaning of Police”, PhD Thesis, Dept of Anthropology University of Chicago (forthcoming).

<sup>92</sup> UK Home Office. “Country Policy and Information Note Jamaica: Fear of Organised Criminal Groups.” London, August 2019

<sup>93</sup> ‘A review of selected witness protection programs’ (2010). Dr Yvon Dandurand and Kristin Farr (Research and National Coordination Organized Crime Division, Law Enforcement and Policy Branch, Public Safety Canada.

‘In countries such as Kenya, Jamaica and the Philippines, witness protection programs are not as publicly trusted, and it is felt that many witnesses refuse to participate, fearing for their personal safety and security. This is especially problematic where there is a real lack of confidence in the impartiality of the police’<sup>94</sup>

87) There have been several reports in the Jamaican media which demonstrate the ways in which the witness protection programme has been poorly implemented, offering insufficient protection to witnesses.<sup>95</sup>

88) Johnson and Soeters provide important analysis of ‘informing’ and police protection in their peer-reviewed article of 2015.<sup>96</sup> It is worth quoting at length:

The frequency with which perceived informers are killed in Jamaica is a troubling indicator that this context has become what one interviewee refers to as a ‘hostile witness environment’. A hostile witness environment is one in which the murder of witness-informers is not uncommon, and where homicides do not toss up a queue of witnesses (Interview, August 2012). In fact, extra-legal activities go largely unreported and as a consequence so does the rate of unsolved crime...

... in July 2008, Jamaica’s Commissioner of Police Owen Ellington raised disturbing concerns that accused persons were conning the legal system to get information about witnesses against them in order to have them killed (see The Jamaica Gleaner, 2008a,b, 11 July). The Jamaica police high command also expressed concern that the police were not following the guidelines governing the witness protect programme (The Jamaica Gleaner, 2011a, 28 January). Jamaican authorities established the witness protection programme in 2001 to offer protection or assistance to witnesses who faced threat during or after trial. Witnesses to major crimes are kept in safe locations under assumed names if they are determined to be at risk of being killed. In 2011, Jamaica’s Director of Public Prosecution Paula Lewellyn lamented the lack of capacity and resources to improve witness protection (The Jamaica Observer, 2011, 2 June). She cited high levels of witness intimidation, and the unwillingness of witnesses to major crimes to join the programme. Meanwhile, the stranglehold that gangs in high-crime areas such as Spanish Town have over the area and the threat they pose to witnesses has resulted in the

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<sup>94</sup> *ibid*

<sup>95</sup> See e.g. Jamaica Gleaner (2013) Police killings shot up by 15% – INDECOM, 19 April, <http://jamaica-gleaner.com/gleaner/20130419/lead/lead94.html>, and Jamaica Observer (2011) DPP laments lack of resources for witness protection, 19 June, [http://www.jamaicaobserver.com/news/DPP-laments-lack-of-resources-for-witness-protection\\_9026572](http://www.jamaicaobserver.com/news/DPP-laments-lack-of-resources-for-witness-protection_9026572), and Jamaica Gleaner (2011a) Witness protection programme shortfall, 28 January, <http://jamaica-gleaner.com/latest/article.php?id=26051>, and Jamaica Gleaner (2008a) Witnesses exposed: Protection being breached as case files change hands, 11 July, <http://www.jamaica-gleaner.com/gleaner/20080711/lead/lead1.html>

<sup>96</sup> ‘See and blind, hear and deaf’: Informerphobia in Jamaican garrisons’ (2015). Hume Johnson and Joseph Soeters. *Crime Prevention and Community Safety*, 17(1): 47-66.



witness protection programme being overburdened (see *The Jamaica Gleaner*, 2011b, 8 August).

These...events, first and foremost, suggest that the safety of witnesses is not guaranteed in Jamaica. Second, they reveal overall systemic weaknesses in three interconnected structures for (i) information sharing, (ii) witness protection and (iii) the delivery of justice. Information sharing relies on properly functioning and efficient systems to process and protect witnesses, secure witness contact details and other information from exposure. Some criminal trials have been dismissed because witnesses fail to come forward as a result of threats, intimidation and murder. Witness intimidation and coercion in turn result in poor conviction rates. For police officers such as Prudence Gentles, Head of the Crime Stop Programme, the slowness of the court system itself nurtures informerphobia as ‘the chance for a witness being intimidated in court cases that drag on for years is high’ (*The Jamaica Gleaner*, 2008d, 17 December).

Systemic weaknesses such as those outlined discourage information disclosure and delays or deny the achievement of justice. Although the Jamaican police focus heavily on the ‘culture of silence’ as the major obstruction to progress in criminal justice (see *The Jamaica Gleaner*, 2008d, 17 December), we submit that tangible improvements to the criminal justice system itself, including legislative actions, and other state action, such as the effective functioning of the witness protection programme, seem imperative to lessening informerphobia and encouraging greater information sharing.

- 89) Other evidence suggests that the witness protection programme has been effective in protecting over 1,000 witnesses since its inception in 2001, and clearly there have been benefits to the programme.<sup>97</sup> However, Johnson and Soeters identify significant shortfalls, citing various news articles and basing their arguments on their own extensive research. They note concerns about corruption and the low uptake among people who witness serious crimes. In any case, deported people are only eligible for the programme when they are acting as witness in a serious criminal case. This should be the primary question when assessing whether individuals will be able to secure police protection via witness protection schemes.

### **Internal relocation**

- 90) For immigration and asylum cases, there is often a question over whether an individual can successfully and safely relocate internally in Jamaica.

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<sup>97</sup> See AB (Protection –criminal gangs-internal relocation) Jamaica CG [2007] UKAIT 00018 (<https://tribunalsdecisions.service.gov.uk/utiac/37909>)



- 91) The Home Office provide useful guidance on whether Jamaica is safe for individuals claiming asylum. In their guidance, they note that whether internal relocation is a safe option is ‘a matter for determination on the facts of each individual case’.<sup>98</sup> I agree with this broad statement, but ‘the relevant facts’ in many cases seem to hinge on the lack of any family or social support, an individual’s unfamiliarity with the island’s social and physical geography, and the enhanced visibility of deported persons, especially given recent stories about charter flights. In other words, being a ‘deportee’ is itself a profound risk factor, and makes it much more difficult for individuals to safely relocate on the island.
- 92) Crucially, the ability to internally relocate also depends on whether a ‘deportee’ has family support, connections on the island, familiarity with the geography and culture in Jamaica, an ability to ‘pass as Jamaican’, as well as the material resources to ease the reintegration process.
- 93) Deported people commonly return to live in low-income neighbourhoods, where crime is intensely social and it is hard to keep a low-profile. Many organized gangs have island wide links and associates, especially in major cities and towns (Kingston, Montego Bay, Spanish Town, Maypen, Negril, Ocho Rios). Others have no family and end up in homeless shelters or on the streets, where they are also easy to locate.
- 94) Indeed, deported people usually have few options for internal relocation. They tend to have a limited number of contacts, and rarely have the money to rent secure accommodation wherever they wish. The conditions of being a deported migrant – social isolation, cultural alienation, family estrangement, destitution, and unfamiliarity – make it very hard for people to move elsewhere within the island. Put simply, deported people usually don’t have the knowledge, contacts, or resources to do so. Because the state will not assist them, they find it extremely difficult to actively pursue internal relocation if they feel threatened for any reason.
- 95) Moreover, it seems more sensible that deported people would live in a major towns and cities where there are more opportunities for work. However, it is in cities and towns that they are most vulnerable to targeting by gang members.
- 96) Jamaica is a small island with a population of 3 million people, and deported persons often have few contacts on the island. In my experience, simply hiding from those who might be looking for you is not a realistic or long-term option. There is no hiding place if you are faced with serious threats, and the only way to find security is with significant material resources (i.e. driving a car, living uptown in a gated community, paying for private security protection, affording anonymity).

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<sup>98</sup> See Country Information Guidance here:  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/565865/CIG-Jamaica-Background-v-1-May-2016.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/565865/CIG-Jamaica-Background-v-1-May-2016.pdf)

## **5 LGBTI Persons**

### **The law**

97) Jamaica's 'buggery' laws prohibit same-sex conduct between consenting adult males. 'The abominable crime of buggery' is punishable by imprisonment and hard labour of up to ten years. Those convicted of the 'crime of buggery' are required to register as sex offenders (see The Sexual Offences Act of 2009). While prosecution under these laws is rarely pursued, the criminalizing of sexual intimacy has profoundly negative consequences<sup>99</sup>. The law works to sanction discrimination against LGBT persons, and grants legitimacy to pervasive hostility and violence against sexual minorities in Jamaica. As Human Rights Watch (2014) note:

The laws have been used by police to extort money from adults engaged in consensual homosexual sex; by public television stations to justify refusal to air public service announcements making positive statements about LGBT persons; and by landlords to justify refusal to rent apartments to them. Though those arrested are rarely if ever prosecuted, gay men who are "outed" through arrest risk violence and other abuse by community members.

98) While there are a range of civil society organisations calling for the repealing of the 'buggery' laws, there are no signs of the government taking action – seemingly because any such attempt would prove unpopular with the majority of Jamaican society<sup>100</sup>. In fact, the important work being done by organisations such as J-FLAG has to be contextualised in relation to the forces opposing any amendment to the 'buggery laws', and resisting any wider recognition of the rights of LGBT persons. For example, "in June 2014, an ad-hoc coalition of religious groups, Jamaica CAUSE, organized a mass rally, estimated at 25,000-strong, in Kingston against 'the homosexuality agenda' and the repealing of the buggery law"<sup>101</sup>. There is an annual Love March, organized by religious groups with the express goal of opposing homosexuality<sup>102</sup>. The power of the Christian

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<sup>99</sup> Organization of American States, Inter-American Commission on Human Rights (IACHR), Annual Report 2014, Chapter V. <http://www.oas.org/en/iachr/docs/annual/2014/TOC.asp>; Human Rights Watch, Not Safe at Home – Violence and Discrimination against LGBT people in Jamaica, October 2014 [http://www.hrw.org/sites/default/files/reports/jamaica1014\\_ForUpload\\_1.pdf](http://www.hrw.org/sites/default/files/reports/jamaica1014_ForUpload_1.pdf)

<sup>100</sup> The Jamaica Gleaner, 'Wise Thinking' Says Church As Polls Reveal Jamaicans Are Against Repealing Buggery Law, 6 October 2014, <http://jamaica-gleaner.com/power/55835>; Skyers, J. (2014, July 23). Thousands rally against tossing out buggery act; Shout out for clean, righteous living. (Jamaica) Gleaner. Retrieved from [http://www.jamaicaobserver.com/news/no-to-homo-agenda\\_17050490](http://www.jamaicaobserver.com/news/no-to-homo-agenda_17050490)

<sup>101</sup> Human Rights Watch, Not Safe at Home – Violence and Discrimination against LGBT people in Jamaica, October 2014 [http://www.hrw.org/sites/default/files/reports/jamaica1014\\_ForUpload\\_1.pdf](http://www.hrw.org/sites/default/files/reports/jamaica1014_ForUpload_1.pdf)

<sup>102</sup> Keon West (2016) Jamaica, Three Years Later: Effects of Intensified Pro-Gay Activism on Severe Prejudice Against Lesbians and Gay Men, The Journal of Sex Research, 53:9, 1107-1117; Welsh, B. (2013,

church, in affecting public opinion in Jamaica, should not be underestimated<sup>103</sup>. In 2014, a poll commissioned by Jamaica's largest newspaper revealed that 91% of Jamaicans are against repealing anti-sodomy laws<sup>104</sup>.

99) Javed Jaghai, a young gay activist who brought a legal challenge to the Supreme court, with regard to the 'buggery laws', decided to terminate his lawsuit in 2014, following intense threats of violence against him and his family<sup>105</sup>. As such, homosexuality is and will remain criminalised, and as will be seen below, this means LGBT persons in Jamaica have no access to justice, and face a real threat of violence that constitutes persecution (as recognised in the most recent Home Office Guidance 'Jamaica: Sexual Orientation and Gender Identity').

100) Same-sex relations between women are not criminalized in Jamaica, but lesbian and bisexual women are still stigmatized and subject to violence, notably sexual violence<sup>106</sup>.

### **Homophobia in Jamaican society**

101) Homophobia is rife in Jamaica, across all areas of society – as recognized by the Home Office in their country guidance<sup>107</sup> – and as confirmed by all research into this issue<sup>108</sup>. In the media, in popular music, among politicians, in the police force, the workplace, schools, churches and neighbourhoods,

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June 5). Love March Movement lacks moral compass. (Jamaica) Gleaner. Retrieved from <http://jamaica-gleaner.com/gleaner/20130605/letters/letters8.html>

<sup>103</sup> West, K., & Cowell, N. M. (2015). Predictors of prejudice against lesbians and gay men in Jamaica. *Journal of Sex Research*, 52, 296–305; West, K., & Hewstone, M. (2012a). Culture and contact in the promotion and reduction of anti-gay prejudice: evidence from Jamaica and Britain. *Journal of Homosexuality*, 59(1), 44–66.

<sup>104</sup> Johnson, J. (2016) 'Study says Jamaicans hate gays but believe in conversion', *The Jamaica Gleaner*, <http://jamaica-gleaner.com/article/news/20160411/study-says-jamaicans-hate-gays-believe-conversion>

<sup>105</sup> J-Flag (2014) 'Fears for family's safety force claimant to close lawsuit against anti-gay laws'. <http://jflag.org/wp-content/uploads/2014/08/javed-jaghai-withdraws-from-Constitutional-Challenge.pdf>

<sup>106</sup> Human Rights Watch, Not Safe at Home – Violence and Discrimination against LGBT people in Jamaica, October 2014 [http://www.hrw.org/sites/default/files/reports/jamaica1014\\_ForUpload\\_1.pdf](http://www.hrw.org/sites/default/files/reports/jamaica1014_ForUpload_1.pdf)

<sup>107</sup> Home Office (2015) 'Country information and guidance – Jamaica: Sexual orientation and gender identity' Version 1.0. [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/565869/CIG-Jamaica-SOGI-v1-July-2015.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/565869/CIG-Jamaica-SOGI-v1-July-2015.pdf)

<sup>108</sup> Organization of American States, Inter-American Commission on Human Rights (IACHR), Annual Report 2014, Chapter V. <http://www.oas.org/en/iachr/docs/annual/2014/TOC.asp>; Human Rights Watch, Not Safe at Home – Violence and Discrimination against LGBT people in Jamaica, October 2014 [http://www.hrw.org/sites/default/files/reports/jamaica1014\\_ForUpload\\_1.pdf](http://www.hrw.org/sites/default/files/reports/jamaica1014_ForUpload_1.pdf); Amnesty International, Amnesty International Report 2014-2015: Jamaica, 25 February 2015, Rights of lesbian, gay, bisexual, transgender and intersex people, <https://www.amnesty.org/en/countries/americas/jamaica/report-jamaica>; U.S Department of State, Country Reports on Human Rights Practices for 2013 – Jamaica, Section 6. Discrimination, Societal Abuses, and Trafficking in Persons, 27 February 2014. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220454>

homophobia is virulent and pervasive<sup>109</sup>. Having lived in Jamaica for much of the last 18 months, I can confirm just how prevalent this hatred and discrimination is. Put simply, homophobia is the norm.

- 102) Academic research into homophobia in Jamaica asserts that while “prejudice is high overall, prejudice against gay men is higher than prejudice against lesbians”<sup>110</sup>, and anti-gay attitudes are especially prevalent among men, the poor, and those with less education<sup>111</sup>. Academics in the UK and the West Indies have conducted a range of surveys on the issue of anti-gay prejudice, and the results provide a uniform account of intense homophobia across all sectors of society.<sup>112</sup> As will be discussed below, these attitudes have gruesome consequences in a country that is more generally beset with extreme violence.
- 103) As a result of these societal norms, gay men face profound stigma, and many hide their sexuality as a means of survival – especially those who live in low income neighbourhoods (or garrisons)<sup>113</sup>.
- 104) But as Human Rights Watch note, lesbian and bisexual women are also at profound risk of violence. They report instances where lesbian women were violently attacked and raped by men, and who then faced police indifference and abuse when they report such violence<sup>114</sup>. Moreover, there have been gruesome cases reported in the media of murderous transphobic violence on the island, with Dwayne Jones the most notable case: a 16 year old trans woman who was beaten, stabbed and shot by a mob in Montego Bay in 2013<sup>115</sup>.

## Housing, health, employment

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<sup>109</sup> Farquharson, J. T. (2005). *Fiya-bon: the socio-pragmatics of homophobia in Jamaican (Dancehall) culture*. In S. Muhleisen & B. Migge (Eds.), *Politeness and face in Caribbean Creoles* (pp. 101–118). Amsterdam, The Netherlands: Blackwell.

<sup>110</sup> Keon West (2016) *Jamaica, Three Years Later: Effects of Intensified Pro-Gay Activism on Severe Prejudice Against Lesbians and Gay Men*, *The Journal of Sex Research*, 53:9, 1107-1117

<sup>111</sup> West, K., & Cowell, N. M. (2015). Predictors of prejudice against lesbians and gay men in Jamaica. *Journal of Sex Research*, 52, 296–305; West, K., & Hewstone, M. (2012a). Culture and contact in the promotion and reduction of anti-gay prejudice: evidence from Jamaica and Britain. *Journal of Homosexuality*, 59(1), 44–66.

<sup>112</sup> Boxill, I., Martin, J., Russell, R., Waller, L., Meikle, T., & Mitchell, R. (2011). National survey of attitudes and perceptions of Jamaicans toward same sex relationships (pp. 1–51). Kingston, Jamaica: AIDS-Free World and J-FLAG. Retrieved from <http://www.aidsfreeworld.org/Our-Issues/Homophobia/»/media/Files/Homophobia/NATIONAL%20SURVEY%20OF%20ATTITUDES%20AND%20PERCEPTIONS%20OF%20JAMAICANS%20TOWARDS%20SAME%20SEX%20RELATIONSHIPS.pdf>

<sup>113</sup> Human Rights Watch, *Not Safe at Home – Violence and Discrimination against LGBT people in Jamaica*, October 2014 [http://www.hrw.org/sites/default/files/reports/jamaica1014\\_ForUpload\\_1.pdf](http://www.hrw.org/sites/default/files/reports/jamaica1014_ForUpload_1.pdf)

<sup>114</sup> Human Rights Watch, *Not Safe at Home – Violence and Discrimination against LGBT people in Jamaica*, October 2014 [http://www.hrw.org/sites/default/files/reports/jamaica1014\\_ForUpload\\_1.pdf](http://www.hrw.org/sites/default/files/reports/jamaica1014_ForUpload_1.pdf)

<sup>115</sup> See here: <http://www.ibtimes.co.uk/jamaica-transgender-teen-dwayne-jones-murdered-homophobic-498483>

- 105) Homophobic prejudice, coupled with anti-gay legislation, clearly has substantive consequences for those identifying, or identified, as gay. Gay people face the widespread risk of eviction if their sexual preferences are discovered by neighbours or family members<sup>116</sup>. Stories of violent attacks, where LGBT persons are violently driven from their homes, by mobs threatening to kill them, abound<sup>117</sup>. Between 2009 and 2012, LGBT persons made fifty-three reports of forced displacement to J-FLAG – and this is likely only a proportion of the total<sup>118</sup>. Family rejection and community violence mean that LGBT people are inordinately represented among the homeless in Jamaica<sup>119</sup>.
- 106) Human Rights Watch (2014) found that most gay Jamaicans faced discrimination when seeking employment, in a country where poor people have very few opportunities for formal work. Gay men are especially likely so suffer with HIV – estimated at 25-30% of men who have sex with men are HIV positive – and gay people face discrimination and violence when they seek access to health services<sup>120</sup>.

## Violence

- 107) Jamaica is a profoundly violent country, and no group is more at risk than those identified as LGBT. In Human Rights Watch in depth report, they found that:

Reported acts of violence included rape; being chopped with a machete; being choked; being stabbed with a knife; being shot with a gun; being hit with boards, pipes, sticks, chairs, or brooms; being attacked by groups ranging from 5 to 40 individuals; and being slapped in the face with hands or with guns.<sup>121</sup>

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<sup>116</sup> J-Flag (2014) '(re)Presenting and Redressing LGBT Homelessness in Jamaica - Towards a Multifaceted Approach to Addressing Anti-Gay Related Displacement': <http://jflag.org/representing-and-redressing-lgbt-homelessness-in-jamaica/>; Human Rights Watch, Not Safe at Home – Violence and Discrimination against LGBT people in Jamaica, October 2014

[http://www.hrw.org/sites/default/files/reports/jamaica1014\\_ForUpload\\_1.pdf](http://www.hrw.org/sites/default/files/reports/jamaica1014_ForUpload_1.pdf);  
J-FLAG. (2013). Homophobia and violence in Jamaica. Kingston, Jamaica: Author. Retrieved from [www.jflag.org](http://www.jflag.org)

<sup>117</sup> Erasing 76 Crimes, Evicted gay youths under attack (again) in Jamaica, 16 April 2015. <http://76crimes.com/2015/04/16/evicted-gay-youths-under-attack-again-in-jamaica/>; Pink News, Report: Gay man stoned to death in Jamaica, 10 March 2015, <http://www.pinknews.co.uk/2015/03/10/report-gay-man-stoned-to-death-in-jamaica/>; Pink News, Jamaica: Gay rights activist shot dead outside home, 5 June 2014, <http://www.pinknews.co.uk/2014/06/05/jamaica-gay-rights-activist-shot-dead-outside-home/>

<sup>118</sup> J-FLAG. (2013). Homophobia and violence in Jamaica. Kingston, Jamaica: Author. Retrieved from [www.jflag.org](http://www.jflag.org)

<sup>119</sup> Organization of American States, Inter-American Commission on Human Rights (IACHR), Annual Report 2014, Chapter V. <http://www.oas.org/en/iachr/docs/annual/2014/TOC.asp>

<sup>120</sup> White R, Carr R. Homosexuality and HIV/AIDS stigma in Jamaica. Culture, Health and Sexuality 2005;7(4):347–59.

<sup>121</sup> Human Rights Watch, Not Safe at Home – Violence and Discrimination against LGBT people in Jamaica,



108) Specifically, “those who are poor and unable to live in safer, more affluent areas are particularly vulnerable to violence”<sup>122</sup> “LGBT people who fall outside the upper and middle class income brackets have neither the wealth nor the social capital to escape their circumstances”<sup>123</sup>. Between 2009 and 2012 over 200 reports of violence were made to J-Flag, ranging from physical attacks and mob violence, to sexual violence and arson attacks. J-Flag note “that those who are most affected are usually young males...from the lower socio-economic strata”<sup>124</sup>.

109) This widespread violence is recognised by the Home Office in their country guidance for Jamaica<sup>125</sup>. The Home Office guidance cites a number of incidents of mob violence in recent years, and quotes the Inter-American Commission on Human Rights at length:

By mid-2013 mob attacks in Jamaica soared to worrying levels. According to the information received by the IACHR, on 1 August, two men inside a patrol car were perceived as gay and a crowd quickly gathered and started harassing the men. Police officers had to disperse the crowd using warning shots and pepper spray. On the very same day, police forces had to be called on to rescue two gay men from another irate crowd, which claimed the men “were engaging in an illegal activity in a house” in St. Catherine<sup>126</sup>.

110) There is not space here to describe the many brutal attacks on LGBT persons in Jamaica in recent years, but there have been many covered in the Jamaican press and cited in various reports<sup>127</sup>. Mob violence, people forced to

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October 2014 [http://www.hrw.org/sites/default/files/reports/jamaica1014\\_ForUpload\\_1.pdf](http://www.hrw.org/sites/default/files/reports/jamaica1014_ForUpload_1.pdf)

<sup>122</sup> ibid

<sup>123</sup> J-FLAG. (2013). Homophobia and violence in Jamaica. Kingston, Jamaica: Author. Retrieved from [www.jflag.org](http://www.jflag.org)

<sup>124</sup> ibid

<sup>125</sup> Home Office (2015) ‘Country information and guidance – Jamaica: Sexual orientation and gender identity’ Version 1.0.

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/565869/CIG-Jamaica-SOGI-v1-July-2015.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/565869/CIG-Jamaica-SOGI-v1-July-2015.pdf)

<sup>126</sup> Organization of American States, Inter-American Commission on Human Rights (IACHR), Annual Report 2014, Chapter V. <http://www.oas.org/en/iachr/docs/annual/2014/TOC.asp>

<sup>127</sup> Erasing 76 Crimes, Evicted gay youths under attack (again) in Jamaica, 16 April 2015.

<http://76crimes.com/2015/04/16/evicted-gay-youths-under-attack-again-in-jamaica/>; Pink News, Report: Gay man stoned to death in Jamaica, 10 March 2015,

<http://www.pinknews.co.uk/2015/03/10/report-gay-man-stoned-to-death-in-jamaica/>; Pink News, Jamaica: Gay rights activist shot dead outside home, 5 June 2014,

<http://www.pinknews.co.uk/2014/06/05/jamaica-gay-rights-activist-shot-dead-outside-home/>; Caught on tape! UTech security guards beat alleged gay student. (2012, November 2). (Jamaica) Gleaner.

Retrieved from <http://jamaica-gleaner.com/latest/article.php?id=40911>; West, K. (2014, June 6). Why do so many Jamaicans hate gay people? Guardian. Retrieved from

<http://www.theguardian.com/commentisfree/2014/jun/06/jamaica-music-anti-gay-dancehall-homophobia>

flee their homes and arson are the most common forms of violence against gay persons in Jamaica. Robert Carr undertook interviews with LGBT persons in Jamaica about their experiences of violence:

The community-based attacks are revealing in a number of ways. First the random timing of the attacks is clear. They are sudden and spontaneous. Someone can live in his or her community for years without being physically attacked (although often verbally abused) and then one day there is violence<sup>128</sup>.

### **Lack of police protection**

- 111) Given this intense level of homophobic violence, the question is whether the Jamaican state can protect people. In 2016 Amnesty International stated that ‘there remained no legal protection against discrimination based on real or perceived sexual orientation or gender identity’<sup>129</sup>. While there have been some important steps taken by the Jamaican government to tackle homophobia, only a selective reading of the evidence would lead to the conclusion that the Jamaican government has the ‘political will’ to challenge homophobia. In fact, in the same 2014 Human Rights Watch report<sup>130</sup>, cited by the Home Office as evidence of Jamaica’s ‘political will’ to challenge homophobia, it is stated that:

Despite...public and private initiatives, the Jamaican government still offers little in practical terms to prevent and protect against violence and discrimination, or to punish the perpetrators of crimes against LGBT people. Jamaica has neither comprehensive anti-discrimination legislation, nor specific legislation prohibiting discrimination on the grounds of sexual orientation or gender identity. Serious rights abuses based on sexual orientation and gender identity continue, and justice for these crimes remains elusive.

- 112) Most LGBT people did not, and would not, report violent incidents to the police, fearing that they would be ignored, or, worse, subjected to further violence. In a number of reports, LGBT persons report police making derogatory comments, refusing to take a report, extorting gay victims for money, and even engaging in violence themselves:

According to Devon O., in January 2013, police stood by and watched

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<sup>128</sup> Carr, Robert. (2003). On ‘judgements’ poverty, sexuality-based violence and human rights in 21st Century Jamaica. *Caribbean Journal of Social Work*.

<sup>129</sup> Amnesty International (2016) ‘Annual Report: Jamaica 2015/2016’.

<https://www.amnesty.org/en/countries/americas/jamaica/report-jamaica/>

<sup>130</sup> Human Rights Watch, Not Safe at Home – Violence and Discrimination against LGBT people in Jamaica, October 2014 [http://www.hrw.org/sites/default/files/reports/jamaica1014\\_ForUpload\\_1.pdf](http://www.hrw.org/sites/default/files/reports/jamaica1014_ForUpload_1.pdf)



while a crowd of about 30 people—shouting insults regarding his sexual orientation and armed with knives, machetes, and sticks— beat him for about 20 minutes. He said police finally removed him from the crowd and placed him in a police van to protect him from the mob but then handcuffed and beat him<sup>131</sup>.

- 113) In Jamaica, working class communities tend not to trust the police, and very few crimes – such as homicides – are fully investigated or resolved<sup>132</sup>. This general picture of a police force that only serves the wealthy is compounded in the case of LGBT persons, who regularly experience verbal and physical abuse from the police, when reporting incidences of extreme violence<sup>133</sup>.

### **Being discreet, avoiding violence**

- 114) Many gay people choose to hide their sexual preferences, so as to avoid this violence. For some this is easier than for others. Even if an individual did decide to hide his sexuality, a risk remains that people would find out. Jamaican society is defined by a profoundly oral culture, and people share stories and ‘reason’ about politics, ethics, religion, and community issues. If an individual were to engage in sexual relationships with men, he would be at risk of people finding out, and acting accordingly. Living openly as gay is incredibly dangerous in Jamaica, and the only people able to live relatively free lives are those with significant wealth, resources and social capital.<sup>134</sup> It is also worth noting that if an individual’s case has been reported on in the media, in the UK, Jamaica or online, then there is an increased risk that they will be targeted. Simply having lodged an asylum appeal on the basis of one’s sexuality can put one at risk upon return<sup>135</sup>.

- 115) As mentioned, socio-economic status is crucial in determining the risks someone faces because of their sexuality<sup>136</sup>. Poor people are unable to protect themselves from homophobic violence. As mentioned earlier in the report, deported persons are already vulnerable in terms of housing, employment, health and supportive networks, and many end up homeless and in serious

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<sup>131</sup> Human Rights Watch, Not Safe at Home – Violence and Discrimination against LGBT people in Jamaica, October 2014 [http://www.hrw.org/sites/default/files/reports/jamaica1014\\_ForUpload\\_1.pdf](http://www.hrw.org/sites/default/files/reports/jamaica1014_ForUpload_1.pdf)

<sup>132</sup> UNDP, “Caribbean Human Development Report 2012,” [http://www.undp.org/content/dam/undp/library/corporate/HDR/Latin%20America%20and%20Caribbean%20HDR/C\\_bean\\_HDR\\_Jan25\\_2012\\_3MB.pdf](http://www.undp.org/content/dam/undp/library/corporate/HDR/Latin%20America%20and%20Caribbean%20HDR/C_bean_HDR_Jan25_2012_3MB.pdf) (accessed July 21, 2014), pp. 21, 78

<sup>133</sup> Human Rights Watch, Not Safe at Home – Violence and Discrimination against LGBT people in Jamaica, October 2014 [http://www.hrw.org/sites/default/files/reports/jamaica1014\\_ForUpload\\_1.pdf](http://www.hrw.org/sites/default/files/reports/jamaica1014_ForUpload_1.pdf)

<sup>134</sup> J-FLAG. (2013). Homophobia and violence in Jamaica. Kingston, Jamaica: Author. Retrieved from [www.jflag.org](http://www.jflag.org)

<sup>135</sup> For example, see Orashia Edwards case: [https://www.theguardian.com/uk-news/2015/may/05/bisexual-jamaica-asylum-seeker-facing-imminent-deportation-from-uk?CMP=share\\_btn\\_tw](https://www.theguardian.com/uk-news/2015/may/05/bisexual-jamaica-asylum-seeker-facing-imminent-deportation-from-uk?CMP=share_btn_tw)

<sup>136</sup> J-FLAG. (2013). Homophobia and violence in Jamaica. Kingston, Jamaica: Author. Retrieved from [www.jflag.org](http://www.jflag.org)

poverty. These issues compound the risks for LGBTI persons in Jamaica.

## **6 Women**

- 116) A number of rights organisations have expressed grave concern about the rate of violence against women and girls in Jamaica<sup>137</sup>. According to Amnesty International in 2014:

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 the same year. The clear-up rate for rape cases remains poor, with only 254 of the 465 rapes cases being solved in the first eight months of 2014. Women and girls living in inner-city communities remain particularly exposed to gang violence. They are often victims of reprisal crimes, including sexual violence, for being perceived as having reported or actually reporting criminal activity to the police, or in relation to a personal or family vendetta.

- 117) A government official in Jamaica said in February 2017 that, “many women and children have been murdered viciously in Jamaica from the latter part of last year going into this year”, noting an increase in such incidences in Western Jamaica in particular<sup>138</sup>. It is also argued by Amnesty that the official response to this violence has been inadequate.

According to local NGOs, national legislation to address violence against women remained inadequate. For example, the Sexual Offences Act continued to narrowly define rape as non-consensual penile penetration of a woman’s vagina by a man, and to protect against marital rape in certain circumstances only. By December, over 470 women and girls had reported rape during the year, according to the police (Amnesty, 2017)

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<sup>137</sup> See UN here: <http://www.refworld.org/docid/506056262.html> and here: 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\\_Jamaicaen g.pdf](http://lib.ohchr.org/HRBodies/UPR/Documents/Session9/JM/A_HRC_WG.6_9_JAM_1_E_Jamaicaen g.pdf) [date accessed 14 December 2016]

and Amnesty: <https://www.amnesty.org/en/documents/pol10/4800/2017/en/>; and Organization of American States, Inter-American Commission on Human Rights (IACHR), Annual Report 2014, Chapter V. <http://www.oas.org/en/iachr/docs/annual/2014/TOC.asp>

<sup>138</sup> See here: <http://jamaica-gleaner.com/article/lead-stories/20170207/no-violence-against-women-and-children-mobay-protesters>

- 118) The Home Office, in their country guidance<sup>139</sup>, note that domestic violence against women is pervasive on the island and, in some cases, constitutes persecution. The UN Human Rights Council notes 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<sup>140</sup>.’

- 119) This general picture of violence against women and children should be considered in relation to the rest of this report on the multifaceted risks for deported persons in Jamaica. That is, vulnerabilities faced by women in general are articulated in relation to, and compounded by, the broader problems faced by deportees surrounding income, housing, family support, employment, and violence.

## **7 – Children**

- 120) With the deported persons I have met and the cases I have written reports for, there has often been a question about British children returning with their parents to live in Jamaica. However, the focus of my research has not been on children. However, I can draw out some general comments which might be useful for the court.

- 121) Firstly, the question of language and the children’s ability to adjust. While the Home Office often cite the fact that English is the official language of Jamaica, in every day settings, Jamaican patois predominates.

‘According to some Caribbean linguists, only 1% of Jamaicans speak English as their first language. The rest speak "patois", "Creole", "Afro-English", or "Jamaican" as it's variously known’.<sup>141</sup>

- 122) As argued by Professor Hubert Devonish at the University of West Indies: "Patois is the language of the home; English is something children learn at

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<sup>139</sup> Available here:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/587350/Jamaica - Women fearing DV.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/587350/Jamaica_-_Women_fearing_DV.pdf)

<sup>140</sup>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>

<sup>141</sup> The Guardian (2002). Available here: <https://www.theguardian.com/education/2002/mar/22/tefl>

school<sup>142</sup>”, and as such English is the second language in Jamaica, one in which many Jamaicans lack proper literacy<sup>143</sup>.

- 123) Jamaican patois is “a distinct language with its own rules of grammar that students need to understand<sup>144</sup>” (Cooper, also cite Christie, 2007). There is an ongoing debate about language in Jamaican society and policy, and whether to instruct primary school in Jamaican English or standard English, but no one is arguing that English is the main language spoken by most Jamaicans. Jamaican patois, whether defined as a language, creole, or dialect, has different grammar, syntax, and vocabulary. For British children, I think it is clear that they will be unable to speak Jamaican patois fluently, and this might lead to them being especially visible and excluded in school settings.
- 124) There is then the question about whether children will suffer as a result of moving to a place where violence and insecurity exist on a much greater scale than in the UK. Take this paper from Corin Bailey, doctor of social geography at the University of West Indies:
- “The constant exposure of children to community violence is an issue of great concern worldwide. Kingston, Jamaica, is one of the most violent cities in the Western Hemisphere, and children are exposed to acts of extreme brutality with considerable regularity... A number of themes are identified within this struggle as the children are deeply affected by the violence that is a part of their daily existence. There is a need for urgent crisis intervention as the persistence of community violence in Kingston shows little sign of abating”<sup>145</sup>
- 125) Corin Bailey cites another important study of violence and its effect on children in Jamaica: “Samms-Vaughan, Jackson, and Ashley (2005) highlighted the high level of violence to which Jamaican children are exposed through an assessment of exposure of 1,674 urban 11- to 12-year-olds. They reported that a third of the children surveyed had witnessed severe acts of physical violence, whereas a fifth had been victims themselves. Boys and children attending primary school had the greatest level of exposure.”<sup>146</sup>
- 126) Cunningham and Baker found that children in inner city Kingston struggle with PTSD, learning difficulties, despair and aggression as a result of this violence.

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<sup>142</sup> In Guardian (2002): <https://www.theguardian.com/education/2002/mar/22/tefl>

<sup>143</sup> <http://jamaica-gleaner.com/article/commentary/20160626/carolyn-cooper-que-pasa-jamaica-wa-gwaan>

<sup>144</sup> <http://jamaica-gleaner.com/article/commentary/20160626/carolyn-cooper-que-pasa-jamaica-wa-gwaan>; see also Christie, P. (2007) Language in Jamaica, *Arawak Publications*

<sup>145</sup> Bailey, Corin. (2011) ‘Living with community violence: a conversation with primary school children in Kingston’s inner city’, *Space and Culture* 14(1): 114-128.

<sup>146</sup> Ibid citing: Samms-Vaughan, M., Jackson, M., & Ashley, D. (2005). Urban Jamaican children’s exposure to community violence. *West Indian Medical Journal*, 54, 14-21.

Some young teenagers join gangs, and have access to firearms. A significant proportion of those who have been found guilty of recent murders and been victim to them have been between the ages of fourteen and seventeen.<sup>147</sup>

127) Amnesty international reported on gang violence in Kingston, and noted that: “the violence disrupts education as schools are either closed or children are so traumatized that they are too frightened to leave home”.<sup>148</sup>

## DECLARATIONS

- I have set out in my report what I understand from those instructing me to be the questions in respect of which my opinion as an expert are required.
- I have done my best, in preparing this report, to be accurate and complete. I have mentioned all matters, which I regard as relevant to the opinions I have expressed.
- Wherever I have no personal knowledge, I have indicated the source of factual information.
- I have not included anything in this report, which has been suggested to me by anyone, including the lawyers instructing me, without forming my own independent view of the matter.
- I confirm that I have made clear which facts and matters referred to in this report are within my own knowledge and which are not. Those that are within my knowledge I confirm to be true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer.

I understand that:

- (i) My overriding duty is to the Court both in preparing reports and giving oral evidence. I have complied and will continue to comply with that it; and
- (ii) Am aware of the requirements of the Tribunal’s Practice Directions in relation to expert evidence ;
- (iii) My report, subject to any corrections before swearing as to its correctness, will form the evidence to be given under oath or affirmation;
- (iv) I will notify those instructing me if, for any reason, I subsequently consider that the report requires any correction or qualification.
- (v) I may be cross-examined on my report by a cross-examiner assisted by an expert;
- (vi) I am likely to be the subject of public adverse criticism by the judge if the Court concludes that I have not taken reasonable care in trying to meet the standards set out above;

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<sup>147</sup> <http://jamaica-gleaner.com/article/lead-stories/20180121/young-dangerous-teenage-gangsters-driving-crime-rate>

<sup>148</sup> <https://www.amnesty.org/download/Documents/52000/amr380042008eng.pdf>

Luke de Noronha  
July 2021

UCL  
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(vii) I confirm that I have not entered into any agreement where the amount of payment of the fee is in anyway dependent on the outcome of the case.

SIGNED:



DATE: 23 July 2021