

JAMAICA

1. Discriminatory family code

In Jamaica, the **legal age of marriage** is 18, and 16 with parental consent.¹ According to 2002-2012 data, 0.6% of children were married by the age of 15 and 8.6% by the age of 18.²

Jamaican legislation provides for equal rights and responsibilities for married men and women, and mothers and fathers share **parental authority**.³ However, gendered stereotypes of women as caregivers and nurturers are embedded. In its concluding remarks on Jamaica's latest report to the United Nations Committee on the Elimination of Discrimination against Women (CEDAW), the CEDAW Committee expressed concern that "while both parents are legally responsible for the maintenance of their child/children, mothers (particularly single mothers) carry a disproportionate burden of care for children because of cultural factors as well as legal and administrative inadequacies concerning child maintenance and a lack of participation by men."⁴ The committee goes on to note that 40% of households are headed by women in Jamaica.⁵

In 2004, Jamaica reported to the CEDAW Committee that women tended to receive custody of children after **divorce**, but the issue was not addressed in its 2011 report to the committee.⁶

The law in Jamaica does not discriminate on the basis of gender with respect to **inheritance**. Under the Inheritance (provision for Family and Dependents) Act 1993, the wishes of the deceased are paramount and the estate is distributed according to the will of the deceased. If the deceased leaves no will, the estate is distributed to the surviving spouse, children, parents and other eligible relatives according to the Intestates' Estates and Property Charges Act.⁷ The law applies equally to male and female spouses.

¹ Marriage Act (1979); UN Statistics Division, 2008

² UNICEF, http://www.unicef.org/infobycountry/jamaica_statistics.html (accessed 24/04/2014)

³ Equality for spouses is provided in Marriage and Family Law (Article 2) as well as under the Domestic Violence Amendment Act (2004), the Property (Rights of Spouses) Act, and the Maintenance Act (2005); CEDAW, 2011, p. 79

⁴ CEDAW, 2012, p. 11

⁵ CEDAW, 2012, p. 11

⁶ CEDAW, 2004, p. 83

⁷ All children – legitimate and illegitimate – are included in practice; FAO, n.d.

However, if the deceased has specifically stated that the spouse and children should not inherit his or her property, the surviving dependents can appeal to the courts to obtain an allowance.⁸

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The Matrimonial Causes Act provides both spouses the **right to initiate divorce**.⁹ However, the CEDAW Committee has expressed concern at the divorce process in Jamaica more broadly, noting that “proceedings for divorce ... provide that the parties must be married for a minimum of two years and de facto separated for one year and ... courts rather than the parties ... decide whether to grant the divorce based on the irreparable rupture of the marriage and only after a period of six months.”¹⁰

2. Restricted physical integrity

In 1995, the government passed a law that recognised **domestic violence** as a crime. In 2004, the Domestic Violence (Amendment) Act was adopted to provide victims of domestic violence the opportunity to apply for the protection of the courts. This act broadened the categories of women protected to include not just married women, but also women in common-law and visiting relationships.¹¹

Although there is no nation-wide prevalence data on domestic violence, the government reported to the CEDAW Committee in 2011 that a number of actions taken under the Domestic Violence Act, including a domestic violence module in police training courses, setting up Domestic Violence Desks in parishes with high reports of domestic violence, the creation of Victim Support Units which provide emotional support, counselling and other services to victims of violence in 14 parishes, and educational programmes on domestic and sexual abuse in select schools have led to an overall increase in the number of incidents of violence reported.¹²

The 2009 Sexual Offences Act creates new provisions for the prosecution of **rape** and other sexual offences, including marital rape, anonymity of complainant in rape and other sexual offences, as well as incest.¹³ According to Amnesty International, however, the criminalisation of marital rape is only valid under certain circumstances.¹⁴ Similarly, in its 2012 report, the CEDAW Committee expressed concern that rape within marriage is not always criminalised.¹⁵

Violence against women remains a serious problem in Jamaica although “cases are underreported due to the prevalence of social and cultural norms.”¹⁶ In 2010, Amnesty International reported that according to national police statistics, 610 cases of rape and 511 cases of carnal abuse were reported.¹⁷ Sexual violence against young women is a particular problem, with Amnesty International citing a 2009

⁸ CEDAW, 2004, p. 84

⁹ Article 5.1

¹⁰ CEDAW, 2012, p. 11

¹¹ United Nations General Assembly, 2010, p. 9

¹² CEDAW, 2011, pp. 37, 22

¹³ CEDAW, 2011, p. 29; United Nations General Assembly, 2010, p. 9

¹⁴ Amnesty International, 2010, p. 4

¹⁵ CEDAW, 2012, p. 5

¹⁶ CEDAW, 2012, p. 5

¹⁷ Amnesty International, 2010, p. 5

survey of 750 girls aged 15 to 17 which found that 49% of respondents had experienced sexual coercion or violence.¹⁸ According to UNICEF, in 2006, children and adolescents made up an alarming 78% of all the sexual assault/rape cases admitted to public hospitals. In the same year, girls under 16 accounted for 32% of all sexual assaults in Jamaica.¹⁹ Sexual violence against lesbians is also an issue, and incidents of “correctional rape” by members of the judiciary system committed against lesbian women have been documented,²⁰ yet is unaddressed under the Sexual Offences Act.

Both the CEDAW Committee and Amnesty International suggest that the length of time taken to investigate and prosecute cases remains an issue in Jamaica, deterring women from reporting crimes, and the CEDAW Committee concludes that “[t]here is insufficient awareness and training among judges, prosecutors, police officers and health professionals on violence against women.”²¹

It appears that there is no law addressing **sexual harassment** in Jamaica. In its concluding remarks in 2012, the CEDAW Committee expressed concern with the “high prevalence of sexual harassment in the workplace and in society at large and the absence of legislation in this regard.”²²

There is no indication that **female genital mutilation** is practised in Jamaica.

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Violence based on **sexuality and gender identity** is a serious issue for lesbian, bisexual and transgender women in Jamaica. Homosexuality is criminalised in Jamaica, which, according to human rights organisations, “promotes a climate of prejudice in which discrimination, physical attacks and other abuses against people who are believed to be homosexual are likely to occur.”²³ Reported acts of violence against lesbian, bisexual and transgender women include assault, “correctional rape” by members of the judiciary system as mentioned above and murder.²⁴

Although **abortion** is illegal in Jamaica, under a 1975 Ministry of Health Policy, medical practitioners are permitted to terminate pregnancies in cases of danger to the mother’s health/life and in cases of rape, incest and carnal abuse. In both 2006 and 2011, the United Nations Committee on Discrimination against Women noted that this policy was not well-known or implemented and, as such, women had few options for safe abortion, even in cases of rape, incest or when the woman’s life was in danger.²⁵

¹⁸ Amnesty International, 2010, p. 5

¹⁹ UNICEF, n.d.

²⁰ International Lesbian, Gay, Bisexual, Trans and Intersex Association, 2010

²¹ Amnesty International, 2010; CEDAW, 2012, pp. 5-6

²² CEDAW, 2012, p. 5

²³ Amnesty International, 2010, p. 6

²⁴ International Lesbian, Gay, Bisexual, Trans and Intersex Association, 2010

²⁵ CEDAW, 2012, pp. 8-9; CEDAW, 2006, p. 7

3. Son bias

The male-to-female **sex ratio** at birth in 2013 is 1.05 and for the working age population (15-64 years old) is .98.²⁶ There is no evidence to suggest that Jamaica is a country of concern in relation to **missing women**.

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The ratio of girls to boys in primary and secondary education was 107% in 2012 and more girls were enrolled in secondary education than boys.²⁷ UNICEF provides education data from 2008-2012: In primary education, there is a slight gender gap benefitting boys. The gap is reversed in secondary education.²⁸

4. Restricted resources and assets

As regards **secure access to land**, in 2004, the government reported that Jamaican women have the same legal rights as men to hold title deeds. Women's title to land is not derived from their husbands or fathers or any other male relative.²⁹

Under the Married Women's Property Act, women have the same rights as men to acquire, hold and dispose of property and this right is preserved regardless of marital status. The Married Women's Property Act provides that property, which belongs to a woman whether it is acquired before or during marriage, is held as if she were a single woman.³⁰ The Family Property Rights of Spouses Act which came into effect in 2006 introduces a special family property regime for spouses to provide for the equitable division of property between spouses upon dissolution of marriage. Under this system, the property rights of a husband and wife are not affected by marriage. The ownership of property acquired during marriage is determined by a party's contribution – direct or indirect – towards its acquisition and the intention of the parties.³¹

Concerning **financial services**, while there are no legal barriers for women to obtain loans in Jamaica, their lower economic position and lower levels of collateral pose challenges for obtaining credit. In 2004, the government reported on a study that found that while women make up some two thirds (65%) of the small business sector, they received a little under one half (49%) of the loans extended through government initiatives. In the micro-sector women received 62% of the smallest loans, but the percentage of women receiving loans decreased as the loan amount increased.³²

²⁶ CIA, <https://www.cia.gov/library/publications/the-world-factbook/fields/2018.html> (accessed 24/04/2014)

²⁷ World Bank Development Indicators Database, <http://databank.worldbank.org/data/views/reports/tableview.aspx> (accessed 24/04/2014)

²⁸ UNICEF. http://www.unicef.org/infobycountry/jamaica_statistics.html (accessed 24/04/2014)

²⁹ CEDAW, 2004, p. 78

³⁰ CEDAW, 2004, p.80

³¹ FAO, n.d.

³² CEDAW, 2004, pp. 69-70. It is unclear from the 2011 report to CEDAW whether this law has been modified.

According to the latest data from the World Bank, 67% of women had accounts at formal financial institutions in 2011, while 75% of men did.³³ Women made up over half of borrowers at microfinance institutions in 2012: 56.89%.³⁴

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In its 2011 report to CEDAW, the government cited data suggesting that women are more active in agriculture. According to the report, for the period covering January 2007 to July 2008, 3,400 women entered the labour force in agriculture compared to 1,300 males entered the industry. However, there is a lack of data on women's ownership of this land, and the data from CEDAW 2011 suggests that "rural women manage smaller parcels of land and are more dependent on male hired labour, thus incurring more costs to manage their farms."³⁵ In addition, some rural women function on the margins of the sector, and move in and out of agriculture more than men.³⁶

5. Restricted civil liberties

Women's **access to public space** is limited in a number of ways in Jamaica. Firstly, the law provides that married women are obliged to adopt their husband's place of residence. However, there is a contradiction in the law where under Section 34 of the Matrimonial Causes Act, the domicile of a married woman is treated as though she was never married.³⁷ Second, as mentioned in the Physical Integrity section, lesbian, bisexual and transgender women do not receive protection under the law from violence due to sexuality or gender identity and in fact are discriminated against within the criminal justice system.³⁸

Women's organisations play an active role in **political life** in Jamaica,³⁹ and the current Prime Minister is a woman, Portia Simpson Miller. There is no **quota** system in place to promote women's political participation, and women's representation at the local and national levels remains low. A recent study cited in the government's 2011 report to CEDAW found that "the male-dominated political environment present in Jamaica has not traditionally facilitated women entering and remaining in representational politics without significant challenges to sexism."⁴⁰ The CEDAW Committee recommended that a quota system be put in place to address these challenges in its 2012 report.⁴¹

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Women are underrepresented in the **media** – they are only 30% of those quoted in newspapers, 41% of news reporters and 18% of news subjects.⁴² Women do make up 74% of news presenters, but stories

³³ World Bank, 2013

³⁴ Microfinance Information Exchange, 2013

³⁵ CEDAW, 2011, p. 72

³⁶ CEDAW, 2011, p. 72

³⁷ CEDAW, 2004, p. 81

³⁸ Amnesty International, 2010

³⁹ CEDAW, 2006, p. 2

⁴⁰ CEDAW, 2011, p. 42

⁴¹ CEDAW, 2012, p. 4

⁴² GMMP, 2010, pp. 88, 66

that reinforce gender stereotypes are much more common in the news (24%) than those that do not (9%), and only 1% of news stories highlighting gender inequality.⁴³

Under the **Employment** (Equal Pay for Men and Women) Act 1975, it is an offence for employers in Jamaica to pay persons of different sexes at different rates for the same work, if they are equally qualified and working under similar conditions.⁴⁴

The **Maternity Leave** Act (1979) makes provisions for paid maternity leave. The Act provides for 12 weeks leave with 8 weeks at full pay, paid by the employer. The payment can only be received for three pregnancies from the same employer.⁴⁵ In 2009, domestic workers were included under the legislation and received the national minimum wage for 8 weeks, paid by the Social Security system, if the worker pays into the system.⁴⁶

Additionally, according to the government's latest report to CEDAW, a National Flexi-time Policy has been in draft phase for a long time, which aims to increase productivity and to address family-work balance.⁴⁷

⁴³ GMMP, 2010, pp. 66, 104, 106

⁴⁴ CEDAW, 2004, p. 81

⁴⁵ CEDAW, 2004, p. 53

⁴⁶ ILO, 2011

⁴⁷ CEDAW, 2011, p. 56

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