HUMAN RIGHTS VIOLATIONS
2011-2020
ANALYSIS REPORT

TOTAL VIOLATIONS
652
2011 - 2020
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INTRODUCTION

This report is an analysis of human rights violations reported to J-FLAG between 2011 and 2020. This report organizes the reports according to the rights that have been reportedly violated in each case, and as such there may be overlap in some cases given that one report may involve multiple rights violations.

Given JFLAG’s mandate and core functions, these reports remain unverified but serve a useful purpose in highlighting the kinds of realities that LGBT Jamaicans face. The commonality of certain types of violations suggests that there is more work to be done in addressing the ways in which homophobia and transphobia manifest themselves to the detriment of LGBT Jamaicans.

Over the period there were six hundred and fifty-two (652) reported violations, with those relating to the right to life, liberty and security of the person accounting for 358 of them.

It must be noted that it is not entirely clear how the COVID-19 pandemic has affected the ability or willingness of community members to make reports in 2020, which saw a dramatic decline in the number of human rights violations reported.
Between Jan 2011 and 2016, the violations reported here are committed by a wide cross section of persons both known and unknown to their victims, including family members, friends, church members, community members, area leaders/dons, police officers, potential and actual employers, landlords, co-workers, security guards, public sector workers, classmates, mobs, small groups of unknown persons and individuals unknown to the victims.

It must be noted that it is not entirely clear how the COVID-19 pandemic has affected the ability or willingness of community members to make reports in 2020, which saw a dramatic decline in the number of human rights violations reported.

This demonstrates a need to address issues related to stigma and discrimination at various levels.
The data available for the years 2011 to 2016 does not indicate the gender identity of the persons reporting. In 2017, seven (7) reports were made by trans women, while thirteen (13) by cisgender men, two (2) by cisgender women.

In 2019, a total of twenty-one (21) persons made reports, all of whom were men. In 2020, four (4) women and nineteen (19) men made reports. It was unclear in 2019 and 2020 how many persons were cisgender and how many were transgender.
The Universal Declaration of Human Rights guarantees the right of persons to own property and the right not to be arbitrarily deprived of property in Article 17. Section 15 of the Jamaica Charter of Fundamental Rights and Freedoms protects the rights of Jamaicans not to have their property compulsorily taken except by or under provisions of law.

There were nineteen (19) violations to the right to property. Of that number, nine (9) reports were of robberies and burglaries, with three (3) reports in 2016, two (2) in 2020 and one case each between 2011 and 2014. There was one (1) attempted burglary during the same period.

There was one (1) attempted burglary during the same period. There were three (3) cases of vandalism: one (1) being recorded in 2013, 2014 and 2016 each. Extortion was reported six (6) times with one (1) case being reported in 2011, 2012, 2015 and 2016 each and the remaining two (2) cases being reported in 2013.
There was a total of 102 violations of the right to housing. Nineteen (19) cases of displacement with physical violence were reported between 2011 and 2020. Six (6) of those cases were reported in 2011 representing the most cases reported in any given year.

This is followed by five (5) reports in 2012, three (3) each in 2013 and 2015 and one (1) each in 2016 and 2017. No cases of displacement with physical violence were reported between 2018 and 2020. For displacement/expulsion from home, there were a total of seventy-four (74) cases with seventeen (17) being recorded in 2011, thirteen (13) in 2020, twelve (12) in 2019, ten (10) in 2015 and seven (7) in 2012.

The Universal Declaration of Human Rights guarantees the right of all persons to a standard of living adequate for their health and wellbeing in Article 25.

This includes the right to adequate housing protected in article 11 of the International Covenant on Economic, Social and Cultural Rights. Forced evictions violate the right to adequate housing and so cases of violent evictions and evictions otherwise against the will of the person violate the right to housing.

Housing discrimination in this instance refers to the denial of housing or continued residence by homeowner in a non-familial scenario.

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There were also four (4) cases each in 2013 and 2016, three (3) each in 2017 and 2018 and one (1) case in 2014. Arson was reported once in the years 2011, 2013, 2015 and 2017 while two (2) reports were made in 2016 and 2020, totalling eight (8) reports. No reports of arson were made in 2012, 2014, 2018 and 2019.
The Universal Declaration of Human Rights guarantees the right of all persons to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment in Article 23. Articles 6 and 7 of the International Covenant on Economic, Social and Cultural Rights require governments to protect these rights from being violated. These rights are violated by discrimination in the workplace whether through the actions of employers, prospective employers or fellow employees.

There were twenty-one (21) cases of employment discrimination between 2011 and 2020. Five (5) cases were reported in 2015, four (4) in 2020, three (3) cases were reported in 2011, while two (2) were reported in the years 2013, 2014, 2016 and 2018. No cases were reported in 2012 and 2017.
The Universal Declaration of Human Rights guarantees the right of all persons to a standard of living adequate for their health and well-being in Article 25. This includes the right of everyone to enjoy the highest attainable standard of physical and mental health protected in article 12 of the International Covenant on Economic, Social and Cultural Rights. This right is violated where persons are arbitrarily denied healthcare or experience discrimination when seeking to access healthcare, among other things.

There were two (2) violations of the Right to Health. There was one (1) case of health discrimination reported in 2017, while in 2016 there was one (1) case of decline in mental health following long-term harassment.
The Universal Declaration of Human Rights guarantees the right of all persons to education. Article 13 of the International Covenant on Economic, Social and Cultural Rights guarantees the right to free education at the primary level and that education at higher levels should be equally accessible by all. This right is violated where persons are arbitrarily denied education or experience discrimination when seeking to access education, among other things. This violation may be the result of the actions of students, teachers, parents or school administrators.

A total of four violations to the right to education were recorded. There was one (1) case each of discrimination, access, expulsion from school, all reported in 2013. There was also one (1) other case of expulsion from school in 2020. There were no other reports relating to the right reported during the 2011 to 2020 period.
The Universal Declaration of Human Rights guarantees the right to privacy to all persons in Article 12. Article 17 of the International Covenant on Civil and Political Rights requires that a person’s privacy, family, home, reputation and correspondence not be unlawfully interfered with. Section 13(3)(j) of the Jamaica Charter of Fundamental Rights and Freedoms guarantees the right to protection of private and family life, privacy of the home and privacy of communication.

The right to privacy recorded sixty (60) violations. Three (3) reports each of outing were made in 2012 and 2016, two (2) each in 2011 and 2013, while one (1) each was reported in 2014 and 2015. There were no such reports between 2017 and 2020.
There were two (2) cases of outing accompanied by blackmail with one report being made in 2012 and the other in 2015.

There were eight (8) reports of targeted home invasion with most being reported in 2012 at four (4), followed by two (2) in 2011 and one (1) each in 2016 and 2017. Targeted home destruction was reported three times between 2011 and 2020, with one (1) report being made in 2012, another in 2014 and the final incident being reported in 2015.

Arson was reported once in the years 2011, 2013, 2015 and 2017 and twice in 2016. There were no reports of arson in the other years. There was only one case of someone being charged for buggery and that occurred in 2011.

Displacement by persons outside of the home was reported twenty-five (25) times between 2011 and 2020, with eight (8) cases reported in 2015, seven (7) in 2011, four (4) in 2012, three (3) in 2013, and one case being reported in the years 2014, 2016 and 2017. There was one case of cyberbullying in the years 2017, 2018, and 2019.
The Universal Declaration of Human Rights guarantees that all persons are equal before the law and are entitled without discrimination to equal protection of the law in Article 7. Article 26 of the International Covenant on Civil & Political Rights creates an obligation on states to protect this right.

Section 13(3)(g) of the Jamaica Charter of Fundamental Rights and Freedoms protects the rights of Jamaicans to equality before the law and section 13(3)(h) guarantees that all persons will be treated equitably and humanely by public authorities in the exercise of their function.

The rights protected are violated where laws themselves are discriminatory or where they are implemented in a discriminatory fashion. Police inaction and discrimination by public officials are classic examples of this right violation.

This right saw forty-five (45) violations during the period. Sexual assault was reported four times, once in 2012 and three (3) times in 2017. Verbal harassment and threats by police were reported three times in 2018, twice in the years 2011 and 2016 and once in the years 2012, 2014 and 2015.

There were also ten (10) reported cases of physical abuse by police with seven (7) being reported in 2011 and three in 2012. Police inaction was reported four times with one (1) case each being reported in 2014, 2015, 2016 and 2017.
There were four (4) instances of police extortion, with one (1) case each being reported in 2011 and 2013 and two (2) in 2012. There was one (1) arrest for sitting in a car with same-sex partner reported in 2012 and one (1) case of someone being charged for buggery in 2011. There were also eleven (11) reports of police discrimination, seven (7) of which were reported in 2020 and four (4) in 2019.
The Universal Declaration of Human Rights guarantees that no person shall be subjected to arbitrary arrest, detention or exile in Article 9. Article 9 of the International Covenant on Civil & Political Rights outlines that everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

There was one case of unlawful arrest and one case of arrest in relation to buggery, both of which were recorded in 2011.
The Universal Declaration of Human Rights guarantees that no person shall be subjected to arbitrary arrest, detention or exile in Article 9. Article 9 of the International Covenant on Civil & Political Rights outlines that everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

Section 14 of the Jamaica Charter of Fundamental Rights and Freedoms stipulates that no person shall be deprived of his liberty except on reasonable grounds and in accordance with fair procedures established by law in limited circumstances. Persons detained should be treated humanely and with respect for their inherent dignity.

This right recorded 358 violations throughout the period. Violent robbery was reported twice during the period with one case being reported in 2012 and the other in 2013. Sexual abuse was reported eighteen (18) times. There were three (3) reports of sexual abuse in the years 2013, 2016, 2017, two (2) reports in 2012 and one report in the years 2013, 2014, 2015 and 2019.

There were eight instances of targeted murders with four (4) in 2013, two (2) in 2011 and one (1) in 2012 and another in 2016.

Displacement with violence was reported nineteen (19) times. Six (6) of those cases were reported in 2011, five (5) in 2012, three (3) each in 2013 and 2015 and one (1) each in 2016 and 2017.
Threats of violence were reported 107 times with twenty-one (21) reports made in 2011, seventeen (17) in 2015, sixteen (16) in 2012, fourteen (14) in 2018, eleven (11) in 2016, ten (10) in 2014, nine (9) in 2013, eight (8) in 2020 and one (1) in 2017. There was one (1) report of unlawful arrest in 2011.


There was one (1) case of a bus being stoned with an LGBT person on board, while there were 26 reports of mob attacks. Of the total attacks, five (5) each took place in 2016 and 2018, four (4) each in 2011 and 2015, three (3) in 2017, two (2) each in 2012 and 2013 and one (1) in 2014. One (1) case of being buried alive and one (1) case of poisoning were reported in 2020.
The Universal Declaration of Human Rights guarantees that all persons are equal before the law and are entitled without discrimination to equal protection of the law in Article 7. Article 26 of the International Covenant on Civil & Political Rights places an obligation on the state to create laws which prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

The case of Toonen v Australia has established that “sexual orientation” discrimination is prohibited by this list. By analogy, so is gender identity discrimination. The obligation on the State includes providing a remedy for instances of discrimination at the hands of private citizens.

The right is not only violated by the instance of discrimination itself but also by the state’s failure to provide an adequate remedy to it. Jamaica has no legal provisions providing redress from sexual orientation or gender identity-based discrimination. The right is violated in every instance in which unfair treatment is motivated by status-based prejudice (in this case homophobia and transphobia) and therefore almost all cases discussed above involve a violation of the right to freedom from discrimination. This list will consider those forms of discrimination not already captured.

A total of seventy-seven (77) violations of this right were reported. There were fourteen (14) reports of verbal harassment with four (4) cases being reported in 2016, three (3) each in 2012 and 2015, two (2) in 2013 and one (1) each in 2011 and 2014.
There were also 47 reports of verbal assault with twelve (12) being reported in 2011, seven (7) in 2017, six (6) each in 2014 and 2018, four (4) in 2013, three (3) each in 2019 and 2020 and two (2) each in 2012, 2015 and 2016. There were fifteen (15) reports of stalking. Six (6) of those reports were made in 2016, three (3) each in 2011 and 2013, two (2) in 2012 and one (1) in 2019. Service discrimination was reported once in 2013.
The Right to Life, Liberty and Security of the Person is the most violated right accounting for 54.9% of the violations reported received between 2011 and 2020. Of the 358 violations, physical assault represents nearly 50% (174). This is followed by threats of violence which represent 29% (107) of reports. The remaining 21% (77) of reports cover mob attacks, displacement with violence, sexual abuse, targeted murders, violent robbery, unlawful arrest, stoning of bus, being buried alive and attempted poisoning. There have been consistent reports of physical assaults, threats of violence and sexual abuse over the 10-year period. However, violent robberies, targeted murders, displacement with violence and mob attacks have seen a downward trend in the number of reports resulting in zero reports for each for 2019 and 2020. Unlawful arrest, stoning of bus, being buried alive and attempted poisoning were all recorded once. Another issue that remains to be a significant problem for LGBT Jamaicans is displacement. Displacement/expulsion from home accounts for over 70% of the violations of the right to housing. Displacement with violence is also an issue with 18% (19) of the reports reflecting that.

Displacement/expulsion from home initially saw a downward trend between 2011 and 2014 from 17 reports to 1 report respectively, followed by a dramatic increase in violations with ten (10) being reported in 2015.
Following that, there was another downward trend from 2016 to 2018 which ended with three (3) reports. However, there were twelve (12) violations in 2019, then thirteen (13) in 2020.

Discrimination against the LGBT community also persists. This presents itself mostly in the form of verbal assault which accounts for 54% (47) of the violations of the right to freedom from discrimination. Stalking, Verbal harassment, discrimination from police and service discrimination account for the remainder of the cases. Verbal assaults saw a dramatic drop in the number of violations between 2011 and 2012 with slight increases in 2013 and 2014. This was then followed a drop in reports in 2015 which was held through to 2016. This was followed by an increase in reports in 2017, after which the number of violations began to fall until the end of 2020.

Verbal harassment and stalking, both saw downward trends, while service discrimination was only reported once.

Privacy rights of LGBT people continue to be violated with displacement by persons outside of the home representing 41% (25) of the reports. Outing accounts for 20% (12) and targeted home invasion accounted for just over 13% of reports.

Although displacement by persons outside of the home represents most of the violations of the right to privacy, this violation type has seen downward trend with no violations being reported since 2017. All violation types under this right have trended downward since 2017 with only cyberbullying reporting a case in 2018 and 2019, while none were reported in 2020.
Violations of the right to equality before the law and equal protection of the law are those perpetrated by the police. Accounting for the majority of violations are discrimination from police which was reported eleven (11) times, verbal harassment and threats at ten (10) and physical abuse by police at ten (10). The other violations included sexual assault police inaction, police extortion, arrested for sitting in a car with same-sex partner and being charged for buggery. Sexual assault, verbal harassment and threats, physical abuse, inaction, extortion, arrested for sitting in car with same sex partner and charged for buggery all saw few or no reports as far back as 2014. Discrimination from police has however seen an increase from four (4) reports in 2019 to eleven (11) in 2020.

Employment discrimination against LGBT people also persists with twenty-one (21) cases reported between 2011 and 2020. Reports of employment discrimination remained steady throughout most of the period with increases observed in 2015 and 2020.

LGBT people continue to be victims of robberies and burglaries. Violations of the right to property included nine (9) reports of robbery and burglary and six (6) reports of extortion. There have been no reports of attempted burglary, vandalism and extortion since 2017. There were no reports of robberies and burglaries between 2017 and 2019, however, two reports were made in 2020.

The right to health and the right to education have recorded two (2) reports, while the right to education recorded four (4) violations.
CONCLUSION

Violations to Right to Life, Liberty and Security of the Person in the form of physical assault continue to be an area of concern. More advocacy needs to be done in this regard, particularly for interventions geared towards reducing violence against LGBT people. The discrimination faced by LGBT community members continues to manifest itself in the form of verbal assault and employment discrimination reiterating the need for anti-discrimination legislation and specific campaigns to address this issue. The displacement of LGBT people needs to be addressed by making homeless shelters more comfortable spaces. In the violation to the right to equality before the law and equal protection of the law, more sensitisation of the police force around the Jamaica Constabulary Force’s diversity policy.

ABOUT JFLAG’S SUPPORT SERVICES UNIT (SSU)

The Support Services Unit offers immediate, short-term help to members of the LGBTQ community who have experienced an event that produces emotional, mental, physical, and behavioural distress or problems. This arm of JFLAG offers counselling services, referrals to necessary services and empowerment to our clients. We facilitate the rebuilding process, helping our clients to reach a state of stability where they are able to cope and operate as a functioning member of society. We also plan and execute projects deemed to address key issues based on the findings from our database. These projects aim to spread awareness, education and in the long-term garner more support for members of the LGBTQ community.