



Jamaica: Witness Protection Programme and Gangs

Asylos, October 2019

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Dear reader,

This note was researched, written and edited by Asylos, a pan-European network of volunteers providing free-of-charge research for lawyers helping asylum seekers with their claim.

Everyone engaged in Asylos believes that asylum matters and so do fair decisions, based on the best available knowledge. We believe that your work as a lawyer dealing with such cases is so important that it is a good thing to assist you for free - and we do that in our spare time.

Please help us track the impact of our work. It is our best reward and it helps us reward our funders:

If you are reading this note, using any part of it to inform your case or possibly submitting it to court, you:

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If you want to, you can even leave a message for the volunteers who worked on the research.

Many thanks,

Your Asylos Team

Research request

The client arrived in the UK on 21 February 2002 on a visitor visa valid for 6 months, claimed asylum on 02 April 2003. Claim was refused on 11 October 2004, successfully appealed the decision on 19 October 2004 and was granted asylum and leave to remain until 16 February 2011. He then applied for ILR, which was granted on 14 July 2011.

The basis of claim for asylum was: feared persecution in Jamaica due to his imputed political opinion and as a perceived informer for the Peoples National Party (PNP). He feared further persecution from an unnamed gang with links to the Jamaican Labour Party (JLP) for agreeing to stand as witness to a murder case. He has been assaulted and shot at by the gang. Whilst resident in the UK, has been convicted on 14 July 2015 and sentenced to 9 years imprisonment.

On 20 July 2017 the client was served with a notice of decision to deport and a letter informing that Section 72 of the Nationality, Immigration and Asylum Act 2002 applied to him.

The client's application against a notice of decision to deport has been refused and he has now been issued a Deportation Order on 28 August 2018.

We are appealing the decision to deport him on the ground that we do not believe that the client will be accepted onto the Witness Protection Programme in Jamaica or equally that the Witness Protection Programme will give him an adequate protection in Jamaica from the gang members and his life will be in danger.

The Home Office has revoked the client's refugee status because of his criminal conviction citing that the situation with gangs in Jamaica has fundamentally changed. UNHCR raised a lot of concerns about this assertion.

1. Can someone be accepted onto the Witness Protection Programme (WPP) as a witness in a past crime?
2. Does the WPP provide adequate protection in Jamaica from the gang members?
3. Has the situation with gangs in Jamaica fundamentally and durably changed since 2006?

Sources Consulted

All web sources were consulted in October 2019

1. Government sources

United States Department of State (USDOS): “Jamaica 2018 Human Rights Report”, 13 March 2019
<https://www.state.gov/wp-content/uploads/2019/03/JAMAICA-2018.pdf>

Jamaica Ministry of National Security, Justice Protection Unit, Undated
<https://mns.gov.jm/content/justice-protection-unit>

United Kingdom Home Office, “Country Policy and Information Note Jamaica: Actors of Protection”, August 2019
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/826146/External_Jamaica_-_Actors_of_Protection_-_CPIN_-_v1.0_August_2019_.pdf

United Kingdom Home Office, “Country Policy and Information Note Jamaica: Fear of organised criminal groups”, August 2019
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/824431/Jamaica-Org-Crim-Groups-CPIN-v3.0-August_2019.pdf

Overseas Security Advisory Council(OASC), “Jamaica 2019 Crime & Safety Report”, 30 May 2019
<https://www.osac.gov/Content/Report/1d98b2df-fd4b-485f-aa62-15f4aed245ef>

The Overseas Security Advisory Council (OASC) was established in 1985 as a joint venture between the US Department of State and the US private sector.

Overseas Security Advisory Council(OASC), “Jamaica 2018 Crime & Safety Report”, 26 January 2018
<https://www.osac.gov/Content/Browse/Report>

2. NGOs and think tank reports

Freedom House, “Freedom in the World 2019: Jamaica”,
<https://freedomhouse.org/report/freedom-world/2019/jamaica>

Freedom House was established in 1941 as a vigorous proponent of democratic values and a steadfast opponent of dictatorships of the far left and the far right.

Freedom House, “Freedom in the World 2018: Jamaica”, 27 August 2018,
<https://freedomhouse.org/report/freedom-world/2018/jamaica>

Freedom House, “Freedom in the World 2017: Jamaica”, 1 September 2017,
<https://freedomhouse.org/report/freedom-world/2017/jamaica>

Freedom House, “Freedom in the World 2016: Jamaica”, 29 August 2016,
<https://freedomhouse.org/report/freedom-world/2016/jamaica>

Freedom House, “Freedom in the World 2015: Jamaica”, 29 October 2015,
<https://freedomhouse.org/report/freedom-world/2015/jamaica>

Freedom House, “Freedom in the World 2014: Jamaica”, 1 August 2014,
<https://freedomhouse.org/report/freedom-world/2014/jamaica>

Freedom House, “Freedom in the World 2013: Jamaica”, 10 April 2013,
<https://freedomhouse.org/report/freedom-world/2013/jamaica>

Freedom House, "Freedom in the World 2012: Jamaica", 22 August 2012

<https://freedomhouse.org/report/freedom-world/2012/jamaica>

Freedom House, "Freedom in the World 2011: Jamaica", 5 July 2011

<https://freedomhouse.org/report/freedom-world/2011/jamaica>

Freedom House, "Freedom in the World 2010: Jamaica", 3 May 2010

<https://freedomhouse.org/report/freedom-world/2010/jamaica>

<https://freedomhouse.org/report/freedom-world/2008/jamaica>

Freedom House, "Freedom in the World 2009: Jamaica", 16 July 2009

<https://freedomhouse.org/report/freedom-world/2009/jamaica>

Freedom House, "Freedom in the World 2008: Jamaica", 2 July 2008

<https://freedomhouse.org/report/freedom-world/2008/jamaica>

Freedom House, "Freedom in the World 2007: Jamaica", 16 April 2007

<https://freedomhouse.org/report/freedom-world/2007/jamaica>

Inter-American Development Bank, "Crime and Violence in Jamaica," Anthony D Harriott and Marlyn Jones, June 2016 <https://publications.iadb.org/en/publication/12510/crime-and-violence-jamaica-idb-series-crime-and-violence-caribbean>

The Inter-American Development Bank works across Latin America and the Caribbean as a source of development financing.

Insight Crime, "Why Jamaica's Homicide Rate is up 20%", Mimi Yagoub, 20 June 2017,

<https://www.insightcrime.org/news/analysis/why-jamaica-homicide-rate-up-20-percent/>

InSight Crims is a foundation dedicated to the study the threat of organised crime to national and citizen security in Latin America and the Caribbean with researchers from Colombia, Mexico and the US. Key funders include the Open Society Foundation, International Development Research Centre of Canada and the Swedish government.

3. Media and Press Agencies

- The Star, "Desperate to find a home – Woman, child evicted after being taken off witness protection programme", 8 December 2017

<http://jamaica-star.com/article/news/20171208/desperate-find-home-woman-child-evicted-after-being-taken-witness-protection>

The Star is a Jamaican news website owned and operated by the Gleaner Company Limited, a media outlet established in 1834 in Jamaica.

- Caribbean Life News, Bert Wilkinson, "Murder off the Charts", 21 December 2017 <https://www.caribbeanlifenews.com/stories/2017/12/2017-12-22-bw-murders-in-jamaica-cl.html>

Caribbean Life is a media outlet based in New York City and has been active for the past 20 years.

- diG Jamaica, "Murder in Jamaica 2018", 24 January 2019

<http://digjamaica.com/m/blog/murder-jamaica-2018/>

diG Jamaica is an information website from the Gleaner Company Limited, a media outlet established in 1834 in Jamaica.

Main Findings

- Very limited information was found specifically regarding a witness in a past crime in Jamaica's Witness Protection Programme in the sources searched in the time available.
- No information was found specifically regarding the WPP providing protection to witnesses from gang members. The Jamaican Ministry of National Security states the WPP protects witnesses of major crimes whose safety is at risk. Other sources state the WPP suffers from corruption and impunity.
- Reports from government sources, NGOS and media outlets between 2006 and 2019 state that gangs have remained prevalent in Jamaica and gang activities have been attributed to the high homicide rate in the country. However, statistics and exact numbers are disputed among sources.

Findings

1. Can someone be accepted onto the WPP as a witness in a past crime?

Very limited information was found specifically regarding a witness in a past crime in Jamaica's Witness Protection Programme in the sources searched in the time available. However, a report by a Jamaican news website, The Star, stated in December 2017 that a woman and child were evicted and removed from the WPP as soon as the case she testified in concluded.

- "A woman who says she witnessed the murder of her babyfather almost a decade ago alleges that she and her 13-year-old daughter were taken off the witness protection programme after the case she testified in concluded."

Source: The Star, 8 December 2017

2. Does the WPP provide adequate protection in Jamaica from the gang members?

No information was found specifically regarding the WPP providing protection to witnesses from gang members. The Jamaican Ministry of National Security states the WPP protects witnesses of major crimes whose safety is at risk. Other sources state the WPP suffers from corruption and impunity.

- "Its [WPP] main objective is to enlist legitimate witnesses of major crimes whose safety and security is at risk. The Programme seeks to offer protection for these witnesses and provide support for the functioning of the wider criminal justice system."

Source: Jamaica Ministry of National Security, Undated

A report from the UK Home Office reports that the WPP is unable to protect all neighbourhoods and suffers from corruption and impunity for abuses committed by the police.

- "A Witness Protection Programme provides support for people whose safety is at risk, but is reported to have problems. While local police assistance is available throughout the country, and the police continue to make arrests for criminal acts, they are unable to patrol and protect all neighbourhoods. In addition, corruption and impunity for abuses committed by the police has led to mistrust amongst citizens"

Source: United Kingdom Home Office, August 2019

- "In the Country Guidance case of AB (Protection-criminal gangs-internal relocation) Jamaica CG [2007] UKAIT 00018, heard on 19 December 2006 and promulgated on 22 February 2007, the Tribunal found that the authorities in Jamaica are in general willing and able to provide effective protection. However, unless reasonably likely to be admitted into the Witness Protection Programme (WPP), a person targeted by a criminal gang will not normally receive effective protection in their home area [headnote]."

Source: United Kingdom Home Office, August 2019

3. Has the situation with gangs in Jamaica fundamentally and durably changed since 2006?

Reports from government sources, NGOs and media outlets between 2006 and 2019 demonstrate that gangs have remained prevalent in Jamaica and gang activities have been attributed to the high homicide rate in the country. However, statistics and exact numbers are disputed among sources.

According to the OSAC's Crime and Safety Report and Insight Crime, gangs are a major security issue in Jamaica and the source of the majority of violent crime.

- "Gangs are a major security issue across the country and are the source of the majority of violent crime nationwide."

Source: OSAC, 30 May 2019

- "Most criminal activity is gang-related. Organized crime elements are prevalent and extremely active."

Source: OSAC, 26 January 2018

- "Jamaica's escalating homicide rate over the past three years has much to do with security force crackdowns on Jamaica's gangs, or "posses," and the violent repercussions these have had in the long term, according to sociologist Lilian Bobea."

- "Violent gangs have exerted power on this island for decades, after originally being empowered by the country's two rival political parties to secure civilian support. "

Source: Insight Crime, 20 June 2017

According to reports from Jamaican media outlets collated by the UK Home Office, the number of gangs from 2017 -2018 is disputed.

- "A report by the Jamaica Observer newspaper, published in July 2017, stated that a Jamaican pastor named 190 operating gangs on the island. In an article published in February 2018 by the Jamaican newspaper The Gleaner, a British-based criminologist stated that there are over 200 gangs operating in Jamaica. The Jamaica Observer stated in a 2017 report that there were 258 criminal gangs operating in Jamaica in 2017, situated in St Catherine North and South, St James, Clarendon, Kingston West, St Andrew South and Westmoreland."

Source: United Kingdom Home Office, August 2019

A report from the Inter-American Development Bank reported an increase in 27 gangs between 2010 and 2013 and that gangs and organised crime accounted for 79 percent of murders in Jamaica in 2013.

- "According to the JCF, there were 238 gangs operating in Jamaica in 2013 (Table 2.5). This number represents an increase of 27 over the 268 that were operating in 2010, at the beginning of the anti-gang campaign and the start of the decline in violent crimes."

"[...] gangs and organized crime networks accounted for some 79 per cent of all murders in Jamaica in 2013."

Source: Inter-American Development Bank, June 2016

Based on information provided by the Jamaica Constabulary Force Statistics and Information Management Unit, the OASC's 2019 Crime and Safety Report reports a decrease in crimes between 2017 and 2018.

Crime	2018	2017	%
Murders	1287	1647	-21.9%
Shootings	1154	1485	-22.3%
Aggravated Assaults	369	423	-12.8%
Rapes	432	492	-12.2%
Robberies	1085	1276	-15.0%
Break-ins	1150	1197	-3.9%

Source: OASC, 30 May 2019

Media outlets in Jamaica provide comparative murder rates between 2009 and 2017, and found that 2017 had the highest murder rate.

- “As the year draws to a close, many in Jamaica will remember 2017 as the year when gangs and armed criminals appeared to have taken back the initiative from police, setting the country on course to probably record its worst murder rate in 11 years.”

[...]

“Police statistics for the year so far indicate that about 1,525 people have been killed. This figure is second only to the year 2009 when gangsters and common criminals killed 1,680 people.”

[...]

“Professor Anthony Clayton, stated that “The only thing that ever really brought down our rate after 2009 was the normalization of Tivoli in 2010. After that happened, the bad guys were demoralized. The gangs were disrupted and the homicide rate fell by 40 percent.”

[...]

“Comparative murder figures show that 2009: 1,680 the one thousand mark is easily surpassed 2010: 1,428; 2011: 1,125; 2012: 1,097; 2013: 1,200; 2014: 1,005; 2015: 1,192 and 2016: 1,350”.

Source: Caribbean Life News, 21 December 2017

- “According to statistics, 2018 saw 1,287 murders, down sharply by almost 22% from the 1,641 murders observed in 2017. This number was even below that of 2016, but slightly ahead of 2015.”

Source: Dig Jamaica, 24 January 2019

Reports from Freedom House between 2006 and 2019 state that gang violence has remained prevalent and of concern in Jamaica and that gang violence can be attributed to some violent crimes in Jamaica.

- “Gang and vigilante violence remains a common occurrence. Kingston’s insular “garrison” communities remain the epicenter of most violence and serve as safe havens for criminal groups.”

Source: Freedom House, 2019

- “Gang and vigilante violence remains a concern”.

Source: Freedom House, 27 August 2018, 1 September 2017

- “In 2014, the government of Jamaica passed antigang legislation that makes membership in such groups illegal and criminalizes certain gang-related activities, such as recruiting. By August 2015, nearly 170 persons had been charged under the law. Given the slow pace of judicial proceedings in Jamaica, none of those charged had yet been prosecuted by the year’s end.”

Source: Freedom House, 29 August 2016

- “Gang and vigilante violence remains a major problem in the country, as do abusive police practices. In February, the government appointed a commission to review the violent confrontations that took place between civilians and security forces in 2010 in Tivoli Gardens, a Kingston neighborhood, that led to a state of emergency and dozens of casualties.”

Source: Freedom House, 24 August 2015

- “Kingston’s insular “garrison” communities remain the epicenter of most violence and serve as safe havens for gangs.

- “According to Jamaican police, murders in the country rose from 839 during the first nine months of 2012 to 884 for the same period in 2013. The police stated that 693 of the killings were related to gang violence.”

Source: Freedom House, 1 August 2014

- “The situation improved slightly in 2011 following police crackdowns on gang violence. According to police statistics, the murder rate during the first three months of the year fell 44 percent over the same period in 2010. The government also established a commission to investigate incidents of civilian shootings, though local human rights organizations have expressed doubt whether it will have the resources it needs to function effectively.”

Source: Freedom House, 10 April 2013

- “The situation improved slightly in 2011, after police crackdowns on gang violence; according to police statistics, the murder rate during the first three months of the year fell 44 percent from their rate over the same period in 2010.”

Source: Freedom House, 22 August 2012

- “The situation improved somewhat in 2010, with 1,428 murders reported during the year. However, according to human rights organizations, extrajudicial killings and other abuses by the security forces increased. More than 400 civilians were killed in security operations in 2010, compared with 253 in 2009.”

Source: Freedom House, 5 July 2011

- “The 1,680 homicides reported in 2009 represented an all-time high, marking a four percent increase over 2008 numbers. Over half of these murders were gang-related and only 21 percent were solved in court.”

- “Gang violence persisted, especially in urban areas.”

Source: Freedom House, 3 May 2010

- “Much of the island’s violence is the result of warfare between drug gangs known as “posses.””

Source: Freedom House, 16 April 2007 and 2 July 2008, 16 July 2009



About Asylos

Asylos is a network of volunteers providing research assistance to lawyers who represent refugees. Founded in 2010, it was created to respond to a dysfunctional asylum system in Europe that fails to live up to its own legal and ethical standards. Asylos provides case-related information to lawyers in countries where legal aid is non-existent or does not cover the cost of researching up-to-date evidence documenting rights violations or persecution in specific cases. The research concerns conditions in the claimant's country of origin or other facts pertinent to an individual case. For more information, please visit our website www.asylos.eu.

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