

**HUMAN RIGHTS IN JAMAICA: *THE FEMINIZATION
OF POVERTY, CRIMINALIZATION OF WOMEN,
AND THE AFFECTS ON JAMAICAN YOUTH***

BY LAURA ROSSITER

FOR THE USE OF JAMAICA SELF-HELP

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Executive Summary

The purpose of this report is to demonstrate how the current social, economic, and political climate in Jamaica relates to the work of Jamaica Self-Help (JSH). Specific focus has been directed at understanding the current laws and policies that relate to JSH's underlying themes of youth, education and leadership development. To fully understand the political culture of Jamaica investigation into the current laws and policies regarding women's rights, children's rights, gay rights, labour standards and violence were carefully analysed. The laws and policies of Jamaica have proven to be extremely outdated and reflective of the heteronormative male dominated and even colonialist heritage of Jamaica. It is clear that inclusivity and accessibility within the Constitution are costing the women and children there fundamental right to security as a person.

Many laws have worked against women and have lead to a feminization of poverty. These laws include the *Offences Against the Person Act, 1969, the Maternity Leave Act, 1979 and the Employment Act, 1975*. It is critical for Jamaica to access its *Employment Act, 1975* which currently remunerates based on the Equal Pay for Equal Work model. This idea does not take into consideration the gendered nature of women's work and it is therefore essential for women to receive pay based on the Equal Pay for Equal Value. The *Maternity Leave Act, 1979* entitles a woman to twelve weeks from work during her pregnancy. Many women are unable to receive even this basic security in the workforce because they do not meet the minimum requirements to grant maternity leave, either they have not worked for the employer long enough or they are below the age of 18.

The feminization of poverty has led to a criminalization of women's bodies through anti-abortion policies and anti-prostitution policies. These policies have been derived from the Christian rhetoric that has shaped the political governance of Jamaica. There are many myths and stereotypes that perpetuate negative attitudes and beliefs which sustain the political culture within Jamaica. They attitudes and beliefs often perpetuate fear, hatred, and resentment for those who are viewed as 'immoral' by the state and society. State policies which promote sex tourism in Jamaica criminalize

prostitution, marginalizing and oppressing many poor women who are unable to find work outside the industry. Prostitution is a social indicator that women face multiple barriers to the formal workforce and face multiple forms of discrimination and violence towards women.

Violence against women can come in many forms and varies across regions in Jamaica. Domestic assault cases are higher in rural areas while rape and carnal abuse, gang, and gun violence affect urban women significantly higher. It is imperative that each organization and the government maintain a gender centered approach to violence against women. Violence also perpetuates the anti-gay culture and system of oppression for gay and lesbian people in Jamaica. Many rights are violated as a result of this oppressive environment. The negative stigma that surrounds homosexuality perpetuates fear and resentment.

Poverty and violence are a vicious cycle in Jamaica. It is impossible to break the cycle when the laws and policies of the government are working against the betterment of the marginalized and oppressed. Without a gender centered approach to law and policy making, the political culture of Jamaica will continue to discriminate against both women and children, perpetuating a cycle of violence maintained by each generation. Crime and violence must be challenged from a new and positive dialogue which provides an alternative to the negative images that stigmatize poor Jamaicans. To ensure that each community is able to fully heal its wounds, holistic approaches which incorporate all members of society would be beneficial for Jamaicans. This would allow for society to recognize the intersections of poverty and violence that face many members of the communities.

The current laws and policies in Jamaica are clearly resulting in a feminization of poverty and a criminalization of women. State policies must react to the current social, political, and economic realities that face a growing number of poor people in Jamaica. It is clear that the discrimination and inequality that women in Jamaica face as a result of the poverty and violence cycles is directly related to the development of youth. It is therefore essential that Jamaica Self-Help advocate for gendered centered approaches within state policies in order to foster a positive political culture.

Overview of Findings, Relevant Legislation and Implications for JSH

Key Findings	Legislation	Implications for JSH
<ul style="list-style-type: none"> • A child's right to basic fundamental freedoms and security are infringed upon by poverty and not protected by the government • Prostitution leads to the criminalization of women and mothers 	<p>The Constitution of Jamaica, 1962 section 21(1) of the Third Chapter</p> <ul style="list-style-type: none"> • <i>Law Reform Act, 1979</i> • <i>Offences Against the Person Act, 1969</i> • <i>Town and Country Act, 1961</i> 	<ul style="list-style-type: none"> • Necessary to advocate for formal recognition of age discrimination • Increase children's accessibility to ICT's • Promote education in the areas of mental illness for youth and the handling of children with disabilities for public workers (ex. Police) • Promote positive and safe spaces for children to learn and grow in • Promote safe spaces for women and children who are affected by or associated with sex work • Create positive avenues for expression and communication for women and children • Support and promote local HIV/AIDS awareness campaigns • Align JSH with other local NGO's for greater strength and communication of women's and youths poverty concerns
<ul style="list-style-type: none"> • Abortions remain illegal and infringe on a women's ability to make self-determining decisions 	<ul style="list-style-type: none"> • <i>Offences Against the Person Act, 1969</i> 	<ul style="list-style-type: none"> • JSH should align its work with other NGO's to promote a women's right to freedom of choice and right to control her own body
<ul style="list-style-type: none"> • Married women and common law women do not share the same rights 	<ul style="list-style-type: none"> • <i>Matrimonial Causes Act, 1979</i> • <i>Maintenance Act, 1881</i> • <i>Affiliation Act, 1926</i> • <i>Status of the Children Act, 1976</i> 	<ul style="list-style-type: none"> • JSH must promote that the government recognize the needs of all children and their parents whether they are married or not • JSH should demand that the government provide social welfare and take responsibility for the children instead of criminalizing mothers through the feminization of poverty

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| <ul style="list-style-type: none"> • Systemic discrimination maintains a culture of violence for poor women | <ul style="list-style-type: none"> • <i>Offences Against the Person Act, 1963</i> | <ul style="list-style-type: none"> • JSH should promote a safe space for holistic healing for women, their families, and the community • JSH should align itself with other local NGO's and women organizations for greater community recognition and communication of violence against women • It is important that JSH recognize the significance of gender and ensure the other organizations and the government do not maintain a gender-blind perspective. |
| <ul style="list-style-type: none"> • Homosexuality is dangerously unaccepted within the anti-gay culture | <ul style="list-style-type: none"> • <i>Offences Against the Person Act, 1969</i> • <i>Town and Communities Act, 1961</i> | <ul style="list-style-type: none"> • It is most important for JSH to promote awareness to the Jamaican youth that come to Canada • It is also important for JSH to identify to Canadian youth the homophobic culture within Jamaica • While remaining culturally sensitive, JSH should advocate for equal rights to all citizens no matter their sexual orientation |
| <ul style="list-style-type: none"> • Women do not receive Equal Pay for Equal Value • Women also need improved Maternity Leave rights | <ul style="list-style-type: none"> • <i>Maternity Leave Act, 1979</i> • <i>Employment Act, 1975</i> • ILO Convention 100 | <ul style="list-style-type: none"> • JSH should advocate that Jamaica change the current <i>Employment Act</i> according the guidelines of the Equal pay for Equal value established by the ILO. • JSH should advocate for improved maternity benefits for women along side an official alliances of other NGO's and women's organizations |

Location

Jamaica is located in the Caribbean Sea. It is approximately 144 kilometres south of Cuba and approximately 160 kilometres Southwest of Haiti. Jamaica is the third largest island in the Caribbean with an area of 11 420 square kilometres. Kingston is the capital city and the major commercial centre. Montego Bay, located on the Northwest coast, is the primary tourist region in the country and is the second largest city in Jamaica (Jamaica “Country Profile”). Jamaica’s primary export is in crude materials followed by mineral fuels and Tobacco and beverages (Statistical Institute of Jamaica “Imports and Exports”). According to the 2001 Census report Jamaica’s total population is 2 607 632 with approximately 51 percent of the population female and 49 percent males. Just over half of Jamaica’s population resides in an urban region while the other 48 per cent of the population are living in rural areas (UN statistical Division “Table 2” and “Table 6”).

Political Background:

Jamaica, a former colony of Britain, gained its independence and constitution on August 6th, 1962. The British Parliamentary democracy has become known as the world’s most famous legislature and has guided the democratization of nine independent Caribbean colonies (Shaw 878, 880). The parliamentary democracy, or Westminster model, is based on a system of representative and responsible government. Jamaica’s political culture has been shaped by its formal institutional structure of its constitutional monarchy within the Commonwealth, but the parliamentary democracy has been maintained by its informal structures such as the family, church, and community. These forms of socialization are representative of the public’s values, beliefs, myths, and attitudes (Stone 48). While Jamaica’s imported government institution may be representative of its colonial past, the local political culture has determined and sustained the democracy through its internal development of political ideologies (Shaw 879).

The bicameral body of the Jamaican government is composed of the House of Representatives of which the upper house is an appointment of Senators and the lower house are members of parliaments (MP’s) from their elected constituencies. The First

Past the Post System determines the elected member of parliament and allows them a five year term in office. The House of Representatives is made up of sixty MP's who are responsible for representing their constituency and examining and debating proposed laws and policies in the lower house. Traditionally, Jamaica has been a two-party system, comprised of the Peoples National Party (PNP) and the Jamaica's Labour Party (JLP). Currently the PNP holds a majority government winning 52 per cent of the votes in the 2002 election giving them 34 seats in the House. The JLP, as the official Opposition party won 47 per cent of the votes and received the remaining 26 seats (Parliament of Jamaica).

Jamaica is currently governed by its first female Prime Minister, The Most Honourable Portia Simpson Miller. Simpson Miller has topped the polls of popularity since 1989 and in 2002 when PNP leader, P.J. Patterson announced his retirement after the 2002 elections, the majority of Jamaican's felt she was the most suitable successor to him. She is known for her commitment and passion for poor and dispossessed, a fundamental and central concern within the PNP's early workings (Jamaica, "Profiles"). The birth of the PNP began September 18th, 1938 by Norman Manley. Much of the party's foundation has continued to drive their agenda today. In 1974 Jamaica was declared a democratic socialist state and has carried this title over the past three consecutive electoral victories since 1993.

The Jamaica Labour Party was officially formed July 8th, 1943. The party was led to power in 1962 by Sir Alexander Bustamante. The cornerstones of the party were rooted in his anti-communist beliefs, promoting a movement against oppression and inequality, freedom from the racial discrimination and the exploitation of workers, Bustamante stated that "capital must learn to work fairly with the labour, and labour must give, a fair's day work for a fair's day pay." (Jamaica "JLP history") As a right leaning party the JLP championed votes on the promotion of poverty and unemployment reduction through cooperative initiatives between the labour and capital of the market. Failures through their anti-socialist politics undermining the importance of business sources centralized in Jamaica have been a few of the many elements that have hindered their success (Stephens 90).

The democratic socialist nature of Jamaica initiated by the People's National Party of Jamaica was aimed at two distinct groups through Manley's slogans; "Socialism is love" for the Rastafarians, and "The philosophy that best gives expression to the Christian ideal of equality of all God's children" for the Christian community. The approaches to politics became known through Norman and his son Michael's leadership as 'Manleyism'. This often entailed a preventative approach to class hierarchies where all children are able to enjoy different yet equal benefits with equal claims to parental love (Keith & Keith 17). 'Manleyism' incorporated the dominant Christian community while opening its door to the distinctive cultural movement of Rastafarians. This movement has focused on peace representation through culture and religion as opposed to the political militant approaches (Stone 47).

As the political culture in Jamaica changes due to varying national and global political and economic climates, it is clear that the local political culture has sustained the parliamentary socialist democracy. The government has been able to adopt distinctly unique Jamaican attributes to the system. As the government has shifted from left to right along the spectrum a general consensus among the classes has remained constant within liberal ideologies and notions of individual rights and freedoms. Progress has been recognized to include the political factors such as freedom of speech, and the right to own property. While these liberal notions are universally accepted in Jamaica political violence, combative electoral campaigns, and race, gender and economic inequalities often violate many citizens' rights to these fundamental freedoms and basic human rights (Keith & Keith 68).

The Rights of the Child

Jamaican children comprise 42 percent of the 2.6 million total population of Jamaica (UNSD “Table 7”). Approximately 20 per cent of Jamaica’s population are living below the national poverty line and one can assume that approximately half of this population are Jamaican children below the age of 19 (MDGI “Table 1”). It is clear that many children are living in dire poverty in Jamaica where their basic needs of security in terms of food, clothing, and shelter are inadequately met. Government policies have downloaded the social welfare responsibilities of children to the parents, extended family, friends, and/or community. This has allowed the government to turn a blind eye to the poverty related symptoms that children face when their parents are unable to provide adequately for them. The majority of social reproduction is done by women, and therefore poor children result in the criminalization of motherhood, further risking the development of the child. If the government recognized age as a discriminatory factor it would force public action on addressing poverty related issues for children, mothers and families as a whole. It is important that development projects promote the uses of information technology for children as both a tool for educational development and self expression.

The constitution of Jamaica was passed August 6th 1962. The Government outlines many laws that protect the rights of citizens but the rights of children are not well delineated. As a result of this fact children can be seen as a separate marginalized and oppressed group of citizens, which do not have their rights upheld by their government. Many children living in Jamaica are faced with poverty from the day they are born. Like any other state, the responsibility for providing for children is the primary responsibility of the parents but, when inadequate means are available for the parents should it not be the state’s responsibility to protect the lives of these innocent children? Due to a lack of specific recognition of basic human rights protecting the rights of children in Jamaica it can be stated that the government is violating the fundamental freedoms of these people.

In 1995, The UN held a conference to discuss the rights of the child. The Jamaican Coalition on the Rights of the Child (JCRC) submitted a report of which

served the purpose of critically appraising and analysing the State Party Report which was submitted by the government outlining its initiatives towards children's welfare and security. It accounts for the shortcomings within the State Party Report and offers more concrete and whole measures for the government to take to ensure the full equality of all its citizens. What is most evident in the report is that there is a severe gap between law and practice (Jamaica Coalition 2), of which the government must bridge through state policy and dedicated commitment to the laws created. It is stated in the report that inadequacies in the law have left much room for manipulation and misrepresentation (Jamaica Coalition 2), without clear and concise policies, the gap between policy and practice will continue to grow and children will fall somewhere in between, rendering them invisible.

According to section 3 (1) of the *Law Reform (Age of Majority) Act, 1979*, A person shall attain the age of majority and be of full age and capacity on attaining the age of eighteen years. Within the Constitution of Jamaica, the third chapter does not state any specific reference to a child's entitlement to fundamental rights and freedoms or discrimination based on age. Section 21 (1) of the third chapter States: (Jamaica Coalition 4)

Whereas every person in Jamaica is entitled to the fundamental rights and freedoms of the individual, that is to say, has the right, whatever his race, place or origin, political opinions, colour, creed, or sex, but subject to respect for the rights and freedoms of others and for the public interest to each and all of the following, namely life, liberty, security of the person, the enjoyment of property and the protection of law, freedom of conscience, expression and of peaceful assembly and association; and respect for his private and family life.

Since there is no specific reference to the rights of the child, one is left to assume that the rights of the child are incorporated into this section. There is also no reference to the rights and protections of those who are not able bodied. Disabled are an extremely marginalized and unrepresented group who often face multiple forms of discrimination.

Jamaica's Coalition on the Rights of the Child points out that the State Party Report failed to discuss a child's right to the access of information (Jamaica Coalition 4d). One's access to information such as; films, publications, radio, television and internet, is in direct relation to their social and economic status. Poorer and rural

regions often lack the adequate funds to purchase and maintain technological and communication services. Guidelines and regulations for the Press Association of Jamaica often prohibit the journalists from publishing ‘immoral’ material. This not only can infringe on the journalists right to freedom but the public's ability to make informed decisions within their own democracy if not managed correctly. Rural areas, which host 48 per cent of Jamaica's population, have less accessibility to information technologies as a result of the economic status and distance from urban centres. The JCRC therefore suggests that more concerted efforts need to be implemented in offering informative services through educational entertaining films and publications, for children to learn from. These ‘edu-entertainment’ approaches coupled along side self-expression and confidence building forums offered by local clubs and groups while stimulate a more accessible and positive environment for youth to engage in.

“Children are growing up in communities where death is a common experience, affecting them emotionally, economically, and psychologically (Ramsey 40).” To counter the negative consumption of death and violence, education for children must be a strong focus on all levels of society. Information Communication Technologies (ICT's) have the ability to reach a greater number of children while narrowing in on the digital characteristics of today's youth. ICT's for youth in Jamaica will foster a sense of unity among its nation's youth while integrating their knowledge, skills and experience in to the global village. This generates a more representative and diverse global forum which is rooted within the grassroots activism of each nation's communities. ICT's for Jamaican youth will enhance the communicative skills and identity based politics that is required for a sustainable local democracy.

Identity is constantly negotiated and produced within the functioning environment one is located within. Self expression is a tool which is then interpreted and reinforced emphasizing the societal views of how one is to act or react in society. Positive or negative forms of self expression therefore shape the identity of children and ultimately society as a whole. Negative forms of self expression such as violence need to be counteracted in Jamaica by positive forms of self-expression and self images for children to develop a positive sense of self. With respect to providing children the appropriate resources for self expression, comes the fundamental freedom of thought,

conscience and Religion, as well as the Freedom of Association and of Peaceful Assembly. Although these freedoms are enshrined in the constitution, again one is left to interpret whether they are inclusive of children and if so we must look at the reality that many children do not have these rights protected. The report points out the fact that “children from lower socio-economic groups have become the victims of violence due to the tribalistic nature of the Jamaican political and social climate. The increase in gang warfare in inner city communities sometimes result in the deaths of children. (Jamaica Coalition e)” Jamaicans For Justice, advocate for the protection of Jamaicans under the law who are often face by mistreatment, abuse or death when faced with the Jamaican justice system. The “Jamaica Justice Report 2003-2004” illustrates some of the horrific stories of children that have been killed by the mistreatment of police either through altercations or caught in the line of fire. It is clear that many innocent lives have been lost through violent crimes through gun and gang violence. Although there are a variety of clubs and groups children can get involved with, more support and dedication needs to be given to this area to ensure the full and complete development of the children who will one day be the future leaders of the country.

Honor Ford-Smith, a Jamaican-Canadian woman who has lived both in Jamaica and Canada and now teaches at the University of Toronto is an expert on the use of Arts as resistance. Ford-Smith discusses the current relationship between neo-liberalism and violence in Jamaica. She discusses the reasons for Jamaica’s violent characteristics and the disruption it has caused to collective identities. She argues that Jamaica’s violent history stemming from its colonial past are perpetuated in its current post-colonial state within the globalizing world. Violence as a landmark in Jamaica’s history has been internalized and embedded in the memory of its citizens. Consumption of violence is now seen at both the local level with sexual assault, hate crimes, and gang warfare as well as the global level through exploitation of land, agriculture, and entertainment. Ford- Smith argues that violence in Jamaica can be challenged both locally and internationally through recognition and awareness.

Ford-Smith illustrated the need for a new dialogue in Jamaica. One that intervenes in the current production of violent images portrayed in the news and pop culture media, which is consumed in both the local and global levels at the expense of

Jamaicans. She argues that memory must be challenged to address how violence has transformed the relationships between people and place. To challenge these notions, Ford-Smith, believes that mourning is an important element for an individual and society to embrace for positive self expression and awareness. One example she raises is the commemorating scroll created by Women's Media Watch, stating the many names of women in Kingston who have lost their lives as a result of violence. Memory and public recognition demonstrate value to the lives that have been lost and often forgotten by the public but never of their families. The lack of recognition and initiatives of state policies enforces a notion of 'disposable people' this can generate negative forms of reaction from affected individuals in an attempt to gain recognition of the event. Positive images, recognition, and the creation of open forums and new dialogue with positive undertones will reinforce a sense of unity challenging the separation that has formed. Self expression is an integral part of the essential reorganization of society in Jamaica's transformation of violence. Children must be the first target of this pursuit in order to effectively reproduce a new 'positive' dialogue and memory involving people and place. Ramsey also points out that urban violence affects the poor, where many societal attitudes and myths continue to harm children and their families. He also suggests that popular education and dramatic forms of expression are important approaches to challenge youth violence and crimes affecting youth along side the national policies (Ramsey 45).

Security for a child is often assumed through Jamaica's primary institutions of socialization which include; the family, the community, and the school. A breakdown of these integral institutions can leave many children to fend for themselves. The JCRC attempts to address how children have been affected by this breakdown. Stating that the "lack of proper social networks to provide a cushion of support, and of attention to human priorities have resulted in high levels of child abuse, neglect, and abandonment, the growing epidemic of street children, delinquent and 'barrel children' (Jamaica Coalition h)." *The Maintenance Act* requires parents to uphold their parental responsibilities, but the reality is that many parents do not have the means to provide for their children and in many cases children become separated from their parents.

A significant portion of households in Jamaica are primarily headed by women (Jamaica Coalition c). According to the data collected between 1990 and 1994 published in the UN's publication of The World's Women 2005: Progress in Statistics, 38% of households are headed by women. This only further marginalizes women with the burden of care for their children and household. In relation to a woman's role as a caregiver many mothers who care for a person living with AIDS (PLWA) the roles and responsibilities of the mother significantly increase. If a mother is a caregiver for a PLWA or has AIDS herself societal attitudes and myths often subjugate the child (Ramsey 45). In matriarchal households, mothers often face the double day working outside the home for income while maintaining their traditional care giver role. This situation can lead to domestic duties often left neglected or falling upon the shoulders of the eldest child. Basic rights need to be given to the children especially in the case of absent fathers. Child support is very unreliable and inadequate in the sense that fathers' support is based on the money which they claim that they make. In this sense accountability is questionable. It is also stated that there is a serious problem with the database systems established in Jamaica. One must also assume that the database used by the Family Court has its own limitations and is overwhelmed with participants, leaving difficulties in the administration and insurance of payments.

Children with disabilities are often neglected by society as well. There is little research done in the areas of children with disabilities, and because they are not included in section 21 (1) of the third chapter it is understandable as to why negative attitudes continue to exist towards these children. With a lack of state policy in disability funding for children, many people are left with limited access to services and equal social security. Jamaicans for Justice illustrated the need for public education and police education on mental disabilities in the Jamaica Justice Report 2002. JFJ followed the case of a young boy who was brutally beaten by police and later died a few days later in the hospital. Michael Gayle had a mental illness and represents the social discrimination this can lead to. JFJ therefore suggests that it is imperative that the government provide public education and specific training to police officers and other service providers to ensure improved delivery of justice for Jamaicans (JFJ 14, 33).

The final point I will note on child human right violations is the increase in youth crimes and detention. In Jamaica's Coalition report it states that children are being locked up in prisons. This has become evident as an international human rights violation and is currently being investigated. The rights and liberties of many children have been striped in their inability to obtain legal assistance or pay for the services. Investigations have shown that children have been put into cells with adult criminals. This is a primary concern for those who are investigating children's human rights in Jamaica (JCRC).

Children are in a very vulnerable state in Jamaica. The primary concern here is that they are not included within the constitution and discrimination based on age is not addressed. As stated in the JCRC's report, this results in misunderstandings and misrepresentations. More attention by the government needs to be given to the legal issues surrounding children in order to ensure their right to equal and fair protection under the law. Although there are a number of grassroots organizations such as Jamaica Self- Help, the JCRC, and Jamaican's For Justice (JFJ) that provide assistance and education to children in an attempt to reduce criminalized behaviour, there must be a balance between formal measures such as laws, policies, and state initiatives and informal measures. The informal measures that must be emphasized in Jamaica should include alternative educational approaches both within schools and through local community organizations. These approaches should; incorporate the use of new communicative technologies and information technologies to allow Jamaican youth access to a wider range of information between and amongst youth; provide popular education techniques to broaden the scope of the current narrow perspectives; and introduce a 'new dialogue' which is focused on positive images for recognition and memory.

Application to JSH

It is important for Jamaica to recognize the multiple ways that the feminization of poverty relates to the criminalization and discrimination of its youth. To maintain a representative and responsible government it is critical that JSH maintain a focus on increasing literacy rates for youth and adults. It is also important that JSH advocate for increase use of ICT's in the formal education sector as well as their own community organizations. Currently only 6 per cent of the population has access to a personal computer and only 39 per cent has access to the internet. It is important that children in rural and urban areas are able to access internet communication technologies (ICT's) for both education, entertainment, and personal forms of self expression. Popular education techniques and alternative forums which use 'new dialogues' that promote positive recognition of identity and events will help create a safe space for children to express themselves in. This can be done through artistic forms of resistance which incorporate song, dance, drama, or arts. A successful example of this approach is the Graffiti wall created by the University of Technology in Jamaica. Students were creating an HIV/AIDS awareness fair in a park that had a construction site fenced off to one side. To incorporate the unattractive metal fence around the construction zones a graffiti contest of awareness murals by students was painted on the fence. As a result the awareness campaign caught the eye of local construction workers and drew them in to the fair. Ironically, the fence became a bridge for the sharing of knowledge and information among locals.

Prostitution

The criminalization of women's bodies has rendered many Jamaican mothers invisible while silencing their voice through the criminalization of prostitution. The state has turned its head on these women delegitimizing their behaviour as immoral. Prostitution can be seen as a social indicator of the socio-political climate and the barriers women face in society. The criminalization of women's bodies through prostitution extends beyond the sex worker and reaches her family; which negatively impacts the child. Colonialist power dynamics and racial stereotypes are also evident and marketed through Jamaica's sex tourism, which primarily consists of travellers to the Caribbean from North America and Europe. Prostitution has increased the spread of HIV/AIDS and other STI's. Myths surrounding HIV and respectively prostitution perpetuate fear, resentment, and bad treatment from the public to those associated with sex work including their children, families, caregivers and communities. This places children at high risk for negative treatment from the public.

Currently prostitution is outlawed in a number of ways in Jamaica, making it seem near impossible to engage in. The reality, however, is that sex work is taking an increasingly larger and more visible role in both the society and economy of Jamaica. Under the *Towns and Communities Act*, Section 3.(r) explicitly states every person who “*shall loiter in any public place and solicit any person for the purpose of prostitution, shall be guilty of an offence and shall be liable to a penalty not exceeding one thousand dollars.*” Other laws prohibiting sex work include sec 3.(k) of the Town and Communities Act which states that it is illegal for; any person “*in any thoroughfare or public place, indecently expose his or her person.*” To further control the work of sex workers there are numerous laws that fall under the Offences Against the Person Act which prohibits living off the earnings of a prostitute, solicitation of a prostitute by either a male or female, and prohibiting prostitution within a home, solicitation of girls, and children within brothels. These laws fall under the Section 63-68 inclusive.

General themes can be drawn from these laws. Many of them share commonalities in negatively stereotyping and stigmatizing women as ‘persons of immoral character’ committing indecent and obscene acts. The language degrading sex

workers as 'immoral characters', essentializes their existence to the rate of second class citizens. As second class citizens of immoral character, they are deemed worthy by society of exploitation, abuse, insecurity, and lack of protection under the law, ultimately infringing on their fundamental freedom and basic human rights. The stigma that continues to surround prostitution leaving women and their families vulnerable is a direct result of the negative language within the law. If viewed as 'immoral characters' sex workers will continue to be discriminated against within society. This has a direct affect on both the family and the household of the worker and most significantly any children she may have as they too, will be stigmatized as immoral characters as a result of their mother.

Reports in the early 1990's signalled the emergence of a new kind of sex tourism within the Caribbean. Several Caribbean feminists began to articulate concern of the rapidity and ease of which the Caribbean sex trade was becoming embedded within these regions (Kempadoo 4). In 1995 a small group initiated an investigation into the trade with aims to encourage feminist attention to prostitution and draw attention from the regions policy makers, on an area that has traditionally fallen below the radar of public discourse. (Kempadoo 4)

Kamala Kempadoo, in her edited book Sun, Sex, and Gold investigates Caribbean prostitution and sex trade, providing results from studies as well as other contemporary feminist inspired analyses. Along with a case study by Campbell, Perkins, and Mohammed in Jamaica, case studies from other countries in the Caribbean are used to provide both new and insightful discoveries of the organization of sexual labour in the Caribbean. Using these case studies from other countries we can draw on the similarities and parallels for Jamaica. Through an historical analysis of colonialism and the slave trade, her book is one of the first of its kind to trace the roots of sexual labour, giving foundation for further studies in this area to be made. The book investigates the multiple intersections of gender, race, class, and post-colonial nationalist concerns. Kempadoo's overview captures the complexities of meanings and representations within the region detecting contradictions, ambiguities, and changes in Caribbean sex work.

Colonialism played a very significant role in shaping the organization of sexual labour in Jamaica. During the mid-nineteenth century, increased European social studies

and rationalized medical science produced assumptions within a morality of the bourgeois family norms that working class women and non-white people who did not, or refused to fit into the ideal norms, were inherently evil and immoral. This led to prostitution for working class women to be perceived as diseased, promiscuous and unclean. Governments then began to introduce measures to rid the nation of the social disease;

In Jamaica, for example, during the 1930's, brothels in Montego Bay and Kingston became the focus of attention for the British Social Hygiene Council, which determined that they were hazardous to public health as concentrated sites of infection (namely syphilis and gonorrhoea) and places that facilitated trafficking of women to central and South America. Efforts were made to stamp out the "sources" of disease and social disruption (Kempadoo 11).

New concerns however around the topic of sex tourism arose in the late twentieth century as tourism-orientated prostitution became a research topic due to governments accountability of income generated through tourist activities (Kempadoo 13). The study showed that men, known as hustlers, were receiving material compensation for sexual services rendered to females. Young black men were offering companionship to white female tourists. "Press established this new activity as a way to escape the low – paying jobs and demeaning occupations as a form of resistance to existing social, economic, racial, and sexual order." (Kempadoo 14) Campbell, Perkins and Mohammed's report states that men have received significant attention in the studies of sex tourism because it is only in this area where they seem so prominent (Kempadoo 14). The concept of romance tourism was introduced to set it apart from traditional perceptions of prostitution. The major difference being that romance tourism tends to establish long term relationships. A central component of these relationships remains rooted in the client / worker relationships' based on stereotypes and desires of the 'other'.

Studies specific to women showed that significant migration and sex trafficking of women to Western European countries included not only Filipina and Thai women but Caribbean women as well. The United States places a distant second for Jamaican

women to migrate to, but as tourism increases in Cuba many Jamaican women are now considering this as a possible option (Campbell, Perkins, et al. 150).

Sex work in the Caribbean cannot be viewed in isolation from the global political economy. As an integral component to local cultures and national economies, sex work maintains global corporate capitalism, colonialist identities, and masculine hegemony. Although post-colonial attempts at providing alternatives to dependency on the developed nations have been made, through global restructuring and structural adjustment policies, Jamaica and other Caribbean countries have been forced to conform to the dominating and imperialistic approaches of the West. With heightened poverty and increased levels of unemployment, more people are forced to find informal employment to survive. The unemployment rate for women according to the 2005 Women Trends published by the UN is 22%. And 16% of all employed adult women work part time. One study showed;

In research in a Jamaican urban slum setting, Harrison found among women involved in the multiple and interrelated occupations in the informal sector, such as barkeeping, ganja trading, and housekeeping, that 5% in her sample declared to be also involved in 'sportin' gals' prostitutes.

The issue of race plays a considerable role in the area of sex tourism on a psychological level. One participant in the study reported anxiety and contradictory feelings while working with her white clients:

I love my job but I hate it for the sex. We are talking to a guy, he makes me feel sick but he is paying the price. You have sex with him. It really hurts. It makes your heart get sick too, you know...He is really ugly, he is real white, he is so soft you just want to scream (Campbell, Perkins, et al. 150).

Illustrating that there are obvious emotions affected by the colonial past of Jamaica. This leaves many members confused with themselves and possibly forced to make decisions that are perpetuating the systemic racism. Other examples of racial stereotyping were evident by participants with one woman stating that she was waiting for her white man to give her the ring, illustrating the image of the white saviour. The racial stereotypes are not only between female sex workers and male clientele but were also seen with the male Rent-A-Dread. The perception of the highly sexualized black male plays a very significant role to the white female tourists.

The worker/client relationship in Jamaica is highly complex. This is only further emphasized by the racial and colonialist past of Jamaica. The sexualized marketed ideal of Jamaica is continuously perpetuated by this and therefore reinforces a power dynamic and continuous struggle of self-identity, within a much larger global structure. Understanding the history of the sex worker relationship is essential in understanding the significance of the work in contemporary times. Tourism is one of the primary industries and income for Jamaica, it is essential for its development. This is not to say that prostitution is essential for its development, it is just to say that there is a direct correlation between the two. It is clearly evident that sex work is not the first choice of employment for many people but personal situations have left no other option.

As unemployment increases and social welfare is basically non-existent to those who need it, forcing them to rely solely upon themselves. Many parents struggle providing food for their children and paying the bills. As the tourist industry booms with wealthy Europeans and North Americans, many Jamaican women are forced to take only what is available to them. Although sex work is illegal and prostitution is negatively looked upon by most societies in Jamaica, it is perceived as a quick fix to a bad situation. This is repeatedly stated by participants in the study, admitting that they “like the job for the money but not for the sex (Campbell, Perkins, et al. 148)”. The legalities of prostitution have always been challenged and all the while it may be prohibited even while it benefits the government through tourism. The government encourages authorities to simply turn a blind eye to the activities. In Ocho Rios where work has moved from the streets into the bars and lounges it is stated in the report that “areas which are more secluded, has meant that police can turn a blind eye to the illegal activities (Campbell, Perkins, et al. 140).” This places women in a very vulnerable position perpetuating the cycle of violence.

Acceptance of prostitution varies by region. In Ocho Rios there has been more acceptance to the culture whereas Montego Bay and Negril, are more hostile toward sex workers. Montego Bay and Negril have much more visible forms of sex work as it takes place in the public on the beaches and streets (Campbell, Perkins, et al. 141). These workers are generally more exposed to verbal and physical abuse by both the

general public and the police and possibly a more vulnerable position as they have less authority and respect. The highest prevalence of HIV/AIDS can be found in the St. James parish, with its capital city of Montego Bay being tourist capital of Jamaica. Currently HIV is spreading at a rate of 606.9 cases per 100 000 in this region (Ramsey 40, 45). It is clear that while Montego Bay is dependent on the tourist industry and therefore has a more visible sex industry, myths around HIV/AIDS and racial stereotypes perpetuate a system of violence for women.

The fact that there is breakdown of the family and mothers are the primary care givers and breadwinners, the labour that they take on has a direct impact on the family. Sex work is a very volatile business, directly dependent on the season in Jamaica. While there may be work during the low season, income is much lower and primarily between locals. Women have reported that they have had to bring a child along on 'tricks' and are later ostracised by family members, therefore further isolating them from society and removing social security networks offered by extended family. One woman reported that she had been working in the business since her first son was born and remembers when she had to bring him along and when her family found out she and her son were forced to sleep outside on the veranda. She is doing all she can to support her two sons and is trying not to let the younger one find out for fear that he will be ostracised by the community and school (Campbell, Perkins, et al. 144)

Women's issues have a direct effect on the biological and social reproduction of the family. In the sex industry, women are in a continuous state of fear. There is fear that they may be physically hurt, fear that they may get HIV/AIDS, or an STI and pass it along to their children, or lose their job in the business through sickness. In 2003, the UN estimated that there were 22 000 women living with HIV/AIDS in Jamaica (UNSD "Women Trends"). The government must create alternatives to sex work within the informal sector. Support networks, however, must be created to ensure the safety of these women and their families. Although there are sexual health clinics available and free condoms distributed, the quality of condoms distributed are questioned by the women. There are no organizations that are exclusive to sex workers, and therefore no safe space or support aside from themselves and other workers. This only perpetuates

and endorses a potentially dangerous and isolating lifestyle, for both a sex working mother and her child.

As the numbers of sex workers increases in Jamaica, the age for recruitment is lowering. More and more women are getting involved at a younger age and it has been reported that girls as young as twelve and thirteen have been involved (Campbell, Perkins, et al. 144). Usually introduced by a family member or friend in the business this leads to higher drop-out rates and more violence against women. Specific education programs are required to inform children of the dangers involved in the work and provide alternatives to entering this aspect of paid labour. Exposure to this lifestyle at a young age can lead to crime and drug related charges. Support must be given to both the mothers and their children through education and alternative means of income.

Application for JSH

Prostitution is representative of the multiple barriers that women face when attempting to find formal employment in the public sphere. As a result of sex tourism, prostitution rates increase in the tourist areas of Montego Bay, Negril, and Kingston. It is important for JSH to advocate the needs of poor women through locally centred programs that attempt to challenge the barriers women within these communities face. It is very important to increase awareness programs for young women in the sex trade and establish support networks and safety programs for women that face violence as a result of the myths, racial stereotypes and attitudes towards women with HIV/AIDS. Education and support networks for women must foster a holistic approach to healing incorporating the woman, mother, children, family and community.

Reproductive Rights

Government policies support contraception and promote sexual education to youth. It is clear that more health education needs to be given to youth and the public to challenge the myths, attitudes and stereotypes that place the responsibility of contraception solely with women. These norms increase the spread of Sexually Transmitted Infections (STI's) between partners and children. Education must be given to both women and young girls on female health issues in order to allow them to make informed and self-determining decisions. Abortions remain illegal in Jamaica, with three exceptions that force women to identify themselves as vulnerable under the law. These attitudes and norms have perpetuated a discriminatory political culture for Jamaican women and their children.

A woman's legal status is directly related to her reproductive rights and freedoms. This is paralleled with one's access and ability to make informed health decisions through government legislation and policies. The Jamaican government both endorses and funds the practice of safe sex for its citizens through the legal use of contraceptive methods. Contraception is available in a variety of forms such as; the pill, Depo-Provera, IUD's, condoms, and sterilization. These methods are distributed by government clinics, private doctors, and family planning centres (The Center for Reproductive Law 134). According to the World's Women 2005 Report 66 per cent of women in Jamaica between 1990 and 1994 use a method of contraception. This has remained a rather constant percentage as social indicators for the Millennium Development Goals indicate that in 2006, 65 per cent of married women between 15-49 use one form of contraception. These statistics are not entirely convincing that the government is fully supporting women's rights. Public perceptions and myths persist, maintaining the belief that the responsibility for pregnancy prevention rests solely with the woman, as many men refuse to use a condom (The Center for Reproductive Law 134). Not only do these attitudes and practices increase the spread of contracting a sexually transmitted infection (STI) but further subordinate women and female adolescents in their ability to make informed and self-determining choices in the areas of reproductive freedoms and women's health. Without a more open and engaged government addressing the underlying issues of inequality through public education,

women and adolescents will continue to bear the burden of responsibility within the Jamaican society.

Abortions are illegal in Jamaica for both a woman to obtain and a doctor to deliver. The attempt or procurement for either can be a maximum sentence of life imprisonment with or without hard labour (The Center for Reproductive Law 134). There are three exceptions in which a woman may obtain a lawful abortion. Exceptions have been made under common law when two doctors in a government clinic can prove to be acting in good faith to take steps to terminate the pregnancy of a woman if; (1) the doctors form the opinion that the continuation of the pregnancy would be likely to constitute a threat to the life of the woman or inure the detriment of her mental or physical health; (2) the woman is able to prove that the pregnancy was a result of a rape; (3) the final exception to the anti-abortion policies can be made for girls under the age of 17 who are accompanied by a parent and can provide proof of age. A woman may only ever receive one abortion (The Center for Reproductive Law 135).

In all three exceptions to obtain a lawful abortion a woman must prove her vulnerability and victimization. The exceptions to the law do not respect a woman's right to privacy, dignity, liberty or security as a human being and social citizen. A great deal of responsibility is placed on the woman, forcing her to possibly face public humiliation, further vulnerability, and stigma from the public. For a young girl, the fear of informing a parent may be so great that she may choose not to. Parental consent also removes the element of consent from the young girl and gives it to the parents, removing the adolescent's right to self-determination.

Evidence of a rape may be very difficult for a woman to prove to doctors to justify her desire for abortion. Justification of the sexual assault may be extremely difficult to prove if a rape evaluation is not done immediately following the attack. The pregnancy may go unnoticed for several weeks or months allowing any remnants of the attack to fade. This exception also forces the woman to identify herself as a victim under the law to seek protection. It does not allow women the authority to have power over her own self or the ability to make self-determining decisions.

Through the unlawful recognition of abortions the government of Jamaica is overtly denying women the right to make self-determining decisions regarding their own

body and freedom of choice. The exceptions to the anti-abortion policies only further the burden on women and increase their vulnerability in both the public and private spheres. Protection under the law as a victim reinforces negative stereotypes such as weak, dependent, and mindless, that support the gender subordination of women.

Through the policies legislated by the government a certain perspective is maintained to reinforce women's inequality. Education is the key to liberation and empowerment. It is the vehicle to one's ability to make informed and self-determining decisions governing their own health and body's. The government neglects to provide a standardized and universal sexual education program and therefore, turns a blind eye to the sexual activities of youth. Although condoms are made available through government clinics they are only available to girls over the age of sixteen (The Center for Reproductive Law 135). There are no sexual educational programs made mandatory in the primary or secondary school programs and no contraceptive methods distributed for access. Sexual education must be taught at a young age in order for individuals to make informed decisions later in life. Teaching young girls their rights to reproductive health will help in ensuring their liberation and empowerment within an oppressive society.

Application for JSH

It is important for JSH to constantly promote the ideas of independence and self-determination for women, mothers, and female adolescents. These idea however must be coupled with sexual education for males in society as well. It would be beneficial for JSH to advocate a women's right to the freedom of choice and self control over her own body. It would also be beneficial for JSH to provide information on women's health centres and align itself with other local NGO's and health centres, forming a coalition for the advocacy of women's reproductive rights. This would create a solid support network for women to communicate their needs within the political system.

Spousal Rights

Spousal rights are outlined within the *Matrimonial Causes Act* of 1989. *The Matrimonial Act* provides the rules and regulations for individuals in terms of custody and/or maintenance applications to be entertained in the proceedings preliminary to, at, or after a divorce proceeding. The policy outlines the specific financial responsibilities that may be made to both spouses and the specific protective orders for the children.

Although there are a number of laws outlining the responsibilities of men in cases of divorce or familial separation, since the majority of households are matriarchal the ultimate burden of care both socially and economically ultimately rests in the hands of women. Spousal rights include the responsibility for each other and the children.

According to the *Maintenance Act*, 1881, a man is required to maintain his children and any of his wife's minor children who are living at the time of their marriage. He is also responsible for any of the children of any woman with whom he is cohabitating with. In a common-law relationship, a man does not have any responsibility for his common-law wife and is only responsible for maintenance of his children. Although laws and policies show that fathers are to have the primary financial responsibility, under the Married Women's Property Act of 1887, "a woman has the obligation to support her husband if he is destitute and she has property." (The Reproductive Centre for Law 137)

The majority of households are headed by unwed women. The average age for women to marry is 33 years (Worlds Women 2005 A6). To help protect the right of unwed parents obtain child support, Jamaica created the *Affiliation Act*, 1926. This act enables single mothers to seek financial support from their children's fathers and to obtain judgements ordering those fathers to make payments for the maintenance and education of their children. In order to further tie the father's role in providing child support the government established the *Status of Children Act*, 1976, which linked child support payments to a father's income. Child-support, custody, and inheritance are not equally applied and enjoyed by common-law spouses as they are excluded from the *Marriage Act*. The *Maintenance Act* also states that women must provide for their children if the father either fails to or is unable to provide for them (The Reproductive Centre for Law 137).

Judging from the policies within the *Matrimonial Causes Act*, *the Maintenance Act*, and *the Status of Children Act* equal responsibility is not applied to all parents in society. Although policies expect men to take financial responsibility for the maintenance of children, if they can not provide adequate maintenance the burden of care ultimately falls on the mother. A husband is not obliged to maintain a wife if he can prove she has committed adultery or unjustified desertion. This is contrasted with laws that enforce women to provide for an ex-husband if he is extremely poor or she owns property. A divorce is also difficult to obtain and based solely on the grounds of “irretrievable breakdown” of the family (The Centre for Reproductive Law 136). Spouses must prove that they have lived separately for at least twelve months prior to the divorce petition, either in separate dwellings or in the same dwelling (The Centre for Reproductive Law 136). While many families do not consummate their relationship with marriage until their mid thirties, the same amount of protections are not extended to common-law women.

Application to JSH

It is not uncommon for a Jamaican man to have many children among a number of different women. In poorer communities where the father may not be living with the mother or able to provide financial support, JSH should initiate community run support networks for single unwed mothers, divorced, deserted, widowed, and poor mothers. Community programs could run women centered businesses that foster a child friendly environment, they could provide community day care, and community kitchens, as well as a coalition among allied NGO's to foster a stronger political culture for women's needs.

Violence Against Women

It is only recently that data collection has begun to emerge differentiating between the sexes and recognising the significance of gender. There is very little hard data on the violence and crime affecting women in Jamaica. This is a direct result of the male dominated perception within criminology and lack of a female gendered perspective (Jones 113). The male perspective emphasises the violence and assaults pertaining to men and young boys and situates their experiences as the norm. This discriminatory method of aggregating data and promoting social justice does not take into account the differences of violence and assault between the sexes and the overall power and subordination struggles maintained through gender based violence such as rape.

The two primary ways of aggregating data on a gender based approach are through rape, carnal abuse, and domestic violence cases against women and young girls. The criminal offence in Jamaica is classified as 'rape' by the common law definition referring to the unlawful sexual intercourse between a man and a woman, and the current age of consent being sixteen. This definition is limited to the male either knowing that the women said 'no' or knowing and not caring (Jones 125). It does not take into account assault by force, fear or fraud. Neither rape nor carnal abuses are defined in the *Offences Against The Person Act* (Jones 125). It is also significant to note the women are more likely to be violently or sexually assaulted by a family member where as a man is likely to be assaulted by a stranger or close acquaintance. Some of the causes that can be associated with violence against women are; low-levels of family resources, social isolation, patriarchal systems, and violence-accepting cultural practice (Jones 117). While the definition of rape has been criticised as too narrow, domestic violence has a very open and broad definition that makes it difficult to understand the 'closeness' of the relationship. The definition of domestic violence refers to any situation where the offender is known to the victim.

What is most important to remember is that women's rights are human rights. According to the UN declaration on the elimination of violence against women, violence against women is defined as "any act of gender based violence that results in, or is likely to result in, including threats of such acts, coercion or arbitrary deprivations of liberty, whether occurring in public or private life (Jones 118)." As a signatory country to this

declaration it is the responsibility of the country to uphold the rights of its citizens. In order to do this effectively the government must take a critical and feminist perspective on the violence arising in Jamaica. Rape is one of the most under reported crimes for a number of reasons. One significant reason according to a 1994 report said, women do not have the support of the police or the community in these situations. Both the legal system and the community work to silence the voice of women (Jones 113). Forms of public awareness need to be recognized in this area as well. Workshops for young women and girls need to be heavily promoted along side educational programs and alternative outlets for boys.

Violence against women and children is noted as primarily an urban phenomenon. One report notes that 70% of women killed in 1999 were from metropolitan areas such as Kingston, St. Andrews or St. Catherines. More than half of these cases involved the use of a gun while only 3% of rural women were killed by a gun (Jones 120). In contrast the majority of domestic abuse cases did not involve a gun and were reported in rural areas. The gang and drug violence, which is increasing in urban centres, is reported as the cause for women and female children's deaths. While about one-third of female murder victims are killed by an intimate partner (Jones 121), Jamaican Intelligence states that while previously women's abuse cases have been categorized as domestic incidents the activity is now centered on specific activities (Jones 121), such as the drugs and guns trade. Reprisal killings are now the second largest category for killings in Jamaica.

Gang and drug trade which are so heavily situated in the metropolitan areas are accounting for the majority of female deaths but hiding the specific gendered nature in its reporting. Reported rape cases often frame the woman as responsible for the attack if she is unable to fully identify herself as a weak and helpless victim. The perceptions created by the legal system do not help to counter the systemic sexism within the system. The perception of the government illustrated through the legal system of its citizens is that criminal activities rest in the nature of the individual. This gender-blind perception which is continually reinforced through the patriarchal system of systemic sexism found embedded within the laws, police, and community continually reinforce the subordination and discrimination of women and girls. The government must create a more open definition of rape that is not simply defined through sexual intercourse, in order for more

women to identify with the offence and report their attacks. Elements such as fear, fraud, and force must also be attributed to sexual assault. Reports to shed light on the violence that women face are often produced through the gender-blind approaches that paint the image of the helpless victim through its language and continual use of 'victimization.' These negative images of women reinforce their subordination to men and challenge any autonomy or independence they have. Other reports are problematic in stating that the "the heart of male on female violence is not only male beliefs in female inferiority but the male relation to violence as an essential part of his identity and own self definition (Haniff 6)." What needs to be recognized is that placing the blame from one individual to the next is not a solution. While there is no excuse for men to commit such unjust acts against women, the problem remains in the belief that women are not equal, and for this the system is to blame, not solely the individual.

Although the community to which one belongs is often tight, and in many cases silences women's voices, it is evident that there is little connection between communities. There is no belief in the idea of shared risks for shared benefits between the government, the affluent, and the poor. What is most clear, however, is that violence against females whether sexual or non-sexual is rooted within their inferiority of their gender status. It is very critical now for the government of Jamaica to take a feminist perspective in the area of violence in order to better transform and liberate its women to equal and participating citizens.

The cycle of violence is unstoppable unless considerable force in the form of awareness, public education, policy, and alternative creative outlets are used to challenge it. Without recognition children will continue to develop within the violent structure learning and perpetuating the cycle without an accessible escape. While I believe that policy and enforcement are crucial, direct focus must be centralized on the children. For this confidence building workshops on self image for girls may help curve the path by developing a stronger and positive sense of identity. Support groups in schools and communities for children growing up in violent homes may also be beneficial. It is also imperative that children are made aware of their legal rights from the get-go. This will lead to positively informed decisions and self confident adults. I believe these are all areas where JSH can contribute.

Application to JSH

Violence against women and children is perpetuated by a system of inequalities and a violence accepting culture. Anti-violence and abuse campaigns must be promoted in all women and children centres. A holistic approach would be beneficial for an organization such as JSH as it already encompasses the role of the child, parents and community through its themes of youth, education, and leadership development. Confidence programs should be established in the youth forums as well as adult programs. These approaches could involve round table discussions, arts as resistance, popular education techniques, and anti-oppression workshops. It is also important for a coalition of organizations to ensure that the police and government maintain a critical gendered perspective to gang, violence, and crime reports. JSH alongside other local NGO's should advocate that the government clearly outline the laws of rape and carnal abuse within the *Offences Against the Persons Act* and expand the definition of rape.

Labour Rights

The Employment (Equal Pay for Men and Women) Act was enacted to ensure that an employer does not discriminate based on an employee's sex in remuneration for the job. Section 2 (1) outlines the measures of equal pay as follows;

“equal pay” means a rate or a scale of remuneration for work, in which rate or scale there is no element of differentiation between male employees and female employees based on the sex of the employees;

“equal work” means work performed for one employer by male and female employees alike in which-

(a) the duties, responsibilities or services to be performed are similar or substantially similar in kind, quality and amount;

(b) the conditions under which such work is to be performed are similar or substantially similar;

(c) similar or substantially similar qualifications, degrees of skill, effort and responsibility are required; and

(d) the differences (if any) between the duties of male and female employees are not of practical importance in relation to terms and conditions of employment or do not occur frequently;

The Act is to ensure that both women and men are remunerated equally for their labour. Ensuring equal pay to address the wage gap makes it illegal for an employer to privilege one sex over the other, offering assurance to women for an equal footing in the labour market. While the *Equal Pay For Equal Work Act* may attempt to alleviate some of the barriers for women in the workforce, there continue to remain discriminatory elements inherent in Jamaica's Act.

According to the International Labour Organization (ILO) of the UN, Jamaica failed to amend section 2 of the *Employment Act* according to the Equal Remuneration Convention. Convention 100 of the ILO, provides for substantive equality, which “remunerates work that is different but which is still of ‘equal value’.” The current legislation which applies the principle of equal remuneration to ‘similar’ or ‘substantially similar’ job requirements fails to account for work which is different in nature but still of equal value. It is imperative that the

government take all necessary measures to promote the principles of the Convention aimed at ensuring the equal access of women in all occupational fields of the public and private sectors (CEACR 1-4).

One significant means of promoting the Convention of Equal Remuneration is through the enforcement of a national standard general wage. Effective January 30th, 2006 the national minimum wage rate for general workers increased by 16.67%, resulting in an increase from \$2 400 per week to \$2 800 per week (approx US \$42.50) (MLSS 2006). The Committee of ILO notes based on the 2002 statistical data published by Jamaica's Ministry of Labour and Social Services (MLSS), that women are disproportionately affected by inconsistencies in remuneration from employers. The Committee states that 54% of complaints regarding the *Employment Act* and *Holiday Without Pay Act* and a significant portion of the *Minimum Wages Act* were lodged by women. It is essential that the government enforce the equal treatment of women in the work force through appropriate measures of remuneration, to tackle issues of the feminization of poverty (CEARCR 5).

Another piece of legislation that can be used to control women and marginalize their access to equal opportunity is The *Women's Employment Act*. This is an extremely outdated piece of legislation dictating the types of employment and times a woman may work. Dated in 1945, whether the act is commonly used to control women's employment is unknown to me, this does not change the fact that it is still enacted and can be used against women to control their employment. The act clearly outlaws the employment of women in night work. Section 3.(1) specifically states "that no woman shall be employed in night work." There are a few minor exceptions which include food exports, continuation of day work, and nursing. Women permitted to work at night under provisions (g) and (h) which include hotel, bar and restaurant work, and the pharmacy. The subsection then dictates that they may only work ten hours in twenty-four hours.

Since the 1970's legislations has been in place to prevent the discrimination of women within the workforce. In 1975, the *Employment Act* set out the policy of *Equal*

Pay for Equal Work and in 1979 *The Maternity Leave Act* was enacted (The Centre for Reproductive Law 138). The *Maternity Leave Act* of 1979, sets out policies for pregnant mother's in order to ensure the stability of their job after childbirth. It is stated that women are allowed twelve weeks of paid maternity leave during the time of their pregnancy, or after giving birth and another two weeks of unpaid leave due to pregnancy or consignment (The Centre for Reproductive Law 138). If medical documentation states that she or her child is ill, the mother can receive up to fourteen additional weeks of unpaid labour. If a doctor believes that more time is required the mother may be legally subjected to an examination by a doctor assigned by the employer. Although Jamaica does provide for a brief paid maternity leave, as the head of the household they are not given much time before they are forced to leave the newborn in the hands of others and re-enter the workforce. To receive additional time, women are forced to identify themselves as weak and ill under the law and subject themselves to the discretion of others. The act however, is very beneficial for women in that it maintains their position and pay upon leave until they return. If the position is eliminated the women must be compensated with an equally challenging and compensated position. This is extremely important for Jamaican women as they are most often the financial breadwinners for large families.

Maternity leave for women in Jamaica is given to both seasonal and year-round workers. Under section 3 of the *Maternity Leave Act* an employer must grant maternity to a worker if she has been continuously employed for at least 52 weeks. The 52 weeks are aggregated over five years of employment for the seasonal workers. Under the *Maternity act* a worker is entitled leave not exceeding twelve weeks, subsection 2 states:

The period (or, if more than one, the aggregate of the periods) for which a worker is entitled under subsection (1) to be granted maternity leave shall be the period or periods during which she is absent from work wholly or partly because of her pregnancy or confinement, but shall not, except in the cases mentioned in subsections (3) and (4), exceed twelve weeks in respect of each pregnancy or confinement.

The workers right to maternity leave is crucial for the sustainable development of the family. The act protects a woman's right to bear children and participate in the economic

realm, ensuring her the right and entitlement to her job upon return to the labour market. *The Maternity Leave Act* ensures that a woman will not be discriminated against based on her sex.

There are important areas that should be taken in to consideration when analysing the maternity leave for Jamaican women. This includes the requirements for a qualified worker to extend her maternity leave beyond the twelve week period, outlined in subsections (3) and (4). Subsection (3) states:

If a worker who has been granted maternity leave for twelve weeks in respect of a pregnancy or confinement furnishes her employer with a certificate from a registered medical practitioner certifying that as a result of her illness arising from that pregnancy or confinement, or as a result of the state of health of the child to whom she has given birth, it is necessary for the worker to be absent from work for an additional period, not exceeding fourteen weeks, which shall be specified in the certificate and shall begin immediately after the end of those twelve weeks, her employer shall grant her extension of her maternity leave for the period so specified.

If the worker is required to take for leave for a period beyond fourteen weeks, subsection (4) states:

If a worker who has been granted maternity leave for twelve weeks in respect of a pregnancy or confinement wishes to be granted extension of her maternity leave for a period exceeding fourteen weeks for any of the reasons mentioned in subsection (3) and if it is necessary for the worker to be absent for an additional period exceeding fourteen weeks, her employer shall, subject to the result of the medical examination, if any, grant her extension of her maternity leave for that additional period.

Although the maternity leave is granted for women in Jamaica it is minimalist for those who qualify.

Another very important area to consider are the protections of those who do not qualify for maternity leave. A qualified worker is defined in subsection 5 of section 5, as a worker who on the relevant day is not less the eighteen years of age and on the relevant day, not employed as a domestic worker. Pregnancies among young women in Jamaica are high as well as school drop out rates. Many young women can not afford to go to school and are forced to find employment to help support their family. Denying maternity leave for young women who have been continuously employed by the employer is denying a young woman's right to the security and discrimination based on sex. Employers may be able to take advantage of young pregnant women, by having a continuous flow of young women employees without having to offer them standard job securities. Because families are fairly large and stereotypical notions of femininity and masculinity prevails it may be difficult for women to be able to work consecutively for 52 weeks to ensure they receive maternity leave.

For women who are not employed in a year-round profession, maternity leave is also recognized as a right for seasonal workers, a group of workers normally disregarded. This raises a very interesting question as to whether seasonal workers may be able to benefit the most from the maternity leave. If a seasonal worker has been employed for five years they are entitled to maternity leave. This law recognizes a group of women that is not normally recognized in social security programs in other countries, such as Canada. The protections, therefore, extended to temporary workers and can arguably be understood as taking into consideration a woman's choice in participating both in the local economy and staying home and can counter the feminization of poverty.

Application to JSH

JSH recognizes the importance of literacy as a fundamental barrier to women's employment. It is important for JSH to also support better maternity rights for mothers as this has a direct relation to the development of youth in the long run. There are many difficult qualifications that young mothers cannot meet which also should be challenge. JSH should also support the promotion of Equal Pay for Equal Value and finally JSH should provide support or aid in directing women to the appropriate authority for proper compensation on the job. They should make sure that all women are able to demand minimum wage and holiday pay.

Homosexuality

“Illegal,” “condemned,” violent,” discriminated.” These are just a few of the words associated with homosexuality in Jamaica. Homosexual males and females are both brutally discriminated against in Jamaica. There remains to be a significant difference that remains written in the laws that differentiates homosexual acts between gays and lesbians. The law strictly prohibits male/male sexual behaviour, while not extending to female/female sexual activities (Lafont 10). Perceptions and norms of homosexuality involve intersections of race, colonialism, gender and class. This topic is so taboo in Jamaica that there is hardly any research and hard facts on the topic and therefore general assumptions are given when analysing the past and many issues of today.

Presently, the laws and policies in terms of sexuality in Jamaica are founded within traditional notions of heteronormativity. Under the *Offences Against the Persons Act* within the section titled *Unnatural Offences*, the law classifies sexual acts involving anal penetration between people equivalent to a man anally penetrating an animal. The offence in section 76 states, “whosoever shall be convicted of the abominable crime of buggery, committed either with mankind or with any animal, shall be liable to be imprisoned and kept to hard labour for a term not exceeding ten years.” Section 79 clearly outlaws the sexual acts of same sex male partners. The act is considered a ‘gross indecency’ and outrage. What is clear is that male on male sexual behaviour is prohibited. With an extremely anti-gay culture, the rights and protections life, liberty, and pursuit of happiness for same sex couples are often infringed upon.

Within this legal framework it is significant to note that female/female relations are not formally written within into Act. The anti-gay culture however sees no boundaries and is clearly extended to lesbians within society. The lack of simple reference to lesbian sexual relations can have very negative effects on the status of these women. With omission of these relationships, lesbian relationships are rendered entirely invisible in the formal aspects of society and can be assumed not to exist. This leaves little support for female same-sex couples. What must be noted and challenged are the rights of gay and lesbian couples in Jamaica. These protections can be found within the *Town and Communities Act*, section 3 which states that it is illegal for any person to;

(l) Sell or distribute, or offer for sale or distribution, or shall mark on any fence, wall or any building, any obscene figure, drawing, painting, or representation, or sing any profane, indecent, or obscene song or ballad, or write or draw any indecent or obscene word, figure, or representation, or use any profane, indecent, or obscene language.

(m) Use any threatening, or abusive and calumnious language to any other person publicly, as shall tend to provoke a breach of the peace; or shall use such language, accompanied by such behaviour to any person publicly. as shall tend to a breach of the peace

It is clear that there are many inconsistencies within Jamaican laws. While the *Offences Against the Persons Act* and the anti-gay culture of Jamaica prohibits anal sex and same-sex couples through its pop culture and music, the above two statutes could challenge that the current anti-gay culture is illegal. While the dominant perception may consider homosexuality as indecent and unchristian the purpose of the laws and the constitution are to protect the minority rights that may be violated as a result of dominant culture.

To fully understand homosexuality in the current context historical reflection must also be addressed, with this we see many complexities arise. The terms heterosexuality and homosexuality were coined in 1868 (Lafont 9). It was not until this time that sexual orientation were set in opposition to one another reigning one dominant over the other. “Jamaica was never a settler colony” (Lafont 4) and has therefore retained its primarily black population. This is not to say that the influence of the colonizers was not retained. In fact it has had a direct impact on the development of sexual mores in the country.

Suzanna Lafont in her article “Very Straight Sex: The Development of Sexual Mores in Jamaica,” investigates same sex acts and heterosexual sodomy. In an attempt to clarify and define the terms she states;

Jamaican culture is engulfed in sexuality. Jamaican music, dance, and media feature implicit and explicit references to sexual behaviour. On the other hand, acceptable sexualities are narrowly defined, and Jamaicans themselves seem intolerant of sexual expressions that fall outside a strictly constructed paradigm of heteronormal activity. Although homophobia is well known and widespread in Jamaica, sexual intolerance extends beyond homophobia to the condemnation of homosexual and heterosexual oral and anal sex acts – a complex of sexual intolerance that I term anti-sodomism.

Jamaica is marketed to the outside world as highly sexualized and a place to go to relax, rejuvenate, and feed the mind, body, and soul. To do this however, one must fit within the strictly defined notion of sexuality. Couples only resorts, such as Sandals up until recently, banned homosexual couples from their resorts. Homosexual acts in public or discovered in the private home of individuals are highly in tolerated. To get a deeper understanding of sexuality we can look at Foucault's work where he notes that "sexuality can be understood only in its specific historical and cultural context. There cannot be an all-embracing history of sexuality. There can only be local histories, contextual meanings, and specific analyses." (Lafont 6)

To understand the historical significance of Jamaica we must look at its colonial past and more specifically the slave era. Vern Bullough notes the impact of the European essentialist ideas on sexuality as significant in shaping prevalent ideologies and norms. As the Europeans attempted to 'civilize' the island, they also thought it was necessary to civilize, what they viewed of the animalistic nature of sexuality. The idea was founded in the belief that humans had morality over animals which was constructed through sexual repression. Sex and sexuality have always played an integral role in shaping and reshaping one's position in society and identity. Although there is little documentation giving evidence to the sexual contact between slave owner and slaves, and the slaves amongst themselves, census reports dating back to 1844 show that 18% of the population was the off-spring of white males and Afro-Jamaican women (Lafont 8). Matthew Lewis's slave journal also gives evidence of the relationship between male slaves and white women:

Peter, Peter was a black boy;
Peter him pull foot [run away] one day;
Buckra [white] girl, him [her] Peter's joy;
Lilly white girl entice him away...

The following part is a response by the slave's common law slave wife:

“Well boy, for this once I forgive you! – but mind!
With the buckra girls you no more go away!
Though fair without, they’re foul within;
Their heart is black, though white their skin.
Then Peter, Peter with me stay;
Peter no more run away!

Not only does this poem show the sexual combination of the white woman and black man combination, it also illustrates the power and domination of white women and their relationship to the Jamaican black man.

It is clear that in the social hierarchy, white women were placed above black men. Sex however, was used in a variety of ways; Black women and men were occasionally able to elevate their social and economic position through interracial activities. Same sex activities although banned, Lafont states that, “based on secondary sources, we may assume that this type of activity occurred between slaves and elites (Lafont 9).” Due to the nature of this highly exploitative environment she also remarks that “...it is difficult to imagine that male slaves were not sexually exploited by colonial men or that they were blind to the advantages of having sex with Buckra (Lafont 9).” Same sex relationships were also wide spread in indigenous communities of both the Americas and Africa. One has to assume that some of these traditions were brought over in the slave trade and remained practiced in the private sphere.

It is difficult, supported by Lafont, to determine how exactly all of these facts came together to shape the Jamaican context and social structure of sexuality seen today. There is no reliable data on lesbians or gays during the slave era but, as she states this does not mean that it did not occur (Lafont 9). “Jamaican’s have long believed that their definition of respectability was (and is) superior to that of elite respectability (Lafont 13). Respectability is a characteristic that runs supreme in Jamaica. Heteronormativity is the respectable form of sexuality, and as we have seen there is little room for varying its form. In contemporary times this notion of respectability still prevails.

There is little organization around the issue of Jamaican gay rights. One Newspaper interview in the national newspaper, *The Advocate* titled “Jamaican

Juggernaut” gives an interview with the co-chair of Jamaica’s only gay rights organization. Gareth is a 27 year old student of the University of the West Indies. He states in the interview that he will only give his first name for fear of persecution. The former co-chair and founder of the Jamaica Forum for Lesbians, All- Sexuals, and Gays (J-FLAG) was found brutally murdered in 2004. Gareth describes the brutish conditions queer groups face in Jamaica. It is described as a very hostile environment, where people are physically and verbally abused and killed based on their sexuality. On a personal level Gareth states that he himself has been physically abused by the police and in an attempt to file a complaint he was laughed at and forced to leave the station. “There was nowhere I could go to seek redress” he says (Dulong 1).

Homosexuality in Jamaica is a traumatic experience. The anti-gay lyrics, “Battyman fi dead” commonly heard in dancehall music, are chanted by mobs of people in the street as a gay person is beaten down for walking down the street holding another man’s hand. Gareth, a witness to this account, could do nothing about the attacks because he too would have been killed. Homosexuality in Jamaica without more promotion of organizations such as J-FLAG, will continue to force individuals to live a life of isolation and disenfranchisement. J-FLAG is attempting to celebrate the differences found in the country and enforce the idea of equal and fair treatment for all Jamaicans. “We do not ask people to agree with homosexuality but to agree on the premise that we need to be treated as human beings” say the co-chair (Dulong 1).

What is most important to understand is that although it is important as an outsider to remain sensitive to another culture the fact is that there is evidence that shows that homosexuality exists in Jamaica. As a result of not recognizing this fact the lives of marginalized, oppressed and discriminated against people are rendered invisible. This allows violence to continue on both psychological and physical levels. There are health concerns of individuals that go untreated for fear of persecution and public humiliation. Finally, in a time of global integration and human rights on a global level, reproduction of this knowledge appropriates unacceptable human rights violations. For an organization like Jamaican Self – Help where North Americans and Jamaicans work

together these attitudes can create barriers in development. Children from Jamaica in Canada may be ostracised due to their beliefs while workers in Jamaica may be ineffective in their deliverance of work if Jamaicans suspect support for homosexuality. This is an extremely sensitive and complex issue that must be addressed with careful consideration. The bottom line is that Jamaica has committed to uphold certain rights and in doing so must educate and attempt to positively and inclusively socialize the youth or the nation.

Application to JSH

JSH must remain critical of its position as an outsider within Jamaica. As a Canadian organization cultural clashes can impede on locally sensitive issues such as homosexuality. As an organization that links Canadian youth with Jamaican youth through travels to each country it is important that each child be taught the appropriate information on culturally sensitive areas. As globalization encourages participation within the global village it is important that Jamaican youth become aware of the realities of same sex couples and deconstruct the negative stereotypes that have tainted the gay image. I believe that JSH should offer support to any individual or child that may approach them on these issues and be able to provide them with information and material on the reality of same sex couples. JSH should promote the idea that we are all free and equal. It should be understood that while one may disagree with the lifestyle, one should not be discriminated against based on their sexual orientation.

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