
ISSUE BRIEF: DISSECTING THE OFFENCES AGAINST THE PERSON ACT (1864)



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BACKGROUND

The Offences Against the Person Act (OAPA) is a Jamaican law that was enacted in 1864 during the colonial era. The OAPA covers a range of offenses, including murder, assault, rape, and other forms of violent crimes. However, the OAPA has been criticized for its provisions that criminalize consensual homosexual acts and discriminate against the LGBT community, including transgender individuals.



ISSUES

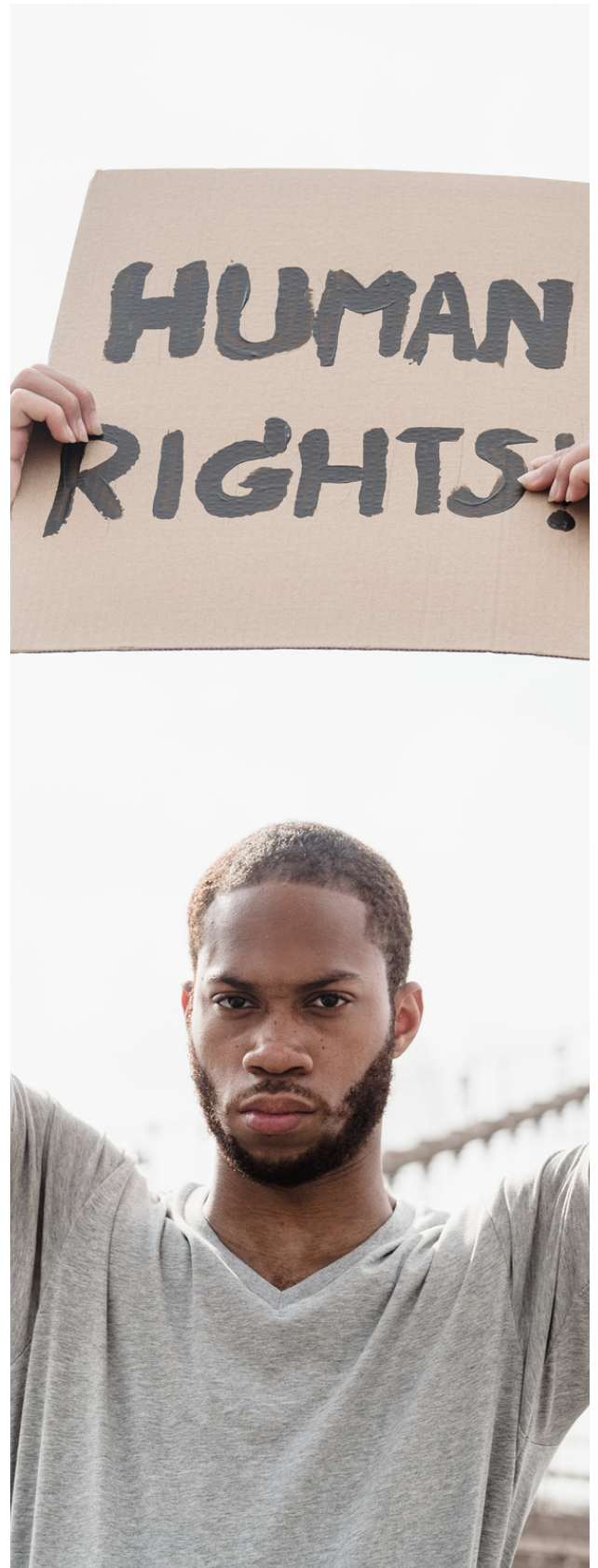
1. The OAPA contains provisions that discriminate against the transgender community. Specifically, Section 79 of the OAPA criminalizes cross-dressing in public, and this has been used to target and discriminate against transgender individuals. The provision carries a penalty of up to a year in prison. Additionally, the OAPA's provisions on buggery and gross indecency also affect the transgender community, as they can be targeted for engaging in consensual sexual acts.
2. These provisions of the OAPA have been criticized by human rights organizations and LGBT rights advocates as discriminatory and harmful to the LGBT community, including the transgender community. The discriminatory provisions not only violate the basic human rights of transgender individuals but also contribute to stigma, discrimination, and violence against them.

PROTECTIONS AND LIBERTIES

Despite the discriminatory provisions of the OAPA, there are still some protections and liberties afforded to the LGBT community, including the transgender community. The Jamaican Constitution guarantees the right to freedom of expression and association, which can be used to protect the rights of LGBT individuals to express themselves and organize. In recent years, there has been a growing LGBT rights movement in Jamaica, with organizations such as TransWave Jamaica and J-FLAG (Jamaica Forum for Lesbians, All-Sexuals, and Gays) working to promote equality and human rights for LGBT people.

TransWave Jamaica is a civil society organization that focuses on transgender issues in Jamaica. They provide support and advocacy for transgender individuals, including legal representation and access to healthcare. TransWave Jamaica has been actively involved in advocating for the rights of transgender individuals and working towards the repeal of discriminatory laws such as Section 79 of the OAPA.

J-FLAG is another civil society organization that advocates for the rights of LGBT individuals in Jamaica. They work to promote equality and human rights for LGBT individuals through advocacy, education, and support services. J-FLAG has been involved in efforts to repeal discriminatory laws such as Section 79 of the OAPA and has been working to increase awareness and understanding of the issues faced by the LGBT community in Jamaica.



GAPS

Despite the efforts of civil society organizations such as TransWave Jamaica and J-FLAG, there are still gaps in the protections and liberties afforded to the LGBT community, including the transgender community, in Jamaica. Discrimination and violence against LGBT individuals remain prevalent, and there is a lack of legal protections for them. Additionally, the enforcement of discriminatory laws such as Section 79 of the OAPA is often arbitrary, and transgender individuals continue to face harassment and discrimination in public spaces.



CONCLUSION

The Offences Against the Person Act contains provisions that discriminate against the transgender community and contribute to stigma and violence. While there are some protections and liberties afforded to the LGBT community under the Jamaican Constitution, there are still significant gaps in the legal protections and enforcement of laws that discriminate against them. Civil society organizations such as TransWave Jamaica and J-FLAG play a critical role in advocating for the rights of LGBT individuals and working towards the repeal of discriminatory laws. However, more needs to be done to protect the rights of the transgender and LGBT community in Jamaica.