

National Laws

Legislation of Interpol member states on sexual offences against children

Jamaica – Jamaïque - Jamaica

Kingston

I. Ages for legal purposes

Age of simple majority

The age of simple majority is 18 years.

Age of consent for marriage

The age of consent for the marriage is eighteen (18) years old, or 16 years with permission from parents.

II. Rape

Rape according to law, is the act of having unlawful carnal knowledge of a female by force, fear or fraud, against her will. It is a felony under both common and statute laws.

The Common law imposes these conditions:

- a) having carnal knowledge
- b) there must have been a penetration of the male penis into the female vagina. Any penetration however slight, is sufficient.
- c) Anal and oral penetration are not but they are covered under the "Offences against the Person Act, section Unnatural offences.
- d) It was against her will
- e) Accused was over 14 years
- f) There is corroboration for her story by other witnesses or evidences

'Rape', Article 44, 'Offences Against the Person'

'(1) Whosoever shall be convicted of the crime of rape shall be guilty of felony, and being convicted thereof, shall be liable to imprisonment for life.

(2) A person who is convicted of an attempt to commit rape-

(a) where at the time of the attempt he was armed with a dangerous or offensive weapon or instrument shall be liable to imprisonment for a term not exceeding ten years and;

(b) in any other case shall be liable to imprisonment for a term not exceeding seven years.

(3) For the purposes of this section a firearm or imitation firearm shall,

notwithstanding that it is not loaded or is otherwise incapable of discharging any shot, bullet or other missile, be deemed to be an offensive weapon or instrument.

(4) In this section-

- 'firearm' means any lethal barreled weapon of any description from which any shot, bullet or other missile can be discharged;
- 'imitation firearm' means anything which has the appearance of being a firearm, whether it is capable of discharging any shot, bullet or other missile or not.'

III. Other forms of child sex abuse

'Aggravated assault on women or children', Article 40, 'Offences Against the Person'

'When any person shall be charged before a court of summary jurisdiction with an assault or battery upon any male child whose age shall not, in the opinion of such court, exceed fourteen (14) years, or upon any female either upon the complaint of the party aggrieved or otherwise, the said court, if the assault or battery is of such an aggravated nature that it cannot, in their opinion, be sufficiently punished under the provisions hereinbefore contained as to common assaults and batteries, may proceed to hear and determine the same in a summary way, and if the same be proved, may convict the prisoner accused; and every such offender shall be liable to imprisonment with or without hard labour for a term not exceeding six months, or to pay a fine not exceeding (together with costs) the sum of forty dollars; and, if the court shall so think fit, in any of the said cases, shall be bound to keep the peace, and be of good behaviour for a period not exceeding six months from the expiration of such sentence.'

'Punishment for common and aggravated assault', Article 43, 'Offences Against the Person'

'Whosoever shall be convicted upon an indictment of any assault occasioning actual bodily harm shall be liable to be imprisoned for a term not exceeding three years, with or without hard labour ; and whosoever shall be convicted upon an indictment for a common assault shall be liable, to be imprisoned for a term not exceeding one year, with or without hard labour.'

'Carnally knowing a girl under twelve (12)', Article 48, 'Offences Against the Person'

'(1) Whosoever shall unlawfully and carnally know and abuse any girl under the age of twelve (12) years shall be guilty of felony, and, being convicted thereof, shall be liable to imprisonment for life.

(2) Any person who is convicted of an attempt to have carnal knowledge of any girl under the age of twelve (12) years shall be liable to imprisonment for a term not exceeding ten years.'

'Above twelve (12) and under sixteen (16)', Article 50, 'Offences Against the Person'

'Whosoever shall unlawfully and carnally know and abuse any girl being above the age of twelve (12) years and under the age of sixteen (16) years shall be guilty of a misdemeanour, and being convicted thereof, shall be liable to imprisonment for a term not exceeding seven years;

Provided that in the case of a man of twenty-three years of age or under, the presence of reasonable cause to believe that the girl was over the age of sixteen years shall be a valid defence on the first occasion on which he is charged with an offence under this section.'

'Indecent assault', Article 53, 'Offences Against the Person'

'Whosoever shall be convicted of any indecent assault upon any female, or of any attempt to have carnal knowledge of any girl under sixteen (16) but not under twelve (12) years of age, shall be liable to be imprisoned for a term not exceeding three years, with or without hard labour.'

'Consent of young person to be no defense in indecent assault', Article 54, 'Offences against the person'

'It shall be no defense to a charge or indictment for an indecent assault on a young person under the age of sixteen (16) years to prove that he or she consented to the act of indecency.'

'Forcible abduction', Article 56, 'Offences Against the Person'

'Whosoever shall by force take away or detain, against her will any woman of any age, with intent to marry or carnally know her, or cause her to be married or carnally known by any other person, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for a term not exceeding fourteen years, with or without hard labour.'

'Abduction of a girl under sixteen (16)', Article 57, 'Offences Against the Person'

'Whosoever shall unlawfully take, or cause to be taken any unmarried girl, being under the age of sixteen (16) years, out of the possession and against the will of her father or mother, or of any other person having the lawful care or charge of her shall be guilty of a misdemeanour, and, being convicted thereof, shall be liable to be imprisoned for a term not exceeding three years with or without hard labour.'

'Abduction of a girl under eighteen (18) with intent to have carnal knowledge', Article 60, 'Offences Against the Person'

'Any person who with intent that any unmarried girl under the age of eighteen (18) years should be unlawfully and carnally known by any man, whether such carnal knowledge is intended to be with any particular man, or generally, takes or causes to be taken such girl out of the possession and against the will of her father or mother,

or any other person having the lawful care or charge of her, shall be guilty of a misdemeanour, and being convicted thereof shall be liable to be imprisoned for a term not exceeding three years, with or without hard labour;

Provided that it shall be a sufficient defence to any charge under this section if it shall be made to appear to the court or jury that the person so charged had reasonable cause to believe that the girl was of or above the age of eighteen (18) years.'

'Unlawful detention with intent to have carnal knowledge', Article 61, 'Offences Against the Person'

'Any person who detains any woman or girl against her will-

(a) in or upon any premises with intent that she may be unlawfully and carnally known by any man, whether any particular man or generally; or

(b) in any brothel, shall be guilty of a misdemeanour, and being convicted thereof, shall be liable to be imprisoned for a term not exceeding three years, with or without hard labour.

Where a woman or girl is in or upon any premises for the purpose of having any unlawful carnal connection, or is in any brothel, a person shall be deemed to detain such woman or girl in or upon such premises or in such brothel, if, with intent to compel or induce her to remain in or upon such premises or in such brothel, such person withholds from such woman or girl any wearing apparel or other property belonging to her, or, where wearing apparel has been lent or otherwise supplied to such woman or girl by or by the direction of such person, such person threatens such woman or girl with legal proceedings if she takes away with her the wearing apparel so lent or supplied.

No legal proceedings, whether civil or criminal, shall be taken against any such woman or girl for taking away or being found in possession of any such wearing apparel as was necessary to enable her to leave such premises or brothel.'

'Power of search', Article 62, 'Offences Against the Person'

'(...)

A woman or girl shall be deemed to be unlawfully detained for immoral purposes if she is so detained for the purpose of being unlawfully and carnally known by any man, whether any particular man or generally, and-

(a) either is under the age of sixteen (16) years; or

(b) if of or over the age of sixteen years, and under the age of eighteen (18) years, is so detained against her will, or against the will of her father or mother or of any other person having the lawful care or charge of her; or

(c) if of or above the age of eighteen (18) years is so detained against her will.

(...)'

Some other offences are also covered by Offences against the Persons Act

- 1) Incest
- 2) Buggery

IV. Child prostitution

'Procuring defilement of a girl under eighteen (18)', Article 45, 'Offences Against the Person'

'Whosoever shall, by false pretences, false representations, or other fraudulent means, procure any woman or girl under the age of eighteen (18) years to have illicit carnal connection with any man, shall be guilty of a misdemeanour, and, being convicted thereof, shall be liable to be imprisoned for a term not exceeding three years, with or without hard labour.'

'Householder, etc., inducing or encouraging defilement of a young girl on his premises', Article 51, 'Offences Against the Person'

'Any person who, being the owner or occupier of any premises, or having, or acting or assisting in, the management or control thereof, induces or knowingly suffers any girl of such age as is in this section mentioned to resort to or be in or upon such premises for the purpose of being unlawfully and carnally known by any man, whether such carnal knowledge is intended to be with any particular man or generally-

(a) shall, if such girl is under the age of twelve (12) years, be guilty of felony, and being convicted thereof shall be liable to be imprisoned for life, with or without hard labour; and

(b) if such girl is of or above the age of twelve (12) and under the age of sixteen (16) years shall be guilty of a misdemeanour, and being convicted thereof shall be liable to be imprisoned for a term not exceeding five years with or without hard labour.'

'Custody of girls under sixteen (16)', Article 52, 'Offences Against the Person'

'Where on trial of any offence under this Act it is proved to the satisfaction of the court that the seduction or prostitution of a girl under the age of sixteen (16) years has been caused, encouraged, or favoured by her father, mother, guardian, master or mistress, it shall be in the power of the court to divest such father, mother, guardian, master or mistress, of all authority over her, and to appoint any person or persons willing to take charge of such girl to be her guardian until she has attained the age of eighteen (18), or any age below this as the court may direct, and a Judge

of the Supreme Court shall have the power from time to time to rescind or vary such order by the appointment of any other person or persons as such guardian, or in any other respect.'

'Procuration', Article 58, 'Offences Against the Person'

'(1) Any person who-

(a) procures or attempts to procure any girl or woman under eighteen (18) years of age, not being a common prostitute, or of known immoral character, to have unlawful carnal connection, either within or without this Island, with any other person or persons; or

(b) procures or attempts to procure any woman or girl to become, either within or without this Island, a common prostitute; or

(c) procures or attempts to procure any woman or girl to leave this Island, with intent that she shall become a prostitute, or an inmate of, or frequent a brothel elsewhere; or

(d) procures or attempts to procure any woman or girl to leave her usual place of abode in this Island (such place not being a brothel), with intent that she may, for the purposes of prostitution, become an inmate of or frequent a brothel within or without this Island,

-shall be guilty of a misdemeanour, and being convicted thereof shall be liable to be imprisoned for a term not exceeding three years, with or without hard labour.

Provided that no person shall be convicted of any offence under this section upon the evidence of one witness, unless such witness be corroborated in some material particular by evidence implicating the accused.

(2) Any male person who is convicted under subsection (1) may, in addition to any term of imprisonment awarded in respect of the said offence, be sentenced to be once privately whipped and the number of strokes and the instrument with which they shall be inflicted shall be specified by the court in the sentence.

(3) Any member of the Jamaica Constabulary Force above the rank of corporal may take into custody without a warrant any person whom he shall have good cause to suspect of having committed, or of attempting to commit, any offence against subsection (1).'

'Procuring defilement of a woman by threats or fraud, or administering drugs', Article 59, 'Offences Against the Person'

'Any person who-

(a) by threats or intimidation procures or attempts to procure any woman or girl to have any unlawful carnal connection, either within or without this Island; or

(b) by false pretences or false representations procures any woman or girl, not being a common prostitute or of known immoral character, to have any unlawful carnal connection, either within or without this Island; or

(c) applies, administers to, or causes to be taken by any woman or girl any drug, matter, or thing, with intent to stupefy or overpower so as thereby to enable any person to have unlawful carnal connection with such woman or girl;

(d) has or attempts to have unlawful carnal connection with any woman or girl, when partially or entirely stupefied or overpowered as aforesaid, shall be guilty of a misdemeanour, and being convicted thereof shall be liable to be imprisoned for a term not exceeding three years, with or without hard labour.

Provided that no person shall be convicted of an offence under this section upon the evidence of one witness only, unless such witness be corroborated in some material particular by evidence implicating the accused.'

'Living on the earnings of prostitution', Article 63, 'Offences Against the Person'

'(1) Every male person who:

(a) knowingly lives wholly or in part on the earnings of prostitution; or

(b) in any public place persistently solicits or importunes for immoral purposes,

-shall on summary conviction before a Resident Magistrate be liable to imprisonment, with or without hard labour, for a term not exceeding twelve months.

(2) If it is made to appear to a Resident Magistrate by information on oath that there is reason to suspect that any house or any part of a house is used by a female for purposes of prostitution, and that any male person residing in or frequenting the house is living wholly or in part on the earnings of the prostitute, the Resident Magistrate may issue a warrant authorising any constable to enter and search the house and to arrest that male person.

(3) Where a male person is proved to live with or to be habitually in the company of a prostitute, or is proved to have exercised control, direction, or influence over the movements of a prostitute in such a manner as to show that he is aiding, abetting, or compelling her prostitution with any other person or generally, he shall, unless he can satisfy the court to the contrary, be deemed to be knowingly living on the earnings of prostitution.

(4) Every female who is proved to have, for the purposes of gain, exercised control, direction, or influence over the movements of a prostitute in such a manner as to show that she is aiding, abetting, or compelling her prostitution with any person, or generally, shall on summary conviction before a Resident Magistrate be liable to imprisonment with or without hard labour for a term not exceeding one year.

(...).'

'Encouraging prostitution of a girl under sixteen (16)', Article 64, 'Offences Against the Person'

'(1) If any person having the custody, charge, or care of a girl under the age of sixteen (16) years causes or encourages the seduction, unlawful carnal knowledge, or prostitution of, or the commission of an indecent assault upon her, he shall be guilty of a misdemeanour and shall be liable to imprisonment for any term not exceeding three years.

(2) For the purposes of this section a person shall be deemed to have caused or encouraged the seduction, unlawful carnal knowledge, or prostitution of, or the commission of an indecent assault upon a girl who has been seduced, unlawfully carnally known or indecently assaulted, or who has become a prostitute, if he has knowingly allowed her to consort with, or to enter or continue in the employment of, any prostitute or person of known immoral character.'

V. Child pornography

Jamaica does not have a statutory law that prohibits pornography. It is a Common Law offence and a person may be prosecuted for it. There is no separate law prohibiting child pornography, which falls under the same Common Law offence.