



THE UNIVERSITY OF THE WEST INDIES
CAVE HILL CAMPUS
FACULTY OF LAW

Collateral Damage: The Social Impact of Laws Affecting LGBT Persons in Guyana

Christopher Carrico

Co-Funded by

**The British High Commission for Barbados and the Eastern Caribbean
and The British High Commission for Guyana**

March 2012

Published by the Faculty of Law UWI Rights Advocacy Project
Faculty of Law
University of the West Indies
Cave Hill Campus
PO Box 64, Bridgetown, Barbados

© 2012 The author

All rights reserved.

Printed in Barbados by Cot Printery, Christ Church, Barbados

Collateral Damage:
The Social Impact of Laws
Affecting LGBT Persons in Guyana

Christopher Carrico

A Report to the Faculty of Law UWI Rights Advocacy Project

2012

Table of Contents

Foreword	1
The Author	2
The Faculty of Law UWI Rights Advocacy Project (U-RAP).....	2
Executive Summary	3
I. Introduction	6
II. Methodology.....	10
A. Participants	10
B. Instrument.....	12
C. Procedure	13
D. Limitations.....	13
III. Direct Impact of Existing Laws	15
A. Injuries Inflicted by the Police and Courts.....	15
B. Fear of Reporting Crimes.....	16
C. Harassment and Violence: The 'Privatisation' of Punishment.....	17
IV. Wider Societal Effects of the Laws	19
A. Employment and Sexual Identity at the Workplace.....	19
B. Access to Health Care and Social Services.....	21
C. Access to Public and Private Space.....	21
D. Public and Private Expression of Sexual Orientation	24
V. Conclusion	27
Appendix: Questionnaire.....	29
References.....	33

Foreword

Commonwealth Caribbean countries have retained or reformed colonial laws that criminalise sexual activities between persons of the same sex. These colonial laws began as a more general prohibition against all types of non-procreative sexual activities, whoever participated in them. But in more recent years Caribbean sexual offences laws have more clearly identified males having sex with males and females having sex with females as the objects of these criminal laws dealing with the unnatural offence, buggery, sodomy and indecency. Even where the laws do not focus on homosexuality per se, these sexual offences disproportionately negatively impact the lives of lesbians, gay men, bisexuals and transgendered persons (LGBT persons). Beyond these sexual offences, a range of other summary offences—usually relics of vagrancy laws—that deal with loitering, soliciting and other offences in public places negatively impact LGBT persons as well.

The continued existence of these laws is at odds with the respect for human dignity, equality and privacy articulated in Caribbean constitutions. In the case of Guyana, they cannot be reconciled with the constitutional goal that everyone should be able to ‘live in a safe society which respects their dignity, protects their rights, recognises their potential, a[and] listens to their voices...’

It is sometimes remarked that since few consenting adults are arrested and brought to trial for the ‘unnatural’ sex crimes, these laws pose little risk or harm to the human rights of sexual minorities. This small qualitative study undertaken in the Georgetown area of Guyana by Dr. Carrico plainly disputes this and points to a range of serious negative social effects that can be related to the continued existence of certain laws.

Dr. Carrico’s findings can provide the basis for a more informed discussion on the implications of laws affecting sexual minorities in the Caribbean by parliamentarians, policymakers, lawyers, civil society, faith-based groups and ordinary citizens. This small study can also provide a foundation for similar and even more expansive research throughout the region.

The Faculty of Law Rights Advocacy Project is very grateful to Dr. Christopher Carrico for undertaking this study, and especially to his team of research assistants, Ms. Arielle Gordon, Mr. Vidyaratha Kissoon and Ms. Sherlina Nageer. The Project also wishes to thank Dr. Corin Bailey, Research Fellow at the Sir Arthur Lewis Institute for Social and Economic Research (SALISES) for his technical assistance throughout the research. Finally, the Project also wishes to express its gratitude to the British High Commission for Barbados and the Eastern Caribbean and the British High Commission for Guyana who generously co-funded this study and its dissemination.

Tracy Robinson
Coordinator, Faculty of Law UWI Rights Advocacy Project

The Author

Christopher Carrico is an independent researcher who currently lives in Forest Hill, Maryland, USA. He holds a PhD in Cultural Anthropology from Temple University, Philadelphia, where his doctoral dissertation was on the history of the Akawaio people of the Upper Mazaruni, Guyana. His recent work includes field research in Guyana and addresses the implications of ecological and development policies, political participation, and contemporary social movements.

The Faculty of Law UWI Rights Advocacy Project (U-RAP)

The Faculty of Law UWI Rights Advocacy Project was established in 2010 as a project of the Faculty of Law, University of the West Indies. Its main objective is to promote human rights and social justice in the Caribbean through pivotal public interest litigation and related activities of legal and social science research on the situation relating to human rights in the Caribbean and public education.

The initial focus of the Project is on constitutional challenges in the English speaking Caribbean, in collaboration with human rights lawyers and civil society organisations, to laws that undermine the human dignity and human rights of sexual minorities. In the case of Guyana, the law being challenged makes it an offence to be a man dressed in a public place in female attire for an improper purpose, and vice versa. In Belize, a challenge has been launched to section 53 of the Criminal Code which provides that “Every person who has carnal intercourse against the order of nature with any person or animal shall be liable to imprisonment for ten years”, insofar as it criminalises consensual sex between adults. These cases seek to underscore foundational principles expressed in virtually every single Caribbean constitution: respect for human dignity, freedom founded on the rule of law and ‘an unshakeable faith in human rights’.

U-RAP comprises of a team of lecturers in human rights law and public law in the Faculty of Law, University of the West Indies at Cave Hill, Mona and St. Augustine, supported by student volunteers and research assistants, who work alongside human rights lawyers and civil society organisations.

Executive Summary

This study focused on the social effects of laws that criminalise lesbian, gay and bisexual orientations and transgender identities in Guyana. It was designed to assess the effects of the enforcement, or the implicit or explicit threat of enforcement of laws against sodomy, same sex sexual activity, cross-dressing, loitering and vagrancy.

The research project also aimed to assess the background effects of these laws in social control, surveillance, and discipline in the wider society, outside of the scope of the enforcement of laws by the police and the courts.

While most of the world has been moving towards the decriminalisation of homosexual acts, sodomy and same sex sexual activity remain illegal in Guyana and in ten other countries in the Caribbean, all of which were formerly British colonies.

Persons found guilty of sodomy in Guyana can be sentenced with up to life imprisonment. Guyana also has laws against 'gross indecency' between males, and cross-dressing. These crimes carry punishments of up to two years imprisonment, and fines of not less than 7,000 Guyana Dollars respectively.

While the laws against sodomy and same sex sexual activity are largely unenforced, research in other national contexts has shown that even unenforced laws can have pervasive effects in the society.

The laws against cross-dressing are periodically enforced and brought to trial. In 2009, seven persons, who were born biologically male, were arrested and prosecuted under this law. The courts found them guilty and they were fined.

This study examined the effects of the laws mentioned above on the LGBT community in Guyana. It also took into consideration the effect of the arbitrary enforcement of laws against vagrancy and loitering against persons who the police suspect of being homosexuals.

The study relied on the accounts of lesbian, gay, bi-sexual and transgender Guyanese, who told us about the effects of the laws used against sexual minorities. 21 interviews were conducted, 11 of males who identified as homosexual or bi-sexual, five of females who identified as lesbian or bi-sexual, and five of biological males who cross-dress as women.

The interviews consisted of an open-ended, qualitative questionnaire that collected information on demographics, subjects' knowledge of the existing laws, the effects of the actual or threatened enforcement of the laws, and the laws' wider societal effects.

The research indicated that there were a series of very direct impacts of the continued existence of the laws against sodomy, same sex sexual activity, cross-dressing, and loitering. Interviewees reported a number of injuries that were directly inflicted by the police and the courts, such as police harassment and abuse, arrest, prosecution, and conviction of crimes.

Many of our respondents also expressed fear of reporting crimes that had been committed against them. They believed or were told that charges would also be brought against them because of their sexual orientation. The research also shows that many of the crimes committed against sexual and gender minorities are enabled because perpetrators know they will not be punished, or believe that they are privately enforcing the law.

Laws criminalising same-sex intimacy and their gender expression affected where LGBT persons chose to live and go on vacation, and the extent to which they felt free to express their identities in public and private space. Even with family and close friends, some interviewees reported that they did not feel that they could freely express their gender identities and sexual orientations.

Interviewees felt the daily impact of the effects of the laws on their access to health care and social services. They faced stigma and actual or threatened discrimination when they accessed public entitlements. Some also reported that they faced discrimination when they tried to access the real estate market.

One of the most profound impacts of the laws is the degree to which sexual and gender minorities feel that they needed to regulate their behavior at the workplace in order to have access to employment and a means of livelihood.

The laws against sodomy, same-sex sexual activity, cross-dressing and loitering are not harmless laws. The Fundamental Rights enshrined in the Guyana Constitution include rights to equal protection, freedom of movement, freedom of expression, and freedom from inhuman treatment. The existence of the laws examined in this study creates conditions conducive to the violation of all of these basic rights for the LGBT community. While there would, no doubt, continue to be many sources

of homophobia in society even without the existence of these laws, the repeal of these laws would go a long way towards securing the Fundamental Rights of LGBT citizens in Guyana.

I. Introduction

In recent decades there has been considerable movement internationally towards the recognition of rights for the LGBT community. In many countries, the first step in the expansion of LGBT rights was the decriminalisation of consensual adult homosexual acts. In the United Kingdom, for instance, homosexual acts committed by consenting adults in private were decriminalised after the Sexual Offences Act of 1967. In 1998 South African courts struck down sodomy laws there because they violated the Constitution's right to freedom from discrimination. In the United States, state sodomy laws were ruled unconstitutional by the federal Supreme Court in 2003. In 2009 the Delhi High Court also ruled that India's law against consensual adult homosexual acts was unconstitutional.

Homosexual acts are now legal in 113 countries in the world, but there are some 80 countries where they are still illegal. Eleven (11) of these are former British colonies in the West Indies: Antigua and Barbuda, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, and Trinidad and Tobago (Bruce-Jones and Itaborhay 2003: 8-10). These are the only nations in the Americas where homosexual acts remain illegal, and in some of these countries the laws outline very severe penalties. In Guyana and Barbados the laws state that men found guilty of having homosexual sex can be punished with up to lifetime imprisonment.

In most of the Commonwealth Caribbean, there have been no convictions (or few convictions) of persons found guilty of these crimes in recent years. Therefore, the laws are said to be 'unenforced' or 'under-enforced'. Many make the argument that if a law is unenforced, it is harmless, and its existence cannot be in violation of anyone's rights – to privacy, equality, liberty, freedom of expression, or any other right. This was one of the arguments made in the 1986 U.S. Supreme Court decision in the *Bowers v. Hardwick case*. In *Bowers v. Hardwick*, the constitutionality of Georgia's sodomy law was being challenged. A ruling in favour of Hardwick would have overturned similar sodomy laws in many U.S. states and territories. However, the Supreme Court ruled that Georgia's sodomy law did not violate the due process rights outlined in the 14th Amendment to the U.S. Constitution *because the law was unenforced*.

In the wake of *Bowers v. Hardwick*, many legal scholars noted that simply because a law does not result in trials, convictions, and sentences does not mean that a law is harmless, or even that it is 'unenforced' in the broadest sense of the word. There are many ways in which judgments are made, and punishments are meted out long before there are trials. There are many effects that a law can have without charges for sodomy ever being prosecuted.

In the context of U.S. sodomy law, Christopher Leslie (2000) argued in his article *Creating Criminals: The Injuries Inflicted by "Unenforced" Sodomy Laws*, that these laws 'create a criminal class' composed of gays and lesbians. Sodomy laws 'are used to classify groups and stigmatize common behavior', 'make individuals targets for physical violence in the form of gay bashing, sometimes perpetrated as de facto enforcement of sodomy laws', and enable or encourage the abuse of gays by police officers and by private citizens (104).

While all laws place some discretion in the hands of law enforcement agents, 'the vagueness of sodomy and related laws increases this discretion, thereby allowing police to exercise their prejudices.' Furthermore, 'law enforcement personnel have abused the discretion vested in them by sodomy laws in a multitude of ways.' These abuses included the widespread use of harassment by police targeting homosexuals (130-131). Outside of the enforcement of criminal laws, the sodomy laws also 'facilitate employment discrimination, bias against gay and lesbian parents in custody disputes, discrimination against gay organizations, discriminatory enforcement of solicitation statutes, and immigration discrimination' (104).

Examining sodomy laws in South Africa, Ryan Goodman (2001) argued that unenforced laws still had a pervasive effect on the society through social norms and surveillance. Even when unenforced, the laws still had real material consequences on people's lives. Goodman conducted extensive empirical research in South Africa both before and after the repeal of South Africa's sodomy laws. He found that the existence of sodomy laws had a profound impact on almost every aspect of the lives of LGBT people.

Beginning with the formation of self-identity during adolescence, the laws play a significant role in teaching gays and lesbians that they are socially unacceptable (689). The laws send messages that negatively affect self-esteem and personal relations with family and community (689-94). The law is invoked in verbal harassment and disputes (694-9), it affects how safe homosexuals feel in their homes and workplaces (699-702), and makes them fearful to express themselves in public and private (702-5). Even 'safe' spaces – the home, or gay-friendly public spaces – can be places where they are attacked, threatened, or made to feel uncomfortable (705-6). The laws fostered quite negative relations between police and the gay community (708-11), and in Apartheid and post-Apartheid South Africa the laws had their most damaging impact in the black LGBT community (706-8).

While recognising that there are many other forces that contribute to homophobia in society, like 'religious conservatism, psychological discourse, demands of bureaucratic capitalism, and the mainstream media', Goodman notes that the law is a major influence on the formation and maintenance of social norms in all areas of society (718-733). Sodomy laws have a profound influence on discourses about sexuality even in relatively autonomous spheres of social life such as religion and medicine (723-29).

Like Goodman's article, this report will be based on empirical research on LGBT persons in the context of the laws of a specific nation-state, in this case the country of Guyana. It will examine the material effects of the criminal law against sodomy, and the law against cross-dressing, both of which have a wider societal effect on gender and sexual orientation. Some attention will also be paid to the laws against loitering and vagrancy, which have been routinely invoked as pretences for arresting suspected homosexuals.

Sodomy has been illegal in Guyana from the beginning of the colonial era to the present. Laws against sodomy were introduced as a part of Roman Dutch law during the Dutch colonial era, and were continued under British common law during the British colonial era. The current laws were included in the Criminal Law Offences Act (8:01) of 1893, and have remained unchanged during the post-Independence era.

Section 352 of the Criminal Law Offences Act penalizes acts of 'gross indecency' between males, Section 353 outlines punishment for 'Everyone who - (a) attempts to commit buggery; or (b) assaults anyone with intent to commit buggery; or (c) being a male, indecently assaults any other male person'. Section 353 would seem to include both consensual and non-consensual attempts at homosexual acts between males, as well as attempts at 'buggery' between homosexuals and heterosexuals regardless of consent. Those found guilty of gross indecency between males are liable to two years imprisonment, and those found guilty of attempted buggery are liable to ten years imprisonment.

Section 354 of the Criminal Offences Law Act reads as follows: 'Everyone who commits buggery, either with a human being or with any other living creature, shall be guilty of felony and liable to imprisonment for life.' The wording suggests that the law applies to acts of buggery, both homosexual and heterosexual, as well as to acts of bestiality. There is no evidence that any of these laws from the Criminal Offences Law Act have resulted in convictions of persons involved in sexual acts between consenting adults in recent years.

Cross-dressing is listed as a minor offense in the Summary Jurisdiction Offences Act (8:02). Section 153 (1) (xlv) legislates a fine of not less than 7000 Guyana Dollars for anyone found guilty of 'being a man, in any public way or public place, for any improper purpose, appears in female attire; or being a woman, in any public way or public place, for any improper purpose, appears in male attire'. Unlike the

laws under the Criminal Offences Law Act, there are sometimes prosecutions and convictions of persons under the law against cross-dressing. In February 2009, for instance, seven persons were arrested and prosecuted under this law. The courts found them guilty and they were fined.

This study also took into consideration the arbitrary enforcement of laws against vagrancy and loitering against persons who the police may have suspected of being homosexuals. These include Section 143 of the Summary Jurisdiction Offences Act, which legislates fines of 7,500 to 15,000 Guyana Dollars, or up to two months imprisonment for those found guilty of vagrancy; and Sections 153 (xlv) (assembling in public for 'idle, lewd, vicious, or disorderly purpose') and 153 (xlvi) (loitering or carousing in or around a shop), both of which are punishable by fines of not less than 7,000 Dollars.

This study focused on the social effects of the laws mentioned above on LGBT persons in Guyana. It was designed to assess the effects of the enforcement, or the implicit or explicit threat of enforcement of these laws. It also aimed to assess the background effects of these laws in social control, surveillance, and discipline in the wider society, outside of the scope of the enforcement of laws by the police and the courts.

II. Methodology

This study relies on the accounts of lesbian, gay, bi-sexual and transgender Guyanese, who, in their own words, told us about the effects of the laws used against sexual and gender minorities. Three research assistants collected the stories examined in this report by interviewing 21 persons in April and May of 2011.

A. Participants

The 21 interviews were conducted by research assistants and supervised by the researcher. 11 interviews were done of males who identified as homosexual or bi-sexual (Group I), five interviews were done of females who identified as lesbian or bi-sexual (Group II), and five interviews were done of biological males who cross-dress as women (Group III).

The sex composition of the groups was chosen based on the assumption that homosexual and bisexual men would be the group most affected by the laws criminalizing sodomy and same sex sexual activity. We wanted there to be lesbian and bisexual women in the study, as we believed that they are also affected by these laws, but we did not include as many women in the sample because we assumed they would be less affected by these laws than gay and bisexual men. After having conducted the study, however, this assumption seems to have been premature. Further study of how these laws impact lesbians is needed. A separate group of male-to-female transgender persons was included so that we could have a better sense specifically of the impact of the law against cross-dressing.

The interviewees in Group I were individuals who were known to one of the research assistants because of their contact with a local organisation that advocates for rights for the LGBT community. The research assistant conducting these interviews knew the identities of these respondents, but his acquaintance with them was only through his work as a volunteer. As in all of the groups, respondents were assured that their anonymity would be protected.

Group II consisted of persons known to one of the research assistants through her work with various local NGOs. As in Group I, the interviewees were known to

the interviewer, but were not close acquaintances. Group III consisted of contacts made through an organisation that does educational outreach on the transmission of HIV. Groups II and III were, of course, also assured of the confidentiality of their identities.

No attempt was made to make the groups representative in terms of age, race, or religion. Group I consisted of persons ranging in age from 19 to 37, with eight of the 11 respondents being in their twenties. Four reported their race as African, three as Indian, and four as mixed. Nine reported their sexual orientation as gay, and two as bisexual. Six said they were Christians, and five said they were not religious.

GROUP I PARTICIPANTS

AGE	RACE	RELIGION	SEX	SEXUAL ORIENTATION
26	African	Christian	Male	Gay
26	African	None	Male	Gay
20	Mixed	Christian	Male	Gay
24	Mixed	None	Male	Gay
37	African	Christian	Male	Gay
33	Indian	None	Male	Bi-sexual
27	Mixed	None	Male	Gay
26	Indian	None	Male	Gay
19	Indian	Christian	Male	Bi-sexual
24	Mixed	Christian	Male	Gay
23	African	Christian	Male	Gay

Group II consisted of three women in their twenties, and two in their thirties. Three reported their race as African, and two as mixed. Four reported their sexual orientation as lesbian, and one as bisexual. Three said they were Christians, and two said they were not religious.

GROUP II PARTICIPANTS

AGE	RACE	RELIGION	SEX	SEXUAL ORIENTATION
24	African	Christian	Female	Lesbian
28	Mixed	Christian	Female	Lesbian
25	African	None	Female	Bi-sexual
36	Mixed	Christian	Female	Lesbian
33	African	None	Female	Lesbian

Group III consisted of three persons in their late teens, one in his twenties, and one in his thirties. All reported their race as mixed. Three considered their gender identity to be transgender, and two considered their sexual orientation to be gay. Two said they were Christians, two said they were not religious, and one said he was Hindu.

GROUP III PARTICIPANTS

AGE	RACE	RELIGION	SEX	GENDER/SEXUAL ORIENTATION
17	Mixed	Hindu	Male	Transgender
32	Mixed	None	Male	Transgender
18	Mixed	Christian	Male	Transgender
17	Mixed	Christian	Male	Gay
21	Mixed	None	Male	Gay

Little significance can be attributed to the distributions of race and religion that are represented in the three groups – these distributions are partially the result of chance, and partially a result of geography (the study was conducted in Georgetown). Certain characteristics of the groups should be noted, however. Mixed race persons are over-represented and persons of Indian descent are under-represented relative to both national and local percentages of the total population. No interviewees identified as Amerindian, Chinese, or Portuguese. No inferences can be made about the racial composition of the LGBT community from this very small sample. No inferences can be made, either, from the fact that only one respondent considered himself to be a Hindu, and no respondents considered themselves to be Muslim.

It should also be noted that this was a study of young people. Their ages ranged from 17 to 37. Four interviewees were in their teens, 12 were in their twenties, and five were in their thirties. The researchers did not deliberately seek youths for interviews, and the demography, again, is partially explainable by chance. Another likely partial explanation is that it is mainly youth who have been in touch with the organisations through which the researcher and research assistants made their contacts.

B. Instrument

Because the scope of this research was very similar to that conducted by Ryan Goodman when he was assessing the effects of the sodomy laws in South Africa before they were repealed, this project used a modified version of Goodman's questionnaire (2001: 737-9). The questionnaire used in this study is presented in the Appendix to this report.

The questionnaire was modeled after the questionnaire that Goodman used in 1995, when the South African sodomy laws were still in effect. The interviews were divided into four thematic sections (A-D). Like Goodman we collected (A) demographic data, as well as (B) information about subjects' knowledge of the existing laws. We collected slightly more detailed demographic data than Goodman, but not all of this additional information proved useful in our final analysis. Our questions about knowledge of the laws were simplified, and expanded to include not only sodomy laws, but also laws against other same sex sexual activity as well as the law against cross-dressing.

The difference between our questionnaire and Goodman's can be found in our questions about personal experiences under the laws. We found it useful to distinguish between two sets of questions: (C) those that addressed the effects of the enforcement (or the implicit or explicit threat of enforcement) of the relevant laws, and (D) those that addressed the wider societal effect of the laws, outside the scope of law enforcement. In both cases, we asked questions not only about sodomy laws, but also about other laws criminalising homosexuality and cross-dressing, as well as laws against vagrancy and loitering.

C. Procedure

The interviews were conducted by research assistants in neutral public spaces (cafés, restaurants, public parks, on the street) but not in close proximity to others who might hear the conversation. They were private, one-on-one interviews with only the research assistant and the interviewee present, except in a few initial cases where the main researcher supervised the interviews.

Each interview took approximately half an hour. The interviewer read questions from the questionnaire, and took verbatim notes on the answers that were given. Tape recordings were not used because of the nature of the material involved. As some of the answers involved information about illegal activities, or involved information that could potentially be used for blackmail, we felt that it was likely that tape recorded interviews would make interviewees suspicious. This was especially true because of a recent high profile case in Guyana involving a public figure that had allegedly been tape recorded propositioning an under-aged boy for homosexual sex.

As stated above, all respondents were assured that the answers that they gave in the interviews would remain anonymous. The interviewees were compensated for transportation and their time, with the respondents being offered 2,000 Guyana Dollars (approximately 10 U.S. Dollars) for completing the questionnaire. In a significant number of cases, interviewees refused to accept payment.

D. Limitations

The most significant limitations in the study were a result of constraints of time and budget. The most useful methods for understanding the social impact of laws

affecting the LGBT persons in Guyana would have, no doubt, been the traditional methods of social and cultural anthropology – extensive, long-term ethnographic research that involved participant observation of the day-to-day experiences of the LGBT community. Time constraints made this option impossible.

Time and budget constraints also made it impossible to conduct a large study that could have produced quantitative results with any kind of statistical significance. The qualitative questionnaire of a small number of respondents was a compromise solution. It was not possible to get the rich, textured detail about LGBT life that would have been possible with ethnography, nor was it possible to produce the statistical measurements that would have been possible with a large scale quantitative study.

Another difficulty with our method is that there may have been some bias based on the fact that we mainly worked with persons who were known to us through their contacts with public health, human rights and other NGOs. As such, these persons were probably more likely to have been exposed to rights-based discourses that may have caused them to understand their experiences differently than they might have otherwise. Still, we were careful not to include activists, employees, or active members of these organisations, only persons with whom these organisations had some contact.

While our research conditions were not ideal, the qualitative questionnaires gave us enough information to recognize that there were patterns common to the experiences of all persons we interviewed, and, if these interviews give us any indication of the reality of LGBT experiences, then we can say with confidence that there are many ways in which the laws we examined have deeply and negatively influenced the lives of Guyanese lesbians, gays, bisexuals and transgenders.

III. Direct Impact of the Existing Laws

Much like the findings in previous research into the topic in other settings, like South Africa and the United States, our research indicated that there were a series of very direct impacts of the continued existence of the laws against sodomy, same sex sexual activity, cross-dressing and loitering. Most of our interviewees reported a number of injuries that were directly inflicted by the police and the courts, such as police harassment and abuse, arrest, prosecution, and conviction of crimes. Many of our respondents also expressed fear of reporting crimes that had been committed against them because they believed or were told that charges would also be brought against them because of their sexual orientation or gender identity. Finally, it seems likely that many of the crimes committed against sexual and gender minorities are enabled because perpetrators think they can act with impunity, or even believe that they are privately enforcing the law.

A. Injuries Inflicted by the Police and Courts

Homosexuals, bisexuals and transgenders of all class backgrounds have had direct encounters with the police that have to do with the criminalisation of their sexual orientation or gender identity. They are harassed and abused by the police. They are arrested or threatened with arrest. They are charged with the crimes of cross-dressing and loitering. They are found guilty and given fines.

In the case of sodomy, we had no accounts of charges being pressed, but suspected buggery was sometimes reported as a pretence for arrest. **A**, for instance, a 26 year old, middle-class Afro-Guyanese male, reported that his friends ‘were charged with buggery, spend a couple of nights in jail, and were released. The police did not see them buggery. Police assume two gay men... equates to buggery, so they hold them and lock them up.’

With cross-dressing, however, the law is more frequently invoked, and people are sometimes prosecuted and convicted of the offense. **B**, a 33 year old Afro-Guyanese lesbian, reported that one of her friends was charged with cross-dressing. The friend ‘went to court but paid (bribed) somebody and so they didn’t go to jail.’ In this case, according to **B**, sex was also demanded from her friend by the police while in custody.

Also common is the scenario reported by **C**, a 36 year old mixed-race lesbian, whose ‘friend was arrested for cross-dressing and loitering. They plead guilty to cross-dressing and paid a fine.’

Of the cross-dressers interviewed, all had been charged with crimes, and all but one had been charged with the crime of cross-dressing. All whose charges had come to trial reported pleading guilty, and receiving fines that ranged from GY\$7,000 to GY\$19,500.

Many interviewees had been threatened with charges or actually charged with the crime of loitering. Some paid bribes of various kinds, others were fined, jailed, or had to do community service after being found guilty of loitering. **E**, a 21 year old mixed race, cross-dressing sex worker, reported having to pay a fine of GY\$20,000.

They stated in their interviews that they are harassed, threatened, and arrested for loitering when those who were not suspected of being homosexuals were ignored by the police. **A** relates that his friends ‘were not loitering, just hanging out. It was night; police pull up and arrest them.’ It was ‘not like the police tried to round everybody up, but just these who were gay, and when they got to the station, they were told they being charged for loitering.’

Sometimes, LGBT persons become the victims of lack of due process in dealing with crimes unrelated to their sexual identity, or they are locked up without being informed of what crime they are being charged with. One cross-dresser, **D**, a 17 year old Indo- Guyanese male who dresses as a woman and reports herself to be a sex worker, related that she once was arrested and held for three months before being told what crime she was being charged with.

Of all of the direct material consequences resulting from the enforcement of these laws, **D**, the transgender sex worker, told a story of a case that is extreme in nature, but most likely not unique in the routine enforcement of laws against sex-workers and cross-dressers. **D** reported that she was ‘beaten with rope, embarrassed in front of others at the police station, stamped on, dragged through the drains, taken to clean the station yard.’ Meanwhile, she claimed, police, passersby, and other persons at the police station stole her money from her.

‘I was beaten, stripped, fingered, thrown in lock-ups to be raped by others in lock-ups. The police threw condoms to them (the other inmates).’ **D** stated that she was also forced to sexually service the police, and while in custody, the police spit on her and beat her. She claimed that the police also forced her to steal cell phones from clients to give to them.

B. Fear of Reporting Crimes

Those who had been attacked or harassed because of their homosexuality, or who had been the victims of other crimes unrelated to their sexuality and gender identity, told us that they generally do not report crimes to the police. As **C** said, ‘Most don’t want to report to the police. They (the police) does give the other

person (not the victim) the rights.’ In general ‘the police would take the straight person’s side, even if they’re in the wrong...’

J told interviewers that gays and lesbians ‘would get chased from the police station, not taken seriously’. I stated that on one occasion, when she went to report a crime to the police, she was told she should ‘change (her) lifestyle’.

In *B*’s dispute with her co-worker, she told the interviewer that ‘the person taking the report... advised me against taking the case further. Said that I would be charged also. Even if not convicted of a crime it would be on my record. I didn’t want that because I didn’t want anything that would affect my ability to get approved for a visa. So I didn’t follow through.’

D told us that, in her case, even after she reported being raped in jail by other inmates, those she reported it to claimed that they ‘did not believe (me) and they did nothing about it.’

F said that when he went to report his cases of verbal and physical abuse, and sexual assault, that the police asked him to leave the police station, and was told by the police that he was a ‘mockery to the system.’ When he refused to leave and persisted in attempting to make a report, he was informed that if he insisted on reporting he would also be charged with a crime because ‘sexual acts are illegal among men.’

In many cases, our interviewees simply told us that the police did not take the report, and ‘chased them away’ from the police station. *A* told us that when he was sexually assaulted by an adult during his early adolescence, he did not report the crime because he believed that he would also be charged with the crime of sodomy.

Some persons interviewed were also victims of intimate partner violence. None of our interviewees made reports of this abuse to the police. *K*, a 27 year old, mixed-race, gay male, who is a volunteer and a social worker, said ‘when I was in a violent relationship, I could not go to the people because I felt I had no legal standing.’

L, a 26 year old, Afro-Guyanese, gay male who works as a bartender had the following story to tell the interviewer: ‘I broke up with my guy. He threatened me with *obeah* and violence. I am not afraid of *obeah*, but he kept threatening me. I cannot report to police since it is illegal to be gay and his family is police. There is a lot of violence in gay relationships but I think people are under control and they don’t want to go to police or to any social services.’

C. Harassment and Violence: The ‘Privatisation’ of Punishment

The majority of the lesbians, gays, bisexuals and transgenders interviewed had been victims of crimes committed against them because of their sexual orientation. Many interviewees indicated that they had been physically attacked because of

their sexual orientation. **B** stated that ‘I was in a fight once with a co-worker who had been verbally abusing me because she had a problem with my sexual orientation. Things escalated and got physical one day.’

F, a 32 year old mixed race, transgender male, who lists his occupation as ‘volunteer’ reported that he had been verbally, physically and sexually attacked because of his suspected sexual activities.

A indicated that ‘These guys in the neighborhood would trouble this (gay) guy I know, he would generally ignore them, and one day he got tired of it. He turned around and answer them, and proceeded to go to his house... (Later) the same guys who he answer back threw acid on him.’

A typical story is the following, reported by **G**, a gay male Afro-Guyanese bartender who is 26 years old. ‘At the South bus park, I was going into a bus with a group of friends... we try to act normal (straight), however some taxi drivers start throwing some tantrums at us. “You gotta be gay.” I did not respond. When I turned to look at them to see who it was, they pelted bottles. A big guy I know (straight) came and take me home in his car.’ Having bottles and stones thrown at them was a common characteristic of the physical attacks that were described in the interviews.

Verbal harassment was reported as a part of everyday life by many of the interviewees, and some interviewees have become so accustomed to verbal attacks that they considered them to be ‘normal’ and ‘not a thing to report to the police.’ Furthermore, some believed, like **H**, a 19 year old, gay male Indo-Guyanese student, that if reported the harassment would only escalate, or that charges would also be brought against the victims of the crimes.

I, a 28 year old mixed-race lesbian reported that ‘I was on Regent Street looking for some boxers to buy. This guy was very verbally abusive to me and as I was walking away, he came up to me with scissors and threatened to cut my dreads. Talking about how I was a disgrace to Rasta and had a dirty lifestyle. I didn’t report it to the police.’ In another instance, she ‘was in a store shopping for a bike and some other customers in the store were very verbally abusive to me. One said “they should clamp down on people like you.”’

A reports that for him, harassment is an everyday occurrence. ‘Because of my appearance, my entire neighborhood, (and) previous workmates harass me.’ Several interviewees indicated that verbal harassment went as far as threats to assassinate or kill them. **C**, for instance, reports that in her case ‘guys threaten to kill me all the time.’

One case was related to interviewees by **J**, a 25 year old Afro-Guyanese lesbian, who reported that ‘I knew a gay dancer. He liked to wear makeup and tight jeans. He was killed. They found him dead in his car in a cemetery. He was last seen with two men, but they (the police) never caught anyone.’

IV. Wider Societal Effects of the Laws

This research project also found that the laws that are used to target homosexuals have an effect on LGBT experiences that goes well beyond the realm of law enforcement and the criminal justice system. These laws have an impact on:

1. LGBT people's access to employment and the manner in which sexual identities can be expressed at the workplace. Sanctions against those who express their sexual identities at the workplace include loss of job, failure to be promoted, homophobic harassment at the workplace, and sexual harassment.
2. Acquisition of health and other social services. Either direct discrimination or fear of stigma and discrimination often prevent LGBT persons from making use of health care and other social services.
3. Access to public and private space, possibly including apartments and homes on the real estate market. Ability to use public or semi-public space freely, especially if sexual identity was expressed. LGBT persons also indicated that laws against homosexuality affected where they chose to live and to go on vacation.
4. Freedom to express sexuality publicly and privately. Interviewees frequently reported that they felt that the criminalisation of homosexuality placed considerable constraints on their ability to express their sexual orientation publicly, and also constrained their ability to 'come out' to family and friends.

A. Employment and Sexual Identity at the Workplace

LGBT Guyanese often 'closeted' (i.e. concealed their sexual and gender identities) at their workplace, and are often affected in their access to jobs and hindered in their career advancement because of their sexual orientation. Many interviewees reported trying to be completely closeted at work for fear of social sanction, injury to their careers, or termination of employment. Other respondents were either unable or unwilling to hide their gender identities at work.

A reported that he avoided jobs where very masculine ('gangster' in his words) behaviours were expected on the part of male employees. He reported that he was discharged without explanation from basic training in the armed forces, and in another job situation was the constant victim of sexual harassment and brunt of gay jokes by his supervisors in the company that employed him.

M, a mixed-race gay man, 24 years old, works as a teacher, is openly gay at work, and has had mixed experiences in how he has been treated. Currently, he reports that the children he teaches seem quite comfortable with his identity, and he has had no difficulties in his dealings with the children's parents either. However, at a previous job, a 'child claimed that I touched him on the chest, and I had to leave the job because that was against the child protection policy of the organisation.'

Few of the gay men interviewed who were 'out' at work reported that this did not impact negatively on their employment. In one case, the interviewee reported that he was currently unaffected by stigma and discrimination because of an explicit policy on the part of the employer. *L* reported that 'My employers in the beginning did not want to hire me... (They thought) that I would bring in all the gay people.... Now they have a policy about not discriminating against gay persons. My co-workers are okay with me. We get on well.'

For the lesbian and bisexual women who were interviewed, the question of the 'presentation of self' at work in a gender appropriate way often centred on the subjects' willingness or unwillingness to dress in a way considered to be 'feminine' or 'sexy'. *N* is a 24 year old Afro-Guyanese lesbian who works as a waitress. Her statements are typical: 'My boss told me to wear tighter pants', and 'I was trying to get a job for a friend of mine who dresses like a guy, but my boss said no.'

I reported that she 'wanted to drive for (an alcohol and other beverage distributor) and am more than qualified. But during the interview, the guy's body language told me he was uncomfortable with me. Said they would call me back, but they never did. I feel like it would have gone differently if I'd dressed sexier.' Similarly, *C* reported that 'I like to wear jeans and not show my boobs. Most workplaces want women to wear short skirts and tight shirts. So I work for myself.'

Unlike the male respondents, only one lesbian interviewee reported that she was successful at being completely closeted at work. Like male respondents, lesbian and bisexual women reported being denied access to jobs as well as being blocked from career advancement because of their sexual identity.

Of the transgenders who were interviewed, four of the five persons were employed as sex workers. So, unlike the others, their employment made it necessary to openly display their sexual orientation at their place of work. One mentioned, indeed, having faced negative sanctions because of their sexual and gender identities at other workplaces in the past.

F, a cross-dresser who reported working as a volunteer, has the qualifications to apply for a variety of different jobs, but has been hesitant to do so. 'I wanted to apply to the Office of the President, the UN Agricultural Sector, and mining companies, but because of my sexual orientation I did not.'

B. Access to Health Care and Social Services

Another pervasive way in which the laws relating to sexual orientation create an environment injurious to LGBT persons is by enabling stigma and discrimination that limits access to health care and social services.

D related a common story: 'When I go to the hospital, the staff and patients discriminate against me. Some doctors don't want to look after me. They keep sending me to see another doctor.' **F** told us that health care and social workers 'breach confidentiality about medical issues.'

Feeling humiliated by their treatment by medical staff was a frequent theme in the interviews. **B** related that 'Once a male doctor forced me to take a pregnancy test even after I told him I had sex with women... that I didn't have sex with men. I took it because I didn't feel able to stand up for myself. I was angry and humiliated. I haven't gone back to him since.'

M echoed the sentiment of many when he expressed the opinion that 'people are scared to access health care' because of the cultural values of the medical staff. 'Health care system has policies,' he told us, 'but still the individuals are ignorant.'

A gave us more details about his treatment by medical staff. 'I would go to a counselor for an HIV test. You want to be honest and you say "I am gay". And right away the facial expression and the body language changes and just says it all.' **A** informed us that on two occasions, when he told HIV counselors that he was gay, they said 'Let us pray about it.' In one case, the nurse said 'Gay eh? Oh Lord!' He described counseling sessions as 'disgusting', and said that they made him feel that he 'did not want to go back for any counseling'.

K told the interviewer that 'When I go to the blood bank, they refused to take the blood because they suspected that I am gay. They did not know for sure – I didn't declare it on the form.' **O**, a 26 year old, gay male, Indo-Guyanese who once worked as a social worker, indicated that many of his colleagues showed 'hesitance in terms of dealing with them (LGBTs)'

C. Access to Public and Private Space

We collected no demographic information about residence, and this limits the researcher's ability to interpret the information about the effect of laws relating to homosexuality on interviewee's access to the rental and housing markets. In answering a question relating to discrimination in the rental market, **B** indicated that she owned her own home, but it is doubtful that she is typical among those interviewed.

Few interviewees indicated that they had experienced discrimination when looking for an apartment, but the rental market in Guyana is often priced outside of the independent means of most local people. This means that most young Guyanese continue to live with their parents until married and often even long after marriage. The persons interviewed in this project are mainly in their 20s, and most are unmarried, or are in non-heterosexual relationships that are not legally recognized as common law marriage.

Some clear statements about discrimination in the rental market, however, were made during the interviews. **I**, who is a middle class professional, with a tertiary education and disposable income, indicated that she and her partner ‘got declined when we were looking for an apartment to rent.’ Others indicated that young, single, local people were discriminated against in the rental markets already, and that to be young and part of the LGBT community was taken by landlords as a clear indication that they would be ‘lawless’ tenants.

For some of the interviewees, employment discrimination made the question of access to the rental and the housing market moot. **D** reported to the interviewer that ‘because of my sexuality and appearance I cannot get a job, and with no job I cannot get a loan or an apartment.’

The situations described above show people locked out of the rental and housing market, whether for economic reasons or because of discrimination. Therefore, the importance of a person’s family recognising their right to reside in the family home becomes quite important. For some of our subjects, fear of being evicted from the family home is one factor in inhibiting them from revealing their sexual orientation to family members. In **K**’s case, he was kicked out of his family home at the age of 15, and still has no relationship with his family.

The loitering and cross-dressing laws have also restricted access of some of the interviewees to public spaces of various kinds. Other than the selective use of loitering laws being applied to homosexuals described above, there are also public spaces where access is denied to homosexuals and cross-dressers. According to **D**, ‘I’m not allowed to enter the park or gardens and I’m chased by the police and other people when I go to the seawall.’

LGBT persons also face discrimination in their access to semi-public spaces such as bars, restaurants, and hotels. Establishments that are tolerant of homosexuals risk being targeted by the authorities. **P**, a 20 year old, mixed-race, gay male student told us of bar that was shut down after only a week in business because it was a gay bar. Sometimes the official reason for shutting down an establishment will be some other violation, while interviewees are convinced that the real reason for the enforcement of these violations is that the establishment is frequented by homosexuals. **C** told us that ‘I know about a gay club that got shut down after 2 weeks. They said it was because the liquor license wasn’t valid, but that wasn’t the real reason. The neighbor was some judge’s family. They said the guys were too loud, and got the place shut down.’

Even private parties can be the target of law enforcement. **N** told a typical story when she reported that ‘the police like to come stop our parties. They want to get paid. If we pay them, they’ll leave us alone.’ **Q**, a 37 year old, gay male, Afro-Guyanese who works as a project co-coordinator reported to us that ‘if people you know have a public event, police would want to prosecute you for being against the law.’ **R**, a 23 year old, gay male Afro-Guyanese who was unemployed, while never having ‘kept a public function’ himself, believes that ‘people would not want to give you their place for a party.’

LGBT persons interviewed also report that the laws relating to homosexuality affect where they have chosen to live or go on vacation. **M** told us that he is careful where he chooses to live, that he has to be familiar with the local area. He reported that he would like to go to Jamaica ‘but I am scared to go there... I am terrified.’

A told us of his experiences living in an area where male behavior was expected to be hyper-masculine, or ‘gangster’, the same words he used to describe a work situation in which he was uncomfortable. ‘Attention turned on me, new guy who ain’t coming and chilling in the area, who ain’t bathing at the pipe, who not hustling girls, who not smoking weed. Walking down the road and going home they shout “batty man”’. He wanted to move from the area but initially did not have the resources to do so.

Like **M**, **A** also reported that he would not vacation in Jamaica, out of fear from the stories he had heard. It was not the sort of place he believed one could go to ‘be safe and have a good time.’ He suggested that Europe, or the ‘non-English’ Caribbean would be relatively safe places to vacation.

While sharing **M** and **A**’s fears, **O** reported that he would still like to visit Jamaica. ‘Where I chose to go on vacation, I look for places that are more gay-friendly than others. Trinidad, for example, while it is not legal, the community is much larger and seems to be more open, and secure....’ He also listed Suriname and Curaçao as places where he would feel comfortable. ‘I would love to go to Jamaica if I had the opportunity. I am not intimidated by the stories but I would change my behaviour when I am there.’

L said that ‘I make sure I know where to go. I don’t want to go to Belize. Bahamas and St. Maarten are okay.’ Barbados, Dominica, and Trinidad and Tobago, which still have laws against homosexuality, seem to be safe as long as one is cautious. In these places the ‘community seems bigger and seems to be very open.’

S, a 24 year old, mixed-race gay male, related a story that runs contrary to the perception that Europe is more tolerant, and thus a more ‘gay-friendly’ place to go on vacation. ‘I remember this experience in Malaga, Spain, when we went there and the people kicked us out of a restaurant.’ Subsequently, when planning vacations ‘I would go on the internet, make sure where I am going is safe, and check with people who are living there.’

In the cases where specific neighborhoods in Guyana were mentioned as places that were not safe to live, they were mainly areas that were urban, poor, and predominately Afro-Guyanese. However, some of those interviewed who were *from* those communities reported that they felt safest in their own communities and in their own neighborhoods.

Q (who is, as I noted above, a middle class Afro-Guyanese) was of the opinion that ‘Country areas are tolerant, especially on the West Coast (Demerara) and East Bank (Demerara)... like Herstelling and so...’

D. Public and Private Expressions of Sexual Orientation

In general interviewees said that they expressed great reticence in public expressions of their sexual orientation. They also reported that they exercised a good deal of caution in revealing their sexual orientation privately to family and friends.

The social costs of the public expression of sexual identity are high, and the power of possible negative consequences places considerable restraints on public LGBT behaviour. Interviewees’ experiences with family and friends, on the other hand, were a mixed tale. Sometimes family and friends formed the foundations of a LGBT person’s support. In other cases, revealing one’s sexual orientation, or having it revealed by others, destroyed friendships and broke up families.

A related to us that he is ‘out’ neither in public, nor with his friends and family. Publicly, he is not out because it ‘is like you know the laws penalize same sex intimacy and criminalises buggery, and these are the very things which I would be admitting to. Is like a drug dealer coming out to admit that he is a drug dealer. I am saying to the authorities to come and get me.’ He is also afraid to ‘come out’ to friends. ‘I have good friends who hate gay people. I go out, hustle girls, just like them, (so) they just hoping is not true. And they observe every time. I am not at the point where I could face the backlash, because backlash would come!’

Some of **A**’s friends, it seems, suspect that he is gay, as does his family, even though he has not come out to them. His family members ‘are not as accommodating as they should be because of my perceived sexual orientation. They are not accommodating or accepting of it because they feel anything (that) goes against the law is lawlessness, and they don’t condone lawlessness.’

M, unlike **A**, is openly gay, and has had mixed experiences publicly and in his private relationships as a result. ‘It has been a challenge. Because people feel you are breaking the law and so it does hinder me being completely open... it has taken a while... even though I am there (open) sometimes I am still hesitant to be myself because people have crazy things to say.’

With **M**’s family it ‘depends on which side’. His mother’s family is not comfortable with his homosexuality, whereas ‘my father’s side is generally okay. I also have two uncles and a cousin (who) are gay on that side.’

Like **A**, **H** is not open about his sexuality to his family or publicly. 'I am not out to my family,' he said, and is not out publicly because 'I am worried about the laws and the punishment. I have a lot to offer the world and I do not intend to spend any time in jail.'

H described the manner in which he attempts to manage his social life as follows: 'I cannot associate with people I want to associate with, whenever I want to do that.' Instead 'I manage this by deciding before meeting, who is going to be there, and assess whether it is safe, or whether the people who are going... are the sort of people who would damage my reputation by associating with this person.'

J also has never been open about her sexual orientation, either to her family or publicly. She told the interviewer that 'I'm just more of a private person. Plus it's not easy to be open. I'm accepted by the gay community and that's okay.'

L is 'out to my family and they are okay, except for one aunt.' In public, he is out, but is afraid to be out in ways that he considers too flagrant. 'I like to cross dress for fun, but not here.' He reported that he also feels 'afraid to go into a restaurant or bar, or (go out for) Valentine's Day. You can't show affection in public places, because of the laws.'

The fears about coming out even to family are not unfounded, as is shown by the example of **K**, given above, who was evicted from his home at 15, and still has no relationship with his family. **K** also reported that '(You) can't (publicly) express feelings toward the person you are in a relationship with. People would frown on it, or harass you.'

Families often have complex ways of dealing with a family member's sexual orientation. **C** told us 'My family loves me. They just always have a problem with who I'm with.' As far as living openly as a lesbian, **C** informed us that 'the only person I was scared of coming out to was my mother.' **T**, a 33 year old, Indo-Guyanese gay male reported that 'my orientation is only known to supportive family members.'

Q told the interviewer that 'certainly in my family, there are some persons... who don't want to associate with me.' When asked whether the laws against homosexuality 'affected his decision regarding whether or not to "come out", i.e. to live openly as a sexual minority,' he responded, 'Of course yes. It is against the law. You would not want to come out.'

S told us that 'my family has other LGBT members. They are concerned about how things will be with me... I have told some friends, and my gay cousin outed me to the family in a public way... but the arrogance of people, pressure, have to know what you doing. Be uncomfortable with your partner in public places.'

P is not open to his family, and said regarding coming out in general that 'I fear being open with relationships and feelings towards persons who I like. Relationships

are important to life. I cannot go out and say “This is my boyfriend.” The laws have ‘prevented me from being myself, even in public places. I always have to be cautious. See who is looking.’

On the subject of ‘coming out’ there were several persons who reported that they ‘never had to come out,’ ‘were always out,’ or were open since adolescence (the ages reported ranged from 13-16). All five transgender persons interviewed reported that they had been ‘out’ since adolescence. Four of these persons reported that their families were tolerant of their gender identities, while one reported that only ‘some’ family members were tolerant.

D, **F**, and **U**, all cross dressers, reported that the main tensions created by their gender identities were not in their families, but in the wider community. **D** told us that ‘community members call me names and pelt me with bottles and bricks.’ ‘People... point finger and say “bun batty boy,” “move ya AIDSin’ self,” and “ya anti-man.”’ **F** said ‘Yes, people called me names: batty boy, fiya, bun, demon, Satan, dead.’ And **U** has been greeted with ‘cross,’ ‘batty boy’ and ‘the cause of AIDS is by anti-men.’

V. Conclusion

As in other cases in which so-called unenforced sodomy laws have been examined (like South Africa before 1998 or the U.S. before 2003) there are many ways in which LGBT Guyanese are injured by laws that criminalise their gender identities or sexual orientations. Laws against sodomy, same sex sexual activity, cross-dressing, and loitering are deployed, together or in conjunction with one another, in ways that have serious negative consequences for the LGBT community.

Some of these negative effects are a direct and immediate consequence of the laws. These include a number of injuries inflicted upon LGBT people by the police and courts. Police harassment and abuse were reported by nearly every person interviewed in our study. Many were arrested, threatened with arrest, or charged with crimes. Some were prosecuted and punished by the courts. Many reported police abuse of power, including serious offences, such as demanding bribes, extortion, demanding sexual favours, or turning a blind eye to sexual abuse by other prison inmates.

Most interviewees reported that they were afraid to report crimes committed against them because they were afraid of charges being brought against them as a result of their sexual orientation. Some told us that they were told by police that if they reported crimes they would be charged themselves, or told us that police refused to take their reports.

Many told us of multiple cases of harassment and violence that had taken place against themselves and friends, and none indicated that any persons had been punished for these crimes. The laws create a situation where perpetrators of violence know that they can commit crimes against homosexuals with impunity.

LGBT persons indicated that laws criminalising their sexual identities affected where they chose to live and go on vacation, and the extent to which they felt free to express their identities in public and private space. Lesbians, gays, bisexuals and transgenders in Guyana self-regulate their expressions of sexuality even in situations where there seems to be little threat of the enforcement of laws that criminalise their sexuality. Even in private, intimate relationships, such as

those with family and close friends, LGBT people often report that they do not feel that they can freely express their gender identities and sexual orientations.

Interviewees felt the daily impact of the effects of the laws on their access to health care and social services. They faced stigma and actual or threatened discrimination when they accessed public entitlements. Some also indicated that they were negatively affected in their access to the real estate market.

One of the most profound impacts of the laws is the degree to which sexual and gender minorities feel that they needed to regulate their behavior at the workplace in order to have access to employment and a means of livelihood.

These effects do not seem to be equally distributed throughout society in an unstructured way, but seem to escalate in intensity when interviewees felt they were in a situation where others were in a position to invoke the laws as a means of exercising control over their access to resources, services, and the means of social production and reproduction.

This study used a simple and straight forward methodology that could easily be reproduced in a variety of human rights-based research contexts. We did not produce a textured and comprehensive picture of the totality of ways in which the laws studied affect LGBT life in Guyana, and neither did we produce a series of quantitative measurements of harms inflicted in a representative sample of the LGBT population. However, based on an analysis of the content of a small number of qualitative interviews, we gathered sufficient evidence to say with considerable confidence that the laws against sodomy, same sex sexual activity and cross-dressing are not harmless laws, and that it is likely that the laws against loitering have been invoked arbitrarily to target the LGBT population.

The Fundamental Rights enshrined in the Guyana Constitution include rights to equal protection under the law (Article 149D), freedom of movement (Article 148), freedom of expression (Article 146) and freedom from inhuman treatment (Article 141). These are consistent with the rights outlined in many Constitutions in the world that are based on democratic principles. In the context of Guyanese society, the existence of the laws examined in this study creates conditions conducive to the violation of all of these basic rights for the LGBT community. While there would, no doubt, continue to be many sources of homophobia in society even without the existence of these laws, the repeal of these laws would go a long way towards the securing of Fundamental Rights for LGBT citizens in Guyana.

Appendix: Questionnaire

A. Demographic Data

1. What is your occupation?
2. What is your estimated monthly take home income?
3. What do you consider your social class to be?
4. What is your marital/relationship status?
5. What is your age?
6. What is your race/ethnicity?
7. What is your religion?
8. What is the highest level of education that you have completed?
9. What certificates did you receive as a result of your education?
10. What other technical or vocational training have you received?
11. What is your gender?
12. What do you consider your sexual orientation to be?

B. Knowledge about Guyana's laws about sexuality

1. Are you aware of what the laws in Guyana state about 'buggery' or anal sex? If so, please say what you understand these to be, in your own words.
2. Do you know what legal punishments could be applied to persons found guilty of committing this crime?
3. When and how did you receive information about Guyana's laws regarding buggery or anal sex?
4. Are you aware of any other laws in Guyana that prohibit same-sex sexual acts? If so, please give details.
5. Do you know what legal punishments could be applied to persons found guilty of committing one of these crimes?
6. When and how did you receive information about Guyana's laws regarding same sex sexual acts?

7. Are you aware of what the laws in Guyana state about men dressing as women or women dressing as men in public? If so, please state what you understand these laws to say, in your own words.
8. Do you know what legal punishments could be applied to persons found guilty of committing this crime?
9. When and how did you receive information about Guyana's laws regarding men dressing as women and women dressing as men?

C. The impact of the enforcement or non-enforcement of laws about sexual behavior

1. Have you or *anyone you know* ever been arrested for your suspected sexual activities or gender identity?
2. If you (or anyone you know) were ever arrested for your suspected sexual activities or gender identity, what crime were you charged with, and what was the outcome of that charge (not guilty, guilty, what kind of penalty? Etc.)
3. Have you (or anyone you know) ever been questioned by the police as a result of your suspected sexual activities or gender identity? Give details.
4. Has money ever been demanded from you (or anyone you know) by police who have threatened to arrest you because of your suspected sexual activities or gender identity?
5. Has sex ever been demanded from you (or anyone you know) by police who have threatened to arrest you for your suspected sexual activities or gender identity?
6. Have you (or anyone you know) ever been arrested or threatened with arrest for loitering? If so, what was the outcome of this arrest?
7. Have you or anyone you know ever been attacked as a result of your suspected sexual activities or gender identity?
8. If so, was this attack reported to the police? Why or why not?
9. If reported, how did the police respond to the attack?
10. Have you or anyone you know ever been harassed as a result of your suspected sexual activities or gender identity?
11. Who was this harassment by and was it reported to the police? Why or why not?

12. If reported, how did the police respond to the harassment?
13. Has anyone other than a police officer ever threatened to report you for violating laws regarding your sexual orientation or gender identity? If so, have these threats ever involved some form of blackmail? Give details.
14. Has the existence of laws regarding sexual orientation or gender identity ever prevented you from reporting being abused by a sexual partner? If so, please explain why.
15. Have the laws regarding sexual orientation and/or gender identity ever prevented you from reporting being the victim of a crime that was unrelated to your sexual orientation or sexual identity?
16. Have these laws affected your personal relationship with or view of the police?

D. Effects of the laws on experiences outside of law enforcement

1. Have you ever felt as if health care and social workers have treated you differently because of *these laws*¹? Please give details.
2. Do you think that religious leaders and the religious community treat you differently as a result of *these laws*? Please explain.
3. Do your family and community treat you differently as a result of these laws? If so, please give details?
4. Have people ever invoked these laws in expressions of hatred toward you or toward sexual minorities in general?
5. Have these laws affected your decision regarding whether or not to 'come out', i.e. to live openly as a sexual minority?
6. Does the existence of these laws restrict your social life in any way (for instance, prevented you from holding hands publicly, prevented you from holding parties consisting of openly lesbian, gay, bi-sexual and/or transsexual persons, etc.)? from holding parties consisting of openly lesbian, gay, bi-sexual and/or transsexual persons, etc.)?

1. Interviewees were asked to keep in mind that the laws interviewers were inquiring about were laws pertaining to sodomy, laws pertaining to same sex sexual activities, laws pertaining to cross-dressing, and laws pertaining to vagrancy and loitering. When asked about the impact of 'these laws' on their daily lives, interviewees were asked to consider how any or all of the above laws had affected them.

7. Do these laws cause you to change your behaviour at you place of employment? For example, do you find it necessary to conceal your sexual identity from co-workers and employers? Has the existence of these laws ever prevented you from seeking certain kinds of employment in the first place? Give details.
8. Has the existence of these laws ever influenced your decision about whether or not to organize or work for LGBT rights?
9. Has the existence of these laws ever influenced your decision about whether or not to become involved in political groups, or political affairs generally?
10. Have these laws ever affected your access to material opportunities such as finding an apartment, or receiving an inheritance or loan?
11. Have these laws ever affected your willingness to pursue a custody dispute, or affected the outcome of a custody dispute?
12. Have you ever owned or been in a business establishment (such as a bar, restaurant, or hotel) whose operations were affected by these laws?
13. Have these laws ever affected where you have chosen to live or to go on vacation?

REFERENCES

Bruce- Jones, Eddie and Lucas Paoli Itaborahy

2011 *State-sponsored Homophobia: A world survey criminalizing same-sex sexual activity between consenting adults*. ILGA, The International Lesbian, Gay, Bisexual, Trans and Intersex Association.

Goodman, Ryan

2001 'Beyond the Enforcement Principle: Sodomy Laws, Social Norms, and Social Panoptics.' *In California Law Review*, 89(3): 643-740.

Leslie, Christopher R.

2000 'Creating Criminals: The Injuries Inflicted by "Unenforced" Sodomy Laws.' *In Harvard Civil Rights-Civil Liberties Law Review*, 35: 103-181.



THE UNIVERSITY OF THE WEST INDIES
CAVE HILL CAMPUS
FACULTY OF LAW