

Evaluating the Situation of LGBTI Individuals in Guyana
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July 19, 2013

The survey and consequential report “Attitudes towards Homosexuals in Guyana 2013 ” fill an important vacuum in the examination of the situation of the Lesbian, Bisexual, Gay, Transgender and Intersex (LGBTI) individuals in Guyana. It exposes the attitudes, beliefs and perceptions that justify and excuse discrimination and mal treatment of citizens with differing sexual orientations and in fact, reinforces many of findings of the more focused, less extensive qualitative studies conducted in Guyana. Prior to this quantitative survey done by CADRES/SASOD, the studies conducted to date have several limitations including small sample size, largely qualitative in scope and have been largely concentrated on Men who have sex with Men (MSM) and male/transgender sex workers within the donor driven context of HIV/AIDS research. Consequently, analyses that address other groups with the LGBTI continuum and those that examine societal attitudes to LGBTI individuals are missing. This report therefore fills an important gap in the literature and will be useful for activists and policy makers as they attempt to enhance the security of LGBTI individuals in Guyana.

Although limited, and not of a statistical/quantitative nature, there is sufficient available evidence to broadly assert that there are LGBTI individuals experience discrimination, marginalization and abuse because of their sexual orientation and gender identity in Guyana. LGBTI persons have very little state protection and acknowledgement of rights, which renders this group particularly vulnerable to abuse.

The UNDP’s 2011 Human Development Report on Citizen Security in the Caribbean identified the LGBTI community as one of the vulnerable groups to discrimination, crime and violence in the Caribbean (along with woman and children) [Here the concept “vulnerable groups” is used to primarily refer to groups that suffer from an inequitable distribution of social power although this condition might often be a function of inequitable resource allocation in the society]. The report sought to ascertain why they are targeted, where and why there is social approval for certain forms of violence and why certain communities are relatively unprotected.

The report noted that while violence against vulnerable groups in Guyana is not a recent phenomenon, it appears to be intensifying as the society overall seems to have become more violent in the wake of the emergence and growth of a market economy and a changed social structure that was accompanied by growing crime. One pressing dilemma for policy makers and civil society has been how to prevent discrimination, violence and crime, legally protect vulnerable groups and, foster harmony and peace overall within the society. This dilemma becomes greater when resistance to protection of these groups is premised on deep religious and cultural bases.

In a 2007 study Bynoe et al revealed that Guyana has a very low level of social tolerance

for homosexuals in public office when compared to other countries in the Caribbean, with only Jamaica, Honduras, and Haiti having lower levels of social tolerance. This study further disclosed that levels of tolerance were connected to a number of factors including geography, area size and wealth/social class with urban and wealthy residents displaying more social tolerance, while smaller sized communities are less tolerant of LGBTI individuals and their lifestyles. Terborg (2006) meanwhile revealed that the perception among most MSM in Guyana is that the society is largely homophobic.

A 2010 UNDP sponsored study on sexual and gender minorities supports the notion that there are different levels of tolerance to LGBTI individuals in Guyana although according to this study from an ethnic and cultural standpoint. It noted that in focus group discussions, MSM reported low levels of tolerance in predominantly Afro Guyanese communities where they are physically attacked and taunted while there are some perceptibly higher levels of tolerance in Indo Guyanese communities and consequently MSM reported feeling more comfortable living in the latter neighbourhoods.

The study further found that teenage boys and young men were identified as the main perpetrators of physical and verbal violence by a majority of those who were confronted with discrimination on the basis of their sexual orientation, gender identity and expression. Focus group discussions in region 10 showed that men who had sex with men (MSM) faced violence and abuse within this community as some reported that their homes were stoned while another revealed that he was shot by a pellet gun by a group in front of a bank in the presence of security guards who did not respond to the assault (Wills 2010). In March 2004, a guest at a gay wedding reception was shot in the chest by an unknown assailant who was not apprehended by the police (see Stabroek News March 31, 2004 “Guest Shot at Gay Wedding Reception.”).

Discrimination and lack of social tolerance of gender and sexual identity minorities in Guyana are premised upon cultural tradition, religious opposition and the law. The most vociferous opposition to extending full rights constitutionally and prohibiting discrimination on the basis of sexual orientation emanates from the religious community in Guyana, and especially from sections of the Christian and Muslim faiths. In fact, sustained protest from the latter two groups was believed to be largely responsible for the President’s not assenting to the Constitutional Amendment No. 5 Bill No. 18, 2000 which parliament passed by a vote of 55-0 and submitted for his assent. These religious groups fought to have sexual orientation bases taken out of the fundamental rights section of the constitution, and argued that while they supported banning discrimination on the basis of sexual orientation, they were not in agreement that the ban should be enshrined as a constitutional right (Stabroek News January 26, 2001 “Sexual Orientation Bill Going back to Parliament”.) Ultimately the Government dropped the constitutional amendment prohibiting discrimination on the basis of sexual orientation (Wills 2010).

Consequently in Guyana, there are still serious legal consequences for male homosexuality by law while female homosexuality continues to be largely ignored. Although there have been no recorded convictions of individuals involved in private, consensual male homosexual acts, legally and constitutionally, there is no

accommodation of MSM. The Laws of Guyana (Criminal Laws [offenses]) Chapter 8:01 Section 351 to 353 states:

351 “Any male person who, in public or private, commits, or is a party to the commission, or procures or attempts to procure the commission, by any male person, of any acts of gross indecency with another male person shall be guilty of a misdemeanor and liable to imprisonment for two years.”

352 “Everyone who – Attempts to commit buggery; or assaults any person with intent to commit buggery; or being a male, indecently assaults any other male person, shall be guilty of a felony and liable to imprisonment of ten years”

353 “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.”

Also illegal under the laws of Guyana is cross dressing. The Laws of Guyana Chapter 8:02, Section 153 sub-section xlvi states:

“ 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....”.

While the law banning homosexual intercourse is specifically directed towards men and ignores homosexual contact between women, the laws against cross dressing apply equally to men and women although, women wearing male garb have not been prosecuted while men wearing female garb have been placed before the courts and subjected to ridicule, intolerance or abuse from members of the public and even members of the judiciary.

Although male sexual intercourse is legally prohibited, abuse against LGBTI individuals is not tolerated at several legal levels. Any individual, who is violated or abused physically, including members of sexual and gender minorities, has recourse to the law and the perpetrator is liable to be punished. Article 149 (1) of the Constitution of Guyana also prohibits discrimination on the basis of sex and gender. LGBTI rights advocates argue that there is some incompatibility between international conventions and laws and Guyana's domestic laws. These rights advocates note that Guyana is a signatory to the UN Declaration of Human Rights that guarantee and protect human rights of every individual, irrespective of race, gender, ethnicity, age or wealth and therefore it is obligated to ensure that the constitution and domestic laws explicitly offer protection to all citizens rather than criminalizing them.

They have therefore insisted that there be a repeal of the laws outlawing homosexuality and cross dressing. The recent conviction of and fines imposed on seven transvestites for dressing in female clothing in February 2009 for violation of the law section 153 (1) (xlvi) of the Summary Jurisdiction (Offences) Act Chapter 8:02, by the Chief Magistrate who opined that the men were confused about their sexuality and that their practices were “... a curse on the family“ and that they should “...go to church and give your lives to Christ”, resulted in calls from human rights organisations including the Caribbean Forum for Liberation of Genders and Sexualities (CARIFLAGS), Global Rights, Guyana Rainbow Foundation (Guybow), Human Rights Watch, International Gay and Lesbian Human Rights Commission (IGLHRC), and the Society Against Sexual Orientation

Discrimination (SASOD) for the arrest and abuse of trans people to cease for nonconformity to gender-typical dress codes through the repeal of the aforementioned law ('5 Male Cross Dressers Convicted' February 2009 www.demerarawaves.com; "SASOD accuses state of sanctioning homophobia...as UNAIDS calls for end to laws against homosexuality", May 17, 2009 [Kaieteur News](http://KaieteurNews.com)). In February 2010, the Society Against Sexual Orientation Discrimination (SASOD) along with four men fined in 2009 for wearing female attire, filed a motion in the Guyana High Court challenging that section of the law - Summary Jurisdiction (Offences) Act Chapter 8:02, Section 153(1) (xlvi) - on the grounds that it violates their fundamental rights. In June 2013, the Chief Justice Ian Chang heard full arguments in the Constitutional Court from both the applicants and the state and is expected to hand down a ruling shortly.

Also demanded by gay rights activists are: an end to police abuse of homosexual men by the security forces [Terborg (2006) reported that 40% of MSM faced some type of harassment from the police and prison officials] and; an end to arrests for cross gender expression. Gay and transvestite men reported being denied the basic right to a phone call or contact with a lawyer, being photographed and ordered to undress in the presence of others. One cross dressing defendant stated that they were stripped, the police ordered them to bend down to "search" them - an instruction intended to ridicule them for their sexual orientation. There are, however, other reported instances where some LGBTI individuals and groups reported significant levels of tolerance and even assistance from some members of the police force, although this was often offered after inducements (bribes) were received (Wills 2010).

Apart from legislative reform to end discrimination against LGBTI persons, officials in all arms of the criminal justice system - police, court and prison systems - need to be sensitized about sexual and gender minorities issues and rights and codes of conduct need to be identified for police and prison officials to address the treatment of sexual and gender minorities while in their custody as they are particularly vulnerable to further abuse and violation.

Apart from health related services to tackle the spread of HIV and AIDS, the government seems reluctant to embrace LGBTI communities. The Minister of Health initially recommended that the law criminalizing cross dressing and homosexuality be repealed as among other consequences, it hinders the effective provision of health related services to the LGBTI communities. This position was attacked as 'misguided' and 'ill-informed' by a leading religious figure and Chairman of the Ethnic Relations Committee who maintains support for the colonial law. SASOD therefore charged that the "state is complicit and sanctions transphobic discrimination and violence" (SASOD 2010. '2009 Guyana Annual Report').

As a consequence, limited services to LGBTI individuals are primarily offered by NGOs, notably SASOD and GuyBow. These NGOs however when assessed by a 2010 UNDP study were assessed as ill prepared to comprehensively address the needs of sexual and gender minorities. Consequently, LGBTI members continue to be exposed to high levels of violence, discrimination and/or abuse by the public, the criminal justice system and the

state.

Eliminating Violence Against Vulnerable Groups

In Guyana, largely thanks to persistent activism by NGOs, violations of LGBTI individuals' rights to life, liberty and security have become part of the public discourse. Yet discrimination, violence and abuse persist and, eliminating these would not be simple since violence against vulnerable groups is rooted in power structures and cultural and religious ideologies that resist change. Eliminating these must emanate from multiple collaborative sources and strategies and must be continuously and protractedly applied to ensure positive results. The response must also incorporate the following principles:

- * The state ought to adopt urgent and effective policies to ban and eliminate discrimination against all vulnerable groups as violence against any one group undermines the effort to eliminate violence against others.
- * Officials in the criminal justice system need to be continuously trained in the applicable laws and disposed to investigating and adjudicating these crimes sensitively.
- * Ultimately societal attitudinal change is required to remove the enabling environment, eradicate social approval for certain forms of violence and foster greater levels of social cohesion and this can only be achieved through the adoption of a plan that incorporates sustained national education campaigns directed at victims, perpetrators and the wider society and advocated by all groups and sectors including the state, NGOs, religious communities and the media among others.

Bynoe, Mark. et al. 2007. "The Political Culture of Democracy in Guyana 2006", a joint University of Guyana, Vanderbilt University study, <http://sitemason.vanderbilt.edu/lapop/GUYANABACK>

Terborg, Julia. 2006. "Study on perception and behaviour regarding HIV/AIDS prevention and care among female sex workers and men who have sex with men in Georgetown Guyana." Georgetown: PAHO and CSIH.

Wills, Magda. 2010. Sexual and Gender Minorities Baseline: The Situation in Guyana. HIV Sexual Minorities Project. Georgetown: UNDP.