



LGBTQ Rights, with a Focus on the Caribbean

“Because the law criminalizes all LGBTQ individuals, it sends a powerful message that other people — whether law enforcement or regular citizens on the street — are entitled to discriminate and commit human rights abuses against this community. We need to work together to bring an end to the hateful laws that plague our countries.”

– DARYL PHILLIP, FOUNDER AND HEAD OF MINORITY RIGHTS DOMINICA

Across the globe, nearly 1.5 billion people live in countries where consensual same-sex intimacy is criminalized. Harsh penalties in these states — including death — drive lesbian, gay, bisexual, transgender, and queer (LGBTQ) people into hiding and away from effective HIV prevention, treatment, care, and support. This results in disproportionately high rates of HIV within this population. International support is critical to ending criminalization, violence, and discrimination against LGBTQ people around the world and upholding their human rights.

The Caribbean is a focus for international LGBTQ rights activists and organizations because LGBTQ people in this region suffer under extreme state-sanctioned criminalization and other human rights abuses. Nine Caribbean states have some of the last anti-sodomy laws in the western hemisphere, among other laws targeting LGBTQ people. In Barbados, the sentence for “buggery” (i.e. anal sex) is life imprisonment; in Dominica, it is up to 12 years in prison and forced psychiatric incarceration, while in Jamaica it is up to 10 years in prison and registration as a sex offender. These laws inspire widespread homophobic stigma.

These laws also undermine HIV-related programs (outreach, testing, support, treatment, care), directly contributing to the region having the world’s second highest HIV prevalence, after sub-Saharan Africa. For example, a man visiting his doctor or seeking HIV testing who indicates being sexually active with a male partner is confessing to a crime. More generally, open discussion about sex is difficult where acts of same-sex intimacy are crimes, and LGBTQ people risk discrimination, harassment, violence, or prosecution.

In addition to driving the HIV epidemic, anti-gay laws in the region also contribute to other human rights abuses against LGBTQ people, from denying them their right to free expression to police indifference or abuse, and even murder. Deeply held homophobic cultural and religious beliefs contribute to these heinous acts.

Canadian organizations are working closely with local Caribbean LGBTQ activists and international partners to challenge these discriminatory laws, beliefs, and acts.

PRIORITIES FOR ACTION

Repealing homophobic laws is a critical first step in ending the HIV epidemic and other human rights abuses against LGBTQ people, but resources are desperately needed to fund multi-pronged approaches tailored to the local realities.

To uphold the health and human rights of LGBTQ people internationally, we must:

- **Provide funds to:**
 - Support legal challenges to laws that criminalize consensual sex across the Caribbean region including in Barbados, Dominica, and Jamaica.
 - Facilitate dialogues between faith leaders, respected jurists, human rights defenders, and community leaders in countries where LGBTQ people face criminalization, discrimination, and violence to support diverse voices speaking up for the human rights of LGBTQ people.
 - Build the capacity of law enforcement personnel, lawyers, national human rights institutions, and judicial systems to respect and defend human rights, including the rights of LGBTQ people.
 - Give security to human rights defenders working for the LGBTQ community in the region.

- **Raise the issue of LGBTQ human rights with Caribbean leaders** at international fora, with guidance from local activists, to encourage Caribbean states to realize their international human rights obligations. Speak out publicly in support of governments that take positive actions to support human rights for LGBTQ people.
- **Intervene when human rights defenders are detained**, including by having diplomatic personnel raise objections and monitor trials of human rights defenders and others targeted under anti-LGBTQ laws. Speak out publicly when LGBTQ people or their allies are charged under discriminatory laws criminalizing them or their defence of human rights.

FACTS AND FIGURES

- More than 65 countries still criminalize same-sex intimacy.
- Some of the last countries in the western hemisphere that maintain laws against “sodomy” or “buggery” are in the Caribbean: Antigua and Barbuda, Barbados, Dominica, Grenada, Guyana, Jamaica, St. Kitts and Nevis, St. Lucia, and St. Vincent and the Grenadines.
- Within the Caribbean, gay, bisexual, and other men who have sex with men (MSM) and trans women who live in states with anti-gay laws are particularly vulnerable to HIV because these laws drive them away from effective HIV interventions. In Jamaica, MSM have an HIV prevalence of 33%, while in Barbados the rate is 14% and in Dominica it is 26%.

CASE STUDY

Litigating liberation in the Caribbean

Brutal and often life-threatening experiences are a daily reality for many LGBTQ people in the Caribbean, due to discriminatory laws criminalizing their sexual activity, as well as extremist Christian anti-LGBTQ rhetoric.

The HIV Legal Network has launched three legal challenges against homophobic laws, in Jamaica, Barbados, and Dominica. The applicants in these cases include a gay Jamaican LGBTQ rights activist, a transgender woman from Barbados, and a gay man in Dominica, all of whom have experienced homophobic discrimination, threats, and physical assaults.

These court cases build on a global push to repeal anti-LGBTQ laws and have generated unprece-

dent public discussion about and support for LGBTQ human rights. As has been shown in the United States, Belize, Trinidad and Tobago, India, and Botswana, court challenges are the most effective way of ending these laws when governments are either too slow or too afraid to act.

The launch of these historic court cases has helped push back against the rising tide of hate. While there is increasing recognition of the human rights of LGBTQ people in the region, these legal challenges are only part of a wider movement to dismantle the Caribbean's homophobic laws, stigma, and discrimination. This will require local expertise, significant resources, and broad support from local, regional, and international entities.

KEY RESOURCES

Dignity Network, available at www.dignityinitiative.ca/en/.

K. A. Fenton, et al, “Common roots: a contextual review of HIV epidemics in black men who have sex with men across the African diaspora.” *The Lancet*, 28 July 2012, Vol. 380, Issue 9839, pp. 411-423. Available at [www.thelancet.com/journals/lancet/article/PIIS0140-6736\(12\)60722-3/fulltext](http://www.thelancet.com/journals/lancet/article/PIIS0140-6736(12)60722-3/fulltext).

Global Commission on HIV and the Law, *Risks, Rights & Health*, July 2012. Available at <https://hivlawcommission.org/wp-content/uploads/2017/06/FinalReport-RisksRightsHealth-EN.pdf>.

Global Commission on HIV and the Law, *Risks, Rights & Health Supplement*, July 2018. Available at <https://hivlawcommission.org/wp-content/uploads/2018/09/HIV-and-the-Law-supplement-FINAL.pdf>.

Human Dignity Trust, *Criminalising Homosexuality and Public Health: Adverse Impacts on the Prevention and Treatment of HIV and AIDS*, November 2015. Available at www.humandignitytrust.org/wp-content/uploads/resources/5.-Criminalisation-Public-Health-and-HIV.pdf.

Human Rights Watch, “I have to leave to be me”: *Discriminatory Laws against LGBT People in the Eastern Caribbean*, March 2018. Available at <https://www.hrw.org/report/2018/03/21/i-have-leave-be-me/discriminatory-laws-against-lgbt-people-eastern-caribbean>.

Human Rights Watch, *Not Safe at Home: Violence and Discrimination against LGBT People in Jamaica*, October 21, 2014. Available at www.hrw.org/report/2014/10/21/not-safe-home/violence-and-discrimination-against-lgbt-people-jamaica.

Inter-American Commission on Human Rights, *Violence Against Lesbian, Gay, Bisexual, Transgender and Intersex persons in the Americas*, 2015. Available at www.oas.org/en/iachr/multimedia/2015/lgbti-violence/lgbti-violence.html.

International Lesbian, Gay, Bisexual, Trans and Intersex Association, *State-Sponsored Homophobia 2019*, March 2019. Available at https://ilga.org/downloads/ILGA_State_Sponsored_Homophobia_2019.pdf.

UN Joint Programme on HIV/AIDS (UNAIDS), *The Gap Report*, 2014. Available at www.unaids.org/sites/default/files/media_asset/UNAIDS_Gap_report_en.pdf.

1240 BAY STREET, SUITE 600, TORONTO, ONTARIO M5R 2A7
TELEPHONE: +1 416 595-1666

WWW.HIVLEGALNETWORK.CA/LGBTQRIGHTS

