

Stakeholder Report to the UN Committee on Economic, Social and Cultural Rights on the Protection of the Rights of LGBTI Persons in Guyana

Compiled by the Society Against Sexual
Orientation Discrimination (SASOD)



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August 2015

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1. BACKGROUND

- 1.1 The **Society Against Sexual Orientation Discrimination (SASOD)** is a Guyana-based, non-governmental organization and movement working to advocate for and promote the human rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) people in Guyana and the wider Caribbean and Latin American region.
- 1.2 **SASOD** representatives, consultants and volunteers have prepared this report for Guyana's review before the UN Committee on Economic, Social and Cultural Rights at its 56th Session in Geneva, Switzerland, from September 21 to October 9, 2015.

2. EXECUTIVE SUMMARY

- 2.1 This report informs the UN Committee on Economic, Social and Cultural Rights (**Committee**) of areas where Guyana is failing to comply with its obligations under the International Covenant on Economic, Social and Cultural Rights (**ICESCR**)¹ to respect and protect the human rights of all people, especially LGBTI individuals. It concludes with recommendations of matters that we urge the **Committee** to include in its concluding observations to the **Government** of Guyana.
- 2.2 In recent years, the Guyanese **Government** has taken some steps to advance the rights of the LGBTI population (see paragraph 4.1). However, there are still significant areas of law, policy and practice where considerable work is required in order for Guyana to meet its obligations under ICESCR, and to achieve compliance regarding economic, social and cultural rights of LGBTI persons. In particular, Guyana has:
- 2.2.1 failed to enact and implement non-discrimination legislation to reduce discrimination on the basis of sexual orientation and/or gender identity in employment, housing, healthcare and education (ICESCR Articles 2, 6, 7, 11, 12 and 13);
- 2.2.2 failed to consider the unique health needs of LGBTI persons (ICESCR Article 12);
- 2.2.3 failed to introduce policies to prevent bullying and harassment of LGBTI students in the education system (ICESCR Article 13);
- 2.2.4 failed to provide sexuality education that is comprehensive and inclusive of different sexualities and gender identities (ICESCR Article 13); and
- 2.2.5 failed to repeal laws criminalizing consensual sex between male adults in private and laws criminalizing cross-dressing (ICESCR Article 2).
- 2.3 We therefore urge the **Committee** to make the following **recommendations** to the **Government** of Guyana in its concluding observations:

¹ United Nations International Covenant on Economic, Social and Cultural Rights. Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of December 16, 1975 entry into force 3 January 1976, in accordance with Article 27.

2.3.1 enact legislation prohibiting discrimination on the basis of sexual orientation and gender identity in all areas of public life, including employment, housing, health care and education (ICESCR Articles 2, 6, 7, 11, 12 and 13);

2.3.2 include sexual orientation and gender identity within the list of prohibited grounds protected in domestic labour legislation on discrimination (ICESCR Articles 6 and 7);

2.3.3 improve the training of health care professionals to increase their understanding of and sensitivity to the specific health needs of LGBTI people (ICESCR Article 12);

2.3.4 improve mental health care for LGBTI Guyanese especially (ICESCR Article 12);

2.3.5 develop policies and implement effective mechanisms to address bullying, harassment and discrimination against LGBTI students in schools (ICESCR Article 13);

2.3.6 develop and implement a training programme for school teachers and counsellors to improve their knowledge about the sexual orientation and gender identity in order to deliver comprehensive sexuality education in schools (ICESCR Article 13);

2.3.7 develop comprehensive sexuality education curricula inclusive of diverse sexualities and genders and addressing issues affecting LGBTI youth (ICESCR 13); and

2.3.8 repeal all laws criminalizing same-sex intimacy and cross-gender dressing (ICESCR Article 2).

3. LEGAL AND SOCIAL CONTEXT IN GUYANA

Status of the ICESCR under Guyanese Law

3.1 The legal status of the ICESCR is confirmed by Article 3 of the Constitution of Guyana, which states, "The international treaties to which Guyana is a party shall become effective as national legislation upon the entry into force of the laws of on their ratification or accession."²

Constitution of Guyana

3.2 Article 40.1 states that: "*Every person in Guyana is entitled to the basic right to a happy, creative and productive life, free from hunger, disease, ignorance and want. That right includes the fundamental rights and freedoms of the individual, that is to say, the right, whatever his race, place of origin, political opinions, colour, creed or sex, but subject for the rights and freedoms of others and for the public interest, to each and all of the following, namely-- a.) life, liberty, security of the person and protection of the law; b.) freedom of conscience, of expression and of assembly and association; and c.) protection for the privacy of his own home and other property and for deprivation of property without compensation.*"³ While there is no expressed inclusion, the Constitution of Guyana does not exclude LGBTI persons from the ambit of its protection.

²Constitution of Guyana, Article 3

³Constitution of Guyana, Article 40.1

- 3.3** Article 149 guarantees freedom from discrimination stating that “no person shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority.⁴” It further defines discrimination as, “*affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, place of origin, political opinion, colour, creed, age, disability, marital status, sex, gender, language, birth, social status, pregnancy, religion, conscience, belief or culture whereby persons of one such description are subjected to disabilities or restrictions to which other persons of the same or another such description are not made subject or are accorded privileges or advantages which are not afforded to other persons of the same or another such description.*”⁵
- 3.4** Article 154 A directly incorporates seven international human rights treaties to which Guyana has acceded. Six of these are United Nations human rights treaties, including the Convention of the Rights of the Child, International Covenant on Civil and Political Right and ICESCR. These treaties therefore form part of the Constitution of Guyana.

Summary of the Situation for LGBTI People in Guyana

The Law

- 3.5** Same-sex intimacy between men is criminalized under sections 351 to 353 of the Guyana Criminal Law (Offences) Act, Chapter 8:01.
- 3.5.1** Section 351 penalizes the act of ‘gross indecency’ between two males.
- 3.5.2** Section 352 outlines the punishment for anyone who attempts to commit buggery, assaults another with the intention of committing buggery or a male who ‘indecently assaults’ another male.
- 3.5.3** Section 353 says that anyone guilty of buggery ‘with a human being or any other living creature,’ can be imprisoned for life.
- 3.5.4** Under section 153 (1) (xlvii) of the Summary Jurisdiction (Offences) Chapter 8:02, cross-dressing is listed as a minor offense carrying a fine.
- 3.6** There is a general perception that these laws are not used. However, as Christopher Carrico finds in the 2012 “*Collateral Damage*” study published by the University of the West Indies⁶, this has not been entirely the case. The study found examples of threats of enforcement and indirect enforcement of these laws from interviews with LGBTI persons in Guyana, documenting numerous accounts of discrimination, violence, prosecution and persecution as a result of sexual orientation, gender identity and/or gender expression.
- 3.7** In May 2006, Ronell Trotman was arrested and prosecuted for cross-dressing⁷. In February 2009, at least 7 persons were arrested and prosecuted in a two-day police

⁴Constitution of Guyana. Article 149A

⁵Constitution of Guyana. Article 149B

⁶Carrico, C. “*Collateral Damage: The Social Impact of Laws Affecting LGBT Persons in Guyana*,” University of the West Indies, Cave Hill Campus, Faculty of Law. March, 2012.

⁷ Stabroek News, Tuesday May 16, 2006

crackdown against cross-dressing⁸. Four of the victims and SASOD filed a constitutional suit challenging the validity of the colonial-era law a year later in February 2010⁹. In September 2013, acting Chief Justice Ian Chang, sitting as the Constitutional Court, ruled¹⁰ that cross-dressing is not a crime, unless done for from an “improper purpose.” The term “improper purpose” used in the legislation is neither defined in the statute nor by the Chief Justice’s decision. The decision also does not indicate what improper purpose(s) gave rise to the arrests in the February 2009 crackdown. The litigants filed an appeal with Guyana’s Court of Appeal since October 2013 and are still awaiting a case-management appearance to set a date for the appeal hearing before this appellate court.

- 3.8** Because LGBTI Guyanese continue to experience a significant degree of discrimination and persecution, the community is predominantly closeted, and hate crimes committed against the LGBTI population go largely unreported due to social stigma and fear of secondary victimization by police. SASOD has documented some reports of this nature.

Social Protection

- 3.8** The recently renamed Ministry of Social Protection (previously the Ministry of Labour, Human Services and Social Security) has pledged equal opportunity to education, employment, social security and social protection to all Guyanese people.
- 3.9** The ICECSR has been interpreted to specifically prohibit discrimination. “Enjoyment of Covenant rights is often influenced by whether a person is a member of a group characterized by the prohibited grounds of discrimination. Eliminating discrimination in practice requires paying sufficient attention to groups of individuals which suffer historical or persistent prejudice instead of merely comparing the formal treatment of individuals in similar situations. States parties must therefore immediately adopt the necessary measures to prevent, diminish and eliminate the conditions and attitudes which cause or perpetuate substantive or *de facto* discrimination.”¹¹

In **General Comments 14, 15 and 19**, “*The Covenant thus prohibits any discrimination, whether in law or in fact, whether direct or indirect, on the grounds of race, colour, sex, age, language, religion, political or other opinion, national or social origin, property, birth, physical or mental disability, health status (including HIV/AIDS), **sexual orientation**, and civil, political, social or other status, which has the intention or effect of nullifying or impairing the equal enjoyment or exercise of the right to...*”¹² [emphasis added.]

⁸ Stabroek News, February 15, 2009: <http://www.stabroeknews.com/2009/archives/02/15/cross-dressing-case-points-to-%E2%80%98selective-discrimination%E2%80%99/> (Last accessed on August 31, 2015)

⁹ Stabroek News, February 23, 2010: <http://www.stabroeknews.com/2010/archives/02/23/historic-constitutional-motion-filed-against-cross-dressing-law/> (Last accessed on August 31, 2015)

¹⁰ Stabroek News, September 9, 2013: <http://www.stabroeknews.com/2013/news/stories/09/09/cj-ruling-on-cross-dressing-dubious-to-be-appealed/> (Last accessed on August 31, 2015)

¹¹ Committee of Economic, Social and Cultural Rights. *Non-discrimination in Economic, Social and Cultural Rights* Forty-second session. Geneva, 4-22 May 2009. Agenda item 3, General Comment No. 20 (art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights)

¹² Committee of Economic, Social and Cultural Rights. *Non-discrimination in Economic, Social and Cultural Rights* General Comments No. 14 (2000), 15 (2002), 19 (2007). Geneva, Switzerland.

3.10 The Guyana Ministry of Social Protection's website¹³ does not reference LGBTI people in any of its considerations. Services include child protection, the rights of workers, old-age pension, promotion of gender equality, social services and public assistance.

4. ARTICLE 2 (GENERAL PROHIBITION OF DISCRIMINATION)

Relevant Articles of the ICESCR

4.1 Article 2(2) of the ICESCR obliges Guyana to ensure that all of the substantive rights contained within the ICESCR are exercised "without discrimination of any kind as to ... sex... or other status." The Committee has confirmed that this non-discrimination guarantee applies to discrimination based on sexual orientation. (**General Comment 14**)

Relevant Guyanese Laws and Policies

4.2 Guyana currently lacks any laws specifically prohibiting discrimination on the basis of sexual orientation or gender identity.

4.3 More specifically, under Sections 351 to 353 of the Criminal Law (Offences) Act, Chapter 8:01 sex between two men is illegal and punishable with life in prison.

4.4 During the *Human Rights Council Working Group* session in April 2015, Slovenia expressed regret that consensual homosexual relations continued to be criminalized. It reiterated its past recommendations, specifically, Nos. 70.29, 70.39 and 70.49.¹⁴

4.5 During the same review, France asked Guyana about the results of consultations which, during its previous Universal Periodic Review, it had committed to hold on the human rights of LGBTI persons, on the state of its legislation regarding the relations between consenting adults of the same sex and on violence committed against individuals because of their sexual orientation and gender identity.

4.6 The lack of enforced non-discrimination laws aimed at LGBTI persons prevents many from fully exercising their economic, social and cultural rights without distinction on the basis of sexual orientation and gender identity. It is therefore crucial that any non-discrimination legislation developed by the **Government** of Guyana and passed by its **Parliament** applies broadly to all areas of public life, including employment, healthcare, education, housing and the provision of goods and services.

Recommendations

4.7 We urge the **Committee** to include within its concluding observations a **recommendation** that the **Government** of Guyana amend Article 149 of the Constitution to include sexual orientation and gender identity as prohibited categories by which the state party cannot legally discriminate against its citizens.

¹³ <http://www.mlhsss.gov.gy/> (Last accessed on August 15, 2015)

¹⁴ A/HRC/29/16, recommendations (1/B/63, Slovenia)

5. ARTICLE 6 (RIGHT TO WORK) AND ARTICLE 7 (RIGHT TO ENJOYMENT OF JUST AND FAVORABLE CONDITIONS OF WORK)

Relevant Articles of the ICESCR

- 5.1 Article 6 of the ICESCR recognizes the right to work, which includes the right not to be deprived of work unfairly. Article 7 of the ICESCR mandates just and favourable working conditions, including fair remuneration, safe and healthy working conditions and equal opportunity for promotion.
- 5.2 These rights must be enjoyed without discrimination based on sexual orientation and gender identity by virtue of the operation of Article 2(2) of the ICESCR.

Relevant Guyanese Laws and Policies

- 5.3 The Ministry of Labour explains that the labour policy of Guyana “provides for the elimination of discrimination in employment, training, recruitment, and membership of professional bodies. Under the Laws of Guyana, section 4(2) of the Prevention of Discrimination Act 1997 provides for the promotion of equal remuneration for work of equal value. It further prohibits discrimination, defines unlawful discrimination, and protects against discrimination in employment, and protection against discrimination in other areas.”¹⁵
- 5.4 Under the Laws of Guyana, section 4(2) of the Prevention of Discrimination Act 1997 protects employees from discrimination on the basis of “*race, sex, religion, colour, ethnic origin, indigenous population, national extraction, social origin, economic status, political opinion, disability, family responsibilities, pregnancy, marital status or age except for purposes of retirement and restrictions on work and employment of minors.*”
- 5.5 There is no explicit mention of protection from discrimination based on sexual orientation, gender identity and gender expression in any of Guyana’s laws.

Guyana’s Failure to Comply with Articles 6 and 7 of the ICESCR

- 5.6 The absence of a specific prohibition on sexual orientation and gender identity discrimination within the Prevention of Discrimination Act 1997 leaves LGBTI persons open to discrimination with impunity in the workplace, allows employers to refuse to hire someone who identifies as LGBTI, to harass or otherwise discriminate against them during their recruitment and/or employment, or to terminate their employment on these grounds, with essentially no consequences under the law.
- 5.7 Many LGBTI Guyanese who are open about their sexual orientation or gender identity at work regularly face discrimination. In “Sade’s Story,”¹⁶ a documentary about the working experiences of a transgender woman, she noted that it was extremely difficult for her to obtain work, and when she did, she was grossly underpaid and faced discrimination

¹⁵ Guyana Ministry of Labour. <http://labour.mlhsss.gov.gy/index.php/labour-and-you/know-your-rights/labour-policies/itemlist/tag/labour%20policies> (last accessed 14 August 2015).

¹⁶ *Sade’s Story*. https://youtu.be/DtrgJU5t_Ds (last accessed August 31, 2015).

because she is a transgender woman. Transgender persons may face more discrimination when accessing employment in Guyana because of their visibility.

- 5.8** In the University of the West Indies' Faculty of Law 2012 report, "Collateral Damage: The Social Impact of Laws Affecting LGBT Persons in Guyana,"¹⁷ Carrico states that *"one interviewee 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."* (Carrico, p. 20).

Carrico also reported that both men and women identifying as homosexual or bisexual "reported being denied access to jobs as well as being blocked from career advancement because of their sexual identity" (Carrico, p. 20).

- 5.9** Consequently, many LGBTI Guyanese choose not to disclose their sexual orientation or gender identity at work. This could result in greater anxiety and stress in the workplace, which not only impacts negatively on job performance but also has adverse psychological implications (affecting also the right to the highest attainable standards of mental health under Article 12 of the ICESCR). Moreover, the fact that LGBTI persons feel the need to hide their sexual orientation or gender identity breaches their right to just and favourable working conditions without discrimination on the basis of sexual orientation and gender identity (Article 7 in conjunction with Article 2(2) of the ICESCR).

- 5.10** Those LGBTI persons who choose to disclose their identities, or whose identities are involuntarily disclosed at work by others, risk facing harassment, bullying, victimization and termination from their employment. For instance, Nis, a 24-year-old Afro-Guyanese lesbian who works as a waitress, stated that "my boss told me to wear tighter pants', and 'I was trying to get a job for a [female] friend of mine who dresses like a guy [man], but my boss said no'" (Carrico, p. 20).

Similarly, a mixed-race lesbian, aged 28, reported that she "wanted to drive for (an alcohol and other beverage distributor) and (is) more than qualified. But during the interview, the interviewer's body language told her he was uncomfortable with her. 'Said they would call me back, but they never did. I feel like it would have gone differently if I'd dressed sexier'" (Carrico, p.20).

- 5.11** Social stigma and the inability to obtain and retain employment has also led many transgender Guyanese to resort to sex work. Carrico (2012) reported that four of the five transgender persons interviewed were involved in sex work as a means to support themselves. One reported "having faced 'negative sanctions' because of their sexual and gender identities at other workplaces in the past" (Carrico, p.20). This has fostered the erroneous public perception that transgender women voluntarily choose to engage in, and enjoy, sex work.

¹⁷ Carrico, C. *Collateral Damage: The Social Impact of Laws Affecting LGBT Persons in Guyana*. University of the West Indies, Cave Hill Campus, Faculty of Law. March 2012. <http://www.sasod.org.gy/pdf-social-impact-laws-affecting-lgbt-persons-guyana> (last accessed on August 31, 2015).

Recommendations

- 5.12** We urge the **Committee** to include within its concluding observations a **recommendation** that the **Government** and **Parliament** of Guyana amends Article 149 of the Constitution to include sexual orientation and gender identity as prohibited grounds of discrimination by the state in all areas of public life.
- 5.13** We also urge that the **Government** to amend Section 4(2) of the Prevention of Discrimination Act 1997 to include sexual orientation and gender identity as protected categories against discrimination in all aspects of employment.
- 5.14** We further urge that the **Government** take programmatic action to ensure equality in the workplace for LGBTI persons by supporting workplace education programmes.

6. ARTICLE 11 (RIGHT TO AN ADEQUATE STANDARD OF LIVING)

Relevant Articles of the ICESCR

- 6.1** Article 11(1) of the ICESCR provides for the right of everyone to an adequate standard of living, including housing and the continuous improvement of living conditions.
- 6.2** According to the **Committee's General Comment No. 4**, *"enjoyment of the right to adequate housing must not be subject to any form of discrimination", in accordance with Article 2(2) of the ICESCR. The Committee has also pointed out that the right to housing should not be interpreted in a narrow, technical manner, but instead includes "the right to live somewhere in security, peace and dignity."*

Guyana's Failure to Comply with Article 11 of the ICESCR

- 6.3** The deeply rooted prejudice against LGBTI people, and particularly fear of their relationship and/or sexual orientation and gender identity being discovered by their neighbours and landlords, prevents LGBTI people from exercising their right to live in security, peace and dignity under Article 11(1), as interpreted by the **Committee** in **General Comment No. 4**.
- 6.4** One person Carrico interviewed, a woman who is in a relationship with another woman, reported that when looking for an apartment, she and her partner were denied, despite being middle-class professionals with steady incomes (Carrico, p.22).
- 6.5** Because many young, unmarried Guyanese live with family, they may not actively be looking for a home or apartment to buy or rent. However, Carrico reported that "fear of being evicted from the family home is one factor inhibiting many 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" (Carrico, p. 22). This has contributed to the growth in homelessness among LGBTI youth, especially, in Guyana.

Recommendations

6.6 We urge the **Committee** to include in its concluding observations a **recommendation** that the **Government** amend Article 149 of the Constitution to include sexual orientation and gender identity as prohibited grounds in order to legally prohibit discrimination by the state as it relates to applications for land or any public housing programmes.

7. ARTICLE 12 (RIGHT TO HIGHEST ATTAINABLE STANDARD OF HEALTH)

Relevant Articles of the ICESCR

7.1 Article 12(1) of the ICESCR recognizes the right of everyone to enjoy the highest attainable standard of physical and mental health.

Relevant Guyanese Laws & Policies

7.2 Article 24 in the Constitution of Guyana states that every citizen has the right to free medical attention and also to social care in case of old age and disability.

7.3 As previously stated, in Guyana cross-dressing is criminalized under section 153 (1) (xlvii) of the Summary Jurisdiction (Offences) Act, Chapter 8:02, in effect providing misguided justification for discrimination against transgender persons in health care and other public service settings. This law also poses potential risks to transgender persons—a cause for gender identity suppression and often, resulting mental health issues.

Guyana's Failure to Comply with Article 12 of the ICESCR

7.4 SASOD is aware of the concerns around the lack of confidentiality and stigma and discrimination that can prevent LGBTI persons in Guyana from accessing local health care establishments as resources for sexual health questions, screenings or treatments. This issue can, in part, be attributed to the lack of knowledge or understanding by Guyanese health care professionals of their ability to counsel LGBTI persons on risks and prevention strategies related to their specific sexual health needs. A study by Radix et al. (2004) revealed that 67 percent of Caribbean-born physicians have exhibited intolerant attitudes towards LGBTI patients, compared to just 14 percent of non-Caribbean born doctors.¹⁸

7.5 Along with Guyana's health care system being underdeveloped with regard to meeting the health care needs of LGBTI individuals, the issue of confidentiality has bred mistrust

¹⁸ Radix, A.E., Buncamper, C., & Van Osch, G. (2004) Attitude of General Practitioners towards homosexuals in the Caribbean. Poster Exhibition: The XV International AIDS Conference

of medical practitioners, which is further exacerbated by the fear ingrained in many LGBTI individuals stemming from a history of social persecution.

- 7.6** LGBTI people face four particular barriers in exercising their right to the highest attainable standards of health under Article 12: discrimination in accessing health care; a high level of mental illness caused by social stigma and discrimination; for men who have sex with men (MSM) and transgender women, lack of access for detection and treatment of human papillomavirus (HPV); and for transgender people, barriers accessing hormone replacement therapy and sex reassignment surgery and the ability to change and receive state-issued documents recognizing their status.

Discrimination in Accessing Health Care

- 7.7** Discrimination is common at all levels of Guyana's health care system and is largely due to a lack of necessary training in matters relating to sexual orientation and gender identity. Carrico's research found that negative attitudes towards LGBTI people hindered access to appropriate health care. LGBTI participant responses from the study include¹⁹:

7.7.1 "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" (Carrico, p.21).

7.7.2 "People are scared to access health care... Health care system has policies, but still the individuals [healthcare workers] are ignorant" (Carrico, p.21).

7.7.3 "I would go to a counsellor 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." The same participant further stated that on two occasions, after telling the HIV counsellor he was gay, they said "Let us pray about it" and "Gay eh? Oh Lord!" Participant described counselling sessions as "disgusting" and said they made him feel that he "did not want to go back for any counselling" (Carrico, p.21).

- 7.8** Health care discrimination contributes to perceived health service unavailability, in addition to the underutilization of services when available. The 2014 *Guyana Biological and Behavioural Surveillance Survey* (BBSS)²⁰ found that less than 50 percent of the men who have sex with men and transgender persons surveyed reported HIV services being available, and of those, less than 25 percent of the respondents accessed them.

¹⁹ Carrico, Christopher. *Collateral Damage: The Social Impact of Laws Affecting LGBT Persons in Guyana*. University of the West Indies, Cave Hill Campus, Faculty of Law. March 2012 (P. 21).

²⁰ Guyana Ministry of Health National AIDS Programme Secretariat. *Guyana Biobehavioral Surveillance Survey*. 2014.

Mental Health

- 7.9** Mental illness is regrettably still stigmatized in Guyanese society; so too is being LGBTI. As such, a LGBTI person with mental illness may be in the unfortunate position of having to contend with both stigmas. It is often the case that many LGBTI people experience a Guyanese mental health care system that is not comfortable or sensitive to issues related to sexual orientation and gender identity. At the same time however, as with many in the general population, many LGBTI Guyanese are not sensitive or educated about serious mental health issues. Each of these realities can contribute to and exacerbate existing mental health problems.

SASOD suggests that many LGBT Guyanese youth are highly susceptible to suicidal ideation, attempts or completion. According to a 2014 World Health Organisation (WHO) report, Guyana has one of the highest suicide rates in the world,²¹ an estimated 44 per 100,000 (of this estimate unknown is the sexual orientation and gender identity of those who committed suicide) and has been deemed the second leading cause of death of young people worldwide²²; and young LGBTI people are four times more likely to commit or attempt to commit suicide than their heterosexual peers²³.

As in the general Guyanese population, there is an increased need for mental health services for LGBTI people. The Pan American Health Organization (PAHO) estimates that 19 to 24 percent of the population in the Americas suffer from a mental disorder. In Guyana, this would translate to roughly 142,000 to 179,500 individuals in need of mental health services. However, Guyana retains fewer than 5 full-time psychiatrists, fewer than 300 beds in the National Psychiatric Hospital, and no day treatment or community residential facility.²⁴

SASOD also notes that there is a lack of general counselling services available for LGBTI people in Guyana.

Sexual Health

- 7.10** Guyana's Ministry of Health does not provide MSM and transgender women with anal pap smears or treatment for HPV, leaving them at risk of developing prostate cancer. Because some MSM also have sex with women, there is a high risk of transmitting HPV to not only their male, but also their female partners, putting them at risk of developing cervical cancer. These risks would be reduced if HPV vaccines were available to MSM and transgender women upon request.

²¹Suicide.Org. <http://www.suicide.org/international-suicide-statistics.html> (last accessed July 7, 2015)

²²The Trevor Project. <http://www.thetrevorproject.org/pages/facts-about-suicide> (last accessed 07 July 2015)

²³CDC. (2011). *Sexual Identity, Sex of Sexual Contacts, and Health-Risk Behaviors Among Students in Grades 9-12: Youth Risk Behavior Surveillance*. Atlanta, GA: U.S. Department of Health and Human Services.

²⁴ Medical Daily. <http://www.medicaldaily.com/suicide-rates-highest-guyana-may-be-explained-clustering-effect-306982> (Last accessed on August 31, 2015)

Transgender Health Care

- 7.11** Guyana also lacks the specialists to deal with transgender people. Such specialists would include: paediatricians, endocrinologists and reproductive endocrinologists, doctors specializing in children who are gender nonconforming or intersex; psychologists, who are both knowledgeable and capable of diagnosing and treating gender nonconformity; and surgeons who can successfully perform sex reassignment surgeries.

Alessandra Hereman²⁵, who identifies as a transgender woman and is a local LGBTI activist, reported that the lack of human and medical resources available for transgender persons, including hormone replacement therapy (HRT), involves out-of-pocket expenses and self-medications. The patho-physiology of cross-gender hormone use is complicated, and with limited guidance and follow-up by doctors, transgender people can unintentionally harm themselves by self-medicating. Quality hormones at local pharmacies are limited, so transgender individuals report to SASOD that they are forced to turn to the black market, including obtaining drugs from neighbouring Brazil, Suriname or Trinidad, and usually at excessively high prices. Taking these medications without proper medical supervision often leaves many to experience roller-coaster types of emotional responses, such as increased aggressiveness, which can and are often misinterpreted, resulting in these transgender persons being violently abused and killed.

Recommendations

- 7.12** We urge the **Committee** to include in its concluding observations **recommendations** that:

7.12.1 the **Government** improve the training and sensitization of health professionals to increase the understanding of the impact stigma and discrimination has on HIV prevention, treatment and care, and the other specific health needs of LGBTI people;

7.12.2 the **Government** train, recruit, or otherwise provide sufficient mental health care professionals to address the needs of the general public, in addition to professionals with expertise in depression, suicide and other mental health issues affecting LGBTI people.

7.12.3 the public hospitals and clinics offer MSM and transgender women anal pap smears with options for treatment, and offer preventative vaccines for HPV;

7.12.4 the **Government** through the University of Guyana School of Medicine to include training on topics such as intersexuality, transgender and hormone replacement during the MBBS (Bachelor of Medicine, Bachelor of Surgery) programme, so that medical

²⁵ Report on file with SASOD.

students will have a theoretical understanding of gender and sexual minorities, which may prepare them for dealing with these LGBTI patients in practice; and

8.12.5 the Government broaden the scope of the public healthcare to include access to sex reassignment surgery and hormone replacement therapy for transgender people.

8. ARTICLE 13 (RIGHT TO EDUCATION)

Relevant Articles of the ICESCR

- 8.1** Article 13(1) of the ICESCR recognizes "the right of everyone to education", where education "shall be directed to the full development of the human personality and the sense of its dignity." The **Committee** has confirmed that state parties are under an obligation to "avoid measures that hinder or prevent the enjoyment of the right to education."
- 8.2** Article 2(2) of the ICESCR requires that the right to education in Article 13 be exercised without discrimination of any kind, including on the basis of sexual orientation or gender identity.

Relevant Guyanese Laws and Policies

- 8.3** Sexuality education is not mandatory in the national secondary school curriculum in Guyana. SASOD, among other civil society organizations, especially the Guyana Responsible Parenthood Association (GRPA), has been advocating for the introduction of comprehensive sexuality education in schools. Comprehensive sexuality education would provide young people with the tools they need to make more informed decisions to delay their sexual debut, and to prevent teenage pregnancy and sexually transmitted infections if they choose to be sexually active. Comprehensive sexuality education would also inform students about diverse sexualities and genders, and strive to reduce bullying – homophobic and transphobic bullying particularly – in Guyana's schools.

Guyana's Failure to Comply with Article 13 of the ICESCR

(In the following cases, the identities of the participants and respondents have been changed for their protection. All reports are on file with SASOD.)

- 8.4** While no laws or policies specifically prevent LGBTI persons from accessing education, many LGBTI Guyanese report leaving the education system prematurely for fear of continued discrimination and bullying, thereby preventing them from practically realising their right to education and opportunities to live as productive members of society.

SASOD has documented one such case in October 2012, of a 19-year-old student/fashion designer who was relieved of his duties as a prefect at a secondary school in Guyana's capital city, Georgetown, and forced to stay away from school for extended periods due to homophobic bullying, which included verbal and physical assault by students which was not addressed by teachers or the school's administration. He was also subject to harassment on social media. At graduation, he won the class

prize for best performance in Art. His prize, which was determined by his teachers, was a book on how to overcome homosexuality.

- 8.5** Schools in Guyana provide, to some extent, the Health and Family Life Education (HFLE) curriculum, which includes knowledge and skills development. Though the curriculum has a section on sexuality, the curriculum is hetero-normative and does not include information on diverse sexualities and genders. Reports from students also suggest that this section is often ignored because of personal bias or religion beliefs.
- 8.6** Moreover, intolerance of LGBTI students is widespread in the education system, resulting in LGBTI students being harassed and discriminated against by peers, and even sometimes, by teachers and school administrators. In the SASOD produced documentary titled “Jessica’s Journey,”²⁶ a young transgender woman recounts her brutal experiences of transphobic bullying at school in Guyana.
- 8.7** As a result of discrimination, LGBTI students, particularly transgender students, often become detached from others and lose interest in their studies and in learning generally, which may result in a high dropout rate.

While interviewing transgender youth for the 2014 “*Stand Against Transphobia*” photo exhibition, many said to SASOD’s Ulelli Verbeke that they were forced to discontinue their education because of family and societal pressures and discrimination. The exclusion that LGBTI students face in the education system prevents many from enjoying their right to education in a dignified and non-discriminatory environment.

In an LGBTI youth consultation²⁷ convened by SASOD with the International Planned Parenthood Federation (IPPF) and the Guyana Responsible Parenthood Association (GRPA), several LGBT Guyanese youth indicated that they had challenges in school because they were singled out as ‘different’ and that they were talked about by their peers and teachers. They also found it impossible to identify with the hetero-normative HFLE curriculum that was being taught in schools. This, they explained, was one of the major contributors to the intolerance faced as LGBTI students in the school system.

Recommendations

- 8.8** We urge the **Committee** to include in its concluding observations **recommendations** that:
- 8.8.1** the **Government** introduces a comprehensive sexuality education curriculum in schools that is inclusive of diverse sexualities and genders and addresses issues affecting LGBTI youth;
- 8.8.2** the **Government** develop and implement policies to address bullying and discrimination against LGBTI students in schools and other state care institutions; and
- 8.8.3** the **Government** develop and implement a training programme for school teachers and administrators to improve their knowledge on sexual orientation and gender identity;

²⁶Available from SASOD

²⁷ Report on LGBTI Youth Consultation held on January 7, 2015, on file with SASOD

9. COMBINED AND CUMULATIVE EFFECT OF ICESCR VIOLATIONS

9.1 The combined and cumulative effects of Guyana's failure to comply with the ICESCR in respect of its LGBTI citizens has led to, and continues to lead to, LGBTI people:

9.1.1 being unable to find and retain employment, and being unable to reveal their identity to their colleagues at work;

9.1.2 feeling isolated from the rest of society and feeling like second-class citizens, leading to mental health issues including depression and oftentimes suicide;

9.1.3 being harassed and assaulted by other members of society;

9.1.5 being evicted from housing and otherwise deprived of the right to live in security, peace and dignity;

9.1.6 being afraid to access public healthcare services due to stigma and discrimination, preventing them from fully expressing their sexual orientation and gender identity and exposing them to higher risks of HIV, STIs, HPV and anal cancer; and

9.1.7 being unable to access education without fear of discrimination and harassment, affecting their progression and retention through the education system.

10. CONCLUSIONS AND RECOMMENDATIONS

10.1 Despite the steps mentioned in Section 4, Guyana is failing to meet its obligations on economic, social and cultural rights to its LGBTI citizens on a number of counts, constituting violations of Articles 2, 6, 7, 10, 11, 12, and 13 of the ICESCR.

10.2 It is further urged that the **Committee** includes **recommendations** that:

10.2.1 the **Government** prohibits discrimination by the state on the bases of sexual orientation and gender identity in all areas of public life by amending Article 149 of the Guyana Constitution to include these as prohibited grounds;

10.2.2 the **Government** add both sexual orientation and gender identity to the list of protected categories under Section 4(2) of the Prevention of Discrimination Act 1997;

10.2.3 that the **Government** improve the training of health professionals to increase their understanding of and sensitivity to the specific health needs of LGBTI people;

10.2.4 that the **Government** broaden the scope of the public healthcare to include access to sex reassignment surgery and hormone replacement therapy for transgender people; anal pap smears and treatment for MSM; and HPV vaccines for MSM

10.2.5 that psychosocial support be available to all LGBT persons, particularly youth, to alleviate mental health issues, including depression and other factors leading to suicide;

10.2.6 that the **Government** develop policies and implement mechanisms to address bullying and discrimination against LGBTI students in schools; and

10.2.7 that the **Government** develop and implement a training programme for school teachers and administrators to improve their knowledge about sexual orientation and gender identity in order to deliver comprehensive sexuality education to all students.

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