

Suffering in Silence: Violence against LBT Women in Guyana



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Society Against Sexual Orientation Discrimination (SASOD)

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Introduction

The author of this report is the Society Against Sexual Orientation Discrimination (SASOD), a Guyana-based, non-governmental organization and movement dedicated to leading change, educating and serving communities to end discrimination based on sexual orientation and gender identity in Guyana. SASOD is also actively involved in similar rights-based civil society networks in the Caribbean, Latin America and the Americas region.

This report serves to inform the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women, known as the Convention of Belém do Pará, of areas where Guyana is failing to comply with its obligations under the Convention to respect and protect the human rights of women, especially lesbian, bisexual and transgender (LBT) women. It concludes with recommendations of matters that we urge the Committee of Experts to put forward to the Government of Guyana.

Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women affirms that violence against women constitutes a violation of their human rights and fundamental freedoms, and impairs or nullifies the observance, enjoyment and exercise of such rights and freedoms.

In the past year, the Government of Guyana has made several pronouncements supporting respect and protection of the human rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) people. However, the Government of Guyana has not taken any actions on LGBTI rights in the significant areas of law and policy where considerable work is required in order for Guyana to meet its obligations under the Convention of Belém do Pará.

LBT women in Guyana experience harassment on the street and in their homes. Women are often targeted for harassment because they dress against gender norms. Verbal harassment is common for LBT persons, and many have also reported threats of violence and sexual harassment. LBT persons are subject to pressure from their families because of their sexual orientation or gender identity. They may be forced to conceal their sexual orientation or enter into sham relationships. Such discrimination is a product of stereotyped gender roles, which the Government of Guyana has failed to combat.

The purpose of this report is to highlight the widespread and systematic human rights violations experienced by LBT women in Guyana.

SASOD calls upon the Committee of Experts to recommend immediate and decisive action on the part of the Government of Guyana so that all women, regardless of sexual orientation or gender identity, may enjoy their basic human rights.

Legislation

The Constitution of Guyana¹ has enshrined within it the principles of equality and non-discrimination. The constitution prohibits discrimination on the basis of sex, gender, race, place of origin, political opinions, colour or creed. However, it does not expressly prohibit discrimination on the grounds of sexual orientation and gender identity.

¹Constitution of Guyana. Article 149A

Guyana has signed on to a number international human rights treaties. As it relates to violence against women, Guyana is a signatory to the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women, known as the Convention of Belém do Pará, and the Convention on the Elimination of all Forms of Violence Against Women (CEDAW). Seven human rights treaties, including the Convention of Belem do Para and CEDAW, are directly incorporated into Guyana's Constitution through Article 154A.

Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women affirms that violence against women constitutes a violation of their human rights and fundamental freedoms, and impairs or nullifies the observance, enjoyment and exercise of such rights and freedoms. Despite these provisions, the Government of Guyana has taken no steps to repeal laws that discriminate against LBT women or to modify cultural attitudes that lead to climates of fear, harassment, violence and discrimination.

There are two key pieces of legislation that address violence against women in Guyana - Domestic Violence Act 1996 and the Sexual Offences Act 2010. These laws are considered very progressive laws; however, there are serious problems with the enforcement of these laws. There are extremely high levels of violence in general, and violence against women, in particular, in Guyanese society; violence affecting LBT women is particularly horrendous because there is no legislation that specifically protects LBT women from the onslaught of discrimination, abuse and targeted violence that in some cases leads to death.

Though the Domestic Violence Act and the Sexual Offences Act are modern and gender neutral, there is no data on how they have been applied in practice in LBT women's settings. Conversely, discriminatory laws against cross-dressing infringe particularly on the rights of transgender women. There have been several prosecutions in recent years where transgender women have been imprisoned and fined.

One of the main challenges with regards to the present legislation in Guyana is the issue of conflicting laws. There are laws on the books that criminalize same-sex intimacy and cross-dressing but there is a gender-neutral Domestic Violence Act and a Domestic Violence Policy² which clearly states that homophobia is an impediment to service provision for sexual and gender minorities.

Under section 153 (1) (xlvii) of the Summary Jurisdiction (Offences) Chapter 8:02, cross-dressing is listed as a minor offense carrying a fine. In February 2009, seven transgender persons were convicted of the 1893 summary offence of 'being a man' and wearing 'female' attire in a public way or public place, for an improper purpose. In February 2010, a case was filed challenging the archaic cross-dressing law, stating that is inconsistent with the Constitution of Guyana. In September 2013, acting Chief Justice Ian Chang, sitting as the Constitutional Court, ruled 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.

² UN Women, Global Database on Violence Against Women: <http://www.evaw-global-database.unwomen.org/en/countries/americas/guyana/2008/national-policy-on-domestic-violence-2008-2013>

The litigants filed an appeal with Guyana's Court of Appeal in October 2013. A hearing date was set for July 13, 2016 but postponed to October 17, 2016, to allow the State more time to file their arguments.³

The vagaries of this vague language were seen as recently as March 2016⁴, when a magistrate cited the cross-dressing law to explain why he would not allow transgender women to appear in court wearing women's clothing. Many were puzzled that going to court could be seen as an 'improper purpose'. Twinkle Kissoon, a transgender woman who had first-hand experience of this treatment from a magistrate, described it as a violation of her human rights and said, "If I respect the magistrate on his bench, I do think the magistrate should also respect me as a human being."

In terms of protection from violence, the state recognizes that the laws need to serve persons of all genders, but at the same time, the presence of these archaic laws further propel the stigma and discrimination which lead to targeted violence and hate crimes.

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 a LGBTI person, 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.

Many LGBTI Guyanese who are open about their sexual orientation or gender identity at work regularly face discrimination. In "Sade's Story" —a documentary⁵ 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. Travelling to her place of work was impeded by the transphobic abuse and violence she faced on a daily basis when utilizing public transportation in the capital city, Georgetown.

Social stigma and the inability to obtain and retain employment with their authentic gender identity has also led many transgender Guyanese to resort to sex work, which significantly exposes them to violence as they ply their trade on the streets at night.

Data

Generally, the threshold for the reporting of violence is very low, although there has been increased awareness and educational campaigns. There is a severe lack of data about violence affecting the LBT women; in the instances where data is captured, it is not disaggregated into sexual orientation or gender identity. The absence of data is a huge challenge because to effectively address the issue we would need to be aware of the extent of the problem. Information is commonly not being recorded by government agencies.

³<http://sasod.org.gy/sasod-blog-cross-dressing-appeal-put-down-until-october>

⁴Stabroek News, March 22, 2016: <http://www.stabroeknews.com/2016/news/stories/03/22/magistrate-accused-discrimination-barring-crossdressing-court/>

⁵SASOD's YouTube channel: https://youtu.be/DtrgJU5t_Ds

During the period 2014 – 2015, the media reported at least seven transgender women having suffered physical violence in the public sphere. In April, 2014⁶, four transgender women were attacked with pellets by persons in a passing minibus. The matter is still to be resolved. In July 2014⁷, two transgender women were murdered by the intimate partner of another transgender woman, the partner later committed suicide. In July 2015⁸, a transgender sex worker was murdered by a client. This case is still to be settled, but is moving at a faster pace than most cases involving transgender persons. In December 2015⁹, a transgender woman committed suicide after alleged incidents of abuse from her partner.

While there is no national mechanism documenting incidents of violence affecting LBT women, SASOD and the Guyana Equality Forum (GEF) have a discrimination reporting system that documents incidents of discrimination and violence.

Access to Justice

A substantial hindrance to the access of justice for LBT women is stigma –there is the stigma of saying that your partner abuses you and then there is the stigma of being LBT in Guyana. At a ‘Lunch Talk’ Session hosted by SASOD in November 2015 on ‘Barriers to Accessing Services for Intimate Partner Violence’¹⁰, Attorney-at-Law, Ayana McCalman noted that, “stigma hinders access to services, protection from violence and other forms of discrimination.”

The police are extremely discriminatory in responding to cases of violence reported by LBT women. Between 2014 – 2015, SASOD has documented five separate cases where women have either been refused assistance or positively discriminated against by the police on the basis of their sexual orientation and/or gender identity. In three cases, the interviewees stated that the police had positively failed to investigate a homophobic crime when reported. In one instance, the individual described how members of the police force actually attempted to intimidate her and to solicit bribes and sexual favours. One participant explained, “I was attacked once for being gay and reported it to them [the police] - they told me to change my lifestyle.”

Others described discriminatory treatment at the hands of police specifically because of their sexual orientation. Acts include unjust detention and being disallowed access to a partner who was in police custody.

Intimate partner violence (IPV) is a serious, often invisible issue faced by LBT women. However, due to homophobia(s) in the police force and laws against cross-dressing which discriminate against transgender people, abusive persons in LBT relationships are

⁶Stabroek News, April 24, 2014: <http://www.stabroeknews.com/2014/news/stories/04/24/shooters-trying-settle-sex-workers-drive-attack/>

⁷Stabroek News, July 21, 2014: <http://www.stabroeknews.com/2014/news/stories/07/21/jilted-man-murders-two-kills/>

⁸Stabroek News, July 2015: <http://www.stabroeknews.com/2015/news/stories/07/23/trans-sex-worker-shot-dead-on-carmichael-st/>

⁹ Guyana Times, December 8, 2015: <http://www.guyanatimesgy.com/2015/12/08/transgender-sex-worker-commits-suicide/>

¹⁰ Kaieteur News, December 6, 2015: <http://www.kaieteurnews.com/2015/12/06/intimate-partner-violence-is-hot-button-issue-in-recent-lunch-talk-session/>

emboldened by these barriers which prevent their partners from reporting these acts of violence.

Lesbian and bisexual women seldom report incidents of violence for fear of stigma and discrimination. . Because of negative socio-cultural attitudes towards LBT people, there have been documented incidents of police intimidation, detention, and the failure to investigate homophobic assaults.

In the years 2014 to 2015, two of the numerous cases of violence - hate crimes, against LBT women made its way into the court system. The cases are yet to be resolved.

Public Policies

Nationally, there is the Sexual Offences and Domestic Violence Unit¹¹ commissioned by the Ministry of Social Protection. The Unit aims to increase reporting of cases of abuse, investigation and prosecution of sexual and domestic violence and provide data analysis on trends and patterns of sexual and domestic violence in Guyana. Prior to the commissioning of this Unit, the Women's Affairs Bureau and the Women and Gender Equality Commission were created to address issues of women's rights and gender equality. The Women and Gender Equality Commission is one of the four rights-based constitutional commissions that are connected to the Human Rights Commission. The main objective of the Women and Gender Equality Commission is to promote the national recognition and acceptance that women's rights are human rights; that the attainment of gender equality is to be respected and protected. The Women and Gender Equality Commission is most proactive in discussing and highlighting issues affecting LBT women. The national budgets for addressing violence are inadequate compared to the levels of violence in the country.

The lack of government policies and programmes to foster inclusion of LGBT people perpetuates violence and exclusion of LBT girls and women. There are no public policies to counter discrimination against LBT women. While no laws or policies specifically prevent LBT persons from accessing education, many LBT 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 fully as productive members of society. Moreover, intolerance of LBT students is widespread in the education system, resulting in LBT students facing harassment, violence and discrimination at the hands of peers, and even sometimes by teachers and school administrators. In the SASOD-produced documentary titled "Jessica's Journey"¹², a young transgender woman recounts her brutal experiences of transphobic bullying at school in Guyana. As a result of discrimination, LBT 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 Uelli Verbeke that they were forced to discontinue their education because of family and societal discrimination and violence. The exclusion that LBT girls face in the education

¹¹Inews Guyana, March 7, 2016: <http://www.inewsguyana.com/domestic-violence-unit-commissioned-with-canadian-support/>

¹²Available from SASOD.

system prevents many from enjoying their right to education in a dignified, non-discriminatory, violence-free environment.

There are no care protocols for L, B and/or T women in health services or in the justice system (including prisons) or in other State areas. There are no State watchdog bodies monitoring violence against L, B and/or T women.

Civil Society

There are currently two functioning LGBT organisations that exist in Guyana. The Society Against Sexual Orientation Discrimination (SASOD) and the Guyana Trans United (GTU). SASOD works closely with the GTU, which is an organisation dedicated to addressing the needs and interests of transgender Guyanese. The two groups collaborate to host activities and events, training workshops, raise awareness on issues affecting LGBT Guyanese and advocate for law and policy reform, respect and protection of the of LGBT rights in Guyana.

SASOD is the founder of and secretariat of the five-year old Guyana Equality Forum (GEF)¹³, a cohesive network of local civil society groups working collectively for human rights and equality of all Guyanese, including LGBT people. The organisations within the GEF collectively advocate for equal rights for LGBT persons and other marginalized groups.

¹³See website: <http://guyanaequalityforum.org.gy>