



The Status of Lesbian, Gay, Bisexual, Transgender, Intersex and Queer (LGBTIQ+) Rights in Guyana

Submission by SASOD Guyana to the
United Nations Human Rights Committee for
the ICCPR Review of Guyana (2024)



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SASOD GUYANA

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EXECUTIVE SUMMARY

1. SASOD Guyana welcomes this opportunity to make a written submission to the United Nations Human Rights Committee (UNHRC) ahead of its upcoming review of the status of implementation of the International Covenant on Civil and Political Rights (ICCPR) in Guyana.
2. This submission sets out SASOD Guyana's key concerns about the realisation of the human rights in relation to lesbian, gay, bisexual, transgender, intersex, and other queer (LGBTIQ+) persons in Guyana, with emphasis on the rights enumerated in specific articles of the ICCPR.
3. SASOD Guyana remains specifically concerned about the absence of an express constitutional and statutory provisions prohibiting, and measures preventing, discrimination, on the grounds of sexual orientation, gender identity and gender expression, stigmatisation and violence against LGBTIQ+ persons including those in police custody, and specifically the Government's failure to take any steps to repeal sections 351 to 353 of the *Criminal Law (Offences) Act*, Chapter 8:01, which criminalise sexual relations between consenting adults of the same sex.
4. This report shines a spotlight on the reality of human rights abuses faced by LGBTIQ+ persons in Guyana, and makes recommendations for the creation of a legal and policy framework in Guyana that respects, provides for, protects and enforces the human rights of LGBTIQ+ people.

INTRODUCTION

5. SASOD Guyana is the winner of both international and local awards for our human rights work as an organisation and a movement leading change and educating and serving our communities to end discrimination and violence based on sexuality and gender in Guyana and the Caribbean. The organisation implements three (3) key programmes, called the “3 ‘H’ Agenda”, to achieve its goals: (i) human rights, (ii) homophobia(s) education, and (iii) human services programmes. SASOD Guyana supports similar work in Latin America, the Caribbean and worldwide. The Organisation was formed in 2003 by students of the University of Guyana as “Students Against Sexual Orientation Discrimination”, to advocate, during Guyana’s constitutional reform process, for the inclusion of sexual orientation as a prohibited ground for discrimination in the *Constitution*, which to-date has not been realised.
6. In addition to Guyana ratifying the International Covenant on Civil and Political Rights (ICCPR) on February 15, 1977, the ICCPR is incorporated into the *Constitution of the Cooperative Republic of Guyana* under Article 154A (1) which provides that “... every person, as contemplated by the respective international treaties set out in the Fourth Schedule [includes ICCPR]¹ to which Guyana has acceded is entitled to the human rights enshrined in the said international treaties, and such rights shall be respected and upheld by the executive, legislature, judiciary and all organs and agencies of Government and ... by all natural and legal persons and shall be enforceable ...”
7. Despite Guyana’s ratification of the ICCPR and its incorporation into the constitutional rights of citizens, the State and private actors actively discriminate against LGBTIQ+ persons, leaving the rights contained in ICCPR unrealised, including in relation to non-discrimination (Articles 2, 3, 23, and 26), the right to life (Article 6), the right to freedom from torture and other cruel, inhuman, degrading punishment or treatment (Article 7), the right to liberty and security of the person (Article 9), the rights of persons deprived of their liberty (Article 10), the right to freedom of movement (Article 12), the right to fair trial (article 14), the right to privacy (Article 17), the right

¹ The Fourth Schedule of the *Constitution of the Cooperative Republic of Guyana* lists the following international human right treaties: Convention on the Rights of the Child; Convention on the Elimination of All Forms of Discrimination against Women; Convention on the Elimination of All Forms of Racial Discrimination; Convention Against Torture and Other Inhuman or Degrading Treatment or Punishment; Covenant on Economic, Social and Cultural Rights; Covenant on Civil and Political Rights; Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women.

to freedom of expression and information (Article 19), the right to freedom of peaceful assembly (Article 21), and the right to freedom of association (Article 22).

8. This report will elaborate on the manner in which the aforementioned Articles of the ICCPR are not being implemented in Guyana. The human rights abuses will be made evident by the state of affairs in Guyana, including the absence of express constitutional prohibition of discrimination on the grounds of sexual orientation and gender identity; absence of labour laws that prohibit discrimination on the basis of sexual orientation, gender identity, and gender expression; lack of measures to combat and prevent acts of discrimination, stigmatisation and violence against LGBTIQ+ persons; the ill-treatment of transgender persons in police custody; the failure by the police to investigate allegations of discrimination and violence against LGBTIQ+ persons; and the Government's failure to repeal sections 351 to 353 of the *Criminal Law (Offences) Act*, which criminalise sexual relations between consenting adults of the same sex.
9. This shadow report on LGBTIQ+ rights in Guyana has been composed by SASOD Guyana to provide the HRC with facts pertaining to the reality of life for LGBTIQ+ persons in Guyana in relation to the aforementioned matters (which featured in the list of issues prior to reporting (LOIPR) posed by the Committee to the State about LGBTIQ+ issues in Guyana) and to respond to points raised by the Government in its State Party report.

SUBSTANTIVE VIOLATIONS OF ICCPR

10. LGBTIQ+ persons in Guyana exist within a legal environment that criminalises consensual same-sex intimacy, denies protection and human rights to LGBTIQ+ persons within the labour law framework, and denies transgender persons the right to change their gender marker on national identification documents. Moreover, LGBTIQ+ persons lack protection from discrimination under the *Constitution* which does not make express reference to sexual orientation and gender identity as prohibited grounds for discrimination. This denial of human rights to LGBTIQ+ persons has an adverse impact in all aspects of their lives – health; education; political and civil participation; economic empowerment; and security. In reality, this legal environment has resulted, among other things, in a lack of legal basis for the creation, at the State level, of measures to combat and prevent acts of discrimination, stigmatisation and violence against LGBTIQ+ persons, the ill-treatment of transgender persons in police custody, and the failure by the police to

investigate allegations of discrimination and violence against LGBTIQ+ persons – all of which are presented in this report.

11. The 2019 Georgetown Law Human Rights Institute, Georgetown University, publication *Trapped: Cycles of Violence and Discrimination Against Lesbian, Gay, Bisexual, and Transgender [LGBT] Persons in Guyana* highlights that there is:

“...a disconnect between the State’s obligations and its practices on every level of institutional protection and provision of State services (such as education, health, and other sectors discussed in this report). While many laws and government policies are facially neutral, the discretionary implementation by individual state actors has serious discriminatory effects. Moreover, the presence of laws specifically targeting the LGBT community normalise discrimination and stigmatisation in society at large, casting negative and reverberating lasting effects on LGBT individuals throughout their lives.

Violations by private actors are rampant as well, indicating the State is failing in its positive obligations to prevent rights violations by private actors. The failure to properly note complaints and to investigate and prosecute private actors is attributable to the State. Even if the complete prevention of incidents spurred by discrimination is impossible, due diligence in reporting, investigation, and prosecution is mandated by the human rights instruments Guyana has ratified.”²

Lack of express constitutional protection from discrimination for LGBTIQ+ persons

12. While Guyana’s *Constitution* provides protection from discrimination on a comprehensive list of specified grounds, those grounds do not expressly cover LGBTIQ+ persons. Article 149 (1) of the *Constitution* forbids the enactment of discriminatory laws by the legislature as well as discriminatory treatment by persons “acting in virtue of any written law or in the performance of the functions of any public office or any public authority”. The coverage of this Article extends to the provision of health care, social security and employment, among other areas. Article 149 (2) sets out the grounds on which discrimination is prohibited: race; place of origin; political

² *Trapped: Cycles of Violence and Discrimination Against Lesbian, Gay, Bisexual, and Transgender [LGBT] Persons in Guyana*, Georgetown Law Human Rights Institute, 2019, available at https://www.law.georgetown.edu/human-rights-institute/wp-content/uploads/sites/7/2018/06/Georgetown_LGBT_book_DigitalFINAL.pdf.

opinion; colour; creed; age; disability; marital status; sex; gender; language; birth, social class, pregnancy, religion, conscience, belief or culture. Notably, there is no express inclusion of sexual orientation and gender identity as grounds of discrimination. Since its inception in 2003, SASOD Guyana has been agitating for the inclusion of sexual orientation and gender identity as protected categories in Article 149(2). However, more than twenty years later this has not been realised, even though every five years at general elections, including the 2020 election cycle, the main contesting parties commit to constitutional reform.³

13. Accordingly, SASOD Guyana is appealing to the Government to honour its obligation to give effect to the non-discrimination articles of the ICCPR: Articles 2, 3, 23, and 26, by making clear, express, and unambiguous the constitutional rights which cover and protect all Guyanese, including LGBTIQ+ Guyanese.

Absence of hate crime legislation

14. SASOD Guyana formed, and serves as secretariat to, the Guyana Equality Forum (GEF) - a network of civil society groups working cohesively to achieve equal rights and justice for all people in Guyana. The GEF was formed in 2011 as a collaborative response to human rights abuses against vulnerable populations, including sexual and gender minorities, sex workers, people living with HIV, Indigenous Peoples, persons with disabilities, women, girls, and marginalised youth in Guyana. In 2023, the GEF released its research report on *Hate Crime Reform in Guyana* to inform the emerging debate on introducing hate crime legislation in Guyana for protection based on four major grounds: race, ethnicity, sexuality, and gender.⁴ The findings of the research project, which started in late 2020, include that “incidents of hate crime are poorly understood, and rarely documented or discussed in public discourse in Guyana” and that “perpetrators may understand the persecution of individuals who identify as lesbian, gay, bisexual, transgender and/or queer (LGBTQ+) in Guyana to be lawful” because of “[the existence of] laws that criminalise same-sex sexual activity between men, social attitudes that stigmatise and discriminate against individuals whose gender identity and expression do not align with their sex assigned at birth, and the omission

³ See: Guyana Chronicle, *Political parties promise to champion LGBTQ rights*, 25 Feb 2020, available at <https://guyanachronicle.com/2020/02/25/political-parties-promise-to-champion-lgbtq-rights/>

⁴ See: Guyana Chronicle, *Equality Forum sets platform for discussion on 'Hate Crime Legislation'*, 26 March 2023, available at <https://guyanachronicle.com/2023/03/26/equality-forum-sets-platform-for-discussion-on-hate-crime-legislation/>. See also: Stabroek News, *Equality forum report pushes for hate crime legislation*, 27 March 2023, available at <https://www.stabroeknews.com/2023/03/27/news/guyana/equality-forum-report-pushes-for-hate-crime-legislation/>.

of the characteristics of ‘sexual orientation’ and ‘gender identity’ from anti-discrimination laws and policies.”⁵

15. The Georgetown Law team, in their 2019 publication, describe two relevant and harrowing personal experiences in Guyana while conducting their research:

“This reality [about the threats, intimidation, harassment, and violence faced by LGBT persons] was underscored by incidents that occurred during the fact-finding mission that team members personally witnessed or spoke with interviewees about. At a J’Ouvert festival celebration in Georgetown on February 17, 2018, team members witnessed singer Orlando Octave shouting, “We don’t want no anti-man!” several times during his set to cheers from the large crowd. Across town, a 28-year-old transgender woman named Trishell was killed later that night after allegedly being hit by a car in nearby Vreed-en-Hoop; her death was reported as an accident, despite witnesses describing wounds to her head and face that are inconsistent with a vehicle accident. The next day, after a meeting with one of Trishell’s friends (who is also a transgender woman), team members saw two men eyeing and circling her as she waited to cross the street to her motorbike; the team quickly documented the men’s cars and license plate numbers, and the woman was able to leave without being followed. These incidents all occurred within one 24-hour period – a glimpse of life in Guyana for LGBT individuals.”⁶

16. The Founder and Managing Director of SASOD Guyana, Joel Simpson, himself survived a hate crime in June 2019, during which he was attacked by six men who were aware of his sexual orientation. The incident was reported to the police. The following month, then Minister of Social Protection in Guyana’s national statement to the Committee on the Elimination of Discrimination Against Women highlighted the incident and noted that:

“The government believes that every individual regardless of sexual orientation, gender identity has an inherent human right to live their life free from violence, abuse and discrimination. The recent attack on one of the leading LGBTQ+ rights activists in Guyana was recently condemned

⁵ *Hate Crimes Reform in Guyana*, Report by Pere DeRoy, researcher and doctoral candidate at the University of Kansas, James Chalmers, Professor of Law at the University of Glasgow, and Sigismund Consultants Inc, March 2023. On file with the Guyana Equality Forum (GEF), and SASOD Guyana.

⁶ *Trapped: Cycles of Violence and Discrimination Against Lesbian, Gay, Bisexual, and Transgender [LGBT] Persons in Guyana*, Georgetown Law Human Rights Institute, 2019, available at https://www.law.georgetown.edu/human-rights-institute/wp-content/uploads/sites/7/2018/06/Georgetown_LGBT_book_DigitalFINAL.pdf.

by the government. Such an attack has no place in our society, despite the many challenges we continue to encounter such as cultural attitudes of many within our society, the government of Guyana remains firmly committed to protecting and promoting the dignity and freedom of every human being.”⁷

However, despite the publicity and expressed political commitment surrounding the matter, since the last update from the police in 2019 revealing that they had determined the identity of the main perpetrator, the police have stopped communicating with the complainant, and the status of the matter is unknown, but most likely has been discontinued for reasons unknown and without the complainant being notified.

17. Accordingly, SASOD Guyana wishes to highlight that hate crimes against LGBTIQ+ persons are occurring in Guyana but remain under-reported or do not receive the required attention from law enforcement.

18. SASOD Guyana is calling for the Government to seriously consider the introduction of comprehensive hate crime legislation or amendments to the existing criminal code to mete out stricter penalties for crimes against persons based on their identity or perceived identity, including racial identity, religious identity and their sexual orientation, gender identity, gender expression, or sex characteristics (SOGIESC).

Failure by the police to investigate allegations of discrimination and violence against LGBTIQ+ persons, and to bring perpetrators to justice

19. The cases in point detailed in preceding section on hate crimes also serve to clarify for the Committee a question raised in the LOIPR about “the failure by the police to investigate all allegations of discrimination and violence against lesbian, gay, bisexual and transgender persons, including murders, and to bring perpetrators to justice”.

⁷ Department of Public Information, Guyana, *Guyana’s national statement to the committee on the elimination of discrimination against women – Hon. Amna Ally, Minister of Social Protection*, 13 July 2019, available at <https://dpi.gov.gy/guyana-s-national-statement-to-the-committee-on-the-elimination-of-discrimination-against-women-hon-amna-ally-minister-of-social-protection/>.

20. The 2019 Georgetown Law publication concludes that “violence and harassment against LGBT people are endemic in Guyanese society and jeopardize their security and ability to freely express their identity.” The report further notes that:

“Most of the LGBT persons interviewed encountered significant barriers in accessing justice, particularly at police stations. LGBT persons sometimes face discrimination or outright refusals from police officers to take their reports. Many interviewees indicated that they were strongly deterred from reaching out to the police because of the amount of violence and discrimination suffered at the hands of law enforcement, which they felt unable to report as well. Consequently, LGBT persons also indicated great difficulty accessing courtrooms.”⁸

21. The publication details that LGBT interviewees bemoaned that police discrimination included “a lack of timely investigations and cases left unsolved”, “instances of complete failure to investigate”, and in one instance police officers “attempted to intimidate [the victim] and solicit bribes and sexual favours” from the complainant. The team emphasised that “These factors contribute to an overall environment of impunity for perpetrators of crimes against LGBT individuals, further fuelling mistrust in the police and justice system”.⁹

22. SASOD Guyana urges the Government of Guyana to review and revise the legal and policy framework, and correct and penalise the practices of law enforcement that enable and support the failure to investigate allegations of discrimination and violence against LGBTIQ+ persons and to bring perpetrators to justice.

23. Deleted for repetition

Information and statistics on incidence of violence against LGBTIQ+ persons

24. In 2016, the Caribbean Vulnerable Communities Coalition (CVC) established the Shared Incident Database (SID), the first regional civil society-led human rights reporting mechanism. SID facilitates comprehensive data collection through standardised intake procedures to document

⁸ *Trapped: Cycles of Violence and Discrimination Against Lesbian, Gay, Bisexual, and Transgender [LGBT] Persons in Guyana*, Georgetown Law Human Rights Institute, 2019, available at https://www.law.georgetown.edu/human-rights-institute/wp-content/uploads/sites/7/2018/06/Georgetown_LGBT_book_DigitalFINAL.pdf.

⁹ *Ibid.*

human rights violations, for which the data can be used to support redress, as well as to inform strategic priorities and programme activities, policy development and legislative reform. SID has been instituted in eight (8) Caribbean countries including Guyana with almost 30 CSOs, including four Guyana-based CSOs – SASOD Guyana, Comforting Hearts, Guyana Trans United (GTU), and United Bricklayers (UBL), as registered SID users. Analysis of SID reports for the period April 2018 to December 2022 revealed that Guyana recorded a total of 227 incidents to the SID, representing 29% of the total number of incidents recorded in the region.¹⁰

25. The SID reports were mainly made by men (40.1%), followed by trans women (30.4%), and women (20.3%). The other reports were made by trans men (1.8%), gender queer (0.4%), undisclosed gender (3.1%) and other (4.0%). Verbal harassment was by far the most common type of incident (40.5%), followed by physical abuse (33.6%) and being forced to leave jobs (18.6%). Emotional abuse and being forced to leave home/community were also commonly reported, both at 9.7%. Most of the incidents occurred in the workplace (33.5%), in the community (27.8%), or at a private business (22.9%). In relation to outcomes, most times there was no additional action taken (38.7% or 110/227 incidents), but the most common action was referral to counselling or social assistance (23.20%), followed by notifying a supervisor (12.30%), and legal or other redress (10.60%).¹¹ In relation to reports made to SASOD Guyana, in most instances, SASOD Guyana was the entry-point for redress for the complainants, and it was SASOD Guyana that led and supported the redress for those affected.

26. The 2019 Georgetown Law publication highlights that “most LGBT interviewees reported having negative interactions with members of the Guyana Police Force or had LGBT friends who had shared such experiences with them.”¹² And further that “some LGBT individuals also reported sexual harassment and threats from law enforcement officers.”¹³ The Georgetown Law team also notes that “The State has a positive obligation under international law to protect and promote the rights to life, security, and free expression, yet discriminatory laws and anti-LGBT prejudice

¹⁰ Caribbean Vulnerable Communities (CVC), *Shared Incident Database (SID) Analysis Report, Guyana, 2018*. On file with CVC and SASOD Guyana.

¹¹ *Ibid.*

¹² *Trapped: Cycles of Violence and Discrimination Against Lesbian, Gay, Bisexual, and Transgender [LGBT] Persons in Guyana*, Georgetown Law Human Rights Institute, 2019, available at https://www.law.georgetown.edu/human-rights-institute/wp-content/uploads/sites/7/2018/06/Georgetown_LGBT_book_DigitalFINAL.pdf.

¹³ *Ibid.*

create an enabling environment where such crimes against LGBT persons are rampant.”¹⁴ There is a lack of trust and confidence in the Guyana Police Force which is an entry-point for justice, forcing many victims to withhold or withdraw reports of violations. We echo the sentiments expressed by the Georgetown Law team that the foregoing factors, “contribute to an overall environment of impunity for perpetrators of crimes against LGBT individuals, further fuelling mistrust in the police and justice system.”¹⁵

27. At the March 2023 *Mashramani* Parade, bottles were hurled at LGBTIQ+ revellers in New Amsterdam Berbice, Guyana. However, the victims did not make a report with the police. The Police Commander for that region noted that police received a phone call about bottles being hurled at the location and after arriving, noticed broken bottles on the road. The police invited the parties to the station where the victims declined to provide police with any statement or information about themselves.¹⁶ The facts of this hate crime demonstrate the LGBTIQ+ people’s lack of trust in the police and their concomitant lack of desire to report crimes.
28. SASOD Guyana, despite its persistence over the years, was denied the opportunity to conduct SOGIE-sensitivity training with the Guyana Police Force until the Caribbean Court of Justice (CCJ) decision in 2018 which rendered Guyana’s cross-dressing law unconstitutional. Despite pleas from SASOD Guyana, the State has not incorporated this critical training into the Guyana Police Force’s training curriculum, and in the absence of State interest, attention and resources, SASOD Guyana will only be able to conduct the needed training when the organisation has available resources.
29. SASOD Guyana urges the State to revise its police training curriculum to incorporate human rights training generally and SOGIE-sensitivity training specifically; and to allocate resources to sustain the collaboration between civil society and Government of Guyana in this regard.
30. SASOD Guyana also requests that the Government publicly clarifies whether policies and measures to respond to gender-based violence, including the provision of accommodation and

¹⁴ *Ibid.*

¹⁵ *Ibid.*

¹⁶ Stabroek News, *Bottles hurled at members of LGBTQ community in New Amsterdam- victims decline to lodge report with police*, 9 March 2023, available at <https://www.stabroeknews.com/2023/03/09/news/guyana/bottles-hurled-at-members-of-lgbtq-community-in-new-amsterdam/>.

other support to victims/survivors of gender-based violence include trans persons and their unique circumstances.

Labour-related discrimination against LGBTIQ+ persons

31. The 2019 Georgetown Law team explain that:

“The harassment and bullying faced by LGBT youth in schools carries into adulthood and the workplace in Guyana. Many LGBT adults struggle to find formal-sector employment because they were unable to finish secondary education. As Guyanese law does not explicitly prohibit employment discrimination on the basis of sexual orientation, gender identity, or gender expression, some employers refuse to accept LGBT applicants. Others perpetrate or tolerate harassment against LGBT employees and contribute to bullying and hostile work environments that force LGBT persons to leave. Such conditions make it extremely difficult to find and maintain work and impact other socio-economic rights, placing LGBT persons at greater risk of poverty, illness, and violence”.¹⁷

32. The team also highlight that “[the] struggle to find employment and earn a living wage... are exacerbated for LGBT individuals who encounter a toxic mix of discriminatory laws and prejudice that further hinders their right to work” and that “Many LGBT interviewees shared how they and others have faced challenges in finding work and confronting abusive situations in the workplace because of their SOGIE.” They further highlight that “Most gay and transgender interviewees reported receiving differential treatment in the workplace based on their gender expression, particularly for transgender women or gay men who appeared more feminine” and “LGBT individuals reported the reluctance or unwillingness of employers to address harassment, and even instances where their supervisors perpetrated the bullying and abuse.”¹⁸

33. Therefore, SASOD Guyana welcomes the Government’s commitment, as expressed in the State Party Report, to put the review of the *Prevention of Discrimination Act* on its legislative agenda

¹⁷ *Trapped: Cycles of Violence and Discrimination Against Lesbian, Gay, Bisexual, and Transgender [LGBT] Persons in Guyana*, Georgetown Law Human Rights Institute, 2019, available at https://www.law.georgetown.edu/human-rights-institute/wp-content/uploads/sites/7/2018/06/Georgetown_LGBT_book_DigitalFINAL.pdf.

¹⁸ *Ibid.*

with the aim of including additional considerations of discrimination in employment such as those based on SOGIE.

34. SASOD Guyana urges that the Government undertakes a comprehensive review of the entire labour legislation framework in Guyana – the *Prevention of Discrimination Act* and *Termination of Employment and Severance Pay Act* included – in order to pinpoint all the gaps related to SOGIE and protections afforded to LGBTIQ+ persons.

Criminalisation of sexual relations between consenting adults of the same sex

35. In 2022, the RMK Consulting Enterprise undertook a quantitative survey to examine perceptions and attitudes of the Guyanese population towards lesbian, gay, bisexual and transgender (LGBT) people. The team conducted over 1000 interviews with random participants representing every race, age group (adults), religious affiliation and income range in Guyana. In response to the question asking to what extent they support the statement ‘*Some have proposed legislation in Guyana that would ensure protection against discrimination for gay and transgender people in the workplace*’, the majority of the respondents (71.9%) indicated that they would support this position.¹⁹
36. Cross-dressing was, until recent years, criminalised under section 153 (1) of the *Summary Jurisdiction (Offences) Act*, Chapter 8:02, which provided that it is an offence where 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”. This colonial-era legislation was being selectively enforced for the prosecution of mostly transgender women engaged in sex work until the landmark 2018 decision by the Caribbean Court of Justice in the case of *Quincy McEwan, Seon Clarke, Joseph Fraser, Seyon Persaud and SASOD v The Attorney General of Guyana* found that the provision was unconstitutional and struck it down. It is imperative to note that at every stage of the case, the Government defended the legality of the cross-dressing provision, and it took nine years, three levels of court judgments, and untold resources before justice was awarded to the appellants. To reinforce the CCJ’s judgement on this law, the Parliament of Guyana passed an amendment Bill in 2021 to remove cross-dressing from

¹⁹ *A Study of Perceptions and Attitudes towards LGBT Persons in Guyana*, RMK Consulting Enterprise, September 28, 2022, available at <https://original-ufdc.uflib.ufl.edu/AA00090502/00001/pdf>.

the law books.²⁰ We commend this step on the part of Parliament to convey a greater measure of clarity and reinforcement to the public that the cross-dressing law no longer exists.

37. Private consensual same-sex activity between adults is illegal in Guyana. Gross indecency is criminalised under section 351 of the *Criminal Law (Offences) Act, Cap. 8:01*, which provides that:

“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 act of gross indecency with another male person shall be guilty of a misdemeanor and liable to imprisonment for two years.”

38. Attempted buggery is criminalised under section 352 of the *Criminal Law (Offences) Act, Cap. 8:01*, which provides that:

“Everyone who – (a) attempts to commit buggery; or (b) assaults any person with intent to commit buggery; or (c) being male, indecently assaults any other male, shall be guilty of a felony and liable to imprisonment for ten years.”

39. Buggery is criminalised under Section 353 of the *Criminal Law (Offences) Act, Cap. 8:01*, which provides that:

“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.”

40. The fight against the AIDS epidemic in Guyana is one of many examples of how criminalisation of LGBTIQ+ activity affects key populations, among which are found men who have sex with men, and trans women. The UNAIDS Global AIDS Update of 2022, explains that “Criminalisation of certain activities or behaviours exposes key populations and people living with HIV to harm by forcing them away from the support and services that can help them protect their health.”²¹ The report shares findings from a study conducted in ten sub-Saharan African countries which found that the existence of “severe criminal penalties for same-sex sexual relations were associated with an almost eight times greater risk of HIV infection among gay men

²⁰ Guyana Chronicle, *House passes bill to remove cross-dressing as a criminal offence*, 11 August 2021, available at <https://guyanachronicle.com/2021/08/11/house-passes-bill-to-remove-cross-dressing-as-a-criminal-offence/>.

²¹ *IN DANGER: UNAIDS Global AIDS Update 2022*, UNAIDS, available at https://www.unaids.org/sites/default/files/media_asset/2022-global-aids-update_en.pdf.

and other men who have sex with men (MSM) compared with places without such laws”.²² Unsurprisingly, the 2019 Georgetown Law publication indicates that “many members of the LGBT community continue to complain about their access to services being affected by stigma and discrimination and violation of patient privacy and confidentiality.”²³ Consequently, Guyana records an HIV prevalence of 4.9% among MSM and 8.4% among transgender people – starkly higher than the adult prevalence of 1.6%.²⁴

41. With the aim of determining the attitudes towards LGBT persons in Guyana, the 2022 RMK survey asked the question “What word best describes your attitude towards homosexuals?” In response, approximately one third said they are “accepting” (34.5%) and more than a third (37.9%) said “tolerating”. About a tenth (12%) indicated that “hate” best describes their feelings towards LGBT persons; whilst 15.6% declined to give their views on this question.²⁵ When these findings are compared to the findings of the 2013 Caribbean Development Research Services (CADRES) Inc. survey on Attitudes Towards Homosexuals in Guyana, it is evident that acceptance increased from 19% to 34.5%, tolerance remained relatively the same (moved from 39% to 37.9%), and hate decreased from 25% to 12%.²⁶

42. In response to the RMK survey question ‘*Should the Guyanese Government legally protect the rights of persons who are gay, bisexual and transgender?*’, approximately half of the respondents (49.6%) indicated that this should be a priority for the Government. When asked to what extent they support the statement ‘*Some people have proposed that Guyana’s law criminalising sex between two men should be eliminated*’, approximately one third of the respondents (37%) indicated that they are ‘not likely at all’ to support that view, showing that these persons are in the minority. In response to the question asking to what extent they support the statement ‘*Some have proposed legislation in Guyana that would ensure protection against discrimination for gay and*

²² *Ibid.*

²³ *Trapped: Cycles of Violence and Discrimination Against Lesbian, Gay, Bisexual, and Transgender [LGBT] Persons in Guyana*, Georgetown Law Human Rights Institute, 2019, available at https://www.law.georgetown.edu/human-rights-institute/wp-content/uploads/sites/7/2018/06/Georgetown_LGBT_book_DigitalFINAL.pdf.

²⁴ UNAIDS data 2017, available at https://www.unaids.org/en/resources/documents/2017/2017_data_book.

²⁵ *A Study of Perceptions and Attitudes towards LGBT Persons in Guyana*, RMK Consulting Enterprise, September 28, 2022, available at <https://original-ufdc.uflib.ufl.edu/AA00090502/00001/pdf>.

²⁶ See: Caribbean Development Research Services Inc. (CADRES) report, available at https://ufdcimages.uflib.ufl.edu/AA/00/01/61/51/00001/Attitudes_Toward_Homosexuals_in_Guyana.pdf.

transgender people in the workplace, the majority of the respondents (71.9%) indicated that they would support this position.²⁷

43. SASOD Guyana does not subscribe to the notion that public support is required for the repeal of laws which conflict with human rights. It is the State's duty to respect, provide for, protect and enforce human rights for all. Nonetheless, SASOD Guyana feels that it is important to highlight for the HRC that societal acceptance has significantly increased, and hate has significantly decreased in relation to LGBT persons; and there is widespread support for providing legal protections against discrimination for LGBT persons, and decriminalising consensual same-sex intimacy.
44. SASOD Guyana urgently calls on the Government to provide legal protections against discrimination for LGBTIQ+ persons, and decriminalise consensual same-sex intimacy.

RECOMMENDATIONS

45. The Government of Guyana should:

- (1) Engage in constitutional reform that will provide protection against discrimination for people on the basis of their sexual orientation, gender identity, and gender expression (SOGIE).
- (2) Decriminalise sexual relations between consenting adults of the same sex. Specifically repeal the provision for the offence of gross indecency found in section 351 of the *Criminal Law (Offences) Act*, Cap. 8:01 and attempted buggery and buggery found in sections 352 and 353 of the *Criminal Law (Offences) Act*, Cap. 8:01, respectively.
- (3) Enact laws to prohibit SOGIE-related employment discrimination in both public and private sectors. Specifically, amend section 5 of the *Prevention of Discrimination Act*, Cap 99:09, which sets out the prohibited grounds for discrimination in employment, to include SOGIE as prohibited grounds.

²⁷ *A Study of Perceptions and Attitudes towards LGBT Persons in Guyana*, RMK Consulting Enterprise, September 28, 2022, available at <https://original-ufdc.uflib.ufl.edu/AA00090502/00001/pdf>.

- (4) Revise the police training curriculum and resources and implement training for law enforcement to prevent discriminatory and arbitrary harassment of LGBTIQ+ people and other vulnerable groups, and to ensure these communities can benefit from the protection of law enforcement on an equal basis with others.
- (5) Include measures of SOGIESC in statistical research and reporting systems in Guyana, especially with regard to LGBTIQ+ related health, education, economic outcomes, violence, and political participation in Guyana.
- (6) Engage with civil society for the purposes of introducing hate crime legislation or related legislative provisions.
- (7) Ensure all persons, including LGBT individuals, are aware of the Police Complaints Authority and can easily report police misconduct., and ensure such reports are independently investigated.