



CANADIAN HIV/AIDS LEGAL NETWORK IN THE CARIBBEAN

Why the Caribbean? And why LGBTQ rights?

As a region, the Caribbean has the second-highest HIV prevalence rate in the world, after sub-Saharan Africa. UNAIDS and regional and national agencies have identified homophobia as a factor contributing to this startling statistic. The legal and social environment varies significantly across the region, as does community organizing to defend and advance the human rights of lesbian, gay, bisexual, transgender and queer (LGBTQ) people. However, in numerous countries, particularly the Commonwealth Caribbean, the criminalization of consensual same-sex relationships and gender non-conforming people — accompanied by wider societal stigma and discrimination, which is often intensified by fundamentalist religious groups — has had a damaging effect on health and human rights.

Among other harms, gay men and other men who have sex with men (MSM), as well as trans people, are driven away from effective HIV prevention treatment, care and support. The results can be devastating. Jamaica has the highest HIV prevalence rate among MSM (33%) in the western hemisphere, if not worldwide; in Barbados and Dominica, it is 14% and 26%, respectively. It is no coincidence that, in those countries, consensual sex between men is a crime punishable by years in prison. These countries also offer little or no legal protection against discrimination, and homophobic violence and harassment against gay men, lesbians and trans people are reported regularly.

Activists are mobilizing around the region, building the case for the rights of LGBTQ people through a variety of strategies. These include researching public opinion, educating communities and law enforcement about human rights, amplifying the voices of progressive faith leaders, engaging parliamentarians and policy-makers to pursue law reform, advocacy in the media and strategic litigation. The Canadian HIV/AIDS Legal Network (the Legal Network) and our Caribbean expert in Canada collaborate with local partners to challenge and eventually eliminate the laws, policies and attitudes that contribute to violence, discrimination and the ongoing HIV epidemic.

The Approach and Strategies

The Legal Network employs various strategies in the Caribbean to ensure that human rights are enjoyed by all:

➔ Challenging anti-LGBTQ laws

In partnership with local and international allies, the Legal Network is leading and/or supporting litigation to challenge anti-LGBTQ laws in several countries. We are currently supporting two constitutional cases before the **Jamaican** courts, brought by our staff lawyer and Jamaican human rights activist Maurice Tomlinson. The first is an appeal challenging TV stations that refused to air an ad advocating respect for the human rights of gay Jamaicans. The second is a challenge to Jamaica's colonial-era laws criminalizing "buggery" and "gross indecency" between men — a proceeding in which we face the opposition of not only the Jamaican government but also of 10 fundamentalist religious groups who have been granted "interested party" status. In **Barbados**, the Legal Network is supporting a petition by three LGBTQ activists to the Inter-American Commission on Human Rights, with a view to getting a binding decision by the Inter-American Court of Human Rights that the country's laws on "buggery" and "serious indecency" violate the *American Convention on Human Rights*. In June 2019, the Legal Network also supported an activist in the Commonwealth of **Dominica** in launching a challenge to similar laws there as violating various human rights ostensibly guaranteed by the national constitution.

➔ Sensitivity training

Working from training developed for the Toronto Police Service and specifically adapted for the Caribbean by our partner AIDS-Free World, the Legal Network continues to deliver LGBTQ sensitivity training to uniformed services across the Caribbean. Collaborating with local LGBTQ groups and in cooperation with national government institutions, we have to date trained members of the police force, fire brigade, customs department, immigration agency, port security and army in Antigua and Barbuda, Barbados, Dominica, Grenada, Saint Kitts and Nevis, Saint

Lucia and Suriname. We are seeking to conduct further follow-up training with personnel in these countries and to deliver this training program in other countries in the region, including Jamaica.

➔ **Working with faith leaders**

Faith leaders exercise a great deal of influence in the Caribbean, including national legislatures. The Legal Network supports the work of progressive faith leaders by assisting them in spreading a more inclusive message. Many of the uniformed officers that the Legal Network trains are also lay leaders and part-time clergy, and through them, the Legal Network has an opportunity to dispel some of the prevailing myths about LGBTQ people. Across the Commonwealth, religion plays a significant role in the retention of laws criminalizing LGBTQ people, and is part of discussions aimed at abolishing such laws. Therefore, in 2017, the 50th year of the first partial decriminalization of sodomy in the Commonwealth (in the U.K.), we partnered with local and international Christian leaders to host the first-ever global conference in Jamaica on the role of the church (past, present and future) in ending anti-LGBTQ laws. This groundbreaking Intimate Conviction conference was live-streamed and recordings are available on our website as is an edited volume of the conference presentations. That resource has also been shared with hundreds of politicians, judges, religious leaders and other stakeholders across the Commonwealth. We are working with other faith leaders and civil society partners to host similar dialogues in countries with similar laws across the Commonwealth.

➔ **Reports to national and international human rights bodies**

The Legal Network collaborates with local groups to craft submissions to parliamentary, regional and UN bodies describing the impact of homophobia on Caribbean LGBTQ people. One such submission was sent to the Jamaican Joint Select Committee of Parliament, which was reviewing the country's *Sexual Offences Act*. The Act mandates "sex offender" registration and monitoring for anyone convicted under the laws criminalizing consensual sex between men. We also make submissions to Canadian parliamentary sub-committees studying Canada's response to the situation of LGBTQ people in the Caribbean and globally. We use our special consultative status at the United Nations to amplify the voices of local activists from various countries in the global south, and to complement the efforts of Caribbean LGBTQ human rights defenders in holding countries accountable for the human rights obligations they have agreed to in international law. We are one of only a handful of civil society organizations registered with the Organization of American States (OAS) and we are part of a regional coalition that regularly advocates for LGBTQ human rights in that forum.

➔ **Visibility campaigns**

Alongside local partners, the Legal Network was active in helping to organize the first ever "Stand for Equality and Inclusion" demonstration in front of the Barbados Parliament, which was followed by similar events in Grenada and Jamaica. We also sponsored the inaugural Montego Bay Pride and Barbados Pride in 2015 (and three subsequent annual Pride activities in Montego Bay, now being organized independently by local activists), participated in panel presentations and public discussions on homophobia across the region, and hosted public discussions of Jamaica's treatment of LGBTQ people, including through the screening of the award-winning documentary, *The Abominable Crime*.

➔ **Working with the diaspora communities**

The Legal Network regularly presents at Caribbean diaspora events, engaging with diaspora groups and providing information about our work in the region. Working with Caribbean nationals in the global north through organizations such as the Jamaica Association of Gays and Lesbians Abroad (JAGLA) and the Jamaican Canadian Association (JCA), as well as similar groups of other Caribbean communities, we support diaspora groups as they mobilize and urge their host countries and their diplomatic missions abroad to take action in ending anti-LGBTQ laws and policies in the Caribbean. In 2018, we successfully spearheaded efforts in support of a Jamaican activist's petition to block a U.S. pastor from visiting Jamaica to preach death to LGBTQ people.

About the Canadian HIV/AIDS Legal Network

The Canadian HIV/AIDS Legal Network promotes the human rights of people living with, at risk of or affected by HIV or AIDS, in Canada and internationally, through research and analysis, litigation and other advocacy, public education and community mobilization. Relying on sound evidence and analysis to challenge the stigma and discrimination faced by LGBTI people that leads to misguided policies and injustice, the Legal Network strives for a world in which the health and human rights of LGBTI people everywhere are fully protected.