



Pan Caribbean Partnership against HIV and AIDS (PANCAP)

**Policy Brief advocating for Law and Policy Reform in
Guyana to Respond to Gender-Based Violence,
Stigma and Discrimination**

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I. Summary

Incidence of gender-based violence (GBV) is high on a global scale. GBV cuts across geographical and socioeconomic boundaries. Data shows that, globally, 1 in every 3 ever-partnered women will experience intimate partner violence ('IPV') in their lifetime. In Guyana, 1 in every 2 women will experience GBV.

The "Women's Health and Life Experiences in Guyana" Survey Report for 2019 revealed that young age, early cohabitation with male partner, lower level of education, pregnancy, experience of childhood violence, and alcohol abuse by male partner constitute the main risk factors for IPV. The Report also found that the most common form of violence against women and girls by non-partners was sexual violence.

Though Guyana has established a legal framework to address GBV, groups such as persons in same sex relationship remain largely without protection. Sexual orientation and gender identity are not protected grounds under the Prevention of Discrimination Act and the Domestic Violence Act does not cover persons in same sex relationships. Additionally, the social and cultural norms of gender inequality that ground and perpetuate GBV continue to be upheld. These norms hinder the effectiveness of the existing legal framework since they, in effect, discourage victims from seeking help and resorting to the formal redress mechanisms. These norms also affect the manner in which authorities respond, or do not respond, to complaints of GBV. Legal and policy reform is, therefore, urgently needed to remove the legal, social and institutional barriers to GBV prevention and response.

II. Introduction

GBV is one of the most prevalent human rights violations in the world. Evidence shows that women and girls are disproportionately affected by GBV, with IPV being the most common form. Indeed, data shows that 1 in every 3 ever-partnered women will experience IPV in their lifetime. In Guyana, however, the figure is higher. The 2019 Survey indicates it is 1 out of every 2 women in the country who will experience GBV.

The 2019 Survey was the first comprehensive study into GBV prevalence in Guyana. Data gathering and systematization is often a challenge in the region. For this reason, the work of civil society organizations ('CSOs'), such as the Caribbean Vulnerable Communities Coalition ('CVC'), Comforting Hearts and SASOD, is essential. Currently, these CSOs are working towards narrowing the evidence gap through the Shared Incidents Database, an online platform, supported by the Global Fund, through which GBV incidents are reported. Under this mechanism, victims are also supported and accompanied in seeking redress.

This advocacy brief is based on the "Women's Health and Life Experiences in Guyana Survey Report of 2019", as well as reports and data shared by CSOs in Guyana. The brief will describe the situation of GBV in Guyana and propose specific legal and policy reforms needed to enhance the effectiveness of the country's GBV response.

III. Prevalence of GBV in Guyana

GBV in Guyana involves both physical and sexual violence against women and girls perpetrated by partners, as well as non-partners. Data from the 2019 Survey reveals

that 55% of ever-partnered women reported experiencing at least one form of IPV at some point in their lifetime, physical violence being the most common. Additionally, 38% of women report experiencing at least one act of physical or sexual violence in their lifetime, with, at least 7% experiencing forced sexual intercourse. Sexual violence, was the most common type of violence perpetrated against women and girls by non-partners; sexual harassment being the most common.

The Survey highlighted the main risk factors which heighten women and girl's vulnerability to GBV as being age, level of education, geography, childhood violence, pregnancy and alcohol abuse. As regards age, the youngest group reported the highest rate of physical and sexual violence while the oldest group reported the lowest. Additionally, the age at which girls and women enter into their first partnership is also significant. According to the results of the Survey, 46% of women who partnered before age 18 reported experiencing physical and/or sexual violence from a partner.

Then, the level of education of women and men also impacts GBV prevalence. Women with a higher level of education were seen to experience less GBV in their lifetime. Concomitantly, male partners with higher levels of education were seen as being less likely to carry out IPV. In fact, women whose partners have achieved education beyond secondary reported less than half the rate of physical violence than those whose partners did not achieve beyond primary level.

As regards geography, women in the hinterlands reporting twice as much sexual abuse than in the urban setting. Alcohol abuse was also observed to increase the likelihood of male partners inflicting violence against their partner. 40 % of

women whose current or most recent partners drink alcohol more than once a week reported experiencing physical and/or sexual violence from that partner. Of much concern is the finding that pregnancy also increases the risk of women to violence. Indeed, one-tenth of women experience violence at least once during pregnancy.

Furthermore, women and girls also experience violence perpetrated by non-partners. The Survey found that 20 % of women in Guyana have experienced non-partner sexual abuse in their lifetime; 13 % reported experiencing this abuse before the age of 18.

The alarming statistics set out above are produced and sustained by a social and cultural environment which continues to uphold harmful views on gender roles. According to the Survey, 83 % of the women believe that it is natural that men should be the head of the home. 78 % agreed that a woman's most important role is to take care of her home.

These social norms affect the efficacy of the existing legal and institutional frameworks to respond to GBV. By viewing IPV as a private matter, women are predisposed to avoid institutional intervention, which leads to underreporting. The Survey noted that few women in Guyana seek help from formal services. In the hinterlands, only a quarter of the women and girls resort to formal mechanisms. Many raised doubts about confidentiality as the main concern in resorting to institutional mechanisms. Embarrassment and fear that they would not be helped or believed were also reporting demotivators. Victims and community members described that institutional responses to GBV reports depended on the beliefs of the particular official towards GBV.

IV. Legal and Regulatory Response

As a signatory to seven core human rights treaties, Guyana has an obligation to ensure that the rights of persons are respected and protected within its jurisdiction. In adherence to its obligations, and in an effort to address GBV in its society, Guyana has enacted noteworthy gender related laws and policies.

a) The Domestic Violence Act (DVA)

The DVA in Guyana, for example, offers broad, sweeping protections to persons affected by domestic violence. Under the Act, victims, police officers and social workers, among others, are empowered to seek protection, occupation, tenancy and/or maintenance orders against abusers on behalf of persons affected by domestic violence. The category of persons protected includes intimate partners, including non-married couples, and family members.

b) Sexual Offences Act 2010 (amended in 2013)

Further, the Sexual Offences Act, which reformed laws relating to sexual offence, incorporates a complete legal framework for addressing sexual misconduct. In 2013, the Act expanded the offences of rape to include oral, vaginal and anal penetration. In so doing, the Act adopted a gender-neutral definition of rape which would now recognize male rape. In addition, marital rape was criminalised without conditions, and the offences of stalking, grooming and voyeurism were created. Lastly, the age of sexual consent was increased from 13 to 16 years old for both boys and girls.

c) Prevention of Discrimination Act

The Prevention of Discrimination Act was enacted in 1997 to eliminate discrimination in employment, training, recruitment and membership of professional bodies and the promotion of equal remuneration to men and

women in employment who perform work of equal value. In particular, the Act protects against 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”. Significantly, section 8 of the Act expressly protects against sexual harassment by providing that sexual harassment constitutes a prohibited form of discrimination on the basis of sex.

d) The Protection of Children Act

In addition, the Protection of Children Act, enacted in 2009, was passed to provide comprehensive legislation on the protection of children in Guyana. The Act seeks to ensure children are protected from threatening situations. Particularly, the Act prohibits the commercial sexual exploitation of children through the production, distribution, importation, exportation or possession of child pornography as well as the use of children for child pornography. The Act also imposes mandatory reporting obligations in cases of child abuse.

e) Combatting of Trafficking in Persons Act 2005

Recognizing that women and girls are the main victim of trafficking for the purpose of sexual exploitation, this Act provides for their protection by creating the offence of trafficking in persons.

Guyana has also adopted a National Gender and Social Inclusion Policy, aimed at mainstreaming gender into all sectors of government.

V. Gaps and Challenges

Despite the existing legal and policy framework addressing GBV in Guyana, there

is still a high incidence of GBV. Legal gaps and insufficiencies limit the law's protective scope leaving persons either partially or totally unprotected. For instance, while the DVA provides wide protections, the Act does not protect victims in same sex relationships. Likewise, the Prevention of Discrimination Act does not include sexual orientation or gender identity as a protected ground against discrimination. Furthermore, male homosexual sexual activity continues to be criminalised.

There is also a dissonance between the law and practice. Data shows clearly that victims do not often resort to the protection under the Act and when they do, they experience a lack of enforcement of the orders by officials. Persons in the Hinterlands also appear to face particularly challenges in accessing support from the formal services. In 2019, the Committee on the Elimination of Discrimination against Women underscored that long distances to access courts, stigma and lack of awareness among all relevant actors may explain the underreporting of GBV, especially in the hinterland.

VI. Recommendations

Recognizing the inter-connection between GBV and HIV, as both a root cause and consequence of HIV, PANCAP urges the State to implement the following to reduce the incidence of GBV in Guyana:-

Legal Reform

- a) Amend the Criminal Law Offences Act to decriminalize same sex sexual activity between adults;
- b) Enact an HIV specific law to address HIV related issues, especially relating to discrimination, stigma and confidentiality;

- c) Impose sanctions for breaches of confidentiality within the police department and health sector to protect and encourage reporting of GBV; and
- a) Impose court-mandated drug rehabilitation programs where substance abuse is found to have been a factor in GBV. Support substance rehabilitation facilities for persons struggling with substance, in particular alcohol, abuse.

Policy Reform

- b) Raise awareness on the provisions of the *Domestic Violence Act (1996)* and the *Sexual Offences Act*, expedite the adoption of draft protocols for communal authorities, prosecutors, medical professionals, social workers and the police on gender-based violence and introduce mandatory training on their application;
- c) Prioritise GBV response coordination among health care, law enforcement, and social service sectors, and CSOs, particularly in the hinterland;
- d) Increase the human, technical and financial resources allocated to the National Domestic Violence Oversight Committee and the National Task Force for the Prevention of Sexual Violence in order to effectively coordinate the implementation of the *Domestic Violence Act (1996)* and the *Sexual Offences Act (2010)*, including with the Sexual Offences and Domestic Violence Policy Unit and the Gender Affairs Bureau;
- e) Support CSOs work with communities and advocate for the use of the SID to provide data to fill the evidence gap and link victims to support mechanisms.

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