



Caribbean  
Vulnerable  
Communities  
Coalition



# POSITION PAPER

on

ISSUES OF GENDER BASED VIOLENCE (GBV)  
INCLUDING INTIMATE PARTNER VIOLENCE -  
HIV POSITIVE WOMEN AND GIRLS, LESBIANS,  
BISEXUAL WOMEN AND TRANSGENDER  
PERSONS (LBT) AND WOMEN WITH  
DISABILITIES

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In Jamaica, it is estimated that 30,313 persons are living with HIV but approximately 28% are unaware of their status.<sup>1</sup> Additionally, young females account for the larger share of cases in the 10-29 age range young women age 20-24 are one and a half times more likely to be infected than males in the same age group.<sup>2</sup>

It is generally acknowledged that violence is a cause and a consequence of HIV/AIDS. The Commission on Human Rights in its Resolution 2004/46 emphasized that violence against women and girls, including rape, incest, violence related to commercial sexual exploitation and economic exploitation as well as other forms of sexual violence, increase their vulnerability to HIV/AIDS. The Commission also stated that HIV infection further increases women's vulnerability to violence, and that violence against women contributes to the conditions fostering the spread of HIV/AIDS.

Violence against women (VAW) increases vulnerability to HIV and safer sexual decision-making for those infected by HIV. Global evidence also indicates that the experience of VAW, and fear of VAW, can be a barrier to disclosure. Often women diagnosed with HIV are reluctant to disclose to their sex partners for fear of being blamed and beaten and are also very reluctant to negotiate condom use because of the fear of being accused of infidelity which can also result in violent behaviour from their male partners. Gender norms and inequalities also influence HIV-related stigma and discrimination. For example, differences are reported in the way that female and male HIV positive people are treated by their communities with men being more accepted by friends, family, colleagues and employers (HIV NSP Jamaica 2012-17). HIV vulnerability resulting for VAW also limits safer sex practices and decision-making for persons who are living with and, who are affected by HIV.

Gender-based violence, more specifically VAW and the intersection with HIV/AIDS is an issue that need to be addressed as the HIV epidemic in the Jamaica is both general and concentrated among sub populations

<sup>1</sup> Ministry of Health HIV Epidemiological Profile 2013

<sup>2</sup> Ministry of Health HIV Epidemiological Profile 2013

such as, women and girls living with disabilities (W/GLWD) sex workers (SW), women and girls living with HIV (W/GLHIV) and lesbian, bisexual and transgender (LBT) women who are rendered vulnerable because of VAW.

Jamaica AIDS Support for Life (JASL) with funding from UN Trust Fund to End Violence against Women has documented evidence that the women and girls, vulnerable to HIV and violence who are beneficiaries of this project, often experience the highest incidents of domestic violence as well as violence from the hands of intimate partners. The women further discussed that VAW increases vulnerability to HIV and limits safer sex practices and decision-making for persons who are living with and, who are affected by HIV.

## Effects of GBV on Women and Girls Living with HIV

For HIV positive women in Jamaica, the experience of and the threat of violence including family and intimate partner violence<sup>3</sup> are legitimate concerns.

Women and girls engaged in focus group discussions and legal literacy workshops conducted during 2015, by JASL and its collaborating partners, disclosed that they were physically and emotionally abused by family members who know or suspect that they are HIV positive. This was especially so for the women who were dependent on family members for financial support and accommodation. Some of the women also experience internal stigma and said that they often feel deserving of the violence meted to them as they had brought shame to the family. Many interviewees explained that the threat and fear of violence discourage them from disclosing their HIV status to current and former sexual partners, family members and persons within the community.<sup>4</sup> Others stated that their intimate partners who know their status forced them to engage in unprotected sex as means of humiliating them as they know the women feared re-infection as well as passing the virus on to the partners.

They are also very reluctant to negotiate condom use for fear of being accused of infidelity which can also result in violent behaviour from their partners. Gender norms and inequalities also influence HIV-related stigma and discrimination. Emotional, psychological, economic, verbal and other types of violence prevent Women and Girls Living with HIV living from healthy lives, prevents them from practising safer sex, discourages access to healthcare and other services (Legal, security, etc) and contributes to the spread of HIV and other STIs.

<sup>3</sup>Human Rights Issues Confronted by HIV Positive Women in Jamaica- p27 : Retrieved on February 12, 2016 at <http://www.jasforlife.org/html/wp-content/uploads/2012/01/REPORT-HUMAN-RIGHTS-ISSUES-CONFRONTED-BY-HIV-POSITIVE-WOMEN-IN-JA.pdf>

<sup>4</sup>The Commission on Human Rights Resolution 2004/46 of 20 April 2004

## **The law as it relates to LB women and Transgender persons and GBV among LB women and Transgender Persons**



GBV including intimate partner violence (IPV) takes place among Lesbians, Bisexual women and Transgender persons, however the lack of an effective redress system for persons in the LBT community makes it difficult to discuss and address violence. Under the Domestic Violence Act in Jamaica, a couple constitutes biological male and biological female, and as such the protection that would apply to a couple (as defined under Jamaican law) would not apply to same sex partners. Therefore, in cases of rape within a same sex relationship there is no effective redress system. Any form of IPV or other sexual violence can only take place between a man and a woman. This is also the case as it relates to any acts of violence or in the instances of property rights.

## Corrective Rape

Corrective rape occurs when persons are raped because of their perceived sexual orientation or gender identity. The common intended consequence of the corrective rape, as seen by the perpetrator, is to turn the person heterosexual or to enforce conformity with gender stereotypes. During the period January 2015 to May 2015 JASL received 207 reports of violence from members of the LBT community. This figure included 17 reports of rape. Violations, especially sexual violence involving “corrective rape” go unreported or in cases when an attempt is made to report such violations, the complainants are treated with contempt, discrimination and ridicule by the police and healthcare workers because of their sexual orientation.

For members of the LBT community, lack of access to healthcare and redress for violations experienced contributes to spread of HIV and other STIs.



## Effects of GBV on Persons Living with Disabilities

Women Living with disabilities have a 40 percent greater chance of intimate partner violence than women without disabilities.<sup>5</sup> Age is not a factor as it relates to violence against persons living with disabilities. They too experience physical, sexual and emotional abuse. Travelling on public transportation is also challenging as the seats reserved for Persons Living with disabilities (which are usually located at the front of the bus) are sometimes occupied by un-cooperative persons who refuse to surrender the seat even if persons identify themselves as living with a disability. This causes confusion with identifying where to disembark (especially for the visually impaired) and cause them to be exposed to danger.

What about women and girls who have physical disabilities who are often unable to access healthcare services due to the stairs/steps, no ramps for e.g. which discourages them from accessing healthcare services and increases their risk of HIV and other STIs?

### Women and Girls who are Blind

Women and girls who are blind face many challenges especially when they experience violence. They are unable to visually recognize their assailants even though they can use other sensory means to make a distinction. Visual identification parades are currently the only method of identification for perpetrators and this excludes persons who are blind from participating in the identification system where the perpetrator is not easily identified.

Women and girls who are blind have reported been treated discriminately and unfairly when attend the police station to attempt reporting acts of violence against them. Women and girls who are blind have reported been treated discriminately and unfairly when attend the police station to attempt reporting acts of violence against them. They report being turned away because they are unable to visually describe the perpetrator.

<sup>5</sup> <http://www.apa.org/topics/violence/women-disabilities.aspx>

## Women and Girls who are Deaf

Women and girls who are deaf face many challenges when they experience violence. They are unable to call out for help. When they are in need of emergency assistance they are unable to make contact with Emergency Services as they have to be able to speak with the operator to describe their circumstances. Many do not know Sign Language and some depend on lip reading. Sign Language Interpreters are not usually provided in police stations and healthcare facilities so many do not bother to report violence experienced. Where they experience IPV, they remain in the situation without seeking help.

They report being turned away from the police stations because they take their children, who can speak, understand Sign Language and are able to sign, along with them. The children are not accepted by the police as competent to provide the service of Sign Language Interpreter and Interpreters are not provided in neither police stations nor other entities where services are provided for public access.

Many deaf persons in Jamaica do not speak or understand Standard English and therefore have limited access to sexual and reproductive-health (SRH) and VAW information and, information regarding social services and services specifically related to VAW and HIV.



## Women Living with other Forms of Disabilities

Women with disabilities may experience IPV as well as other unique forms of abuse that are difficult to recognize — making it even harder to get the kind of help they need. Such abuse may include:

- ⦿ Removing or destroying a person's mobility devices (e.g., wheelchairs, scooters, walkers).
- ⦿ Denying access to and/or withholding prescribed medication.
- ⦿ Inappropriately touching while assisting with personal hygiene including bathing and/or dressing.
- ⦿ Denying access to disability-related resources in the community and/or to health care appointments.
- ⦿ Persons with disabilities, especially intellectual disabilities are susceptible to abuse within and outside the family.
- ⦿ Persons living with disabilities and HIV are often abused within the family because of their disability and HIV status.





# CONCLUDING POSITIONS

Women Living with HIV, Lesbians, Bisexual Women and Transgender Persons, and Women and Girls Living with Disabilities, therefore have agreed on and have decided to take the following positions. They agree that these actions must be acted upon by duty bearers in order to decrease vulnerabilities to violence and STIs including HIV and encourage reporting violations, and accessing healthcare and other services for all violations experienced:

## General Position on GBV

- Follow up on research conducted by National Family Planning Board containing data on the magnitude of GBV including IPV in Jamaica especially as it affects Women Living with HIV, Lesbians, Bisexual Women and Transgender Persons, and Women and Girls Living with Disabilities. Produce, continue the dissemination of reports to all service providers and the public so that programmes for action can be developed to end all types of violence against all women and girls. The sensitization includes some provision for training and development of safety strategies for persons living with disabilities who are affected by GBV;

- ⦿ Develop public education programmes to discuss and dispel myths about GBV including IPV experienced within vulnerable populations discussed here, in order to alter the negative perception of the general public that these populations do not have the same rights as all other citizens. This should include developing IEC materials specific to the needs of these populations;
- ⦿ Conduct advocacy at the policy level to ensure that to all service providers and the public are sensitised to the contents of the report to be included in programmes for action to end all types of violence against all women and girls. This should include some provision for training and development of safety strategies for persons living with disabilities who are affected by GBV
- ⦿ Provide training and sensitization to duty bearers on the populations affected by GBV and how to deal with those cases including LBT persons and SWs who may not be considered eligible by duty bearers for redress under the law;
- ⦿ Provide training for the development of safety strategies for persons affected by GBV;
- ⦿ Develop public education programmes to discuss and dispel myths about GBV in the targeted populations;
- ⦿ Advocate for the legal change in the definition of rape in the Sexual Offences Act to better support reporting and redress for persons affected by GBV including LBT women;
- ⦿ Ensure continuous education and sensitisation of duty bearers including the police and healthcare workers about effectively and sensitively providing services for all citizens including persons from the vulnerable groups mentioned in this document;
- ⦿ An anti-discrimination law needs to be established or an existing law be modified to include anti-discrimination to allow for, penalizing or sanctioning violators/offenders and to allow the offended to seek redress for discrimination experienced.

## Position of LB women and Transgender Persons

- In order to appropriately recognize, report and seek redress for GBV, redefine “sex” and “rape” as defined under Jamaican laws to allow for recognition, reporting and redress for everyone who experiences GBV including Lesbians, Bisexual women and Transgender persons. “Rape” needs to be redefined to include any forceful penetration of the vagina, anus or mouth by any body part or foreign object, drawing from the British Sexual Offences Act 2003. This redefinition of rape would also address the issues of corrective rape that affect lesbian women;
- Redefinition of the prescribed person in the Domestic Violence Act and the Property Rights of the Spouses Acts to include same sex and transgender persons. This redefinition would allow the state to recognize same sex relations and allow same sex persons to report acts of violence against them including intimate partner violence.

## Position of Women and Girls Living with HIV

- Provide sensitization and training for health care workers and police on the importance of identifying and treating WGLHIV and to protect them in their homes and communities;
- Arrange health care system in such a way that persons accessing the services do not feel discriminated against and are confident to report incidences of GBV in health care and justice settings;
- Impose sanctions on health care workers within health care facilities regarding the importance of maintaining confidentiality within the health sector to further support and encourage reporting incidences of GBV/VAW;

## Position of Women and Girls Living with Disabilities

- ⦿ Consideration ought to be given to developing a system similar to “Hazard App by Jamaica Red Cross” where persons living with disabilities are allowed to immediately communicate with/notify Emergency Services when needed.
- ⦿ Laws alone cannot alter perceptions steeped in “culture and social norms” so there needs to be elements of the school curriculum (at every level) that deals with educating students about people living with disabilities, including adding sign language to the primary, secondary and tertiary level curricula;
- ⦿ Effect structural changes at government run facilities to ensure that Sign Language Interpreters are provided (especially at hospitals and clinics) to effectively serve persons from the Deaf Community;
- ⦿ Ensure continuous education and sensitization of all service providers including public transportation operators about the challenges faced by persons living with disabilities. This will help to promote access to the amenities provided for their convenience and safety.
- ⦿ Enforce sanctions put in place when persons living with disabilities are treated unfairly at these establishments – there have been cases where blind people have been turned back from clinics and when deaf persons, even with their children as interpreters, have been turned back from the police station);
- ⦿ Enforce strict penalties for perpetrators of violence against all persons including applying legal penalties on service providers and others for breaching the rights of all persons with disabilities. The Disabilities policy will only be effective if it is tied in to the social security policy procedures;







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