



FACT SHEET

HIV and the Law: Key Populations in Jamaica



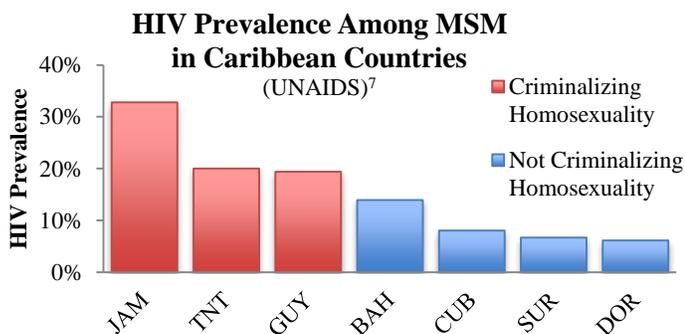
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Global Snapshot

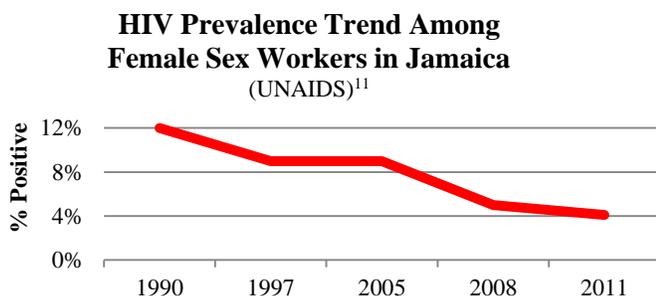
- In 2010, 106 countries reported having laws, regulations or policies that obstruct access to HIV services for populations at higher risk of HIV exposure.¹
- In every region of the world, HIV prevalence rates among men who have sex with men (MSM) are substantially higher than the general population.²
- Female sex workers are 13.5 times more likely to be living with HIV than other women.³ More than 100 countries criminalize some aspect of sex work.⁴

The Caribbean

- HIV prevalence among adults in the Caribbean is 1.0%, higher than all other regions outside of sub-Saharan Africa. 12,000 new infections occurred in 2012, an average of 33 new infections every day. 11,000 AIDS related deaths occurred in 2012 or 30 persons per day.⁵
- Among Caribbean MSM, 78% reported having heterosexual sex at some point in their lifetime and 41% reported being married.⁶



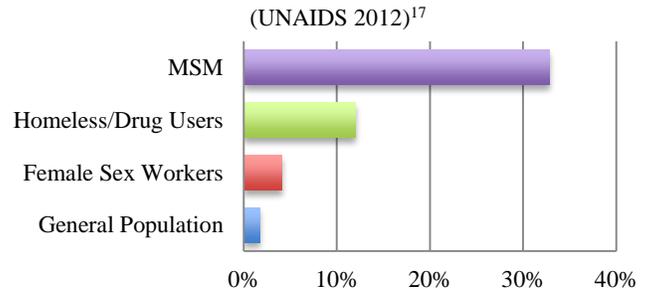
- 11 countries in the Caribbean criminalize same-sex relations. Penalties vary from imprisonment of 5 to 10 years and in some cases include the possibility of life imprisonment.⁸
- 13 countries in the Caribbean region criminalize some aspect of sex work.⁹ A review of Caribbean sex work laws identified a trend towards more severe penalties for sex work or involvement in the sex industry.¹⁰



HIV in Jamaica

- An estimated 28,000 people were living with HIV at the end of 2012.¹² Between 1982 and 2010, a total of 8,102 deaths have been attributed to AIDS.¹³
- Each year an additional 1,400 Jamaicans will become newly infected with HIV.¹⁴
- **MSM account for 30% of new infections** each year, **female partners of MSM account for 7%** of new infections and a further **7% occur among sex workers and their male clients**.¹⁵
- **HIV prevention programs reached 80% of female sex workers in 2011**, an improvement since 2005 when only 60% were reached.¹⁶

HIV Prevalence Among Key Populations in Jamaica



Recommendations for Action:

- Investigate and prosecute harassment and violence against MSM and transgender individuals, including the recent murder of Dwayne Jones, and other reported attacks on gay men.
- Guarantee the right to privacy for all individuals accessing public services, and provide training to ensure confidentiality in health settings.
- Prohibit discrimination based on sexual orientation and gender identity.
- Investigate and prosecute instances of harassment and violence against sex workers.
- Strengthen community collaborations to identify and address the health needs of transgender individuals.
- Facilitate discussion on homophobia and violence as structural factors driving HIV infection rates.
- Decriminalize or repeal sodomy/"buggery" laws.
- Continue to strengthen outreach programs to sex workers, and decriminalize sex work to reduce instances of violence and police abuse.

Additional recommendations from the Global Commission on HIV and the Law may be found at: <http://hivlawcommission.org/>

Enabling Legal and Policy Environment

Caribbean-wide

- In June 2010, PANCAP developed the CARICOM Model Anti-Discrimination Law, which provides for the elimination of discrimination on the grounds of HIV status, sexual orientation, gender, disability and status as an orphan. The model law was subsequently refined in March 2012.¹⁸
- In June 2012, the Organization of American States passed Resolution 2721 condemning violence, discrimination and human rights violations committed against individuals on the basis of their sexual orientation and gender identity and urging member states to adopt appropriate laws and policies to provide protection against such actions.¹⁹
- At the end of 2010 and again in July 2013, the Prime Minister of St. Kitts and Nevis urged fellow leaders to reconsider their stances on homophobic laws.²⁰
- In August 2012, Guyana established a special select committee to consider repeal of its existing laws on sodomy, cross-dressing and sex work.²¹

In Jamaica

- In April 2011, leaders of the Jamaican government and opposition signed a joint **Declaration of Commitment to eliminate stigma and discrimination and gender inequality** affecting the HIV response in Jamaica.²²
- Later this year, Parliament is expected to take a conscience vote on reviewing Jamaica's sodomy/"buggery" law.²³
- The Jamaican cabinet recently approved an amendment to the Public Health Order to clarify that HIV/AIDS is listed as a communicable disease for the sole purpose of surveillance reporting to the Ministry of Health.²⁴
- The Ministry of Health is currently revising clinical guidelines for management of HIV/AIDS.²⁵
- Parliament approved the National Workplace Policy on HIV/AIDS and regulations are in development.²⁶
- The National HIV-Related Discrimination Reporting and Redress System continues to document and seek redress in cases of alleged discrimination. A review of the system is currently underway.²⁷
- HIV testing, prevention and treatment programs are underway in correctional facilities.²⁸

Examples of laws and practices that hinder the HIV response:

- Inadequate investigation and prosecution of violence and harassment based on sexual orientation or gender identity.
- Police brutality, unwarranted arrest, and harassment by law enforcement based on sexual orientation or gender identity.
- Discrimination and stigmatization by health providers based on sexual orientation or gender identity, and a perceived lack of privacy and confidentiality.
- Laws and practices that directly or indirectly criminalize and discriminate against people living with HIV and other key populations.
- Employment laws or policies that prohibit people living with HIV from working in certain sectors.
- Criminalization of consensual sexual behavior between adults of the same sex.
- Criminalization of aspects of sex work.
- Anti-trafficking laws that result in the violation of human rights and/or arrest of key populations.
- Police brutality, arrest, and harassment by law enforcement of sex workers.
- Inadequate investigation and prosecution of violence and harassment directed at sex workers.
- Laws punishing cross-dressing.
- Lack of comprehensive prevention and treatment programs in correctional facilities.

Sources:

- ¹ Vulnerable subpopulations include sex workers, men who have sex with men, injecting drug users, transgender people, women and children.
- ² Beyrer C, Baral SD, van Griensven F, et al. Global epidemiology of HIV infection in men who have sex with men. *Lancet*. Jul 28 2012;380(9839):367-377.
- ³ UNAIDS. Women out loud: How women living with HIV will help the world end AIDS. 2012.
- ⁴ UNAIDS, et al. Making the Law Work for the HIV Response. July 2010. Data on sex work laws sourced from 2009 Country Reports on Human Rights Practices, US State Department.
- ⁵ Figures drawn from: UNAIDS. Report on the Global AIDS Epidemic. 2013.
- ⁶ Cáceres et al. Epidemiology of male same-sex behaviors and associated sexual health indicators in LMIC: 2003-2007 Indicators. *Sexually Transmitted Infections* 2008.
- ⁷ Note: Chart updated from UNAIDS Keeping Score II, 2008. Current MSM prevalence data was not available for each country. Instead, the most recent data submitted to UNAIDS was utilized, including: Jamaica 2010, Trinidad and Tobago 2006, Guyana 2009, Bahamas 2012, Cuba 2010, Suriname 2004, and the Dominican Republic 2012.
- ⁸ Itaborahy, LP, Zhu, J. State-Sponsored Homophobia A world survey of laws: Criminalisation, protection and recognition of same-sex love. ILGA. May 2013.
- ⁹ See *supra* note 4.
- ¹⁰ Robinson, T. "A Legal Analysis of sex work in the Anglophone Caribbean" 2007.
- ¹¹ UNAIDS. Country Progress Report: Jamaica. 18. March 30, 2012.
- ¹² UNAIDS. Report on the Global AIDS Epidemic. A10. 2013.
- ¹³ UNAIDS. Country Progress Report: Jamaica. 16. March 30, 2012.
- ¹⁴ UNAIDS. Report on the Global AIDS Epidemic. A22. 2013.
- ¹⁵⁻¹⁷ Figures drawn from: UNAIDS. Country Progress Report: Jamaica. March 30, 2012.
- ¹⁸ CARICOM. Press Release: PANCAP Model Anti-discrimination Legislation – Interface between Public Health and Human Rights. March, 21, 2012.
- ¹⁹ OAS. Human Rights, Sexual Orientation, and Gender Identity. AG/RES. 2721 (XLII-O/12).
- ²⁰ The Guardian. Fixing Laws key to real progress. July 5, 2013.
- ²¹ UNAIDS Caribbean. Guyana gears up to address discriminatory laws. August 13, 2012.
- ²² UNAIDS. Country Progress Report: Jamaica. 21. March 30, 2012.
- ²³ The Gleaner. Buggery Law Conscience Vote For Parliament Soon. June 6, 2013.
- ²⁴ UNDP. (Draft) Report Second Stakeholder Workshop: HIV and the Law Project. August 20, 2013.
- ²⁵ Jamaica Ministry of Health. (Draft) Clinical Management of HIV Disease: Guideline for Medical Practitioners. 2013.
- ²⁶⁻²⁷ UNDP. (Draft) Report Second Stakeholder Workshop HIV and the Law Project. August 20, 2013.

For additional information contact:

UNDP HO, Policy Specialist, Key Populations & Access to Justice, Vivek Divan +1 212 906 6573 vivek.divan@undp.org

UNDP, Latin America and Caribbean HIV Practice Leader, Maria Tallarico +50760097265 maria.tallarico@undp.org

UNDP Jamaica, HIV Programme Officer, Rachel Morrison, +876 978 2390 rachel.morrison@undp.org