



## FACT SHEET

# HIV and the Law in the Caribbean



### 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.<sup>2</sup>
- 48 countries, territories or entities impose some form of travel restriction on people living with HIV based on their HIV status.<sup>3</sup>

### Caribbean<sup>4</sup>

- The HIV prevalence among adults in the Caribbean is about 1.0%, which is higher than in all other regions outside of sub-Saharan Africa. 18,000 new infections took place in 2009 which averages to 50 new infections every day. There were 12,000 AIDS related deaths in 2009 or 33 persons per day.
- HIV rates vary throughout the Caribbean region. It is estimated that in 2009 there were 260,000 PLHIV in the wider Caribbean.
- The exceptionally low HIV rate in Cuba with 0.1% contrasts with a high HIV prevalence in the Bahamas with 3.1%, followed by Suriname with 2.4% and Haiti with 2.2%.<sup>5</sup>
- Increased access to anti-retroviral treatment has led to a decrease in mortality of 40% since 2001. However, coverage is estimated to be approximately 52% across the region.
- The Caribbean remains the only region, besides sub-Saharan African, where women and girls outnumber men and boys among people living with HIV.
- 13 countries in the Caribbean region criminalize some aspect of sex work. A review of Caribbean sex work laws identified a trend towards more severe penalties for sex work or involvement in the sex industry.<sup>7</sup>

### Enabling legal and policy environment

In recent years, a number of countries have taken steps to create enabling environments for people living with HIV and other key populations.

- Reports of programmes to address stigma and discrimination have doubled in four years: 92% in 2010 against 46% in 2006, indicating increased acknowledgement of the importance of working to eliminate stigma and discrimination.<sup>6</sup>
- In 2010, 71% of countries had laws prohibiting discrimination against people living with HIV, including 11 countries in the Caribbean region.
- Recent signs of progress in the Caribbean region include:
  - 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.
  - In June 2010, the Organization of American States passed Resolution 2600, declared support for human rights in respect to sexual orientation and gender identity.
  - At the end of 2010, the Prime Minister of St. Kitts and Nevis urged fellow leaders to reconsider their stances on homophobic laws.
  - A constitutional challenge has been brought in Belize to decriminalize consensual sexual relationships between MSM and lesbians. Indications are that the case will be heard by the Supreme Court in December 2011.
  - In September 2011, Guyana's parliament decided not to move forward with a bill that would inappropriately and counterproductively criminalize the transmission of HIV.

<sup>1</sup> UNAIDS report on the global AIDS epidemic 2010.

<sup>2</sup> Vulnerable subpopulations include sex workers, men who have sex with men, injecting drug users, transgender people, women and children.

<sup>3</sup> Note: Since the publication of the UNAIDS report on the global AIDS epidemic 2010, Ukraine lifted its HIV-related travel restrictions and two countries, India and Ecuador, clarified to UNAIDS that they have no such restrictions.

<sup>4</sup> Figures from this section were drawn from the UNAIDS report on the global AIDS epidemic 2010 and making the law work for the HIV response *A snapshot of selected laws that support or block universal access to HIV prevention, treatment, care and support*, based on data collected by: IPPF, GNP+, ILGA, IHRA, HRW, UNAIDS and United States Department of State, July 2010.

<sup>5</sup> Figures drawn from the UNAIDS report on the global AIDS epidemic 2010

<sup>6</sup> Figures drawn from the UNAIDS report on the global AIDS epidemic 2010

<sup>7</sup> Robinson, T (2007) "A Legal Analysis of sex work in the Anglophone Caribbean"

## Examples of laws and practices that hamper progress of HIV responses

- **Laws and practices that directly or indirectly criminalize and discriminate against people living with HIV and other key populations:**
  - Legal barriers that prohibit the possession of needles and syringes and prevent the setting up of harm reduction programmes
  - Employment laws that prohibit people living with HIV from working in certain sectors
  - Criminalization of same-sex behaviour and aspects of sex work
  - Travel restrictions imposed on people living with HIV
  - Criminalization of HIV transmission and exposure
  - Manipulation and misinterpretation of anti-trafficking laws that result in the violation of human rights and/or arrest of key populations.
- **Laws and practices that can lead to violence and discrimination to be experienced by women:**
  - Non-implementation of or weak laws to protect women from violence
  - Laws that deny women inheritance and property rights
  - Lack of legislation to address and outlaw marital rape
  - Practices such as coerced sterilization of women living with HIV
- **Laws and practices that impede HIV-related treatment access:**
  - Free trade agreements that impede future production of and access to low-cost generic antiretroviral medicines.
  - Disease control acts that mandate people living with HIV be put in isolation and/or imprisoned
  - Mandatory testing for HIV
- **Laws and practices that compromise the rights of children:**
  - Legal barriers that prevent children and young people from accessing prevention and treatment services without parental/guardian consent.

## Global Commission on HIV and the Law

- In June 2010, UNDP, on behalf of UNAIDS launched the Global Commission on HIV and the Law to analyze the most critical legal and human rights challenges of the HIV epidemic and recommend remedial policies.
- The Commission is made up of global leaders on HIV-related legal and human rights issues, including some of the best-known jurists, political leaders and policy makers from across the world.
- The Commission is mobilizing public dialogue in a range of countries across the globe to ensure that laws support, rather than block, effective AIDS responses. Findings and recommendations of the Commission will be announced in December 2011.
- Regional Dialogues have been held to inform the deliberations of the Commission and ensure that it benefits from the views expressed by civil society, including the experiences of key populations. The Dialogues brought together governments, civil society, communities and development partners from the region.
- The Regional Dialogue for the Caribbean took place in Port of Spain, Trinidad and Tobago in April 2011. Regional Dialogues also took place for Asia-Pacific in Bangkok, Thailand, for Eastern Europe and Central Asia, in Chisinau, Moldova, for Latin America in São Paulo, Brazil, for Africa in Pretoria, South Africa and for High Income Countries in Oakland (CA), United States.

### For more information relating to Punitive Laws, Human Rights and HIV responses in the Caribbean

PANCAP (2011) website – Enabling Environment – [http://www.pancap.org/index.php?option=com\\_content&view=article&id=258&Itemid=87](http://www.pancap.org/index.php?option=com_content&view=article&id=258&Itemid=87)

### For more information on the Global Commission on HIV and the Law

Commission (2011) website – [www.hivlawcommission.org](http://www.hivlawcommission.org)

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