



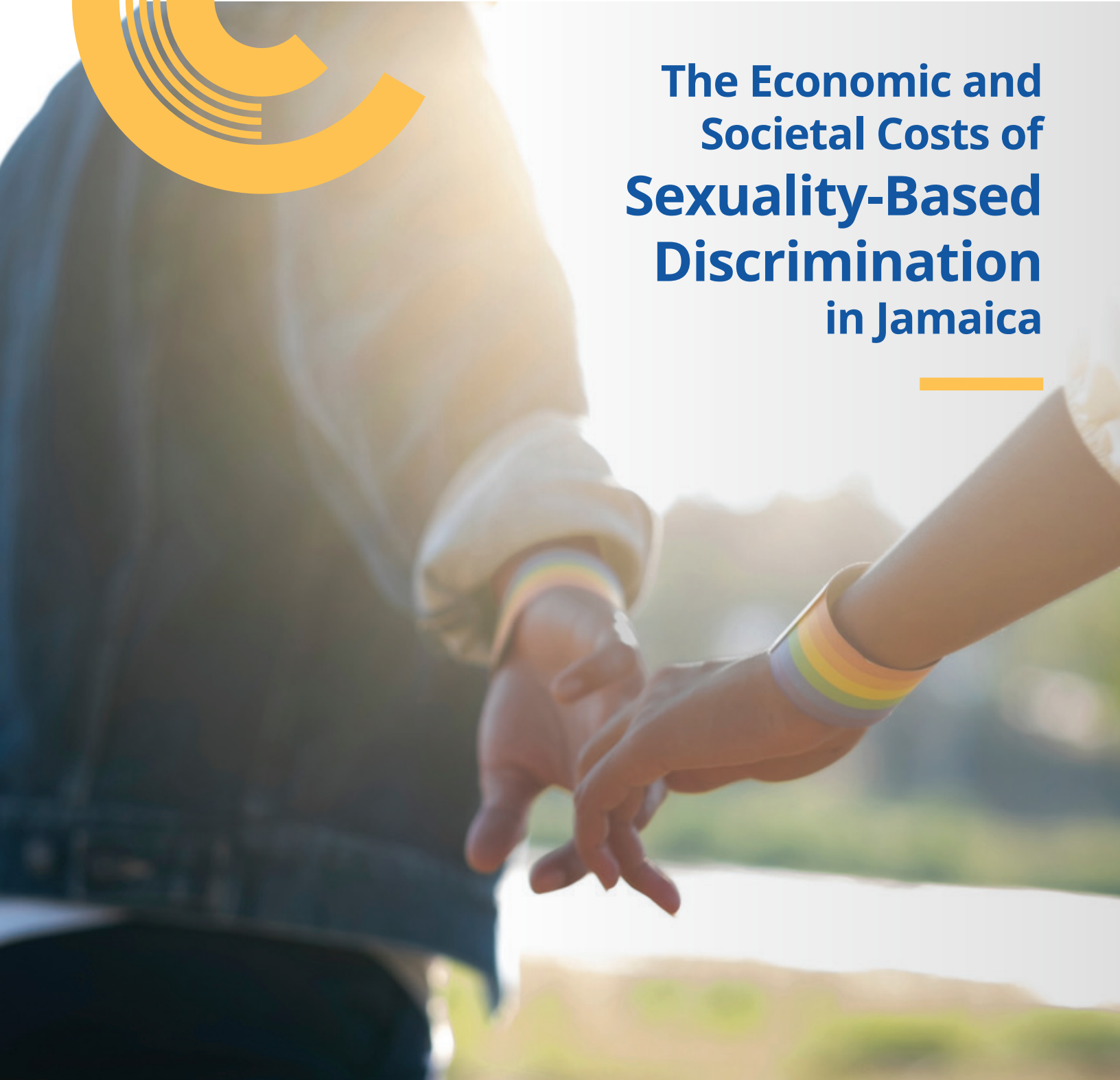
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October 2019 | R2001



 **CAPRI**

**The Economic and
Societal Costs of
Sexuality-Based
Discrimination
in Jamaica**



The Economic and Societal Costs of Sexuality-Based Discrimination in Jamaica

Caribbean Policy Research Institute (CAPRI)
Kingston, Jamaica

This study is co-funded by the European Union.

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Executive Summary

Due to a lack of reliable data, many negative aspects of discrimination cannot be captured quantitatively. Notwithstanding, based on our analysis:



Discrimination against LGBT people could be costing Jamaica

US\$79m annually



Total cost of treatment of HIV due to discrimination is an additional

US\$424 million

Any country which wants to maximize the productivity of its workforce, and to harness the full potential of its people towards economic growth and development, must proactively reduce or eliminate discrimination against groups of people who are excluded from full participation as a result of that discrimination.

In Jamaica, where discrimination against LGBT people is rife and amply documented, such discrimination results in a senseless waste of human potential, with negative implications for the country's economic growth prospects. This report examines the landscape of sexual orientation and gender identity discrimination in Jamaica, and how that discrimination can be directly and indirectly tied to negative economic and social outcomes and thwarted developmental prospects.

The report finds that sexual orientation and gender identity discrimination, together with the criminalization of male same-sex intercourse, and the absence of comprehensive anti-discrimination legislation, hinders Jamaica's economic growth and developmental prospects.

The discrimination is tied to poorer health, weaker academic performance, less participation in work life, and lower labour market productivity among Jamaican LGBT people. It exacerbates the effects of brain drain and loss of human capital. Moreover, it damages Jamaica's international reputation, and decreases the country's ability to attract the best talent, cultivate innovation and competitiveness, induce FDI inflows, increase tourist arrivals, and enlarge the size of the export market for Jamaica's most valuable export, its music. All of this accumulates into a considerable economic cost.

Due to a lack of reliable data, many negative aspects of discrimination cannot be captured quantitatively. Notwithstanding, based on our analysis, discrimination against LGBT people, only in terms of lost economic output and excess government expenditure due to exclusion in employment and health disparities, could be costing Jamaica US\$79 million annually. The total cost of treatment of HIV due to discrimination is an additional US\$424 million. This, however, is a conservative estimate. It does not account for the reduced labour market productivity

due to discrimination in the workplace, nor in the educational setting. Nor do these calculations capture the cost of lost potential human capital, or the various ways in which discrimination is indirectly tied to other negative economic and social outcomes that can be detrimental to the country's development. Therefore, the total cost of sexual orientation and gender identity discrimination for Jamaica would be substantially larger.

The prejudice against LGBT people is deeply embedded in Jamaican society through religious teachings and values, mixed with hyper-masculine gender norms, within which non-heteronormativity fits poorly. This constricted form of masculinity is embraced in popular dancehall music, along with homophobic lyrics. If widespread sexual orientation and gender identity discrimination continues to be overlooked by Jamaica's government and decision-making elites, regardless of the political party holding office, the country will continue to fail its obligations to all its citizens, and will continue to stymie its own prospects for economic growth and development.

The prejudice against LGBT people is deeply embedded in Jamaican society through religious teachings and values, mixed with hyper-masculine gender norms, within which non-heteronormativity fits poorly.

Recommendations



- 1 Repeal the sections 76, 77, and 79 of the Offences Against the Person Act, which criminalize consensual same-sex conduct.

This discriminatory law violates Universal Human Rights and is a symbol of state-sponsored discrimination against LGBT people in Jamaica, thereby justifying the violence they often experience.

The matter should not be put to a referendum, allowing the majority to vote on the rights of a minority. Instead, the case should be resolved through the legislative process in the Parliament.



- 2 Amend the gender-specific definitions of sexual intercourse and rape from the Sexual Offences Act 2009.



- 3 Enact comprehensive anti-discrimination legislation that prohibits all forms of discrimination, including discrimination on the basis of sexual orientation or gender identity.

The legislation should cover discrimination in the hands of state or non-state actors, in all areas of life governed by law, including, but not limited to, education, employment, housing, and provision of services.

- 4 Incorporate the comprehensive sexuality education recommended by the UN and WHO into the Jamaican school curriculum. Comprehensive sexuality education is an evidence-based approach to sexuality education, and has been shown to reduce unplanned pregnancies and STIs among adolescents, as well as to promote respect for gender equality and human rights. The education should be age-appropriate and cover areas of human development, which includes medically accurate information about sexual orientation and gender identity, and teach youth to respect those different from themselves. Further, the education should ensure that prevention messages related to contraceptives and STIs target those who are LGBT.

While the legislation prohibiting discrimination is important, the discrimination at the wider societal level can only be addressed if Jamaican citizens are provided with accurate information about sexual orientation, gender identity, and tolerance. Moreover, providing LGBT youth with accurate information about themselves would help them to accept themselves; which could also protect them from mental health problems. Considering the high HIV prevalence amongst MSM in Jamaica, it is crucial to provide all students with accurate information about prevention measures and STIs.





5 Jamaica's current School Security and Safety Policy Guidelines do not mention LGBT students in its list of typical victims of bullying. The school safety policy guidelines should be revised to specifically categorize students perceived as LGBT as typical victims of bullying.

School administrators are reported to have failed to address bullying against LGBT students. The school staff must be trained to ensure that they are aware of bullying based on sexual orientation or gender identity, and know how to step in and act when bullying occurs.

Specification of a particular category of students at risk of bullying is critical for effective policy. Although bullying against all students must be addressed, generic anti-bullying policies, without enumeration of certain categories, have proven not to be as effective in addressing bullying based on sexual orientation or gender identity. Such identification would give teachers and other educators tools to recognize and address bullying based on sexual orientation or gender identity.



6 Introduce into the training curriculum of school counsellors, healthcare workers, and police officers a syllabus for dealing with matters involving LGBT people.



7 The Private Sector Organization of Jamaica and other key private sector bodies and networks should encourage their member companies to adopt explicit diversity policies that specifically include sexual orientation and gender identity. These policies should include diversity training that teaches individuals to work efficiently with people different from themselves, and ensures that everyone in the organization knows that any form of discrimination or harassment is not tolerated.



Glossary

Bisexual

A person whose enduring physical, romantic, and/ or emotional attractions to both males and females.

Gay

A person whose enduring physical, romantic, and/ or emotional attractions are to people of the same sex. Usually refers to males.

Gender Expression

External appearance of gender identity, expressed through a person's name, pronouns, clothing, haircut, behavior, voice, and/or body characteristics.

Gender Identity

A person's internal, deeply held sense of their gender. One's gender identity does not necessarily match the sex they were assigned at birth. Although most people have a gender identity of man or woman, for some people, their gender identity does not fit into one of those two choices (gender non-binary, gender fluid). Unlike gender expression, gender identity is not visible to others.

Heteronormative

A viewpoint that heterosexuality is the normal, preferred and default expression of sexuality. Non-heteronormative refers to individuals who do not adhere to these expectations.

Homophobia

The fear, hatred, discomfort with, or mistrust of people who are lesbian, gay, or bisexual. Homophobia can take many different forms, including negative attitudes and beliefs about, aversion to, or prejudice against bisexual, lesbian, and gay people.

Lesbian

A woman whose enduring physical, romantic, and/or emotional attraction is to other women. Some lesbians may prefer to identify as gay or as gay women.

**LGBT**

Acronym for lesbian, gay, bisexual and transgender. Although these terms may not fully capture the range of sexual orientation and gender identities that exist across the population, the acronym LGBT is used as an umbrella term in this report.

MSM

Men who have sex with men. Men who engage in sexual activity with other men, and may not identify with, or may not be, gay or bisexual.

Out

A person whose self-identification as LGBT is openly known.

(To be) Outed

To have one's sexual orientation or gender identity revealed privately or publicly without that person's consent.

Sexual Orientation

An inherent or immutable enduring physical, romantic and/ or emotional attraction to members of the same and/ or opposite sex.

Transgender

An umbrella term for person whose gender identity and/or gender expression differs from his/her biological sex. Transgender woman refers to a person whose biological sex is a male but gender identity is a woman. Transgender man refers to person whose biological sex is a female but gender identity is a man. Being transgender does not necessarily imply any specific sexual orientation.

Transphobia

Fear, hatred, discomfort with, or mistrust of people who are transgender, genderqueer, or do not follow traditional gender norms.

WSW

Women who have sex with women. Women who engage in sexual activity with other men, and may not identify with, or may not be gay or bisexual.



1. Introduction



HIV disparity, depression, and suicide, 3 health issues that are particularly high among the LGBT population, cost India between

US\$712
MILLION

and

US\$23.1
BILLION

in 2012

Any country that wants to maximize the productivity of its workforce, and harness the full potential of its people towards economic growth and development, must proactively reduce or eliminate discrimination against groups of people who are excluded from full participation as a result of that discrimination.

A 2015 World Bank pilot study found that discrimination against lesbians, gays, bisexuals and transgender (LGBT) people in India could be costing that country's economy up to 1.2 percent of its economic output.¹

In Jamaica, where discrimination against LGBT people is rife and amply documented, the case can be made that such discrimination is resulting in a senseless waste of human potential, with negative implications for prospects for economic growth. Homophobia, biphobia, and transphobia in Jamaica

Homophobia, biphobia, and transphobia in Jamaica can lead to loss of employment, discrimination in the workplace or education, poor health outcomes, and poverty.

can lead to loss of employment, discrimination in the workplace or education, poor health outcomes, and poverty. Every transgender youth who is thrown out of their home, bullied at school, and driven to society's margins, is a loss for society; every gay or lesbian worker who flees the island because of fear for their lives or because they want the freedom to be themselves without reprobation, is a lost opportunity to build a more productive economy. Stigma against LGBT people also results in higher public health costs. The World

Bank study on India found that HIV disparity, depression, and suicide, three health issues that are particularly high among the LGBT population, cost India between US\$712 million and US\$23.1 billion in 2012.²

A 2016 study of the developmental cost of homophobia in Jamaica found that discrimination against LGBT people hampers Jamaica's human development, as measured by the Human Development Index (HDI).³⁴ In the absence of comprehensive anti-discrimination

1 M.V. Lee Badgett, "The economic cost of stigma and the exclusion of LGBT people: a case study of India," World Bank, 2014, <http://documents.worldbank.org/curated/en/527261468035379692/The-economic-cost-of-stigma-and-the-exclusion-of-LGBT-people-a-case-study-of-India>.

2 Ibid.

3 The United Nations Development Programme defines human development as "the process of enlarging people's choices. The most critical ones are to lead a long and healthy life, to be educated, and to enjoy a decent standard of living. Additional choices include political freedom, other guaranteed human rights, and various ingredients of self-respect." Human Development Report 1997, UNDP, <http://hdr.undp.org/en/content/human-development-report-1997>.

4 Waller et al (2016).

The prejudice against LGBT people is deeply embedded in Jamaican society through religious teachings and values, mixed with hyper-masculine gender norms, within which non-heteronormativity fits poorly.


legislation, and without any legislation at all that specifically prohibits discrimination due to gender identity or sexual orientation, discrimination against LGBT people in Jamaica is also detrimental to the country's human capital development, labour market productivity, exports of services (particularly music and tourism,) and a progressive societal context that respects each person's fundamental human rights.

This report examines the landscape of sexual orientation and gender identity discrimination against LGBT people in

Jamaica, with a specific focus on the way in which that discrimination can be directly and indirectly tied to negative economic and social outcomes and thwarted developmental prospects.

The first section of the report covers the relevant background information: how the exclusion of LGBT people can affect economic development, the scope of discrimination against LGBT people in Jamaica, and an estimate of the size of Jamaica's LGBT population. The second section examines the ways in which discrimination can have direct economic

and social outcomes. The third section explores how the discrimination can indirectly affect the economic development of the country. The final section concludes and gives recommendations for policy measures towards the dismantling of institutional LGBT discrimination, and the modification of attitudes that contribute to LGBT discrimination, with the objective of enabling LGBT persons to have full and equal access to educational and work opportunities, and reducing LGBT stigma, with a view to enhancing Jamaica's developmental prospects.

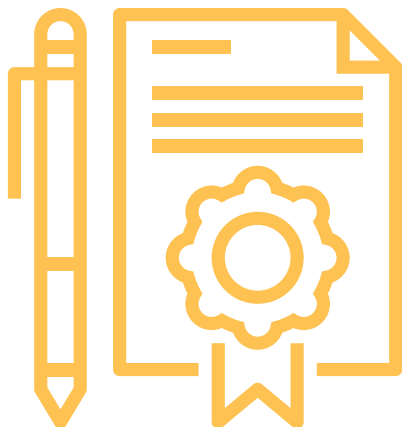


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2. LGBT Discrimination and the Jamaican Economy



A prominent study of 39 emerging economies found that adding

ONE ADDITIONAL RIGHT

in the Global Index on Legal Recognition of Homosexual Orientation is associated with

US\$1,400

more per capita GDP, and with higher Human Development Index value.

Several economists suggest that there is a clear positive correlation between LGBT inclusion and economic development. A prominent study of 39 emerging economies found that adding one additional right in the Global Index on Legal Recognition of Homosexual Orientation (GILRHO) is associated with US\$1,400 more per capita GDP, and with higher Human Development Index (HDI) value.⁵

The study also found that anti-discrimination laws covering sexual orientation have especially strong positive correlations with GDP per capita, which, they posit, may be connected to the treatment of LGBT people in the workplace, and other settings that have direct economic relevance.⁶ A follow-up study in 2017, using the same index for a larger sample of 132 countries, found that each additional right was associated with an increased GDP per capita of \$2,065.⁷ (The larger effect found in the second study likely reflects the presence of high-income countries.)

⁵ Badgett et al (2014).

⁶ Badgett et al (2014).

⁷ Badgett, Parks and Flores (2018).



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2.1 Correlation between Economic Development and LGBT Inclusion

A large population of openly LGBT people is considered a sign of an open and tolerant society, which acts as a pull factor for the innovative-creative class.⁸ One study by economists found that the leading indicator of a metropolitan area's high-technology success was a large LGBT population,⁹ implying that there is a positive correlation of high-technology success and the LGBT population in U.S. metropolitan areas. A US-focused study found that, U.S. state-level Employment Non-Discrimination Acts (ENDAs)—laws that prohibit discrimination based on sexual orientation and gender identity—spur innovation. The study found a significant increase in firm's patents and patent citations in the states that had passed the law in comparison to those states that did not pass such laws. The suggestion is that ENDAs stimulate innovation by matching pro-LGBT employees, who are presumed to be more creative than anti-LGBT individuals, with innovative firms in states that have adopted ENDAs, since the firms can no longer pursue discriminatory policies towards LGBT people.¹⁰

A positive correlation between tolerance towards LGBT people and a country's level of foreign direct investment (FDI) has also been posited. In a study looking at the determinants of FDI across a sample of high, middle, and low-income countries between the years 1997–2002, the countries that scored higher on

the PEW Global Attitudes Survey in acceptance of sexual orientation had higher levels of FDI.¹¹

There are two general hypotheses regarding the positive correlation between LGBT inclusion and economic development. The first is that LGBT inclusion contributes to a country's economic growth, while the negative effects of LGBT discrimination repress economic development. There is another school of thought that posits that as countries get richer, the citizens and policy-makers pay more attention to human rights, including rights for LGBT people. The relationship between LGBT tolerance and economic development is likely to work both ways, as we shall see in the examination of the causal relationship between LGBT inclusion and development.

The Causal Relationship between LGBT Discrimination and Economic Growth

HUMAN CAPITAL

The *human capital approach* accounts for LGBT inclusion leading to economic development based on the premise that in order for a country to develop it has to invest in its people, that is, in human capital.¹² Investment in human capital leads to greater economic potential,

which in turn leads to economic growth. The foremost exponent of this approach is Nobel-prize-winning economist, Gary Becker whose ground-breaking theory of discrimination demonstrated that any discrimination in the marketplace reduces the income of those who discriminate, as well as that of the victims of the discrimination.¹³ The human capital approach has, for instance, empirically shown that inequality in women's education is associated with lower economic growth.¹⁴ Although women constitute larger numbers of the population than LGBT people, results can be expected to be similar, albeit on a smaller scale. The inclusion of LGBT people expands the country's stock of human capital by increasing their (LGBT people's) opportunities to add their human capital to the economy through greater access to education and training, and through improved health outcomes. Increased human capital will in turn contribute to economic development. On the contrary, LGBT discrimination, for example in schools, might lead them to drop out, and hence have less human capital to contribute to the economy.¹⁵

CREATIVE CLASS

The *creative class theory* acknowledges the importance of human capital to development but argues that education levels, which is the conventional measurement of human capital, are not

8 Florida and Gates (2001).

9 Florida and Gates (2001). The assumption here is that this LGBT population is open about their orientation, and free to express their sexuality as would heterosexuals in a heteronormative context.

10 Gao and Zhang (2016).

11 Noland (2004). See also Noland and Pack (2004): If Jordan's attitudes toward homosexuality mimicked those in most tolerant from Latin America, Eastern Europe, sub-Saharan Africa, South and West Asia and East Asia, one would expect FDI in Jordan to double. cf. Berggren and Elinder (2012). Another study found no statistical pattern that associated low tolerance for gay people with weaker economic growth, but that on average, as tolerance increases, countries get richer. Bomhoff and Lee (2012).

12 The term human capital refers to the set of skills, knowledge, ability, and health of population that contributes to economic productivity.

13 Becker (1971).

14 Berik et al (2009); Badgett et al (2014).

15 Badgett et al (2014).

The inclusion of LGBT people expands the country's stock of human capital by increasing their opportunities to add their human capital to the economy through greater access to education and training, and through improved health outcomes.



sufficient to explain development, as it does not tell if educated people are actually contributing to the economy. Instead, the key to understanding economic growth is the extent to which it has a creative class, and the presence of openly LGBT people sends a welcoming signal to skilled and creative workers who are key to economic growth: “diverse, inclusive communities that welcome LGBT people, immigrants, artists, and free-thinking bohemians are ideal for nurturing creativity and innovation.”¹⁶ Hence, in the creative class approach, the inclusion of LGBT people has a positive but indirect effect on economic development.

Along the lines of the creative class theory is *strategic modernization*. As a country develops, it might adopt policies promoting greater equality for LGBT

citizens, in an attempt to demonstrate modernization and openness, together with other development efforts to enhance the country's attractiveness to global LGBT and non-LGBT foreign investors, tourists, and other trading partners. This approach considers that anti-discrimination legislation sends a signal to creative and skilled workers that the country is a good place to do business.

Another notable theoretical perspective to explain the connection is the shift towards *post-materialist values*. This approach was first articulated in 1971, and posited that intergenerational value change was taking place. The corollary shift in values was linked to changing existential conditions, meaning, “the change from growing up with a feeling that survival is precarious, to growing up

with a feeling that survival can be taken for granted.”¹⁷ That the rising feeling of security in advanced industrial economies paved the way for liberal values and values of self-expression. On the other hand, low-income countries that have not experienced substantial economic growth, do not display intergenerational differences, and younger cohorts are about equally as likely as older cohorts to display traditional values.¹⁸ These findings suggest economic security, rather than generation in terms of age group, explains the shift towards post-materialistic values. Along those lines it could be assumed that economic development leads to post-materialist demand for human rights, which in turn leads to LGBT inclusion. Thus, according to the post-materialist values approach, it is not tolerance towards LGBT people that spurs economic development, but the other way around.¹⁹ This is supported by a study that found that, in Europe, economic development and the process of urbanization significantly increase social tolerance and acceptance of homosexuality.²⁰

Economic inequality is another consideration in understanding LGBT tolerance. According to one view, economic development and a rise in per capita GDP cannot on their own predict the level of tolerance, as tolerance tends to decline with a rise in income inequality.²¹ Further, according to the World Values Survey, working class attitudes were generally less tolerant, and did not seem to be affected by economic development, which implies that economic development influences attitudes of those who benefit the most.²² Economic inequality, it would seem,

16 Florida and Gates (2001).

17 Inglehart (2008).

18 Inglehart (2008).

19 Badgett et al (2014).

20 Stulhofer and Rimac (2008).

21 Anderson and Fetner (2008).

22 Anderson and Fetner (2008).

disturbs the development of generalized social trust and hence hinders tolerance. This idea is based on the premise that in the absence of generalized social trust, people only trust and have faith in like-minded people (particularized trust), and they more tend to join groups composed of people who they see as part of their moral community.²³

A fifth way to look at the connection between tolerance and development is the *capabilities approach*, a normative framework for the evaluation of an individual's well-being and social arrangements, that goes beyond

traditional measures such as income level. The framework focuses on people's capabilities, that is, their real opportunities to effectively be able to *be and do*. It conceptualizes development as the freedom of a person to achieve the kind of life they have reason to value. Development thus requires that individuals have the freedom to achieve and the capabilities to function, in the context of the removal of major sources of "unfreedom," such as poverty, tyranny, social deprivation, and intolerance.²⁴ This approach can thus be seen as a broader and deeper alternative to development metrics such as per capita GDP growth.

The UNDP's Human Development Index (HDI) measures a country's development with an index of variables such as life expectancy, education, and per capita income, in many ways embodying the capabilities approach and the emphasis on whether people can actually *be and do* desirable things in life.²⁵ The index has evolved to emphasize the limiting power of inequality in development. According to this approach, the inclusion of LGBT people leads to their achievement of capabilities, which in turn leads to development, which can also lead to economic growth; but economic growth is not the sole indicator of development.

²³ Ulsaner (2002).

²⁴ Sen (1999).

²⁵ Stanton (2007).

LGBT people are almost
2x
AS LIKELY
to be victims of crime
than the general population, and
5x
MORE LIKELY
to be victims of
violent crimes

When asked about lifetime experiences, LGBT persons were

20x
MORE LIKELY
to have been
victims of
sexual assault



2.2 Sexuality and Gender Identity-based Discrimination in Jamaica

Discrimination against people because of their sexuality is widely documented in Jamaica. Several studies have shown that LGBT people face discrimination from schools, their own families, their communities, and even by the government. LGBT Jamaicans are thought to suffer disproportionately from unemployment, homelessness, abuse, physical and mental violence, and are more prone than the general population to health problems like HIV and severe depression.²⁶ A 2013 Jamaica LGBT crime victimization survey indicated that LGBT people are almost twice as likely to be victims of crime than the general population, and five times more likely to be victims of violent crimes, compared to the general population. When asked about lifetime experiences, LGBT persons were 20 times more likely to have been victims of sexual assault, than the general population.²⁷

Between 2011 and June 2018 J-FLAG (formerly Jamaica Forum for Lesbians, All-Sexuals and Gays), a human rights organisation based in Kingston, reported 287 incidents of human rights violations based on a person's LGBT status.²⁸ However, these numbers are likely to underestimate the violence perpetrated against LGBT individuals, as it is thought that most of the incidents remain unreported. Studies have shown

that victims often do not report the incidents for fear of further victimization, retaliation, embarrassment, or inaction and even abuse by police.²⁹ The data from the LGBT crime victimization survey indicates that only one third of all criminal victimization incidents were reported to the police. Over 90 percent of sexual assaults remained unreported as well as most of the extortion cases.³⁰



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LGBT status

To date, the Jamaican government has not taken an active stand against discrimination based on sexual orientation. Jamaica does not have any specific legislation prohibiting discrimination due to sexual orientation or gender identity, nor does it have any

comprehensive anti-discrimination legislation. The strict “anti-buggery” law, inherited from colonial times, remains untouched, and neither of the two major political parties has signalled the political will to change it.³¹ Section 79 makes any act of “gross indecency” (generally interpreted as any kind of physical intimacy) between men, in public or private, punishable by two years in prison, with or without hard labour,³² and section 80 permits that any police constable can take into custody, without a warrant, any person found “loitering” during the night whom the constable has “good cause to suspect to of having committed, or being about to commit any felony.”³³ The Sexual Offences Act (2009) requires men convicted of the “abominable crime of buggery” to register as sex offenders.³⁴ The Act also defines sexual intercourse “penetration of the vagina of one person by the penis of another person,” and rape as a man having non-consensual sexual intercourse with a woman, with the maximum penalty of life imprisonment, and minimum penalty of 15 years. The Act thus does not recognize male-on-male rape, which means that, according to Jamaican law, both consensual and non-consensual same-sex male intercourse face the same penalty of ten years in prison, which is significantly less than that of rape.

26 Human Rights Watch (2014 and 2004); White et al (2010); Logie et al (2016a); Allyn (2012).

27 Wortley and Seepersad (2013).

28 J-FLAG received 261 reports between 2011 and 2017. “Report on Human Rights Violations Against LGBT Jamaicans (2011-2017),” J-FLAG, 2017, <http://jflag.org/wp-content/uploads/2018/06/Human-Rights-Violations-2.pdf>. For the period January to June 2018 J-FLAG received 26 reports of human rights violations. “Annual Country Status Update,” J-Flag, 2018, <http://jflag.org/wp-content/uploads/2018/09/Annual-Country-Status-Update.pdf>.

29 Waller et al (2016); Human Rights Watch (2004); Human Rights Watch (2014); J-FLAG Annual Country Status Update 2018, <http://jflag.org/wp-content/uploads/2018/09/Annual-Country-Status-Update.pdf>.

30 Wortley and Seepersad (2013).

31 Section 76 of the Offences against the Person Act (1864), also referred to as the “buggery law,” states that the crime of buggery – which includes anal sex between consensual adult males in public or private – is punishable by ten years of prison with hard labour. https://moj.gov.jm/sites/default/files/laws/Offences%20Against%20the%20Person%20Act_0.pdf.

32 The Offences against the Person Act (1864), Section 79.

33 The Offences against the Person Act (1864), Section 80.

34 Sexual Offences Act. Parts I-VI and VIII in operation June 2011, Part VII in operation October 2011, <http://moj.gov.jm/sites/default/files/laws/Sexual%20Offences%20Act.pdf>.

Although cases are rarely prosecuted, the legislation makes LGBT people in Jamaica extremely vulnerable to discrimination, abuse, violence, and extortion. The law provides a legal framework to discriminate against LGBT people, and in the context of widespread homophobia, it also offers an official sanction for prejudice and abuse. Several studies have documented cases where neighbours and other community members have blackmailed individuals whom they have suspected to be LGBT, or in some instances even forced them to leave the community, often with a threat of (further) violence.³⁵ Also, the violence by family members and neighbours often forces Jamaican LGBT youth to flee their homes;³⁶ LGBT youth, according to one study, comprise nearly 40 percent of the homeless youth in Jamaica.³⁷ The fear of the consequences of the potential arrest under buggery laws, or further victimization, prevents the victims of violence, abuse, or blackmail from even trying to seek the protection of the state.³⁸

Ostensibly as a response to the reports claiming police failure to investigate crimes committed against LGBT individuals, and following a meeting with and recommendations from LGBT-rights advocates, the Jamaican Constabulary Force (JCF) published the “Policy on Diversity” in its Force Orders in 2011.³⁹ The policy speaks to “diverse communities,” which includes LGBT people. The stated purpose of the policy was to provide overall direction to members of the JCF for how to engage citizens from these communities, to

35 Human Rights Watch (2004); Human Rights Watch (2014).

36 Human Rights Watch (2014).

37 Logie et al (2016); Human Rights Watch (2014); Rezvany (2016).

38 Human Rights Watch (2004); J-FLAG (2016).

39 Force Orders are a means of general communication within the Jamaica Constabulary Force.

40 JFC Policy on Diversity, <http://library.jcsc.edu.jm/xmlui/bitstream/handle/1/116/Force%252520Orders%2525203351A%252520dated%2525202011-08-25.pdf?sequence=1>.

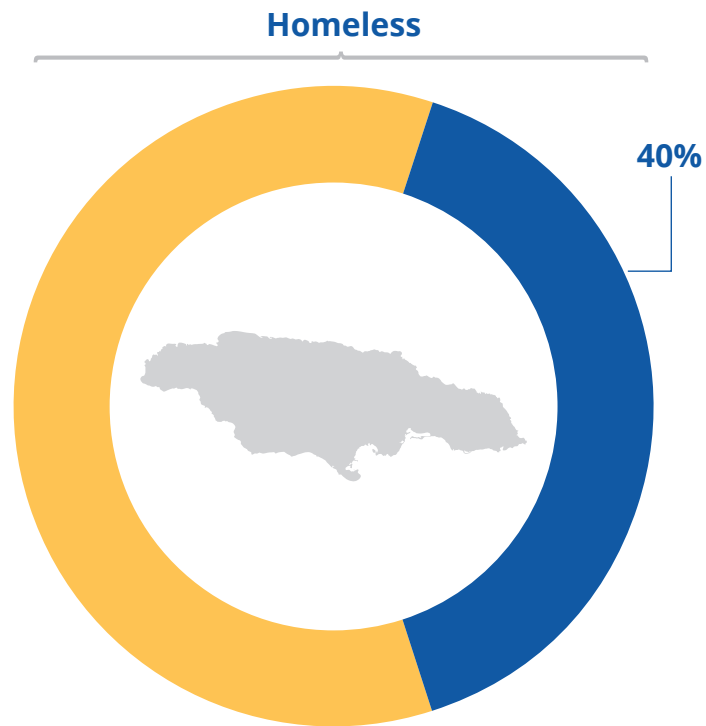
41 Human Rights Watch (2014).

42 Human Rights Watch (2014).

43 Human Rights Watch (2004); Human Rights Watch (2014); J-FLAG (2016).

44 Logie et al (2016).

45 Logie et al (2016).



LGBT youth comprise nearly 40% of the homeless youth in Jamaica

ensure consideration is given to some of the challenges people might have reporting certain issues,⁴⁰ but, according to Human Rights Watch, the policy and practice are often at opposite ends of the spectrum.⁴¹ Although the persons who are arrested are rarely prosecuted, the arrest itself puts the arrested gay men at risk of being “outed” (their gay sexual orientation being made known,) which can cause them to face violence and other abuse by their community members, or even their family. The fear of being “outed” makes LGBT people vulnerable to extortion, and Human Rights Watch has documented several occasions when police have used the law to extort money

from men accused of being gay.⁴² There have also been instances where the police have themselves perpetrated violence by threatening and beating individuals they suspected to be LGBT.⁴³

Transgender women are especially vulnerable to discrimination and violence. They are often thrown out of their homes and forced to live on the streets;⁴⁴ in Kingston & St. Andrew several dozen live and work on the streets across the capital city, including in the city’s gullies (storm drains) from time to time. Finding and keeping a job are virtually impossible for some transgender women in Jamaica, and as a result sex work is often their only viable employment option.⁴⁵

Although there is no legislation against lesbian and bisexual women, they also face many of the same risks. Whereas gay and bisexual men and transgender women are often the target of violence, such as beatings, mob attacks, and even killings, lesbian and bisexual women face an especially high risk of sexual violence. Human rights organizations have reported several cases where lesbian and bisexual women have been raped in the belief that intercourse with a man will “cure” her of her sexual orientation. This

is commonly called “corrective rape.”⁴⁶

The Jamaican public gives little support for any anti-discrimination efforts. According to J-FLAG’s latest (2019) National Survey on Homophobia, two-thirds of the general public do not support the repeal of the buggery law, or the amendment of the Charter of Rights to encourage equal rights for LGBT people. Moreover, the majority of the general public (59 percent) would not support a government that ensured the protection

of LGBT people from violence and discrimination, and 63 percent strongly disagreed that tolerance of LGBT people should be taught by the Ministry of Education. The vast majority (87 percent) of the general public considered same-sex relationships a sin. Further, nearly half of the general public (46 percent) disagreed with the notion, “if my child was gay, I would allow him to live in my house.” The tolerance level across Jamaicans was generally low: only 15% said they tolerated same-gender sexual orientation.

66%

of the public do not support repeal of the buggery law, or amendment of the Charter of Rights to encourage equal rights for LGBT people.

59%

of the general public would not support a government that ensured the protection of LGBT people from violence and discrimination.

63%

strongly disagreed that tolerance of LGBT people should be taught by the Ministry of Education.

2.3 Current State of Legislative Change and Anti-discriminatory Efforts

Despite the widespread homophobia and transphobia in the Jamaican society, there have been improvements in the situation of LGBT people in recent years as regards their ability to make themselves visible in the society, and with regard to the tone of the political discourse.⁴⁷ Although these have been important steps forward, they are of limited value if sexual orientation and gender identity discrimination does not diminish, and if the country

does not make progress towards a more tolerant society where LGBT individuals have equal capability and opportunity to contribute their human capital. Regardless of the advances, little has been done to officially prohibit LGBT discrimination, and both of the major political parties, when in government, have supported the status quo.

Jamaica adopted a new Charter of Fundamental Rights and Freedoms in

April 2011, which expanded grounds for non-discrimination; however, discrimination based on sexual orientation or gender identity was not included. The Charter’s section 13(3)(i) states that it ensures “the right to freedom of discrimination on the ground of (i) being male or female; (ii) race, place of origin, social class, colour, religion, or political opinions.” The decision to use words “being male or female” instead of

⁴⁶ One LGBT woman, for example, told Human Rights Watch that she had been raped three times, and she believed it was because she refuses to be with a man. Human Rights Watch (2004). J-FLAG also reported for instance a case in 2014 when a 37-year old gay woman had been raped, beat and stabbed by two men who broke into her home after seeing her partner visiting her. The women had been awakened by the men’s shouts of “sodomite, lesbian, dirty girl, we have come for you”. The men had taken turns raping her, beat her severely and stabbed in the stomach with 12-inch knife. Incident reported to J-FLAG on November 4, 2015. Cited by “Human Rights Violations Against Lesbian, Gay, Bisexual and Transgender (LGBT) people in Jamaica: A Shadow Report.”

⁴⁷ E.g. Jamaica was the first English-speaking Caribbean country to celebrate the international Pride festival in 2015, and it has been celebrated every year since in both Kingston and Montego Bay.

No one should be discriminated against because of their sexual orientation, government should provide the protection, and I think that we should have a look at the buggery law, and that members of parliament should be given the opportunity to vote with their conscience on consultation with their constituency.

– Portia Simpson-Miller

sex or gender – words that are generally used in laws prohibiting discrimination and can be considered to include protection based on LGBT status – can be construed as a deliberate attempt to ensure that discrimination based on sexual orientation was not prohibited. The Charter also includes the “savings law clause,” which states that any pre-existing laws relating to sexual offences are saved from constitutional review. It would appear that the aim of the clause is to shield the buggery law from constitutional challenge in Jamaican courts.⁴⁸

The issue of sexual orientation-based discrimination came to the fore in the political discourse of the December 2011 electoral campaign. Back in 2008, then-Prime Minister Bruce Golding said in a BBC interview that he would not appoint a gay man or woman to his cabinet, and equivocated when asked if he wished

Jamaica to go in a direction where it would be “entirely natural” for gay people to be members of a cabinet.⁴⁹ Andrew Holness, who had succeeded Golding upon his resignation in October 2011, was asked in a televised debate with Portia Simpson-Miller (People’s National Party candidate) whether he shared Golding’s view. While Holness avoided answering the question directly, (by saying that his sentiment reflects the sentiments of the country,) Simpson-Miller put forward a more definitive view, saying that she would appoint anyone with the ability and the capability to manage, regardless of their sexual orientation. More importantly, she stated:

No one should be discriminated against because of their sexual orientation, government should provide the protection, and I think that we should have a look at the buggery law, and that members of parliament should be given the

*opportunity to vote with their conscience on consultation with their constituency.*⁵⁰

Regardless of the Jamaican public’s negative view on LGBT people, her party won the election soon after. Her words, however, did not lead to any action. In June 2013, her government announced, as a response to calls to honour that pre-election statement, that a “conscience vote” would be held in parliament before April 2014,⁵¹ but that vote never took place.

In 2014, and again in 2015,⁵² as Leader of the Opposition, Holness suggested that instead of having the parliament vote on buggery, the matter should be put to the people and decided through referendum.⁵³

You will also know that when it comes to time to determine whether or not we should make any changes to the Buggery Act, or to any other act that determines how Jamaicans see the family, you know that we are not going to take it up onto ourselves in Parliament to make that decision. We are going to come to you, the people of the country, to make that decision.

However, since regaining office in February 2016, Holness has pivoted: in April 2018 he said in Brussels that he has no problem with LGBT people in his cabinet: “Whatever is in my interest to distribute politically, a person’s sexuality, sexual orientation, is not a criterion for the use of my discretion.” He went on to say further that Jamaica is a fundamentally tolerant society, that Jamaican culture is evolving, and that the country ought to be given space to

48 The Charter of Fundamental Rights and Freedoms, [www.japarliament.gov.jm/attachments/341_The%20Charter%20of%20Fundamental%20Rights%20and%20Freedoms%20\(Constitutional%20Amendment\)%20Act,%20202011.pdf](http://www.japarliament.gov.jm/attachments/341_The%20Charter%20of%20Fundamental%20Rights%20and%20Freedoms%20(Constitutional%20Amendment)%20Act,%20202011.pdf).

49 Bruce Golding in BBC’s HARDtalk interview May 20, 2008, www.youtube.com/watch?v=YeVy5Sp6xyw.

50 Jamaican electoral debates; Leadership debate December 2011, www.youtube.com/watch?v=GDb73VCjxAk.

51 “Buggery Law Debate For Parliament This Year,” Gleaner, June 9, 2013, <http://jamaica-gleaner.com/gleaner/20130609/news/news2.html>.

52 Horace Hines, “Holness: JLP Gov’t will put buggery law to referendum,” Jamaica Observer, October 2, 2015, www.jamaicaobserver.com/news/Holness--JLP-Gov-t-will-put-buggery-law-to-referendum_19235602.

53 Edmond Gampbell, “Holness wants Ganja, Buggery laws put to a referendum,” Gleaner, April 26, 2014, <http://jamaica-gleaner.com/gleaner/20140426/news/news1.html>.

find its own position to the problems.⁵⁴ Notwithstanding, the JLP administration has stood firm: the Minister of Justice, Delroy Chuck, declared in June 2017 that the buggery law will be changed only by a referendum.⁵⁵

While advocating for a referendum on the matter might appear to be a progressive view, it is actually the opposite. Referenda are usually held on issues that deal with the fundamental rules of the political system, such as constitutional issues, transfers of powers to supranational organizations, and territorial issues. These types of issues are seen as requiring legitimation by a

popular majority even if a referendum is not required in the constitution.⁵⁶ Civil rights in general, especially the rights of minorities, are considered to be inappropriate to put to a popular vote, as referenda are a majoritarian device.⁵⁷ In Jamaica, referenda are not generally held, and are only mandatory for changing deeply entrenched sections of the Constitution, such as the Queen being head of state. In fact, a referendum has been held in Jamaica only once, in 1961, on continued membership in the West Indies Federation. Therefore, having a referendum on changing the Offences

Against the Person Act, which is not part of the Constitution, ought not to be seen as mandatory, nor a usual occurrence.

Generally, there are strategic reasons behind initiating this type of ad-hoc or optional referendum. In many cases referenda are promoted in order to remove a difficult issue from the political agenda, so that the party in government can avoid taking responsibility for the decision, especially if the issue could have a damaging effect on their electoral success.⁵⁸ This can be considered as an explanation for why the JLP promotes a referendum to settle the issue. The majority of Jamaican voters would not support the repeal of the relevant sections of the Offences Against the Person Act,⁵⁹ and so a referendum on the matter would be a neat way to remove the issue from the political agenda, while cementing the law at the same time. A referendum on the Offences Against the Person Act would thus most likely delay the civil rights of LGBT people in Jamaica for years to come, as it would allow the majority to further legitimize discrimination against the LGBT minority.

Three other former British colonies, Belize,⁶⁰ Trinidad and Tobago,⁶¹ and India,⁶² have recently found juridical rather than legislative solutions to their discriminatory colonial-era laws. In Jamaica, LGBT individuals have also

You will also know that when it comes to time to determine whether or not we should make any changes to the Buggery Act, or to any other act that determines how Jamaicans see the family, you know that we are not going to take it up onto ourselves in Parliament to make that decision. We are going to come to you, the people of the country, to make that decision.

– Portia Simpson-Miller

54 This last bit is a nod to the view put forward by Bruce Golding (since leaving office) and others, that “pro-LGBT” views and positions are being imposed on Jamaica by outsiders.

55 Garfield Myers, “Chuck: buggery law will only be changed by a referendum,” *Jamaica Observer*, June 16, 2017, www.jamaicaobserver.com/news/chuck-buggery-law-will-only-be-changed-by-a-referendum_102087?profile=1373.

56 Setälä (1997).

57 Jess Sargeant, “When is it appropriate to hold a referendum,” *Constitution Unit*, November 13, 2017, <https://constitution-unit.com/2017/11/13/when-is-it-appropriate-to-hold-a-referendum/>.

58 Setälä (1997).

59 J-FLAG (2011, 2012, 2016); “Majority of Jamaicans Resolute on Keeping Buggery Law Intact,” October 6, 2014, <http://jamaica-gleaner.com/article/lead-stories/20141006/majority-jamaicans-resolute-keeping-buggery-law-intact>.

60 The Supreme Court of Belize found in 2016 that a law criminalizing consensual same-sex violates the constitutional rights to dignity, privacy, equality before the law, and non-discrimination on grounds of sex, and cannot be justified on the basis of ‘public morality’. The Court also found that international treaty obligations must inform the interpretation of Constitutional rights. *Supreme Court of Belize. Judgment*, August 10, 2018. *Caleb Orozco v. Attorney General Claim No 668 of 2010*, www.humandignitytrust.org/uploaded/Library/Case_Law/Judgment-Orozco-v-The-Attorney-General-of-Belize.pdf.

61 The High Court of Trinidad and Tobago ruled in 2018 that the country’s laws criminalizing same-sex activity (sections 13 and 16) are “unconstitutional, illegal, null, void, invalid, and are of no effect to the extent that these laws criminalise any acts constituting consensual sexual conduct between adults”. *High Court of Trinidad and Tobago. Judgement*, April 12, 2018. *Jason Jones v. Attorney General Claim No. CV2017-00720*, <http://ufdc.ufl.edu/AA00063330/00001>.

62 In 2018 the Indian Supreme Court ruled that the law criminalizing consensual same-sex activity was unconstitutional as it violates a person’s rights to equality and freedom. It was found to violate Articles 14, 15, 19, and 21 of the Constitution. *Supreme Court of India. Judgement*, September 6, 2018. *Navetej S. Johar v. Union of India Writ Petition (criminal) 76 of 2016*, www.sci.gov.in/supremecourt/2016/14961/14961_2016_Judgement_06-Sep-2018.pdf.

sought justice through the judicial system. As the “saving law clause” in the 2011 Charter of Rights seemed to make it impossible to file a case in a Jamaican court, two petitions were filed to the Inter-American Commission on Human Rights (IACHR) in 2011. The case *Gareth Henry v. Jamaica* claims that Jamaica violates its legal obligations under the American Convention on Human Rights, and the American Declaration on the Rights and Duties of Man, by continuing to criminalize private consensual sexual activity between adult males, and also by protecting colonial-era buggery and gross indecency laws from domestic legal challenge.⁶³ The IACHR in October 2018 accepted the admissibility of the case. Nevertheless, the IACHR only has the competence to give member states recommendations in respect of human rights, and therefore even if it finds that Jamaica has violated its international human rights obligations, there is no available sanction, nor is there any subsequent guarantee that the rights of sexual minorities in Jamaica will be protected or improved.

Two claims were also filed in the Jamaican Supreme Court. The first case was filed by AIDS-Free World on behalf of Javed Jaghai in 2013; he withdrew the lawsuit the following year citing concerns for his personal safety and that of his family.⁶⁴ The second claim was filed in 2015 by human rights activist and attorney-at-law Maurice Tomlinson, who is challenging the law as violating numerous rights guaranteed in the Jamaica’s constitution. Tomlinson is claiming that although the “saving law clause” in the Charter of Rights aims to shield the laws relating

to sexual offences from constitutional challenge, it only applies to laws that were in force immediately before the Charter came into effect, as the ruling from Jamaica’s highest appellate court states that if the law is “changed, adapted, or modified in any respect” after the introduction of the Charter, then it is no longer insulated from constitutional review. According to Tomlinson, the Sexual Offences Act that came into operation in October 2011, and its regulations, changed Jamaica’s criminal law regarding sexual activity between men, and therefore the law criminalizing consensual sex between men is no longer the law that existed immediately before the Charter, meaning that it must now comply with the constitution’s human rights provisions.⁶⁵

In 2016 the Jamaican Supreme Court gave a decision on the Tomlinson matter as to whether “interested parties” were allowed to join the case. The Supreme Court ruled that the application of the “LGBT-friendly” Public Defender was refused, given the limits of statutory powers,⁶⁶ while all of the nine conservative Christian organizations opposing the repeal of the law were permitted to join the case with full rights of participation. Moreover, the judge noted that, “the Court will have to consider whether the majority of Jamaicans consider homosexuality, and more specifically buggery, to be repugnant.”⁶⁷ The view is in contrast to that of the Chief Justice of the Indian Supreme Court. The majority of the Indian public was also against legalising gay sex, but when the point was raised by religious groups, Chief Justice Dipak Misra declared: “We

63 IACHR Report No. 80/81, Petition 1850-11. Admissibility. Gareth Henry, Simone Carline Edwards, and Families. Jamaica, July 2, 2018, www.oas.org/en/iachr/decisions/2018/JAAD1850-11EN.pdf.

64 Michael K. Larvers, “Gay Jamaican man drops lawsuit against anti-sodomy-law,” *Washington Blade*, February 9, 2014, www.washingtonblade.com/2014/09/02/gay-jamaica-man-drops-lawsuit-against-anti-sodomy-law/.

65 “Constitutional challenge to Jamaica’s anti-sodomy law: Questions & answers,” *Aids-Free World*, December, 2015, www.aidslaw.ca/site/wp-content/uploads/2015/12/Jamaica-constitutional-challenge_QA_Dec2015.pdf.

66 The Court of Appeal upheld this decision two years later. Public Defender Blocked From Joining Court Challenge To Anti-Buggery Laws,” *Gleaner*, November 9, 2018, <https://jamaica-gleaner.com/article/news/20181109/public-defender-blocked-joining-court-challenge-anti-buggery-laws>.

67 Supreme Court of Judicature of Jamaica. Judgement July 6, 2016. Maurice Tomlinson v. Attorney General [2016] JMSC Civ. 119, <http://supremecourt.gov.jm/sites/default/files/judgments/Tomlinson%20Maurice%20Arnold%20v%20The%20Attorney%20General%20of%20Jamaica.pdf>.





decide questions of law on the basis of the Constitution, constitutional principles, and its ethos. We do not decide questions based on a majoritarian view obtained

through referendum.”⁶⁸ Social morality, he posited, cannot violate the rights of even one single individual.⁶⁹

2.4 Estimate of the LGBT Population in Jamaica

The magnitude of the potential costs of discrimination depends on the size of the LGBT population, as well as on the exclusion experienced by them. The size of Jamaica’s LGBT population is difficult to define, as Jamaica has not included questions about sexual orientation or gender identity in its population-based surveys. Many Jamaicans hide their LGBT identity for fear of exclusion, rejection, discrimination, or harassment, which makes data collection of the population size, as well as their lived experiences, difficult to obtain. Hence, for the purpose of this study, the estimate of the size of Jamaica’s LGBT population is drawn from a literature review of relevant studies done elsewhere. Notwithstanding, the lack of research and the reluctance of some individuals to answer survey questions about stigmatized identities and behaviors, complicates the efforts to define the LGBT population globally.

Another difficulty defining the population size is the multitude of conceptual and operational definitions of people who are a part of the LGBT community, which makes the attempts to categorize individuals complicated. Three different dimensions of sexual orientation can be found: attraction to people of same-sex, identifying oneself as LGBT, and the behavioral aspect of being LGBT, meaning the sex of one’s sex partners. Although they often overlap, one can have same-sex attraction or same-sex experience without identifying oneself as LGBT.

Canada’s LGBT population is estimated

at between 5 and 10 percent of the total population. The estimate is based on a literature review of 46 studies. The low estimate was the median of reviewed studies, while the high estimate was, at the time, the most commonly cited base rate for homosexuality, originally based on a seminal study.⁷⁰ A similar method was used for this report by using a set of more recent studies. We separated the studies based on whether they were looking at self-identification as LGBT or same-sex attraction. The mean percentage of people who identify themselves as LGBT is 5.7 percent, while the median is 5.05 percent, which is similar to what Banks found in the Canadian study. The mean percentage of people who reported same-sex attraction is 9.4 percent, which is similar to what was found in a study looking at sexual experiences of Caribbean youth; according to which 9.7 percent had either only same-sex attraction or equal both-sex attraction.⁷¹ The median for same-sex attraction is 8.6 percent. We therefore estimate that the size of the LGBT population in Jamaica is between 5 and 9 percent, and we choose the midpoint, 7 percent, in the calculations to follow.⁷²

Having established how the exclusion of LGBT people can affect economic development, described the landscape of LGBT discrimination in Jamaica, and estimated the size of Jamaica’s LGBT population at 7 percent of the population, we now turn to the direct and indirect economic effects of LGBT discrimination.

68 Dhanajay Mahapatra, “Section 377 verdict to be decided on law, not majority view: SC,” *The Times of India*, July 13, 2018, <https://timesofindia.indiatimes.com/india/section-377-verdict-to-be-decided-on-law-not-majority-view-sc/articleshow/64968279.cms>.

69 Supreme Court of India, Judgement 6.9.2018. Writ Petition (criminal) 76 of 2016, www.sci.gov.in/supremecourt/2016/14961/14961_2016_Judgement_06-Sep-2018.pdf.

70 Kinsey, Pomeroy and Martin (1948, 1953), cited by Banks (2001).

71 Halcon et al (2003).

72 See appendix 1 for literature review.



3. Direct Effects of Sexuality-Based Discrimination

LGBT adults with higher levels of family rejection during adolescence, compared with peers from families with no or low levels of rejection, were:



8x more likely
to report having attempted a suicide



6x more likely
to report high levels of depression



3x more likely
to use illegal drugs



3x more likely
to report having engaged in unprotected sexual intercourse

Sexual orientation and gender discrimination has direct and indirect effects. This chapter considers the direct effects of discrimination, and their costs, namely with regard to:



HEALTH



EDUCATION



EMPLOYMENT

3.1 Discrimination and Health Disparities

Research has shown that discrimination of any sort is associated with negative health outcomes among those who are discriminated against.⁷³ Health is a form of human capital, which has significant

implications for economic development. The discrimination against LGBT people can hamper the achievement of the 2030 developmental goals by causing LGBT people to suffer disproportionately from

health issues, including use and overuse of alcohol and drugs, physical violence, domestic violence, mental health issues, and HIV. The latter two are our focus.

3.2 Mental Health

LGBT people suffer more from mental health illnesses as compared to their non-LGBT counterparts,⁷⁴ due to a range of stressors that heterosexuals do not have to contend with.⁷⁵ It is suggested

that the higher prevalence of mental illness amongst LGBT is a result of stigma, prejudice, and discrimination, which create a hostile and stressful social environment that causes mental

health problems.⁷⁶ This environment contains objective or external stressors, which include structural or institutional discrimination and direct interpersonal interactions of victimization or prejudice,

⁷³ Pascoe and Smart Richman (2009).

⁷⁴ Gilman et al (2001); Cochran (2001); Russel and Joyner (2001); Sandfort et al (2001); Sandfort et al (2014); Diaz et al (2001).

⁷⁵ Gilman et al (2001); Cochran (2001); Russel and Joyner (2001); Sandfort et al (2001); Sandfort et al (2014); Diaz et al (2001).

⁷⁶ Meyer (1995, 2003).

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and proximal stressors that come about as a result of constant anticipation of discrimination, or violence, and the concomitant need to stay vigilant.⁷⁷ Anticipated social rejection is in fact more predictive of psychological distress than actual negative experiences.⁷⁸ Another important stressor is the concealment of one's sexual orientation, which is often used as a coping strategy aimed at avoiding stigma and discrimination. However, several studies have shown that it is a coping strategy that often backfires and becomes stressful.⁷⁹ A third proximal stressor is the internalization of negative social attitudes, often referred

as internalized homophobia, where an LGBT person may direct negative social values towards him or herself, which leads to a devaluation of the self, and results in an internal conflict, and poor self-regard.⁸⁰ Since LGBT people are often also lacking the necessary support systems, the stress caused by homophobia can be worse than stress caused by other factors.⁸¹

Discrimination is strongly associated with adverse mental health outcomes.⁸² Experiences of LGBT intolerance and discrimination are connected to substance abuse, depression, risky sexual

behaviours, negative body image, suicide attempts, increased stress, limited social support, and the inability to establish and maintain long-term same-sex relationships.⁸³ Family and community support are found to be crucial factors contributing to the mental health and well-being of LGBT people. For example, one study found that LGBT adults who reported higher levels of family rejection during adolescence, compared with peers from families that reported no or low levels of rejection, were more than 8 times more likely to report having attempted a suicide, 6 times more likely to report high levels of depression, more than 3 times

77 Meyer (1995, 2003).

78 Meyer (2003).

79 Meyer (2003).

80 Meyer (2003).

81 Banks (2001).

82 Mays and Cochran (2001); Diaz et al (2001); Kessler et al (1999); Meyer (1995); Rosario et al (1996); Waldo (1999).

83 Diaz et al (2001); Halkitis (2012).

70%

of Sexual Minorities
met the criteria for
AXIS 1 DISORDER
during their lifetime



however, only

10%

reported ever receiving
counselling



AXIS 1 DISORDER

Anxiety disorders like panic disorder, social anxiety disorder; mood disorders like bipolar disorder and major depression; eating disorders like bulimia nervosa and anorexia nervosa; substance abuse disorders

more likely to use illegal drugs, and also more than 3 times more likely to report having engaged in unprotected sexual intercourse.⁸⁴ Another study found that LGBT youth living in a community that is generally supportive of LGBT rights are significantly less likely to attempt suicide, when compared to LGBT youth living in a less supportive community (even after controlling for other risk factors).⁸⁵ Pervasive LGBT discrimination at the broader social and cultural level, and the lack of institutionalized support, have direct implications for the mental health and well-being of LGBT people.⁸⁶

Sexual minorities in Jamaica face discrimination at all levels of society: the state, schools, their communities, and their families. Although there is only limited research on the mental health of LGBT people in Jamaica, the existing studies show that they suffer from several mental health-related issues due to their negative experiences and the discrimination against them.⁸⁷ One 2010 study found that nearly 70 percent of participants met the criteria for Axis I disorder (anxiety disorders like panic disorder, social anxiety disorder; mood disorders like bipolar disorder and major depression; eating disorders like bulimia nervosa and anorexia nervosa; substance abuse disorders) during their lifetime, however, only 10 percent reported ever receiving counselling.⁸⁸ The study also found that weak or negative relationships with family were associated with an increased risk Axis I disorder.⁸⁹ Parental and peer support have also

In an environment where disclosing one's sexual orientation or gender identity puts them at risk of further discrimination, and where support from social institutions is weak, many Jamaican LGBT youths turn to substance abuse as a coping mechanism.

been shown to have a strong link to one's self-acceptance, which is another factor positively connected to mental health and well-being.⁹⁰ Studies of the Jamaican LGBT community have found that those who struggled with accepting their sexual orientation are more prone to mental health challenges, especially when combined with negative experiences of discrimination, or verbal or physical violence.⁹¹

In addition to the range of mental health problems that are caused by stress, sexuality-based discrimination and prejudice also increase other health and social problems among LGBT people, as the discrimination forestalls their proper and effective treatment. LGBT people in Jamaica often fail to get the support

they need from healthcare workers, school counselors, or their families.⁹² There have been several examples where an LGBT person has either been denied treatment altogether, or seeking help has caused further victimization.⁹³ Even if such a negative experience does not take place, many LGBT people may try to conceal their sexual orientation or gender identity in order to protect themselves, which might cause them to avoid seeking help altogether, or hamper the diagnosis and finding of effective treatment. In an environment where disclosing one's sexual orientation or gender identity puts them at risk of further discrimination,⁹⁴ and where support from social institutions is weak, many Jamaican LGBT youths turn to substance abuse as a coping mechanism to manage stigma and experiences or threats of LGBT violence.⁹⁵

The cost of discrimination in mental health

The ample discrimination against LGBT people in Jamaica does not only compromise the mental health and well-being of those who are LGBT, but it is also costly for the country. The negative effect of mental health issues to development has been recognized globally, and promoting mental health has been included in the UN Sustainable Development Goals for 2030. A 2011 estimate put the global cost of mental illness in 2010 at US\$2.5 trillion, with a projected increase to US\$6 trillion by 2030. To put it in context, the

84 Ryan et al (2009).

85 Hatzenbuehler (2014).

86 Russell and Fish (2016).

87 White et al (2010); Logie et al (2016a).

88 Matthew Tull, "Which Mental Health Conditions Were Axis I Disorders?" Very Well Mind, September 18, 2019, www.verywellmind.com/axis-i-disorders-2797271; White et al (2010).

89 White et al (2010).

90 Meyer (2003); Sheets and Mohr (2009); Shilo and Savaya (2011); D'Augelli (2002).

91 White et al (2010); Harris and Jarrett (2018).

92 Human Rights Watch (2004); Human Rights Watch (2014); White et al (2010); Logie et al (2016a).

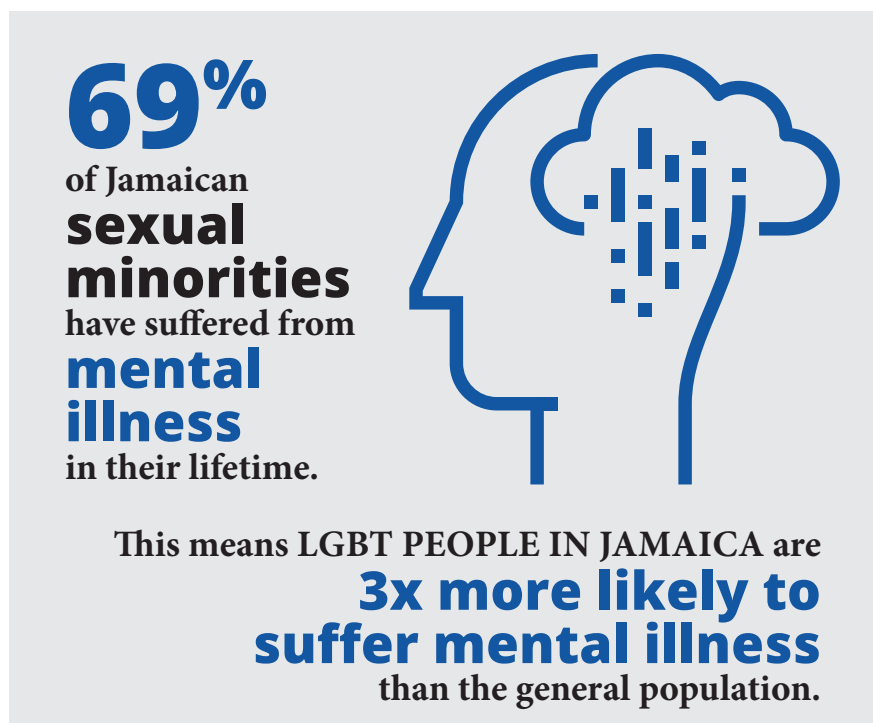
93 Human Rights Watch (2004); Human Rights Watch (2014).

94 E.g. White et al (2010). Greater level of openness with one's sexuality was associated with having negative experiences.

95 Logie et al (2016a)

entire global health spending in 2009 was US\$5.1 trillion. Mental illness will likely account for more than half of the projected total economic burden from non-communicable diseases and 35 percent of global output lost. Two-thirds of the total cost comes from a range of indirect costs, such as loss of income due to unemployment, lowered productivity by employees, loss of human capital due to premature death, and expenses for social support.⁹⁶ Taking into account that mental illness increases the risk for developing several other diseases, such as cardiovascular diseases, respiratory disease, and diabetes, as well as increases the risk for substance and alcohol abuse, the actual global cost of mental illness is likely even higher.⁹⁷

It is possible to estimate the mental health cost of LGBT discrimination in Jamaica by using the estimate from the World Economic Forum, according to which one third of the economic cost from mental illness comes from government's direct spending, and two third comes from indirect costs. The Jamaican government's budget for 2019 – 2020 estimates that total money spent on mental health services is just over J\$1.7 billion (approximately US\$12.5 million). The total cost of mental health using the WEF suggestion would therefore be three times that at J\$5.1 billion (approximately US\$38 million).



Sixty-nine percent of Jamaican sexual minorities have suffered from mental illness in their lifetime.⁹⁸ This means that LGBT people in Jamaica are more than three times more likely to suffer mental illness than the general population, of whom 21 percent experience mental illness at some time in their lives.⁹⁹ In other words, 48 percent of LGBT population suffers from mental illness because of discrimination due to their belonging to the LGBT community. The estimate is consistent with research from other countries, which indicates that LGBT people are more than two times

more likely to experience different mental health issues during their lifetime.¹⁰⁰ The ratio for suicidal thoughts and attempts is generally even higher. For example, studies of U.S. high school students have found that those who identify themselves as LGBT reported two to seven times higher rates of suicide attempts compared to their heterosexual peers.¹⁰¹

We estimate that LGBT discrimination adds an additional J\$174,854,250 to mental health either due to government expenditure or loss of economic output. With the current exchange rate this translates into US\$1,285,179.¹⁰²

⁹⁶ Bloom et al (2011).

⁹⁷ Thomas Insel, "The Global Cost of Mental Illness," The National Institute of Mental Health, September 28, 2011, www.nimh.nih.gov/about/directors/thomas-insel/blog/2011/the-global-cost-of-mental-illness.shtml.

⁹⁸ White et al (2010).

⁹⁹ Twenty-five percent of the total Jamaican population will experience mental illness at some time in their lives. Since the higher rate of 69 percent among LGBT population is included into the rate of total population, it means that the equivalent rate for the non-LGBT population would be 21 percent. Shanice Watson, "Mad in Jamaica - One in four will develop mental illness," The Star, October 14, 2016, <http://jamaica-star.com/article/news/20161014/mad-jamaica-one-four-will-develop-mental-illness>.

¹⁰⁰ Meyer (1995); Meyer (2003); Chakraborty et al (2011); Fergusson et al (1999).

¹⁰¹ Haas et al (2011). Another literature review estimated that LGB are six times more likely to attempt suicide than the heterosexual population, Banks (2001).

¹⁰² With regard to how much of the total cost mental illness (J\$5.1 billion) can be attributed to discrimination: The cost of mental illness per Jamaican above age 11 (a population of 2.3m) is J\$2,250. If 7 percent of the Jamaican population is non-heteronormative (determined earlier in this report), the LGBT population would be 161,902 persons. And if 48 percent of them suffer from mental health issues sometime during their life due to discrimination, that means that some 77,713 persons suffer from mental health disorders.

3.3 Discrimination and the HIV Epidemic

The HIV epidemic in Jamaica has become increasingly concentrated among the key populations of men who have sex with men (MSM), which includes transgender women.¹⁰³ While Jamaica has made notable progress, decreasing the HIV prevalence among the general population by 50 percent since 2000 (currently 1.6 percent,) the prevalence rate has remained significantly higher amongst MSM, and has not decreased at all since 1995. It is estimated that one third of

Jamaican MSM are HIV positive,¹⁰⁴ the highest HIV prevalence rate amongst MSM in the Caribbean.¹⁰⁵ The situation among transgender women is even more dire: it is estimated that between 40 and 51 percent are HIV positive.¹⁰⁶ The high HIV prevalence rate among MSM is believed to be an important factor driving the HIV epidemic among the general population, given that many MSM identify as bisexual or are overtly living heterosexual lives for fear of disapproval and discrimination,

and therefore having sexual relations with women,¹⁰⁷ which then acts as a bridge for HIV transmission from the MSM population into the general population.¹⁰⁸

Jamaica is lagging behind in all aspects of, and is more than likely to miss, the “90-90-90” target established by the Joint United Nations Programme on HIV/AIDS (UNAIDS), as part of the strategy to eliminate AIDS by 2030.¹⁰⁹ In Jamaica, the achievement of the UNAIDS target is hampered by LGBT discrimination and prejudice, as well as by the criminalization of male same-sex intercourse, which create significant barriers for effective HIV prevention and response. The negative effect of discrimination is acknowledged in Jamaica’s official documents, and the current HIV plan lists homophobia as one of the key drivers of the HIV epidemic, along with transactional sex and inadequate condom use.¹¹⁰

LGBT discrimination and prejudice, at a wider society level, impact the HIV epidemic in various ways. First, it increases the stigma associated with HIV. UNAIDS ranks HIV-related stigma among the most pervasive barriers to effective responses to the HIV epidemic, as it prevents people from accessing HIV-related information and health

In Jamaica, the achievement of the UNAIDS target is hampered by LGBT discrimination and prejudice, as well as by the criminalization of male same-sex intercourse, which create significant barriers for effective HIV prevention and response.

103 UNAIDS Jamaica, www.unaids.org/en/regionscountries/countries/jamaica.

104 Figueroa et al (2013); Figueroa et al (2015); Jamaica 2018 HIV Fact Sheet, Ministry of Health, HIV/STI/TB Unit.

105 Human Rights Watch (2014); Pan American Health Organization, Health in Americas, Human immunodeficiency Virus (HIV) and Sexually Transmitted Infections in Americas, www.paho.org/salud-en-las-americas-2017/?tag=people-living-with-hiv.

106 A 2016 study found that 40% of transgender women tested HIV positive. “Study: Transgender women have highest HIV prevalence rate in Jamaica.” March 28, 2018, Pan Caribbean Partners Against HIV/AIDS, <https://pancap.org/pancap-releases/study-transgender-women-have-highest-hiv-prevalence-rate-in-jamaica/>; 51 % of the 102 transgender women enrolled in a 2018 study by Minister of Health were tested HIV positive. Ministry of Health, HIV/STI/TB Unit. Jamaica 2018 HIV Fact Sheet.

107 Figueroa et al (2013); Logie et al (2016); Micah Fink, “How AIDS Became a Caribbean Crisis,” *The Atlantic*, September, 2009, www.theatlantic.com/magazine/archive/2009/09/how-aids-became-a-caribbean-crisis/307699/.

108 Figueroa et al (2013); Figueroa (2008).

109 90 percent of people living with HIV know their status, 90 percent of those knowing their status receive antiretroviral treatment, and 90 percent of people on antiretroviral treatment have suppressed viral loads by the year 2020. Currently 78 percent of people living with HIV know their status, 46 percent receives antiretroviral treatment, and 57 percent of those receiving antiretroviral treatment are virally suppressed. “Jamaica lagging behind in HIV/AIDS target, says Tufton,” *Gleaner*, February 19, 2018, http://jamaica-gleaner.com/article/news/20190219/jamaica-lagging-behind-hiv-aids-target-says-tufton?fbclid=IwAR3fDNOonEV4mceBWBWWhSZFm71sh6BkklKZ6p_gd6eMCnQY2eGGBHvQhU.

110 Jamaica National Integrated Strategic Plan for Sexual and Reproductive Health & HIV 2014–2019.

care services.¹¹¹ In Jamaica, people living with HIV experience very high levels of stigma: in one survey, 71 percent of Jamaicans said that they would not buy vegetables from a shopkeeper who is living with HIV.¹¹² The stigma towards MSM and transgender women living with HIV is even greater, as they are facing so-called double stigma – stigma against their illness, and stigma against their sexual orientation or gender identity. A study on sexual stigma and sympathy in Jamaica showed that while majority of the respondents reported sympathy towards women who were not sex workers (81 percent), and heterosexual men (67 percent), fewer than half reported sympathetic attitudes towards LGBT men (40 percent).¹¹³

The fear of discrimination or stigmatization, and lack of confidence towards healthcare workers, cause some LGBT people to delay treatment,

or even avoid seeking health care altogether. This can lead to a significantly heightened risk of HIV transmission, as the illness is then not diagnosed at an early stage, and people living with HIV might unknowingly transmit the virus through unprotected sex.¹¹⁴ Human Rights Watch has documented several instances in Jamaica where individuals were either ill-treated by nurses and other members of the healthcare team, or denied services altogether.¹¹⁵ Transgender women especially, for whom sex work might be the only employment option available, often report difficulties accessing healthcare, due to mistreatment by healthcare personnel and other patients.¹¹⁶ Moreover, stigma and discrimination are driving men at high risk for HIV transmission underground, which makes the provision of prevention, treatment, and social support services difficult to access for many Jamaican MSM.¹¹⁷ Stigma and homophobia also

impede the effective response to HIV in prisons, as inmates are hesitant to get tested, for fear of being perceived as having sex with men.¹¹⁸ Therefore the criminalization of male same sex intercourse, and prejudice towards LGBT people, is not only affecting those who are part of the LGBT community, but also those from the general population who might avoid seeking help for fear of being labelled gay or MSM.¹¹⁹

PREVALENCE AMONG SEX-WORKERS

The effect of greater stigma towards MSM living with HIV, as compared to other people living with HIV, can be demonstrated by the HIV prevalence rates among sex-workers. The HIV prevalence rate among female sex workers declined significantly from 9 percent in 2005 to less than 3 percent in 2018.¹²⁰ The decline in HIV prevalence among female sex workers is a result of healthcare providers'

111 White and Carr (2005); "Confronting Discrimination," UNAIDS, 2017, www.unaids.org/en/resources/presscentre/pressreleaseandstatementarchive/2017/october/20171002_confronting-discrimination.

112 UNAIDS Report (2018), www.unaids.org/sites/default/files/media_asset/unaids-data-2018_en.pdf.

113 Norman, Carr & Jiménez (2006). Similar results were found in another study looking at stigma among health-care and social service workers in Jamaica and Bahamas. The study showed that discrimination and stigma toward MSM living with HIV was significantly higher in Jamaica than in Bahamas, where male same-sex intercourse was legalized in 1991. Rogers et al (2014).

114 Norman, Carr & Jiménez (2006).

115 Human Rights Watch (2004); Human Rights Watch (2014).

116 Logie et al (2016a); Logie et al (2016b); Human Rights Watch (2004); Human Rights Watch (2014).

117 Logie et al (2016 a and b), Norman, Carr & Jimenez (2006); White & Carr (2005), cited by Harris and Dunn (2018).

118 Andrinopoulos et al (2011).

119 Human Rights Watch (2014). Andrinopoulos et al (2010b); Andrinopoulos et al (2011).

120 UNAIDS Jamaica, www.unaids.org/en/regionscountries/countries/jamaica; Duncan et al (2010).

Transgender women especially, for whom sex work might be the only employment option available, often report difficulties accessing healthcare, due to mistreatment by healthcare personnel and other patients.

greater capacity to engage with them, as compared to LGBT people. In addition to healthcare providers' attitudes and values that are affecting their willingness to engage with LGBT people, the stigma and discrimination towards LGBT people in the wider society affect the ability of LGBT people to be open and honest about their sexual practices, which in turn creates barriers to effective HIV prevention and treatment.¹²¹

Discrimination also increases vulnerability and impoverishment among LGBT people, which in turn exposes them to higher risk of HIV transmission. Low socio-economic status and social vulnerability are found to be significant factors contributing to the HIV epidemic globally.¹²² Some Jamaican LGBT youth are more often than not uprooted, thrown out of their family homes, and forced to move from one place to another. Many are also subject to sexual abuse, and forced to engage in sex work to survive.¹²³ The mental health problems discussed in

the previous section also contribute to the vulnerability of the LGBT population in Jamaica, as well as to discrimination in employment and schools.

SOCIO-ECONOMIC STATUS

Low socio-economic status increases the risk of HIV transmission for several reasons. When future prospects are uncertain and day-to-day existence is dominated by survival needs, individuals are often less cautious about high-risk sexual behaviour. A 2018 survey of 652 MSM found that 39 percent of them were unemployed, more than four times the rate among the general population at the time.¹²⁴ Low education levels might mean that individuals are less able to protect themselves from HIV transmission. Also, once diagnosed as living with HIV, the weak socioeconomic status might affect one's ability to deal with the economic and social consequences of HIV. A 2013 study in Jamaica found that those MSM who were of low socio-economic

status, homeless, and victims of physical violence, were twice as likely to be HIV positive as compared to their peers.¹²⁵ Another study, looking at HIV prevalence among transgender women in Jamaica, found that HIV positive participants were six times more likely to be homeless.¹²⁶ Income insecurity also increases the risk of being engaged in criminal activities, as well as in transactional sex, in exchange for food, shelter, and money. A history of incarceration and transactional sex are both factors associated with increased risk of transmission.¹²⁷ A 2011 study found that the HIV prevalence was 41 percent amongst those MSM who were also engaged in sex work.¹²⁸

Further, LGBT discrimination and stigma make it difficult for Jamaican men who have sex with men to practice safe sex. Although condoms and lubricants are widely available, stigma around lubricants remains a barrier for safe sex.¹²⁹ Water-soluble lubricants are essential for correct condom use during anal sex, as it helps

121 Ivan Cruickshank, executive director of Caribbean Vulnerable Communities Coalition (CVCC), personal interview, April 1, 2019.

122 Figueroa et al (2015); Veenstra and Whiteside (2005); Piot (2015).

123 Human Rights Watch (2014).

124 Ministry of Health and Wellness (Jamaica), forthcoming.

125 Figueroa et al (2013).

126 Logie et al (2016b).

127 Andrinopoulos et al (2010a).

128 Figueroa et al (2015).

129 Cruickshank.

to prevent condom breakage.¹³⁰ However, many MSM are hesitant to buy lubricant, especially together with condoms, because the two items purchased together is perceived as an announcement of one's sexual orientation as being gay.¹³¹ A 2017 study found that 21 percent of MSM surveyed felt very uncomfortable when purchasing lubricant, mainly because of the fear of being judged.¹³² In pharmacies, contraceptives are often placed behind the counter, and therefore one must directly ask the cashier. This often makes the situation even more uncomfortable. Some respondents in the study shared their experiences of cashiers making comments expressing their disgust with male same-sex intercourse, or acting without discretion, embarrassing them by not respecting their privacy and the sensitivity of the purchase.¹³³

The stigma also affects the work of NGOs providing HIV prevention services to MSM. Although they are offering condoms and lubricants to MSM, those described as hard to reach – people who do not want to disclose their orientation – do not wish to use their services since they do not want to be associated with organizations known to work with LGBT people. These are also sometimes people who are having sex with both males and females, either because of their bisexuality, or due to the fear of being labelled as LGBT.¹³⁴ Since safe sex is essential for HIV prevention, LGBT discrimination and stigma put both MSM as well as the general population at a heightened risk of HIV transmission.

Another significant barrier for HIV

Some respondents in the study shared their experiences of cashiers making comments expressing their disgust with male same-sex intercourse, or acting without discretion, embarrassing them by not respecting their privacy and the sensitivity of the purchase.

prevention is the law criminalizing male same-sex intercourse itself. The law makes successful interventions amongst MSM difficult to achieve, as although some government ministries and agencies do engage with the community, there is still reluctance to overtly support interventions promoting safe sex amongst MSM. The issue is demonstrated in Jamaica's current national plan for HIV which states: "The Offences Against the Persons Act – sections 76, 77 and 79 – criminalizes same-sex male intercourse and as such makes the promotion and facilitation of safer sexual practices among MSM an act which goes against the law."¹³⁵ The legislation also negatively impacts prevention interventions within Jamaica's correctional facilities, as the prison authorities will not officially grant condom access to inmates, regardless of the high risks of HIV infection in these

facilities.¹³⁶

Global studies have shown that the countries with non-discrimination laws have higher coverage rates of prevention services amongst MSM. A 2008 UNAIDS report found that the median percentage of MSM reached with HIV prevention services was almost 60 percent in countries with protective laws, compared to just over 30 percent in countries which did not have such policies.¹³⁷ Another study looking at HIV among MSM in over 115 countries found that criminalization of male same-sex intercourse, and greater level of perceived sexual stigma (homophobia), were associated with lower levels of access to HIV prevention, testing, and treatment. Higher levels of sexual stigma were in turn associated with criminalization of male same-sex intercourse.¹³⁸

130 World Health Organization (2011).

131 Human Rights Watch (2004); Cruickshank; Moore (2017).

132 Moore (2017).

133 Moore (2017).

134 Alex Streling, online peer outreach officer, Iflex, personal interview, July 3, 2019.

135 Jamaica National Integrated Strategic Plan for Sexual and Reproductive Health & HIV 2014 – 2019, www.moh.gov.jm/wp-content/uploads/2016/05/Final-National-Integrated-Strategic-Plan-2014-2019-with-SRH-Validation.pdf.

136 Jamaica National Integrated Strategic Plan for Sexual and Reproductive Health & HIV 2014 – 2019.

137 UNAIDS Report 2008, http://data.unaids.org/pub/globalreport/2008/jc1511_gr08_executivesummary_en.pdf.

138 Arreola et al (2015).

In Jamaica, the criminalization of male same-sex intercourse forestalls the full potential of the work of organizations working with MSM and people living with HIV. Although funding from international organizations, channeled through the Ministry of Health and Wellness, is directed towards these key populations, the law is sometimes interpreted to make the promotion of safe sex amongst MSM illegal. Therefore, some of the organizations cannot publicly advertise that they are offering services specifically to MSM. Consequently, these NGOs offering HIV prevention, testing, and treatment services are not reaching as many MSM as they otherwise might. There is a general mistrust amongst MSM towards public healthcare services, and they are often also reluctant to use services offered by the various NGOs.

139 Streling.

140 Streling.

141 Figueroa (2012).

142 Crawford et al (2009).

143 Streling.


144 Jarrett et al (2018).

145 Streling.

In order to combat the reluctance to get tested and stay on treatment, it would help if the organizations could publicly announce their services for MSM, and state that they will be treated without fear of discrimination or embarrassment.¹³⁹ The legislation also makes it difficult for the public promotion of safe sex amongst MSM through education campaigns, which could increase the knowledge about safe sex practices, especially about the use of water-based lubricant.¹⁴⁰

The lack of knowledge about safe same-sex practices is an issue especially amongst young MSM. Despite the fact that many adolescents are sexually active, the Healthy Family Life Education taught in schools does not provide sexually active school children with adequate information about sexuality.¹⁴¹ LGBT

youths particularly are left without any education at all about their sexuality, and they thus have to rely on their own life experiences about sexuality. According to a study on contraceptives use among minors in Jamaica, there is a greater fear of pregnancy than there is of HIV transmission.¹⁴² MSM youths do not share the concern of pregnancy, which in turn affects their likelihood to use barrier-type contraceptives.¹⁴³ The current policies also limit the access to sexual and reproductive health services for minors,¹⁴⁴ which might reduce the use of contraceptives by minors in general, but particularly by those who are MSM. The policies also affect the work of NGOs offering HIV testing and treatment services, as they cannot engage with people under 18. This might significantly delay the HIV diagnosis and treatment.¹⁴⁵ The lack of



A 2008 UNAIDS report found that the median percentage of MSM reached with HIV prevention services was almost

60%

in countries with protective laws, compared to just over

30%

in countries without such policies



comprehensive, LGBT-inclusive sexuality education has an impact on the high HIV prevalence rates among adolescents in Jamaica, particularly amongst young MSM.¹⁴⁶ There have been attempts to incorporate the comprehensive sexuality education – an international norm for sexuality education – into the school curriculum, but it has faced significant resistance, although it is proven to be the most effective in preventing unintended pregnancies and sexually transmitted infections, as well as promoting human rights and gender equality.¹⁴⁷

The discrimination against LGBT people hence increases the risk of HIV transmission among this population, and hinders the achievement of Jamaica's 2030 development goals by exposing MSM and the general population to higher risk of HIV, and thus reduces the health and well-being of Jamaican people.

The loss of human capital comes with an economic cost.

Economic Impact of HIV

The HIV epidemic has had a significant economic impact, especially in severely affected low- and middle-income countries.¹⁴⁸ The HIV epidemic affects a country's productivity by reduced labour supply through increased mortality and morbidity. This means reduced competitiveness and profits, and for governments it means reduced tax revenues. Further, if potential investors feel that the epidemic is undermining the rate of return to investment through reduced labour quality and potential productivity, there will be a negative impact on foreign and domestic investment.¹⁴⁹ Evidence from Sub-Saharan Africa implies that

HIV has a diminishing effect on foreign direct investment (FDI), even when HIV prevalence is as low as 0.1 percent.¹⁵⁰ Additionally, the HIV epidemic has the potential to keep the health financing system in a permanent state of disequilibrium, and to redirect public spending from investment in physical and human capital to recuperative health expenditures, which can lead to slower GDP growth.¹⁵¹

Although HIV is shown to have a serious effect on traditional economic measures such as GDP per capita and economic growth, the long-term economic consequences have been difficult to determine as the illness affects the economy through a number of pathways in diverse areas of public, social, and economic life. These long-term consequences and the loss of human capital are difficult to estimate

146 Cruickshank.

147 Cruickshank.

148 Bell et al (2003); Over (1992); Dixon et al (2002); Piot (2015).

149 Haacker (2004).

150 Asiedu et al (2015).

151 UN (2004); Theodore (2001).

quantitatively.¹⁵² A World Bank study estimated in 2005 found that the loss of human capital due to AIDS might be much greater than had been estimated before, because it impacts economic growth across generations, and its effects might therefore take generations to unfold.¹⁵³ According to the study the illness destroys human capital by killing mostly young adults, which then weakens and even wrecks the mechanisms that generate human capital formation. The quality of child-rearing is heavily dependent on parents' human capital, and if one or both parents die while their offspring are children, the transmission of knowledge and potential productive capability from one generation to the next is weakened. The loss of family income, because of the illness or early death of one or both parents, affects the lifetime resources of the family, which might also mean that proportionally fewer resources are given to children's education. Also the uncertainty of their own future might make the investment in education seem less appealing for the children. This gives rise to a new generation with little education and knowledge, therefore less able to raise their own children, and to invest in their education.¹⁵⁴ The loss of human capital is thus transferred between generations, and the prospects for long-run economic growth and development will decline.¹⁵⁵

The economic impact of HIV has been recognized in Jamaica's national plans for HIV over the years. Jamaica's current *National Integrated Strategic Plan for Sexual and Reproductive Health and*



The cuts in funding led the Jamaican government to increase its contribution to the HIV response by approximately 83% in 2016 as compared to 2015

HIV 2014–2019 acknowledges that, “despite Jamaica’s success in addressing the epidemic, HIV and AIDS still have the potential to significantly impede the social and economic development of the country and contribute to the poverty gap.” HIV is tied to several developmental issues, including the slow rate of economic growth, high levels of unemployment, low educational attainment, especially among males, and crime and violence.

The epidemic has further had a negative impact on the provision of reproductive health services in Jamaica because there has been a general shift in focus since 2004 by international donors from population issues to HIV. Therefore a significant amount of funding has focused on the HIV campaigns targeting

those most at risk, while other areas of sexual reproductive health have received very little funding.¹⁵⁶ This means that there are limited resources available for the sexual and reproductive services for Jamaican youth.

A considerable sum is also used to prevent and treat the illness; however the cost of HIV/AIDS would be substantially larger without the money spent on treatment and prevention.¹⁵⁷ Funding for Jamaica’s National HIV/STI Programme is obtained annually through the Jamaican government, the Global Fund to Fight AIDS, Tuberculosis and Malaria, and the (United States) President’s Emergency Plan for AIDS Relief (PEPFAR).¹⁵⁸ In 2010, the World Bank classified Jamaica as an upper-middle-income country, which has caused a reduction in international donor support. The Global Fund has now classified Jamaica as a transitioning country, meaning that Jamaica will no longer be able to access those resources.¹⁵⁹ PEPFAR has also dramatically reduced its funding in the Caribbean, including Jamaica.¹⁶⁰ Jamaica is still eligible for funding, but because of the upper-middle-income-country status, only for programmes targeting those most at risk, that is, MSM and sex workers as well as providing treatment and care to those who are living with HIV. This limits Jamaica’s support for other strategies directed at the general population.¹⁶¹ The cuts in funding led the Jamaican government to increase its contribution to the HIV response by approximately 83 percent in 2016, as compared to 2015.¹⁶² The common concern among NGOs

152 Haacker (2004).

153 Bell et al (2003).

154 Bell et al (2003).

155 Haackcer (2004); Veenstra and Whiteside (2005); Bell, Devarajan, Gersbach (2003); UN (2004).

156 National Integrated Strategic Plan for Sexual and Reproductive Health & HIV 2014 – 2019, www.moh.gov.jm/wp-content/uploads/2016/05/Final-National-Integrated-Strategic-Plan-2014-2019-with-SRH-Validation.pdf.

157 Piot (2015).

158 Ministry of Health, Annual Report 2016 – 2017, <https://moh.gov.jm/wp-content/uploads/2015/03/Annual-Report-final-v5-May-2-2017-min.pdf>.

159 Global Fund, www.theglobalfund.org/en/portfolio/country/?loc=JAM&k=a4632d2c-dffa-495b-ae1d-e6cb5a19fdb5.

160 Cruickshank.

161 Ministry of Health Annual Report 2016 – 2017, <https://moh.gov.jm/wp-content/uploads/2015/03/Annual-Report-final-v5-May-2-2017-min.pdf>.

162 Revised National HIV Policy 2017, Jamaica, www.jnfpb.org/assets/HIV-Policy_RevisedOct2017-Website.pdf.

working with HIV is uncertainty that the government will continue to fund the programmes that are geared towards MSM once the Global Fund and PEPFAR funding are withdrawn. The GOJ is heavily invested in the treatment of HIV, but prevention services and the human rights issues might not be prioritized, which might result in such funding being dependent on the values and views of particular politicians, who may not be concerned with ensuring that everybody in Jamaica gets equal treatment, service, and respect.¹⁶³

The HIV epidemic thus been costly for the country. Notwithstanding, the

extent to which the discrimination of LGBT people has contributed to that cost is not obvious. However, based on our calculations, and by comparing the HIV rate amongst Jamaican MSM with the HIV rate amongst MSM in CARIFORUM countries that do not criminalize same-sex intercourse,¹⁶⁴ we estimate that the total annual economic cost in disability-adjusted life years lost to MSM criminalization to be more than US\$500,000. Additionally, we estimate that the total cost of treating HIV infections due to criminalization is US\$424 million.¹⁶⁵

3.4 Exclusion in Education

Aside from health, another important factor contributing to human capital development is access to education.¹⁶⁶ Education affects economic development through human capital development, which leads to increased labour productivity and wages. Discrimination and exclusion in education in turn lead to a loss of potential human capital. When LGBT people are excluded from education or training their opportunities to develop human capital are reduced, and hence, future economic output is correspondingly diminished. Discrimination against LGBT people at the broader societal level also results in unequal compensation for their human capital, demonstrated for instance by lower wages, reduced opportunities to get a promotion, inability to find a job suited to their education and experience, or unemployment. If LGBT people assume

that they are likely to get fewer returns on their investment in human capital, it might discourage them from investing in their education and training.¹⁶⁷ Also the disturbed family relations might significantly impact LGBT youth academic performance and education levels. When LGBT youth are thrown out of their family homes and forced out of their communities, the continuation of education might become difficult for them. Even if they are able to finish secondary school, their families might not be as willing to support their tertiary education as they otherwise would.

A wide range of evidence from Jamaica, as well as from other countries, demonstrates that LGBT people suffer disproportionately from bullying in schools, and are often left to deal with it by themselves.¹⁶⁸ Transgender youth

163 Cruickshank.

164 CARICOM countries and Dominican Republic.

165 See appendix II for the calculations.

166 Duvvury et al (2013); Barro (1991); Barro (2001); Badgett et al (2014); Chaaban & Cunningham (2011). For example, a World Bank study using data from over 100 countries suggested that increasing the share of women in secondary education by 1 percent results in annual income increase of 0.3 percent per capita; Dollar and Gatti (1999); Cunningham et al (2008).

167 Badgett (2014).

168 E.g. Kann et al (2018); Kosciw et al (2015); James et al (2016); Bradlow et al (2017); Human



Bullying based on sexual orientation or gender identity can also affect students who are not part of the community, and heterosexual students can also be victims of this kind of bullying.

especially suffer from severe bullying, and their drop-out rates are significantly higher than the rest of the population.¹⁶⁹ Bullying based on sexual orientation or gender identity can also affect students who are not part of the community, and heterosexual students can also be victims of this kind of bullying.¹⁷⁰ Bullying based on sexual orientation or gender identity seems to have more adverse effects than other forms of bullying. A study found that the boys who were victims of homophobic bullying experienced greater psychological distress, greater verbal and physical bullying, and more negative perceptions of their school experiences than boys who were bullied for other reasons, regardless of their sexual orientation.¹⁷¹

Bullying has a further negative impact on academic performance. Students who are bullied might start missing school for fear of verbal or physical violence, or show low academic performance for fear of standing out and being bullied even further. They might also avoid class discussions or drawing any attention to themselves, which in turn might make teachers and other students label them as low achievers, which further worsens the

cycle of low academic performance.¹⁷² In more severe cases, bullying might cause them to drop out of school, or cause mental health issues, like depression, anxiety, or suicidal ideation, which in turn affects their capability and incentive to invest in education.¹⁷³

THESE STUDENTS ARE OFTEN TARGETS OF BULLYING AND DISCRIMINATION

While there is no quantitative study done in Jamaica on the extent of school bullying or drop-out rates of LGBT youth, qualitative research has shown that these students are often targets of bullying and discrimination.¹⁷⁴ A 2015 study found that the victims of bullying are generally perceived as weak, somewhat different from others, or as LGBT.¹⁷⁵ In 2012, the *Gleaner* (newspaper) interviewed students from a prominent secondary school in Kingston who admitted to having participated in homophobic bullying because “they dislike the behaviour.” They explained that: “We bun dem thing deh man, any boy a do them thing deh no fi mix with other students If I personally know of a gay in the school, me personally a make him life miserable.” Another student

Rights Watch (2017); Campbell (2018).

169 Kosciw et al (2015); “Dignity for All? Discrimination Against Transgender and Gender Nonconforming Students in New York State,” New York Civil Liberties Union, 2015, www.nyclu.org/sites/default/files/publications/dignityforall_final_201508.pdf; Louise Brown, “Toronto School Board sets higher improvements targets for students based on race, sexual orientation,” *The Star*, October 5, 2015, www.thestar.com/news/gta/2014/10/05/toronto_school_board_sets_higher_improvement_targets_for_students_based_on_race_sexual_orientation.html; Lambda Legal. Facts: Gay and Lesbian Youths in schools, www.jasmyn.org/wp-content/uploads/2011/03/Lambda-Legal-LGBT-youth-in-schools.pdf.

170 E.g. The *Gleaner* wrote: “several schoolboys are being targeted for bullying by their peers because they are not as “macho” as expected. Labelled “sissies” or “gays”, these young men are enduring a painful level of bullying, even if they are not homosexuals.” Nadisha Hunter, “School bullies target effeminate boys,” *Gleaner*, July 1, 2012, <http://jamaica-gleaner.com/gleaner/20120701/news/news2.html>.

171 Swearer et al (2008).

172 Juvonen et al (2011).

173 It is perhaps worth noting that it is not only the bullying victim who suffers: research has shown that bullying can have a negative impact on the well-being and future prospects of the bullies themselves. Many bullies develop mental health challenges and are more likely to become excessive drinkers or substance abusers, engage in violent behavior, including spousal and child abuse, or criminal activities. They are also more likely to under achieve in school and later in the workplace. UNICEF (2015); Juvonen et al (2011).

174 The 2018 UNICEF Situational Analysis of Children in Jamaica reported that 64.9 per cent of students are bullied at school. www.unicef.org/jamaica/UNICEF_20180618_SituationAnalysis_web.pdf.

175 UNICEF (2015)

added, “While we can’t tell people what to choose, we have to torment them because we don’t want them around us.”¹⁷⁶ A 2018 book provides several testimonies by Jamaican gay men, who have been bullied during their school years, for being effeminate. Academic failure and disengagement in school was often a result for many of them.¹⁷⁷

The Ministry of Education has acknowledged the issue of bullying of students who are or perceived to be LGBT. In 2015, the Ministry announced the revision of the School Security and Safety Policy Guidelines in order combat bullying in Jamaican schools, including bullying of LGBT students. The Minister of Education explained:

A number of civil society groups, including members of the LGBT fraternity, have raised with me, issues of bullying. It is of serious concern and the policy of government and of the ministry is to protect the sexual integrity of everyone, so the fact that they raise the concern would be an important issue for us.¹⁷⁸

The announcement was met with criticism; in response the minister declared that “gays have rights like any other citizen,” while adding that the manual will address bullying of all students.¹⁷⁹ Nevertheless, the revised version of Security and Safety in Schools Guidelines does not mention bullying of LGBT students, nor are they included

U.S-centred studies have found that LGBT-inclusive non-discrimination and anti-bullying policies in schools have a positive effect on LGBT and heterosexual youth health.

in the list of descriptions of typical victims.¹⁸⁰

U.S-centred studies have found that LGBT-inclusive non-discrimination and anti-bullying policies in schools have a positive effect on LGBT and heterosexual youth health. A study of anti-bullying policies in Oregon found that gay youths living in counties with fewer school districts with LGBT inclusive anti-bullying policies were more than twice as likely to have attempted suicide in the past year compared with those living in counties where more districts had these policies. In contrast, anti-bullying policies that did not include sexual orientation were not associated with lower suicide attempts amongst

lesbian and gay youths.¹⁸¹ Another study found that “schools with comprehensive harassment/assault policies that included protections for sexual orientation and gender identity/expression reported a lower incidence of both homophobic remarks and negative remarks about gender expression, as well as a greater frequency of school staff intervention when homophobic remarks were made.”¹⁸²

Several recorded testimonies suggest that teachers and administrators in Jamaican schools fail to address homophobic bullying. There have also been cases where the teachers have been the bullies themselves. The issue is also acknowledged at the official level. For example, in January 2016, the president of the Jamaican Association for Guidance Counsellors in Education (JAGCE) noted that many guidance counsellors at schools completely shun LGBT students, explaining, “we have counsellors who are of the Christian faith who will not touch it or look at those students at all.” She further argued, “counsellors are not equipped to deal with these students.”¹⁸³ However, in response to the calls to provide training to counsellors to deal with LGBT students, the head of Jamaica’s teachers union (the Jamaica Teachers’ Association, JTA) commented that the JTA cannot call for guidance counsellors to be better equipped to deal with LGBT students, as Jamaica has a law which makes homosexual acts illegal. According to him the counsellors cannot put

176 “School bullies target effeminate boys,” Gleaner.

177 The following examples demonstrate some of the bullying: “I was attacked one semester to the point that I was out of school for half of the school year and throughout my entire school life. I was sad and depressed and because of that I did poorly in my studies.” “If I had stayed at my first high school, I am sure I would have dropped out as entering that high school I had strong academic discipline which quickly eroded as I had to deal with so much homophobia with no support.” Campbell (2018).

178 Jodi-Ann Gilpin, “No bullying gay youths - Harassment of homosexuals triggers new security manual in schools,” Gleaner, July 17, 2015, <http://jamaica-gleaner.com/article/lead-stories/20150717/no-bullying-gay-youths-harassment-homosexuals-triggers-new-security>.

179 “Education minister lashes critics of anti-bullying policy, says gays have rights too,” Gleaner, July 22, 2015, <http://jamaica-gleaner.com/article/news/20150722/education-minister-lashes-critics-anti-bullying-policy-says-gays-have-rights>.

180 Copy of Security and Safety Policy Guidelines 2015, October 9, 2015, <https://drive.google.com/drive/folders/0BzIAiS6fPqgZSm9uRlAtQmRQakE?tid=0BzIAiS6fPqgZfkZpbXk3Q05pR0ZYVlpzak93V21tcXNsbW9HX29USGhLMXZaRE8zS3VDNU0>.

181 Hatzenbuehler and Keyes (2013).

182 Kosciw et al (2014).

183 “Guidance counsellors shun gay, lesbian students,” Gleaner, January 11, 2016, <http://jamaica-gleaner.com/article/lead-stories/20160111/guidance-counsellors-shun-gay-lesbian-students>.





Violence against
women costs between

1-2%
of GDP
in the countries studied



In Vietnam, women's lost days of
work as a result of intimate partner
violence led to a loss of

1.6%
of GDP
in 2011



1967 and 1993
the U.S. economy lost between

1.5-2.2%
of GDP

because discrimination against
African Americans limited
the full use of their education



Additionally, the failure to
improve their education
cost another

1.6%
of GDP

themselves in the position to break the law, and should instead refer the cases to the appropriate government agencies.¹⁸⁴ These types of attitudes leave Jamaican LGBT students without the support they need to cope.

ECONOMIC COST

Since there is no quantitative data on the academic performance, the extent of bullying, nor the drop-out rates of LGBT students in Jamaica, it is not possible to provide an estimate of the cost of discrimination in terms of exclusion in education. However, studies from elsewhere indicate that the cost could be large. An estimate of the economic cost associated with bullying in Australian

schools was US\$1.5 billion per cohort. With dozens of cohorts in the labour force at any time, the aggregated effect of this could approach a quarter to a half percentage point of GDP.¹⁸⁵ Bullying impacts productivity by way of lower academic performance, chronic health issues, forgone economic contribution of a student that takes their own life due to bullying, and continued bullying behavior, that can include violence, which affects family relations, through, for example, intimate partner violence. The study identified LGBT youth as one of the most vulnerable groups for bullying.¹⁸⁶

The failure to provide LGBT youth with a safe learning environment also impedes

Jamaica's achievement of the Vision 2030 goals, and the SDGs. Jamaica has set as goal one in its development plan, "Jamaicans are empowered to achieve their fullest potential," achieved through world class education and training (National Outcome Two). If Jamaica continues to fail to address discrimination against LGBT people, and bullying based on sexual orientation or gender identity, these development goals are not going to be fully met, and the country's prospects for sustainable development and economic growth are diminished.

3.5 Exclusion in Employment

Several studies have shown that discrimination in employment of even one group has an economic impact at the level of the whole economy. To date, most evidence exists on the economic gains of gender and racial equality. A study of the cost of girls' exclusion found that if young women had activity rates similar to those of young men, annual GDP growth rates would be up to 4.4 percent higher.¹⁸⁷ Another World Bank study suggests that violence against women costs between 1 to 2 percent of GDP in the countries studied.¹⁸⁸ For example, in Vietnam, women's lost days of work as a result of intimate partner violence led to a loss of 1.6 percent of GDP in 2011.¹⁸⁹ A study of the economic impact of racial discrimination in the U.S. found that

between 1967 and 1993 the U.S. economy lost between 1.5 to 2.2 percent of GDP because the discrimination against African Americans limited the full use of their education. Additionally, the failure to improve their education cost another 1.6 percent of GDP.¹⁹⁰

COST OF EXCLUSION

The cost of exclusion in employment for a country comes from a variety of sources: diminished economic productivity, cost of unemployment benefits and social programmes, reduced tax revenue, reduced consumption, as well as from social consequences, including crime and violence. The exclusion of LGBT people in employment has a negative impact on the economy for several reasons. Firstly,

when LGBT people with skills are not hired they cannot contribute their human capital to the economy. Second, those LGBT people who are employed might end up in jobs that do not fully use their skills and knowledge, which leads to lower wages, and again their human capital is not fully used. Third, the harassment and discrimination that LGBT people might experience in the workplace are likely to reduce their productivity. Even in cases where the employer or co-workers are not discriminating against them, the concealment of sexual orientation or gender identity can have a negative impact on the productivity and mental health of the LGBT worker.¹⁹¹

In Jamaica, the only legal protection

184 "Homosexual acts are illegal, guidance counsellors cannot break the law – JTA," Gleaner, January 12, 2016, <http://jamaica-gleaner.com/article/news/20160112/homosexual-acts-are-illegal-guidance-counsellors-cannot-break-law-jta>.

185 This cost can be broken down into two components: 1) by the time each cohort has completed its schooling years the cost associated with bullying for the victims of bullying, perpetrators, their families, schools, and for the community is estimated to be US\$355 million. 2) The consequences of bullying continue after school completion and are estimated to cost US\$1.2 billion for each cohort of students over a period of 20 years.

186 PWC (2018).

187 Chaaban and Cunningham (2011).

188 Duvvury et al (2013).

189 Duvvury and Carney (2012).

190 Brimmer (1997).

191 Badgett et al (2013).



against employment discrimination on the basis of sexual orientation or gender identity is the 2004 Staff Orders for the Public Service, which prohibits discrimination on the grounds of sexual orientation in the civil service.¹⁹² In the private sector, which employs almost 90 percent of Jamaica's working labour force,¹⁹³ there is no equivalent protection for workers.¹⁹⁴ Only a few private sector employers have voluntarily referred to discrimination based on sexual orientation or gender identity in their corporate policies. According to the 2012 National Survey on Homophobia, a majority (77%) of the business people surveyed said that their corporate social responsibility policy did not refer to LGBT individuals. Also, most (64%) did not agree that their workplace diversity statement/policy should include LGBT persons.¹⁹⁵ The BPO sector, where many workers are employed by multinational companies, is the one of very few private

sector employers in Jamaica that has systematic anti-discriminatory workplace policies in place.

Evidence shows that the prejudice against LGBT people at a wider societal level hampers their employment opportunities in the Jamaican labour market. For example, more than half (54%) of the business people surveyed responded that they would not employ an openly LGBT person for reasons such as, they felt LGBT persons would make their co-workers uncomfortable or that they "did not support that orientation." They were also afraid of being stigmatized or losing customers because of being perceived as encouraging homosexuality.¹⁹⁶ The fears of the business people reflect those of the general population. Another study of the attitudes and perceptions of Jamaicans towards same sex relationships in 2011 found that the majority of those surveyed disagreed with the notion, "I would feel comfortable working closely with a male

homosexual," and agreed with notion, "I would feel uncomfortable if I learned that my boss was homosexual."¹⁹⁷

A 2012 study found that many LGBT people experience employment discrimination, including mistreatment by employers.¹⁹⁸ That study also showed that sexual orientation could be the sole reason to fire an employee for nearly 35 percent of the businesspersons. In 2014 Human Rights Watch interviewed five LGBT persons who had been fired because of their assumed sexual orientation or gender identity. One of the interviewees shared that losing his job caused him to become homeless, and he had been living on the street for three years. Others said that the fear of violence caused them to move regularly, which was hampering their ability to find and keep a job.¹⁹⁹ Even having an openly LGBT family member can lead to losing employment, as was the case with LGBT woman, Simone Edwards, who had to seek asylum in the Netherlands because of severe LGBT violence towards herself and her family. According to Edwards, "one of the few family members I have left in Jamaica was even forced to leave his job because he was harassed merely for having gay and lesbian siblings."²⁰⁰

To date, no representative study of LGBT discrimination in the employment setting in Jamaica has been done. However, some data is provided by a 2016 study of the developmental cost of homophobia in Jamaica. Among the respondents, of whom a majority were male, under 25 and had a university degree, one in six (16%) did not have a job in the 12 months

192 Staff Orders for the Public Sector 2004, Government of Jamaica, <https://moh.gov.jm/wp-content/uploads/2015/06/StaffOrders1.pdf>.

193 "Private Sector Assessment of Jamaica," Inter-American Development Bank, 2014, <http://competecaribbean.org/wp-content/uploads/2015/02/2014-Jamaica-Private-Sector-Assessment-Report.pdf>.

194 Human Rights Watch (2014).

195 Boxill et al (2012).

196 Boxill et al (2012).

197 Boxill et al (2011).

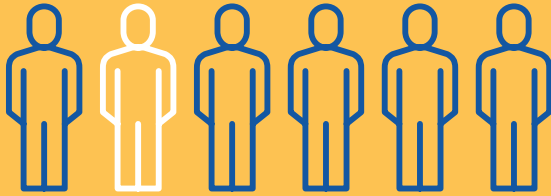
198 Boxill et al (2012).

199 Human Rights Watch (2014).

200 "Inter-American Commission on Human Rights to Hear Case Against Jamaica's Anti-Buggery Law," Caribbean 360, October 16, 2018, www.caribbean360.com/news/inter-american-commission-on-human-rights-to-hear-case-against-jamaicas-anti-buggery-law.



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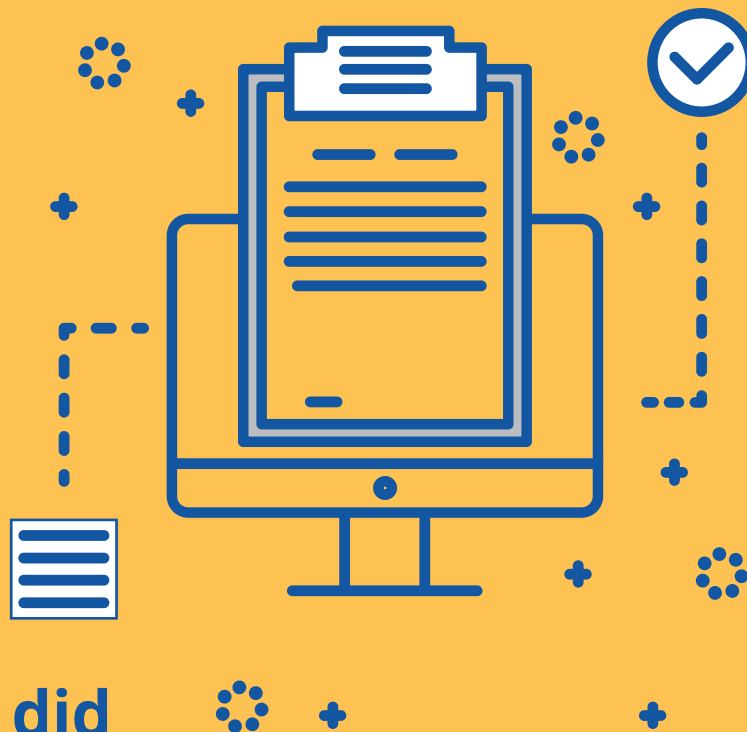


When asked if they were ever denied a job because of LGBT identity ...

7%
RESPONDED YES

one in six or **16%**

did not have a job in the 12 months leading to investigation.



Those who tended to be more open about their LGBT identity were more likely to be denied a job.

Nevertheless, it was unclear for the researchers if those

16% who did not have jobs

were unemployed because they were denied a job.

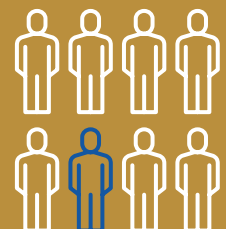


18%

of LGBT people looking for work said they were discriminated against because of sexual orientation or gender identity.



Additionally, one in eight or 12% black, Asian, and minority ethnic LGBT employees had lost a job in the past year because of being LGBT



leading to investigation. When asked if they were ever denied a job because of LGBT identity, 7 percent responded yes. Nevertheless, it was unclear for the researchers if those 16 percent who did not have jobs were unemployed because they were denied a job. The data from the survey also suggested that those who tended to be more open about their LGBT identity were more likely to be denied a

Cost of discrimination in employment

As there is no representative quantitative data of LGBT unemployment in Jamaica, it is difficult to estimate its cost. Jamaica also does not have unemployment benefits as such, but there are programmes targeted to vulnerable populations, like the PATH programme. However, it is not

of discrimination, like the wage gap between LGBT and non-LGBT people due, for example, to the difficulty to get a promotion, or find a job commensurate with one's education. Moreover, it does not account for the other negative impacts that discrimination in the employment setting has to the economy, nor to the performance of businesses.

LGBT participants were asked about their openness about their status at work

5%

ALWAYS OPEN

42%

NEVER BEEN OPEN

22%

RARELY OPEN

job.²⁰¹ These results might underestimate the degree of exclusion in employment among the LGBT community at large, as the majority of respondents were young gay men with university degrees. Unemployment rates are significantly higher among transgender people, and also likely to be higher among those LGBT people who have lower education levels. For comparison, a recent UK study found that almost one in five (18%) LGBT people who were looking for work said they were discriminated against because of their sexual orientation or gender identity. Additionally, one in eight (12%) black, Asian, and minority ethnic LGBT employees had lost a job in the past year because of being LGBT.²⁰² Public opinion towards LGBT people in Britain is more tolerant than in Jamaica, and therefore employment discrimination in Jamaica could be expected to be higher.

possible to estimate how much of the cost of the PATH programme relates to LGBT people. There is also no data available in Jamaica about the wage gap between LGBT people and the general population. Notwithstanding, it is possible to estimate the cost of exclusion of LGBT people in employment in terms of productivity, by using the data provided by the 2016 study. The exclusion in employment diminishes a country's productivity, as LGBT individuals cannot contribute their human capital to the economy.

We estimate that in 2018 discrimination of LGBT people in the labour market cost over US\$77 million in terms of lost economic outputs.²⁰³ Notwithstanding, this is a conservative estimate and likely to underestimate the exclusion in employment, as many do not know the reason why they were not hired. It also does not account for other forms

Workplace Discrimination – Tragedy for the Individual, Bad for Business

Even if an LGBT person is hired, they often face discrimination in the workplace. The UK study found that almost one in five LGBT staff had been targeted by a negative comment or conduct because of their sexual orientation or gender identity. Further, 12 percent of transgender people and 10 percent of Black, Asian and ethnic minority LGBT employees had been physically attacked by customers or colleagues, compared to 3 percent of white LGBT staff. Additionally, more than a third (35%) of LGBT staff had hidden or disguised that they were LGBT, because they were afraid of discrimination.²⁰⁴

201 Waller et al (2016).

202 Bachmann and Gooch (2018).

203 In 2018 there were 1,334,900 persons in the Jamaican labour market. Since we have estimated that 7 percent of Jamaicans are LGBT, we can estimate that the size of Jamaican LGBT labour force is 93,443 persons. If 7 percent of these people were denied a job due to their sexual orientation or gender identity in 2018, it means that 6,541 persons were denied a job because of their LGBT status. In 2018 Jamaican output per worker was \$11,776.16.

204 Bachmann and Gooch (2018).

There is no equivalent study done that could evaluate the magnitude of workplace discrimination against LGBT people in Jamaica. However, data provided by J-FLAG suggests that it is not uncommon. In the 2016 survey, only 5 percent of the LGBT participants responded that they are always open about their status at work, while 42 percent responded that they have never

Several studies have demonstrated that there is a positive association between LGBT-supportive corporate policies and firms' performance.²⁰⁶ A 2018 US study found that a LGBT-supportive policy was positively and significantly associated with firm value, factor productivity, employee productivity, and profitability with firms engaged in research and development activities – firms needing

Non-discriminatory workplaces, and the ability of LGBT people to be open about their sexual orientation or gender identity, have an effect on workplace-related outcomes through greater job commitment, improved workplace relationships, increased job satisfaction, and improved health outcomes among LGBT employees, all of which are expected to increase employees'

60%

**NOT OPEN WITH ANY
WORK SUPERIORS**

13%

**OPEN WITH A FEW
WORK SUPERIORS**

7%

**OPEN WITH ALL
COLLEAGUES**

been open about their status at work, and 22 percent responded that they are rarely open about their status. Similarly, 60 percent of the participants responded that they were not open about their status with any of their work superiors, and only 13 percent were open with a few work superiors. The respondents were more willing to be open about their sexual orientation with colleagues than superiors, however only 7 percent said they were open with all colleagues, while 38 percent were open with none.²⁰⁵ The reluctance to disclose LGBT status demonstrates the fear of discrimination in the workplace.

Studies have shown that workplace discrimination not only affects LGBT employees, but it is also bad for business.

highly skilled labour.²⁰⁷ A 2017 study showed that firms with a higher degree of corporate sexual equality have higher stock returns, higher market valuation, and higher income per employee. A third study found that LGBT friendliness is positively associated with firms' higher profitability and higher stock market valuation.²⁰⁸ And a fourth study, in turn, found that those U.S. firms that have adopted LGBT-supportive corporate policies enjoy better credit ratings.²⁰⁹

There are various reasons why LGBT-supportive corporate policies could affect a firm's performance. There is strong evidence that LGBT-supportive policies are linked to less discrimination against LGBT people in the workplace, and also to increased openness about being LGBT.

productivity and consequently have an impact on the employer's costs and profits.²¹⁰

These factors can also reduce employee turnover, which is costly for the employer.²¹¹ Studies indicate that the direct replacement cost of an employee can be as high as 50 to 60 percent of an employee's annual salary, while the estimated total cost of turnover can reach from 90 percent to 200 percent of annual salary.²¹² In addition to the cost saved from reduced turnover, the improved health outcomes of LGBT employees in an LGBT-friendly work climate can reduce the health insurance costs of employers, and of absenteeism due to sick days.²¹³ A 2007 study found that exposure to discrimination was linked to number

205 Waller et al (2016).

206 Pichler et al (2018); Fatmy et al (2018); Chintrakarn et al (2018); Johnston and Malina (2008); Wang and Schwarz (2010).

207 Pichler et al (2018).

208 Fatmy et al (2018).

209 Chintrakarn et al (2018).

210 Badgett et al (2013); e.g., Driscoll, Kelley and Fassinger (1996); Day and Schoenrade (1997); Day and Schoenrade, (2000); Button (2001); Ragins and Cornwell (2001); Ragins, Singh and Cornwell (2007); Shan et al (2017).

211 Badgett et al (2013).

212 Allen (2008).

213 Badgett et al (2013).

of sick days and physician visits among LGBT men.²¹⁴

Other evidence shows that LGBT-supportive policies and an LGBT-supportive workplace climate increase employees' creativity. A UK study illustrated that LGBT employees who were open about their sexuality at work were more confident sharing their new ideas, while those participants who had to conceal their sexual orientation at work indicated reduced creativity and innovation.²¹⁵ Another study of diversity showed that companies with two-dimensional diversity out-innovate and out-perform others.²¹⁶ According to the study, LGBT employees in companies

without diverse leadership were 21 percent less likely than straight white men to win endorsement for their ideas.²¹⁷

Anti-discrimination legislation such as Employment Non-Discriminatory Acts (ENDAs) are also associated with an increase in firms' innovation, perhaps because of more effective recruiting of creative employees, who often value diversity.²¹⁸ It is recognized by many global companies that LGBT-supportive workplaces can help to attract the best talent, as it sends a message that the company is progressive, meritocratic, and values diversity. Hence, large multinationals like Alcoa, BP, Ford Motors, and Goldman Sachs have promoted

LGBT inclusion in their recruitment campaigns.²¹⁹ A global survey found that business leaders, especially in emerging economies, are more concerned than ever about their ability to find the right people to fill certain roles. While 63 percent of CEOs globally said that the availability of key skills is the biggest threat to their organization's growth, over 90 percent of CEOs in African and South East Asian nations were most concerned about the lack of skills.²²⁰ The skills gap has been noted in Jamaica: the official 2012 and 2017 labour market studies showed that employers are facing challenges filling the positions for highly skilled workers.²²¹

LGBT-supportive policies could also

214 Huebner and Davis (2007).

215 Guasp and Balfour (2008).

216 Two dimensions of diversity: inherent and acquired. Inherent diversity involves traits you are born with, such as gender, ethnicity, and sexual orientation. Acquired diversity involves traits you gain from experience.

217 Sylvia Ann Hewlett, Melinda Marshall and Laura Sherbin, "How Diversity Can Drive Innovation," Harvard Business Review, December, 2013, <https://hbr.org/2013/12/how-diversity-can-drive-innovation>.

218 Gao and Zhang (2016).

219 Miller and Parker (2015).

220 PWC (2014).

221 "Employers report skills gap," Gleaner, December 15, 2013, <http://jamaica-gleaner.com/gleaner/20131215/business/business6.html>; Ministry of Labour and Social Security, National Labour Market Survey 2017: A Guide to Employment Opportunities in Jamaica., www.lmis.gov.jm/common/



be expected to have an impact on organizational-level outcomes through increased access to new customers, such as individual consumers who want to do business with socially responsible companies, or with entities that require non-discriminatory policies from their partners.²²² A 2017 survey found that nearly half (48%) of the American population, and the majority (64%) of those who identified as LGBT allies, responded that they are more likely to spend money with brands that are LGBT inclusive, and would avoid purchasing from companies they perceived as not

supporting the LGBT community.²²³

The role of business plays a vital role in a country's economic development. Business success drives the economic and societal success of the entire country in multiple ways, including job creation, contributions to GDP, increased government revenues through taxes, driving innovation, as well as providing products and services to citizens. Jamaica's development plan, Vision 2030 recognizes the role of improving labour productivity and worker satisfaction in order to achieve an enabling business

environment, and consequently Jamaica's national goal four is: "Jamaica's economy is prosperous." SDG 8: "Good jobs and economic growth," and 9: "Innovation and infrastructure," also speak to the importance of worker satisfaction, as well as of successful and innovative businesses, to the country's development. In Jamaica, LGBT discrimination at the workplace contributes negatively to the productivity of the labour force, employee satisfaction, and innovativeness of businesses, all of which have negative impacts on the success of businesses, and consequently on the country's development.

48%

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64%

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3.6 Brain Drain – Emigration of Talented and Skilled Individuals

Human capital deficiency is generally agreed to be one of the major reasons why developing countries do not develop. The deficiency is exacerbated when human capital is lost due to the migration of educated and skilled individuals, often referred to as brain drain.²²⁴ Economists consider brain drain to be a serious constraint on the development of poorer

countries, in spite of its possible positive effects through remittances, foreign direct investment (FDI), trade, and knowledge transfer.²²⁵ Jamaica has been experiencing the emigration of its middle class for decades. Eighty-five percent of Jamaican emigrants have a tertiary degree.²²⁶ Similar results were found in a survey of the Jamaican diaspora, which

indicated that 79 percent of respondents had attained tertiary education.²²⁷ A study of 127 countries that looked at brain drain and human capital formation found that Jamaica was among the biggest net losers of talent in terms of human capital formation; as a result of brain drain Jamaica was losing 14 percent of its human capital.²²⁸ According to the

ViewDocument/518e8201-c536-4daf-b54e-213e37586fb3.

222 Badgett et al (2013); Tuten (2005); Day and Greene (2008); Wettstein and Baur (2016); Weinzimmer and Esken (2016) cited by Fatmy et al (2018).

223 Ogivly survey, cited by Grace Donnelly, "Being LGBT Inclusive Is Good for Business, Survey Finds," Fortune June 28, 2017, <http://fortune.com/2017/06/28/lgbt-inclusive-advertising-survey/>.

224 Ngoma and Ismail (2013).

225 Ngoma and Ismail (2013); McKenzie and Rapoport (2011).

226 Fajnzylber and López (2008).

227 CAPRI, "Economic Value of the Jamaican Diaspora," 2017, Mona: Caribbean Policy Research Institute, www.capricaribbean.org/documents/economic-value-jamaican-diaspora.

228 Beine et al (2008).

International Monetary Fund (IMF), addressing brain drain would increase the country's productivity and mobilize economic growth.²²⁹

Sexual orientation and gender identity discrimination exacerbates brain drain in Jamaica. Discrimination, violence, and exclusion push many LGBT people to migrate to North America or Europe to have better opportunities to succeed with their lives, or because of fear, threats, or acts of violence. Several choose to migrate simply because they wish to be able to be who they are, and live freely.²³⁰ J-FLAG's Flag's 2016 survey showed that nearly 75 percent of Jamaican LGBT people surveyed, of whom 53 percent had tertiary education, confessed to thinking about migrating because of their LGBT identity.²³¹ Also, 77 percent of tertiary graduates, out of the 53 respondents to an Equality Jamaica Twitter poll, said that they had considered migrating for better job opportunities.²³² Probably the best-known example of the brain drain of LGBT people in Jamaica is the Man Booker prize-winning author Marlon James, who migrated to the U.S. because of his inability to live openly as a gay man, and due to fear of homophobic violence: "Whether it was in a plane or a coffin, I knew I had to get out of Jamaica."²³³

James' story is not uncommon.²³⁴ Many Jamaican LGBTs have left to seek asylum in the U.S., Canada, or Europe because of homophobic or transphobic violence. In 2017, Jamaican LGBT people were by

far the largest group of applicants for help from Rainbow Railroads, a Toronto-based organization helping LGBT people to escape state-sponsored violence.²³⁵ Out of 1,151 requests from LGBT people around the world, 369 came from Jamaican nationals. In contrast, only 16 requests came from other Caribbean islands. Of those Jamaican applicants, 122 were able to migrate to North America or Europe.²³⁶ Similarly, according to a manager at the refugee support programme at The 519, a City of Toronto Agency for the LGBTQ community, "of all the Jamaicans we see come through our doors in the last four years, 95% have been successful in their refugee claims. They are the fourth largest group of refugees represented in our programme."²³⁷

Although many Jamaicans – not just LGBT – migrate for many reasons, mostly economic, it is clear that LGBT

discrimination affects willingness of LGBT people to migrate.²³⁸ Many of them are also highly educated. That notwithstanding, the magnitude of LGBT brain drain is unknown, the existing evidence, however, suggests that discrimination can have a considerable impact on the level of human capital in the country. If they stayed, these people could have contributed their human capital to the economic and cultural development of Jamaica. LGBT people who choose to migrate might not also contribute to the country by sending remittances to their families, investing in the country, or visiting as a tourist. Many have broken relationships with their families, who might not accept their lifestyles abroad, many are afraid of their safety if visiting, and many might simply want to put the traumatic experiences behind them and move on.

In 2017, Jamaican LGBT people were by far the largest group of applicants for help from Rainbow Railroads, a Toronto-based organization helping LGBT people to escape state-sponsored violence.

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229 Kandil et al (2014).

230 See appendix for examples.

231 Waller et al (2016).

232 Equality Youth JA (@EqualityYouthJA), "Hey College Grads and the soon-to-bes We have some questions for you. We're inviting you to take part in this thread of polls, RT and share with you friends!" July 18, 2019, 10:49 am, <https://twitter.com/EqualityYouthJA/status/1151911869873102849>. Equality Youth Jamaica is J-Flag's youth arm.

233 Marlon James, "From Jamaica to Minnesota to Myself," The New York Times, March 10, 2015, www.nytimes.com/2015/03/15/magazine/from-jamaica-to-minnesota-to-myself.html.

234 See appendix for examples.

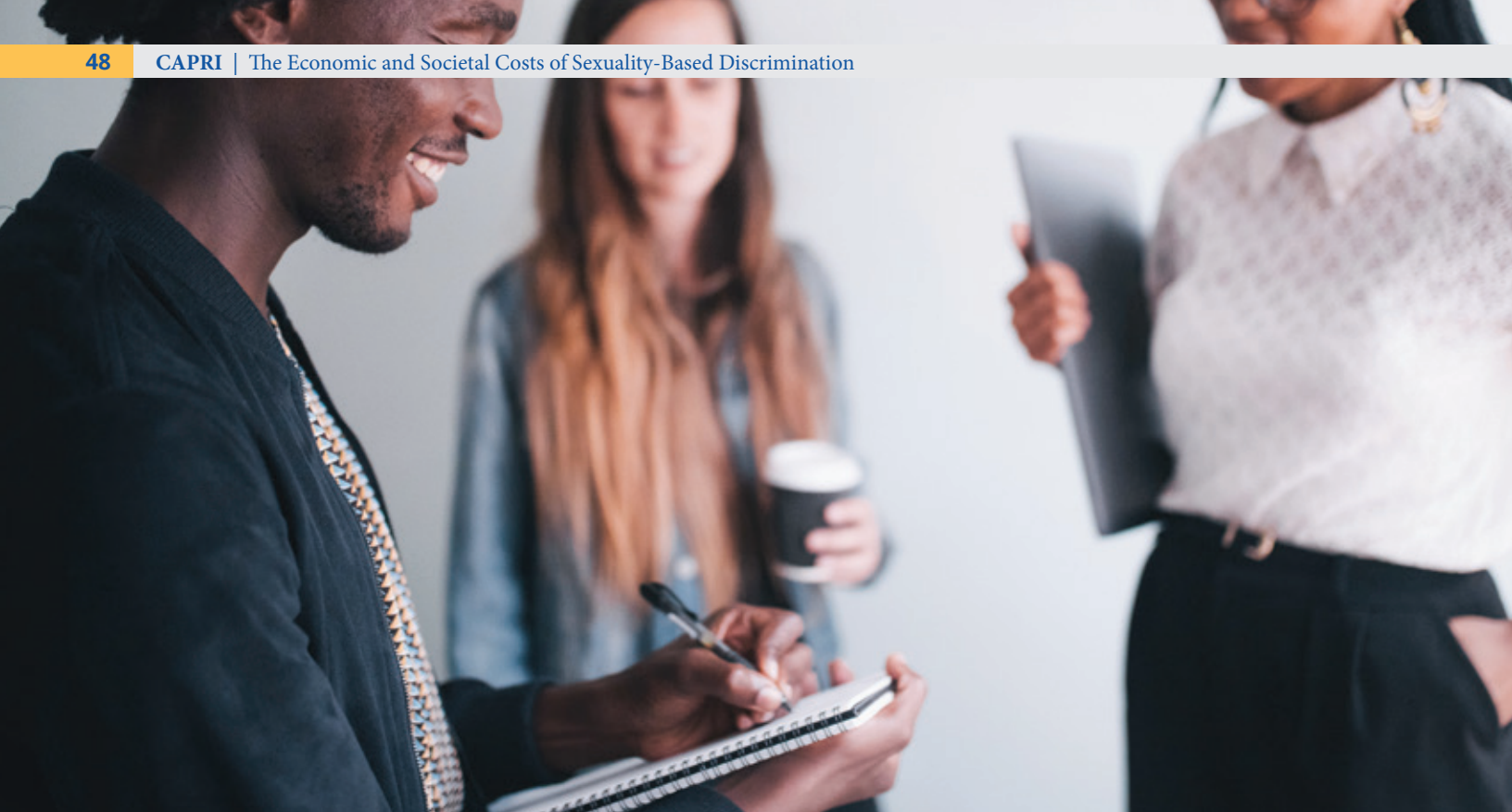
235 See appendix for an example of a Jamaican gay man who received help from Rainbow Railroads, and was granted refugee status in Spain.

236 Rainbow Railroads Annual report 2017, www.rainbowrailroad.com/about-us.

237 Karlene Williams-Clarke, manager direct services at the 519, cited in Campbell (2018).

238 There are many reasons causing highly skilled Jamaicans to migrate, including the lack of job opportunities and poor salaries. However, intolerance towards LGBT people makes matters worse, particularly for those highly skilled individuals who are part of the LGBT community, as well as for those who value LGBT inclusivity or a tolerant atmosphere in general.





4. Indirect Effects of Sexuality-Based Discrimination



80%
of global GDP
is generated in cities,
and thus they can be seen as the
engines of economic growth in a
country.

4.1 Preclusion of Innovation and Decreased Competitiveness

In addition to accelerating the migration of talented Jamaicans, sexual orientation and gender identity discrimination negatively affects the country's ability to attract foreign talent. This in turn affects the competitiveness of the Jamaican capital city. Eighty percent of global GDP is generated in cities, and thus they can be seen as the engines of economic growth in a country. Therefore the improvement of cities' competitiveness is crucial to eradicate poverty and increase national prosperity.²³⁹ The World Bank estimates that millions of additional jobs could be created each year if more cities performed at the level of the most competitive cities.²⁴⁰ The literature lists four categories of intervention through which cities can facilitate the growth of jobs. These are: institutions and

regulations, infrastructure and land, skills and innovation, and enterprise support and finance. The former two tend to be crucial drivers of competitiveness for low-income cities; however, in order for the cities to achieve higher income levels and sustained economic growth, human capital and innovation become crucial.²⁴¹

Global economic growth in its present form is driven by technologies based on knowledge and information. As outlined by Peter Drucker in 1993: "The basic economic resources – 'the means of production,' to use the economist's term – are no longer capital nor natural resources . . . nor 'labour'. *It is and will be knowledge.*"²⁴² According to this view, economic value is created by productivity and innovation, rather

than capital. Knowledge workers (the highly skilled people) are thus classified as the creative class, where the driver of today's economy is creativity rather than knowledge: "knowledge and information are merely the tools and the materials of creativity," whose product is innovation.²⁴³ This notion of a creative class includes a wide range of professions in knowledge-intensive industries, such as high-tech, financial services, the legal and health care professions, and business management. Common to all of them is that they are paid for their creative contribution to the economy.²⁴⁴

Highly skilled individuals are a key driving force of economic development.²⁴⁵ According to the World Economic Forum: "A nation's human capital endowment...

239 Miller and Parker (2015).

240 World Bank defines a competitive city: "A 'competitive city' successfully facilitates its firms and industries to grow jobs, raise productivity and increase incomes of citizens."

241 Kilroy et al (2015).

242 Drucker (1993); also cited by Florida (2012).

243 Florida (2012).

244 Florida (2012).

245 Rindermann et al (2009); Glaeser and Saiz (2003); Rausch and Negrey (2006).

The basic economic resources – 'the means of production,' to use the economist's term – are no longer capital nor natural resources . . . nor 'labour'. *It is and will be knowledge.*

– Peter Drucker (1993)

can be a more important determinant of its long-term economic success than virtually any other resource.”²⁴⁶ In the era of the knowledge economy, highly skilled individuals also determine where companies will choose to locate and grow.²⁴⁷ This suggests that, in the modern era, corporations follow people rather than the other way around. This in turn has an effect on how cities must compete. To increase competitiveness cities need to attract and retain talented people.

THE ‘THREE T’S’

Florida argues that a city’s creative potential can be measured by the “three T’s of economic development – technology, talent, and tolerance.” For real innovation and sustained economic growth, cities must excel at all three. Whereas there is a general consensus among economists about the connection between technology, talent, and economic growth, the relationship between tolerance and growth remains debated. Notwithstanding, a growing body of research has recognized the connection between tolerance, innovation, and economic development.²⁴⁸ Tolerance, as broadly defined by Florida, means openness to diversity, and diverse and tolerant cities in turn, according to Florida, attract and retain top creative talent. This idea is not totally new: already in 1961 Jane Jacobs argued that open and diverse cities attract more talented people, thus spurring creativity and innovation.²⁴⁹ Following these lines Florida argues that “new ideas are generated most efficiently in places where

different cognitive styles are tolerated—and different cognitive styles are linked to demographic diversity.”²⁵⁰

The hypothesis thus is that diversity, including large ethnic, bohemian, and LGBT populations, sends a powerful message to talented people that the place is inclusive and open for new ideas. Openness to diversity is seen as a sign that the place has low barriers to the entry of new people and ideas.²⁵¹ Talented people, in turn, are drawn to these types of places that are known for diversity of thought and open-mindedness.²⁵² LGBT discrimination therefore signals quite the opposite: that the place is exclusive and not open to people from different backgrounds, with different lifestyles and ideas. In looking at the relationship between high-technology industry and tolerance, one study found that a large LGBT population was the single best predictor of high-technology

industry activity across US metropolitan areas.²⁵³ Another study looking at new firm formation in the U.S found that a higher level of new firm formation was associated with a larger proportion of LGBT residents.²⁵⁴

NON-DISCRIMINATION ACTS

Similarly, another U.S. based study found that firms headquartered in states that had passed Employment Non-Discrimination Acts (ENDAs) experienced a significant increase in the number of patents (8 percent,) and in the number of patent citations (11 percent,) as compared to firms headquartered in states that did not pass ENDA. Further, the study tracked the mobility of inventors (persons who produce patents) in and out of the state after adopting the law, and found that the inventors who moved into the state after passing ENDA were more productive at patenting than the inventors who moved out of the state.²⁵⁵ These results suggest

Diversity, including large ethnic, bohemian, and LGBT populations, sends a powerful message to talented people that the place is inclusive and open for new ideas. Openness to diversity is seen as a sign that the place has low barriers to the entry of new people and ideas.

246 World Economic Forum, Human Capital Report 2015, <http://reports.weforum.org/human-capital-report-2015/the-human-capital-index>.

247 The former CEO of Hewlett-Packard clearly demonstrated the needs of modern day corporations by telling a group of U.S. governors: “Keep your tax incentives and highway interchanges; we will go where the highly skilled people are.” Carly Fiorina in the Annual Meeting of the National Governors Association in Washington, DC, in winter 2000. Cited by Florida (2012).

248 Florida (2012); Gao & Zhang (2016); Gertler et al (2002); Rutten and Gelissen (2008).

249 Jane Jacobs, *The Death and Life of Great American Cities*, Vintage, 1961, cited in Lee et al (2004); Florida (2012).

250 Florida (2012).

251 Florida (2012).

252 Florida and Gates (2001).

253 Florida and Gates (2001).

254 Lee et al (2004).

255 Gao & Zhang (2016).



that the enactment of ENDA made the state more attractive for creative people, and helped to match the pro-LGBT employees with innovative firms. The result is consistent with the view that creative people tend to be more LGBT-friendly.

While education is among the most important predictors of social tolerance in general, it is specifically significant to tolerance of LGBT people.²⁵⁶ Low-level manual workers are often more morally conservative and less tolerant of minorities, while high-level non-manual professionals tend to be the most liberal.²⁵⁷ Moreover, in general, pro-LGBT individuals tend to be younger, better educated, and more open-minded and risk-taking, as well as exhibit a stronger ideological liberalism — all features

associated with creativity,²⁵⁸ whereas religiosity, which is often associated with negative views towards LGBT people, is found to have a significant negative relationship with innovativeness.²⁵⁹

BOHEMIAN POPULATION

Thus there are strong indications that creative people tend to be more tolerant towards LGBT people, including those working in traditional creative industries such as theatre, music, and other forms of arts – that is, the “bohemian class.” The notion is supported by work indicating a strong correlation between cities with a large bohemian population and a large LGBT population.²⁶⁰ Therefore, discrimination against LGBT people can have another indirect effect: research has shown that the concentration of

bohemians is highly associated with high-technology success and corresponding levels of human capital, as talented people are often attracted to high quality amenities and modern city life.²⁶¹ The amenity-rich city is largely defined by vibrant street-level culture from hip restaurants and cafes, to art galleries and an energetic music scene – the amenities created by the bohemian class.²⁶² The exclusion of LGBT people can hinder the development of a creative city by making the city unattractive to the bohemian class – and therefore to other talented and creative people.

Kingston has the potential to be an attractive place for talented Jamaicans and foreigners alike. It is home to the oldest and largest university in the Caribbean, which is ranked among the

256 Andersen and Fetner (2008).

257 Andersen and Fetner (2008).

258 Barth and Overby (2003); Herek (1994); Lewis and Gossett (2008); Wilcox and Wolpert (2000) cited by Gao & Zhang (2016).

259 Bénabou et al (2013) and (2015).

260 Florida (2002).

261 Florida and Gates (2001); Florida (2002).

262 Florida and Gates (2001); Florida (2002).

top 5 percent best universities in the world.²⁶³ Further, being the birthplace of six different musical genres and having a renowned musical scene,²⁶⁴ Kingston was designated as a UNESCO Creative City of Music 2015.²⁶⁵ The top ten most innovative cities in the world are all known for their tolerance and inclusiveness, with the single exception of Singapore,²⁶⁶ supporting the proposition that there is a clear correlation between LGBT inclusivity and a city's innovation

rating.²⁶⁷ Kingston ranks a dismal 477th out of 500 cities in the 2018 Innovation and City ranking for best conditions for innovation.²⁶⁸ Although there are several reasons affecting the low ranking, sexual orientation and gender identity discrimination might have a role to play, given the findings of the studies cited here. Discrimination against LGBT people sends a signal that Kingston is exclusionary, and not open for new ideas and people with different lifestyles,

thus making it unattractive for foreign and other new types of talent. Also retaining Jamaican talent is a challenge, as noted earlier, Jamaica suffers from the migration of highly skilled people. Notwithstanding, the attractiveness of the city, Kingston is being held back by homophobia and transphobia in Jamaica.

The world's top 10 most innovative cities are known for their tolerance and inclusiveness. There is a clear correlation between LGBT inclusivity and a city's innovation rating.



4.2 LGBT Rights are Human Rights – Discrimination and Foreign Direct Investment

There may be a significant correlation between the level of FDI inflows and social acceptance of LGBT people.²⁶⁹ Foreign direct investment (FDI) by multinational corporations (MNC) has been the fastest growing component of cross-border capital flows in recent decades, and has surpassed official development assistance as a source of capital for developing countries.²⁷⁰ Although several factors impact the

decision calculus of foreign investors, including market share, growth rate, taxation, and location, discrimination against LGBT people can have a negative impact on the decision whether or not to invest in a country. As discussed in the previous chapter, companies, especially those in knowledge-intensive fields, are attracted to places with highly skilled people, and discrimination negatively affects the amount and quality of human

capital in a country. Therefore, the actual and perceived level of human capital can be a significant factor in the relationship between LGBT inclusiveness and FDI inflows.

There is another important aspect affecting FDI inflows: the country's respect for human rights. Corporations are paying increased attention to human rights conditions in host countries. Over

263 “New Rankings Put The UWI Among Top 5 Percent of Best Universities in the World,” The University of the West Indies, Mona, Marketing, Recruitment, and Communications Office, September 28, 2018, www.mona.uwi.edu/marcom/newsroom/entry/7123; Times Higher Education, The World University Ranking, www.timeshighereducation.com/world-university-rankings/2019/world-ranking#!/page/0/length/25/sort_by/rank/sort_order/asc/cols/stats.

264 Mento, ska, reggae, rocksteady, dub, and dancehall.

265 UNESCO Creative Cities network, <https://citiesofmusic.net/city/kingston/>.

266 1. Tokyo, 2. London, 3. San Francisco, 4. New York, 5. Los Angeles, 6. Singapore, 7. Boston, 8. Toronto, 9. Paris, 10. Sydney. Although LGBT people lack full legal equality in terms of recognition of relationships, Japan is still relatively progressive with regard to LGBT rights and inclusion. Tokyo especially has a vibrant LGBT culture.

267 Miller and Parker (2015).

268 “Innovation Cities Index 2018: Global,” 2thinknow, Innovation Cities Program, www.innovation-cities.com/innovation-cities-index-2018-global/13935/.

269 Noland (2004).

270 Spar (1999); UNCTAD, Trade and Development Report 2011, United Nations, New York, https://unctad.org/en/docs/trd2011_en.pdf.

13,000 companies have endorsed the United Nation's Global Compact – a set of guidelines for corporate citizenship – that explicitly calls on businesses to “support and respect the protection of internationally proclaimed human rights within their sphere of influence,” and to “make sure they are not complicit in human rights abuses.”^{271, 272} LGBT rights are human rights, and several international human rights instruments provide LGBT rights protections,

to their reputation for fear of customer backlash or boycott.²⁷⁴ There are several examples of companies publicly shamed for not respecting human rights. A case in point is the human rights violations in Nike's factory in Indonesia that provoked a global boycott campaign against the company. The protests eventually led to the creation of the Fair Labour Association (FLA), a non-profit collaborative effort of universities, civil society organizations, and businesses.²⁷⁵

aware of LGBT rights, and are willing to boycott companies and states that do not respect LGBT rights, as a recent case from North Carolina demonstrates. In March 2016 North Carolina passed the Public Facilities Privacy and Security Act aimed at preventing transgender individuals from using bathrooms consistent with their gender identities. The act also removed municipal anti-discrimination protections. It was called by opponents as the most LGBT legislation in the United



Kingston ranks a dismal 477th out of 500 cities in the 2018 Innovation and City ranking for best conditions for innovation.

including the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and the American Convention on Human Rights. Therefore MNCs endorsing the UN's Global Compact are also encouraged to consider LGBT rights within their sphere of influence.

Accordingly, countries that respect human rights tend to attract higher levels of FDI.²⁷³ The increased public awareness of human rights issues, and the greater effectiveness of communication via the internet by NGOs and grassroots human rights activists, is forcing corporations to pay increased attention

FLA's code of conduct defines labour standards that aim to ensure humane working conditions globally. It includes a non-discriminatory provision that reads: “no person shall be subject to any discrimination in employment, including hiring, compensation, advancement, discipline, termination or retirement, on the basis of [...] sexual orientation.”²⁷⁶ Over two hundred companies, universities, and civil society organizations across the world have now agreed to uphold the FLA workforce code of conduct.²⁷⁷

North American and European consumers are becoming increasingly

States.²⁷⁸ The act was met with widespread protests and boycotts. As a response to the act, public and private sector actors built coalitions, withdrew their events, and revoked investment assurances in North Carolina.²⁷⁹ Several U.S. states banned publicly funded travel to North Carolina, the National Basketball Association (NBA) moved its All-Star Game from Charlotte, North Carolina, famous musicians cancelled their concerts, and major banks and corporations halted their investments in the state. North Carolina's economy lost over US\$600 billion in investment and jobs.²⁸⁰ As this example shows, discriminatory

271 UN Global Compact; Our Participants, 2019, www.unglobalcompact.org/what-is-gc/participants.

272 United Nations Global Compact. The Ten Principles of the UN Global Compact; Human Rights Principles 1 and 2., www.unglobalcompact.org/what-is-gc/mission/principles.

273 Blanton and Blanton (2006) and (2007); Harms and Ursprung (2002).

274 Spar (1998); Banton and Banton (2007); Brown (2017).

275 Max Nisen, “How Nike Solved Its Sweatshop Problem,” *Business Insider*, May 9, 2017.

276 Brown (2017); FLA Workplace Code of Conduct, www.fairlabor.org/our-work/code-of-conduct.

277 FLA Affiliates, www.fairlabor.org/affiliates.

278 “How North Carolina signed a bill dubbed the most LGBT in the U.S.” *PBS News Hour*, March 24, 2016, www.pbs.org/newshour/show/how-north-carolina-signed-a-bill-dubbed-most-LGBT-law-in-the-u-s.

279 Brown (2017).

280 Mark Abadi, “North Carolina has lost a staggering amount of money over its controversial 'bathroom law',” *Business Insider*, September 21, 2016.

laws can trigger strong reactions among members of the public and businesses. Thus MNC seeking to expand their operations might be discouraged from investing in societies where LGBT discrimination is widespread, in order to protect themselves from reputational or financial hardship, or simply because their organization values inclusivity and diversity.

Although it is not possible to estimate the specific amount that Jamaica could

be losing in terms of FDI because of sexual orientation and gender identity discrimination, the potential cost can be substantial. One study found that in the sectors where human rights had significant impact on FDI inflows, a full shift in the value of the human rights variable was associated with an increase in FDI stock ranging from 4 percent in chemical manufacturing, to 16 percent in finance. This translates into a substantial amount of potential

additional investment. In the case of Brazil, for instance, a full shift in the range of the human rights variable would be associated with over a billion dollars of additional FDI in their financial sector.²⁸¹ One study found that the potential increase in FDI could be significant, in some cases even doubling or more, if the country's acceptance of homosexuality was higher.²⁸²

4.3 Negative Effects on Tourism

Global LGBT tourism is increasingly being recognized as a powerful and profitable market segment, and it has been described as the closest thing to a recession-proof market.²⁸³ The Global Report on LGBT Tourism demonstrates that there is a clear relationship between countries' progressive policies towards LGBT people and the economic benefits for their tourism sector. Progressive policies and LGBT tourism send a powerful brand image of tolerance, respect, inclusiveness, and diversity that is key to attracting visitors from the LGBT community, as well as from the general population.²⁸⁴ Several market surveys suggest that the destination's LGBT friendliness is not only an essential aspect to attract LGBT travelers, but it is also becoming increasingly important among the general population, particularly among U.S. and European millennials.²⁸⁵



LGBT tourism is growing faster than the general tourism economy; the growth of LGBT tourism in 2012 was nearly 10% while the overall growth rate was 3%

LGBT-friendliness is thus seen as an attractive business opportunity for many destinations. According to the World Travel and Tourism Council (WTTC), LGBT tourism is growing faster than the general tourism economy; the growth of LGBT tourism was nearly 10 percent in 2012, while the overall growth rate was 3 percent.²⁸⁶ This is due to the high purchasing power and lifestyle of the LGBT community, which, for the U.S. alone, has been estimated at \$917 billion.²⁸⁷ A 2012 estimate of the global LGBT tourism market was nearly US\$165 billion for leisure travel a year.²⁸⁸ The term DINK (dual income, no kids) is often used to characterize the LGBT community, as many LGBT couples have no children.²⁸⁹ They are also generally thought to have a more consumeristic lifestyle, as without traditional family expenses, many of them have more disposable income and time to spend on

www.businessinsider.com/north-carolina-hb2-economic-impact-2016-9; Corinne Jurney, "North Carolina's Bathroom Bill Flushes Away \$630 Million in Lost Business," *Forbes*, November 3, 2016, www.forbes.com/sites/corinnejurney/2016/11/03/north-carolinas-bathroom-bill-flushes-away-750-million-in-lost-business/#4908baf34b59.

281 Blanton and Blanton (2009).

282 Noland (2004). The countries in the sample of this study included Jordan, Ghana, and Kenya.

283 Pritchard et al (1998).

284 UNWTO (2012).

285 Millennials are the generation born between 1980-2000. UNWTO (2017); Miller and Parker (2015).

286 ITB Academy, *Gay and Lesbian Tourism – Latest in research, best practices and case studies*, Webinar June 18, 2014, www.itb-berlin.de/media/itb/itb_dl_en/itb_itb_berlin_en/itb_itb_academy_en/1_ITB_Academy_LGBT_first_en.pdf.

287 Estimate calculated for 2015. Witeck Communications, "America's LGBT 2015 Buying Power Estimated at \$917 Billion," July 20, 2016, www.witeck.com/pressreleases/2015-buying-power/.

288 UNWTO (2012).

289 UNWTO (2012).





travel and leisure. One measure has the LGBT community spending 30 percent of their budget on tourism, and they seem to travel more than their heterosexual counterparts.²⁹⁰ The LGBT community, it has been found, is also exceptionally brand and destination loyal.²⁹¹

Therefore, it is no wonder that several travel organizations have their eye on the so-called “pink dollar,” and reputable travel brands such as American Airlines and Virgin Group, as well as major hotel chains like Hilton and Marriott International, are specifically marketing to the LGBT community.²⁹² Although several travel companies are also marketing specifically LGBT-tailored holidays, studies of LGBT travel show – perhaps unsurprisingly – that the types

of holidays that LGBT people take are identical to those of the rest of society. They choose vacations that are focused on sun and sea, scenery, culture, heritage, sport, and entertainment.²⁹³ The majority of LGBT travelers seek out destinations that are LGBT-friendly, but not exclusively tailored for LGBT people.²⁹⁴

SOCIAL AND LEGAL STATUS

When choosing a destination, the social and legal status of LGBT people in the destination is an important factor for the LGBT tourists. Countries known for their homophobia, and where male same-sex intercourse is illegal, are often avoided by LGBT travelers and their families and friends.²⁹⁵ Several countries now issue travel advisories to LGBT people in order to raise awareness of legal issues and

cultural differences in foreign countries, with regard to LGBT acceptance. Since 2006, the UK Foreign and Commonwealth Office has sought to offer guidance and travel tips for LGBT travelers, which include avoiding excessive physical shows of affection and researching the situation in a destination before departure.²⁹⁶ Similarly, the U.S. State Department advises LGBT travelers to research the destination prior to travelling. For Jamaica it states: “Negative attitudes towards LGBTI issues are widespread in Jamaica. There are continued reports of serious discrimination and abuse against LGBTI individuals.”²⁹⁷

The number of visitors arriving in Jamaica increases year after year, in the context of an overall increase in global travel

290 Alonso (2013); Thomas Roth, LGBT Travel Sales & Marketing 2016: Orientation and Update, www.igtaconvention.org/media/1363928/thomas-roth-cmi-igta2016.pdf.

291 Thomas Roth, *ibid*.

292 E.g. Marketing Rainbow, “Case Study: American Airlines,” <http://marketingtherainbow.info/case%20studies/american%20airlines.html>; Stephanie Rosenbloom, “The Evolving World of Gay Travel,” *New York Times*, May 30, 2014, www.nytimes.com/2014/06/01/travel/the-evolving-world-of-gay-travel.html.

293 Hughes (2002).

294 Pritchard et al (1998).

295 Hughes (2002); Pritchard et al (1998); Liberato et al (2018).

296 Southall and Fallon (2011).

297 U.S. Department of State, International Travel: Country Information, <https://travel.state.gov/content/travel/en/international-travel/International-Travel-Country-Information-Pages/Jamaica.html>.

in recent years. But when compared to tourist arrivals in other Caribbean islands, the statistics shows that those Caribbean islands that have not criminalized male same-sex intercourse are getting more visitors. Despite the fact that Jamaica achieved a record number of visitors in 2017,²⁹⁸ the most visited islands for that year were the Dominican Republic, Cuba, and Puerto Rico, all of which have not criminalized male same-sex intercourse. Together they received half of all tourist arrivals in the Caribbean.²⁹⁹

Although Jamaica's Minister of Tourism and Director of Tourism have both tried

to reassure foreign reporters that LGBT tourists are welcome in Jamaica,³⁰⁰ a quick Google search "LGBT tourism Jamaica" shows the top results as Jamaica not being perceived as safe for LGBT people.³⁰¹ The Spartacus Gay Travel Index annually ranks the most LGBT-friendly countries. Jamaica has been ranked as the worst in the hemisphere, although it improved its ranking in 2019 from 179 to 159 due to the improvements in tolerance in relation to gay Pride events.³⁰² A survey by Open for Business found that half of the respondents in U.S. and U.K. would be unlikely to go on holiday in

country that has anti-gay laws.³⁰³ A Virgin Holidays survey found that up to two thirds of British travelers refuse to travel somewhere that had unwelcoming attitude towards LGBT community.³⁰⁴ In terms of legal and social status of LGBT people, as well as the general attitudes towards them, Jamaica still has a long way to go before it can be an attractive destination for LGBT travelers from North America and Europe.

4.4 Murder Music – Dancehall's Homophobic Reputation

Creative industries have the potential to be among the major contributors to Jamaica's economy. It is estimated that the music industry currently contributes about 2 percent to GDP, while the contribution of the creative industries in total is estimated to be 5 percent.³⁰⁵ The Minister of Culture, Gender, Entertainment and Sport has identified

reggae music as Jamaica's most valuable export. However, the export of Jamaican music has suffered from the homophobic lyrics in popular dancehall and reggae songs.

Several of Jamaica's most prominent reggae and dancehall artists have advocated violence towards LGBT people in their lyrics.³⁰⁶ The controversial

lyrics have come with a significant cost for many of these artists.³⁰⁷ Many have had their concerts and sponsorships cancelled, and their names have been withdrawn from music awards in North America and Europe, due to pressure from the LGBT community.³⁰⁸ The most successful campaign has been the Stop Murder Music campaign headed by the

298 Jamaican tourism sector grew 7.8 % in 2017 as compared to 2016. Jamaica Tourist Board. Annual Travel Statistics 2017, www.jtbonline.org/report-and-statistics/.

299 Jamaica Tourist Board, Annual Travel Statistics 2017.

300 Janet Silvera, "Gay tourists welcome" - JTB head says perception about Jamaica being hostile is wrong," Gleaner, February 4, 2019, <http://jamaica-gleaner.com/article/lead-stories/20190204/gay-tourists-welcome-jtb-head-says-perception-about-jamaica-being>; "Hon. Edmund Bartlett, Minister of Jamaica Tourism urges LGBT travelers to visit Jamaica," Travel and Tour World, November 11, 2017, www.travelandtourworld.com/news/article/hon-edmund-bartlett-minister-of-jamaica-tourism-urges-lgbt-travelers-to-visit-jamaica/.

301 E.g. Thread in Tripadvisor "Is Jamaica Gay friendly," March 7, 2014, www.tripadvisor.com/ShowTopic-g147309-i69-k7264301-Is_Jamaica_gay_friendly-Jamaica.html; Dan Avery, "Jamaica Insists Gay Tourists Welcome, Despite Horrific LGBT Violence, NewNowNext, July 7, 2017, www.newnownext.com/jamaica-insists-gay-tourists-welcome-despite-horrific-lgbt-violence/12/2017/; "Tips for Gay and Lesbian Travelers in Jamaica," Frommer's, www.frommers.com/destinations/jamaica/tips-for-gay-and-lesbian-travelers

302 "Ja Improves in Gay Travel Ranking – But Still Worst in the Americas," Gleaner, March 8, 2019, <http://jamaica-gleaner.com/article/business/20190308/ja-improves-gay-travel-ranking-still-worst-americas>; Spartacus Gay Travel Index 2019, <https://coupleofmen.com/12250-spartacus-gay-travel-index-2019/>.

303 Miller and Parker (2015).

304 Clare Kelly, "Issues facing LGBT travelers," Virgin Unite, October 7, 2016, www.virgin.com/virgin-unite/issues-facing-lgbt-travellers.

305 Ministry of Culture, Gender, Entertainment and Sport, "Reggae Music Jamaica's Most Valuable Export – Grange Tells UNESCO Creative Cities of Music Meeting," Jamaica Information Service, February 16, 2018, <https://jis.gov.jm/reggae-music-jamaicas-valuable-export-grange-tells-unesco-creative-cities-music-meeting/>.

306 The entire chorus of Buju Banton's controversial song "Boom Bye Bye" celebrates the shooting of a gay man in the head. Similarly, another reggae and dancehall artist Beenie Man says in a song called "Damn": "I'm think of a new Jamaica. Mi come fi execute all a di gays." Elephant Man has an entire song, A Nuh Fi Wi Fault, justifying the killing of gay men and the rape of lesbian women. The reggae artist Sizzla, in turn, devoted more than a minute of his set at the 2013 Sting festival to assault LGBT people, as a response to earlier criticisms of his previous LGBT lyrics. Lester Feder, "Jamaican Dancehall Star Sizzla Banned From Music Festival For Anti-Gay Lyrics," BuzzFeed News, January 2, 2014, www.buzzfeednews.com/article/lesterfeder/jamaican-dancehall-star-sizzla-banned-from-music-festival-fo. This is just to name few; there are several other performers, such as Vybz Kartel, Capleton, T.O.K, and Bounty Killer, who have promoted violence towards LGBT people in their lyrics.

307 For example, in 2007 Beenie Man, Sizzla, and Capleton were estimated to have suffered loss of revenue as much as £2.5. million. Rosie Swash, "Beenie Man, Sizzla and Capleton renounce homophobia," Guardian, June 14, 2007, www.theguardian.com/music/2007/jun/14/news.rosieswash.

308 Alexis Petridis, "Pride and Prejudice," Guardian, December 10, 2004, www.theguardian.com/music/2004/dec/10/gayrights.popandrock; Christopher Thompson, "Curbing Homophobia in Reggae," Time, August 7, 2007, <http://content.time.com/time/arts/article/0,8599,1650585,00.html>.

U.K.-based LGBT rights organization OutRage! The campaign eventually led to the signing of the “Reggae Compassionate Act” by Beenie Man, Sizzla, Capleton, and Buju Banton in 2007. It states: “Artistes of the Reggae Community respect and uphold the rights of all individuals to live without fear of hatred and violence due to their religion, sexual orientation, race, ethnicity, or gender.”³⁰⁹ Some Jamaican artists later apologized for their homophobic lyrics,³¹⁰ while others have refused. Sizzla, for example, despite signing the act, has continued to perform homophobic lyrics, and continues to struggle with his international career; many of his shows in Europe and North America have been cancelled, even as recently as 2019, due to public protests.³¹¹

Despite the controversy Jamaican artistes have faced internationally, the LGBT lyrics have not affected their careers locally, and these sentiments continue to be adopted in dancehall culture. The artistes themselves, their fans, as well as some theorists of dancehall culture have attempted to defend the homophobic lyrics. Some suggest that it is to be understood within the colonial and postcolonial history of Jamaica; another explanation is that the lyrics are merely metaphorical and playful, rather than actual provocations to attack LGBT people.³¹² Despite these explanations, the lyrics do have a real effect. A 2014 study investigating the predictors of prejudice against LGBT people in Jamaica found

Despite the controversy Jamaican artistes have faced internationally, the LGBT lyrics have not affected their careers locally, and these sentiments continue to be adopted in dancehall culture.

that, just as other countries’ religiosity, lower education, and income level were among the most reliable predictors of LGBT prejudice, the strongest predictors in Jamaica were male gender and a preference for dancehall music.³¹³ These findings suggest that these songs are not only harmful for the international career of the artistes, but are also leading to more negative attitudes towards LGBT among Jamaican public.³¹⁴ It is possible that the harmful effect does not stop there: violent attacks against LGBT people are not uncommon in Jamaica, and this was especially the case in the early 2000s when many of these songs were written, when Jamaica was cited by *Time* magazine as “the most homophobic

place on earth.”³¹⁵

However, the causal link between violent attacks and dancehall music is thought to also work the other way around: these songs reflect the culture from where the lyrics were born, as well as what the local listeners wish to hear. Thus, the prejudice towards LGBT people at the wider societal level encourages dancehall artists to incorporate these sentiments in to their lyrics. This in turn continues to have a real effect on the export of the Jamaican music. The two biggest export markets for reggae and dancehall are North America and Europe, although this music is also popular in many developing countries. The controversial reputation of Jamaican reggae and dancehall music might alienate many potential international fans, as it does not reflect the values of many young Europeans and North Americans. Additionally, the international reputation of dancehall as homophobic is also harmful for Brand Jamaica. As has been laid out in this report, in order for countries to attract higher numbers of tourists, talent, and investment, it is important to send a signal that the country is an open society, a tolerant and diverse nation that welcomes people from different backgrounds and lifestyles, and respects the human rights of all people. Lyrics promoting violence towards LGBT people in the country’s most popular music is signaling the exact opposite.

309 The Reggae Compassionate Act, www.soulrebels.org/dancehall/w_compassionate_001.htm.

310 E.g. In March 2019, Buju Banton moved his controversial song “Boom Bye Bye” from his discography. The song is also removed from streaming services such as Spotify, Apple music and Tidal. Rashad Grove, “Buju Banton Removes Homophobic Song From His Discography,” *The Source*, March 27, 2019, <http://thesource.com/2019/03/27/buju-banton-removes-homophobic-song/>. Beenie Man apologized to the LGBT community in 2012. “Beenie Man, Jamaican Reggae Star, Apologies to the Gay Community for ‘Homophobic’ Lyrics,” *Huffpost*, May 5, 2012, www.huffpost.com/entry/beenie-man-jamaican-homophobia-apology_n_1527312.

311 Adam Salandra, “Homophobic Reggae Artist Sizzla Forced out of San Francisco Show,” *NewNowNext*, August 29, 2016, www.newnownext.com/sizzla-san-francisco-show-canceled/08/2016/; “Sizzla Removed From Reggae on the River 2019 After Backlash From LGBTQ Community,” *Hype Life Magazine*, May 29, 2019, <https://hypelifemagazine.com/celebritynews/sizzla-removed-reggae-show-backlash-gay-rights/>.

312 Chin (1997); Noble (2008).

313 West and Cowell (2015).

314 Keon West, “Why do so many Jamaicans hate gay people?” *Guardian*, June 6, 2014, www.theguardian.com/commentisfree/2014/jun/06/jamaica-music-anti-gay-dancehall-homophobia.

315 Tim Padgett, “The Most Homophobic Place on Earth?” *Time*, April 12, 2006, <http://content.time.com/time/world/article/0,8599,1182991,00.html>.





5. Conclusions & Recommendations



Discrimination against LGBT people, only in terms of lost economic output and excess government expenditure, **could be costing Jamaica US\$79m annually.**



The total cost of treatment of HIV due to discrimination is an additional US\$424m

This report has demonstrated that LGBT discrimination, together with the criminalization of male same-sex intercourse, and the absence of comprehensive anti-discrimination legislation, hinders Jamaica's economic growth and developmental prospects. The discrimination is tied to poorer health, weaker academic performance, less participation in work life, and lower labour market productivity among Jamaican LGBT people. It exacerbates the effects of brain drain and loss of human capital. Moreover, it damages Jamaica's international reputation, and decreases the country's ability to attract and retain the best talent, cultivate innovation and competitiveness, induce FDI inflows, increase tourist arrivals, and enlarge the size of the export market for Jamaican most valuable export, its music. All of this accumulates into a considerable economic cost.

Due to a lack of reliable data, many negative aspects of discrimination cannot be captured quantitatively. Notwithstanding, based on our analysis, discrimination against LGBT people, only in terms of lost economic output



and excess government expenditure due to exclusion in employment and health disparities, could be costing Jamaica US\$79 million annually. The total cost of treatment of HIV due to discrimination is an additional US\$424 million. This, however, is a conservative estimate. It does not account for the reduced labour market productivity due to discrimination in the workplace, nor in the educational setting. Nor do these calculations capture the cost of lost potential human capital, or the various ways in which discrimination is indirectly tied to other negative economic and social outcomes that can be detrimental to the country's development. Therefore, the total cost of sexual orientation and gender identity discrimination for Jamaica would be

substantially larger.

The prejudice against LGBT people is deeply embedded in Jamaican society through religious teachings and values, mixed with hyper-masculine gender norms, within which non-heteronormativity fits poorly. This constricted form of masculinity is embraced in popular dancehall music, along with homophobic lyrics. If widespread sexual orientation and gender identity discrimination continues to be overlooked by Jamaica's government and decision-making elites, regardless of the political party holding office, the country will continue to fail its obligations to all its citizens, and will continue to stymie its own prospects for economic growth and development.

The prejudice against LGBT people is deeply embedded in Jamaican society through religious teachings and values, mixed with hyper-masculine gender norms, within which non-heteronormativity fits poorly.

Recommendations



1.

Repeal the sections 76, 77, and 79 of the Offences Against the Person Act, which criminalize consensual same-sex conduct.

This discriminatory law violates Universal Human Rights and is a symbol of state-sponsored discrimination against LGBT people in Jamaica, thereby justifying the violence they often experience.

The matter should not be put to a referendum, allowing the majority to vote on the rights of a minority. Instead, the case should be resolved through the legislative process in the Parliament.



2.

Amend the gender-specific definitions of sexual intercourse and rape from the Sexual Offences Act 2009.



3.

Enact comprehensive anti-discrimination legislation that prohibits all forms of discrimination, including discrimination on the basis of sexual orientation or gender identity.

The legislation should cover discrimination in the hands of state or non-state actors, in all areas of life governed by law, including, but not limited to, education, employment, housing, and provision of services.



4.

Incorporate the comprehensive sexuality education recommended by the UN and WHO into the Jamaican school curriculum. Comprehensive sexuality education is an evidence-based approach to sexuality education, and has been shown to reduce unplanned pregnancies and STIs among adolescents, as well as to promote respect for gender equality and human rights. The education should be age-appropriate and cover areas of human development, which includes medically accurate information about sexual orientation and gender identity, and teach youth to respect those different from themselves. Further, the education should ensure that prevention messages related to contraceptives and STIs target those who are LGBT.

While the legislation prohibiting discrimination is important, the discrimination at the wider societal level can only be addressed if Jamaican citizens are provided with accurate information about sexual orientation, gender identity, and tolerance. Moreover, providing LGBT youth with accurate information about themselves would help them to accept themselves; which could also protect them from mental health problems. Considering the high HIV prevalence amongst MSM in Jamaica, it is crucial to provide all students with accurate information about prevention measures and STIs.



5.

Jamaica's current School Security and Safety Policy Guidelines do not mention LGBT students in its list of typical victims of bullying. The school safety policy guidelines should be revised to specifically categorize students perceived as LGBT as typical victims of bullying.

School administrators are reported to have failed to address bullying against LGBT students. The school staff must be trained to ensure that they are aware of bullying based on sexual orientation or gender identity, and know how to step in and act when bullying occurs.

Specification of a particular category of students at risk of bullying is critical for effective policy. Although bullying against all students must be addressed, generic anti-bullying policies, without enumeration of certain categories, have proven not to be as effective in addressing bullying based on sexual orientation or gender identity. Such identification would give teachers and other educators tools to recognize and address bullying based on sexual orientation or gender identity.



6.

Introduce into the training curriculum of school counsellors, healthcare workers, and police officers a syllabus for dealing with matters involving LGBT people.



7.

The Private Sector Organization of Jamaica and other key private sector bodies and networks should encourage their member companies to adopt explicit diversity policies that specifically include sexual orientation and gender identity. These policies should include diversity training that teaches individuals to work efficiently with people different from themselves, and ensures that everyone in the organization knows that any form of discrimination or harassment is not tolerated.



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Appendix I

The estimate of the Jamaican LGBT population is based on a literature review of the following studies.

LITERATURE REVIEW – SELF-IDENTIFICATION AS LGBT		
%	Explanation	Study
3.5	An estimate of Americans who identified as LGBT	Gates (2011).
4.5	Americans who identified as LGBT in 2017 Gallup	Newport (2018).
2.5	Australian men who self-identified as homo- or bisexual	Smith et al (2003).
2.2	Australian women who self-identified as homo- or bisexual	Smith et al (2003).
3.3	Australian men who identified as LGBT+	Richters et al (2014).
3.6	Australian women who identified as LGBT+	Richters et al (2014).
5.3	Canadians who identify themselves as LGBT	Forum Research (2012). ³¹⁵
5	Men who self-identified as homo- or bisexual in Germany	Haversath (2017).
6	Women who self-identified as homo- or bisexual in Germany	Haversath (2017).
2.7	Men who self-identified as homo- or bisexual in Ireland	Layte et al (2006).
1.2	Women who self-identified as homo- or bisexual in Ireland	Layte et al (2006).
8.2	Men who self-identified as homo- or bisexual in Israel	Mor & Davidovich (2016).
4.8	Women who self-identified as homo- or bisexual in Israel	Mor & Davidovich (2016).
12	Self-identified as LGBT+ in Mexico	Heilman et al (2017).
14	UK self-identified as LGBT+	Heilman et al (2017).
12	Self-identified as LGBT+ in U.S	Heilman et al (2017).
5.05	Men who self-identified as LGBT in New Zealand	Dickson et al (2013).
5.05	Women who self-identified as LGBT in New Zealand	Dickson et al (2013).
5.8	Self-identified as LGBT+ in New Zealand	Greaves et al (2017).
1.4	South African identified themselves as LGBT	The Other Foundation (2016). ³¹⁶
8	Britons defining their sexuality as LGBT+	Sex uncovered Poll (2008).
5.8	Self-identified themselves as LGB in Britain (YouGOV 2009)	Ellison & Gunstone (2009).
8	British who identified as LGB in the Observer online survey	The Observer (2014). ³¹⁷
6	British who identified as LGB	The Observer (2008). ³¹⁸
5.4	British women who defined their sexuality as LGBT+	Survation study (2014). ³¹⁹
6.4	British women who defined their sexuality as LGBT+	Survation Poll (2017). ³²⁰
5.7	MEAN	
5,05	MEDIAN	

315 “One Twentieth of Canadians Claim to be LGBT” Forum Research, 2012, https://forumresearch.com/forms/News%20Archives/News%20Releases/67741_Canada-wide_-_Federal_LGBT_%28Forum_Research%29_%2820120628%29.pdf.

316 “Progressive Prudes: a survey of attitudes towards homosexuality and gender non-conformity in South Africa,” The Other Foundation, 2016, https://theotherfoundation.org/wp-content/uploads/2016/09/ProgPrudes_Report_d5.pdf.

317 “British Sex Survey 2014: The nation has lost some of its sexual swagger,” Guardian, September 28, 2014, www.theguardian.com/lifeandstyle/2014/sep/28/british-sex-survey-2014-nation-lost-sexual-swagger.

318 “Sex Uncovered Poll: Quantity and Quality,” Guardian, October 26, 2008, www.theguardian.com/lifeandstyle/2008/oct/26/observer-sex-poll-2008.

319 Survation Women on Low Pay Survey 2014, Fawcett Society, <https://survation.com/wp-content/uploads/2014/08/Fawcett-Soc-Women-on-Low-Pay-Tables.pdf>

320 Survation Sex Poll 2017, <https://survation.com/wp-content/uploads/2017/01/Final-Tables-Daily-Mirror-1c0d1h1-250117SRNWCH.pdf>.

LITERATURE REVIEW – SAME-SEX ATTRACTION

%	Explanation	Study
8.2	Engaged in same-sex sexual behavior based on review of surveys	Gates (2011).
9.7	Caribbean Adolescents who had same or both sex attraction	Halcon (2003).
8.6	Australian men who reported some same-sex attraction or experience	Smith et al (2003).
15.1	Australian women who reported some same-sex attraction or experience	Smith et al (2003).
5.9	Australian men who reported some same-sex experience	Grulich et al (2003).
8.6	Australian women who reported some same-sex experience	Grulich et al (2003).
9	Australian men who have some history of same sex attraction / experience	Richters et al (2014)
19	Australian women who have some history of same sex attraction / experience	Richters et al (2014)
4.1	Men who reported at least one occurrence of same sex intercourse in France	Spira et al (1992).
2.6	Women reported at least one occurrence of same-sex ITC in France	Spira et al (1992).
7.1	Men reported some homosexual experience in their lifetime in Ireland	Layte et al (2006).
4.7	Women reported some homosexual experience in their lifetime in Ireland	Layte et al (2006).
11.3	Men attracted to same-gender	Mor & Davidovich (2016).
15.2	Women attracted to same-gender	Mor & Davidovich (2016).
10.2	Men who reported life-time same-gender encounters	Mor & Davidovich (2016).
8.7	Women who reported life-time same-gender encounters	Mor & Davidovich (2016).
3.5	Men reported some homosexual experience in their lifetime in Norway	Sundet et al. (1988).
3	Women reported some homosexual experience in their lifetime in Norway	Sundet et al. (1988).
11	Sexually active young people in Philippines aged 15-24 were having sex with some in same sex	YAFS3 (2002).
6	Respondents reported attracted to same or both sexes in Poland	Skowronski et al (2008).
12	Respondents reported attracted to same or both sexes in Poland	Skowronski et al (2008).
23	Adult Britons chose something else than heterosexual on sexuality scale	Dahlgreen & Shakespeare (2015).
9.4	MEAN	
8.6	MEDIAN	

LITERATURE REVIEW – MALE SAME-SEX EXPERIENCE

%	Explanation	Study
2.7	Men who reported having had same-sex intercourse in Denmark	Melbye & Biggar 1992.
3.0	Identified as MSM among university students in Turkey	Eskin et al 2005.
3.5	Men who reported same-sex experience in their lifetime in Norway	Sundet et al. 1988.
3.6	Men who reported sexual contact with a man in rural South Africa	Jewkes et al 2006.
4.0	Men who reported same-sex activity among U.S. teenagers and young adults	McCabe et al 2011.
4.4	Reported genital same-sex experience in their lifetime in Ireland	Layte et al 2006.
5.0	Reported same-sex sexual experience in their lives in Australia	Grulich et al 2003.
5.3	Men reported that they were not entirely heterosexual in England	Hayes et al 2012.
5.8	Men in U.S. reported any same-sex contact in their lifetime	Chandra et al 2011.
6.0	Estimate percentage of MSM in Southern United States	Lieb et al 2009.
6.9	Estimate of men engaged in same-sex ever in their lifetime in U.S.	Purcell et al 2012.
8.2	Men who had at least one same-sex partner since age 18 in United States	Twenge et al 2016.
13.0	Reported having had sexual contact with men in addition to female partners in Peru	Nelson et al 2007.
15.2	Reported a history of sex with other men among low-income urban males in Peru	Clark et al 2007.
18.6	Reported having had sex with another man in Laos	Toole et al 2006.
26.1	Reported same sex experience in rural China	Yang et al 2011.

Appendix II

Cost of discrimination due to increased rates of HIV infections

In order to estimate the cost of discrimination due to increased rates of HIV infections, it is necessary to have an estimate of the size of the MSM (men who have sex with men) population in Jamaica. Jamaica has not included questions of sexual orientation, gender identity, or sexual practices in the census, and therefore no definitive number of the size of the MSM population is available. In a recent study prepared for the Ministry of Health the estimated size of MSM population is 47,180 persons of whom 4,805 are transgender women. This represents 4.9 percent of the Jamaican adult male population.³²¹ To put the estimate in the global context we reviewed sixteen studies that had surveyed male same-sex experiences in different countries. The median rate in these studies is 5.3 percent, which is very close to the Jamaican estimate.³²² The estimate of 4.9 percent thus seems a plausible base rate for MSM population.

On the hypothesis that discrimination elevates the likelihood of HIV infection amongst the MSM population in Jamaica, we seek to estimate what might be a “normal,” or benchmark, HIV incidence in Jamaica, in the absence of the country’s elevated level of discrimination. The HIV prevalence rate is generally higher amongst MSM than it is among the general population for a variety of biological and behavioural reasons.³²³ Therefore, the population prevalence

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On the hypothesis that discrimination elevates the likelihood of HIV infection amongst the MSM population in Jamaica, we seek to estimate what might be a “normal,” or benchmark, HIV incidence in Jamaica, in the absence of the country’s elevated level of discrimination. rate is too low as a benchmark for HIV prevalence amongst MSM.

To establish a benchmark, therefore, we look to CARIFORUM countries that do not criminalize male same-sex intercourse.³²⁴ Trinidad and Tobago and Belize were excluded as they only recently repealed their laws criminalizing male same-sex intercourse. Using comparable countries that have no criminalization will yield a conservative estimate for the cost of discrimination, since MSM in those countries still face other forms of

discrimination, which could have an effect on the HIV prevalence rates. Without discrimination in the first place, the rate might be lower. The mean HIV prevalence amongst MSM in the CARIFORUM countries without criminalization of male same-sex intercourse is 11.2 times higher than among the general population. Since the incidence among the general population in Jamaica is 1.6, then the expected rate among MSM ought to be 11.2 times that, which is 17.8. That is the benchmark, then. In fact, the rate amongst MSM in Jamaica is much higher, at 32.3. This rate is 14.5 percentage points higher than the 17.8 that is to be expected if Jamaica followed the pattern of countries without criminalization. This difference is therefore attributed to the particular discrimination embodied in criminalization.

321 Ministry of Health and Wellness (Jamaica), forthcoming.

322 See Appendix I.

323 Beyer et al (2012), cited by Bagdett (2014).

324 CARICOM countries and Dominican Republic.

Country	MSM %	General population %	MSM x times general population
Haiti ³²⁵	18.1	2.1	8,6
Dominican Republic ³²⁶	11	0.7	15,71
Bahamas ³²⁷	25	1.9	13,1
Suriname ³²⁸	5.8	1.3	4,3
Cuba ³²⁹	5.6	0.4	14
MEAN	13.1	1.28	11,14
Jamaica	32.3	1.6	20.19

Fourteen and a half more percentage points of HIV incidence translate into an additional 6,830 cases, which is about a quarter of one percent (0.24%) of the total population. The health impact of this can be measured by using the concept of disability-adjusted life years (DALYs). It measures the cost of a disease or condition by estimating the number of years of life lost (YLLs), as well as the number of years lived with a disability (YLDs), due to the condition. Adding YLLs and YLDs provides the measure of DALYs. The Global Health Data Exchange (GHDx), a data catalogue on population health created and supported by the Institute for Health Metrics and Evaluation (IHME), estimates the annual DALYs from HIV for Jamaica to be 22,355 (2017).³³⁰ Since 0.24 percent of the population represents extra HIV cases due to criminalization, then they would represent a similar percentage of the DALYs, which means 52.7 years lost to death or disability.

The most common approach to calculate the economic cost of disability-adjusted life years comes from the World

Health Organization's Commission on Macroeconomics and Health. According to their 2001 report, "the economics literature on the value of life has a very strong and consistent conclusion: the value of an extra year of healthy life—as a result of successfully treating a disease, for example—is worth considerably more than the extra market income that will be earned in the year."³³¹ The Commission proposes that the health impact can be translated into economic loss by valuing one DALY as one to three times a country's per capita income. This range has been adopted by many researchers to estimate the overall economic cost of a year of life lost, as well as in studies that measure the cost-effectiveness of different health interventions.³³² In this study, and in the absence of further information, we select the mid-point of the range of multiples, which is two times. Since the GDP per capita in Jamaica in 2017 was US\$4,798, then the total economic cost of a life-year, twice that, is US\$9,596. Therefore, we estimate the total economic cost of disability-adjusted life years lost to MSM

criminalization to be US\$505,490.³³³

The cost of HIV/AIDS-related services

The World Bank / UNAIDS study estimated in 2012 a cost for each infection that is prevented. Direct costs incurred by HIV infection over the course of treatment was approximately J\$500,000 (US\$5,800). Each prevented infection means that an individual not infected will also not pass on the virus. The Modes of Transmission (MOT) study in 2012 estimated that HIV-positive MSM, over the course of their infection, infect 1.8 additional MSM, and 0.4 of their female partners. The World Bank/UNAIDS study calculated a "downstream" cost of infections; the expected number of people to whom an individual, newly infected, passed the virus on, augmenting the consequences of the initial infection. The additional costs from "downstream" infections in the MSM group was estimated to be J\$4,832,000 (US\$56,300), which is almost ten times the direct cost

325

326 UNAIDS 2008 Keeping Score II, http://data.unaids.org/pub/report/2008/20081206_keepingcoreii_en.pdf

327 UNAIDS, <http://aidsinfo.unaids.org/>.

328 UNAIDS, <http://aidsinfo.unaids.org/>.

329 UNAIDS, <http://aidsinfo.unaids.org/>.

330 Global Burden of Disease Compare, <https://vizhub.healthdata.org/gbd-compare/>.

331 "Macroeconomics and Health: Investing in Health for Economic Development," Report of the Commission on Macroeconomics and Health, WHO, 2001, <https://apps.who.int/iris/bitstream/handle/10665/42435/924154550X.pdf;sequence=1>.

332 Eg. Marseille et al, "Thresholds for the cost-effectiveness of interventions: alternative approaches," *Bulletin World Health Organization* 93 (2):118–124, <http://dx.doi.org/10.2471/BLT.14.138206>; "Making Choices In Health: WHO Guide To Cost-Effectiveness Analysis," WHO, 2003, www.who.int/choice/publications/p_2003_generalised_cea.pdf; Badgett (2014)

333 "Jamaica GDP per capita," Trading Economics, <https://tradingeconomics.com/jamaica/gdp-per-capita>.

of infection.³³⁴

We know from our calculations above that annually there are some 6,830 additional cases of HIV infections due to the discriminatory effects of law

criminalizing same-sex intercourse. And we know that each infection has total costs of US\$62,100 (consisting of direct costs US\$5,800 and downstream costs of US\$56,300 over the course of

its treatment), then the total cost of HIV infections due to criminalization can amount to US\$424 million for a cohort, over their lifetimes, and that of their downstream infections.

Appendix III

Brain Drain: Personal Stories

For this study we interviewed a young queer man who had fled Jamaica after high school, at age 17, because of fear of his safety due to his femininity. His bullying at school started when he was 11, and, according to his classmates, too effeminate. However it was not until high school that he started to get threats of violence. At the time he was not yet “out,” nor even much aware of his own sexuality; in fact, he dated a woman. Regardless, his femininity made other students perceive him as gay. He had always dreamt of a career in theatre, and to do a joint programme of theatre and law was his long-time dream. However, due to the trauma he experienced in high school, he decided to migrate to the U.S. as soon as he completed high school. In the U.S. his experiences with LGBT prejudice motivated him to seek a career in justice and advocacy, and to study homosexuality and homophobia from an academic standpoint, instead of following his dream to study theatre. He was accepted to John Jay College of Criminal Justice and was the recipient of several scholarships. Since he “came out,” he has not returned to Jamaica.³³⁵

“Throughout my entire life in Jamaica, I had to live two lives. Living required constant navigation and negotiation.”

A similar story is told by Dr. Andrew Campbell, who as a child always wanted to be a dancer. Once his neighbor took him to her ballet class. The ballet teacher recognized his talent and said, “I can see the ballet in him.” He writes: “I was overjoyed to get this level of critique and encouragement. I could not wait to reach home. When I told my mom what happened and how excited I was, her only response to me was, “You can’t go back, we don’t believe in dancing like that.” He was 10 and never returned to the ballet school. At age 24 he started dancing again and taught at dance clubs in schools and churches in the Bahamas, and won

many national honours for his work as choreographer and artistic director. He has never stopped wondering what he could have achieved if given the opportunity at age 10.³³⁶ Instead, he became a teacher. However, he too chose to migrate because of threats of violence. After migrating to Canada he completed a PhD, and now works as an adjunct lecturer.³³⁷

“I came to Canada simply because I was tired of fighting an endless battle, living a life that was not mine, a life that others wanted me to be, there was always a void that was empty, loneliness that caused depression many times, because of me not being able to truly express the way I felt, every day I had to watch the way I walked, tried to have a consistent facial expression, and not to move my hand with every sentence that flowed from my lips.”

“Throughout my entire life in Jamaica, I had to live two lives. Living required constant navigation and negotiation. I moved to Canada because I was tired of this life. I wanted to be honest to myself and comfortable with being a gay man.”³³⁸

334 Mziray et al (2012).

335 Personal interview, May 7, 2019.

336 Presentation by Eniko E. Akom at International AIDS conference 22 – 27.7.2012 Washington DC USA. HIV prevalence among FSWS and MSM in Haiti, www.slideserve.com/mieko/hiv-prevalence-among-fsws-and-msm-in-haiti; UNICEF, www.unicef.org/infobycountry/haiti_statistics.html.

337 Campbell (2018).

338 Campbell (2018).

Notes

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