

Committee Coordinator (Actg).

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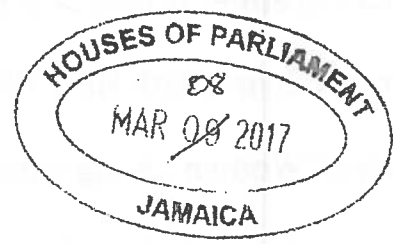
**JAMAICA COMMUNITY
OF POSITIVE WOMEN
(JCW+)**

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February 20, 2017

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Clerk to the Houses,
Houses of Parliament,
Gordon House,
81 Duke Street,
Kingston.



THE JAMAICA COMMUNITY OF POSITIVE WOMEN SUBMISSION

To the Joint Select Committee
Reviewing the Sexual Offences Act and Other Related Acts

This submission is from the Jamaica Community of Positive Women (JCW+) located at Suite #3, 1 Beechwood Avenue, Kingston 5. We wish to appear before the committee to speak to our submission. We can be contacted at, Tel: 906-6884; email: jnradvocacyofficer@gmail.com / lovehope2015@gmail.com.

We wish that the following also appear in parliament in support of our submission (*please see attached list of signatories*).

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1 About the Contributing Organization

1.1 The Jamaica Community of Positive Women (JCW+) was established in March 2010, it is Jamaica's premier organization of its kind, to address the priority needs of women living with HIV. We are a part of the International Community of Women Living with HIV/AIDS (ICW) and exist to enable these women to reach their full potential and be recognized as productive citizens through programmes of Advocacy and Leadership Capacity Building.

1.2 One of our major roles as advocates is that of involving women in the decision-making process of policies and programmes that affect their lives, one of which is the Sexual Offences Act.

1.3 At the Jamaica Community of Positive Women, we have documented the experiences that women of all ages encounter with domestic violence. Many have faced violence without recognizing it as such, having been so socialized and inadvertently accepting it as part of their lives. One of the major expression of violence against women surrounds the sexual offences.

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2 General Summary

2.1 We support the general intent of this act as we strongly agree that offender of sexual offences should be punished accordingly to the crimes they commit.

We however, wish to make the following comments, academic research indicates all forms of penetration to be equally as traumatic for victims, save and except for in the cases of unwanted pregnancy, (which in some cases, can occur without penetration). In addition, the minimum sentence for rape is 15 years versus 3 years for grievous sexual assault. With this current legislation, it is therefore saying the offender can avoid going to jail for an extra 12 years just because he did not use his penis¹

2.2 We are making this submission on the basis that rape is rape no matter what object, or which orifice, or by whom, as long as this was done against the will and consent of the person.

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2.3 It is incumbent upon us as women that we take steps to ensure our voices are included in the urging for our legislators to address the blatant gaps and antiquity of our Sexual Offences Act and other related policies; if we share the Vision 2030, a safer place and cultural environment to invest, live, work and raise our children and grandchildren.

3 *Definition of Sexual Intercourse – Section 2 of the SOA*

3.1 The women of the Jamaica Community of Positive Women (JCW+) expresses dissatisfaction and concern with the rather misleading and limited definition of sexual intercourse as outlined in section 2 of the Sexual Offences Act. According to the Act, Sexual intercourse is defined as “the penetration of the vagina of one person by the penis of another person”.

3.2 While we support the provisions of this clause we do believe that this leaves ample room for perpetrators of sexual violence to commit other sexual offences and not be punished accordingly. We also believe that given the current definition of ‘*Sexual intercourse*’ as set out in the Act, those who indulge in other forms of sexual intercourse with consent and

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of sound minds may face penalties that are not justifiable. Other forms of sexual penetrations being recognized within our society and our legislation include:

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Other forms of sexual penetrations being recognized within our society and our legislation include:

- (a) Penetration of the anus by the penis (recognized in section 76 of the Offences against the Person Act by virtue of the common law definition of buggery);
- (b) Penetration of the mouth by the penis (recognized in section 4 (c) of the Sexual Offences Act);
- (c) Oral penetration of the vagina (recognized in section 4 (e) of the Sexual Offences Act);

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(d) Sexual penetration of the vagina or anus by the fingers (recognized by virtue of section 4 (a) (i) of the Sexual Offences Act); and

(e) Penetration of the vagina or anus by the use of an object (recognized in section 4 (a) (ii) of the Sexual Offences Act).

3.3 We, the women of JCW+ strongly believes that in cases where any of the above-mentioned forms of sexual penetration is done against a person without the consent of that person the law must ensure that efficient recognition is given to such offences in an effort to protect all citizens against them in a manner that does reflects not only the sexual but also the emotional, mental, physical, spiritual and financial trauma experienced by the victims. Considering this, we urge the Committee to extend the definition of sexual intercourse in the legislation to include penetration of any and all orifice of the body not limited to the vagina, mouth or anus by a penis and penetration of any and all orifice of the body by the mouth and penetration of any and all orifice of the body by the mouth and penetration of any and all orifice of the body by an object except where the penetration is carried out for medical purposes.

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With the suggested extension, the amended section 2 of the Sexual Offences Act will therefore include the following:

“Sexual intercourse” means:

- (a) The penetration of the vagina, anus or mouth by the penis of another person; and
- (b) The penetration of the vagina or the anus by the mouth
- (c) The penetration of the vagina or the anus by an object manipulated by another person except where the penetration is carried out for medical purposes. This amendment will by extension affect the definition of rape and our submissions in this regard are set out in the following section which addresses the said offence of rape.

4 Definition of Rape

4.1 Following upon our submissions on the definition of sexual intercourse and the need for, we also see the need to highlight the definition of rape as set out in section 3 (1) of the Sexual Offences Act which does not offer protection for victims against various forms of forced sexual penetration.

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According to section 3(A) of the Sexual Offences Act “a man commits the offence of rape if he has sexual intercourse with a woman without the woman’s consent”.¹

4. 2 It is therefore imperative that the amended legislation recognizes and acknowledges the severity of the impact of sexual violence perpetrated against a person especially in the cases where they experience forced penetration of the vagina, the anus the mouth or any other orifice by the penis or where there is forced penetration of the vagina or anus with an object manipulated by an offender. Failure to recognize and acknowledge these non-consensual sexual acts as rape or by simply categorizing them all as grievous sexual assault with a significantly lower sentence, up to three years imprisonment; we the women of JCW+ are questioning the legislation of the State and its commitment to provide just and effective solutions and redress for all victims of sexual violence; as well as suitable punishment for offenders of sexual violence.

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¹ http://www.iaparliament.gov.im/attachments/341_The%20Sexual%20Offences%20Act,%202009.pdf



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4.3 Although we agree with the general intent of this clause, we feel that necessary amendment should be made to the clause in an effort to provide efficient and equally deserving redress for victims of sexual offences. It is therefore the submission of JCW+ that the offence of rape should also apply to forced penetration of the anus or mouth by the penis and where there is forced penetration of the vagina or anus with an object manipulated by an offender.

5 Specific Comments

5.1 We the women of JCW+ are now more aware of the importance for the revision of our Sexual Offences Act in such a time in Jamaica and as such we wish to raise the following matters; with the purpose of the Sexual Offences Act being to protect our fundamental rights of persons to bodily integrity through punishing and prosecuting perpetrators as an approach to preventing and protecting against sexual violence and ensuring that justice is served by responding to the needs of victims/survivors of such violent act.

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5.2 We acknowledge that sexual violence can result in negative long and short-term mental, physical, spiritual, sexual and psychosocial health outcomes. Such trauma includes but is not limited to the transmission of STIs to include HIV, unwanted pregnancy, and where abortion is legally restricted, unsafe abortion; suicidal tendencies and in cases of young women and girls in school, the impact of low educational outcomes due to the inability to focus in learning institutions. Vulnerability to sexually transmitted infections (STIs) including HIV, may be higher in non-consensual sex due to the genital trauma and in cases of multiple perpetrators thus resulting into psychological trauma and can have a negative effect on sexual behavior and relationships and the ability to negotiate safer sex and increased potential partaking in the use of drug and alcohol abuse.

6 General Recommendations

The women of the Jamaica Community of Positive Women (JCW+) are hereby recommending the following:

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- 6.1 Extending the definition of sexual intercourse to include consensual sexual act between two adults to include penetration of the vagina, mouth or anus by a penis and penetration of the vagina and anus by the mouth and penetration of the vagina and anus by an object except where the penetration is carried out for medical purposes.
- 6.2 Extending the definition and offence of rape to include non-consensual oral and anal penetration by a penis and non-consensual vaginal and anal penetration with an object that is manipulated by the offender into any orifice of the body.
- 6.3 Finally, it is the submission of JCW+ that the women appear before , the committee to speak to our submission as it is important that there is *“nothing for us without us.”*

THE END

Endorsing Signatures

No.	Name	Signature	Date
	JCW+ Olive Edwards		Dec. 25, 2015
	Jane ...		Nov. 27, 2015
	Judith ...		Dec. 15, 2015
	Wendy ...		15.12.2015
	Sharon ...		Dec. 15, 2015
	Barbara ...		Dec. 15, 2015
	Monica ...		Dec. 15, 2015
	JCW+		Dec. 15, 2015
	Joy ... EFL		Jan 13 th 2015
	Madame ...		Dec 15, 2015
	Theresa ...		Dec 15, 2015

J. Jackson	15.12.15	T. Brown	30.12.15
M. Jones	15.12.15	J. ...	3.12.15
...	15.12.15	A. ...	20.12.15
M.B.	22.12.15		30.12.15
...	30.12.15	...	30.12.15
J. ...	30.12.15	J. ...	30.12.15
...	30.12.15	M. ...	30.12.15
R. ...	30.12.15	V. ...	30.12.15
J. ...	30.12.15	R. ...	30.12.15
Ida ...	30.12.15	J. ...	30.12.15
C. ...	30.12.15	...	15.06.16
W. Williams	30.12.15		

