**INDEX TO DOCUMENTATION OF COUNTRY CONDITIONS REGARDING PERSECUTION OF LGBTQ PERSONS IN ANTIGUA AND BARBUDA**

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<th>SUMMARY</th>
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<td><strong>GOVERNMENTAL SOURCES</strong></td>
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<td>“Consensual same-sex sexual activity for males is illegal under indecency statutes. … Consensual same-sex sexual conduct between adult men carries a maximum penalty of 15 years.” (p. 9).</td>
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<td>“…[S]ocietal attitudes toward homosexuality … impeded operation of lesbian, gay, bisexual, transgender, and intersex (LGBTI) organizations.” (p. 10).</td>
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<td>“The law does not prohibit employment discrimination based on religion, language, sexual orientation or gender identity, HIV-positive status or other communicable diseases, or social status.” (p. 12).</td>
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<td>“Some persons claimed fear, stigma, and discrimination impaired the willingness of HIV-positive persons to obtain treatment, and HIV-positive persons reported several incidents of discrimination from health-care professionals and police. Anecdotal evidence also suggested employers dismissed and discriminated against employees with HIV/AIDS.” (p. 10).</td>
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“Several sources indicate that sexual acts between same-sex couples are illegal for both men and women in Antigua and Barbuda.” (p. 1).

“Sources indicate that law enforcement officials sometimes discriminate against LGBT people. Freedom House states that there have been cases of police using excessive force against LGBT people. . . . [M]any LGBT people fear making reports against the police.” (p. 3).

“The Attorney General of Antigua and Barbuda reportedly told the press that ‘there will be no change in the law on buggery, at least not if I can help it. Being gay is morally wrong, and to be honest personally, I am still homophobic.’” (p. 2).

“Examples of violence include cases in which LGBT people have been pelted with stones, or subject to beatings. The news portal Caribarena Antigua published an article about a member of the LGBT community who experienced verbal and physical attacks because of his sexual orientation, including having bottles and stones thrown at him, being chased through a village, and an attempt to run him down with a car.” (p. 2).

INTERGOVERNMENTAL SOURCES


“The subregional team reported that sexual acts between same-sex couples were illegal for both men and women.” (p. 6).

“Lesbian, gay, bisexual and transgender people, particularly from the lower economic bracket, faced discrimination and stigma, and might encounter challenges accessing basic health care and social services and face greater difficulties finding a job.” (p. 6).

“Gay rights activists had reported that lesbian, gay, bisexual and transgender persons who had been subject to violent crimes were hesitant to report the crime to the police. Attacks against such persons frequently went unreported for multiple reasons, such as fear of revealing their sexual orientation, fear of stigma and discrimination, and fear due to past experience with police or hearing the experiences of other lesbian, gay, bisexual and transgender people.” (p. 6).

NON-GOVERNMENTAL SOURCES
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<td><strong>Human Rights Watch, “I Have to Leave to Be Me”: Discriminatory Laws against LGBT People in the Eastern Caribbean (March 21, 2018), available at <a href="https://www.hrw.org/report/2018/03/21/i-have-leave-be-me/discriminatory-laws-against-lgbt-people-eastern-caribbean#page">https://www.hrw.org/report/2018/03/21/i-have-leave-be-me/discriminatory-laws-against-lgbt-people-eastern-caribbean#page</a></strong>&lt;br&gt;“Many of those interviewed by Human Rights Watch explained that they did not trust the police enough to report incidents of abuse against them. Those that did described negative experiences, including inefficiency, inaction, and antipathy. The normalization of violence against LGBT people results in the continued marginalization and exclusion of LGBT people from the most basic protections of the law.” (p. 5).&lt;br&gt;“Bill, a 31-year-old gay man from Antigua, was also treated dismissively by police officials when he tried to report a crime in 2010, an incident in which a man broke into his home and threatened him. He said: ‘Instead of them trying to circle the area to find out who it was, they were more into questioning about my lifestyle than into what I was telling them—the crime itself.’” (p. 40).&lt;br&gt;“‘I get robbed at gunpoint. I went to one of the police stations close by in the city, in St. John’s. They took me to drive around the area. The officer questioned me about my lifestyle. If I were straight, [the questioning] would not have happened—they don’t look out for homosexuals.’” (p. 40).&lt;br&gt;“‘At 3 a.m. a man came into my house with a gun while I was sleeping . . . I looked up and there was a gunman over me. I was sleeping naked. He told me not to move, he didn’t ask for money. I asked him what was he doing in my house. He replied: “Are you gay?” I started to get nervous, it was silent for a moment. It took what felt like 60 seconds for him to move the gun away from me and exit my bedroom door.’” (p. 33).</td>
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“Emily, a 24-year-old trans woman from Antigua, said: ‘I was threatened by my dad—the first time it happened I was a child, really young. The second time, when I was 16, he found out that I was [LGBT] and told me that he would kill me.’” (p. 25).

“‘The main fear is the fear of disclosure. The fear of being found out. They would lose the favor of their family. They may be displaced in church. People would lose respect for them in their work spaces. They have a whole lot to lose.’” (p. 2).


“Verbal abuse and harassment can quickly escalate into physical assault. Interviewees described being stabbed, struck, pelted with bottles and bricks, beaten, slapped, choked and, in one instance, chased with a harpoon.” (p. 4).


“Antigua was asked to abolish its anti-buggery and serious indecency laws in 2016 by other UN members during its Universal Periodic Review, but the island refused, saying that the ‘moral and religious’ nature of Antiguan society would need to change first.” (pp. 4–5).

“Barry has served as a police officer in Antigua for more than two decades. All this time the veteran officer has kept a secret from almost everyone on the force: He’s gay. Most days, Barry hears his fellow officers make homophobic slurs. ‘They say that [gays] should be locked up, that they’re nasty, that they don’t know how a man could kiss a man.’ One supervisor called being gay ‘an abomination.’ He also knows that some officers don’t take crimes against LGBT people seriously. Like the time a transgender friend of Barry’s was stabbed and badly wounded. The police refused to help her. Instead, behind her back, Barry heard them call her ‘antiman,’ a derogatory term, and ‘disgusting.’ Another friend, also a trans woman, was beaten so badly by a policeman that she practically lost sight in her right eye.” (pp. 5–6).

“LGBT people are often afraid to enter police stations, Barry said. They’re afraid the police won’t listen to them. Also, people threaten to call the police on them for being gay – same-sex intimacy, after all, is illegal in Antigua.” (p. 7).

“At the same time, he acknowledges that some police officers are afraid of being LGBT-friendly, of seeming weak or soft. ‘There is still a level of fear within people of the police . . .’” (p. 7).

“Even after he accepted being gay, he constantly hid who he was, even from his family . . . ‘It was torture, because you could not speak to family or colleagues about who you were,’ he said. Also, the police department is ‘male-dominated, and most of their conversation is about heterosexual relationships. And you could hear homophobic statements. It kept me in
He was aware that if people knew he was gay, he could be attacked. He also feared eviction from his rented home. And he was afraid of what his colleagues would think, of what they suspected.” (pp. 6–7).

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<td>“There have also been reports of discrimination and abuse against LGBTI people by law enforcement officers. In 2015 two cases of discrimination and abuse made headlines. A former Queen of Carnival had to relocate to Canada after law enforcement chose not to respond to threats she received after revealing that she is a lesbian. Also, a transgender woman, Prince ‘Princess’ Warren, a prominent figure in the LGBTI community, was allegedly physically assaulted by two police officers which inevitably lead to her losing an eye.” (p. 29).</td>
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<td>“‘The police are there to serve and protect, regardless of who is coming to you. Whether that person be a gay, lesbian, bisexual or trans person you’re supposed to protect them. We have a failure not only on that end but with our law . . . There are no laws on our books, if I recall correctly, that protect the LGBT community. We do have laws in terms of harassment and sexual assault . . . but what we have to deal with on a holistic level is the issue of discrimination of LGBT persons and how do they feel safe in their own country.’” (p. 29).</td>
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**MEDIA SOURCES**

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<td>“Antigua and Barbuda already has laws that criminalize homosexuality. The country has seen its fair share of queer members being attacked and harassed, most of which aren’t reported since the police treats members of the LGBTQ community like any other homophobe. And I know this as I had to leave my family and this same country because of no police protection.” (p. 1).</td>
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<td>“Just recently, ‘Princess’—a trans woman from Antigua who allegedly faced abuse at the hands of police officers in 2015, came to Canada to seek protection. How many more will have to leave before Antiguans and Barbudans recognize that their attitudes only fuel hate and harm towards other human beings who are just trying to be themselves? Citizens aren't even hiding like before. They are boldly showing the world just how homophobic Antigua and Barbuda truly is.” (p. 1).</td>
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11 | **Tasheka Lavann, My Home Country's Religion Doesn't Justify Denying LGBT Jobs, Huffington Post (October 4, 2016), available at**
| [https://www.huffingtonpost.ca/tasheka-lavann/lgbt-antigua-barbuda_b_12268048.html](https://www.huffingtonpost.ca/tasheka-lavann/lgbt-antigua-barbuda_b_12268048.html) |
| **“One would think that after making a claim that LGBT members are protected in Antigua and Barbuda, the government would ensure that it puts its money where its mouth is. So then why are we allowing Christian groups and evangelicals to spread hatred and encourage marginalization of any group in this country? During an event hosted by Concerned Christians for a Healthy Society (I guess queer people are poisonous), a pastor who claims to be a ‘former lesbian and activist’ argued that Christian-based businesses should have the right to deny jobs to LGBT applicants. This bigot and their homophobic group are essentially trying to effect policy change that would give businesses the right to deprive lesbian, gay, bisexual and transgender men and women of one of the most fundamental rights—employment—simply on the basis of their sexual orientation. Shouldn't this be a crime in itself? That is why many like me run from our homes and families to seek a life where we can be our authentic selves and still be employed without persecution.”** (p. 1) |
| **“This is the type of ignorant and divisive mindset you are creating as a government when you allow such events to take place in your country. More frightening is the fact that many within the LGBTQ community in Antigua continue to be denied jobs as we speak because of these kinds of messages.”** (p. 1) |
| **“It is no secret that state policies in this country continue to be influenced by the church. The very constitution is built on the fundamental beliefs of Christianity. So how can a government say it protects members of the LGBT community when this type of blatant discrimination is being encouraged and spread through the media?”** (p. 1). |

12 | **Caribbean: Anti-gay law is ripe for reversal, Antigua says, 76crimes.com (August 26, 2016), available at** [https://76crimes.com/2016/08/26/caribbean-anti-gay-law-is-ripe-for-reversal-antigua-says/](https://76crimes.com/2016/08/26/caribbean-anti-gay-law-is-ripe-for-reversal-antigua-says/) |
| **“The government has said an outright no to repealing the laws [criminalising] buggery, a decision which has disappointed the Lesbian, Gay, Bisexual and Transgender (LGBT) community. The Cabinet of Antigua & Barbuda, on [Aug. 24], agreed that ‘the buggery law will remain unchanged.’”** (p. 1). |

| **“Well-known trans-gender individual Prince Warren, better known as Prince, is hospitalized after what he alleges was a brutal beating from the police. . . . ‘I am not going**
to be able to see out my eye again, that’s what the doctor just say to me now, my stomach is in pain and I can’t eat anything… I just keep vomiting the blood,’ he said.” (p. 1).

“‘By time I drive up to Teacher’s Place – just above the fire station, I do a three point turn to come back down the road. Now a red car pull up to me like they blocking me, so I wind down the window to see who it was. Two police came out with guns in their hand and one the police say get out the car… Less than two minutes a next police vehicle came with about four police in there came and start to fire and kick me up, tump me up and lick me one lick with the gun in my eye. By this time I say my eye! my eye! I start to cry and stuff like that, I tried to run away from them so I can be around people, and after that one police start to drag me and pull me back up the road,’ he said.” (p. 1).
Tab 1
ANTIGUA AND BARBUDA 2018 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Antigua and Barbuda is a multiparty parliamentary democracy. Queen Elizabeth II is the head of state. The governor general is the queen’s representative in country and certifies all legislation on her behalf. The ruling Antigua and Barbuda Labor Party won re-election in March parliamentary elections. In their initial report, election monitors stated there were problems with the electoral process but results “reflected the will of the people.” As of November the final report had not been released.

Civilian authorities maintained effective control over the security forces.

Human rights issues included harsh and life threatening prison conditions, corruption, criminal libel, and laws against consensual adult same-sex sexual activity (although these were not enforced).

The government took steps to prosecute and punish those who committed human rights abuses. There were no reports of impunity involving the security forces during the year.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

There were no reports the government or its agents committed arbitrary or unlawful killings.

b. Disappearance

There were no reports of disappearances by or on behalf of government authorities.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The constitution prohibits such practices, and there were no reports that government officials employed them.
Prison and Detention Center Conditions

Prison and detention center conditions were harsh due to inadequate sanitary conditions and overcrowding.

**Physical Conditions:** Her Majesty’s Prison, the country’s only prison, was grossly overcrowded, and some inmates were forced to sleep on cardboard on the floor. Authorities separated remanded prisoners from convicted prisoners when space was available. Remanded inmates faced the harshest conditions, since their cells were the most overcrowded. Juvenile inmates were held in a separate detention center.

Poor ventilation caused cell temperatures to remain very high, and hygiene was inadequate. The prison had inadequate toilet facilities, with slop pails used in all cells except for those of the female prisoners. The men’s section had no showers; inmates used buckets to wash themselves. The women’s section of the prison had two showers; prison staff provided some feminine hygiene products to women, although most female inmates’ families provided for this need. Conditions in the kitchen were unsanitary, aggravated by the presence of insects, rodents, and stray cats (to catch rodents). The yard area also had stray cats and rodents.

Inmates with mental disabilities were held in the prison in large part because the country’s psychiatric facility was also overcrowded. The prison superintendent reported inmates had access to a mental health professional. The superintendent reported bribery and corruption were common in the prison, with guards allegedly taking bribes and smuggling contraband such as liquor, cell phones, and marijuana to prisoners.

The prison had a work release program for men, but female inmates did not have a comparable program.

Conditions at the police holding facility in Saint John’s Station were also deficient with up to 30 prisoners in one holding cell. Media reported food boxes and plastic bags were used as toilets by detainees because toilets were clogged and dark water covered washroom floors with what appeared to be waste matter floating in it. Like Her Majesty’s Prison, the building was very old and in a state of disrepair.

**Administration:** Authorities handled credible allegations of mistreatment in several ways, including by a prison welfare officer, a complaints committee, and a prisoner appointed to lodge complaints on behalf of other inmates.
Independent Monitoring: The government permitted prison visits by independent human rights observers, although no such visits occurred during the year.

d. Arbitrary Arrest or Detention

The constitution prohibits arbitrary arrest and detention and provides for the right of any person to challenge his or her arrest or detention in court, and the government generally observed these requirements. Some prisoners on remand, however, remained in detention for up to four years before their cases came to trial, according to the director of the Office of Public Prosecutions.

Role of the Police and Security Apparatus

Security forces consist of a police force; a prison guard service; immigration, airport, and port security personnel; the Antigua and Barbuda Defense Force; and the Office of National Drug Control and Money Laundering Policy. Police fall under the responsibility of the attorney general, who is also the minister of justice, legal affairs, public safety, and labor. Immigration falls under the minister of foreign affairs, international trade, and immigration.

Civilian authorities maintained effective control over the security forces, and the government has effective mechanisms to investigate and punish abuse. The prime minister can call for an independent investigation into an incident as needed. The Professional Standards Department, which investigates complaints against police, is headed by the deputy police commissioner and decides whether an investigation is conducted. Senior authorities held police accountable for their actions. One case under investigation resulted in the suspension of a senior officer. There were no reports of impunity involving the security forces during the year.

Arrest Procedures and Treatment of Detainees

The law permits police to arrest a person based on the suspicion of criminal activity without a warrant. Nongovernmental organizations (NGOs) and victims reported police abused this provision. Police must bring detainees before a court within 48 hours of arrest or detention or file a motion requesting an extension. If time limits are not met, the law stipulates prisoners must be released. NGOs reported victims were sometimes held for as long as 96 hours before being presented to a court. Authorities allowed criminal detainees prompt access to
counsel and family members. The system requires those accused of more serious crimes to appeal to the High Court for bail.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the government generally respected judicial independence and impartiality.

Trial Procedures

The constitution provides for the right to a fair and public trial by jury, and an independent judiciary generally enforced this right. Defendants have the right to a presumption of innocence, timely access to counsel, and free assistance of an interpreter. They may be present at their trial, confront adverse witnesses, present their own witnesses and evidence, and appeal. Defendants may not be compelled to testify or confess guilt. The government provides legal assistance at public expense to persons without the means to retain a private attorney, but only in capital cases.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

Individuals and organizations may seek civil remedies for human rights violations through domestic courts. They may apply to the High Court for redress of alleged violations of their constitutional rights. They may appeal adverse domestic decisions to regional human rights bodies.

f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence

The constitution prohibits such actions, and there were no reports that the government failed to respect these prohibitions.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Expression, Including for the Press
The constitution provides for freedom of expression, including for the press, but the government respected this right on a somewhat limited basis.

Press and Media Freedom: Privately owned print media, including daily and weekly newspapers, were active. There were claims, however, that the government was hostile to opposition and independent media and did not provide them equal access to government officials. Senior government officials routinely refused to grant interviews to media outlets other than those supported by the government.

Libel/Slander Laws: There were two libel cases pending against the country’s sole independent media outlet involving ruling party ministers.

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports the government monitored private online communications without appropriate legal authority.

According to the International Telecommunication Union, 76 percent of the population had access to the internet in 2017.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedoms of Peaceful Assembly and Association

The constitution provides for the freedoms of peaceful assembly and association, and the government generally respected these rights.

c. Freedom of Religion

See the Department of State’s International Religious Freedom Report at www.state.gov/religiousfreedomreport/.

d. Freedom of Movement

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights. The
government cooperated with the Office of the UN High Commissioner for Refugees, the International Organization for Migration, and other humanitarian organizations in assisting refugees and asylum seekers.

**Protection of Refugees**

**Access to Asylum:** The country does not have any laws or legal procedures governing asylum or refugee status. The government handles asylum requests on an ad hoc basis.

**Section 3. Freedom to Participate in the Political Process**

The constitution provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

**Elections and Political Participation**

**Recent Elections:** In the March elections, the Antigua and Barbuda Labor Party won 15 of 17 seats in the House of Representatives, and Gaston Browne remained prime minister. The Caribbean Community Observation Mission, along with a Commonwealth Observer Group, monitored the election. In their initial report, monitors stated there were problems with the electoral process but that the results reflected the will of the people. As of November their final report had not been released.

**Participation of Women and Minorities:** No laws limit the participation of women or members of minorities in the political process, and they did participate.

**Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for corruption by officials. There were several reports of government corruption during the year. Both political parties frequently accused the other of corruption, but investigations yielded few or no results.

**Corruption:** In late 2017 media outlets reported Minister of Tourism, Economic Development, Investment, and Energy Asot Michael was arrested in connection with an investigation into bribes paid by a United Kingdom citizen for business contracts in the Caribbean. Michael was stripped of his cabinet position but not removed from parliament. He was re-elected in March and reappointed as minister
of investment and trade. He resigned in May under domestic pressure. The case of three former members of parliament arrested in 2016 on charges of corruption was dismissed but remained on appeal to the High Court.

Financial Disclosure: The law requires public officials to disclose all income, assets, and personal gifts in a confidential report to the Integrity Commission. The commission has the power to investigate public officials without a formal complaint being lodged against them, but lacked adequate staff and resources to investigate. The commissioner made a formal request to the government for additional resources to investigate Michael.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights

A number of domestic human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views.

Government Human Rights Bodies: There is an ombudsman position, an independent authority appointed by parliament, to handle complaints regarding police and other government offices and officials. The Office of the Ombudsman was unable to take complaints and could only offer advice or refer citizens to other offices.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

Women

Rape and Domestic Violence: The law establishes sentences ranging from 10 years’ to life imprisonment for the rape of women. The law also addresses male rape and establishes sentences of five years’ to life imprisonment. Spousal rape is illegal under certain limited circumstances, such as after separation, with a punishment of 15 years. The Directorate of Gender Affairs reported the number of rape survivors coming forward increased as a result of a crisis hotline and the directorate’s awareness campaign. Statistics for rape were not disaggregated.

Violence against women, including spousal abuse, continued to be a serious problem. The law prohibits and provides penalties for domestic violence.
The government provided several domestic violence programs including training for law enforcement officers, health-care professionals, counselors, social workers, immigration officers, and army officers.

**Sexual Harassment:** The law does not specifically define sexual harassment, but it can be addressed under other legal frameworks. According to the Ministry of Labor, there was a high incidence of sexual harassment in the private and public sectors.

**Coercion in Population Control:** There were no reports of coerced abortion or involuntary sterilization.

**Discrimination:** The law provides the same legal status and rights for women and men. Legislation requires equal pay for equal work. The labor code stipulates it is unlawful for an employer to discriminate against an individual because of his or her gender.

**Children**

**Birth Registration:** Citizenship is acquired by birth in the country (jus soli), and the government registers all children at birth. Children born to citizen parents abroad can be registered by either of their parents.

**Child Abuse:** Child abuse remained a serious problem. Although neglect and physical abuse were common, rape and sexual abuse of children were also problems, according to the press. The law stipulates a fine not exceeding $20,000 Eastern Caribbean dollars (XCD) ($7,410) or three years in prison for child abusers. In extreme cases the government removes children from their homes and puts them in foster care or into a government or private children’s home.

The government held public outreach events concerning detection and prevention of child abuse and offered training for foster parents regarding how to detect child abuse and how to work with abused children. The government’s welfare office also provided counseling services for children and parents and referred parents to the National Parent Counseling Center. A family court handled child abuse cases, providing faster prosecution and more general handling of family and welfare cases. The law governs the investigation and assessment of child abuse cases. It also includes provisions on orders of care and child-care services.
Early and Forced Marriage: The legal minimum age for marriage is 18 years for both men and women. Children between the ages of 15 and 18 may marry with parental consent; however, underage marriage was rare.

Sexual Exploitation of Children: The minimum age for consensual sex is 16 years. Authorities brought charges against few offenders. Child pornography is illegal and subject to fines of up to $500,000 XCD ($185,000) and 20 years in prison.


Anti-Semitism

The Jewish community was very small, and there were no reports of anti-Semitic acts.

Trafficking in Persons

See the Department of State’s Trafficking in Persons Report at www.state.gov/j/tip/rls/tiprpt/.

Persons with Disabilities

During the year the government passed the Disabilities and Equal Opportunities Act that prohibits any form of discrimination based on disability. The law stipulates a penalty of $10,000 XCD ($3,700) or two years’ imprisonment. Public areas, including government buildings, often lacked wheelchair accessibility. The government improved access to workplaces for persons with disabilities by revising building codes and included disabled persons in youth education programs.

Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity

Consensual same-sex sexual activity for males is illegal under indecency statutes; however, the law was not strictly enforced. Consensual same-sex sexual conduct between adult men carries a maximum penalty of 15 years.
Although societal attitudes toward homosexuality improved, media reported some cases in which they impeded operation of lesbian, gay, bisexual, transgender, and intersex (LGBTI) organizations. The government continued its initiative to facilitate dialogue between LGBTI groups. There were limited reports of discrimination based on sexual orientation or gender identity in a variety of settings. There were no reports of public violence committed against LGBTI persons due to their real or perceived sexual orientation.

**HIV and AIDS Social Stigma**

Some persons claimed fear, stigma, and discrimination impaired the willingness of HIV-positive persons to obtain treatment, and HIV-positive persons reported several incidents of discrimination from health-care professionals and police. Anecdotal evidence also suggested employers dismissed and discriminated against employees with HIV/AIDS.

The Ministry of Health supported local NGO efforts to register human rights complaints and seek assistance in cases of discrimination against persons with HIV/AIDS. The ministry also trained a number of health-care professionals and police officers in antidiscriminatory practices. The Ministry of Labor encouraged employers to be more sensitive to employees with HIV/AIDS, and the ministry conducted sensitivity training for employers who requested it. The ministry reported stigmatization of HIV-positive persons, while still a significant problem, had decreased, especially among police.

**Section 7. Worker Rights**

**a. Freedom of Association and the Right to Collective Bargaining**

The law provides for the right of public- and private-sector workers to form and join independent unions. The law also provides for the right to bargain collectively and conduct legal strikes; there are several restrictions on the right to strike. The law prohibits antiunion discrimination by employers, but it does not specifically require reinstatement of workers illegally fired for union activity.

Freedom of association and the right to collective bargaining were generally respected. There were no reports of antiunion discrimination, nor were any violations reported relating to collective bargaining rights.
Workers who provide essential services (including water, electricity, hospital, fire, prison, air traffic control, meteorology, telecommunications, and the government printing office and port authority) must give two weeks’ notice of intent to strike. The International Labor Organization considered the list of essential services to be overly broad by international standards, in particular highlighting the inclusion of the government printing office and port authority. There were no strikes within the essential services sector, but postal workers and some workers at a psychiatric hospital went on strike during the year. Protests were peaceful.

If either party to a dispute requests court mediation, strikes are prohibited under penalty of imprisonment for all private-sector workers and some government workers. The Industrial Relations Court may issue an injunction against a legal strike when the national interest is threatened or affected. The law prohibits retaliation against strikers.

Penalties for violating laws range from a minor fine to two months in prison, which were adequate to deter violations. Government enforcement of the right to association and collective bargaining, however, was not always effective at deterring violations. Administrative and judicial procedures were often subject to lengthy delays and appeals.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor. The government effectively enforced the law. The labor code allows the labor inspectorate authority to enter residences to investigate allegations of forced or compulsory labor.

The Office of National Drug and Money Laundering Control Policy investigates cases of trafficking in persons, including forced labor allegations. The law prescribes penalties of 20 to 30 years’ imprisonment with fines not to exceed $400,000 XCD ($148,000). These penalties were sufficiently stringent to deter violations.

Also see the Department of State’s *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

c. Prohibition of Child Labor and Minimum Age for Employment
The law stipulates a minimum working age of 16 years although work prohibitions do not apply to family businesses and in some circumstances children under 16 are eligible for employment with restrictions, such as working only during nonschool hours and only working a certain number of hours. Persons under 18 may not work past 10 p.m., except in certain sectors, and in some cases must have a medical clearance to obtain employment. No list of hazardous work existed for the protection of those under 18. Laws contain definitions that collectively constitute the worst forms of child labor, but specific details are not provided in any single statute.

The law requires the Ministry of Labor to conduct periodic inspections of workplaces, and the ministry effectively enforced the law. The law allows for a small financial penalty or three months in prison for violations, which were adequate to deter violations. The Labor Commissioner’s Office also has an inspectorate that investigates child labor in the formal and informal sectors. The government enforced these laws effectively, and there were no reports of child labor during the year.

d. Discrimination with Respect to Employment and Occupation

The law prohibits discrimination with respect to employment and occupation regarding race, color, sex, age, national origin, citizenship, political beliefs, or disability. In general the government effectively enforced the law and regulations. Penalties include a fine and up to 12 months in prison, which were adequate to deter violations. The law does not prohibit employment discrimination based on religion, language, sexual orientation or gender identity, HIV-positive status or other communicable diseases, or social status, but the government encouraged employers not to discriminate on these grounds. Female migrant workers, who worked mainly in hospitality and industry, reported discrimination. Persons with disabilities faced limited workplace access, and women often received less pay for equal work. There were also anecdotal reports of employment discrimination against employees with HIV/AIDS (see section 6, HIV and AIDS Social Stigma).

e. Acceptable Conditions of Work

The minimum wage was $8.20 XCD ($3.04) an hour for all categories of labor. This is more than the official estimate for the poverty income level according to a 2007 Caribbean Development report on poverty--the most recent data available--of $6,320 XCD ($2,340) per annum per capita. The majority of workers earned substantially more than the minimum wage.
The law provides that workers are not required to work more than a 48-hour, six-day workweek. The law requires that employees be paid one and one-half times the employees’ basic wage per hour for overtime work. The Ministry of Labor put few limitations on overtime, allowing it in temporary or occasional cases, but did not allow employers to make regular overtime compulsory.

The law includes occupational safety and health provisions, but the government had not developed separate occupational safety and health regulations apart from those regarding child labor. The law does not specifically provide that workers can remove themselves from situations that endanger health or safety without jeopardy to their employment. It does, however, provide the ministry the authority to require special safety measures, not otherwise defined in the law, to be put into place for worker safety.

Labor inspectors from the Ministry of Labor and the Industrial Court were responsible for enforcement in all areas, including the informal sector. The number of labor inspectors was generally sufficient to enforce compliance. The government enforced labor laws, including levying remedies and penalties of up to $5,000 XCD ($1,850) for nonpayment of work. Penalties for illegal overtime did not always effectively deter labor violations.

Labor inspectors reported they conducted periodic health and safety checks, as well as checks for working conditions and work permit violations. Nevertheless, workers in construction, mechanics, and agriculture were particularly vulnerable to hazardous working conditions and accidents, especially when working with heavy machinery.
Tab 2
Antigua and Barbuda: Treatment of sexual minorities by society and authorities; legal recourse and protection available (2010-2013)

1. Legislation

Several sources indicate that sexual acts between same-sex couples are illegal for both men and women in Antigua and Barbuda (US 19 Apr. 2013, 10; Cari-FLAGS 25 Dec. 2013; ILGA May 2013, 89). Article 12 of Antigua and Barbuda's Sexual Offences Act of 1995 states:

12. (1) A person who commits buggery is guilty of an offence and is liable on conviction to imprisonment -  
for life, if committed by an adult on a minor;  
for fifteen years, if committed by an adult on another adult;  
for five years, if committed by a minor.

(2) In this section "buggery" means sexual intercourse per anum by a male person with a male person or by a male person with a female person. (Antigua and Barbuda 1995; ILGA May 2013, 89)

Article 15 of the same Act states:

15. (1) A person who commits an act of serious indecency on or towards another is guilty of an offence and is liable on conviction to imprisonment -  
for ten years, if committed on or towards a minor under sixteen years of age;  
for five years, if committed on or towards a person sixteen years of age or more;  
2) Subsection (1) does not apply to an act of serious indecency committed in private between -  
a husband and his wife; or  
a male person and a female person each of whom is sixteen years of age or more;  
both of whom consent to the commission of the act.

(3) An act of "serious indecency" is an act, other than sexual intercourse (whether natural or unnatural), by a person involving the use of the genital organ for the purpose of arousing or gratifying sexual desire. (Antigua and Barbuda 1995; ILGA May 2013, 89)

Sources indicate that these laws are not actively implemented (MESH 2 Jan. 2014; CVC 17 Dec. 2013; Caribarena 3 Oct. 2011). In 2011,
the Director of Public Prosecution (DPP) reportedly said that during his time as the DPP, from 2008-2011, the only buggery cases brought forward were "criminal cases" and were not "consensual sex cases" (qtd. in Caribarena 3 Oct. 2011). In correspondence with the Research Directorate, a representative of the Caribbean Vulnerable Communities (CVC) Coalition, who also works at the Gender Affairs department of the Antigua and Barbuda government, said that he was not aware of any recent arrests or prosecutions for consensual same-sex sexual acts between consenting adults under these laws (CVC 17 Dec. 2013). In a telephone interview with the Research Directorate, a representative of the Antigua-based LGBT rights group Meeting Emotional and Social Needs Holistically (MESH), who is also an openly gay police officer, said that although the laws are generally not pursued, LGBT people who are caught engaging in sexual activity in a public place are sometimes detained for a couple of days (MESH 2 Jan. 2014). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Sources indicate that Antigua and Barbuda rejected recommendations to decriminalize same-sex sexual relations during the UN Human Rights Council's Universal Periodic Review in 2012 (AI 16 Mar. 2012; UN 2012, 6). The Attorney General of Antigua and Barbuda reportedly told the press that "there will be no change in the law on buggery, at least not if I can help it. Being gay is morally wrong, and to be honest personally, I am still homophobic" (US 19 Apr. 2013, 11; Caribarena 3 Oct. 2011; Antigua Observer 5 Oct. 2011). He also indicated that a change in the buggery law would face opposition by the public and church (Caribarena 3 Oct. 2011).

Sources indicate that Antigua and Barbuda do not have laws that protect people against discrimination based on sexual orientation (MESH 2 Jan. 2014; UN 2012, 6). According to the CVC representative, LGBT people can report cases of discrimination to the police or social services, but there is no official protocol in place to handle such cases (17 Dec. 2013).

2. Treatment

2.1 Societal Attitudes and Discrimination

According to a 2011 report by the UN Human Settlements Programme (UN Habitat), there is homophobia in Antiguan society (UN 2011, 21). Similarly, the MESH representative said that there are still clergy who preach against homosexuality and media that play homophobic music (2 Jan. 2014).

Several sources indicate that LGBT people face discrimination (US 19 Apr. 2013, 11; MESH 2 Jan. 2014; CVC 17 Dec. 2013) and stigma (ibid.; MESH 2 Jan. 2014). According to the CVC representative, openly LGBT people, particularly from the lower economic bracket, face discrimination and stigma, and may face challenges accessing basic health care and social services (17 Dec. 2013). Sources note that openly LGBT people may face job loss (CVC 17 Dec. 2013; MESH 2 Jan. 2014). The MESH representative indicated that those who are openly LGBT and unemployed face greater difficulty finding jobs, particularly minimum wage jobs (ibid.). The CVC representative indicated that openly LGBT people may face infringements on their human rights and loss of family support (17 Dec. 2013).

According to the CVC representative, a number of LGBT people do not reveal their sexual orientation out of fear (17 Dec. 2013). The MESH representative noted that more young people are "coming out" than in the past due to greater awareness, but that they still face stigma and discrimination (2 Jan. 2014).


2.2 Violence

Both the CVC representative and MESH representative said that LGBT people have been subject to physical violence, but were not aware of any cases of murders motivated by homophobia (CVC 17 Dec. 2013; MESH 2 Jan. 2014). Examples of violence include cases in which LGBT people have been pelted with stones, or subject to beatings (CVC 17 Dec. 2013; MESH 2 Jan. 2014). The news portal Caribarena Antigua published an article about a member of the LGBT community who experienced verbal and physical attacks because of his sexual orientation, including having bottles and stones thrown at him, being chased through a village, and an attempt to run him down with a car (Caribarena 17 May 2013). According to the MESH representative, physical violence against LGBT people is particularly perpetrated by small groups or gangs (MESH 2 Jan. 2014). According to the CVC representative, LGBT people may be subject to beatings by either individuals or groups (17 Dec. 2013).

The MESH representative provided some examples of physical violence, including a 2013 case in which the perpetrator threw bottles down from a building onto an openly gay man, "causing his head to rupture" (2 Jan. 2014). In another 2013 example, a gay man was subject to anti-gay verbal abuse, cut with a knife and robbed (MESH 2 Jan. 2014). Further information about these incidents could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

3. State Protection

The MESH representative noted that their organization encourages individuals to report cases of threats and violence against LGBT people to the police (MESH 2 Jan. 2014). However, he also noted that many LGBT people do not report violence to the police for multiple reasons, such as fear of revealing their sexual orientation, fear of stigma and discrimination or fear due to past experience with police or hearing of experiences of other LGBT people (MESH 2 Jan. 2014).
Sources indicate that law enforcement officials sometimes discriminate against LGBT people (CVC 17 Dec. 2013; Freedom House 2013; MESH 2 Jan. 2014). Freedom House states that there have been cases of police using excessive force against LGBT people (Freedom House 2013). However, the MESH representative said that police officers who use physical violence against LGBT people may lose their jobs (MESH 2 Jan. 2014). He said there was a case in which a police officer physically assaulted an LGBT person, was reported, and subsequently lost his job (MESH 2 Jan. 2014). However, the MESH representative also indicated that many LGBT people fear making reports against the police (ibid.). Further information about consequences for police who use physical violence against LGBT people could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

According to the CVC representative, some officers will assist an LGBT individual, but others won't take the report seriously, and some will even chase the LGBT person out of the station (17 Dec. 2013). Similarly, the Antiguan media source Caribarena quoted someone who said their LGBT friend was chased out of a police station when trying to report an incident to the police (3 Oct. 2011). The MESH representative said that treatment depends on the police officer at the desk (MESH 2 Jan. 2014). He noted that there is still a lot of stigma and discrimination towards LGBT people by the police (ibid.). He noted:

Sometimes the police purposefully create delays in handling the report or investigating the case if it involves an LGBT person. They find excuses. For example, there was a case in 2012 in which an LGBT person was threatened by a group and called the police, but the police never came. (2 Jan. 2014)

The MESH representative noted that in his experience as an openly gay police officer, he has been subject to verbal abuse at work, but has not experienced physical abuse by other officers (MESH 2 Jan. 2014).

The MESH representative indicated that some police officers have received training on stigma and discrimination, which included treatment of men who have sex with men (MSM) (ibid.). He said that the stations targeted for training were based on the stations where people were subject to the most discrimination (ibid.). Further information about police training on LGBT issues could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

4. Support Services

According to Country Reports 2012, there are a few organized LGBT groups in Antigua and Barbuda, but societal attitudes "somewhat impeded operation and free association of LGBT organizations" (US 19 Apr. 2013, 11). According to the MESH representative, support from LGBT groups is limited (MESH 2 Jan. 2014). He noted that MESH is not yet in a position to provide legal support, although they work with international groups to get advice (ibid.).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection.

Please find below the list of sources consulted in researching this Information Request.

References


Caribbean Forum for Liberation and Acceptance of Genders and Sexualities (CariFLAGS) Secretariat. 25 December 2013. Correspondence from the Manager to the Research Directorate.

Caribbean Vulnerable Communities (CVC) Coalition. 17 December 2013. Correspondence from a representative to the Research Directorate.


Additional Sources Consulted

Oral sources: Attempts to contact the Ombudsman of Antigua and Barbuda and a human rights lawyer were unsuccessful within the time constraints of this Response.

Internet sites, including: Antigua and Barbuda - Antigua and Barbuda Royal Police Force, Ombudsman; Caribbean News Now; eoi.net; Factiva; Human Rights Watch; International Gay and Lesbian Human Rights Commission; United Nations - Human Rights Council, Refworld.

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and / or country At countries
Clear Search

Countries

- Antigua and Barbuda

Topics

- Lesbian, gay, bisexual, transgender and intersex (LGBTI)
- Minorities
- Persecution on the basis of sexual orientation or gender identity
- State protection
Tab 3
Human Rights Council
Working Group on the Universal Periodic Review
Twenty-fifth session
2-13 May 2016

Compilation prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15 (b) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21

Antigua and Barbuda

The present report is a compilation of the information contained in reports of the treaty bodies and special procedures, including observations and comments by the State concerned, in reports of the United Nations High Commissioner for Human Rights, and in other relevant official United Nations documents. It is presented in a summarized manner owing to word-limit constraints. For the full texts, please refer to the documents referenced. The report does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights other than those contained in public reports and statements issued by the Office. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. Information included herein has been systematically referenced in endnotes. The report has been prepared taking into consideration the periodicity of the review, and developments during that period.
I. Background and framework

A. Scope of international obligations

1. International human rights treaties

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<th>Status during previous cycle</th>
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<td>CRPD (2016)</td>
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<td>CAT (1993)</td>
<td>OP-CAT</td>
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<td>ICPPED</td>
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Reservations and/or declarations

- ICERD, art. 4 (general declaration, 1988)

Complaints procedures, inquiries and urgent action

- OP-CEDAW, art. 8 (2006) | ICERD, art. 14 |
- CAT, art. 20 (1993) | OP-ICESCR |
- OP-CRPD (signature, 2007) | ICCPR |
- ICCPR-OP 1 |
- CAT, arts. 21 and 22 |
- OP-CRC-IC |
- ICRMW |
- OP-CRPD (signature, 2007) |
- ICPPED |

2. Other main relevant international instruments

<table>
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<th>Status during previous cycle</th>
<th>Action after review</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Rome Statute of the International Criminal Court</td>
<td>Additional Protocol III to the 1949 Geneva Conventions and Declaration made under article 90 of Additional Protocol I</td>
<td></td>
</tr>
<tr>
<td>Palermo Protocol</td>
<td>ILO Conventions Nos. 169 and 189</td>
<td></td>
</tr>
</tbody>
</table>
1. The United Nations subregional team for Barbados noted that, during the first universal periodic review of Antigua and Barbuda, in 2011, the country had received numerous recommendations to ratify or accede to various international human rights treaties, many of which had been accepted. With the exception of the Convention on the Rights of Persons with Disabilities, Antigua had not ratified any core United Nations international human rights treaties since its previous review. The subregional team encouraged the Government, consistent with the recommendations it had received during its first review, to accede to all core United Nations human rights instruments as soon as possible.

2. The United Nations High Commissioner for Refugees (UNHCR) recommended that the Government be encouraged to accede to the 1961 Convention on the Reduction of Statelessness and consider withdrawing its reservations to the 1954 Convention relating to the Status of Stateless Persons, particularly to article 31.

3. The United Nations Educational, Scientific and Cultural Organization (UNESCO) recalled that Antigua and Barbuda was not party to the Convention against Discrimination in Education and strongly encouraged its ratification.

B. Constitutional and legislative framework

4. The subregional team indicated that Antigua and Barbuda had participated in the Organization of Eastern Caribbean States Family Law and Domestic Violence Legal and Judicial Reform Project and that the Government had reported to the Committee on the Rights of the Child that it intended to introduce legislation designed as part of that project. The proposed legislation would cover childcare and protection, adoption, juvenile justice, domestic violence and the institution of a family court. However, there was no pending legislation on those issues before parliament.

C. Institutional and human rights infrastructure and policy measures

<table>
<thead>
<tr>
<th>National human rights institution</th>
<th>Status during previous cycle</th>
<th>Status during present cycle</th>
</tr>
</thead>
</table>

5. The subregional team indicated that, during its first universal periodic review, Antigua and Barbuda had accepted recommendations to establish a national human rights institution in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles). Nevertheless, the Office of the Ombudsman had been accredited with a “C” rating by the International Coordinating
Committee of National Institutions for the Promotion and Protection of Human Rights, and was tasked with investigating only cases of government administrative injustice. Additionally, the office was underresourced and its power was limited. The subregional team recommended that the Government establish a national human rights institution in accordance with the Paris Principles, with the support of international partners.18

6. The subregional team considered that the establishment of an institutionalized, inter-ministerial human rights mechanism to monitor and report on the implementation of recommendations from international human rights mechanisms would greatly strengthen the ability of the Government to effectively engage with international and regional human rights mechanisms.19

II. Cooperation with human rights mechanisms

A. Cooperation with treaty bodies

1. Reporting status

<table>
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<tr>
<th>Treaty body</th>
<th>Concluding observations included in previous review</th>
<th>Latest report submitted since previous review</th>
<th>Latest concluding observations</th>
<th>Reporting status</th>
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<td>Committee on the Elimination of Racial Discrimination</td>
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<td>January 1997</td>
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<td>-</td>
<td>Combined fourth to seventh reports overdue since 2014; State party scheduled for consideration in 2016, in the absence of a State party report</td>
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<td>Committee against Torture</td>
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<td>-</td>
<td>Initial report overdue since 1994</td>
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<td>Committee on the Rights of the Child</td>
<td>October 2004</td>
<td>2014</td>
<td>-</td>
<td>Combined second to fourth reports pending consideration in 2016; initial OP-CRC-SC report overdue since 2004</td>
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<tr>
<td>Committee on the Rights of Persons with Disabilities</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>Initial report due in 2018</td>
</tr>
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</table>

7. The subregional team noted that small island developing States such as Antigua and Barbuda had limited capacities and resources to prepare and submit treaty body reports in a timely fashion. As such, the country struggled with meeting its reporting obligations to the treaty bodies. It added that the United Nations Children’s Fund (UNICEF) had supported the Government in its submission of the combined second to fourth periodic reports to the Committee on the Rights of the Child and that the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) was supporting the State party in the completion of its overdue report to the Committee on the Elimination of Discrimination against Women. The subregional team recommended that the Government continue to work
with UNICEF and UN-Women in the preparation of treaty body reports for those two committees.\textsuperscript{20}

2. Responses to specific follow-up requests by treaty bodies

Concluding observations

<table>
<thead>
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<th>Treaty body</th>
<th>Due in</th>
<th>Subject matter</th>
<th>Submitted in</th>
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<td>Committee on the Elimination of Racial Discrimination</td>
<td>2008</td>
<td>Setting up a national human rights institution; data on the ethnic and national origin of the population; and criminalizing dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination and acts of violence, and prohibiting organizations that incite racial discrimination.\textsuperscript{21}</td>
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</table>

B. Cooperation with special procedures\textsuperscript{22}

<table>
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<td>Visits agreed to in principle</td>
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<tr>
<td>Visits requested</td>
<td>-</td>
</tr>
</tbody>
</table>

Responses to letters of allegation and urgent appeals

In the period under review, no communications were sent.

Follow-up reports and missions

C. Cooperation with the Office of the United Nations High Commissioner for Human Rights

8. The subregional team indicated that the Government had had limited engagement with the Office of the United Nations High Commissioner for Human Rights (OHCHR) with regard to seeking technical assistance in meeting its international human rights obligations or facilitating human rights training and education. It recommended that Antigua and Barbuda seek technical assistance from OHCHR to improve its efforts to meet its international human rights obligations.\textsuperscript{21}
III. Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Equality and non-discrimination

9. The subregional team stated that no specific legislation addressed discrimination based on disability, language, sexual orientation, gender identity or social status. Antigua and Barbuda also did not have a national gender policy. The subregional team recommended that the Government adopt a national gender policy, with the support of UN-Women, and enhance the capacity for gender analysis within ministries, departments and agencies that coordinated policy development.25

10. The subregional team considered that there remained many gender-based obstacles facing women, which resulted in systemic institutional, sociocultural, political and economic inequalities. Statistics revealed near gender parity in the attendance of males and females in schools at the primary and secondary levels. Although females had a much higher level of educational attainment at the tertiary level, graduating from college and university had not resulted in a major shift in women’s access to work, higher incomes, or leadership and decision-making positions, nor had it translated into women gaining a foothold in economic sectors that were more productive and targeted for development. Poverty was more prevalent among women who were without a partner.25

11. The subregional team reported that sexual acts between same-sex couples were illegal for both men and women. The Sexual Offenses Act of 1995 stated that “a person who commits buggery is guilty of an offense and is liable on conviction to imprisonment” from five years to life. Lesbian, gay, bisexual and transgender people, particularly from the lower economic bracket, faced discrimination and stigma, and might encounter challenges accessing basic health care and social services and face greater difficulties finding a job. The subregional team indicated that civil society organizations had reported that such persons remained vulnerable to persecution and harassment on a daily basis. Gay rights activists had reported that lesbian, gay, bisexual and transgender persons who had been subject to violent crimes were hesitant to report the crime to the police. Attacks against such persons frequently went unreported for multiple reasons, such as fear of revealing their sexual orientation, fear of stigma and discrimination, and fear due to past experience with police or hearing the experiences of other lesbian, gay, bisexual and transgender people.26

B. Right to life, liberty and security of person

12. The subregional team noted the existence of a de facto moratorium on the death penalty for 24 years. However, the death penalty continued to enjoy popular support and there were frequent calls for its full reinstatement. In 2013, in the immediate wake of a highly publicized murder, the Minister of National Security announced that Antigua and Barbuda would begin actively enforcing the death penalty.27

13. The subregional team stated that accusations of police abuse were not frequent. Nevertheless, in January 2015, the Police Commissioner had been suspended due to allegations that he had failed to act on four complaints against other officers. The team added that there was not an institutionalized police complaints authority in the islands.28

14. The subregional team indicated that Antigua’s only prison, Her Majesty’s Prison, was very old, conditions there were harsh and it was extremely overcrowded.29
15. The subregional team reported that the Sexual Offences Act did not recognize rape within marriage, except under certain circumstances pertaining to the separation or dissolution of the marriage. It considered that violence against women was a serious and pervasive problem. Survey and studies of domestic violence indicated up to 40 per cent of adult women in Antigua and Barbuda had experienced physical abuse in intimate relationships. With the support of UN-Women, in 2013 the Government had adopted a national action plan for the period 2013-2018 to end gender-based violence. The subregional team recommended that the Government establish a national coordinating committee to address gender-based violence and incorporate a focus on gender-based violence into broader citizen security initiatives, particularly those related to addressing gang-related violence.30

16. The subregional team noted that about one in four respondents to the 2014 Antigua Social Survey on Violence stated that they knew of a child who had been a victim of sexual abuse. However, there was no comprehensive national strategy or policy against child sexual abuse. The team considered that the legal framework relating to child abuse required a general overhaul.31

17. The subregional team reported that corporal punishment remained legal in the home and in schools. It added that the Social Survey on Violence indicated that there was still popular support for maintaining corporal punishment in schools and in homes.32

18. UNESCO recalled that, during its first universal periodic review, Antigua and Barbuda had not accepted recommendations related to corporal punishment.33 It stated that the Government should be encouraged to prohibit all forms of corporal punishment in all settings and could be encouraged to further address the issue of abuse and neglect of children.34

19. UNHCR noted that Antigua and Barbuda was both a destination and transit country for victims of human trafficking, particularly for women from other Caribbean countries who were trafficked for purposes of sexual exploitation and forced domestic labour.35

20. UNHCR recalled that in 2010 the State party had adopted the Trafficking in Persons Prevention Act, but noted that, up to 2014, it had not reported any prosecutions, convictions or punishments of trafficking offenders under the Act. UNHCR recommended that the Government continue efforts to implement the Act and establish a formal procedure for identifying victims of trafficking, clearly differentiating between victims and perpetrators, pursuing alternatives to detention for victims and referring them to necessary services, including asylum procedures if appropriate. By strengthening efforts to combat human trafficking and ensure the protection of victims of trafficking, the Government would be fulfilling recommendations 67.21 and 67.22 that it had accepted during the first universal periodic review.36 UNHCR also recommended that the Government strengthen efforts to identify victims of trafficking, ensure that they had an opportunity to apply for asylum and facilitate their access to other necessary services.37

C. Administration of justice and the rule of law

21. The subregional team indicated that Antigua and Barbuda faced a severe backlog in criminal court cases. According to newspaper reports, accused defendants remained incarcerated for as long as five years awaiting trial. The Government had explained that a lack of magistrates accounted for some of the backlog.38

22. The subregional team reported that the effective age of criminal responsibility was 8 years old and juveniles were tried in the same courts as adults. Furthermore, aside from probation, there were no alternatives to sentencing and no restorative justice options. However, in October 2015 the Government had indicated that it would start pre-sentencing
diversion training to look at steps that could be taken to avoid putting juveniles in prison. Also, a family court which handles child maintenance matters and domestic violence cases had been established in 2012.\textsuperscript{39}

23. The subregional team indicated that there were no juvenile detention facilities for girls, while the Boy’s Training School housed boys between 10 and 18 years of age who had been referred by the courts for “care and protection and minor infractions with the law.” The school had been criticized for inadvertently preparing abandoned and abused boys for lives of crime by housing offenders and non-offenders together in the same facility. The team added that the Government had recently passed an act that allowed for the expunging of convictions committed under the age of 21 once the person had been “on the straight and narrow” for a minimum of seven years.\textsuperscript{40}

D. \textbf{Freedom of expression and right to participate in public and political life}

24. UNESCO recalled that defamation constituted a legal crime specified in the Libel and Slander Act and the Sedition and Undesirable Publications Act. The penalty for defamation was up to three years imprisonment. UNESCO recommended that Antigua and Barbuda decriminalize defamation and place it within a civil code that was in accordance with international standards.\textsuperscript{41}

25. UNESCO had recorded no killing of journalists in Antigua and Barbuda. Journalists operated in a safe environment.\textsuperscript{42}

26. The subregional team reported that women comprised the majority of civil servants and held senior level roles within the Government. Women accounted for 62 per cent of permanent secretaries, the most senior-level civil servants, while men comprised the majority of heads of department, accounting for 60 per cent of these post-holders. Despite the dominant representation of women within the civil service, and although they participated fully in voting during elections and were very active in political parties, women were still severely underrepresented in political leadership positions. As of the 2014 general elections, there were only two women in Parliament.\textsuperscript{43}

E. \textbf{Right to work and to just and favourable conditions of work}

27. The subregional team stated that, throughout the most productive economic sectors, women predominated in positions that were precarious, lower paying and less secure. Men were far more represented in the sectors that contributed the highest percentage to GDP, and within those sectors targeted by the Government for development. Overall, women maintained a higher unemployment rate than men, and remained unemployed for longer periods. The situation largely reinforced stereotypical gender roles for women.\textsuperscript{44}

28. The subregional team noted that there was a high incidence of sexual harassment in the private and public sectors and that cases were rarely formally reported. The lack of reporting was usually linked to concerns about retaliation.\textsuperscript{45}

29. The subregional team stated that, in 2012, the Trade Union Congress had expressed concerns about the length of time it took before a labour dispute case could be heard, the period of time between a hearing and reports generated from the hearing, and the quality and substance of reports in relation to articulation of the facts and use of evidence, among other things.\textsuperscript{46}
F. Right to social security and to an adequate standard of living

30. The subregional team reported that poverty affected 18.4 per cent of the population, of which 3.7 per cent were indigent or extremely poor. Women comprised 52.8 per cent of the poor, while 35.5 per cent of the poor were children less than 14 years old. Antigua and Barbuda had the third-highest prevalence of undernourished people in the Caribbean, at 13.9 per cent of the population.

31. It added that, while most families already had access to basic services, a significant number still did not have access to piped water, sanitation or electricity: about 10.7 per cent of the households (3,520 units) did not have access to piped water; 22.9 per cent (7,534 units) to proper sanitation; and 7.8 per cent (2,566 units) to electricity.

32. The subregional team recommended that the Government establish a national social protection floor, consistent with the Social Protection Floors Recommendation, 2012 (No. 202) of ILO, to ensure that all members of society enjoyed at least a basic level of social security.

G. Right to health

33. The subregional team considered that, during the past several years, Antigua and Barbuda had made significant progress with regard to health conditions and had eliminated most of the traditional forms of infectious disease. Malaria no longer posed a problem and all other communicable diseases were under control. Rather, the country was confronted with an epidemic of chronic diseases, including diabetes, high blood pressure, heart diseases and obesity.

34. The team noted that abortions were illegal but were allowed in cases in which the pregnancy involved a risk to the life of the pregnant woman. However, abortion remained illegal in cases that would result in grave permanent injury of a physical or mental health nature to the pregnant woman and in cases of rape or incest. The subregional team added that Antigua and Barbuda had the second-highest rate of pregnancy among adolescents (ages 15-19) within the Eastern Caribbean States, at 67 per 1,000 girls. It added that the State party was a member of the Caribbean Community Council for Human and Social Development, which had approved a strategy to reduce the number of pregnancies among adolescents in each country of the English- and Dutch-speaking Caribbean by at least 20 percent over the 2014-2019 period.

35. Regarding HIV, the subregional team reported that estimates of overall HIV prevalence had steadily increased over the past six years, from 0.8 percent in 2005 to roughly 1.4 percent in 2011. Data suggested that the majority of cases reported were among persons between 15 and 49 years of age and that young people, men who had sex with men, and female sex workers were most at risk of contracting HIV.

H. Right to education

36. UNESCO noted that the right to education was recognized in the Education Act of 2008 but not in the 1981 Constitution.

I. Cultural rights

37. UNESCO encouraged Antigua and Barbuda to fully implement the relevant provisions of the Convention concerning the Protection of the World Cultural and Natural
Heritage of 1972, the Convention for the Safeguarding of the Intangible Cultural Heritage of 2003 and the Convention on the Protection and Promotion of the Diversity of Cultural Expressions of 2005 that promoted access to and participation in cultural heritage and creative expressions and were conducive to implementing the right to take part in cultural life. UNESCO also encouraged Antigua and Barbuda, in doing so, to give due consideration to the participation of communities, practitioners, cultural actors and non-governmental organizations from civil society, as well as vulnerable groups.53

J. Persons with disabilities

38. The subregional team noted that there were no specific laws and regulations protecting those with special needs or facilitating their integration into society.56

39. UNESCO noted that the Government might be encouraged to continue its efforts regarding special education.57

K. Migrants, refugees and asylum seekers

40. UNHCR reported that Antigua and Barbuda faced a complex phenomenon of mixed migratory movements, and encouraged the Government to strengthen its capacity to appropriately manage those movements, taking into consideration the fundamental rights and needs of persons in need of international protection, as well as the profiles of specific groups who required differentiated treatment, such as women and children.58

41. The subregional team indicated that Antigua and Barbuda had a relatively large population from the Spanish-speaking Caribbean, and that many of the non-legal migrants were women employed as domestic workers with little or no State protection. Furthermore, the number of Spanish-speaking migrant women involved in and made vulnerable to violence through sex work was notable.59

42. UNHCR noted with concern the practice of the State party of detaining migrants, including vulnerable migrants such as asylum seekers, even in cases in which the persons detained had entered and remained lawfully in the national territory; had not been charged with violating any law; were in possession of valid identity documents, which they had presented to the authorities; and had affirmatively exercised their right to seek asylum prior to their detention. UNHCR encouraged the Government to pursue alternatives to detention for migration management; to ensure that any restriction on migrants’ freedom of movement was applied only under those circumstances in which it was necessary, reasonable and proportionate to the legitimate purpose achieved and justified by international law; and that any detention of migrants was neither arbitrary nor indefinite.60

43. It recommended that the Government enhance dialogue and consultation with UNHCR regarding mixed migratory movements, and provide enhanced training to law enforcement, immigration and judicial officials to better identify and protect vulnerable migrants in mixed migration movements.61

44. UNHCR indicated that the Government had not yet adopted legislation or regulations governing asylum procedures or the rights of refugees. In the absence of a legal framework, there was a need to strengthen guarantees against refoulement.62

45. UNHCR reported that, in 2015, it had identified a group of 15 asylum seekers from a Middle Eastern country who had been detained in Antigua and Barbuda and threatened with removal to their country of origin, a place of ongoing armed conflict and mass forced displacement. The Governor General had convened an ad hoc eligibility committee to conduct refugee status determination which, as of August 2015, had examined 10 out of the
15 cases and recommended the granting of asylum in each of those 10 cases. The legal and practical effect of that designation remained uncertain, however, given the lack of a legislative framework governing refugee protection and asylum.63

46. UNHCR considered that, in such a context, increased safeguards and minimum due process guarantees in removal proceedings were needed to prevent the refoulement of persons in need of international protection.64

47. UNHCR recommended that the Government develop, enact and implement refugee legislation consistent with international standards, to ensure fair and efficient procedures for conducting refugee status determination, including appeals, and take the steps necessary to ensure full access to fundamental rights for asylum seekers and refugees.65

48. UNHCR stated that, in recent years, a growing number of persons in the Caribbean had been affected by statelessness as a result of policy changes in the region and recommended that the Government ensure minimum due process guarantees against refoulement of stateless persons.66

Notes

1 Unless indicated otherwise, the status of ratification of instruments listed in the table may be found on the official website of the United Nations Treaty Collection database, Office of Legal Affairs of the United Nations Secretariat, http://treaties.un.org/. Please also refer to the United Nations compilation on Antigua and Barbuda from the previous cycle (A/HRC/WG.6/12/ATG/2).

2 The following abbreviations have been used in the present document:

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Full Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>ICERD</td>
<td>International Convention on the Elimination of All Forms of Racial Discrimination</td>
</tr>
<tr>
<td>ICESCR</td>
<td>International Covenant on Economic, Social and Cultural Rights</td>
</tr>
<tr>
<td>OP-ICESCR</td>
<td>Optional Protocol to ICESCR</td>
</tr>
<tr>
<td>ICCPR</td>
<td>International Covenant on Civil and Political Rights</td>
</tr>
<tr>
<td>ICCPR-OP 1</td>
<td>Optional Protocol to ICCPR</td>
</tr>
<tr>
<td>ICCPR-OP 2</td>
<td>Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty</td>
</tr>
<tr>
<td>CEDAW</td>
<td>Convention on the Elimination of All Forms of Discrimination against Women</td>
</tr>
<tr>
<td>OP-CEDAW</td>
<td>Optional Protocol to CEDAW</td>
</tr>
<tr>
<td>CAT</td>
<td>Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</td>
</tr>
<tr>
<td>OP-CAT</td>
<td>Optional Protocol to CAT</td>
</tr>
<tr>
<td>CRC</td>
<td>Convention on the Rights of the Child</td>
</tr>
<tr>
<td>OP-CRC-AC</td>
<td>Optional Protocol to CRC on the involvement of children in armed conflict</td>
</tr>
<tr>
<td>OP-CRC-SC</td>
<td>Optional Protocol to CRC on the sale of children, child prostitution and child pornography</td>
</tr>
<tr>
<td>OP-CRC-IC</td>
<td>Optional Protocol to CRC on a communications procedure</td>
</tr>
<tr>
<td>ICRMW</td>
<td>International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families</td>
</tr>
<tr>
<td>CRPD</td>
<td>Convention on the Rights of Persons with Disabilities</td>
</tr>
<tr>
<td>OP-CRPD</td>
<td>Optional Protocol to CRPD</td>
</tr>
<tr>
<td>ICPPED</td>
<td>International Convention for the Protection of All Persons from Enforced Disappearance.</td>
</tr>
</tbody>
</table>

3 Individual complaints: ICCPR-OP 1, art. 1; OP-CEDAW, art. 1; OP-CRPD, art. 1; OP-ICESCR, art. 1; OP-CRC-IC, art. 5; ICERD, art. 14; CAT, art. 22; ICRMW, art. 77; and ICPPED, art. 31.

Inquiry procedure: OP-CEDAW, art. 8; CAT, art. 20; ICPPED, art. 33; OP-CRPD, art. 6; OP-ICESCR, art. 11; and OP-CRC-IC, art. 13.

Inter-State complaints: ICCPR, art. 41; ICRMW, art. 76; ICPPED, art. 32; CAT, art. 21; OP-ICESCR, art. 10; and OP-CRC-IC, art. 12.

Urgent action: ICPPED, art. 30.
4 Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III). For the official status of ratifications, see International Committee of the Red Cross, www.icrc.org/ihl.


6 International Labour Organization (ILO) Indigenous and Tribal Peoples Convention, 1989 (No. 169); and Domestic Workers Convention, 2011 (No. 189).


8 Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Convention); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Convention); Geneva Convention relative to the Treatment of Prisoners of War (Third Convention); Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II). For the official status of ratifications, see International Committee of the Red Cross, www.icrc.org/ihl.

9 International Labour Organization Forced Labour Convention, 1930 (No. 29); Abolition of Forced Labour Convention, 1957 (No. 105); Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); Right to Organise and Collective Bargaining Convention, 1949 (No. 98); Equal Remuneration Convention, 1951 (No. 100); Discrimination (Employment and Occupation Convention, 1958 (No. 111); Minimum Age Convention, 1973 (No. 138); Worst Forms of Child Labour Convention, 1999 (No. 182).

10 See submission of the United Nations subregional team for Barbados and the Organization of Eastern Caribbean States for the universal periodic review of Antigua and Barbuda, p. 1. For the full text of the recommendations, see A/HRC/19/5, recommendations 67.1 (Trinidad and Tobago), 67.2 (Indonesia), 67.3 (Morocco), 67.4 (Algeria), 67.5 (Ecuador) and 67.6 (Trinidad and Tobago).

11 See subregional team submission, p. 1.

12 UNHCR submission for the universal periodic review of Antigua and Barbuda, pp. 7-8.

13 See UNESCO submission for the universal periodic review of Antigua and Barbuda, paras. 10 and 24.1.

14 Subregional team submission, p. 1.

15 According to article 5 of the rules of procedure of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights Sub-Committee on Accreditation, the classifications for accreditation used by the Sub-Committee are: A: voting member (fully in compliance with each of the Paris Principles), B: non-voting member (not fully in compliance with each of the Paris Principles or insufficient information provided to make a determination), C: no status (not in compliance with the Paris Principles).


17 For the full text of the recommendations, see A/HRC/19/5, recommendations 68.9 (Maldives), 68.10 (Algeria), 68.11 (Morocco), 68.12 (Hungary), 68.13 (Argentina) and 68.14 (Indonesia).

18 See subregional team submission, p. 2.

19 Ibid.

20 Ibid.

21 See CERD/C/ATG/CO/9, para. 30.

22 For the titles of special procedure mandate holders, see www.ohchr.org/EN/HRBodies/SP/Pages/Welcompage.aspx.

23 Subregional team submission, p. 2.

24 Ibid., pp. 3 and 5.

25 Ibid.

26 Ibid., p. 7.

27 Ibid., p. 8.
Ibid., p. 9.
29 Ibid.
30 Ibid., pp. 3 and 5.
31 Ibid., p. 6.
32 Ibid.
33 For the full text of the recommendations see A/HRC/19/5, recommendations 69.9 (Slovenia), 69.10 (Uruguay), 69.11 (Uruguay), 69.12 (Spain), 69.13 (Brazil), 69.14 (Chile) and 69.15 (Hungary).
34 See UNESCO submission, para. 24.3-24.4.
35 UNHCR submission, p. 5.
36 Ibid. For the full text of the recommendations, see A/HRC/19/5, recommendations 67.21 (Ecuador) and 67.22 (France).
37 UNHCR submission for the universal periodic review of Antigua and Barbuda, p. 5.
38 Subregional team submission, p. 9.
39 Ibid., p. 6.
40 Ibid., pp. 6-7.
41 See UNESCO submission, paras. 17 and 26.
42 Ibid., para. 20.
43 Subregional team submission, p. 4.
44 Ibid.
46 Ibid.
47 Ibid.
48 See Food and Agriculture Organization of the United Nations, State of Food Insecurity in the CARICOM Caribbean: Meeting the 2015 Hunger Targets—Taking Stock of Uneven Progress (Bridgetown, 2015), table 1.
49 Subregional team submission, p. 10.
50 Ibid., p. 11.
51 Ibid.
52 Ibid., pp. 7 and 11.
53 Ibid., p. 12.
54 See UNESCO submission, paras. 1-2.
55 Ibid., para. 25.
56 Subregional team submission, p. 12.
57 See UNESCO submission, para. 24.5.
58 UNHCR submission, pp. 4-5.
59 Subregional team submission, p. 4.
60 UNHCR submission, p. 5.
61 Ibid., pp.5-6.
63 Ibid., p. 3. See also subregional team submission, p. 12.
64 UNHCR submission, p. 4.
65 Ibid.
66 Ibid., pp. 7-8.
STATE-SPONSORED HOMOPHOBIA

2019
13th Edition

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Latin America and the Caribbean, Before the Challenge of a New Time

Introduction

By Luz Elena Aranda Arroyo, Darío Arias and Pedro Paradiso Sottile.

The Latin American and Caribbean region finds itself in a historic moment of transition and political dispute, where the alliances between anti-rights religious fundamentalist sectors and the ultra-conservative political forces are advancing in a dangerous way. This puts in tension and risks the gains achieved by movements through the social, political and cultural struggle, after a stage that we can call a decade of achievements for the LGBT population and women.

The period of 2017-2018, as can be seen in the six essays of each of the sub-regions, began a tumultuous, unstable period with struggle and tensions. The elections of conservative right-wing governments, the rise to power of neo-fascist projects, strategic alliances of the Catholic, Evangelical and neo-Pentecostal churches and its growing influence in the public debate, increase in social exclusion and poverty in the region from the implementation of neoliberal economic policies, the growth in violence due to prejudice of sexual orientation and gender identity and expression, migration and the rise in the murders of human rights defenders, makes a panorama of regional complexity and alertness.

This picture however, meets resistance and struggle from powerful LGBTI and feminist movements that still continue being capable of counteracting this conservative onslaught and lead important advances. These movements are probably the most hopeful social political force in this moment of history and the only ones that are
ILGALAC is committed to continue working and facilitating between organisations in order to promote the strength of equality and freedom throughout Latin America and the Caribbean.

**Advances in equality, setbacks to overcome: the LGBTI+ agenda in the Southern Cone**

*By Alba Rueda.*

The living conditions of LGBTI+ people in the Southern Cone are affected through public policies, legislation and social organisations. Between 2017 and 2018 organisations worked for specific policies for the travesti/trans populations – to raise awareness to their extreme vulnerability, avoidable deaths and the lack of public policies that guarantee their basic rights – and recognised the legislative absence and protections for intersex persons.

The situations are very different in the four countries of the ILGALAC sub-region, being more favourable for the LGBTI+ population in the Eastern Republic of Uruguay, the action of the Broad Front government has incorporated a sustainable LGBTI+ agenda throughout its administration. In fact, the most significant advance so far has been the approval of the Comprehensive Trans Law in 2018, the law that offers the highest level of protection of the rights of trans persons in South America. Under the paradigm of human rights, the law promotes the adoption of affirmative action measure in favour of trans persons, establishes minimum quotas for jobs in the public sector, for professional training, scholarships and student support. Furthermore, the law provides comprehensive healthcare, a reparative regime for victims of violence during the dictatorship and the requirement to register gender identity in the official statistical information system.

In Chile, the organisations achieved the legal recognition of gender identity, despite conservative proclamations from President Sebastian Piñera. The law authorises a change in name and registered sex by administrative means and without the requirement of body modification. However, some organisations denounce that, as a consequence of the pressure of anti-rights groups, the law discriminates against children and married people.

The actions of the conservative and neoliberal governments have obstructed legislative advances for LGBTI+ in countries such as Argentina, where there had been no improvements at the national level of protection of the rights of trans persons in South America. Under the paradigm of human rights, the law promotes the adoption of affirmative action measure in favour of trans persons, establishes minimum quotas for jobs in the public sector, for professional training, scholarships and student support. Furthermore, the law provides comprehensive healthcare, a reparative regime for victims of violence during the dictatorship and the requirement to register gender identity in the official statistical information system.

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12 Jorge Galindo, “¿Latinoamérica feminista? Estrategias y retos del movimiento que busca la igualdad de género en la región”, El País, 23 de octubre de 2018.

13 Trans activist, member of Mujeres Trans Argentina, researcher in sexual dissidence issues with the Department of Gender and Communications of the Centro Cultural de la Cooperación Floreal Gorini. She studied Philosophy at the University of Buenos Aires (UBA). She works at the Observatory of Discrimination of the National Institute against Discrimination, Xenophobia and Racism (INADI).


15 Article 2 of the law declares “of general interest” the design, promotion and implementation of public policies and affirmative actions in the public and private sectors whose beneficiaries are transgender people.

16 Article 12 of the law establishes, for a period of fifteen years, that a series of public agencies of the three branches of the State must allocate 1% of the positions to be filled in the year by trans people who comply with the regulatory requirements to access such positions.

17 Article 13 of the law establishes a quota of no less than 1% (one percent) for trans people, in the various training and qualification programs implemented by the National Institute of Employment and Vocational Training (Instituto Nacional de Empleo y Formación Profesional). Article 17 of the law establishes that the agencies that grant scholarships and student support should provide for a 2% quota for transgender people and an 8% quota for the “Carlos Quijano” special Scholarship.

18 Article 21 establishes that every trans person has the right to comprehensive care to adapt their body to their gender identity, including surgical medical treatments. Also, it provides that for people under 18 years of age to access irreversible surgeries, in order to adapt their body to their gender identity, authorization or consent from legal representatives will be required.

19 Article 10 provides for the creation of a reparaction regime for trans persons born before 1975, who can prove that they were victims of institutional violence or that they deprived of their liberty by State agents or by those who, without being so, had been authorized, supported or acquiesced. Article 5 incorporates the “gender identity” variable in all official statistical information systems, including censuses, continuous household surveys, reports from the National Civil Service Office and all public measurements that contain the variable “sex”.

20 Law 21,120 approved in November 2018 recognizes and protects the right to gender identity to those residing in Chile, including migrant trans people who have their Chilean document (Article 7).

21 "Historia de la ley de identidad de género en Chile", Organizando Trans Diversidades, 15 December 2018.

22 Legal guardians can litigate under the procedure established in articles 12 to 18 of the law. The law also provides for “Professional Support Programs” to advise and accompany transgender people under eighteen. If a person is married and changes their registration information under the Gender Identity law, they will be able to request the rectification of the marriage with final judgment of a family court.
level in 2017 or 2018. Although, organisations achieved labour quotas for travesti and trans in some localities, the government of the Province of Buenos Aires – a province with travesti and trans labour quota laws enforced – has decided to block the implementation of the norm, refusing to regulate it. At the same time, the neglect of the State denies access to basic healthcare for travesti and trans prisoners, which has led to the deaths of many of them. Anti-rights groups have grown and strongly influenced the rejection of the draft law of voluntary termination of pregnancy and questioned the rights of the LGBTI+ community, especially targeting transgender children and/or their families, especially from the movement located throughout Latin America “Don’t mess with my children”. Furthermore, the new social climate is blamed for an increase in violence against LGBTI+ people. Despite all of this, there have been some advances that marked a new horizon in the rights of LGBTI+ people, such as the recognition of non-binary names, the issuing of birth certificates without gender markers in the Province of Mendoza and the ruling of travestiicide in the case of Diana Sacayán. In Paraguay, the government of President Mario Abdo Benitez continued anti-rights policies of its predecessors. Furthermore, the Paraguayan parliament came out against abortion and equal marriage, the Ministry of Education banned all content related to the so-called “gender ideology” and its own education minister called for the “burning of books with gender ideology”. The country also became one of the main promoters of anti-rights groups and positions before the OAS. This data marks the gravity for LGBTI+ people, and it adds to the structural violence that is especially pronounced for trans people. There are no official statistics or public policies for the LGBTI+ population but there are high levels of violence and impunity.

The travestiicide of Amancay Diana Sacayán

On 11 October 2015, Amancay Diana Sacayán (Trans Alternate Secretary of ILGA since 2014), was the victim of travestiicide in her apartment in the city of Buenos Aires. This caused deep shock throughout the Argentinian LGBT movement and above all, the travesti and trans community in the country. Diana was a travesti advocate, activist and leader, born in the north of the country and raised since a child in the Buenos Aires urban area. She was part of the National Front which in 2012 achieved the passing of the Gender Identity Law and, years later, in the Province of Buenos Aires, supported the first labour quota laws for trans persons (today the law bears her name in her honour).

23 The legislative agenda on the trans labour quota is a requirement advocated by all social organizations and many bills were introduced with a consensus of broad social and political sectors, but by decision of the government, they were not debated. The cities and towns where there are quotas in force are distributed in several provinces of the country: Buenos Aires, Chaco, Corrientes, La Pampa, Mendoza, Rio Negro, San Luisa, Santa Fe, Tierra del Fuego and Tucumán. See also: Agencia Presentes, “MAP: This is the trans job quota in Argentina,” 25 May 2018; “The trans labour quota enacted in Chubut”, El Patagónico, 17 May 2018; “The Trans Labour Quota Law enacted in FME”, La Unión Digital, 21 December 2018.

24 See: Law 14,783, Province of Buenos Aires. At the time of the enactment of the law, the IACHR issued a press release welcoming the measure. In it, the Commission stated that “These types of measures seek to encourage trans persons’ access to public areas and to further the exercise of their economic and social rights. These measures contribute not only to reduce the levels of poverty faced by trans persons, but also to reduce homicides and police violence as a result of reducing the number of trans persons working in criminalized informal economies and bringing down stereotypes and prejudice related to gender identity”. IACHR, Press Release 122/15: “IACHR Congratulates Argentina for Passing Provincial Quota Job Law for Trans Persons,” 30 October 2015. See also: IACHR, Report on Poverty and Human Rights in the Americas, September 7, 2017, para. 451: Ombudsman of the Province of Buenos Aires, Right to work for transgender people and transvestites in the Province of Buenos Aires: Obstacles to the implementation of the labour quota law ("Derecho al trabajo de las personas trans y travestis en la Provincia de Buenos Aires: Obstáculos para la implementación de la ley de cupo laboral") (2018).

25 Michelle Langrand, “83% of trans women in Argentina have suffered some kind of violence or discrimination: UN expert”, Panorama, 18 June 2018.

26 “Campaña de grupos “antiderechos” contra una niña trans salteña”, Agencia Presentes, 29 November 2018.


29 “#Paraguayo Cámara de Diputados se declaró ‘provida’: Viola la Constitución”, Agencia Presentes, 21 December 2018.


31 See the article by Marcelo Ferreyra, in the section on International Human Rights Law in the present report.

32 Law 14,783 (Province of Buenos Aires, Argentina); “Diana Sacayán: This law is a response to the discourse on prostitution as work”, March, September 24, 2015. The enactment of the travesti-trans labor quota in the Province of Buenos Aires was...
On 18 June 2018, the Court for Oral Criminal Proceedings No. 4 of the city of Buenos Aires, issued a ruling without precedent regarding violence against trans people in Argentina. This ruling recognised the term “travesticide” to qualify the crime and sentenced the accused to life imprisonment for committing aggravated murder due to “hate towards the gender identity of the victim” and for “gender violence” (articles 80.4 and 80.11 of the Argentinian Penal Code). The progress of this judicial process was actively promoted by social organisations that formed the “Commission of Justice for Diana Sacayan”. In 2018, the judicial decision was recognised with the “People’s Choice Gavel Award” organised by Women’s Link Worldwide in the category Gender and Justice Uncovered.

"Boys wear blue and girls wear pink": the LGBTI agenda in the face of an extreme right-wing offensive in Brazil

By Bruna Andrade Ireneu.

The timeframe of this article covers the impeachment of Dilma Rousseff, the increase in the protest movement #ForaTemer(#TemerOut) and the various plans to incarcerate ex-President Luiz Inacio Lula da Silva. During this period it is self-evident the dismantling of the policy of group conciliation carried out by the Worker’s Party (PT), which had achieved unifying in the same neo-developmental project, opposing groups such as evangelical leaders and sectors of the LGBT movement and feminists. After the impeachment, with the approval of the constitutional amendment that put a limit on public spending, the dismantling of social policies intensified and the situation will worsen still with the current government’s plan.

Yet, after 15 years of the launching of the program “Brazil without Homophobia” (the first government initiative for the benefit of the LGBTI population), Brazil continues to have a high rate of deaths due to homo/lesbo/transphobia. These murders claimed the lives of Dandara dos Santos, Luana Barbosa and Plínio Lima, among many others. Homophobia, sexism and racism operate as a means to produce lethal violence and systematic violations of the human rights of LGBTI persons in Brazil. Furthermore, Brazil is still a high risk place for defenders of human rights, being the country with the most murders of activists in the Americas. The most notorious case was that of the activist and councillor, Marielle Franco. These kinds of examples intensified further during the 2018 election period, in that a candidate publicly hostile to LGBTI recognition and who had explicitly fascist stances in his discourse was elected.
In the same year that the Federal Supreme Court determined that it will not be necessary to acquire legal authorisation, medical/psychological reports, nor surgical procedures in order to change one’s name and sex before the civil registry, 43 Jair Mesias Bolsonaro is elected. His campaign utilised the same strategies of Donald Trump, having made use of “fake news”, 44 among which stand out was the alleged existence of a “Gay Kit” distributed by the PT government. 45 At the same time, the election of Bolsonaro was not without resistance or collective organisation in the form of demonstrations and the movement #EleNao (#NoHim), with more than 40% of the population voting against him in the polls. After the election, out of fear of same-sex marriage recognition being repealed, civil registry offices across the country saw a 25% increase in this type of marriage. 46

In his first days as president, Bolsonaro reiterated his hate for the LGBTI community (the same hatred he expressed when he said: “I would prefer to have a criminal for a child than a gay child”) by appointing to the charge of public policies for human rights, women and family, a pastor known for her support of “conversion therapy”. 47 Damares Alves, with 2 weeks in government, announced to the media that for her “sex between women is an aberration” 48 and that under her watch “girls will be treated as princesses and boys princes”. The minister reaffirmed her political stance that “girls wear pink and boys wear blue”, 49 a phrase that triggered numerous protests on social media by artists, activists, researchers and politicians, questioning the state’s attempt to present biology as a determinate to gender expression. There is a very strong consternation in the country against the government’s first measures which are an attack on gender, ethno-racial relations and sexuality in the school curriculum and the intensification of the criminalisation process of the indigenous population.

The threat of neo-fascism is a global movement, which requires that collective strategies unite different progressive sectors in defence of democratic liberties and republicanism. LGBTI activism must strengthen its links with movements that fight for land rights, housing, racial feminist equality and work. Whilst conscious as to not be seduced by the conciliatory homo-nationalist discourse which comes from antidemocratic sectors or to fear the struggle itself. Resistance thrives in the streets and tomorrow is another day!

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**The Andean Region, a Territory in Alert Marked by its Political Uncertainty and the Advance of Anti-Rights Groups**

*By David Aruquipa Perez.*

The policies of human rights protections for the LGBT population of the Andean Region have achieved significant advances in a legal sense. 51 However, in practice exercising these rights are limited by the threats and pressures of neoconservative trends and the fragility of
States in a time of political instability. The anti-rights groups come bringing a strategy of delegitimising the activism and classifying it as alleged “gender ideology”, promoting the suppression of intrusive rights and the ending of comprehensive sex education and the promotion of coexistence in the public national curriculum.

The country of the sub-region of ILGALAC with the most advances is Colombia. Yet still, according to different LGBTI organisations, they are at risk with the election of the extreme right-wing government of President Ivan Duque, who has a track record contrary to LGBTI and women’s rights. In fact, in his first months in office he appointed anti-rights civil servants and did not apply Decree 762/2018 established by President Juan Manuel Santos.

The Colombian situation has one of its principle elements, the Peace Accord, between the State and the FARC-EP with a focus on gender and the recognition of LGBTI victims of the armed conflict that currently is partially being fulfilled and facing difficulties and threats. At the same time, it has seen a growth in the murders of the leaders involved in this process.

Another country that has made important advances is the Plurinational State of Bolivia. In effect, its political constitution contains recognition of the rights of diverse sexual orientation and gender identity populations and includes the LGBT population in the National Action Plan of Human Rights. In 2016, it approved the Gender Identity Law No. 807, which was a victory without precedent and bore the fruits of a long and sustained struggle for the transsexual/transgender population. Yet, five months after having adopted this norm, a group of national parliamentarians brought before the Plurinational Constitutional Court an action of unconstitutionality. On the 9th November 2017, by means of the Plurinational Constitutional Sentence 76/20179, the Constitutional Court declared the unconstitutionality in the phrase “change of sex data” and from that moment operated an unjustified regression in the exercise of the rights of trans persons. and the effects of this ruling has not been remedied until now. Finally, one of the most important pending issues is the recognition of the families formed between same-sex persons.

In relation to the Bolivarian Republic of Venezuela the political, social and economic panorama

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52 This phenomenon can be identified very clearly in the documentary “Gender under attack” (original title: “Género bajo ataque”) by director Jerónimo Centurión (2018); the film has specific sections entitled: “Peru, a threat that does not stop” (“Perú, una amenaza que no se detiene”) and “Colombia: the peace frustrated” (“Colombia: la paz frustrada”).
53 AWID – Asociación para los Derechos de las Mujeres y el Desarrollo, “Discursos principales de la oposición” en Derechos en riesgo, Observatorio sobre la universalidad de los derechos. Informe sobre tendencias en derechos humanos (2017), 84-85.
54 Id., 73.
55 The latest achievement obtained by the Colombian LGBTI movement was the judicial sentence for the crime of Anyela Ramos Claros murdered on February 9, 2017. In this case, the murder of a trans woman was recognized as “femicide” for the first time, according to the information supplied by Colombian Diversa. See: “Primer caso de homicidio de una mujer trans que es reconocido como feminicidio en Colombia” (First case of homicide of a trans woman that is recognized as feminicide in Colombia). Colombia Diversa, 2018.
56 Consultations on the current Colombian political context were made to Corporación Femm and the León Zuleta Collective.
57 The electoral Observatory for LGBTI rights of ILGALAC issued a statement dated June 16, 2018 about the second round of the presidential election in Colombia informing that the then candidate for the Democratic Center, Iván Duque, did not include the LGBTI population in its platform policy and, on the other hand, made statements contrary to the rights of LGBTI people.
58 One of them is Alejandro Ordonez as Ambassador to the OAS. See: “Duque poseciona a Ordoñez como embajador de la OEA pese a las críticas”, El Espectador, 12 de septiembre de 2018.
59 The National Decree No. 762/2018 (Decreto Nacional No. 762/2018) promulgates a national LGBTI policy and with the objective to promote and guarantee the exercise of civil and political rights. In particular the rights to life, liberty, integrity, security and effective judicial protection; guarantee the right to participation and promote and guarantee the exercise of economic and social rights.
60 Information regarding the peace process in Colombia was facilitated to the authors by Corporación Caribe Afirmativo. For more information, see: “Caribe Afirmativo presenta línea base sobre derechos de las personas LGBT en los municipios de las Casas de Paz”, Corporación Caribe Afirmativo website, 17 November 2017.
61 Political Constitution of Bolivia (CPE), article 14; Cecilia Urquieta Pardo, “Bolivia, avances en derechos de la población TLGB” in LGBTI, compendio regional de buenas prácticas gubernamentales de garantía y protección de derechos edited by el Instituto de Políticas Públicas en Derechos Humanos de Mercosur (2017), 77-84.
62 Ley de Identidad de Género No. 807, The procedure for the change of the name and sex of transgender and transgenders is established, allowing for the exercise the right to gender identity. “Se establece el procedimiento para el cambio de los datos del nombre y sexo de las personas transgeneras y transgénero, permitiéndoles ejercer el derecho a la identidad de género” (2016).
63 “TCP declara ilegal matrimonio entre personas del mismo sexo”, Los Tiempos, 9 November 2017.
64 “Bolivia declara ilegal el matrimonio homosexual y transsexual”, Desastre, 10 November 2017.
65 Consultations were held on the current Bolivian political context to activists of the TLGB Collective.
In Ecuador, after a period of advances,70 the change in the political process.71 In this context, two emblematic social missions – that in this context show a great migratory phenomenon. The advances in this country relating to the LGBTI issues in the last two years were in the field of universal social policies – social missions – that in this context show a great importance,68 for the beginning of the discussion of equal marriage in the Constitutional National Assembly and with the opening of a public policy in the Caracas Town Hall.69

In Ecuador, after a period of advances,70 the change of government and the election of President Lenin Moreno in May 2017 caused alarm and uncertainty, in most part by it not continuing with the previous political process.71 In this context, two emblematic cases stand out: on the one hand,72 the ruling of the Constitutional Court No. 184/2018 which recognised the enrolment of a girl with two surnames from her two mothers,73 and on the other, the judicial ruling in which a trans girl was registered on the civil registry record with her gender identity.74

Finally, in Peru there has been a resistance with the growth of fundamentalist religious groups and from the instability due to the resignation of President Pedro Pablo Kuczynski.75 There have been no advances in the recognition in the unions of same-sex couples or in terms of gender identity.76 The organisations of civil society demanded the compliance of the 2018-2021 National Plan of Human Rights (NPHR 2018-2021) and achieved the Inter-American Commission of Human Rights elevating Case 12.982,77 “Azul Rojas Marin and Other” before the Inter-American Court of Human Rights (ICHHR) for the State to remedy the institutional violence which occurred in 2008.78

Homophobia in Mesoamerica
By Gloria Careaga Perez.79

The Mesoamerican region includes Mexico and the majority of Central America: it covers Mexico, Guatemala, El Salvador, Belize, Honduras, Nicaragua and Costa Rica. Therefore, for this report it is important to refer to the region in this manner, which makes it possible to point out some aspects related to the colonisation of the region.

The condition of LGBT people in Mesoamerica has already eliminated any hint of legal signalling that explicitly criminalises their situation. Even if there have been few steps in the advancement in the protection of their rights – this has been done unevenly across the countries – the main challenge is centred on the problem of needing a cultural change that goes beyond its legal status, achieving

67 Alfredo Serrano Mancilla, “Sobotaje económico a Venezuela” Página/12, 7 January 2018.
68 The Fundación Base Lésbica Venezuela, in an interview with the author, stated that the Presidential Council of Popular Power for Sexual Diversity (Decree No. 2161/2015) in coordination with the Ministry of Popular Power for Women and Gender Equity and the Ministry of the Popular Power for the Communes favor the mainstreaming of different social policies so that they also reach LGBTI people.
69 “ANC abre debate sobre derechos civiles de la comunidad sexo género diversa en Venezuela”, Ciudad CCS, 18 October 2018: an act chaired by Mayor Erika Farias, ordinances were proclaimed for the creation of an office for LGBTI Issues and the month of June was instituted as the Month of the Rebellion of Sexual Diversity. See: “Gaceta Municipal en pro de la Sexodiversidad”, Ciudad CCS, 1 June 2018.
70 Cristian Barrazueta, “Experiencia gubernamental de Ecuador en LGBTI, compendio regional de buenas prácticas gubernamentales de garantía y protección de derechos” editado por el Instituto de Políticas Públicas en Derechos Humanos de Mercosur (2017), 95-111.
72 Consultations were held on the Ecuadorian context with Asociación Valientes de Corazón.
73 Corte Constitucional de Ecuador (Constitutional Court of Ecuador), Sentencia N° 184-18-SEP-CC, Registro Oficial Año II. N° 61, 11 September 2018.
74 “Una niña transgénero de nueve años consigue cambiar su cédula de identidad en Ecuador”, El País, 10 of diciembre de 2018.
75 The documentary film “Gender under attack” (original title: “Género bajo ataque”) of 2018 by director Jerónimo Centurión features a section entitled: “Peru, a threat that does not stop”.
76 Centro de Promoción y Defensa de los Derechos Sexuales y Reproductivos (PROMSEX), Informe temático de personas LGBT en el Perú 2018. Perspectivas jurídicas y políticas (2018), 7-17. Consultations on the current political context were held with the following institutions: Promsex, No tengo miedo and Alma Chalaca.
77 Defensoría del Pueblo, A dos años del informe defensorial No. 175, Estado actual de las personas LGBTI (2018), 11.
78 Centro de Promoción y Defensa de los Derechos Sexuales y Reproductivos (PROMSEX), Un caso de tortura sexual por orientación sexual (2018).
79 Gloria Careaga is a psychologist, professor at the Faculty of Psychology of the UNAM (Mexico), Coordinator of Fundación Arcoiris. She was Co-Secretary General of ILGA between 2008 and 2013.
integration and social recognition. Nevertheless, the economic, political and social conditions of the region do not indicate good expectations. The advance of conservative forces entrenched in the region since colonial times and the increased presence of evangelical churches from the United States represent a grave risk to the defence of human rights.

It is interesting that the two countries in the extremes of the region are where the greatest advances have been made in recent years. In Mexico, resulting from the democratisation process started in 1997 which opened up the possibility of electing officials from the country’s capital and the creation of the local Congress for Mexico City (from where authorities of the centre-left or left were based), the advances in the protection of LGBT people have had an important impact for all the country. From 2009 it legalised same-sex marriage, approved the Anti-discrimination Law that includes sexual orientation (2011) and the Identity Law (2015). Thanks to the active LGBT movement and the demand for the recognition of equal marriage, it has achieved this in 11 of the 32 states of the country, the most recent being Chiapas, Puebla and Baja California, which adopted it in 2017. Now Nueva Leon, Tamaulipas and Sinaloa are waiting for the approval of the resolution from the Supreme Court which mandated it in 2015, but has ordered its compliance before a writ of amparo in the last year.

The process of the approval of the Identity Law has gone through the same process, initially in Mexico City in 2008, and it approved a jurisdictional mechanism that allows a change in legal documentation. In 2015 it achieved simplifying the process to a simple administrative procedure. This advance motivated legal action that has gone to the Supreme Court, although it still has not ruled on a final decision. Nevertheless, the LGBT movement has achieved its approval in Coahuila and Michoacan (2018) and the process is pending in Jalisco.

In Costa Rica, equal marriage propelled by the LGBT movement has made big steps with the ruling of Consultative Opinion No. 24 by the Inter-American Court of Human Rights, which was solicited by the same State. This pronouncement, however, caused a big disturbance in the country, given that it coincided by some months with the start of the presidential electoral process, which was used by conservatives to stoke fears and spectres around its approval. Costa Rica is a state with official recognition of the Catholic Church. However, in recent years the growth of Evangelicals and Pentecostals has come to occupy space in the Legislative Assembly. It is not unusual that one of the presidential candidates of neo-Pentecostal origin has taken advantage of circumstances to raise his chances of success with speeches for “the protection of the family”, as happened in the first electoral round. His speeches were extremely discriminative and threatening, and began to gain popular support, but mostly among traditional religious Christian-Evangelicals, with support from their pastors and leaders. As well as being an elected parliamentarian in the previous period, he had the advantage of being a pastor with regular appearances in the media. It was necessary to agree on a coalition government between two parties in the second round in order to remove the possibility of a Christian government being elected.

This condition is a phenomenon that crosses the region. The presence of distinct Christian voices of this sort in the political space and the presence of conservative forces have inundated daily life of countries in the region with similar strategies. Taking advantage of failed governments that have impoverished large swathes of the population, the evangelical churches have offered support to...
marginalised sectors, tending to their basic needs and constructing a social fabric that pivots itself to the defence of the interests of their religion, whilst at the same time demonising alternative expressions, principally in gender and sexuality. However, its influence is not confined to the attention of these sectors, it is clear that its interest is directed to governance, and more and more they interfere in the electoral processes and lobby for their inclusion in the three branches of government of each country.

It is not unusual that Mexico, being one of the countries with the oldest tradition of state secularism, today has a distinctly evangelical party (PES) and its new president is publicly assumed as a Christian who has initiated a “moral renewal of the country” in his work program.90

The other countries of the region have gone through period of profound violence, where the presence of Christian forces is not absent.91 The government of Nicaragua has established a strong alliance with the Catholic Church to indefinitely keep itself in power, and at the same time initiated a ferocious persecution against dissidents, among them women and LGBT populations. Honduras and El Salvador are being desolated by gangs which stem from maras, with the defence of a patriarchal model where sexual and gender dissent has no place.92

Guatemala, confronts a condition of mixed violence where police repression and delinquency appear to be united against the population, but where conservative forces propel an initiative on the protection of life and the family. This implies grave setbacks and limitation on the advancement of the rights of women and LGBT persons.93 In this geopolitical panorama, the struggle for human rights – in particular for LGBT people – appears uncertain. Even so, the work of organisations has not stopped, they seem to be stronger, despite many times facing great risks to their lives or the need to migrate for their protection. As it is, the LGBT people of these countries today represent an important challenge for Mexico and Costa Rica in regard to migrants and in response to their requests for asylum.94

The Situation in the Spanish-Speaking and French-Speaking Caribbean95
By Darío Arias,96 Manuel Vázquez Selijido97 and Francisco Rodríguez Cruz.98

The level of acceptance towards sexual and gender diversity in the Dominican society99 is not reflected in the meagre legal progress achieved in the Dominican Republic,100 Although lobbying by religious and fundamentalist groups has prevented the enactment of inclusive laws,101 the explicit inclusion of the LGBTI population in the non-discrimination chapter of the National Human Rights Plan in December 2018 is one of the achievements resulting from the work of local organizations.102

The authors would like to thank Sergio Tomás Rodríguez, Argentine activist, and Michaël Cousin, French activist, for their collaboration.

90 “Partido Encuentro Social (PES)”, Animal Político, 9 September 2014.
93 See, in general, IACHR, Situation of human rights in Guatemala (2017) and, in particular: paras. 121 a 124, 210, 30 a 385.
95 The authors would like to thank Sergia Tomás Rodríguez, Argentine activist, and Michaël Cousin, French activist, for their collaboration.
96 Darío Arias is ILGALAC Co-Secretary general. See full mini-bio above.
97 Manuel Vázquez Selijido is Deputy Director of CENEXE and member of the regional board of ILGALAC.
98 Francisco Rodríguez Cruz, journalist and gay activist of the Humanity for Cuban Diversity Network.
100 The authors are especially grateful to human rights activist and defender Deivis Ventura of the Dominican Republic for the information about the context and situation of the country.
In Cuba, the most significant achievement was the popular consultation and the referendum on a new Constitution that replaced the definition of marriage between men and women with a neutral wording, using the term “spouses”. The new constitutional text also includes the right of every person to found a family in various ways, overcomes old conceptions with regard to a couple’s “reproductive purposes” and explicitly proscribes discrimination based on sexual orientation and gender identity.

During the debate, different forces opposing these rights emerged, especially Protestant denominations and homophobic groups. Consequently, for the Constitution to translate into effective rights, a new Family Code will have to be enacted within two years and it will have to be submitted to popular consultation and referendum.

Finally, the situation in the Francophone Caribbean is of grave concern. In Haiti, violence against LGBTI people has been on the rise and several regressive bills have been introduced in the Senate, such as the prohibition of same-sex marriage, or the ban against public demonstrations advocating for the rights of LGBTI people. Additionally, LGBTI people might be included among the categories of people who could be denied a “certificate of good reputation”, a document that is required in many job applications. However, effective activism prevented these initiatives to advance in the Legislature’s lower house.

A Slow, but Significant Journey – Recent Developments in the Caribbean Region

By Westmin R.A. James and Luciën D. Govaard.

The Caribbean region consists of sovereign nations and dependent territories (France, UK, USA and Holland); islands and continental areas in the Caribbean Sea and in Central and South America. According to recent estimates, home to over forty-four (444) million people. The Caribbean is rich in diversity; English, Spanish, French and Dutch are among its official languages and in addition to native indigenous populations, its people are primarily descendants of Africans, Asians and Europeans. Recent developments in Belize, Trinidad and Tobago, Guyana, Bermuda and Suriname are of particular interest when outlining SOGIE legal and social advances in this region.

Although “homosexuality” in and of itself is not a crime, laws criminalize same-sex sexual conduct between consenting adults. Among them are Antigua and Barbuda, Dominica, Guyana, Jamaica, St. Kitts and Nevis, St. Lucia and St. Vincent and the Grenadines. Punishments for buggery range from ten (10) years in Jamaica, Belize, Grenada and St. Lucia, Dominica, St. Kitts & Nevis (with or without hard labour) fifteen (15) years in Antigua and Barbuda if committed, and life imprisonment in Barbados and Guyana.

The act of “buggery” was defined in Antigua & Barbuda, Dominica and Trinidad and Tobago as anal intercourse by: “a male person with a male person” or “a male person with a female person”. In St. Lucia buggery is limited to anal intercourse by a male person with another male person while in Jamaica buggery covered anal intercourse either with mankind or with any animal. In Barbados, St. Kitts and Nevis, St. Vincent and the Grenadines where buggery was not legislatively defined, the courts have interpreted it to include anal or oral intercourse by a man with a man or woman; or vaginal intercourse by either a man or a woman with an animal. In Grenada and Belize, ‘unnatural connection’, or ‘carnal knowledge against the order of nature’ have been interpreted by the courts to include anal intercourse between consenting adults male or female, but also includes any ‘non-natural’ sexual intercourse between any males. In 2016 in St. Vincent and the Grenadines, the government decriminalized consensual sodomy and oral sex between same-sex adults.

The authors thank the CENESEX Community Social Network activists for providing information about the context and the situation in the country.

106 The authors are especially grateful to activist Charlot Jeudy, President of Kouraj, for the information Shared on the situation of LGBTI people in Haiti.
108 Westmin R. A. James is a Lecturer in Law and Deputy Dean at the University of the West Indies Cave Hill Campus.
109 Luciën D. Govaard is the chair of the Caribbean forum for Liberation and Acceptance of Genders and Sexualities and Vice-Chair for the PANCAP Policy and Strategy Working Group on Stigma and Discrimination.
111 R v Bourne (1952) 36 Cr App R 135.
112 R v Wiseman (1718) Fortes Rep 91; R v Bourne (1952) 36 Cr App R 135.
two people, heterosexual couples included, regardless of the orifice(s) used.\textsuperscript{113}

In Antigua and Barbuda, Barbados and Trinidad and Tobago there is also the offence of serious indecency, while in Dominica, St. Lucia, St. Vincent and Grenadines the offence is gross indecency. Guyana and Jamaica have the offence of gross indecency, but only when committed between two male persons. The act of “gross indecency” or “serious indecency” is an act other than sexual intercourse by a person involving the use of the genital organs for the purpose of arousing or gratifying sexual desire. It was also an offence under the laws of Guyana, “being a man, in any public way or public place, for any improper purpose, appears in female attire; or being a woman, in any public way or public place, for any improper purpose, appears in male attire...”.

The 2018 High Court of Trinidad and Tobago ruling in \textit{Jason Jones v AG of Trinidad and Tobago}\textsuperscript{114} established that buggery and serious indecency laws were unconstitutional in Trinidad and Tobago. The High Court of Trinidad and Tobago following a similar case of \textit{Caleb Orozco v The AG of Belize}\textsuperscript{115} from Belize held that buggery law breached the constitutional rights of the gay men to equality, privacy and freedom of thought and expression. These decisions will no doubt have an impact on the law in the wider Caribbean jurisdictions. The Court later ordered that the law be modified so it no longer applies to consensual sexual acts between adults in private.\textsuperscript{116} In 2018, the Caribbean Court of Justice (CCJ)\textsuperscript{117} evaluated the cross-dressing law in \textit{McEwan et al v AG of Guyana},\textsuperscript{118} brought by four trans women who were arrested and convicted. The CCJ concluded that the law was unconstitutionally vague and resulted in transgender and gender non-conforming persons being treated unfavourably because of their gender expression and gender identity.\textsuperscript{119}

Ongoing cases pertaining to SOGIE are currently being litigated in Bermuda and Suriname. In Bermuda, the Court of Appeal upheld the Supreme Court’s ruling that revoked parts of Civil Partnership law that prevented same-sex couples’ marriage,\textsuperscript{120} while in \textit{Simson v. Suriname},\textsuperscript{121} the official registry of a trans woman’s sex change, following gender affirmative surgery — a case won at first instance — is being appealed by the Government of Suriname.

In its Advisory Opinion, OC-24/17, the Inter-American Court of Human Rights addressed issues concerning gender identity, same-sex relationships, and the rights of LGBTI persons.\textsuperscript{122} This Advisory Opinion applies to Barbados, Dominican Republic, Suriname and Haiti.\textsuperscript{123} While many welcomed this development, it is still relatively early to outline its impact on Caribbean societies.

\textsuperscript{113} Supreme Court of Belize, \textit{Claim No. 668 of 2010}, 10 August 2016.

\textsuperscript{114} Supreme Court of Trinidad and Tobago, \textit{Jason Jones vs Attorney General of Trinidad & Tobago and others, H.C.2017-00720}, 4 April 2018.

\textsuperscript{115} Ibid.

\textsuperscript{116} The British Overseas Territories repealed their anti-sodomy laws in 2000. For more information, see section on legality of same-sex sexual acts in the Global Overview section of this report.

\textsuperscript{117} The CCJ is the highest court of appeal for Guyana, Belize, Barbados and Dominica.

\textsuperscript{118} Caribbean Court of Justice (CCJ), \textit{McEwan et al v AG of Guyana} [2018] CCJ 30(AJ).

\textsuperscript{119} For more information see: Joint Press Statement from GTU, U-RAP and SASOD: “Highest Caribbean Court Strikes Down Guyana’s Crossdressing Law”, 13 November 2018. Video of the delivery of the judgement can be accessed here.

\textsuperscript{120} AG v Ferguson et al; The AG is considering appealing to the Privy Council

\textsuperscript{121} “Transgender wins case for sex change recognition”, \textit{The Daily Herald}, 12 January 2017.

\textsuperscript{122} For more information on the Court’s Advisory opinion see the essay wrote by Lucía Belén Araque in International Law section of this report.

\textsuperscript{123} These are the only countries in the Caribbean that have ratified the American Convention on Human Rights.
Tab 5
Antigua and Barbuda

POLITICAL RIGHTS: 33 / 40

A. ELECTORAL PROCESS: 12 / 12

A1. Was the current head of government or other chief national authority elected through free and fair elections? 4 / 4

The 1981 constitution establishes a parliamentary system, with a governor-general representing the British monarch as ceremonial head of state. Antigua and Barbuda's prime minister is the head of government, and is typically the leader of the majority party or coalition that emerges from the legislative elections. The leader of the ABLP, Gaston Browne, became prime minister after his party won a majority in parliament in 2014 elections.

A2. Were the current national legislative representatives elected through free and fair elections? 4 / 4

The bicameral Parliament is composed of an appointed 17-seat Senate, and the House of Representatives, whose 17 directly elected members serve five-year terms. In the 2014 elections, the opposition ALP captured 14 out of 17 seats in the House of Representatives, while the UPP took 3 seats. Observers deemed them generally competitive and credible.

A3. Are the electoral laws and framework fair, and are they implemented impartially by the relevant election management bodies? 4 / 4

Electoral laws are generally fair, and are implemented impartially by the relevant election management bodies.

B. POLITICAL PLURALISM AND PARTICIPATION: 13 / 16

B1. Do the people have the right to organize in different political parties or other competitive political groupings of their choice, and is the system free of undue obstacles to the rise and fall of these competing parties or groupings? 3 / 4

Political parties can organize freely. While there are a number of small political parties in the country, elections have been won by either the ABLP or the UPP since 1994. Inadequate campaign finance regulations effectively allow candidates and parties to accept donations without disclosing donors' identities.

While political threats are uncommon, in May 2017, George Wehner, a member of the opposition UPP, was charged with threatening to kill Prime Minister Gaston Browne and 13 other members of the ABLP. The charges were connected with a video that circulated widely online, which appeared to show Wehner issuing the threats, accompanied by the sound of gunfire.

B2. Is there a realistic opportunity for the opposition to increase its support or gain power through elections? 4 / 4

There are realistic opportunities for opposition parties to increase their support or gain power through elections. Power has rotated frequently between the ABLP and UPP.

B3. Are the people’s political choices free from domination by the military, foreign powers, religious hierarchies, economic oligarchies, or any other powerful group that is not democratically accountable? 3 / 4

Recent elections, including those in 2014, have been viewed as free and fair. However, concerns were raised by the Electoral Observation Mission of the Organization of American States (OAS) about the lack of transparency of party and campaign financing, and thus the potential influence of unknown domestic and foreign interests over candidates.

B4. Do various segments of the population (including ethnic, religious, gender, LGBT, and other relevant groups) have full political rights and electoral opportunities? 3 / 4
Women are underrepresented in politics. Only two women were elected to the House of Representatives in 2014. In February 2017, the UPP's sole female member in the House, Joanne Massiah, was ejected from the party on the grounds of acting against its interests and disrespecting its leaders, in response to her criticism of other party members.

The LGBT community is marginalized, and this impacts its ability to engage fully in political processes.

C. FUNCTIONING OF GOVERNMENT: 8 / 12

C1. Do the freely elected head of government and national legislative representatives determine the policies of the government? 3 / 4

The elected prime minister, cabinet, and national legislative representatives determine the policies of the government. However, in 2013 and 2016, normal legislative operations were disrupted when government-appointed senators were dismissed after voting with the opposition. There are some concerns about the influence of businesses on policymaking.

C2. Are safeguards against official corruption strong and effective? 2 / 4

Despite claims of their involvement, no Antiguan officials have been brought to trial in connection with a massive investment scandal involving Stanford International Bank of Antigua that erupted in 2009.

Antigua’s Citizenship by Investment Program (CIP), in which individuals can be granted citizenship in exchange for a sizable business investment or contribution, came under scrutiny in 2017 after being criticized on the US investigative news program *60 Minutes* as attracting fugitives and tax evaders, among others. The US Department of State in March called the program “the most lax” of its kind, and raised questions about the program’s autonomy from politicians who might seek to misuse it. In March, the government tightened CIP policies.

C3. Does the government operate with openness and transparency? 3 / 4

Antigua and Barbuda has seen gradual improvement in accountability structures since 2004, when the government enacted a Freedom of Information Act. The Public Accounts Committee can also expose governmental improprieties and wrongdoings, but historically it has not functioned effectively, and there have been lengthy delays in submission of the Auditor General’s report.

CIVIL LIBERTIES: 50 / 60

D. FREEDOM OF EXPRESSION AND BELIEF: 15 / 16

D1. Are there free and independent media? 3 / 4

Press freedom is generally respected in Antigua and Barbuda. In 2015, the ABLP government passed the Defamation Act, which abolished criminal defamation. However, under the Sedition and Undesirable Publications Act, seditious libel is a criminal offense punishable with a maximum of two years in prison and a maximum fine of $5,000. Media outlets are concentrated among a small number of firms affiliated with either the current government or its predecessor.

D2. Are individuals free to practice and express their religious faith or nonbelief in public and private? 4 / 4

The constitution provides for freedom of worship as well as the right to practice and change religion, and these freedoms are generally respected. A law that outlaws blasphemous language is not enforced.

D3. Is there academic freedom, and is the educational system free from extensive political indoctrination? 4 / 4

Academic freedom is generally respected.

D4. Are individuals free to express their personal views on political or other sensitive topics without fear of surveillance or retribution? 4 / 4

Individuals are generally free to express their personal views on political or other sensitive topics.

E. ASSOCIATIONAL AND ORGANIZATIONAL RIGHTS: 9 / 12
E1. Is there freedom of assembly? 3 / 4

Freedom of association and assembly are guaranteed under the constitution, and the government generally respects these rights in practice. However, demonstrators are occasionally subject to police harassment.

E2. Is there freedom for nongovernmental organizations, particularly those that are engaged in human rights–and governance-related work? 3 / 4

The country’s few nongovernmental organizations (NGOs) are active, though inadequately funded and often influenced by the government. NGOs include Women against Rape, the Free and Fair Elections League, and the Professional Organization of Women in Antigua.

E3. Is there freedom for trade unions and similar professional or labor organizations? 3 / 4

Labor unions can organize freely and bargain collectively. Workers providing essential services must give notice two weeks before intent to strike, and the International Labor Organization (ILO) has described the list of essential services as excessively broad. Strikes are fairly rare.

F. RULE OF LAW: 13 / 16

F1. Is there an independent judiciary? 3 / 4

The constitution provides for an independent judiciary, which is generally respected by the government. Antigua and Barbuda is a member of the Organization of Eastern Caribbean States court system. Past ABLP governments manipulated the judicial system, but in recent years the courts have increasingly asserted independence.

F2. Does due process prevail in civil and criminal matters? 3 / 4

Constitutional guarantees of due process are generally upheld. However, prisoners on remand often remain in jail for an average of three to four years before their cases are heard.

F3. Is there protection from the illegitimate use of physical force and freedom from war and insurgencies? 4 / 4

Residents of Antigua and Barbuda do not face any significant security threats. Nevertheless, there is a small Antigua and Barbuda Defense Force. Prisons are severely overcrowded, and conditions within them are poor.

F4. Do laws, policies, and practices guarantee equal treatment of various segments of the population? 3 / 4

The 2005 Equal Opportunity Act bars discrimination on the basis of race, gender, class, political affinity, or place of origin. There are no specific laws prohibiting discrimination against people with disabilities, or LGBT individuals. Same-sex sexual activity remains criminalized under a 1995 law; however, it is not strictly enforced. Societal norms discourage participation of women in some employment sectors, and few women hold leadership positions.

G. PERSONAL AUTONOMY AND INDIVIDUAL RIGHTS: 13 / 16

G1. Do individuals enjoy freedom of movement, including the ability to change their place of residence, employment, or education? 4 / 4

Individuals enjoy freedom of movement, including the ability to change their place of residence, employment, or education. Many residents of Barbuda remained displaced at the end of 2017 due to damage inflicted by Hurricane Irma.

G2. Are individuals able to exercise the right to own property and establish private businesses without undue interference from state or non-state actors? 3 / 4

While the government has historically encouraged both national and foreign investors to operate businesses in the country, taxation procedures are cumbersome.

In late 2017, many Barbudans forced to evacuate the island due to Hurricane Irma opposed preliminary moves by lawmakers in Antigua to eliminate the communal land ownership system that had governed the
island for almost two centuries. Opponents claimed authorities were taking advantage of the devastation to develop rural Barbuda for mass tourism.

**G3. Do individuals enjoy personal social freedoms, including choice of marriage partner and size of family, protection from domestic violence, and control over appearance? 3 / 4**

The Domestic Violence Act of 2015 strengthened the measures that can be taken against the perpetrators of domestic violence, and laid out a process for victims to obtain an order of protection. However, domestic violence remains a serious problem. Same-sex marriage and civil partnerships are not recognized.

**G4. Do individuals enjoy equality of opportunity and freedom from economic exploitation? 3 / 4**

Antigua and Barbuda serves as both a destination and transit country for the trafficking of men, women, and children for the purposes of forced labor and sexual exploitation. Government efforts to address the problem are inadequate, and there have been no recent reports of prosecutions or convictions of traffickers.

Barbuda was evacuated after Hurricane Irma devastated the island in September 2017. Many of Barbuda’s 1,800 residents had yet to return home at year’s end due to widespread devastation, which has seriously affected their livelihoods.
Tab 6
March 21, 2018

“I Have to Leave to Be Me”

Discriminatory Laws against LGBT People in the Eastern Caribbean

Summary

Every day I fear for my safety living in this country because of my sexual orientation. I am alive but if
anyone ever find out and wanted to find out, they can kill me ...I am an easy target for anything.
—Peter, Dominica, February 21, 2017

The majority believes: “absolutely, kill them before they reproduce.” The average man would think to kill, they probably won’t do it because it is murder.
—Michaela, Grenada, February 21, 2017

The main fear is the fear of disclosure. The fear of being found out. They would lose the favor of their family. They may be displaced in church. People would lose respect for them in their work spaces. They have a whole lot to lose.
—Stella, retired nurse from Antigua, February 9, 2017

This report focuses on the experiences of lesbian, gay, bisexual, and transgender (LGBT) people in small island states of the Eastern Caribbean. It demonstrates, through individual testimony, how existing discriminatory legislation negatively impacts LGBT populations, making them ready victims of discrimination, violence, and abuse. The report includes seven Eastern Caribbean countries: Antigua and Barbuda, Barbados, Dominica, Grenada, St. Kitts and Nevis, St. Lucia, and St. Vincent and the Grenadines. Populations in these countries range from 54,000 in St. Kitts and Nevis to 285,000 in Barbados.

All seven countries have versions of buggery and gross indecency laws, relics of British colonialism, that prohibit same-sex conduct between consenting persons. The laws have broad latitude, are vaguely worded, and serve to legitimize discrimination
and hostility towards LGBT people in the Eastern Caribbean. They are rarely enforced by way of criminal prosecutions but all share one common trait: by singling out, in a discriminatory manner, a vulnerable social group they give social and legal sanction for discrimination, violence, stigma, and prejudice against LGBT individuals.

Paradise Lost

LGBT people in the Eastern Caribbean face a toxic homophobic culture, intensified by laws that make same-sex conduct between consenting adults illegal. Despite this, each island has a core group of LGBT activists leading the fight for equality.

HERE ARE THEIR STORIES

The English-speaking Caribbean is an outlier in the region. The fact that buggery and gross indecency laws are still on the books there is in stark contrast with recent developments in Latin America where states including Bolivia, Chili, Ecuador, Mexico, and Uruguay have been progressive in enacting non-discrimination policies and anti-bias legislation. Latin American countries, including Argentina, Brazil, and Chili have taken an international lead advocating for the rights of LGBT people at the United Nations. Several, including Costa Rica, Mexico, and Uruguay, are members of the Core Group of LGBT friendly states at the United Nations and of the Equal Rights Coalition, a group currently composed of 33 states committed to the rights of LGBT people.

All countries featured in this report are members of the Organization of American States and the Caribbean Community (CARICOM). Except for Barbados, all also belong to the Organization of Eastern Caribbean States (OECS). CARICOM and the OECS seek regional integration through economic cooperation and shared administrative functions.

Activists and civil society organizations have been at the forefront of efforts to advance the rights of LGBT people in the region, including by challenging discriminatory laws and exposing human rights violations. In some countries, activists have participated in LGBT awareness training for law enforcement agents. In others, civil society groups have challenged discriminatory legislation including by petitioning the Inter-American Commission on Human Rights (IACHR). Regionally groups have participated in strategic litigation initiatives.

In the Eastern Caribbean, family and church are cornerstones of social life. The
fear of harassment, rejection, stigmatization, and even physical violence begins in the home and translates to key social spaces, including church and school. Interviewees said that they were afraid to come out in their typically close-knit communities, where social networks are tight and information travels fast. They also face the risk of being ostracized by their own families.

All interviewees described having been harassed by family at some point in their lives because they are LGBT or merely suspected to be. Fear of isolation has led many LGBT people to live in the closet, and prompted some to enter heterosexual marriages. Some report being thrown out of their home or cut off from financial support. Many have experienced homelessness and life at the margins of society, rendering them vulnerable to violence and ill health.

The church plays an especially important role in social welfare, communal life, socialization, and in shaping social attitudes and moral ethics. Many interviewees said that family rejection was often couched in moralistic terms, echoed in local church rhetoric.

Discrimination and stigma against LGBT people seeps into everyday activities, whether it be availing oneself of services such as health care, school, or riding a bus, or social activities such as going to the movies or shopping. Ordinary social encounters can be menacing. Some LGBT individuals described changing their lifestyle and behaviors to avoid contact with hostile members of their family, church, or community, while others described having to endure physical attacks. Some people opted to socialize only with a few trusted friends in the safety of their homes.

Verbal abuse and harassment can quickly escalate into physical assault. Testimonies show that LGBT
people are vulnerable to abuse and attacks by neighbors and acquaintances. Interviewees described being stabbed, struck, pelted with bottles and bricks, beaten, slapped, choked and, in one instance, chased with a harpoon. Transwomen are particularly vulnerable to attacks by their partners, as well as strangers.

Discriminatory laws, including buggery and gross indecency laws, inhibit LGBT people from reporting abuse, and strengthen the hand of abusers. Many of those interviewed by Human Rights Watch explained that they did not trust the police enough to report incidents of abuse against them. Those that did described negative experiences, including inefficiency, inaction, and antipathy. The normalization of violence against LGBT people results in the continued marginalization and exclusion of LGBT people from the most basic protections of the law.

Verbal and physical abuse can also have serious long-term consequences by instilling in LGBT people feelings of fear, shame, and isolation, and lowering their self-esteem. Interviewees said they often experienced depression, suicidal thoughts, and self-inflicted harm. Support systems that exist in an increasing number of countries where same sex relations are not or are no longer criminalized do not exist in these seven countries. As a result, LGBT people tend to fall through the cracks, as neither government agencies nor civil society organizations have developed services that can fully address their health or psychosocial needs.

The difficult and extreme nature of the experiences endured by LGBT individuals has led many to consider fleeing their countries. As one interviewee put it “when push came to shove” relocating became a desirable and sometimes the only alternative. One interviewee conveyed the general sentiment by stating: “I have to leave to be me.”

International law protects LGBT persons by prohibiting discrimination on the basis of sexual orientation. International human rights law establishes that matters of sexual orientation and gender identity, including consensual sexual relations, are protected under the rubric of the right to privacy and the right to be protected against arbitrary and unlawful interference with, or attacks on, one’s private and family life and one’s reputation or dignity. Criminalizing same-sex intimacy violates these international obligations.

Countries featured in this report have ratified international and regional treaties that require them to protect human rights without discrimination based on sexual orientation and gender identity. The details of exactly which treaty each country has signed onto vary, and are included in the appendices.

Eliminating laws that discriminate based on sexual orientation is a human rights obligation. Living up
to this obligation could go a long way toward freeing part of the Eastern Caribbean population from violence and fear, while affirming human rights and dignity.
Key Recommendations

To the Governments of Antigua and Barbuda, Barbados, Dominica, Grenada, St. Kitts and Nevis, St. Lucia, and St. Vincent and the Grenadines

- Repeal all laws that criminalize consensual sexual activity among persons of the same sex.

- Ensure that criminal laws and other legal provisions are not used to punish consensual sexual activity among persons of the same sex.

- Pass laws defining the crime of rape in a gender-neutral way so that non-consensual sex between men or between women is included in the definition and subject to equal punishment.

- Consistent with the principle of non-discrimination, ensure that an equal age of consent applies to both same-sex and different-sex sexual activity.

- Pass comprehensive anti-discrimination legislation that prohibits discrimination, including on grounds of gender identity and sexual orientation, and includes effective measures to identify, prevent, and respond to such discrimination.

- Introduce and implement a gender recognition procedure in accordance with international standards and good practices to allow people to change their legal gender on all documents through a process of self-declaration that is free of medical procedures or coercion. Such gender recognition procedure should ensure that changes to documents are made in a way that protects privacy and dignity.

- Enable LGBT people to undergo needs assessments for their health (including mental health) and develop programming to address those needs. Such assessments should be strictly voluntary, provide options for anonymity and other protections for participants’ identities, and be conducted in ways that respect the privacy and dignity of LGBT individuals.

- Conduct awareness-raising campaigns for the general public, journalists, and public officials, including law enforcement officials and medical professionals, that promote tolerance and respect for diversity, including gender expression, gender identity, and sexual orientation.
To the Offices of the Ombudsman

- Establish confidential means whereby LGBT individuals can report abuse, publicize how individuals can report abuse without fear of reprisal, and investigate all such reports.

- Develop plans and allocate adequate resources to ensure systematic documentation and monitoring of human rights violations of LGBT people, including through collection of accurate data on acts of violence and discrimination due to real or perceived sexual orientation or gender identity.

- Act as a source of human rights information for the government and the public to raise awareness of the human rights impact of buggery and gross indecency laws.

To the Organization of Eastern Caribbean States

- Acknowledge the impact that current laws have on the lives of LGBT people in member states by denouncing and condemning the provisions criminalizing consensual sexual activity among adult people of the same sex, such as buggery laws and serious or gross indecency laws.

- Begin to address LGBT issues head on, in an open and constructive way, by encouraging member states to decriminalize same-sex sexual relationships, and in the meantime, to issue a de facto moratorium to prevent the application of existing laws that criminalize same-sex sexual relationships.

- Offer support to politicians and religious leaders in member states to engage with civil society organizations in the region to work on reviewing, updating, amending, and creating laws on social protection for LGBT vulnerable youth.

- Recognize the role of LGBT organizations as platforms for advancement of human rights in Member States by engaging in dialogue and consultation with them in areas of health, education, and employment protections for LGBT people.

To the Commonwealth Secretariat

- Consistent with the 1971 Singapore Declaration of Commonwealth Principles, which affirms “the liberty of the individual,” “equal rights for all citizens,” and “guarantees for personal freedom,” condemn and call for the removal of all remaining British colonial laws that criminalize
consensual sexual activity among people of the same sex.

- Promote the decriminalization of consensual, homosexual conduct.
- Develop models for gender-neutral legislation on rape and sexual abuse and for the protection of children.
- Integrate issues of sexual orientation and gender identity into all human rights educational and training activities, including the Commonwealth Human Rights Training Programme for police.

Methodology

This report is based on field research conducted by Human Rights Watch over a four-week period in the countries of Antigua and Barbuda, Barbados, Dominica, Grenada, St. Kitts and Nevis, St. Lucia, and St. Vincent and the Grenadines in February 2017, as well as prior and subsequent desk-based research. Interviews took place in the capital cities of the islands: St. John’s, Bridgetown, Roseau, St. George’s, Castries, Kingstown, and Basseterre.

Human Rights Watch researchers interviewed 41 self-identifying LGBT people between the ages of 17 and 53. The interviewees were identified primarily through the Eastern Caribbean Alliance (ECADE) and local LGBT organization networks. Most interviews were conducted individually and in English. Human Rights Watch conducted only one group interview with seven gay men in Kingstown, St. Vincent and the Grenadines. We spoke to people in a variety of settings, including their homes, bus stations, the LGBT group’s office in the capital city of each country, and the homes of their friends.
All persons interviewed provided verbal informed consent to participate and were assured that they could end the interview at any time or decline to answer any questions. Interviewees have been given pseudonyms and in some cases other identifying information has been withheld to protect their privacy and safety. No one was compensated for their participation. In some cases, funds were provided to cover travel expenses. The interviewees were mostly economically disadvantaged young adults.

I. Background


All seven states covered by this report criminalize same-sex intimacy between consenting persons. Most of the laws use the terms “buggery” or “gross indecency,” though some outlaw “unnatural connexion” or sodomy. For simplicity’s sake, this report uses “buggery laws” and “gross indecency laws” as shorthands for the laws in all seven jurisdictions.

The reasons for selecting the targeted countries are twofold. First, they are neighboring countries that influence one another and that, as part of regional systems such as CARICOM and OECS, share an overarching judicial review system. Second, as small island states, they are often overlooked.

Buggery and gross indecency laws are seldom enforced against consenting persons. And the specific legal provisions vary from country to country. But they share one common trait: they all give social and
legal sanction for discrimination, violence, stigma, and prejudice against lesbian, gay, bisexual, and transgender (LGBT) individuals.

Buggery and gross indecency laws are a residue of British colonialism. They are vaguely worded and enacted with broad latitude. They help create a context in which hostility and violence directed against LGBT people is legitimized, operating as an effective tool to ostracize and single out a vulnerable sector of the population.

In the seven countries covered in this report there is no consistent definition of “buggery” or the penalties imposed. Antigua and Barbuda and Dominica define buggery as “anal intercourse by a male person with a male person or by a male person with a female person.”[1] Most countries, including Barbados, St. Lucia and St. Vincent and the Grenadines, leave it undefined, specifying only the prison terms to be imposed.[2] St. Kitts and Nevis criminalizes “sodomy and bestiality” and defines the term by referencing “the abominable crime of buggery, committed either with mankind or with any animal.”[3] Grenada has the most open-ended provision, criminalizing “unnatural connexion,” which is undefined and has been interpreted in past case law to include consensual anal intercourse between same-sex persons.[4] Barbados has the most severe punishment: life imprisonment.[5] Dominica grants courts the power to order that “the convicted person be admitted to a psychiatric hospital for treatment” and St. Kitts and Nevis allows courts to add “hard labor” in the final judicial decision.[6]

Buggery laws do not distinguish between consensual and non-consensual sex. And rape laws in four of the seven island nations featured in this report define rape narrowly as non-consensual penile-vaginal sex. This means that existing rape laws fail to protect people against non-consensual anal or oral sex. There is a gap in the law to protect people both male and female from forced sex, both anal and oral. This is sometimes used as flawed rationale to retain the “buggery laws.” For example, in 2016 Prime Minister Stuart of Barbados claimed that buggery laws are exclusively aimed at non-consensual sex. He said: “The law of buggery has to do with abuse, where A abuses B without his consent... I want you to just equate in your own mind, buggery with rape. Rape is the offence committed against in a heterosexual relationship and buggery is the offence committed in a same-sex relationship. At the kernel of both is the absence of consent and therefore a protesting party who wants to ensure that he or she gets justice through the courts.”[7] This is not the case. Buggery laws draw no distinction between consensual and non-consensual sex, and do not require lack of consent, as noted by Elwood Watts, principal Crown counsel in a buggery case in Barbados.[8]

Indeed, the buggery laws of all seven countries analyzed in this report are silent on consent, thus encroaching on the rights to non-discrimination and the right to privacy of individuals engaging in consensual same sex activity. Indeed, the broad wording of the laws and the way they are interpreted by
police, courts, and the public means that consensual sex between members of the same sex is, according to the law, akin to rape. What is needed is a gender-neutral rape law, and a repeal of the buggery laws.

The “gross indecency” provision was introduced in British Law in 1885 to cover all acts of sexual intimacy between men short of anal intercourse.[16] Gross indecency was not defined, but left to court interpretation. Similarly, in the states included in this report, the act of “gross indecency” or in some instances “serious indecency,” is defined in broad terms, if at all. For example, Antigua and Barbuda, Dominica, and St. Lucia define gross or serious indecency as: “any act other than sexual intercourse by a person involving the use of the genital organs for the purpose of arousing or gratifying sexual desire.” The vague wording of the law means that LGBT persons are susceptible to arrest and prosecution for a wide range of sexual acts.
Buggery Laws and Gross Indecency Laws in the “Commonwealth Caribbean”

by Westmin R. A. James

The Origin

The “Commonwealth Caribbean” refers to those states in the Caribbean Sea and in Central and South America that were British colonies. The independent states in the Commonwealth Caribbean include Antigua and Barbuda, The Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Trinidad and Tobago. It also refers to “British Overseas Territories” (territories that have chosen to remain subordinate to Great Britain rather than becoming formally independent) in the Caribbean and North Atlantic: Anguilla, Bermuda, British Virgin Islands, Cayman Islands, Montserrat and Turks and Caicos Islands.

Anti-sodomy laws were a colonial import imposed on the colonies by the British rulers as there was no pre-existing culture or tradition in the Caribbean that required the punishment of consensual same-sex sexual conduct. The first recorded mentions of “sodomy” in English law date back to two medieval treatises called Fleta and Britton.[12] The texts prescribed that sodomites, together with sorcerers, Jews and renegades, should be burnt alive. In the 16th century, a statute of 1533 provided for the crime of sodomy punishable by death. Although this statute was repealed during the reign of Mary I, it was re-enacted by Parliament in the reign of Elizabeth I in 1563, and the statutory offence, so expressed, survived in England in substance until 1861. The Offences Against the Person Act 1861 included the offence of “buggery,” dropping the death penalty for a prison term of (10) years to life.

The movement for codification of the criminal law, particularly in the British colonies, gathered pace in the early 19th century when Thomas Macaulay was given the mandate to devise law for the Indian colony. The Indian Penal Code was the first comprehensive codified criminal law produced anywhere in the British Empire. In 1870, R.S. Wright, an English barrister, was asked by the Colonial Office to draft a criminal code for Jamaica, which could serve as a model for all of the colonies. Wright’s Code was not adopted by Jamaica but it was brought into force in Belize (at the time, British Honduras) and later Tobago.[13] Thereafter the buggery law was instituted by the British colonial administration in Jamaica and other Caribbean states in the British Commonwealth in a manner similar to the 1861 British Offences Against the Persons Act.

“Homosexuality” is not a crime in the Caribbean but laws criminalize same-sex conduct. Even though colonies in the Caribbean adopted British laws outlawing same-sex intimacy, they vary in language, the types of acts prohibited, and the punishments imposed. Whatever the various incarnations they are often referred to as “sodomy” or “buggery” laws. Many times buggery and sodomy are used interchangeably.

Laws criminalizing consensual adult same-sex sexual conduct currently exist in 10 independent countries in the English-speaking Caribbean. Antigua and Barbuda, Barbados, Dominica, St. Kitts and Nevis, St. Lucia and St. Vincent and the Grenadines have the crime of ‘buggery.’ In 2000, the UK issued an order repealing sodomy laws in its Overseas Territories of Anguilla, the British Virgin Islands, the Cayman Islands, Montserrat, and the Turks and Caicos Islands in order to comply with its obligations as a Council of Europe member. After a 2016 successful constitutional challenge the High Court of Belize Supreme Court modified the law in Belize so it no longer applies to consensual sexual acts between persons in private.[14]

Savings Law Clauses
Barbados presents an added complication to any challenge to these laws. There is a provision in the Constitution of Barbados that prevents the courts from declaring these pieces of legislation criminalizing same-sex intimacy from being in breach of the human rights provisions in the Constitution. This prohibition applies to all laws passed before the Constitution of which the buggery law is one (Belize also had a savings law clause but with a limited life span of five years, which has since expired).

**International Law**

The English-speaking Carribbean is an outlier in the region. The continued existence of buggery and gross indecency laws there is in stark contrast with recent developments in Latin America where states including Argentina, Brazil, Chile, Mexico, and Uruguay have made rapid advances in family law, as well as in non-discrimination and anti-bias legislation.

In recent years, states including Argentina, Brazil, Colombia, and Uruguay have opted for same-sex marriage; Argentina and Bolivia have passed legal gender recognition legislation; Chile, Bolivia, and Uruguay have enacted anti-discrimination laws; and El Salvador and Peru have enacted hate-crime laws. Examples of legal measures that have been taken to address violence and discrimination include: in 2012 Argentina became the first state to pass a gender recognition law based entirely on self-identification\(^{[15]}\); in 2010 Brazil enacted the National Human Rights Action Plan (NHRAP), which stipulates specific measures and objectives to address violence and discrimination based on sexual orientation and gender identity\(^{[16]}\); similarly, in 2014 Mexico established specific teams and units to ensure that homophobic and transphobic hate crimes are investigated and prosecuted to the full extent of the law, and law enforcement officials have been trained accordingly\(^{[17]}\); and in 2016 Uruguay took several measures to address employment discrimination and create job opportunities for marginalized trans people, including a specific call for trans candidates for vacancies at the Ministry of Social Development and within the “Uruguay Trabaja” programme.\(^{[18]}\)

Internationally, Latin American states have played a proactive role in protecting people from discrimination and violence based on sexual orientation or gender identity.\(^{[19]}\) Several Latin American states, including Argentina, Brazil and Chile are members of the Core Group of LGBT friendly states.\(^{[20]}\) The Equal Rights Coalition, a network of states aiming to advance the human rights of LGBT people, was founded in Uruguay in 2016, and includes Argentina, Chile, Costa Rica, Ecuador, Honduras, Mexico and Uruguay as members.\(^{[21]}\)
In recent years, Latin American states have been at the forefront of enhancing protection for LGBT people at the United Nations. The Human Rights Council has adopted three resolutions that reflect the commitment and consistent support of Latin American countries on issues relating to sexual orientation and gender identity. In 2011, a South African led resolution passed by the Human Rights Council, commissioned a global study on discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity.\footnote{22} A follow up resolution in 2014 calling for a report on best practices for countering discrimination was introduced by Brazil, Chile, Colombia, and Uruguay.\footnote{23} A resolution in 2016 led to the appointment of an Independent Expert on Sexual Orientation and Gender Identity. Seven Latin American states—Argentina, Brazil, Chile, Colombia, Costa Rica, Mexico, Uruguay—and 41 additional countries jointly presented the text.\footnote{25}

The Organization of American States (OAS) and the Inter-American Commission on Human Rights (IACHR) have also taken steps to address human rights violations perpetrated against lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons in the Americas. All countries covered in this report are members of the OAS. Between 2008 and 2013 the OAS General Assembly approved six resolutions acknowledging and condemning discrimination and acts of violence against members of the LGBTI community, calling on member states, as well as the IACHR and other bodies to take appropriate measures to address the problem.

In its 2015 report “Violence against LGBTI people in America,”\footnote{26} the IACHR highlighted that laws criminalizing consensual sex between same-sex persons are incompatible with the principles of equality and non-discrimination. It also underscored the relationship between these discriminatory laws and high rates of violence and discrimination against LGBT people. The IACHR has noted that several states including Barbados, Dominica, and St. Kitts and Nevis, featured in this report, have rejected UN Universal Periodic Review recommendations to decriminalize same-sex acts,\footnote{27} citing religious opposition (particularly from evangelical churches\footnote{28}) as well as cultural and societal opposition.\footnote{29}

Caribbean states have taken steps to increase economic cooperation and regional integration through the Caribbean Community (CARICOM) and the Organization of Eastern Caribbean States (OECS). In 1973, the Treaty of Chaguaramas established the Caribbean Community including CARICOM. And in 1981 the Treaty of Basseterre establishing the OECS economic union. In addition to economic integration, the OECS aims to increase human rights protections. All states covered in this report, with the exception of Barbados, are members of the OECS.\footnote{30}

Table 1 – States covered in this report and their membership of CARICOM and OECS systems
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<tr>
<th>RICOM - CSME Market and Economy</th>
<th>OECS (Organization of Eastern Caribbean States)</th>
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<tr>
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<td>Antigua and Barbuda</td>
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<td>Dominica</td>
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<td>St. Vincent and the Grenadines</td>
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<th>CARICOM &amp; Organization of Eastern Caribbean States</th>
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<tr>
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<tr>
<td>Treaty of Chaguaramas</td>
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<td>Dominica, Grenada, Guyana, Haiti, Jamaica,</td>
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<td>Saint Vincent and the Grenadines, Suriname</td>
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Judicial review by supra-national entities, including the Caribbean Court of Justice (CCJ) and the Eastern Caribbean Court, are integral to the sustainability of both regional systems. The Judicial Committee of the Privy Council (JCPC) retains jurisdiction for certain countries of the commonwealth. The Caribbean Court of Justice (CCJ) has original jurisdiction in all matters related to the interpretation of the Treaty of Chaguaramas. It also exercises appellate jurisdiction for commonwealth countries in civil and criminal matters who no longer accept the Judicial Committee of the Privy Council (JCPC) as their appellate court. Barbados, Belize, Dominica, and Guyana have replaced the JCPC’s appellate jurisdiction with that of the CCJ. Cases from the Eastern Caribbean Supreme Court (ECSC) can be appealed to the Judicial Committee of the Privy Council. The ECSC can only accept cases that have already been considered by the high court of a member state, and thus effectively serves as a supreme court for the OECS.
Appendices I-VII to this report include an overview of country specific legal provisions, treaty ratifications, membership of international organizations, and states’ response to recommendations on sexual orientation and gender identity during the Universal Periodic Review (UPR).

**LGBT Activism and Recent Developments in the Region**

Activists and civil society organizations have been working intensely on the ground to transform the difficult daily reality faced by LGBT individuals.

The Caribbean Forum for Liberation and Acceptance of Genders and Sexualities (CariFLAGS) has worked for over 18 years to provide LGBTI people in the Caribbean with safe spaces, support services, and stronger communities. Currently based in Trinidad and Tobago, CariFLAGS is composed of several LGBTI NGOs across the Caribbean, including in St. Lucia, Jamaica, Trinidad and Tobago, the Dominican Republic, Belize, Grenada, Guyana, and Suriname.

CariFLAGS has also worked towards policy and cultural change on sexual and gender diversity in the Caribbean. CariFLAGS has as its main stated purpose to: “build a regional LGBTI movement in the Caribbean by strengthening local leadership and organizations, developing shared strategies for social change, coordinating challenges on LGBT rights issues in the courts, addressing underserved needs and groups, and supporting safe environments at the community level.”[33]

Another civil society group active in the region is the Eastern Caribbean Alliance for Diversity and Equality (ECADE), an umbrella body for human rights groups within the small countries of the Eastern Caribbean, such as Antigua and Barbuda, Barbados, Dominica, Grenada, Saint Lucia, St. Kitts and Nevis, St. Vincent and the Grenadines, and Saint Martin. It serves as a regional hub for the coordination of trainings, strategy meetings, and thematic conferences.[34]

Local and international LGBT organizations have partnered to facilitate LGBTI sensitivity training in the past few years for national police forces in Antigua and Barbuda, Barbados, Grenada, St. Lucia, and St. Kitts and Nevis, allowing for a more collaborative relationship with police enforcement officials.[35] For example, the Royal Barbados Police Force embarked on sensitivity training regarding the LGBTI community with the intention of bringing Barbados closer to its international human rights commitments. Police officers from Antigua and Barbuda have worked with civil society groups to reinforce the principles of community policing, human rights, professionalism, ethics, and their practical application to the LGBTI community. Diversity trainings in St. Lucia, sponsored by Aids Free World and United & Strong, have focused on managerial skills and senior officer training, providing
them with guiding principles to employ in police interactions.\footnote{36} Facilitators have gone to some lengths to avoid disputes about morality and religion by focusing instead on HIV prevention and public health.\footnote{37}

Civil society organizations have also used the complaints procedure of the IACHR to tackle the criminalization of same-sex relationships in their home countries. Four years ago, Gareth Henry and Ms Simone Edwards filed a petition with the IACHR challenging Jamaican laws that discriminate against LGBT people. The petitioners allege a number of violations by Jamaica of its legal obligations under the American Convention on Human Rights (ACHR) and the American Declaration on the Rights of Man (Declaration). At the time of writing, the petition was filed and submissions on admissibility by both Parties were finalized, but an admissibility decision by the IACHR was still pending.\footnote{38} The civil society organizations GrenChap and Groundation Grenada filed a petition with the IACHR challenging Grenada’s “unnatural connexion” law. Grenada failed to appear at the hearing. The IACHR urged Grenada to decriminalize same-sex sexual relationships, and in the meantime to issue a de facto moratorium on application of this legislation.\footnote{39}

Local and international civil society organizations and individuals have filed lawsuits as well in their efforts to have discriminatory laws in the Caribbean repealed. In 2015, Jamaican activist Maurice Tomlinson filed a challenge against the governments of Belize and Trinidad and Tobago to overturn laws that on their face seek to prevent gay people from entering their countries. The current immigration laws in Trinidad & Tobago and Belize bar “undesirable” persons from entering—a list that includes homosexuals, prostitutes, and members of other marginalized groups.\footnote{40} The Caribbean Court of Justice ultimately dismissed the ‘gay travel ban’ case, declaring that the laws, while discriminatory in nature, have not been used in practice.\footnote{41} Tomlinson has also brought a fresh challenge to Jamaica’s anti-buggery law; hearings before the Jamaican Constitutional Court started in February 2016.\footnote{42}

In 2016 the Belize Supreme Court in the case of Caleb Orozco et al v AG of Belize \footnote{43} became the first Commonwealth Caribbean Court to hold that laws that criminalized, inter alia, same-sex intimacy were unconstitutional. The court struck down section 53 of the Criminal Code, which outlawed “carnal intercourse against the order of nature” with punishment of up to 10 years in prison, on the grounds that the law went against the claimant’s rights to human dignity, privacy, and freedom of expression. The court declared that the definition of ‘sex’ in the constitution included ‘sexual orientation,’ protected by the principles of equality and non-discrimination. The court reduced the scope of section 53 of the Criminal Code by excluding sexual activity taking place in private between consenting adults.

In February 2017, Jason Jones, a gay rights advocate, filed a legal challenge in Trinidad and Tobago against laws criminalizing homosexual conduct.\footnote{44} Soon thereafter, he claims to have received over 50
death threats.\(^{[45]}\)

Two recent referendums, one in Bahamas and the other in Grenada, addressed the prohibition of discrimination based on sex but were defeated by unfounded fears that they would open the legal path to same-sex marriage.\(^{[46]}\)

On January 9, 2018, the Inter-American Court of Human Rights issued Advisory Opinion No. 24\(^{[1]}\),\(^{[47]}\) in response to a request by the state of Costa Rica, made in May of that same year. In its opinion, the Court advised that state parties to the American Convention should recognize all civil rights for same-sex couples, including the right to civil marriage. The court also advised that states should establish fast, inexpensive and straightforward procedures to ensure legal gender recognition, based solely on the self-perceived identity of a person.

Out of the seven countries considered in this report, only Dominica (1993), Grenada (1978) and Barbados (1982) have ratified the American Convention but neither Grenada nor Dominica recognize the jurisdiction of the Inter-American Court of Human Rights. This means Barbados is the only country which has a treaty obligation to consider the Court’s opinion, although the opinion should have resonance for all governments that seek to respect and protect universal human rights and equal norms.

**Impact on LGBT Individuals**

Buggery and gross or serious indecency laws discriminate against LGBT people and have a negative impact on their lives. A 2008 Human Rights Watch report, “This Alien Legacy: The Origins of ‘Sodomy’ Laws in British Colonialism,” traces the history of sodomy laws in former British colonies. The report outlines the effects of these laws on the lives of people most affected by them:

> These laws invade privacy and create inequality. They relegate people to inferior status because of how they look or who they love. They degrade people’s dignity by declaring their most intimate feelings “unnatural” or illegal. They can be used to discredit enemies and destroy careers and lives. They promote violence and give it impunity. They hand police and others the power to arrest, blackmail, and abuse. They drive people underground to live in invisibility and fear.\(^{[48]}\)

The report also refutes the claim that these laws originate in values traditional in former colonies, or
reflect deep seated national interests, showing instead that these “Made in Britain” laws were imposed by colonial authorities informed by racist stereotypes and colonialist fears of native sexuality. Whether the laws are enforced or not, their very existence places LGBT people in a perilous situation of vulnerability, inequality, and second-class status in every aspect of life.\footnote{[49]}

Human Rights Watch has published two reports on Jamaica: “Hated to Death” (2004) and “Not Safe at Home” (2014). Both document the negative impact of Jamaica’s anti-LGBT laws, including their role in facilitating discrimination, violence, and barriers to health care.

Recent surveys conducted in Barbados and Trinidad and Tobago have indicated a high level of acceptance for the principle of non-discrimination, including on grounds of sexual orientation, coupled with widespread support for the buggery laws. A survey commissioned by the Joint United Nations Programme on HIV and AIDS (UNAIDS) Caribbean Regional Support Team in Trinidad and Tobago revealed that most respondents were opposed to discrimination based on sexual orientation. Of the 1,176 interviews conducted during October 2013, 78 percent of the respondents said it was not acceptable for people to be treated differently based on sexual orientation. Additionally, 56 percent of respondents said they were either accepting or tolerant of homosexuals.\footnote{[50]}

Similarly, a survey in Barbados prepared by the Caribbean Development Research Services Inc. (CADRES), showed that 67 percent of respondents were either tolerant or accepting of homosexuals. Most people surveyed, however, thought the buggery laws should be maintained despite “the absence of a clear appreciation of the reasons for the existence of buggery laws.”\footnote{[51]}

As detailed below and in the following chapter of this report, the continued existence of laws criminalizing LGBT conduct, even if infrequently enforced, creates conditions that facilitate abuses in all seven countries covered here. LGBT residents in the Eastern Caribbean interviewed by Human Rights Watch, described how stigma and discrimination permeate all aspects of life, including health care, education, and even everyday activities like going to movies, shopping, and riding the bus. LGBT individuals said that they were reluctant to report abuses for fear of the laws that prohibit same-sex intimacy.

In the countries included in this report, populations are small and social networks insular. Interviewees said that their close-knit communities made it difficult to come out and find acceptance. They were afraid of the negative consequences of being identified or perceived as LGBT. According to CARICOM’s total population estimates for the 2000-2015 period, the populations of the countries included in this report are: 46,398 in St. Kitts and Nevis, 69,393 Dominica, 90,801 Antigua and Barbuda, 110,566 Grenada, 110,255 St. Vincent and the Grenadines, 172,818 St. Lucia and 274,633 in Barbados.
Many interviewees stressed the importance of discretion. Charles, a 24-year-old gay man from Antigua and Barbuda, told Human Rights Watch he would never be openly affectionate in public with another male. He said: “I would never hold hands [with another man]. You couldn’t do that here, because society is just not accepting.”[56] Peter, a 20-year-old gay man from Dominica, said “It saddens me that I have to sneak out and meet someone and can’t bring anyone home.”[57] He said that it was impossible for him to introduce partners to his family, something his heterosexual friends and siblings do at his age. Other interviewees told Human Rights Watch that for discretion and safety they pursued their intimate relationships “off-island,” that is with visitors from other islands in the region, or from further afield. Nicholas, 20, expressed his feeling of constant fear and uncertainty: “you are not safe... you have to hide who you are. Otherwise they will get physical, shouting things. If two men were holding hands people would attack them.”[58]

A number of popular dancehall songs, many of which originate in Jamaica, contain strong homophobic language and inflammatory lyrics. This music circulates through the islands and is emblematic of the daily stigmatization and denigration of LGBT people. An extreme example is the decades old, but still popular “Bumbo Red,” a 1990 hit song by dancehall artist Capleton: “Lick a shot inna a battyman head! Lick a shot inna a lesbian head! All sodomite dem fi dead, all lesbian dem fi dead”.[59] It calls for gay and lesbian people to be shot in the head.

A decade later, many popular dancehall songs reiterated the message to kill and maim lesbians and gay men. For example, in 2000, Elephant Man’s “A Nuh Fi Wi Fault,” urged listeners to “When yuh hear a Sodomite get raped/but a fi wi fault/it’s wrong/two women gonna hock up inna bed/that’s two Sodomites dat fi dead” (“When you hear a lesbian getting raped/it’s not our fault/it’s wrong/two women in bed/that’s two sodomites who should be dead”), Beenie Man[60] sings, “I’m dreaming of a new Jamaica, come to execute all the gays,” and Baby Cham and Bounty Killer’s[61] encourages “Bun a fire pon a kuh pon mister fagoty, ears ah ben up and a wince under agony, poop man fi drown a yawd man philosophy” (“burn gay men ‘til they wince in agony, gay men should drown, that’s the yard man’s philosophy”).[62]

Sign outside the house of an interviewee in St. George’s, Grenada, February 15, 2017.

Sign outside the house of an interviewee in St. George’s, Grenada, February 15, 2017. The sign reads “Sodomy is the work of Satan the devil. Sodomy is playing with shit. The anus is for shitting. Sodomy is uncleanness vile affections reprobate mind they which do such things are worthy of Hell fire.” © 2017 Human Rights Watch

Manage, 35, from St. Vincent and the Grenadines, told Human Rights Watch: “On a daily basis, people see me coming and are very loud calling me ‘Battyman, Faggot, Battyman fi dead’ and using aggressive negative slurs
towards me in public. Like in Jamaica, the type of music you listen to, when they talk about gays, the music says ‘kill them.’ Music in St. Vincent is anti-gay.”[60]

Individuals told Human Rights Watch that discriminatory laws had a negative impact on their daily lives. Peter, a 20-year-old gay man from Dominica, said: “the buggery and gross indecency laws say that we can’t be ourselves... These laws allow the negativity towards gay people to exist, the bigotry, [the] law allows people to insult and do anything [to us].”[61]

Florence, a 24-year-old transwoman from Barbados, told Human Rights Watch that the buggery and serious indecency laws “allow people to treat [LGBT] people badly. It steals them into thinking they can get away with it because since the law is ‘on their side’ they think they are being a ‘good’ citizen.”[62]

Jason, a 40-year-old gay man from Barbados, said:

People don’t understand how much pressure it is not to be your true authentic self and how that is such a mental strain. To the point where that is so detrimental to you as a person. If you are living where you are constantly scolded and told that you’re not good for just being you. And it hinders our education opportunities, and work opportunities and taking part in your community, that to me is a human rights violation. It doesn’t have to be physical violence for it to be a human rights violation.[63]

As noted above, one interviewee, a 20-year-old gay man from St. Kitts and Nevis, conveyed the general sentiment about life for LGBT people on the islands when he said: “I have to leave to be me.”[64]
II. Findings

Social Context: A Climate of Homophobia

I don’t come out because my work would be jeopardized.

There is a lack of visibility.
— Nicholas, St. Kitts and Nevis, February 3, 2017

I’ve had coworkers that didn’t want me to use certain things. People who didn’t want to eat off the same plate, cups...They discriminated against me in my job.
— Augusten, St. Vincent and the Grenadines, February 18, 2017

Exclusion from Family

In the islands of the Eastern Caribbean, family and church are at the cornerstone of social life. In these tightly-knit communities and interconnected social worlds, the fear of rejection by family and community runs deep.

For LGBT people homophobic messages are often first heard at home, and amplified in key social spaces, such as school and church. This leaves young LGBT people with a fear of harassment, rejection, stigmatization, and even physical violence. As the following testimonies show, those who are known to be gay or lesbian, or merely perceived to be, have a realistic fear of becoming social pariahs, alienated by family and community. LGBT people can find themselves treated as scapegoats, blamed for social woes such as poverty and AIDS.

Interviewees recounted in painful details the rejection they experienced at home, and the harassment, discrimination, and intolerance they suffered from relatives, neighbors, and friends.
All interviewees described having been harassed or rejected by family at some point in their lives because they are LGBT or perceived to be. Fear of isolation led people to go to extraordinary lengths to conceal their sexual orientation, including by entering heterosexual marriages. Some interviewees reported leaving unbearably hostile home environments. Others were thrown out of home, cut off from family support, and left to fend for themselves. Many experienced homelessness, and lived on the margins of society, vulnerable to rape, violence, and disease.

Those who stayed with their abusive families reported emotional distress as they lived under the shadow of potential rejection and the loss of financial and emotional support.

Coming out was fraught with fear of rejection. Peter, a 20-year-old man from Dominica, now regrets coming out because of the negative reaction from his family. He described his home situation in these terms:

[H]omosexuality in Dominica is taboo, nobody asks about it. Families tend to cover it up. Hiding in Dominica is perfecting the art of acting. Coming out was one of the biggest mistakes I made, if I could turn it back I would... I learn to adapt, I have to put on that fake face.

Florence, a 23-year-old trans woman from Barbados felt compelled to hide her gender identity from her stepfather for fear of being thrown out of her home, although she did confide in her mother:

In the [s]ummer 2010 I confessed to [my] mother that I was attracted to men. My stepdad functioned as dad and was more than extended family. I looked up to him, but his attitudes towards LGBT community let me know that his care to me would be conditional if I told him. He would have kicked me out had I told him anything.

Arthur, an 18-year-old gay man from St. Kitts and Nevis, recalls how his family tried to suppress any expression of effeminacy, from as early as age six:

I was not the most masculine of boys growing up, being called “anti-man” as a result by them...[Whenever] I did something feminine [they would] jump on me...Mother was a very homophobic person, she asked me to change the way I talked and walked, I didn’t like it....
She knew [I was gay] and she was in denial [because of] her feeling embarrassed.\textsuperscript{[67]}

A fear of being shamed or losing face led some families to demand that their LGBT children stay in the closet. Those who chose to be out of the closet faced recurrent threats of violence within their homes. Emily, a 24-year-old trans woman from Antigua, said: “I was threatened by my dad – the first time it happened I was a child, really young. The second time, when I was 16, he found out that I was [LGBT] and told me that he would kill me.”\textsuperscript{[68]}

Nicholas, a 20-year-old gay man from St. Kitts and Nevis, said: “I was threatened by my own mother, [she told her sons that] if any of us is “anti-man” she would kill us. She grew up in a homophobic family.”\textsuperscript{[69]}

The fear of being evicted from his family home led Martin, a bisexual 17-year-old man from St. Kitts and Nevis, to stay firmly in the closet. His 12-year-old cross-dressing brother was shunned by family members who refused to talk to him, so Kevin decided it was prudent to keep quiet about his sexual orientation. He was also mindful of the fact that an openly gay friend of his, aged 18, had been beaten up and had bottles thrown at him by family members and villagers.\textsuperscript{[70]}

Ernest, a 20-year-old gay man from Barbados, suffered a traumatic coming out experience which included physical violence from family members. In 2011 he came out to his mother, who shouted: “how could you like men, that’s nasty, you give up that shit, you’re nasty, you’re nasty!”\textsuperscript{[71]} From that day on, she confronted him with passages from the Bible, while encouraging his brothers to beat him. He said:

I think they were trying to beat it out of me, convert me, but this is who I am, I can’t change it... They’d keep on coming and beating me... Bajans [Barbadians] use the bible to justify their actions. I would call the police, but because my mother knew the police at that station, if I called, then she would call them back and then they would not come. I was a voice in the wilderness and nobody’s paying me any attention.

On one occasion my three uncles beat me up because of being gay. One was in front, one was on the right and one was on the left, and they beat me until I spat blood. They cut my face in all directions. I called my grandfather and he did nothing.

After that my mother put me out. I was on the street for a night. And when my grandmother heard about it she came for me. I had to sleep on grandmother’s floor, she gives me food, but
doesn’t support me emotionally. I wish to get away from my family. I have to see my uncles - who beat me - and my mother almost every day.\[^{72}\]

To avoid stigma and humiliation, and in some cases to spare their families from suffering the same, LGBT people told Human Rights Watch that both gay men and lesbian women maintained relationships with the opposite sex, sometimes getting married, while secretly continuing same-sex relationships.

The desire to belong and be accepted by her family led Sophia, a 35-year-old lesbian from Barbados, to get married to a man. She said:

\[A\]t 19 I met a guy and he liked me, and I thought “my family would appreciate this.” I decided to get married to him and our relationship lasted for almost 5 years, and that relationship produced one son, he is 14-years-old now. But I was unhappy. I didn’t want to be with him, after 5 years I decided to break it off. My family knew I was unhappy – they would rather have me unhappy with a male than happy with a woman. [They] felt it would ruin their reputation.\[^{73}\]

After Sophia’s decision to separate from her husband, he and her family tried to deny her access to her son. A government agency in charge of child protection ultimately rejected their efforts as groundless. She recalls:

My sons’ dad and my father decided to take away my son. They placed my boy in a government agency in charge of promoting and protecting children’s rights. They took my son there and started questioning him about what type of treatment he received from me, and if mom had any friends that were LGBT persons. They took him and he endured that for three months. Ultimately, the agency decided “We can’t remove him from his mom. There are no grounds for us to remove him.” At the time my son was 10 years old.\[^{74}\]

Her alienated former husband continued to make negative remarks about her, saying to their son things like: “if you knew what your mom was you would never go back to her.”\[^{75}\]

Eviction and homelessness are a staple in the lives of many LGBT individuals. Human Rights Watch
interviewed LGBT people who had been forced to move: kicked out of their homes because of the rejection of their family members, driven from home by community members who threatened to kill them, and in some cases violently attacked and forced to seek asylum abroad.

Alfred, a gay 53-year-old man from St. Vincent and the Grenadines, told Human Rights Watch: My mother put me out of my house at age 15—I wasn’t accepted and I struggled on my own.” —[76] He roamed the streets from village to village for most of his teenage years in seek of shelter.

Augusten, a 36-year-old gay man and store clerk from St. Vincent and the Grenadines, told Human Rights Watch: “I was 19 when I started to work for my own dollar, I came out and told my grandmother and my cousins that I was gay. At that time I was actually supporting myself. They called me: ‘buller,’ ‘battyman.’ At age 23 [I started dating men and] let myself be and then my uncle and I had a dispute. He forced me to move, he told me to leave on a Wednesday. By Thursday I was out of my grandmother’s house.” —[77]

James, a 24-year-old bisexual man from St. Vincent and the Grenadines, said that he was shunned by his family, thrown out of his home, and beaten by his brothers, even as he sought shelter with friends. He said: “At age 16, I was kicked out of the house. My brothers would go to my friends’ houses and told them that if they see me they would kill me... Black and blue eyes, mainly one of them was doing the bashing, taunting, beating and threatening me. I thought my mother knew [but she played ignorant]. I never spoke about it.” —[78]

Thomas, a 34-year-old gay man from St. Lucia, described how his mother wavered between acceptance and rejection, allowing him to stay, and then throwing him out. This left him feeling unstable, insecure, and at times desperate and suicidal:

She keeps accepting me to stay and then she throws me out. I’m homeless right now and there is an apartment right across the street and a lady put me up for a week. I tried to commit suicide, because I am not stable. It’s a hard time – I tried hanging myself in a road near town and somebody stopped me, a stranger. I don’t feel safe, so I decide to stay inside most of the time.” —[79]

Alanis, a 23-year-old trans woman from Dominica, told Human Rights Watch about her ongoing experience with homelessness and violence within her home due to her gender identity:
I currently stay with my mom. I was homeless a lot of the times, staying on the streets like any vagrant. I try to cope with it, it hurts. I can’t gain employment because of who I am. I got a lot of kicks, jump kicks by my sister, for the simplest things – both my sister and father, always for the simplest things. In terms of my mom, she fractured my arm and slapped me in the face, because of who I am and expressing who I am accordingly. [80]

Toby, a 38-year-old gay man in St. Lucia, recalled his extreme experience of exclusion and ostracism within the home, which drove him to several suicide attempts:

My father found out [I was gay] when somebody told him. When my mom found out – she didn’t speak to me for two years... I could only use one plate, one spoon, I could not touch anything else, it was like I had some contagious disease, they distanced themselves from me. I spent two years in a house where nobody spoke to me. I had nobody to turn to. I was always alone. I tried to commit suicide five times, for some reason it never worked. I left my house, I couldn’t take it anymore after two years of silent treatment.[81]

Erika, a 23-year-old lesbian from St. Kitts and Nevis, told Human Rights Watch that within her community prejudice runs deep and people openly speculate as to whether her son will be gay because he is being raised by a lesbian. Erika had a traumatic rape experience, compounded by social prejudice. She said people assumed that she had been “turned” lesbian because she was raped by a man. She said: “back home they all think that because I was raped, I am a lesbian; and that I fear men. But personally, that wasn’t it. I was raped. I’m a lesbian. I was like that before. I was always attracted to females.”[82]

Exclusion from Church

Interviewees invariably referred to their countries as “Christian” nations. Certainly, church communities are at the center of social life and are ubiquitous across the islands. Churches play an important role in communal life and social welfare. And Christian communities are influential agents of socialization, shaping social attitudes, and moral codes.

Family rejection is often couched in religious terms, leading many interviewees to blame local church rhetoric for the prejudice they encounter within their families and society at large. LGBT people who experienced family rejection on religious grounds said that local pastors reinforced the prejudice that
had already alienated them from family members and their communities.

Nicholas, a 20-year-old gay man from St. Kitts and Nevis, reinforced the idea that churches play a significant role in shaping public attitudes towards LGBT people, based on his experience of rejection in his own church community. Nicholas said his church hierarchy perceived him to be too ‘effeminate’ and led pastors to question his ability to take on certain responsibilities in the church choir. He told Human Rights Watch that he received a letter where he was “invited” to take a break from participating in the choir, and soon after taking a trip abroad he was placed on “probation”. Despite his love of the choir, the experience ultimately drove his decision to leave the choir, and the church.

Some individuals have endured extreme situations to stay in their religious communities. Arthur voluntarily submitted to an exorcism ritual conducted by his church pastor in the hope that it would make him straight. His pastor promised to help him “banish the devils” of homosexual desire. It did not work, but Arthur pretended that it did as he was afraid of being outed as gay. He feared being banished from the church “[b]ecause my sexual orientation [did not change after the exorcism]. I could not complain.”

Richard said he avoided participating in certain public activities, including church events, because he is gay. He said: “I was in the church youth. I was very feminine, but I try to hide it...I would just feel strange because of my femininess.”

Michaela, a 22-year-old artist and lesbian from Grenada, said: “I want the church to do something. The church runs everything. If they become more accepting, like having gay people in the congregation, it would be a step in a better direction.”

In 2017, the archbishop of the West Indies and Anglican bishop of Barbados, Dr. John Holder, spoke out against violence against LGBT people, stating that every human being must be treated equally. He emphasized to believers that an individual’s sexual orientation does not deny their status as a child of God.
**Statement of the Holy See, Delivered at a UN Side Event in December 2009**[87]

In 2009 the Holy See participated in a panel discussion at the UN in New York and delivered the following statement about criminalization of homosexual conduct. The Holy See opposes all grave violations of human rights against homosexual persons and is opposed to discriminatory penal legislation which undermines the inherent dignity of the human person.

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Mr. Moderator,

Thank you for convening this panel discussion and for providing the opportunity to hear some very serious concerns raised this afternoon. My comments are more in the form of a statement rather than a question.

As stated during the debate of the General Assembly last year, the Holy See continues to oppose all grave violations of human rights against homosexual persons, such as the use of the death penalty, torture and other cruel, inhuman and degrading punishment. The Holy See also opposes all forms of violence and unjust discrimination against homosexual persons, including discriminatory penal legislation which undermines the inherent dignity of the human person.

As raised by some of the panellists today, the murder and abuse of homosexual persons are to be confronted on all levels, especially when such violence is perpetrated by the State. While the Holy See’s position on the concepts of sexual orientation and gender identity remains well known, we continue to call on all States and individuals to respect the rights of all persons and to work to promote their inherent dignity and worth.

Thank you, Mr. Moderator.

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The Reverend Philip J. Bené, J.C.D.
Legal Attaché

Permanent Observer Mission of the Holy See
to the United Nations[88]

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**Bullying and Exclusion from School**

School bullying is ubiquitous and can affect anyone. But LGBT children are particularly vulnerable to bullying. They experience higher levels of victimization and are at greater risk of being bullied at school.
Interviewees recalled multiple types of bullying and harassment that they encountered at school, and the consequences this had for their safety, sense of belonging, and ability to learn. Interviewees said that teachers were ill-equipped to intervene to stop bullying. And in some cases teachers encouraged verbal harassment, or did little to stop it. Some interviewees recalled that teachers themselves made dismissive or derogatory comments about LGBT people, sometimes passing them off as jokes, sometimes being openly disparaging.

Michaela, a 22-year-old artist and lesbian from Grenada, recalled her teacher’s unwillingness to stop bullying when she was a 16-year old high school student: “when bullying happens, you tell the teachers and they don’t do anything.”[89]

Nicholas, a 20-year-old gay man from St. Kitts and Nevis, found himself and his boyfriend outed on social media when they were both high school students, around age 15. His boyfriend at the time was outed when his picture was circulated on social media. He described his terror as beyond anything he had ever experienced up until then:

When I was still in high school and about 15 years old I was dating this guy even though I was in the closet. I had a profile on social media and someone started outing people. My boyfriend was named in the list. I did not know about it until I went to school the next day. The other boys were laughing, calling me names. I got a call during class from my boyfriend. He explained to me what happened, I got sick. The list had exposed 15 guys as gay before it was taken down.

Thereafter, Nicholas says, he was taunted and aggressively harassed for the remainder of his school days.[90]

Arthur, an 18-year-old gay man from St. Kitts and Nevis, described in poignant detail his feelings of isolation and loneliness as a result of being bullied. He told Human Rights Watch about being severely bullied in his first year of high school. He was terrified of meeting new people and tried his best to pass as straight. He described his fear as so disturbing that after any given school day, he would return home and go over each thing he could do in a more masculine way. Nonetheless, he recalled being taunted and unable to move around the school. In his third year in high school, he came out to two friends who outed him to other classmates. His fell into a depression. “I just wanted someone to talk to,” he said. The constant disdain shown by his classmates impacted his academic performance: “Before a final exam someone made a homophobic remark to me. I got a zero, I didn’t do the exam. The reason why I didn’t do it was because I was literally reflecting on what I did to cause that comment and what I could
have done different, and how to change it.”{91}

III. Harassment and Discrimination

Physical Violence, Assaults, and Intimidation

Actual physical and sexual violence, or threats thereof, are part of the fabric of everyday life for many LGBT people. Fifteen out of 41 interviewees reported experiencing physical violence, while nine had more than one experience of physical violence.

The threat of violence keeps many people in the closet, afraid of what might happen if their sexual orientation or gender identity is disclosed. Arthur, 18, told Human Rights Watch that his perception of the violence and his fear of being caught up in it “never stops and it happens almost daily.”{92}

In the cases documented by Human Rights Watch, the perpetrators were private actors, including complete strangers, neighbors, acquaintances, or intimate partners, who seemed to think they had the moral authority to target LGBT people, without fear of arrest. Perpetrators of violence against LGBT people do so with impunity because they know that their victims are so afraid of stigma and discrimination that they are unlikely to report to the police. Interviewees said they were reluctant to report incidents due to their perception of police inaction and indifference to the crimes against them. Several said they were ridiculed by police or subjected to inappropriate questioning about their sex lives.
Respondents stated that gay men were more susceptible than lesbians to social rejection and physical violence. Amy, a 29-year-old bisexual female security guard from St. Vincent and the Grenadines, told Human Rights Watch: “violence happens more frequently to the gays. They accept more females than males.” She speculated that lesbians showing affection in public titillated dominant male heterosexual fantasies and that this may explain why lesbians are not targeted as often as gays.\(^{93}\) Even as she said this, however, she noted that anti-LGBT discrimination can and does fuel violence against both gays and lesbians.

Sexual violence is also an ongoing risk and reporting makes gay men susceptible to ridicule or further questioning by police officers about their sexual orientation, which drives their decision to keep silent about it. Bill, A 31-year-old gay man from Antigua and Barbuda, recalled an episode from 2010 that left him with the impression that he had narrowly escaped being raped by an intruder:

> At 3 a.m. a man came into my house with a gun while I was sleeping. I heard my bedroom door open, and at first I thought it was my sister. All I saw in the darkness were his boots, a gun, long sleeves, and a mask. I looked up and there was a gunman over me. I was sleeping naked. He told me not to move, he didn’t ask for money. I asked him what was he doing in my house. He replied: “Are you gay?”

> I started to get nervous, it was silent for a moment. It took what felt like 60 seconds for him to move the gun away from me and exit my bedroom door.

> A year after that I was on a social media dating app where I had my picture up, and someone with a profile with no picture sent me a message that read “I should have taken it from you a year ago.” I immediately knew it was the person who broke into my house. The text continued: “When I come back. I won’t hurt you, you are a good girl. Why act so nough? [acting better than other people].” I started looking outside, scared that he would be back.\(^{94}\)

Attacks can happen in the streets, at any hour of the day, including in public spaces and at events, such as carnival. Arthur, an 18-year-old from St. Kitts and Nevis, summed up his daily experiences in one sentence: “[When I am] strolling down the street people start yelling out ‘anti-man.’ Suddenly, they [begin to] throw bottles at me.”\(^{95}\) Similarly, Toby, a 38-year-old gay man from St. Lucia, told Human Rights Watch that he was pelted with stones in 2015 during carnival celebration. And more recently, in April 2016, he and his partner were attacked as they were entering their home one afternoon: “[I knew] it was motivated by us being gay because the term ‘buller’ was used. As we were entering the house, a
car pulled out, two persons jumped out....a gun was raised and they tried to pull the trigger, but the trigger did not work. I told my boyfriend to run. They stabbed me, several times, the deepest one was below the navel. My boyfriend was also attacked with stones."[96]

Random Violence

Charles, a 24-year-old gay man from Antigua and Barbuda told Human Rights Watch about his first and only experience of physical homophobic violence, an episode that occurred in November 2016.

It was about 7 p.m., he had finished work and was walking home with a friend – a trans woman named Emily. They took a shortcut to the main road where they encountered a man on a bicycle who seemed to be following them. The man rode past them, before turning into an alley where he left his bike. He then walked past Charles and Emily and threatened them along the lines of “Batty-men must die” or “you are close to death”–Charles could not hear precisely. Charles and Emily separated and Charles crossed to the other side of the street, where the man followed him. When the man walked passed him again, this time very close, he felt what he described as a sharp pinch and sting. He soon realized that he was bleeding. He had been stabbed. Afraid, Emily had run away and Charles had fled from his assailant, who began to chase him until Charles finally escaped through some bushes and hid.

Charles tried to call people to tell them what was happening. His mother's phone was off, but he reached his work supervisor and told her what had happened. He then asked people in the vicinity for help, an ambulance was called, and he spent the next three days in hospital. To this day Charles bears a visible scar, about an inch long on the upper-right-hand side of his body.

Charles described his attacker to police officials and explained that he had never seen him before and had no idea who he was. He has not seen him since, but says he would recognize him if he did. Charles had never seen his attacker before the attack. He provided a full description to the police and told officers that the assailant made homophobic insults before he was stabbed. Police took his statement, and clothes as evidence. He is unsure of the progress of the case. He was told to go to the police station to get more information but had not done so when we spoke with him.[97]

In many cases violence occurs out of the blue, as was the case with Augusten, a 36-year-old gay man and store clerk from St. Vincent and the Grenadines, who blacked out after being attacked by a stranger in public. He said: “I had several instances where people pelted rocks and coconuts at me. One time I was walking home and a gentleman stopped me and slapped [me] in the face because I was gay. I actually blacked out, he caught me unguarded.”[98]

Homophobia permeates every sphere of life for most gay men. Sean, a 35-year-old from St. Vincent and the Grenadines, said:
In my life, I have been bullied, I have been harassed, maligned, terrorized because I am an openly gay person. So, if I’m somewhere, and a DJ would see me, they would announce it by saying something like “we have a battyman in the house” and put on homophobic music and the people would celebrate and respond to that. One night I was walking home, and there was a group of five guys, one shouted: “Battyman, fi dead” [gays should die] and suddenly they started throwing stones and bricks at me.\[99]\]

Ernest, a 20-year-old gay man from Barbados, said he was violently attacked while swimming:

Last week, on Saturday I decided to go to the water and swim. Two young teenagers, aged 11 and 13, passed along the coast and suddenly I saw rocks coming down from the hill, they literally threw rocks at me. They knew who I was. They are from my neighborhood, it is a close-knit community.\[100]\]

Gay men have routinely sought asylum on grounds of the homophobic violence experienced in their home country. Gabriel, a 36-year-old gay man from St. Lucia, sought and was granted asylum in Canada. He told Human Rights Watch: “In late 2009 when I was living in Castries, I could have ended up dead. Because I’m gay it would be swept under the rug.”\[101]\] Two interviewees asked Human Rights Watch researchers how they could flee their country and seek asylum in a safer environment.

Michaela, a 22-year-old artist and lesbian from Grenada, told Human Rights Watch that the violence she experienced was perpetrated by complete strangers. She recalled an episode when she went on a beach swimming date with a girlfriend in July 2016. She told Human Rights Watch that they only hugged twice when a man appeared with a harpoon and chased them. She did not report the incident to the police, because in her view: “the police would have the same reaction, except they have guns.”\[102]\]

She also described a similar incident that took place a few months later while spending an afternoon on the beach with her girlfriend. They were confronted by a team of construction workers. Michaela said: “They saw two girls too close and they began shaking the fence that divided the beach and the construction site while yelling “Stop your nastiness! Don’t do that to her! We don’t do this in our country!” \[103]\] The men threatened the two women with a solid plank of wood.

Florence, 24-year-old a trans woman from Barbados, recounted how in mid-April 2016 she had taken a 5-minute walk from her house to a local store at about 9 p.m. to buy dinner when she was attacked by a
group of men nearby. She said: “I heard a group yelling “bunfire pun battyman” [set her on fire]. It’s picked up from Jamaican dancehall and made its way here.”

Verbal assaults soon escalated to violence. As she recalls:

I’m walking, I don’t hear the group, which is strange because they always shout. But I hear a smash. Then I hear another smash, and I see a glass bottle skitting by me. And so I turn, and another glass bottle just missed my face, and I scream at them and start heading home. I keep watching the group. They threw bottles, all of them beer bottles, one broke right in front of my feet. Then I picked up a bottle and threw it back at them. They said nothing. As soon as I turned around, I [saw] they were throwing stones, too. They were about the size of my fist.

She took refuge with a neighbor who had two dogs for protection, and called the police. They arrived about an hour later and interviewed the young men who were then giggling among themselves. She identified one of the perpetrators who denied that he was involved.

“He told the officer: “It can’t be me, they gotta be mistaken.” In the end, the officers gave them a warning, and said ‘don’t bother her again.’”[^104]

It is not only random strangers who perpetrate violence against LGBT people. Transgender women report being particularly vulnerable to intimate partner violence. Emily, a 24-year-old trans woman from Antigua and Barbuda, told Human Rights Watch about her first encounter with a suitor:

He made me take my clothes off and suddenly he started to shout “You bein’ a battyman—I am not gay don’t mess with me!” as he threatened me and told me he was not into “hanky-panky.” I only had my jeans and handbag but no shirt and no bra. I started to run up the road to get away until I couldn’t see him and met up with another trans woman friend of mine. It was a really horrible experience. I thought it would be easy, it is not.[^105]

Isabella, a 20-year-old trans woman from Barbados, told Human Rights Watch about an incident in January 2016 when she was struck in her face with a bottle, after an altercation with people from her village. She was hospitalized. She said:
It happened very close [to] the police station. Once I went into the police station for help, I was received by an officer who said “do not let your blood on this desk” [but] he wrote the report for me to take to the hospital. In the hospital, I waited for three hours, gushing blood. Eventually a nurse came and wiped my face, the blood had hardened, she cleaned me up, and sent me off.[106]

Alanis, a 23-year-old a trans woman from Dominica, recalled a series of violent attacks on her between 2009 and 2017. These included several physical attacks which led to head injuries on three occasions. The most extreme form of violence that she experienced was being choked on the street by a stranger after a verbal altercation.[107]

**Verbal Abuse and Harassment**

Almost all interviewees reported being routinely ridiculed, harassed, threatened, and verbally abused based on their real or perceived sexual orientation or gender identity. Indeed, for many the taunts were so commonplace that they did not deem it worthy of mention to Human Rights Watch researchers. Verbal abuse was so much part of the fabric of everyday life that it went unnoticed and unremarked.

Verbal abuse and harassment can quickly escalate into physical assault. Most interviewees said unless they were physically confronted they typically tried to ignore taunts and insults because physical altercations would ensue if they reacted.

Bill, a 37-year-old office clerk and gay man from St. Vincent and the Grenadines, told Human Rights Watch that he is subject to daily slurs and insults including ‘faggot, ‘fish,’ and ‘chichiman.”[108]

Gabriel, a 20-year-old a gay man and cosmetologist in Dominica, told Human Rights Watch:

I received threats of physical violence as a result of my sexual orientation. Persons from my village call me ‘battyman’ in passing. I received a death threat recently, only last week.[109]

James, a 24-year-old bisexual man from St. Vincent and the Grenadines, recalls the slurs he receives on a daily basis: “They call me names: faggot, pussy, battyman, fish, ‘burn the gays alive.’ When I try to defend myself they throw things.... Strangers verbally assault me every day. I receive threats of physical
violence also, almost every day.”[110]

As a gay man, Luke, aged 43, said he experienced daily verbal threats that he will be “cut, shot and burned.” He said that when he has reacted in self-defense, his aggressors have pelted him with stones while calling him “buller man” and “fuzzy hole.”[111]

Richard, a 20-year-old gay man working as an assistant in a civil society organization in St. Lucia, has received written and verbal threats online because of his sexual orientation. He said: “People who message me privately [through social media] send threats. All [of those messages are] negative slurs, saying ‘no gays’ and ‘we will kill you and beat you up.’” He also recalled an incident from 2015 when he was walking alone en route to his office: a hostile group of men followed him, yelling things like “oh battyman, don’t make us beat you there.” On another occasion, he told us, he was walking with his sister when someone yelled “Oh he’s gay, let’s burst his head, stab him, and kill him!”[112]

Toby, a 38-year-old gay man from St. Lucia, experienced several threats of physical violence. One, in particular, shook him: “In 2016 at carnival, people told me that they were going to beat me, shoot me, and kill me.” He told Human Rights Watch that his boyfriend received the same threats while being called “buller, battyman, faggot.”[113]

Alanis, a 23-year-old trans woman from Dominica, said she receives insults almost every day from family and strangers who call her “chichiman, shemale, buller, battyboy, battyman, buggerer, nasty salop.”[114]

Emily, a 24-year-old trans woman from Antigua and Barbuda, described how random strangers take it upon themselves to “discipline” her by confronting her and addressing her as a man. She said “people tear me down – they judge me a lot, they laugh and giggle at me, they scorn me because that is how society is. I've receive threats.” She continued: “Bashing someone is not just stone and bottles, it's: ‘you think you are a woman, you are a man I will show you how a man is like’ and ‘I’m going to give you something you deserve.”'[115] She underscored her fear that, if the possibility presented itself, most people would throw things at her or beat her up.

**Inappropriate Police Response**

Most LGBT people interviewed by Human Rights Watch had negative perceptions of the police. They said they expected the police to be biased, unresponsive, and unlikely to investigate crimes against them. In some cases, they feared arrest under laws that criminalized same-sex intimacy. Several
interviewees reported that police asked them inappropriate, intrusive questions about their sex lives.

Fourteen people interviewed by Human Rights Watch said that they did not sufficiently trust the police to report incidents to them. Those that did report crimes to the police cited negative experiences including inefficiency, inaction, and in some cases, antipathy that led to secondary victimization.

Some LGBT people said that they relied on individual police officers whom they knew to be sympathetic. Some police officers in some of the countries covered in this report have gone through general human rights training, in line with several UPR recommendations that called on the countries to fight discrimination based on sexual orientation and gender identity and to thoroughly investigate acts of violence motivated by such animus.[116] Several people attributed positive interactions with the police to these trainings.[117]

Some interviewees, particularly those who lived in rural areas, also expressed having positive experiences with police officers who work in local villages. Bill, a gay man from Antigua and Barbuda, said: “The police in my village is much different from the one in St. John’s, there is so much difference, we get to build relationship and they know me.”[118]

Human rights training and sensitivity training for police on LGBT issues are particularly important in an environment in which commonplace homophobia bolsters a macho culture within the police. Laura, a 45-year-old trans woman from Antigua, said: “It is the culture within the force, they would gain no respect if they are not homophobic, people would think that if they are not homophobic then they are going ‘soft.’”[119]

As noted above, many interviewees told Human Rights Watch that police officers question LGBT individuals in a degrading manner about their sexual orientation, detracting attention from the crimes they are there to report.

Jason, a 40-year-old gay man from Barbados, described to Human Rights Watch past interactions with police officers:

If I say: “this person robbed me,” they would ask me: “were you soliciting them? And did they not pay you? Are you a callboy?”

Be it violence, be it being robbed, you’re questioned about your relationship with the person. Especially if you know the perpetrator. And the questions will go: “what was your role to
encourage this?[^120]

When Jason was raped in 2011 and reported it, police were dismissive and he felt he was not being heard. He recalled: “To his day, I don’t know who did it. My assailant left something in the car, I gave it to the police, I didn’t touch it. I left that with them.” Jason said he has not returned to the station to follow up on the case because of the initial police response.[^121]

Bill, a 31-year-old gay man from Antigua, was also treated dismissively by police officials when he tried to report a crime in 2010, an incident in which a man broke into his home and threatened him. He said: “Instead of them trying to circle the area to find out who it was, they were more into questioning about my lifestyle than into what I was telling them – the crime itself. We are just not taken seriously.”[^122]

He told Human Rights Watch about another episode:

I get robbed at gunpoint. I went to one of the police stations close by in the city, in St. John’s. They took me to drive around the area. The officer questioned me about my lifestyle. If I were straight, [the questioning] would not have happened– they don’t look out for homosexuals.[^123]

Augusten, a 36-year-old store clerk from St. Vincent and the Grenadines, told Human Rights Watch that even altercations with friends can lead to random questioning about his sexual orientation. He said:

I had a dispute with a friend of mine. I went to make a report and the officer who was taking the record, instead of being a listening aid, he was disrespectful saying “oh you want a man” – being dismissive. He suggested that because of my sexual orientation I asked for it.

Most gay people don’t go to the police, they are afraid of being physically bashed by them. I had experienced passing the police barracks and the police will turn yelling to me “little miss going there!” In 2013 a police officer called me a “buller” when he was walking back to town. Today if I pass the police barracks people will say things.[^124]

Sophia, a 35-year-old from Barbados, said police discredited what she said because she was a lesbian:
In October 2016, my ex-girlfriend took my passport and I went to the police to get help to take it back. The police officer said “I saw you on Facebook together, who is the man and who is the woman?” He laughed it off. I felt like we don’t get respect at all. Everything gets down to a sexual act. Who is on top and who is on bottom? I was so disappointed.

For me it doesn’t make sense to report the policeman to the police, it just doesn’t.[125]

Other interviewees also felt that they were not taken seriously by the police and that this led to police inaction and failure to handle their cases diligently. Emily, a 24-year-old trans woman, said: “I can’t go a day without being interfered with, [but] people think it is a joke. Every time we make reports to the police station, they don’t take it serious. Many times, I have filed complaints and reports. They come, take the statement, and give attackers only a warning. Just to sweet talk us....” [126]

Alanis from Dominica expressed her frustration and lack of hope in relying on police to properly investigate assaults against her. She said: “I have been making police reports since 2009 officially, they don’t take my reports. [Instead] they make fun of me. I’m not taken serious at all. I never went back.[127]

Some, frustrated with the lack of police support, expressed a need to take matters into their own hands by fighting back in self-defense against attacks and aggression. Ernest, a 20-year-old gay man from Barbados, told Human Rights Watch that in such cases “you fight, I do not go to the police.”[128]

**Emotional and Psychological Abuse: Lack of Mental Health Support**

Verbal and physical abuse can have serious long-term consequences by instilling in LGBT people feelings of fear, shame, and isolation and lowering their self-esteem. Interviewees told Human Rights Watch that such feelings meant they often experienced depression; many said they had thoughts of suicide or had attempted it.

Because being LGBT is so strongly stigmatized, support systems that exist in an increasing number of countries where same sex relations are not criminalized or are no longer criminalized do not exist in any of the seven Caribbean countries covered in this report. LGBT people tend to fall through the cracks, as neither government agencies nor civil society organizations have developed services that can fully address their health or psychosocial needs.
Medical research suggests that poor health outcomes in LGBT populations are in part the result of persistent stigma directed toward them. Individuals who experience stigma because of their sexual orientation often resort to concealment behavior—hiding their identity to avoid future victimization—and this is associated with a host of negative long-term psychological consequences. According to one study, the effects include depressive symptoms, negative affect and anxiety, poor self-esteem and elevated psychiatric symptoms, and psychological strain. Physical health may also be affected if individuals withhold information about their sexual orientation from health care providers.

Many interviewees opened up and shared with Human Rights Watch, sometimes for the first time in their lives, personal stories of sexual violence and self-inflicted harm. Most of them were gay men. They expressed feelings of shame but had remained silent due to the pervasive homophobia in their countries. Almost all of them felt isolated, without support systems to turn to.

Nicholas, a 20-year-old gay man from St. Kitts and Nevis, said that he recurrently experienced suicidal thoughts and even once tried to commit suicide. He said: “People are reluctant to come forward. A lot of people are afraid, because of incidents that happened. It’s all about secrecy. Growing up I was always alone, always. I knew I was different, when my sister found out, I started to get beaten by my brothers and I reached that point to contemplate suicide.”

Arthur, an 18-year-old gay man from St Kitts and Nevis, said: “I felt isolated. I know many people are going through the same as me. In college, there are so many of us. I experienced many ways of self-harm, cutting myself and also a suicide attempt. I was actually in the process of going through with it and a friend of mine ran to my house and caught me in the act. This gave me hope.”

Feelings of extreme isolation can start at an early age. After long periods of constant physical and emotional bullying at school, Ernest, now 20, from Barbados, recalled contemplating committing suicide at age 13 in his own school. He said:

The previous school was an all-boys school. I went to jump off the roof [of the school]. The guidance counselors, students, everyone saw me. It was lunch time. I was on the roof, and [the guidance counselor] talked me down. Then my mom came to the school, and I went home. I was automatically admitted to the hospital.

After several suicide attempts and a stint in a psychiatric hospital, he finally found solace with a sympathetic aunt: “I called one of my aunts. She has a son who was gay and is not homophobic towards
Peter, a 20-year-old gay man from Dominica, gave a vivid description of the intense inner conflict he experienced from family rejection. This, he said, explained his suicidal tendencies:

I have been suicidal more than one time. Depression comes from my family not accepting [me]. I was raised with family values as the most important thing. I was expected to be someone that I was not. I was going against to what the family wanted. I was 16 the first time I tried to cut my wrists. I was crying, praying, trying, and begging God to change me. When it dawned that it would not change I tried to kill myself. I blacked out.... There have been other attempts, more out of loneliness and because of family rejection, from being the black sheep of the family.[33]

Augusten, a 36-year-old gay man from St. Vincent and the Grenadines, said:

I contemplated suicide many times, I don’t tell people that, especially when I was being bashed. The first time I tried to hang myself, the rope busted. After that, I tried it by buying sleeping pills. The second episode was a result of an experience I had earlier that day, when I got slapped by a random stranger in the street because of who I am. I just went to sleep and put the pills away. As an individual, I consider myself a Christian person. I prayed a lot that particular day.[34]

Sophia, a 35-year-old lesbian from Barbados, told Human Rights Watch that “mental and verbal abuse can be sometimes worse than physical abuse.” After fighting with her relatives over the custody of her child she sank into a deep depression. She said that due to her depression she quit her job and had to move back to living with her family. She eventually went to the hospital and received counseling.[35]

For transgender people, social rejection intensifies as they attempt to express their gender identity. Beth, a 20-year-old trans woman from Barbados, told her story of family rejection and her struggle with depression:

In September of 2016, my mother found female clothes in my room, and she confronted me with a threat. After a short while, they found the clothes a second time. I hid the clothes. It
then stopped for a while. On the last occasion they found them, I tried to explain what it is to be transgender. My father only thought it was being gay. He told me to get rid of the clothes and I gave them to a friend. Ever since I lost the clothes, I keep getting more depressed, I can’t be who I am, so I’m just stuck. When I wore the clothes, I could be who I really am.

After both incidents her sister asked her “to stop doing it” and this only exacerbated her depression, leading to several suicide attempts. She concluded “I can’t be who I am, I have to live in a cocoon.”[137]

Lack of hope led Alanis, a 24-year-old trans woman in Dominica, to attempt suicide in March of 2016. After her mother and family told her that they wanted her out of the house, she ingested Clorox and pills and was hospitalized for a week. She recalled her deep feelings of rejection:

I felt so rejected by society. I asked myself if I’m really an abomination and shameful. I have those down days, when I just want to go.

IV. International Human Rights Law

International human rights treaties and standards require governments to protect LGBT people, including by prohibiting discrimination on the basis of sexual orientation or gender identity.[139] Core treaties—including the International Covenant on Civil and Political Rights (ICCPR), the
International Covenant on Economic, Social and Cultural Rights (ICESCR), and the American Convention on Human Rights (ACHR)—have been interpreted by courts and authoritative treaty bodies to ban such discrimination, as have a variety of other international instruments and sources of law. Buggery and gross indecency laws violate these international treaties and standards and the experiences of LGBT persons documented in this report underscore how LGBT living in jurisdictions with such laws, face serious obstacles in exercising and enjoying basic rights.

As part of several regional bodies, all countries featured in this report are members of the Caribbean Community (CARICOM) and, except Barbados, of the Organization of Eastern Caribbean States (OECS), regional integration schemes aimed at bolstering the economies of 15 Caribbean nations. They are also members of the Organization of American States (OAS), a larger body of 35 states throughout North America, Central America, the Caribbean, and South America, which has a mandate to promote democracy, human rights, security, and development in the region.

Ten of the 15 CARICOM member states still criminalize homosexual conduct. The OAS, on the other hand, has become an outspoken proponent of equality. It has adopted several resolutions condemning “acts of violence and human rights violations perpetrated against individuals because of their sexual orientation and gender identity,” and has urged states “to adopt the necessary measures to prevent, punish, and eradicate” discrimination.

The IACHR, the human rights organ of the OAS, has been particularly vocal in condemning violence and abuse based on sexual orientation or gender identity, and has urged states to eradicate discriminatory laws and policies—noting that not only do these laws and policies constitute human rights violations, they also fuel HIV in the region. In a 2015 report the IACHR stated that “this type of legislation ‘contribute[s] to an environment that, at best, does not condemn, and at worst condones discrimination, stigmatization, and violence’ against LGBT persons. These laws reinforce ‘already existing societal prejudices’ and severely increase ‘the negative effects of such prejudices on [the] lives’ of LGBT persons.”

Non-Discrimination

Discrimination on the basis of sexual orientation violates the right to equality and non-discrimination contained in the ACHR. Article 1.1 of the ACHR states that the parties to the convention “undertake to respect the rights and freedoms recognized herein and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms, without any discrimination for reasons of race, color, sex, language, religion, political or other opinion, national or social origin,
economic status, birth, or any other social condition.”

In 2012 the Inter-American Court was very firm in making clear that sexual orientation and gender identity are grounds that fall within “other social condition.” The court stated:

Bearing in mind the general obligations to respect and guarantee the rights established in Article 1(1) of the American Convention...the Inter-American Court establishes that the sexual orientation of persons is a category protected by the Convention. Therefore, any regulation, act, or practice considered discriminatory based on a person’s sexual orientation is prohibited. Consequently, no domestic regulation, decision, or practice, whether by state authorities or individuals, may diminish or restrict, in any way whatsoever, the rights of a person based on his or her sexual orientation.[145]

Right to Privacy

International human rights law has long held that matters of sexual orientation, including consensual sexual relations, are protected under the rubric of the right to privacy and the right to be protected against arbitrary and unlawful interference with, or attacks on, one’s private and family life and one’s reputation or dignity.[146]

In Toonen v. Australia, the Human Rights Committee held that laws in Tasmania outlawing adult consensual sexual activity based on sexual orientation or gender identity violated the ICCPR’s guarantee to the right to privacy.[147]

In Atala Riffo and Daughters v. Chile, the Inter-American Court confirmed that sexual orientation is part of the right to privacy protected under the ACHR, and therefore any interference in it must meet the standards of “suitability, necessity, and proportionality” and cannot be discriminatory.[148]

The criminalization of same-sex conduct between consenting persons and the failure to protect against discrimination based on sexual orientation therefore violate the right to freedom from discrimination and the right to privacy guaranteed under the ICCPR and the ACHR. The continued existence of buggery laws, and the failure to protect in law against arbitrary interference with an individual’s private life based on their sexual orientation and gender identity, are incompatible with the international obligations of all seven countries covered in this report.
Right to Protection against Violence

LGBT persons in these countries continue to be attacked and threatened with violence. Police complacency has led to a failure to prevent, punish, or even investigate many instances of targeted violence. Each country has failed to protect the right to life and to freedom from cruel, inhuman, and degrading treatment of LGBT people in their territory.

Articles 5 and 7 of the ACHR and ICCPR, respectively, prohibit inhuman and degrading treatment, with the ACHR explicitly providing that “[e]very person has the right to have his physical, mental, and moral integrity respected.”

Countries have positive duties to prevent physical, mental, and, in particular, life-threatening violence against LGBT people, to investigate such incidents when they do happen, and to hold responsible those who committed them—whether they are state agents or private individuals. The UN Human Rights Committee, in overseeing states’ compliance with the ICCPR, has been very clear to states that their positive obligations

will only be fully discharged if individuals are protected by the State, not just against violations of ... rights by its agents, but also against acts committed by private persons or entities that would impair the enjoyment of ... rights in so far as they are amenable to application between private persons or entities.[149]

The UN Office of the High Commissioner on Human Rights has noted that:

Hate-motivated violence against LGBT people is typically perpetrated by non-State actors—whether private individuals, organized groups, or extremist organizations. Nevertheless, failure by State authorities to investigate and punish this kind of violence is a breach of States’ obligation to protect everyone’s right to life, liberty and security of person, as guaranteed by article 3 of the Universal Declaration of Human Rights and articles 6 and 9 of the International Covenant on Civil and Political Rights.[150]

Economic and Social Rights
The Committee on Economic, Social and Cultural Rights has explicitly stated that article 2.2 of the ICESCR, which prohibits discrimination in the exercise and enjoyment of the rights guaranteed under the covenant, includes discrimination based on sexual orientation.\[157\] It has also emphasized this in its general comments in relation to the rights to health, work, and water.\[158\]

**Right to Health**

In addition to the ICESCR, the right to the highest attainable standard of health is guaranteed under the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).\[153\] Access to the right to health must be on a non-discriminatory basis and discrimination on the basis of sexual orientation and gender identity is prohibited.\[154\]

The Pan American Health Organization (PAHO) says stigma and discrimination are major barriers to health for LGBT people throughout the Americas, including the Caribbean. In a recent statement PAHO director Dr. Carissa F Etienne said: “by universal health, we mean that everyone—irrespective of their socioeconomic background, ethnicity, gender or race—is covered by a well-financed, well-organized health system offering quality and comprehensive health services.”\[155\]

**Housing and Work**

The Committee on Economic, Social and Cultural Rights recognizes that discrimination often occurs in the private sphere, and in particular in the private housing sector. It noted that “actors in the private housing sector (e.g., private landlords, credit providers, and public housing providers) may directly or indirectly deny access to housing or mortgages on the basis of ... sexual orientation....”\[156\] Similar discrimination may take place in the workplace, as has been the experience of several LGBT individuals who shared their stories with Human Rights Watch.

The committee therefore emphasized that state parties had to “adopt measures, which should include legislation, to ensure that individuals and entities in the private sphere do not discriminate on prohibited grounds.”\[157\]
Recommendations

To the Government of Antigua and Barbuda

To the Office of the Prime Minister

- Publicly affirm universal human rights and categorically condemn discrimination, including on the basis of sexual orientation and gender identity.


To the Parliament

- Repeal article 12 and amend article 15 of the Sexual Offences Act of 1995 (Act No. 9), which criminalize consensual same-sex conduct.

- End legal discrimination against lesbian, gay, bisexual and transgender (LGBT) people by repealing all existing laws criminalizing same-sex conduct.

- Pass laws defining the crime of rape in a gender-neutral way so that non-consensual sex between men or between women is included in the definition and subject to equal punishment.

- Take effective measures to combat discrimination on all grounds, including on grounds of sexual orientation or identity. Enact legislation to protect LGBT individuals from discrimination in employment, housing, access to education, and health care.

- Adopt a program to increase public awareness of the human rights principles of non-discrimination and equality.

- Publicly condemn attacks or incitement to violence against individuals or groups on the basis of sexual orientation and gender identity.
• Recognize the vulnerability of men who have sex with men (MSM) to HIV and include reference to MSM in national HIV/AIDS prevention programs.

• Establish a National Human Rights Institution, in line with the Paris Principles, mandated to promote and protect human rights of all citizens including LGBT individuals.

• Adopt inclusive hate crimes legislation to identify and prosecute bias-motivated violence on the basis of actual or perceived sexual orientation or gender identity. Clearly define “hate crimes,” and ensure that any rape or sexual assault motivated in part by the victim’s sexual orientation or gender identity be included in the definition.

To the Ministry of Legal Affairs, Public Safety, Immigration and Labor

• Work with relevant civil society organizations to undertake comprehensive public awareness-raising and sensitivity campaigns on sexual and gender diversity that condemn anti-LGBT violence and promote respect for the human rights of all people, regardless of sexual orientation or gender identity.

• Work with police, prosecutors, health care providers, and other social service agencies to develop an integrated approach or protocol to deal with LGBT people who are victims of violence.

To the Ministry of Health and The Environment

• Introduce and implement a gender recognition procedure in accordance with international standards and good practice to allow people to change their legal gender on all documents through a process of self-declaration that is free of medical procedures or coercion. Such gender recognition procedure should ensure that changes to documents are made in a way that protects privacy and dignity.

• Develop guidelines and training on non-discrimination for all state health personnel. Ensure that all staff working in healthcare settings are adequately trained and sensitized.

• Scale up training for health care practitioners to understand the health needs and risks for LGBT people, and establish monitoring and evaluation mechanisms to ensure that such trainings contribute to improved provision of services to LGBT people.

• Institute appropriate training for healthcare service providers on human rights, gender-based violence, and sexual orientation and gender identity.
• Enable LGBT people to undergo needs assessments for their health (including mental health) and develop programming to address those needs. Such assessments should be strictly voluntary, provide options for anonymity and other protections for participants’ identities, and be conducted in ways that respect the privacy and dignity of LGBT individuals.

• Develop an estimate of the incidence and prevalence of homelessness among LGBT youth.

• Dedicate funds to developmental, preventive, and intervention programs targeted to LGBT youth.

• Develop shelter space and psychosocial support programs for LGBT homeless people.

• Require that all agencies that seek government funding and licenses to serve homeless youth demonstrate awareness of and cultural competency in LGBT issues and populations and adopt nondiscrimination policies for LGBT youth.

• Mandate LGBT awareness training for all staff who work in child welfare on juvenile justice issues.

• Develop an inclusive, non-discriminatory homelessness policy that explicitly commits to address the needs of LGBT homeless people.

To the Ministry of Education, Science and Technology

• Ensure that teachers, counselors, and other staff receive sufficient training and support to prevent bullying and harassment and to respond appropriately when it occurs.

To the National Police

• Investigate all allegations of physical or verbal abuse or threats against individuals on the basis of sexual orientation or gender identity.

• Introduce appropriate police training at all levels on human rights and violence based on sexual orientation or gender identity.

• Establish monitoring systems to evaluate on an ongoing basis the capacity of police stations to handle matters relating to gender-based violence in a non-judgmental and efficient manner.

• Take all appropriate measures to ensure that all police officers respect the rights to non-
discrimination, equality, and privacy, and do not discriminate in the exercise of their functions, including on grounds of gender identity and sexual orientation.

- Take all appropriate measures to ensure that all police officers respect the rights to non-discrimination, equality, and privacy, and do not discriminate in the exercise of their functions, including on grounds of sexual orientation or gender identity.

- Investigate all allegations of abuse or threats against individuals on grounds of gender identity or sexual orientation; ensure fair and impartial investigations of the complaints; and hold perpetrators accountable to the fullest extent of the law.

- Investigate and document reports of violence and abuse against individuals based on sexual orientation or gender identity.

- Strengthen monitoring and reporting mechanisms to better document incidents of hate crime against LGBT people, ensure accurate reporting and collation of information, and identify patterns of crimes.

- Undertake prompt, independent, and effective investigations into all allegations of acts of violence, including those that may be motivated on the grounds of sexual orientation or gender identity.

- Build a stronger working relationship with leading LGBT organizations. Work consistently and systematically with these organizations to develop sensitization and human rights training, and collaborate with them to identify and document incidences of violence.

- Ensure that all police officers are trained and equipped to properly document and efficiently handle cases of sexual violence targeted at LGBT people.

**To the Government of Barbados**

**To the Prime Minister**

- Publicly affirm universal human rights and categorically condemn discrimination, including on the basis of sexual orientation and gender identity.

**To the Parliament of Barbados**
• Repeal section 9, chapter 154, of the Sexual Offences Act 1992, which criminalizes consensual same-sex conduct.

• End legal discrimination against lesbian, gay, bisexual, and transgender (LGBT) people by repealing all existing laws criminalizing same-sex conduct.

• Pass laws defining the crime of rape in a gender-neutral way so that non-consensual sex between men or between women is included in the definition and subject to equal punishment.

• Take effective measures to combat discrimination on all grounds, including on grounds of sexual orientation or identity. Enact legislation to protect LGBT individuals from discrimination in employment, housing, access to education, health care.

• Adopt a program to increase public awareness of human rights principles of non-discrimination and equality.

• Publicly condemn attacks or incitement to violence against individuals or groups on the basis of sexual orientation and gender identity.

• Recognize the vulnerability of men who have sex with men (MSM) to HIV and include reference to MSM in national HIV/AIDS prevention programs.

• Establish a National Human Rights Institution, in line with the Paris Principles, mandated to promote and protect human rights of all citizens including LGBT individuals.

• Adopt inclusive hate crimes legislation to identify and prosecute bias-motivated violence on the basis of actual or perceived sexual orientation or gender identity. Clearly define “hate crimes,” and ensure that any rape or sexual assault motivated in part by the victim’s sexual orientation or gender identity be included in that definition.

• As part of its international obligations, Barbados should consider Advisory Opinion 24 of the Inter-American Court of Human Rights, with a view to taking the necessary measures in accordance with that opinion to secure the rights of same-sex couples and legal gender recognition.

**To the Ministry of Health**

• Introduce and implement a gender recognition procedure in accordance with international standards and good practice to allow people to change their legal gender on all documents
through a process of self-declaration that is free of medical procedures or coercion. Such gender recognition procedure should ensure that changes to documents are made in a way that protects privacy and dignity.

- Develop guidelines and training on non-discrimination for all state health personnel. Ensure that all staff working in healthcare settings are adequately trained and sensitized.

- Scale up training for health care practitioners to understand the health needs and risks for LGBT people, and establish monitoring and evaluation mechanisms to ensure that such trainings contribute to improved provision of services to LGBT people.

- Institute appropriate training for healthcare service providers on human rights, gender-based violence, sexual orientation and gender identity.

- Enable LGBT people to undergo needs assessments for their health (including mental health) and develop programming to address those needs. Such assessments should be strictly voluntary, provide options for anonymity and other protections for participants’ identities, and be conducted in ways that respect the privacy and dignity of LGBT individuals.

- Broaden the scope of the public health care policy to include access to hormone replacement therapy for transgender persons.

**To the Ministry of Education**

- Ensure that teachers, counselors, and other staff receive sufficient training and support to intervene in bullying and harassment when it occurs.

- Implement sexual education curricula, which are comprehensive, scientific and evidence based. These curricula should be inclusive in nature and reflect all sexualities, not only heterosexual individuals.

**To Office of the Attorney General**

- Provide sensitivity training to members of the Barbados police force regarding interaction with members of the LGBTQ+ community.

- Undertake prompt, independent, and effective investigations into all allegations of acts of violence, including those that may be motivated by sexual orientation or gender identity.
To the National Police

- Investigate all allegations of physical or verbal abuse or threats against individuals on the basis of gender identity and sexual orientation.

- Introduce appropriate police training at all levels on human rights and violence based on sexual orientation and gender identity.

- Establish monitoring systems to evaluate on an ongoing basis the work of police stations on their capacity to handle matters relating to gender based violence in a non-judgmental and efficient manner.

- Take all appropriate measures to ensure that all police officers respect the rights to non-discrimination, equality, and privacy, and do not discriminate in the exercise of their functions, including on grounds of gender expression and identity and sexual orientation.

- Take all appropriate measures to ensure that all police officers respect the rights to non-discrimination, equality, and privacy, and do not discriminate in the exercise of their functions, including on grounds of gender identity and sexual orientation.

- Investigate all allegations of abuse or threats against individuals on grounds of gender identity or sexual orientation, and ensure fair and impartial investigations of the complaints that hold perpetrators accountable to the fullest extent of the law.

- Investigate and document reports of violence and abuse against individuals based on sexual orientation and gender identity.

- Strengthen monitoring and reporting mechanisms to better document incidents of hate crime against LGBT people, ensure accurate reporting and collation of information, and identify patterns of crimes.

- Undertake prompt, independent, and effective investigations into all allegations of acts of violence, including those that may be motivated on the grounds of sexual orientation or gender identity.

- Build a stronger working relationship with leading LGBT organizations. Work consistently and systematically with these organizations to develop sensitization and human rights training, and collaborate with them to identify and document incidences of violence.

- Ensure that all police officers are trained and equipped to properly document and efficiently handle cases of sexual violence targeted at LGBT people.
To the Government of Dominica

To the Office of the Prime Minister

- Publicly affirm universal human rights and categorically condemn discrimination, including on the basis of sexual orientation and gender identity.

To the Parliament

- Repeal section 16 and amend section 14 of the Sexual Offences Act 1998 which criminalizes consensual same-sex conduct.

- End legal discrimination against lesbian, gay, bisexual, and transgender (LGBT) people by repealing all existing laws criminalizing same-sex conduct.

- Take effective measures to combat discrimination on all grounds, including on grounds of sexual orientation or identity. Enact legislation to protect LGBT individuals from discrimination in employment, housing, access to education, health care.

- Adopt a program to increase public awareness of human rights principles of non-discrimination and equality.

- Publicly condemn attacks or incitement to violence against individuals or groups on the basis of sexual orientation and gender identity.

- Recognize the vulnerability of men who have sex with men (MSM) to HIV and include reference to MSM in national HIV/AIDS prevention programs.

- Establish a National Human Rights Institution, in line with the Paris Principles, mandated to promote and protect human rights of all citizens including LGBT individuals.

- Adopt inclusive hate crimes legislation to identify and prosecute bias-motivated violence on the basis of actual or perceived sexual orientation or gender identity. Clearly define “hate crimes,” and ensure that any rape or sexual assault motivated in part by the victim’s sexual orientation or gender identity be included in that definition.

- Recognize the jurisdiction of the Inter-American Court of Human Rights, and in the meantime, consider Advisory Opinion 24, with a view to reforming legislation and policies on sexual
orientation and gender identity.

**To the Ministry of Justice, Immigration and National Security**

- Work with relevant civil society organizations to undertake comprehensive public awareness-raising and sensitivity campaigns on sexual and gender diversity that condemn anti-LGBT violence and promote respect for the human rights of all people, regardless of sexual orientation or gender identity.

- Work with police, prosecutors, health care providers, and other social service agencies to develop an integrated approach or protocol to deal with LGBT people who are victims of violence.

**To the Ministry of Health and Environment**

- Introduce and implement a gender recognition procedure in accordance with international standards and good practice to allow people to change their legal gender on all documents through a process of self-declaration that is free of medical procedures or coercion. Such gender recognition procedure should ensure that changes to documents are made in a way that protects privacy and dignity.

- Develop guidelines and training on non-discrimination for all state health personnel. Ensure that all staff working in healthcare settings are adequately trained and sensitized.

- Scale up training for health care practitioners to understand the health needs and risks for LGBT people, and establish monitoring and evaluation mechanisms to ensure that such trainings contribute to improved provision of services to LGBT people.

- Institute appropriate training for healthcare service providers on human rights, gender-based violence, sexual orientation and gender identity.

- Enable LGBT people to undergo needs assessments for their health (including mental health) and develop programming to address those needs. Such assessments should be strictly voluntary, provide options for anonymity and other protections for participants’ identities, and be conducted in ways that respect the privacy and dignity of LGBT individuals.

**To the Ministry of Social Services, Family and Gender Affairs**
• Develop an estimate of the incidence and prevalence of homelessness among LGBT youth.

• Dedicate funds to developmental, preventive, and intervention programs targeted to LGBT youth.

• Develop shelter space and psychosocial support programs for LGBT homeless people.

• Require that all agencies that seek government funding and licenses to serve homeless youth demonstrate awareness and cultural competency of LGBT issues and populations at the institutional level and adopt nondiscrimination policies for LGBT youth.

• Mandate LGBT awareness training for all staff who work in child welfare or juvenile justice issues.

• Develop an inclusive, non-discriminatory homelessness policy that explicitly commits to address the needs of LGBT homeless people.

To the Ministry of Education and Human Resource Development

• Ensure that teachers, counselors, and other staff receive sufficient training and support to intervene in bullying and harassment when it occurs.

To the National Police

• Investigate all allegations of physical or verbal abuse or threats against individuals on the basis of gender identity and sexual orientation.

• Introduce appropriate police training at all levels on human rights and violence based on sexual orientation and gender identity.

• Establish monitoring systems to evaluate on an ongoing basis the work of police stations on their capacity to handle matters relating to gender based violence in a non-judgmental and efficient manner.

• Take all appropriate measures to ensure that all police officers respect the rights to non-discrimination, equality, and privacy, and do not discriminate in the exercise of their functions, including on grounds of gender identity and sexual orientation.

• Take all appropriate measures to ensure that all police officers respect the rights to non-
discrimination, equality, and privacy, and do not discriminate in the exercise of their functions, including on grounds of gender identity and sexual orientation.

- Investigate all allegations of abuse or threats against individuals on grounds of gender identity or sexual orientation, and ensure fair and impartial investigations of the complaints that hold perpetrators accountable to the fullest extent of the law.

- Investigate and document reports of violence and abuse against individuals based on sexual orientation and gender identity.

- Strengthen monitoring and reporting mechanisms to better document incidents of hate crime against LGBT people, ensure accurate reporting and collation of information, and identify patterns of crimes.

- Undertake prompt, independent, and effective investigations into all allegations of acts of violence, including those that may be motivated on the grounds of sexual orientation or gender identity.

- Build a stronger working relationship with leading LGBT organizations. Work consistently and systematically with these organizations to develop sensitization and human rights training, and collaborate with them to identify and document incidences of violence.

- Ensure that all police officers are trained and equipped to properly document and efficiently handle cases of sexual violence targeted at LGBT people.

**To the Government of Grenada**

**To the Office of the Prime Minister**

- Publicly affirm universal human rights and categorically condemn discrimination, including on the basis of sexual orientation and gender identity.

**To the Parliament**

- Repeal article 431, Criminal Code of 1987 as amended in 1993, which criminalizes consensual same-sex conduct.
• End legal discrimination against lesbian, gay, bisexual, and transgender (LGBT) people by repealing all existing laws criminalizing same-sex conduct.

• Pass laws defining the crime of rape in a gender-neutral way so that non-consensual sex between men or between women is included in the definition and subject to equal punishment.

• Take effective measures to combat discrimination on all grounds, including on grounds of sexual orientation or identity. Enact legislation to protect LGBT individuals from discrimination in employment, housing, access to education, health care.

• Adopt a program to increase public awareness of human rights principles of non-discrimination and equality.

• Publicly condemn attacks or incitement to violence against individuals or groups on the basis of sexual orientation and gender identity.

• Recognize the vulnerability of men who have sex with men (MSM) to HIV and include reference to MSM in national HIV/AIDS prevention programs.

• Establish a National Human Rights Institution, in line with the Paris Principles, mandated to promote and protect human rights of all citizens including LGBT individuals.

• Adopt inclusive hate crimes legislation to identify and prosecute bias-motivated violence on the basis of actual or perceived sexual orientation or gender identity. Clearly define “hate crimes,” and ensure that any rape or sexual assault motivated in part by the victim’s sexual orientation or gender identity be included in that definition.

• Recognize the jurisdiction of the Inter-American Court of Human Rights, and in the meantime, consider Advisory Opinion 24, with a view to reforming legislation and policies on sexual orientation and gender identity.

**To the Ministry of Education and Human Resource Development**

• Ensure that teachers, counselors, and other staff receive sufficient training and support to intervene in bullying and harassment when it occurs.

**To the Ministry of Health**

• Introduce and implement a gender recognition procedure in accordance with international
standards and good practice to allow people to change their legal gender on all documents through a process of self-declaration that is free of medical procedures or coercion. Such gender recognition procedure should ensure that changes to documents are made in a way that protects privacy and dignity.

- Develop guidelines and training on non-discrimination for all state health personnel. Ensure that all staff working in healthcare settings are adequately trained and sensitized.

- Scale up training for health care practitioners to understand the health needs and risks for LGBT people, and establish monitoring and evaluation mechanisms to ensure that such trainings contribute to improved provision of services to LGBT people.

- Institute appropriate training for healthcare service providers on human rights, gender-based violence, sexual orientation and gender identity.

- Enable LGBT people to undergo needs assessments for their health (including mental health) and develop programming to address those needs. Such assessments should be strictly voluntary, provide options for anonymity and other protections for participants’ identities, and be conducted in ways that respect the privacy and dignity of LGBT individuals.

To the Ministry of Legal Affairs

- Work with relevant civil society organizations to undertake comprehensive public awareness-raising and sensitivity campaigns on sexual and gender diversity that condemn anti-LGBT violence and promote respect for the human rights of all people, regardless of sexual orientation or gender identity.

- Work with police, prosecutors, health care providers, and other social service agencies to develop an integrated approach or protocol to deal with LGBT people who are victims of violence.

To the Ministry of Social Development, Housing and Community Development

- Develop an estimate of the incidence and prevalence of homelessness among LGBT youth.

- Dedicate funds to developmental, preventive, and intervention programs targeted to LGBT youth.

- Develop shelter space and psychosocial support programs for LGBT homeless people.
• Require that all agencies that seek government funding and licenses to serve homeless youth demonstrate awareness and cultural competency of LGBT issues and populations at the institutional level and adopt nondiscrimination policies for LGBT youth.

• Mandate LGBT awareness training for all staff who work in child welfare or juvenile justice issues.

• Develop an inclusive, non-discriminatory homelessness policy that explicitly commits to address the needs of LGBT homeless people.

To the National Police

• Investigate all allegations of physical or verbal abuse or threats against individuals on the basis of gender identity and sexual orientation.

• Introduce appropriate police training at all levels on human rights and violence based on sexual orientation and gender identity.

• Establish monitoring systems to evaluate on an ongoing basis the work of police stations on their capacity to handle matters relating to gender based violence in a non-judgmental and efficient manner.

• Take all appropriate measures to ensure that all police officers respect the rights to non-discrimination, equality, and privacy, and do not discriminate in the exercise of their functions, including on grounds of gender identity and sexual orientation.

• Take all appropriate measures to ensure that all police officers respect the rights to non-discrimination, equality, and privacy, and do not discriminate in the exercise of their functions, including on grounds of gender identity and sexual orientation.

• Investigate all allegations of abuse or threats against individuals on grounds of gender expression, gender identity, or sexual orientation, and ensure fair and impartial investigations of the complaints that hold perpetrators accountable to the fullest extent of the law.

• Investigate and document reports of violence and abuse against individuals based on sexual orientation and gender identity or expression.

• Strengthen monitoring and reporting mechanisms to better document incidents of hate crime against LGBT people, ensure accurate reporting and collation of information, and identify
patterns of crimes.

- Undertake prompt, independent, and effective investigations into all allegations of acts of violence, including those that may be motivated on the grounds of sexual orientation or gender identity.

- Build a stronger working relationship with leading LGBT organizations. Work consistently and systematically with these organizations to develop sensitization and human rights training, and collaborate with them to identify and document incidences of violence.

- Ensure that all police officers are trained and equipped to properly document and efficiently handle cases of sexual violence targeted at LGBT people.

To the Government of St. Kitts and Nevis

To the Office of the Prime Minister

- Publicly affirm universal human rights and categorically condemn discrimination, including on the basis of sexual orientation and gender identity.


To the Parliament

- Repeal sections 56 and 57 of the Offences Against the Person Act Revised in 2002, which criminalize consensual same-sex conduct.

- End legal discrimination against lesbian, gay, bisexual, and transgender (LGBT) people by repealing all existing laws criminalizing same-sex conduct.

- Take effective measures to combat discrimination on all grounds, including on grounds of sexual orientation or identity. Enact legislation to protect LGBT individuals from discrimination in employment, housing, access to education, health care.

- Adopt a program to increase public awareness of human rights principles of non-discrimination
and equality.

- Publicly condemn attacks or incitement to violence against individuals or groups on the basis of sexual orientation and gender identity.

- Recognize the vulnerability of men who have sex with men (MSM) to HIV and include reference to MSM in national HIV/AIDS prevention programs.

- Establish a National Human Rights Institution, in line with the Paris Principles, mandated to promote and protect human rights of all citizens including LGBT individuals.

- Adopt inclusive hate crimes legislation to identify and prosecute bias-motivated violence on the basis of actual or perceived sexual orientation or gender identity. Clearly define “hate crimes,” and ensure that any rape or sexual assault motivated in part by the victim’s sexual orientation or gender identity be included in that definition.

**To the Ministry of Justice, Legal Affairs and Communications**

- Work with relevant civil society organizations to undertake comprehensive public awareness-raising and sensitivity campaigns on sexual and gender diversity that condemn anti-LGBT violence and promote respect for the human rights of all people, regardless of sexual orientation or gender identity.

- Work with police, prosecutors, health care providers, and other social service agencies to develop an integrated approach or protocol to deal with LGBT people who are victims of violence.

**To the Ministry of Community Development, Gender Affairs, and Social Services**

- Develop an estimate of the incidence and prevalence of homelessness among LGBT youth.

- Dedicate funds to developmental, preventive, and intervention programs targeted to LGBT youth.

- Develop shelter space and psychosocial support programs for LGBT homeless people.

- Require that all agencies that seek government funding and licenses to serve homeless youth demonstrate awareness and cultural competency of LGBT issues and populations at the institutional level and adopt nondiscrimination policies for LGBT youth.
• Mandate LGBT awareness training for all staff who work in child welfare or juvenile justice issues.

• Develop an inclusive, non-discriminatory homelessness policy that explicitly commits to address the needs of LGBT homeless people.

**To the Ministry of Health**

• Introduce and implement a gender recognition procedure in accordance with international standards and good practice to allow people to change their legal gender on all documents through a process of self-declaration that is free of medical procedures or coercion. Such gender recognition procedure should ensure that changes to documents are made in a way that protects privacy and dignity.

• Develop guidelines and training on non-discrimination for all state health personnel. Ensure that all staff working in healthcare settings are adequately trained and sensitized.

• Scale up training for health care practitioners to understand the health needs and risks for LGBT people, and establish monitoring and evaluation mechanisms to ensure that such trainings contribute to improved provision of services to LGBT people.

• Institute appropriate training for healthcare service providers on human rights, gender-based violence, sexual orientation and gender identity.

• Enable LGBT people to undergo needs assessments for their health (including mental health) and develop programming to address those needs. Such assessments should be strictly voluntary, provide options for anonymity and other protections for participants’ identities, and be conducted in ways that respect the privacy and dignity of LGBT individuals.

**To the Ministry of Education**

• Ensure that teachers, counselors, and other staff receive sufficient training and support to intervene in bullying and harassment when it occurs.

**To the National Police**

• Investigate all allegations of physical or verbal abuse or threats against individuals on the basis of
gender identity and sexual orientation.

- Introduce appropriate police training at all levels on human rights and violence based on sexual orientation and gender identity.

- Establish monitoring systems to evaluate on an ongoing basis the work of police stations on their capacity to handle matters relating to gender based violence in a non-judgmental and efficient manner.

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- Ensure that all police officers are trained and equipped to properly document and efficiently handle cases of sexual violence targeted at LGBT people.
To the Government of St. Lucia

To the Office of the Prime Minister

- Publicly affirm universal human rights and categorically condemn discrimination, including on the basis of sexual orientation and gender identity.


To the Parliament

- Repeal section 133 of the Criminal Code, which criminalize consensual same-sex conduct.

- Amend section 132 of the Criminal Code to remove the gender-specific definitions of sexual intercourse.

- End legal discrimination against lesbian, gay, bisexual, and transgender (LGBT) people by repealing all existing laws criminalizing same-sex conduct.

- Take effective measures to combat discrimination on all grounds, including on grounds of sexual orientation or identity. Enact legislation to protect LGBT individuals from discrimination in employment, housing, access to education, health care.

- Adopt a program to increase public awareness of human rights principles of non-discrimination and equality.

- Publicly condemn attacks or incitement to violence against individuals or groups on the basis of sexual orientation and gender identity.

- Recognize the vulnerability of men who have sex with men (MSM) to HIV and include reference to MSM in national HIV/AIDS prevention programs.

- Establish a National Human Rights Institution, in line with the Paris Principles, mandated to promote and protect human rights of all citizens including LGBT individuals.

- Adopt inclusive hate crimes legislation to identify and prosecute bias-motivated violence on the basis of actual or perceived sexual orientation or gender identity. Clearly define “hate crimes,”
and ensure that any rape or sexual assault motivated in part by the victim’s sexual orientation or gender identity be included in that definition.

To the Ministry of Education, Innovation, Gender Relations and Sustainable Development

- Ensure that teachers, counselors, and other staff receive sufficient training and support to intervene in bullying and harassment when it occurs.

To the Ministry of Health and Wellness

- Introduce and implement a gender recognition procedure in accordance with international standards and good practice to allow people to change their legal gender on all documents through a process of self-declaration that is free of medical procedures or coercion. Such gender recognition procedure should ensure that changes to documents are made in a way that protects privacy and dignity.

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- Scale up training for health care practitioners to understand the health needs and risks for LGBT people, and establish monitoring and evaluation mechanisms to ensure that such trainings contribute to improved provision of services to LGBT people.

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- Develop an estimate of the incidence and prevalence of homelessness among LGBT youth.

- Dedicate funds to developmental, preventive, and intervention programs targeted to LGBT youth.

- Develop shelter space and psychosocial support programs for LGBT homeless people.

- Require that all agencies that seek government funding and licenses to serve homeless youth
demonstrate awareness and cultural competency of LGBT issues and populations at the institutional level and adopt nondiscrimination policies for LGBT youth.

- Mandate LGBT awareness training for all staff who work in child welfare or juvenile justice issues.

- Develop an inclusive, non-discriminatory homelessness policy that explicitly commits to address the needs of LGBT homeless people.

**To the Ministry of Home Affairs, Justice and National Security**

- Work with relevant civil society organizations to undertake comprehensive public awareness-raising and sensitivity campaigns on sexual and gender diversity that condemn anti-LGBT violence and promote respect for the human rights of all people, regardless of sexual orientation or gender identity.

- Work with police, prosecutors, health care providers, and other social service agencies to develop an integrated approach or protocol to deal with LGBT people who are victims of violence.

**To the National Police**

- Investigate all allegations of physical or verbal abuse or threats against individuals on the basis of gender identity and sexual orientation.

- Introduce appropriate police training at all levels on human rights and violence based on sexual orientation and gender identity.

- Establish monitoring systems to evaluate on an ongoing basis the work of police stations on their capacity to handle matters relating to gender based violence in a non-judgmental and efficient manner.

- Take all appropriate measures to ensure that all police officers respect the rights to non-discrimination, equality, and privacy, and do not discriminate in the exercise of their functions, including on grounds of gender identity and sexual orientation.

- Take all appropriate measures to ensure that all police officers respect the rights to non-discrimination, equality, and privacy, and do not discriminate in the exercise of their functions, including on grounds of gender expression and sexual orientation.
• Investigate all allegations of abuse or threats against individuals on grounds of gender identity or sexual orientation, and ensure fair and impartial investigations of the complaints that hold perpetrators accountable to the fullest extent of the law.

• Investigate and document reports of violence and abuse against individuals based on sexual orientation and gender identity.

• Strengthen monitoring and reporting mechanisms to better document incidents of hate crime against LGBT people, ensure accurate reporting and collation of information, and identify patterns of crimes.

• Undertake prompt, independent, and effective investigations into all allegations of acts of violence, including those that may be motivated on the grounds of sexual orientation or gender identity.

• Build a stronger working relationship with leading LGBT organizations. Work consistently and systematically with these organizations to develop sensitization and human rights training, and collaborate with them to identify and document incidences of violence.

• Ensure that all police officers are trained and equipped to properly document and efficiently handle cases of sexual violence targeted at LGBT people.

To the Government of St. Vincent and the Grenadines

To the Office of the Prime Minister

• Publicly affirm universal human rights and categorically condemn discrimination, including on the basis of sexual orientation and gender identity.

To the Parliament

• Repeal sections 146 and 148 of the Criminal Code, which criminalize consensual same-sex conduct.

• End legal discrimination against lesbian, gay, bisexual, and transgender (LGBT) people by repealing all existing laws criminalizing same-sex conduct.
• Pass laws defining the crime of rape in a gender-neutral way so that non-consensual sex between men or between women is included in the definition and subject to equal punishment.

• Take effective measures to combat discrimination on all grounds, including on grounds of sexual orientation or identity. Enact legislation to protect LGBT individuals from discrimination in employment, housing, access to education, health care.

• Adopt a program to increase public awareness of human rights principles of non-discrimination and equality.

• Publicly condemn attacks or incitement to violence against individuals or groups on the basis of sexual orientation and gender identity.

• Recognize the vulnerability of men who have sex with men (MSM) to HIV and include reference to MSM in national HIV/AIDS prevention programs.

• Establish a National Human Rights Institution, in line with the Paris Principles, mandated to promote and protect human rights of all citizens including LGBT individuals.

• Adopt inclusive hate crimes legislation to identify and prosecute bias-motivated violence on the basis of actual or perceived sexual orientation or gender identity. Clearly define “hate crimes,” and ensure that any rape or sexual assault motivated in part by the victim’s sexual orientation or gender identity be included in that definition.


To the Ministry of Health, Wellness and the Environment

• Introduce and implement a gender recognition procedure in accordance with international standards and good practice to allow people to change their legal gender on all documents through a process of self-declaration that is free of medical procedures or coercion. Such gender recognition procedure should ensure that changes to documents are made in a way that protects privacy and dignity.

• Develop guidelines and training on non-discrimination for all state health personnel. Ensure that all staff working in healthcare settings are adequately trained and sensitized.

• Scale up training for health care practitioners to understand the health needs and risks for LGBT people, and establish monitoring and evaluation mechanisms to ensure that such trainings contribute to improved provision of services to LGBT people.
• Institute appropriate training for healthcare service providers on human rights, gender-based violence, sexual orientation and gender identity.

• Enable LGBT people to undergo needs assessments for their health (including mental health) and develop programming to address those needs. Such assessments should be strictly voluntary, provide options for anonymity and other protections for participants’ identities, and be conducted in ways that respect the privacy and dignity of LGBT individuals.

To the Ministry of National Mobilization, Social Development, NGO Relations, Family, Gender Affairs, Persons with Disabilities and Youth

• Develop an estimate of the incidence and prevalence of homelessness among LGBT youth.

• Dedicate funds to developmental, preventive, and intervention programs targeted to LGBT youth.

• Develop shelter space and psychosocial support programs for LGBT homeless people.

• Require that all agencies that seek government funding and licenses to serve homeless youth demonstrate awareness and cultural competency of LGBT issues and populations at the institutional level and adopt nondiscrimination policies for LGBT youth.

• Mandate LGBT awareness training for all staff who work in child welfare or juvenile justice issues.

• Develop an inclusive, non-discriminatory homelessness policy that explicitly commits to address the needs of LGBT homeless people.

To the Ministry of Education, National Reconciliation and Ecclesiastical Affairs

• Ensure that teachers, counselors, and other staff receive sufficient training and support to intervene in bullying and harassment when it occurs.

To the National Police

• Investigate all allegations of physical or verbal abuse or threats against individuals on the basis of gender identity and sexual orientation.
• Introduce appropriate police training at all levels on human rights and violence based on sexual orientation and gender identity.

• Establish monitoring systems to evaluate on an ongoing basis the work of police stations on their capacity to handle matters relating to gender based violence in a non-judgmental and efficient manner.

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• Ensure that all police officers are trained and equipped to properly document and efficiently handle cases of sexual violence targeted at LGBT people.

To the Organization of Eastern Caribbean States
• Acknowledge the impact that current laws criminalizing same-sex sexual relations have on the lives of lesbian, gay, bisexual and transgender (LGBT) people.

• Begin to address LGBT issued head on in a more open and constructive way.

• Offer support to politicians and religious leaders to engage with LGBT groups and civil society organizations in the region.

• Recognize the role of these organizations as platforms for development and advancement of human rights records in the region.

To the Commonwealth Secretariat

• Consistent with the 1971 Singapore Declaration of Commonwealth Principles, which affirms “the liberty of the individual,” “equal rights for all citizens,” and “guarantees for personal freedom,” call for the removal of all remaining colonial laws that criminalize consensual sexual activity among people of the same sex.

• As part of Commonwealth programs to help member nations implement international obligations in domestic laws, promote the decriminalization of consensual homosexual conduct on an equal basis with heterosexual conduct.

• Also as part of these programs, develop models for gender-neutral legislation on rape and sexual abuse, and for the protection of children.

• Integrate issues of sexual orientation and gender identity into all human rights educational and training activities, including the Commonwealth Human Rights Training Programme for police.
Acknowledgments

Francisco Berreta, the Columbia Law School David W. Leebron Fellow in the LGBT rights program of Human Rights Watch, was the primary researcher and author of this report. Part of the research was conducted together with Sara Darehshori, US program senior counsel, and Aisling Reidy, senior legal advisor. Amy Branschweiger, senior web communications manager, conducted interviews with the leaders of LGBT organizations of each island.

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This report would not have been possible without the contributions of all of the LGBT individuals in the region who shared their personal stories with us. We express deep gratitude to them and admiration for their courage. We hope their stories will inspire others.
# Glossary

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
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<tbody>
<tr>
<td>Biological sex</td>
<td>The biological classification of bodies as female or male based on such factors as external sex organs, internal sexual and reproductive organs, hormones, and chromosomes.</td>
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<tr>
<td>Sexual orientation</td>
<td>The sexual orientation of a person who is sexually and romantically attracted to both women and men.</td>
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<tr>
<td>Closet</td>
<td>A person who does not acknowledge their sexual orientation to others. People may be completely in the closet (not admitting their sexual orientation to anyone), completely out, or somewhere in between.</td>
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<tr>
<td>Homosexual</td>
<td>A synonym for homosexual in many parts of the world; in this report, used specifically to refer to the sexual orientation of a man whose primary sexual and romantic attraction is towards other men.</td>
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<tr>
<td>Gender</td>
<td>The social and cultural codes (as opposed to biological sex) used to distinguish between what a society considers “masculine” or “feminine” conduct.</td>
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<tr>
<td>Sexual violence</td>
<td>Violence directed against a person on the basis of gender or sex. Gender-based violence can include sexual violence, domestic violence, psychological abuse, sexual exploitation, sexual harassment, harmful traditional practices, and discriminatory practices based on gender. The term originally described violence against women but is now widely understood to include violence targeting women, transgender persons, and men because of how they experience and express their genders and sexualities.</td>
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<tr>
<td>Gender identity</td>
<td>A person’s internal, deeply felt sense of being female or male, both, or something other than female and male.</td>
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<tr>
<td>Masculinity</td>
<td>The external characteristics and behaviors (including such attributes as dress, appearance, mannerisms, speech patterns, and social behavior) that are regarded as typically “masculine” or “feminine” in a particular social context.</td>
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<tr>
<td>Sexual orientation</td>
<td>The sexual orientation of a person whose primary sexual and romantic attractions are toward people of the other sex.</td>
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<tr>
<td>Homophobia</td>
<td>Fear and contempt of homosexuals, usually based on negative stereotypes of homosexuality.</td>
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<tr>
<td>Gender identity</td>
<td>The sexual orientation of a person whose primary sexual and romantic attractions are toward people of the same sex.</td>
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<tr>
<td>Intersex</td>
<td>A person born with reproductive or sexual anatomy that does not seem to fit the typical definitions of “female” or “male.”</td>
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<tr>
<td>Transgender</td>
<td>The sexual orientation of a woman whose primary sexual and romantic attraction is toward other women.</td>
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<tr>
<td>LGBT</td>
<td>An acronym for lesbian, gay, bisexual, and transgender; sometimes referred to as “sexual and gender minorities.” In this report, the term LGBT is generally used to refer to individuals who self-identify as either lesbian, gay, bisexual, or transgender.</td>
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<tr>
<td>Lesbian, gay, bisexual, transgender, and intersex</td>
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<tr>
<td>Term</td>
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<tr>
<td>Men who have sex with men but who do not necessarily identify as “gay,” “homosexual,” or “bisexual.”</td>
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<tr>
<td>A person who is open about their sexual orientation or gender identity.</td>
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<tr>
<td>When a person’s sexual orientation is revealed either deliberately or inadvertently, with or without consent.</td>
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<tr>
<td>An all-inclusive term that includes people who identify as lesbian, gay, bisexual or transgender, men who have sex with men, and women who have sex with women.</td>
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<tr>
<td>The way a person’s sexual and romantic desires are directed. The term describes whether a person is attracted primarily to people of the same sex, a different sex, or both.</td>
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<tr>
<td>The gender identity of people whose sex assigned at birth does not conform to their identified or lived gender.</td>
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<tr>
<td>Fear of, contempt of, or discrimination against transgender persons, usually based on negative stereotypes.</td>
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</table>

A note on Caribbean slang: The following common pejorative terms that refer to men who have sex with men appear in the report: antiman, battyman, batty bwoy, buggerer, buller, bullerman, chichiman, fish, shemale.

Region / Country  Americas, Antigua and Barbuda, Barbados, Dominican Republic, Grenada, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines  
Topic  LGBT Rights
| Tab 7 |
Eastern Caribbean: LGBT People Face Bias, Violence

Repeal Colonial-Era Laws

Jason (pseudonym), a 40-year-old gay man from Barbados. © 2017 Amy Braunschweiger for Human Rights Watch

(Bridgetown, Barbados, March 21, 2018) – Discriminatory laws in
Eastern Caribbean countries make lesbian, gay, bisexual and transgender (LGBT) people targets for discrimination, violence and abuse, Human Rights Watch said in a report released today.

The 107-page report “I Have to Leave to Be Me: Discriminatory Laws against LGBT People in the Eastern Caribbean” covers seven countries: Antigua and Barbuda, Barbados, Dominica, Grenada, Saint Kitts and Nevis, Saint Lucia, and Saint Vincent and the Grenadines. All seven countries have versions of buggery and gross indecency laws, relics of British colonialism, that prohibit same-sex conduct between consenting persons. The laws have broad latitude, are vaguely worded, and serve to legitimize discrimination and hostility toward LGBT people.

“While people are rarely prosecuted for these crimes, the laws single out a vulnerable social group,” said Boris Dittrich, LGBT advocacy director at Human Rights Watch. “The laws give social and legal sanction for discrimination, violence, stigma, and prejudice against LGBT people.”

The report is based on interviews with people from all seven countries during February 2017 with a total of 41 self-identifying LGBT people between the ages of 17 to 53 by Human Rights Watch researchers, working closely with the Eastern Caribbean Alliance
for Diversity and Equality (ECADE). All of those interviewed described being harassed by family members at some point in their lives because they are LGBT or were suspected to be.

“LGBT citizens contribute to the economic development, create homes, family, and safe spaces in home countries that hold on to colonial laws which discriminate against them and make their lives difficult,” said Kenita Placide, executive director of ECADE. Placide is based in Saint Lucia. “Some go to extreme lengths to protect themselves and maintain these safe spaces, including entering into heterosexual relationships. Fear of isolation, violence, and homelessness are the root causes of misery for many LGBT people living in the closet in the Caribbean.”

In the eastern Caribbean, family and church are cornerstones of social life. Interviewees said that they were afraid to come out in their typically close-knit communities, where social networks are tight and information travels fast. They also face the risk of being ostracized by their own families.

Some said they had been forced by their families to leave home or had been cut off from financial support. Many said that family rejection was often couched in moralistic terms, echoed in local church rhetoric. Many faced homelessness and life at the margins of society, leaving them vulnerable to violence and ill health.

“The fear of harassment, rejection, stigmatization, and even physical violence begins in the home and translates to key social spaces, including church and school,” said Richie Maitland, vice-chair of ECADE, who is based in Grenada.

Human Rights Watch and ECADE found that discrimination and stigma against LGBT people seeps into everyday activities, including access to services such as health care, school, or public
transportation, or social activities such as going to the movies or shopping. Some said they had changed their lifestyle and behaviour to avoid contact with hostile members of their family, church, or community. Some opted to socialize only with a few trusted friends in the safety of their homes.

Verbal abuse and harassment can quickly escalate into physical assault. Interviewees described being stabbed, struck, pelted with bottles and bricks, beaten, slapped, choked and, in one instance, chased with a harpoon.

“People don’t understand how much pressure it is not to be your true authentic self and how that is such a mental strain – to the point where that is so detrimental to you as a person,” said Jason (a pseudonym), a 40-year-old man from Barbados. “It hinders our education opportunities, and work opportunities and taking part in your community.”

The English-speaking Caribbean is an outlier in the region. The fact that buggery and gross indecency laws are still on the books there is in stark contrast with recent developments in Latin America, where countries including Bolivia, Chile, Ecuador, Mexico, and Uruguay have been progressive in enacting non-discrimination policies and anti-bias legislation. Latin American countries, including Argentina, Brazil, and Chile have taken an international lead advocating for the rights of LGBT people at the United Nations. Several, including Costa Rica, Mexico, and Uruguay, are members of the Core Group of LGBT-friendly states at the United Nations in New York and of the Equal Rights Coalition, a group of 33 countries committed to the rights of LGBT people.

Local activists and their organizations have been at the forefront of efforts to advance the rights of LGBT people in the region,
including by challenging discriminatory laws in court and exposing human rights violations. In some countries, activists have participated in LGBT awareness training for law enforcement agents. In others, advocates have challenged discriminatory legislation including by petitioning the Inter-American Commission on Human Rights (IACHR). Groups in the region have participated in strategic litigation initiatives.

The governments of Antigua and Barbuda, Barbados, Dominica, Grenada, Saint Kitts and Nevis, Saint Lucia, and Saint Vincent and the Grenadines should repeal all laws that criminalize consensual sexual activity among people of the same sex. They should pass comprehensive legislation that prohibits discrimination, including on grounds of gender identity and sexual orientation, and that includes effective measures to identify, prevent, and respond to discrimination.

“Eastern Caribbean governments should provide LGBT people with the same protections the governments provide to everyone else,” Dittrich said. “The Eastern Caribbean governments should take the initiative to address the stigma that subjects LGBT people to discrimination and violence.”
Eastern Caribbean: LGBT People Face Bias, Violence

Against
Transgender
Women in Lebanon

MORE READING

March 21, 2018  |  Interactive
Paradise Lost

October 22, 2019  |  News Release
EU: Sanction Nicaraguans for Grave Abuses
Tab 8
Paradise Lost
The Plight of LGBT People in the Eastern Caribbean

It’s easy to spot remnants of British colonial rule in much of the Eastern Caribbean, like people driving on the left or Queen Elizabeth II’s profile on the money. But seven islands have a more sinister hangover from colonial days – laws against buggery and gross indecency making same-sex conduct between consenting adults illegal. While no island actively pursues criminal investigations for breaking these laws, their mere existence intensifies a toxic homophobic culture that allows lesbian, gay, bisexual and transgender (LGBT) people to be bullied at school, that fuels their mistrust of police, and allows them to be alienated from – or even abused by – their families. Despite this, each island has a core group of LGBT activists leading the fight for equality. Here are some of their stories, as well as quotes from other LGBT people we met.
St. Kitts and Nevis

Known for black-sand beaches and rainforest-covered mountains, St. Kitts has a population of roughly 35,000. Few LGBT people come out of the closet, fearing the entire island will know. Gay people feel isolated and some fear harassment and violence – beatings, glass bottles thrown at them. Most of the men Human Rights Watch spoke with on St. Kitts had seriously contemplated suicide. Same-sex relationships are outlawed through “unnatural offenses” laws.

Rosa’s* t-shirt. Rosa is a lesbian, gay, bisexual and transgender rights activist on the eastern Caribbean island of St. Kitts. © 2017 Amy Braunschweiger/Human Rights Watch

**Rosa*: Determined to Marry a Woman on St. Kitts

People in Rosa’s community on St. Kitts didn’t believe that she’s really a lesbian. They thought that, because she was raped as a teenager, her fear of men made her gay.
But Rosa, who at 23 is athletic and projects confidence and brashness, isn’t afraid of men. “I’m a lesbian,” she says. “I was like that before [the rape]. I was attracted to females and that’s my life."

Growing up, she always wanted to dress as a boy. “I’d wear a pants and a shirt, and two weeks later [my mom] would cut them up and throw them away,” said Rosa, who walks with a distinct swagger. “She’d give me money, I’d go out and buy men’s clothes, and she’d cut them up and throw them away again.”

She founded the first LGBT organization based on her home island, called the St Kitts/Nevis Alliance for Equality (SKNAFE Alliance). It was a long time coming for St. Kitts, the last of the Caribbean islands to have an LGBT organization. They had their first meeting in January of 2016.

The organization helps kids who are kicked out of their homes for being gay to find shelter. It also supports them in school and helps them to come out of the closet, if that’s what they want. They also distribute condoms and make sure that people who are HIV-positive have the necessary medication and proper health care.

They occasionally throw parties – a recent fete was held outdoors in public. “It went smooth, and nobody said nothing,” Rosa said, calling it a success. That this was good news illustrates the anti-gay culture on St. Kitts.

Before founding SKNAFE Alliance, Rosa worked for a pan-Caribbean group that focused on helping people get healthcare. While at that job, gay people from around the island – many closeted – approached her with questions, wanting more information or support. They knew they’d be safe talking with her – the need for a local organization was clear to Rosa.

"I thought, well I’m personally going to make a stand," she said. “You can make a difference in the country and in the LGBT community.”
Life on the island for Rosa isn’t completely comfortable; her family doesn’t accept her sexuality. But there’s a lot of love between them, she says, and they support her where they can.

“I have to leave to be me,” said Nicholas*, 26, who tried to kill himself because he is gay.

Life on St. Kitts can be awful for gay men. They are frequently harassed, threatened, attacked, tossed out of their homes, and abandoned by their families for being gay. One time, Rosa walked down the street with a gay man, and a group of guys started yelling insults at her friend. Female couples can kiss in public, but “a man on a man could never do that.”

Life is not easy for transgender women either. Another friend of Rosa’s, who had lived openly as a trans woman in the United States but was deported back to St. Kitts, “has had to dial it back,” she said.

Rosa wants two big changes on her island. First, the sodomy laws need to go – being gay shouldn’t be illegal, she believes. “Get those laws corrected.”

Second, she wants to marry a woman. To do so, same-sex marriage would have to be legal. “I keep telling people I have the intention of marrying a female, and they say, it is impossible and it won’t work.”

Rosa is determined to make them both happen.

Antigua and Barbuda

Gay couples abound in the Antigua resorts aimed at international tourists, but it’s rare to see them on island streets. Antigua was
asked to abolish its anti-buggery and serious indecency laws in 2016 by other UN members during its Universal Periodic Review, but the island refused, saying that the “moral and religious” nature of Antiguan society would need to change first. It did, however, acknowledge that the laws would have to change if it were “serious about human rights.”

Barry* is a lesbian, gay, bisexual and transgender rights activist on the eastern Caribbean island of Antigua. © 2017 Private

**Barry*: The View From Inside the Police Force

Barry has served as a police officer in Antigua for more than two decades. All this time the veteran officer has kept a secret from almost everyone on the force: He's gay.

Most days, Barry hears his fellow officers make homophobic slurs. “They say that [gays] should be locked up, that they're nasty, that they don’t know how a man could kiss a man.” One supervisor called being gay “an abomination”.
He also knows that some officers don’t take crimes against LGBT people seriously. Like the time a transgender friend of Barry’s was stabbed and badly wounded. The police refused to help her. Instead, behind her back, Barry heard them call her “antiman,” a derogatory term, and “disgusting.” Another friend, also a trans woman, was beaten so badly by a policeman that she practically lost sight in her right eye.

Barry decided something needed to be done, and that he was the person to act: He arranged for Antigua’s younger police officers to attend LGBT sensitivity training. The results, he said, give him hope. “I’ve already seen a difference.”

“There’s been a lot of struggles for me. I’ve been stoned, battled, bashed. I can’t go a day without someone interfering with me,” said Emily*, 24, a transgender woman.

With an intimidating set of muscles, a gold front tooth, and a fierce look, Barry’s soft voice is surprising. He grew up in Guyana, one of 12 children. His older brothers labored in the gold mines, but Barry didn’t want that – it was hard, risky work. When he saw an advertisement seeking police recruits to work in Antigua, he applied.

“I never believed I would be successful, but I was.” At 19, the police department flew him to Antigua.

From the start, some officers made sexual advances to Barry at the police academy. But at that age, he repressed his homosexuality, embracing the religion and societal norms he grew up with. Even after he accepted being gay, he constantly hid who he was, even from his family, many of whom live in Antigua. People began to wonder about Barry, despite his good looks and his good job – even when he had a girlfriend. Often, when he was single and girls would try to pick him up – Barry is classically handsome – he’d say he wasn’t interested in a relationship. Some people saw this as a red flag for homosexuality.

“It was torture, because you could not speak to family or colleagues about who you were,” he said. Also, the police department is “male-dominated, and most of their conversation is about heterosexual relationships. And you could hear homophobic
statements. It kept me in the closet.”

He was aware that if people knew he was gay, he could be attacked. He also feared eviction from his rented home. And he was afraid of what his colleagues would think, of what they suspected. “Even though they show me respect in my presence, when my back is turned, they talked,” he said.

But in his private life, he became bolder. In 2008, he began to volunteer with an HIV-prevention organization. Then, he started his own organization, Meeting Emotional Social Needs Holistically (MESH). Over time, his organization grew from a few friends hanging out into a group that documents abuses against gay people.

He sees hope in the younger generation. “I see less discrimination on the street among younger people, they’re more tolerant,” he said. “It’s because of media, how LGBTQ people are portrayed, and the information available. Also, a lot of people have relatives elsewhere, like the US, where LGBT people are more open and out.”

He also sees more families supporting gay relatives. And the LGBT sensitivity training he arranged has made a difference.

LGBT people are often afraid to enter police stations, Barry said. They’re afraid the police won’t listen to them. Also, people threaten to call the police on them for being gay – same-sex intimacy, after all, is illegal in Antigua. After the training, Barry noticed that officers were more likely to treat LGBT people better than before. If someone seemed afraid to make a report, they’d be taken directly to the criminal investigation department to give them space and privacy. They were more likely to be taken to a “sensitive” officer. At the same time, he acknowledges that some police officers are afraid of being LGBT-friendly, of seeming weak or soft.

“In Antigua, if you are outspoken you become a target,” said Laura*, 45, a transgender female.

“There is still a level of fear within people of the police,” Barry said. But he hopes this will change. In the meantime, he’ll continue to work to change it from the inside
out.

Dominica

When LGBT tourists post questions about traveling to Dominica in online forums, the answers are usually the same – anti-LGBT laws aren’t enforced, but the country is deeply socially conservative. Be careful. Be discreet. No public displays of affection. During the country’s 2014 Universal Periodic Review, when it’s human rights record was examined by other UN members, it rejected a recommendation to overturn its gross indecency and buggery laws, saying it was “not prepared to introduce any legislation to Parliament decriminalizing sexual relations between adults of the same sex.”
Rachel* is a lesbian, gay, bisexual and transgender rights activist on the eastern Caribbean island of Dominica. © 2017 Private

**Rachel*: Educating Islanders About the Rights of LGBT People

Rachel sat near the beach, constantly checking her phone for news on Dominica, her home island. Protests calling for the prime minister’s resignation had turned into riots, with several stores looted and torched and 32 arrested. For an island with a population of just 72,700, this was big news.

“This will cause more tension between people and the police,” she said.

A few days earlier – before the riots began – Rachel had eagerly awaited the start of a two-day training session with the local police related to gender and domestic violence. As the communications person for Dominica’s bureau of gender affairs, she had helped organize the sessions – not just because she cared about women’s rights, but also because of the way she saw police treat gay men who reported
attacks. Because of the riots, the trainings were canceled.

She knows gay men who had been beaten up, and one – “he was basically trans” – that people tried to throw over a bridge. When he went to report it to the police, “they laughed at him.”

She knows another gay man whose partner beat him so badly it damaged his vision. “And he made a police report. And that got dismissed.” The guy felt he couldn’t press charges, couldn’t admit the culprit was his boyfriend.

That’s why “gay men don’t report violence,” she said.

Even when Rachel talks about heavy subjects – like anti-LGBT attacks – her manner is deceptively light and easy. She’s 27 years old and has a freshness and innocence about her. She likes to laugh and smile, showing off a gap between her front teeth. She’s also speaks with an American accent, having studied at the University of Mississippi in the US, where most of her family lives.

Rachel likes to say she never really came out of the closet. Rather, she raided her brother-in-law’s closet while housesitting one weekend, putting on his shorts and a shirt. “I called my friends over and we sat out and drank and I felt so great. So I kept going into his closet.”

Eventually, she bought men’s clothes for herself, and because of how she dressed, people – including her siblings – assumed she was gay. “I just never set anything straight and I let them keep assuming, because they were right.”

After college, Rachel returned to

“It amazes me how a country calls itself Christian and it’s supposed to live by the gods, and it has a law that breathes nothing but hate,”

says Peter*, 25, about the ‘buggery’ and ‘gross indecency’ laws.

“A guy from my village called me
Dominica. She worked at a radio station, before signing on with the Caribbean HIV AIDS Partnership Dominica Chapter. Today, she works for the government, and she uses her position to educate islanders about LGBT people.

“They are more or less focused on hetero relationships, but that’s only because the words lesbian, gay, bisexual and transgender aren’t included in the policy and law,” she said. So she makes sure to slip these views into official conversations and work. For example, when her bureau made couple’s counseling available to people, she invited LGBT couples.

Once when Rachel was facilitating a sewing class with a group of rural women, one woman started talking about the “gay agenda.” So Rachel drew a Venn diagram of two overlapping circles for them. She described one circle as being for all humans, and she listed out all their rights. Then she described the other circle as being for LGBT people, who’ve had “so many of their rights stripped from them as if they’re no longer human.”

As she pointed to the overlapping middle, she said, “we’re not looking for more, we just want to be equal. What if the person who makes your heart smile every day is a man, and you’re a man, how would you feel?”

The woman who had spoken admitted she had never looked at it that way. “I felt great,” Rachel said. “I got her to understand that it’s not special inclusions. It’s about equality.”

In the future, she wants to keep doing human rights work, but on a larger scale. “I want to work for an organization that can help thousands at a time, help change the minds of people,” she said. “And so far, I’m on the path. I just want to keep going.”
St. Lucia

Like many islands, St. Lucia depends on tourism – its beaches are constantly included in “best honeymoon” articles. But while its tourism minister said in 2015 that the island welcomes visitors from the LGBT community, the country has no plans to change its gross indecency and buggery laws. For the country’s Universal Periodic Review at the UN in 2015, St. Lucia rejected decriminalizing same-sex relationships and creating anti-discrimination laws.

Bennet is a lesbian, gay, bisexual and transgender rights activist on the eastern Caribbean island of St. Lucia. © 2017 Amy Braunschweiger/Human Rights Watch

Bennet: Facing Discrimination on Two Levels

Bennet was already used to being part of a minority on St. Lucia by the time he realized he was also different because he didn’t conform to roles assigned to men by society.
His father was black and his mother was East Indian – descended from indentured servants brought from India to work on St. Lucia’s plantations. Bennet looked like his mother.

East Indians make up a bit more than 2 percent of St. Lucia’s population. Some people discriminate against him, and people occasionally discriminate in his favor – like the time he was served ahead of black people in an East Indian restaurant.

Either way, he stood out.

“I could only use one plate, one spoon, I couldn’t touch anything else” in his mother’s home, said Toby*, 18, who is gay. “It’s like I had some contagious disease.”

“Do your best to be unique and different as opposed to living the way society said you were,” he said. At the time, neither realized Bennet would not conform to roles society typically assign to men.

Bennet accepted his sexuality in his early 20s, deciding not to be bound by traditional beliefs. He liked to do tasks that tradition on the island assigned as “women’s work.”

“People would say, ‘if you have a girlfriend why are you doing the ironing? Why are you doing the cooking? Why do you care if the house is in order?’” he said.

Bennet, now 40, works as the communications and advocacy officer of United and Strong, a local LGBT organization. At this job – and at previous jobs – his focus is on preventing men who have sex with men from contracting HIV and advocating for the rights of LGBT people. He works to better promote the use of condoms and on how to reach young people – the island’s most-at-risk group for HIV. He also works with governmental and community-based agencies to ensure a more conducive environment for the LGBT community in St. Lucia, where many LGBT people keep a low profile. United and Strong is also trying to reach out to rural communities, where many LGBT people do not have access to the necessary information or support.
The fact that he’s a public face for LGBT rights comes at a price.

“People called a radio station saying they’re going to shoot me in the head, cut my throat,” he said. “People threaten me on busses. Say that I should be shot, [that] people from my community should be shot.” Much of the harassment comes from anti-gay Rastafarians, he says.

While he doubts anyone will act on the threats, he has done security training and the organization has taken some security measures.

Bennet hopes St. Lucia will become more LGBT-friendly. One way to do this is through fostering LGBT-friendly businesses, he believes. When the first gay cruise ship came to the island, Bennet recalls, cabs wouldn’t drive passengers around. But when it became known that people on gay cruise ships spent more money than other tourists, the drivers changed their minds. St. Lucia’s government was also quick to defend gay cruise ships.

“People were thinking we were bringing a foreign concept, that the youth would become ‘more gay,’” Bennet said. “But then people realized that, at the end of the day, people were coming to enjoy a vacation.”

Bennet has three children, and his daughter, now 13, is being asked questions about Bennet’s sexuality. To prepare her, Bennet has spent a lot of time talking with her about people who are different.

Like Bennet, his daughter looks East Indian. “So she herself embraces that she’s different, that she’s not the average black child,” Bennet says. “That’s allowed her to understand.”

Like his own mother, Bennet is raising his children to feel good about standing out and being unique.

Now when people ask her if her dad is gay, his daughter has an answer: “It doesn’t matter what my dad is,” she says. “What’s important is that he’s helping people.”
St. Vincent and the Grenadines

Roughly a dozen Christian ministers from St. Vincent and the Grenadines and four other Caribbean countries urged the US to stop promoting LGBT rights abroad in a 2017 letter to US President Donald Trump. The country refused to overturn its buggery and gross indecency laws, even after a request during its Universal Period Review by other UN-member countries, stating that the laws are supported by its “Christian society.” In response, St. Vincent did note that more and more people – especially young people – accept gays and lesbians.
An unknown man from an Eastern Caribbean island. © 2018 Boris Dittrich/Human Rights Watch

Manage: Supporting Underserved Children with Theater and the Arts
For Manage, an actor and writer on St. Vincent, activism started in community college.

One of his lecturers, assessing students' dance presentations, favored some students over others, Manage believed. When Manage called her out, she warned, “I’m going to fail you.” True to her word, when he got his grades, she had given him a zero.

This same lecturer had tried to insult him – both in private and in front of the class – by saying Manage acted “as if he wanted a man.” Manage is gay.

Manage knew he couldn’t prove she discriminated against him for being gay, but he believed he could prove she was generally biased against him. He invited the college dean and board to interview the class regarding his grade, and they did. He took it to Facebook and radio stations. He asked politicians to investigate. After a number of months, he was allowed to retake his test. He scored 82 percent.

It takes confidence to take on your school, but Manage, who has the big personality and mega-watt smile of a performer, also has clarity of purpose. He considers himself a social activist. “Most of my writings are on that level,” he says. “I speak to resistance a lot.”

He also speaks out on issues of race, gender, rape, and violence against women and children. “I speak to the fact that we are one people and needed to be treated equally, that we are humans and have basic human rights.”

Because Manage is gay, he hasn’t always been treated as equal to others. “For quite a while in my life I have been bullied, I have been harassed, maligned, and to use very strong terms, terrorized as an openly gay person.”

“Most gay people don’t go the police,” said Anthony*, 36, who is gay. “They are afraid of being physically gay-bashed.”
As a kid, he was called “girlie” and “a sissy,” although most of his three sisters and six brothers defended him. As an adult, if he went to a club and a DJ spotted him, they’d shout, “We have a battyman in the house” – “battyman” being a pejorative term in the Caribbean for a gay man – and they would spin homophobic music as people cheered and danced. But he was no victim. When they threw bottles or bricks at him, he fought back.

“My mother put me out of my house at 15 or 16,” said Alfred*, who is gay.

Today, Manage works in the performing arts. In 2005, he set up an organization called Urban League to support kids in underserved communities, like the one where he lives, nicknamed Baghdad because of the shooting and violence. He works with 80 to 100 children a year, creating platforms for them to express their creative ability, through African drumming, poetry, and art workshops. His Urban Expression theater company is geared towards teenagers. He helps kids who don’t know how to read and works with teachers. He also collects donations for books and school uniforms.

All the kids’ parents know Manage is gay. “I’m accepted,” he said. “But if other gay men came, they’d harass them terribly.”

When we asked Manage what advice he’d give his 12-year-old-self, he choked up. He paused, looked down, and took a deep breath. “I don’t know. I don’t think there’s much I would have changed. I would say connect more to your mother. She wasn’t around a lot to supervise, she was working a lot, I had too much freedom.” He would also “stand up against the abuse more.”

It’s no coincidence he hopes to give St. Vincent’s kids what he lacked – a safe place to go when parents are working, and someone to teach them their own self-worth, so they can stand up for themselves.
Barbados

With its pristine beaches, Barbados is a top tourist destination, making it one of the Caribbean’s wealthier islands. Similar to other islands, Christianity plays an integral role here, and LGBT people we interviewed often spoke bitterly about their treatment by the church. One man told us that his pastor looked right at him while he preached against homosexuality. There are signs of change: The Anglican Archbishop of West Indies and Bishop of Barbados made headlines in 2017 by publicly calling for every human being to be treated equally, no matter their sexual orientation. Same-sex relationships are outlawed through “buggery” and “serious indecency” laws.
An unknown man on the Eastern Caribbean island of Barbados. © 2018 Boris Dittrich/Human Rights Watch

**Jason*: Raped and Made to Feel Blame
One night about six years ago, as Jason was getting into his car, a man got behind him and raped him – Jason never saw the man’s face. When he reported the crime to police, the officer made Jason feel he was to blame for the attack.

“Initially they wanted to know where I met this person, how I met this person,” Jason said. They didn’t believe Jason when he said the man was a stranger, and they accused him of withholding details about what happened. To Jason, it was clear the police assumed a friend or a date raped him, and they wanted to dismiss the case. “I’m telling you someone raped me,” he said over and over.

“It was already emotional,” Jason said. “I felt as if I wasn’t being heard.”

The next day, Jason went back to the police station to give an official statement. At one point, Jason recalls, the officer said, “We’re writing too much now, let’s wrap this up.”

My family and son’s father “took my son to a place where they take kids who are abused, and they questioned him about what type of treatment he received from his mom and his mom’s friends, most of my friends being LGBT persons,” said Sophia*, who is a lesbian.

I had spent a few days with Jason before he shared this story, and he almost always radiated good cheer, seeming carefree. But now, his eyes were sad.

As a member of a Barbados LGBT group, Jason knew that police often ignored complaints from gay people.

“What was happening with law enforcement didn’t surprise me,” said Jason, his habitual wide smile replaced by an angry, pained expression. “I’d heard other people talk about it. I was just experiencing it for the first time.”

To this day, he doesn’t know what happened with his case. No one contacted him, and he never went back to ask if police filed a complaint.
Unlike many gay people in Barbados, Jason grew up with privilege. “Barbados is also very classist. You’re not going to face open harassment at [certain class] levels.”

He doesn’t feel completely accepted as LGBT by much of his family – they were thrilled when he married a woman, even though they knew he was gay. To Jason, who is now divorced, this meant they were mostly concerned with social norms. They never cut him off financially, and this, he believes, allowed him to come out of the closet and still be successful.

“My mom called her brothers to beat me. I think they were trying to beat it out of me, convert me. But this is who I am, I can’t change it,” said Ernest*, who is gay.

In his social class, parents would often send their gay children away to another country. “That can be a good or a bad thing,” Jason says. If parents are effectively kicking their child out of the country so the family won’t be “stained,” it’s bad. But if parents want their LGBT child to live in a more tolerant place, it can be good, he said.

And it beats being poor and gay, when your main opportunity to leave Barbados is seeking asylum and refugee status elsewhere.

But Jason, who had studied and lived abroad, decided to stay in Barbados and work with other LGBT people there. He sees the human rights abuses firsthand, like the loss of educational opportunities. He also has a gay friend who didn’t pursue a job because it involved taking a lie detector test. One of the questions was “have you ever broken the law?” and the friend had broken the country’s buggery and serious indecency laws – which Jason believes should be struck down.

He sees how LGBT people are constantly scolded and told they’re not good enough until they believe it. “A lot of Barbadians say, at least we’re not in Jamaica where [LGBT people] get beaten and killed. And that’s true, we let them live. But not as themselves.”
Grenada

Grenada tried to pass a Rights and Freedoms bill, which called for gender equality, in 2016. Even though the bill said nothing about LGBT rights, religious leaders campaigned against it, saying it was a step towards gay marriage, and the bill failed in a parliamentary vote. In 2015, while visiting New York, Prime Minister Keith Mitchell called for more tolerance for Grenada’s LGBT community. However, he has also made homophobic comments. Same-sex relationships are outlawed through “gross indecency” and “unnatural connection” laws.

Mark* is a lesbian, gay, bisexual and transgender rights activist on the eastern Caribbean island of Granada. © 2017 Amy Braunschweiger/Human Rights Watch

**Mark*: Pushing for Change from the Shadows

Mark is an expert at hiding who he is. He barely let his guard down for the first half
of our interview. He knows how to expertly and subtly deflect people, a skill he learned while concealing his bisexuality.

“People would think twice before they approached me or said anything about it,” says Mark, who has chosen not to come out publicly.

Mark didn’t have a hard time growing up, unlike many other LGBT people. He came from a close community, and his life consisted of school, home, and church. True, a couple of his eight siblings sometimes harassed him about acting effeminate, but they lived in Trinidad with Mark’s father, while he lived in Grenada with his mother. It helped he was an A-student and athletic, not someone to be singled out for abuse.

Also, Mark flies under people’s radar as he has two daughters – one’s just a baby – and has had girlfriends. That said, he’s been living with his male partner for four years.

“We know how to carry ourselves in public so people wouldn’t question what went on behind closed doors,” he said.

He’s worked in LGBT advocacy in Grenada for 10 years, sometimes paid and sometimes as a volunteer, while teaching math and computers or working in a hotel. He even worked with Grenada’s government.

“I’d always wanted to help with HIV/AIDS,” he said. “I saw the need.”

He starting out with an HIV awareness organization, where he went into communities and talked about sex and reproductive health. He always hoped to meet men who had sex with men, to ask them about using condoms and getting tested, if their family knew, and how they treated them.
At one point, he worked in the countryside where people had no internet to learn about LGBT issues.

“I really heard what these people went through, their coming-out stories,” he said. “On the rural side, it’s harder. It’s a more closed place. People are less educated about it, and it's a religious island.”

He heard stories of discrimination in communities and families, of emotional and verbal abuse. People told him that their families said, “It’s not normal” or they would “beat it out of” them, he said. “A lot of people I met had a hard time.”

Rural schools were particularly problematic, he found. There was no guidance from teachers, some of whom would pick on LGBT students and make jokes at their expense, embarrassing them in front of the class. “A lot [of LGBT kids] developed their own strategy by it, some decided not to be bothered, and some fought back,” he said. “Some fought back physically and got thrown out of school, in some cases, because of their lifestyle.”

Often it’s students who single out LGBT kids in schools. Mark’s oldest daughter is 11, and he and his daughter’s mother have already prepared her to deal with questions from her friends about Mark’s sexuality. “She has a hot mouth so I’m not scared for her,” he said. “She knows how to handle herself. I’m not fearful for her when it comes to that.”

He’s also finding the younger generation in Grenada is more accepting of LGBT people, in part because of how gays and lesbians are portrayed on television. “It may have been a taboo topic at home, but it hits home when they realize it’s within their family,” he says. “Now, they support their child and stand up for them.”

Maybe, with the younger generation, the atmosphere will change enough that Mark will actually feel safe to stop pretending and be himself.
*Not their real names*
Tab 9
This report was developed by the Kaleidoscope Trust in association with Kaleidoscope Australia Human Rights Foundation.

Thanks to the support and hard work of Dr Felicity Daly, Dr Paula Gerber, Jaevion Nelson, Silas Mukangu, Douglas Pretsell, Alistair Stewart, Dr Ian Warwick and Ben Wilson.

The credit for the achievements outlined in this report, and for the courageous efforts made to confront the challenges it highlights, lies wholly with LGBTI people across the Commonwealth who strive tirelessly to fight injustice. It is impossible to thank everybody whose work contributed to the report.

The development of the report was guided by the members of the Commonwealth Equality Network, whose members’ expertise has been invaluable in adding depth and context to this research.
37. THE AMERICAS St Lucia, St Kitts and Nevis
38. THE AMERICAS St Vincent and the Grenadines
39. THE AMERICAS Trinidad and Tobago
40. ASIA Bangladesh
41. ASIA Brunei
42. ASIA India
43. ASIA Malaysia
44. ASIA Maldives
45. ASIA Pakistan
46. ASIA Singapore
47. ASIA Sri Lanka
48. EUROPE Cyprus
49. EUROPE Malta
50. EUROPE United Kingdom
51. PACIFIC Australia
52. PACIFIC Fiji
53. PACIFIC Kiribati
54. PACIFIC Nauru
55. PACIFIC New Zealand
56. PACIFIC Papua New Guinea
57. PACIFIC Samoa
58. PACIFIC Somolol Islands, Tonga
59. PACIFIC Tuvalu
60. PACIFIC Vanuatu
61. ENDNOTES
The Kaleidoscope Trust works to advance the human rights of lesbian, gay, bisexual and trans (LGBT) people in countries where they lack their equal rights. We have a particular focus on Commonwealth member states, where 40 of the 53 states still have laws which criminalise same-sex relationships in some way. Increasingly the international community recognises the deficiencies among Commonwealth member states in upholding the human rights of LGBTI people.

Speaking Out 2015, our biennial report on the rights of LGBTI people from across the Commonwealth, is one of the ways we amplify the voices of LGBTI activists to a wider audience. The report compiles the testimony from LGBTI people from across the Commonwealth who experience various forms of discrimination. Sadly, this is despite the Commonwealth’s clear opposition to “all forms of discrimination.”

Building on the Trust’s record of developing strategic networks, bringing LGBT activists together with national and international policy-makers and business leaders we host the Commonwealth Equality Network (TCEN). This is first civil society group to advocate consistently on behalf of LGBTI people within the Commonwealth diplomatic community, Commonwealth Institutions and Commonwealth civil society. TCEN brings together over 35 organisations from over 30 Commonwealth countries. For the first time, a delegation of TCEN members will attend the Heads of Government meeting (CHOGM) in Malta in November 2015.

Through the Trust’s consistent efforts and in conjunction with TCEN, we have achieved significant support from the Commonwealth Foundation to discuss and amplify LGBTI people’s concerns. For the first time at the 2015 Commonwealth People’s Forum, there will be dedicated discussions about issues facing LGBTI people in the Commonwealth. We are extremely pleased with and applaud the more forthright statements on LGBTI rights from the Commonwealth Secretariat which is bringing stronger leadership to this issue.

We were greatly encouraged by Secretary-General Kamalesh Sharma’s statement on the International Day against Homophobia, Transphobia and Biphobia in May 2015 where he said that stigma and discrimination against LGBTI people is

“unacceptable: it robs millions of our fellow citizens of the right to live lives of dignity, undermining their mental and physical health, and sense of well-being. It leads to social estrangement, ostracism and isolation, and economic marginalisation. It flies in the face of our core values of equality and non-discrimination.”

As Commonwealth leaders gather at CHOGM, we are compelled to reflect again on this statement as well as the data and testimonies in this report demonstrating the discrimination that LGBTI people continue to face.
Speaking Out 2015 is a compilation of contributions from activists, human rights organisations and researchers which intends to:

• deepen understanding of LGBTI rights of key Commonwealth policy makers and offer them a range of well-researched, practical policy recommendations to support change at all levels of the Commonwealth;

• increase public understanding and highlight the challenges facing LGBTI communities in the Commonwealth in the lead up to CHOGM; and,

• support the advocacy efforts of the Trust, TCEN and other human rights advocates engaging in the 2015 CHOGM.

The Trust sees the 2015 CHOGM hosted by the Government of Malta as an excellent opportunity to raise the issue of LGBTI rights in the Commonwealth community. It provides Malta the opportunity to leverage its domestic successes in introducing a range of progressive LGBTI rights onto an international stage.

The 2015 CHOGM creates an excellent opportunity for Commonwealth states to make the non-discrimination in the Commonwealth Charter a reality for LGBT citizens. The can do this by making clear commitments to improving LGBT rights domestically, and to work collectively and share stories of success, such as those in Malta, so as to build momentum for greater positive change. This CHOGM has the potential to be a turning point for LGBT rights internationally, and we encourage all the participants to use this meeting to commit to improving the basic human rights of their LGBT citizens.

John Fingleton

Chair of the Board of Trustees, Kaleidoscope Trust
In 2012 the Commonwealth Heads of Government officially adopted the Commonwealth Charter. The Charter is an affirmation of the values and aspirations which unite the Commonwealth: democracy, human rights and the rule of law. The Charter builds on a long history of Commonwealth commitments to the values of equality, diversity, democracy and respect for human rights.

For LGBTI communities, organisations and activists the language of the Charter was a mixed blessing. The failure of the Charter to specifically address the concerns of LGBTI people was a lost opportunity. However, the commitment to “equality and respect for the protection and promotion of civil, political, economic, social and cultural rights, including the right to development, for all without discrimination on any grounds” must be embraced as inclusive of LGBTI communities.

As this report shows, however, the lived experience of LGBTI people across the Commonwealth countries does not match the aspirations of the Charter. Of the 53 member states, 40 continue to criminalise same-sex activity in some way. More than 90% of Commonwealth citizens live in a jurisdiction that criminalises LGBTI people. There is growing evidence that, in every Commonwealth country, LGBTI people face higher rates of violence, reduced economic chances and poorer health outcomes than their peers. They are more likely to suffer entrenched legal discrimination and are less likely to be able to access legal protections than in non-Commonwealth countries.

While the criminalisation of same-sex activity underpins and supports a framework of exclusion, it is important to highlight that the challenges that face LGBTI people extend beyond the fact of criminalisation. Basic personal safety, to live a life free from threats and acts of violence, remains a major concern for many LGBTI people regardless of where they live or their legal status. Discrimination in education, in the workplace, in housing and in health services are recurring themes for many of the contributors to this report. The effective exclusion from a range of services works to worsen the economic outcomes of LGBTI people. Moreover, the specific needs of lesbian and bisexual women, trans and intersex people, are not always met by the abolition of laws that largely criminalise sex between men. Legal reform alone will not counter this and needs to be coupled strategically to other mechanisms for change including through good policy practice and more supportive social norms.

It is, nonetheless, worth noting and celebrating the progress that is occurring in a number of Commonwealth nations. When Commonwealth leaders met in 2013 in Sri Lanka, 41 members were counted as having laws that criminalised same-sex sexual activity. That number is now 40. In June of 2015 in Mozambique, the new Penal Code came into effect, acting to legalise homosexuality in the country. Clarification around the status of the Common Law in Lesotho, means that the 2012 Penal Code is now
interpreted as having effectively decriminalised sex between men. While the Supreme Court in India acted in late 2013 to re-instate Section 377 of the Penal Code that criminalises sodomy, the response to the ruling galvanised support for the LGBTI community in many parts of the country. This year in India, a landmark judicial ruling and new legislation have helped to secure the rights and entitlements of Hijra Indians (a traditional third gender category), allowing for reserved places in education and government, prohibiting discrimination in employment and opening up access to a raft of benefits.

Malta, the host of this year’s Commonwealth Heads of Government Meeting, has led the way, not just in the Commonwealth, but globally, in supporting the rights of LGBTI people through law and policy. In 2014 Malta introduced same-sex partnerships on legal par with marriage, including adoption rights for same-sex couples. This historic step was followed by a constitutional amendment to protect sexual orientation and gender identity. In this Malta joins South Africa and Fiji as the only Commonwealth countries to expressly offer protections to citizens on the basis of sexual orientation and/or gender identity in their constitutions. In 2015 Malta passed world leading legislation securing the right for its citizens to change gender and introduced protections to prevent non-consensual surgical procedures for intersex minors. Malta’s success at guarding the rights of all its citizen was recognised by ILGA EU, (the International Lesbian, Gay, Bisexual, Trans and Intersex Association) which ranked the country as the best place in Europe to be LGBTI.

Beyond just recognising and celebrating the improvements for LGBTI people in the Commonwealth, it is vital that we mark the role that the Commonwealth must play in understanding, encouraging and supporting good policy practice in the realisation of rights for all its citizens. The Commonwealth is well placed, as a network of institutions, civil society actors and nation states, to support this good practice and to work together to better understand and resource the development and implementation of good policy.

There is a vital role for Commonwealth civil society here. Civil society in the Commonwealth has long led the way in highlighting and supporting the rights of LGBTI people, in local, regional and cross-Commonwealth contexts. LGBTI civil society across the Commonwealth is increasingly vibrant, confident and active, often in the face of social stigma and official censure. The formation since the 2013 CHOGM of the Commonwealth Equality Network, is an example of the way in which national civil society actors are building on their local and regional expertise and joining together to take Commonwealth-wide action to support the rights of LGBTI people. The Kaleidoscope Trust is proud to be a founding member of TCEN and serve as Treasurer. The insight, expertise and support of the TCEN membership has been invaluable in developing this report, particularly its recommendations. TCEN, with over 35 member organisations from every Commonwealth region is a living example of how the shared history, language and values of the Commonwealth can be used as a platform for progressive change.

The breadth of the membership of TCEN is also representative of the immense diversity of the Commonwealth’s 2 billion plus citizens and of the Commonwealth’s LGBTI communities. This diversity mirrors the vast range of challenges facing LGBTI communities and the need for Commonwealth-wide responses to be responsive to local concerns and strategies. The diverse experiences of Commonwealth nations, institutions and civil society actors in tackling discrimination based on sexual orientation and gender identity offers a rich toolbox of policies and of advocacy, legislative and litigation strategies that can be deployed in different ways in different contexts.

Despite this diversity, there are key themes that face LGBTI people across the Commonwealth. Theses themes, and the recommendations that flow from them, arise out the findings of this report and from consultation with TCEN. Physical security, economic security, legal equality and the need for a safe and enabling social environment Violence remains one of the overriding concerns of many LGBTI communities in the Commonwealth, and is borne out through the evidence and testimony gathered
in this report. Furthermore, the violence facing LGBTI people in the Commonwealth has been recognised by Secretary-General Kamalesh Sharma in his statement to mark the 2015 International Day Against Homophobia and Transphobia:

Lesbian, gay, bisexual, transgender and intersex (LGBTI) Commonwealth citizens remain victims of stigma and discrimination in many of our communities. Appalling persecution and violence are suffered merely because of innate sexual orientation and gender identity.3

Also in 2015, the UN High Commissioner for Human Rights, Zeid Ra’ad Al Hussein, published a landmark report on discrimination and violence against individuals based on their sexual orientation and gender identity, in which he observed:

The overall picture remains one of continuing, pervasive, violent abuse, harassment and discrimination affecting LGBT and intersex persons in all regions. These constitute serious human rights violations, often perpetrated with impunity, indicating that current arrangements to protect the human rights of LGBT and intersex persons are inadequate.4

Despite the welcome words of the Secretary-General, the Commonwealth still lags behind other regional bodies which have taken a stance against the violence, discrimination and human rights violations faced by LGBTI people, even those with large Commonwealth memberships. The Organisation of American States (OAS) condemned violence based on sexual orientation and gender identity and invited states to adopt measures to eliminate them. In 2010 the OAS General Assembly reaffirmed and updated its resolution on Human Rights, Sexual Orientation, and Gender Identity and stated that it:

RESOLVES to condemn acts of violence and human rights violations committed against persons because of their sexual orientation and gender identity; and to urge states to investigate these acts and violations to ensure that their perpetrators are brought to justice.5

The African Commission on Human and People’s Rights in 2014 published Resolution 275: Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity. The Resolution stated that the Commission:

Condemns the increasing incidence of violence and other human rights violations, including murder, rape, assault, arbitrary imprisonment and other forms of persecution of persons on the basis of their imputed or real sexual orientation or gender identity; Specifically condemns the situation of systematic attacks by State and non-state actors against persons on the basis of their imputed or real sexual orientation or gender identity; Strongly urges States to end all acts of violence and abuse, whether committed by State or non-state actors, including by enacting and effectively applying appropriate laws prohibiting and punishing all forms of violence including those targeting persons on the basis of their imputed or real sexual orientation or gender identities, ensuring proper investigation and diligent prosecution of perpetrators, and establishing judicial procedures responsive to the needs of victims.6

The lack of action by Commonwealth leaders to not just condemn, but to prevent, violence against their own citizens remains an obstacle to fully realising the values of the Charter and the rights of LGBTI people.

Economic security is another recurring theme in this report and one that ties to the wider agenda set by the Sustainable Development Goals. The combination of social prejudice and criminalisation acts to exclude LGBTI people from essential services including health, education, employment, housing and impedes their access to justice. Beyond the numerous examples of exclusion highlighted in this report, there is a growing body of evidence documenting this exclusion. WHO has stated that exclusion from health services on the basis of sexual orientation and gender identity contributes to poorer health outcomes, particularly for already at-risk communities, such as men who have sex with men, sex workers
and trans women. UNESCO has asserted that LGBT students face higher rates of harassment in, and exclusion from, education than their peers, in almost every country where there is data. In Uganda evidence suggests that being denied housing because of actual or perceived sexual orientation is commonplace, even more so following the passage of the Anti-homosexuality Act.

The exclusion faced by LGBT people has deleterious economic effects on individuals, families, communities and national economies. Where they face legal and social discrimination LGBT people may face “exclusion from social and economic participation, or included on adverse terms” resulting in lower socio-economic outcomes for them as individuals. Research in India undertaken by the World Bank suggests that the exclusion from health, education, housing and employment faced by LGBT people has a whole economy cost of between 0.1% - 1.7% of GDP. Research by the Williams Institute suggests a positive correlation between the recognition of LGBT peoples’ human rights and a nation’s GDP.

These issues resonate with the recently adopted Sustainable Development Goals (SDGs) both in terms of the content of the goals and their stated aim to ‘leave no-one behind’. The SDGs, a set of globally consulted, universally applicable goals, targets and indicators, designed to guide a more inclusive development framework. For the SDGs to be truly inclusive, leaders need to ensure that their implementation takes into account the needs of all citizens, regardless of sexual orientation and gender identity.

A review conducted by the Institute of Development Studies demonstrates that in order to effectively meet specific targets of the SDGs they must be inclusive of sexual orientation and gender identity and expression in order reach the overall objective of ensuring that no-one is left behind in the development agenda. The following goals and targets, encompass many of the issues facing LGBTI people in the Commonwealth:

**Goal 1 End Poverty**
**Target 1.4** Ensure that all men and women have equal rights to economic resources . . . basic services, control over land and other forms of property

**Goal 3 Healthy Lives and Wellbeing for all**
**Target 3.4** Promote mental health and well-being
**Target 3.8** Achieve universal health coverage for all

**Goal 4 Quality Education for all**
**Target 4.5** Ensure equal access to all levels of education for children in vulnerable situations

**Goal 5 Gender Equality**
**Target 5.2** Eliminate all forms of violence against women and girls

**Goal 8 Decent Work for All**
**Target 8.5** Achieve full and productive employment and decent work for all women and men

**Goal 10 Reduce inequality**
**Target 10.3** Ensure equal opportunity, including by eliminating discriminatory laws, policies and practices

**Goal 11 Make cities inclusive**
**Target 11.1** Ensure access for all to adequate, safe and affordable housing and basic services

**Goal 16 Inclusive Societies, Access to Justice & Inclusive Institutions**
**Target 16.1** Significantly reduce all forms of violence and related death threats everywhere

The role of the Commonwealth in promoting the SDGs is clear and underscored by the Commonwealth Charter which states:

We are committed to removing wide disparities and unequal living standards as guided by internationally agreed development goals. We are also committed to building economic resilience and promoting social equity, and we reiterate the value in technical assistance, capacity building and practical cooperation in promoting development.

The Commonwealth, through its institutions and as a forum for bilateral and multilateral relationships between states and other actors, has a vital role to play in supporting members to meet the
targets set out by the SDGs. There is a responsibility here to ensure that, in supporting states to achieve SDG targets, the Commonwealth Institutions work to ensure equal access for all in healthcare, education, employment and housing and other basic services regardless of sexual orientation and/or gender identity. To do so is not only necessary to fully realise the aims of the SDGs, but is needed to fully realise the values expressed in the Charter.

We head into this year’s CHOGM with much to be hopeful for. For the first time ever the Commonwealth People’s Forum is hosting not one, but two sessions, devoted to examining the challenges that face LGBTI people and exploring the opportunities that the Commonwealth offers in addressing those challenges. Outgoing Secretary-General Kamalesh Sharma has consistently publicly supported the rights of LGBTI people in the Commonwealth. We are hopeful that his successor will continue this trend. The formation of the Commonwealth Equality Network has created a platform for national and regional civil society actors to translate their substantial expertise into well informed and effective Commonwealth-focused action.

Alistair Stewart
We support the following recommendations, made by the Commonwealth Equality Network.

In all Commonwealth member states people whose sexual orientation is outside the heterosexual mainstream or whose gender identity/expression does not fit within binary genders face harassment and violence. We call on Commonwealth leaders to follow the example of the African Commission on Human and People’s Rights, the Organisation of American States and the UN Human Rights Council, and condemn violence on any grounds. Furthermore, Commonwealth leaders and institutions must make concrete efforts to prevent acts of violence and harassment committed against individuals because of their sexual orientation and gender identity-expression.

We welcome the adoption of the Sustainable Development Goals (SDGs) and the Commonwealth’s support of member states to reach the goals and targets. Inherent in the goals is the principle that sustainable development will ‘leave no-one behind.’ We urge Commonwealth leaders to ensure that, in attaining the SDGs, they ensure equal access to, and protection in, healthcare, education, employment, social services and welfare, supported by policy and law, regardless of sexual orientation and/or gender identity/expression.

Furthermore, we call on Commonwealth leaders to:

- Engage in meaningful dialogue with their own LGBTI communities to facilitate an informed debate about the means to remove all legal and other impediments to the enjoyment of their human rights.
- Commit to open and free debate across the Commonwealth on how best to safeguard the rights of LGBTI people.
- Support the Commonwealth Equality Network in its accreditation to the Commonwealth.
- Commit to include a discussion on equal rights for LGBTI citizens as a substantive agenda item at the next CHOGM.
Sections 164, 165 and 167 of the Botswana Penal Code criminalise homosexuality as “offences against the order of nature...whether in public or private.” Botswana’s courts define “against the order of nature” as anal intercourse. The law in Botswana is “gender neutral,” but typically only male same-sex sexual acts are criminalised. Sexual identity is not criminalised. The maximum penalty for violation of Botswana’s homosexuality laws is seven years in prison. LGBTI persons face stigma and discrimination in public because homosexuality is often characterised as a “western disease” or “un-African.” LGBTI individuals in Botswana receive protection from discrimination in employment.

Recent developments
In November 2014, the Lesbians, Gays and Bisexuals of Botswana (LeGaBiBo) gained official recognition as a non-governmental organisation in a landmark ruling by the High Court. Previously, the government owned Registrar of Societies declined to register the group, citing that the Constitution did not recognise homosexuality. Most recently, the High Court Judge ruled in the favour of the group, stating that denying access to registration was an unconstitutional violation of the applicants’ right to freedom of expression, freedom of association and free assembly.

The government later appealed the High Court ruling, arguing that the Constitution of Botswana doesn’t recognise homosexuality. By January 2015, the High Court had not yet listed the case. The appeal is still in the Registrars office of the High Court of Appeal, awaiting the appeal date. LeGaBiBo remains unregistered because of the appeal.

Since 2013, the media and public in Botswana has heightened their focus on the issue of homosexuality and reflects negative social attitudes toward homosexuality evidenced through religious bias and homophobic stigma.

“Though the organisation [LeGaBiBo] hasn’t been registered, this win [in the High Court] boosted the morale in the LGBTI community. We now have more people involved with the activities of the organisation.”

Caine Kaene
Gay Rights Activist
Homosexuality is banned under Article 347 of the Cameroon Penal Code attracting sentences between six months and five years imprisonment, or a fine of CFA francs 20,000 – 200,000 (USD 42 – 419). The law in Cameroon is gender neutral. The law has been used to arbitrarily arrest and harass people suspected of homosexuality and “deviant behaviours.” There is marked public hostility toward LGBTI persons, so much so that mere suspicion of LGBTI activity may lead to arrest. Since 2005, enforcement of the law has continually increased following the arrest of 32 individuals at a night club. Often individuals arrested under suspicion of “deviant” LGBTI behaviour are denied basic rights guaranteed by the Cameroon Constitution.

Recent developments
In January 2014, a gay man, Roger Jean-Claude Mbede, was jailed for sending a text message to another man. After a three-year prison sentence, Mbede was released and soon after he died from an untreated hernia sustained while in prison. Before his death he was isolated by his family and received no medical assistance.

Human Rights Watch has noted that Cameroon brings more cases against people suspected LGBTI individuals than “almost any country in the world.” According to reports, most arrests are not based on evidence. Instead, suspects are held without writ of habeas corpus and evidence is subsequently obtained through torture and interrogation. Most lawyers in Cameroon are unwilling to represent LGBTI people. Therefore, most accused LGBTI individuals forego adequate legal representation. Lawyers’ fear that representation of LGBTI individuals will result in ‘stigma by association’ from the public, the media, and their families.

Alice Nkom, an attorney dedicated to defending LGBTI persons, observes:

“‘You’re not really well received when you defend homosexuals because there is a lot of stigmatisation with all of its consequences in terms of exclusion in terms of physical threats, including for your family...’”

In September 2014, Cameroon released seven suspected gay men and trans women arrested for suspicion of violation of the anti-gay law. The accused were released for insufficient evidence, but authorities maintain close observation over their private lives and will re-arrest them for “any deviant behaviour.”

“LGBT people in Cameroon face many risks. They are generally considered as animals or devils, so when you know that you see that they are in permanent danger. They can be injured, they can be killed, and they can be discriminated against. They can be rejected from healthcare and justice. So they are living in very bad situation in Cameroon – and they have nowhere to go and nowhere to complain.”

Alice Nkom
HUMAN RIGHTS LAWYER

They are generally considered as animals or devils, so when you know that, you see that they are in permanent danger.
Chapter 6, Section 104 of the Ghanaian Criminal Code criminalises male, consensual same-sex sexual acts as “unnatural carnal knowledge.” The penalty for violation of Section 104 is a misdemeanour penalty resulting in between one and three years imprisonment. Under Section 99 of Chapter 6, “unnatural carnal knowledge” shall be “deemed complete upon proof of the least degree of penetration,” meaning only homosexual acts—not sexual orientation—are criminalised in Ghana.

Recent developments
In October 2013, the President of Ghana, John Mahama, acknowledged in an interview that anti-LGBTI social stigma blocks the prospect of change. He added, “I believe that laws must prevail. For instance, people must not be beaten or killed because of their sexual orientation, but in my country there is a strong cultural hostility towards it.”

In Ghana, Muslim and Christian traditional religious leaders speak out in public against homosexuality and urge their followers to reject homosexuals. Despite Ghana’s generally progressive political atmosphere, social stigma and homophobia exists at the second highest rate on the continent. According to a 2013 attitudes survey, 96% of Ghanaians feel society should not accept homosexuals. This represents the third highest percentage of any country surveyed.

Mobs have been formed to incite fear in LGBTI individuals in Ghana. In August 2014, two incidents involving mobs occurred. In one, police in the small town of Walewale arrested a 21-year old student to save him from public threats to kill him for cross-dressing and allegedly engaging in gay sex. A Muslim Sheik, Mahamadu Alhassan, condemned the young man and incited his followers to attack the student at his home.

In 2015, the Queenmother of Atimpoku in the Akwamu Traditional area, Nana Abrewa Kwabiaa, called on the Ghanaian government to legalise homosexuality. She argued that it is in the interest of Ghana as a country and legalisation will help reduce the country’s high birth rate, and level distribution of natural resources.

In February 2015, an angry mob brutally attacked and threatened a music producer alleged to be gay. The video was later posted online as a deterrent to other LGBTI individuals. In response Ghanaian celebrities took to social media to condemn the violent behaviour.

“I must mention the increase of attacks on gay and lesbian persons recently, what the police, as usual, stay silent on.”

Mac-Darling Cobbina
Ghanaian gay rights activist
In Kenya, the Penal Code criminalises homosexuality, referring to it as “carnal knowledge of any person against the order of nature.” Section 162 punishes this conduct by up to fourteen years imprisonment. Section 163 criminalises the attempt to commit crimes “against nature” with a maximum seven year sentence. Section 165 punishes public or private acts of gross indecency, with imprisonment of up to five years.

Recent developments

In May 2014, Binyavanga Wainaina, one of Kenya’s most successful authors, came out as gay in an open letter to his late mother. He was inspired to come out by the death of his father and a gay friend. He further attributes his inspiration to recent human rights violations against gay people in Sub-Saharan Africa. He said he was deeply touched by the Cameroonian gay man who was imprisoned for sending a love text to another man. In Kenya, mixed feelings met the news. The majority of the public called for Wainaina’s arrest for his admission of homosexuality, others however, applauded his courage.

In March 2014, the parliamentary leader of the Jubilee coalition, Aden Duale, compared the “problem” of homosexuality to terrorism. He also argued against stepping up legal penalties for homosexuality for fear of losing international aid. Aden’s controversial remarks included: “We need to go on and address this issue [homosexuality] the way we want to address terrorism. It’s as serious as terrorism.”

In October 2014, the High Court judge in Nairobi ordered the Kenya National Examination Council to issue Audrey Mbugua, a trans woman, a new high school certificate bearing “no gender”. Audrey had contested the change of gender on her certificate in court, but since Kenya doesn’t yet recognise third gender, the judge ruled that the certificate should bear no gender.

In April 2015, a three-judge panel ruled in favour of the National Gay and Lesbian Human Rights Commission (NGLHRC) and ordered the government registrar to formally register the organisation. The NGLHRC had tried to register five times since 2012 under the Kenya Non-Governmental Organisations Coordination Act. The court cited Article 36 of the Kenya Constitution: “Every person has the right to freedom of association, which includes the right to form, join or participate in the activity of an association of any kind.” The LGBTI community and pro-gay clergy saw this as a landmark ruling. The Kenya Christian Professionals, religious leaders and politicians opposed the ruling. The attorney general has appealed the ruling.

In May 2015, the Deputy-President, William Ruto, stated that Kenya has “no room” for homosexuality in remarks at a church service. Ruto has a record of making homophobic remarks.

In a July 2015 press conference held with US President Obama during his visit to Kenya, the President of Kenya, Uhuru Kenyatta, dismissed the US Presidents concerns about the rights of gays and lesbians indicating that these were a ‘non-issue’ for Kenya.

In Kenya, the Penal Code criminalises homosexuality, referring to it as “carnal knowledge of any person against the order of nature.”

“Culture, religion, and opinion leaders shape the political atmosphere in Kenya, all of which are largely lesbian, gay, bisexual, transgender, intersex, and queer (LGBQ)-unfriendly. The most common cliché concerning homosexuality is that it is “unnatural” and goes against Kenyan culture. Religious leaders are particularly vocal in opposing any form of accommodation of basic human rights when it concerns LGBTI people in Kenya. Widespread homophobia and violence characterise the social context. Earlier this year, LGBTI serving organizations in both Nairobi and various western regions were raided and vandalized. Despite these barriers, Kenya has a somewhat exceptional position in the region and stands out as an East African country with a thriving LGBQ movement. Unlike neighbouring countries, there are strong ongoing initiatives and growing activism. Also, transgender and intersex activists are increasingly active and visible. It is important to note that many of these organizations did not register explicitly as LGBQ organizations, but as self-help groups or CBO’s working with youth, health, or HIV programming.”

Kenya has a somewhat exceptional position and stands out as an East African country with a thriving LGBQ movement.
In 2012 Lesotho effectively decriminalised male same-sex activity. Female same-sex activity had never been criminalised. There is no evidence that the sodomy law was used to prosecute an LGBTI individual. Regardless, it was a threat to the rights and freedoms of the LGBTI community in Lesotho. In 2012 Lesotho adopted a new penal code that eliminated the criminalisation of sodomy through common law, thus legalising homosexuality. However, Lesotho still lacks discrimination protection based on sexual orientation and identity in employment and other spheres of life.

Recent developments
The LGBTI community in Lesotho continues to suffer from widespread discrimination and harassment. Public officials, the media and religious leaders continue to express homophobic prejudice adding to the country’s already hostile climate toward the LGBTI community.

The LGBTI community receives no government funded sexual health services, despite having one of the world’s highest HIV prevalence rates and despite the HIV risks that face men who have sex with men (MSM) being included in the 2011 – 2016 HIV/STI National Strategic Plan. Lesotho’s widespread homophobic attitudes, make it difficult for MSM to access vital resources such as education, health care and HIV prevention products. The NSP makes no mention of women who have sex with women (WSW) and transgender persons even though evidence has emerged that WSW in Lesotho have higher rates of HIV than expected which underscores the needs for targeted sexual health programming within the LGBTI community.

In May 2014 a local LGBTI group, Matrix Support Group, held a peaceful march in the capital city to celebrate International Day Against Homophobia and Transphobia. 200 members of the LGBTI community attended to hear speeches, participate in discussions and enjoy performances. This was the second year of the event and, the LGBTI community in Lesotho views the ability to hold it as a significant step.

Though homosexuality is legal in Lesotho, gay and lesbian people are ostensibly prohibited from entering the country. It remains unclear how the government distinguishes between homosexual and heterosexual persons without infringing on the right to private life.
Malawi is a traditionally religious and culturally conservative nation. In Malawi Sections 153, 154, and 156 of the Penal Code criminalise same-sex activity with a maximum punishment of fourteen years imprisonment for men and five years for women.⁷⁰

**Recent developments**

In January 2014, the Malawian High Court heard a petition by a leading LGBTI organisation, Centre for the Development of People (CEDEP), to obtain a review of jail sentences for three gay men imprisoned for homosexual acts.⁷¹ CEDEP challenged the fundamental principles of the law criminalising homosexuality.⁷² The Independent Malawi Law Society, representing over 300 lawyers, backed the petition.⁷³

In July 2014, the Malawian Solicitor General and Secretary for Justice, Janet Chikaya-Banda informed the UN Human Rights Committee that Malawi had stopped arresting people for same-sex sexual activity.⁷⁴ She noted, though, that no political effort would be taken to review the existing laws.⁷⁵ The Committee also heard the testimony of Gift Trapence, a human rights activist, who claimed that there is an increase of homophobia in Malawi.⁷⁶ Also at the UN in March 2015 Malawi voted against Russia when Russia tried to block same-sex partner benefits for UN employees.

In May 2014, Malawi submitted its UN Human Rights Council Universal Periodical Review (UPR) report, which was reviewed in May 2015. After the review, Malawi accepted for the first time a recommendation on sexual orientation and gender identity: To guarantee that people of the LGBTI community have effective access to health services, including treatment for HIV and AIDS.⁷⁷ Action on this recommendation was taken when Malawi’s National Strategic Plan for HIV and AIDS (2015–2020) committed to increase HIV services targeting MSM and to safeguard human rights by “ensuring a stigma-free environment and protection of patient rights in facilities.”⁷⁸

In April 2015, a new law raised the minimum age of marriage from sixteen years to eighteen years.⁷⁹ It also defined a marriage as a union between a man and a woman.⁸⁰ The law further defines a person’s sex and gender as the one assigned at birth, thus not recognising the gender identity of transgender and intersex persons.⁸¹

In September 2015, Malawi President, Peter Mutharika, said the country would conduct a ‘yes’/‘no’ referendum to decide whether same-sex marriage should be legal. Religious leaders and the public strongly and publicly opposed legalising same-sex marriage.⁸² Three days later, President Mutharika backed out of the referendum on same-sex marriage. Mutharika reasoned that it was simply his “opinion” that Malawi should put the issue of same-sex marriage up for referendum.⁸³

“Despite all these great strides, challenges still exist for the LGBTI individuals within the nation due to the sodomy laws and the negative attitudes that the general population has towards the LGBTI individuals. LGBTI individuals continue to experience stigma and discrimination in both the private and public spheres as evidenced by the reports that CEDEP and CHRR have been documenting since 2014.”⁸⁴
The law in Mauritius doesn’t criminalise homosexuality, but the act of sodomy is illegal under Criminal Code Section 250 regardless of sexual orientation. Violation of Section 250 warrants a maximum sentence of five years imprisonment. It should be noted that the law is not applied regularly and there are ongoing campaigns seeking to repeal Section 250. Though same-sex relationships are not recognised under the law, LGBTI people are protected under Article 12 of their Constitution from any kind of discrimination by way of their right to private life and freedom of establishment.

Recent developments

At the 25th Session of the UN Human Rights Council the government of Mauritius stated that it, “has not yet taken any policy decision regarding the decriminalization of sodomy.” No evolution or progress has been noted in Mauritius on the rights of LGBT persons since 2011.

In 2013 the Ministry of Health amended its policy to indicate that individuals who have engaged in same-sex sexual activity could donate blood. The Young Queer Alliance group, however, reported that Ministry officials cancelled a blood donation event due to their reluctance to collaborate with an LGBTI organisation.

In June 2015, Mozambique decriminalised homosexuality by removing colonial-era clauses in the penal code detailing “vices against nature.” Courts had interpreted “vices against nature” to include homosexuality. The sentence for “vices against nature” was hard labour.

Recent developments

In 2014, Joaquin Chissamo, former Mozambican President, called for a change of attitude toward the treatment of LGBTI individuals in an open letter to African leaders. He wrote: “We can no longer afford to discriminate against people on the basis of age, sex, ethnicity, migrant status, sexual orientation and gender identity, or any other basis – we need to unleash the full potential of everyone.”

In July 2015, the new Penal Code took effect and legalised homosexuality in a move largely considered symbolic. The decriminalisation is characterised as such because Mozambique has no reported arrests of LGBTI persons under the “vices against nature” clause since 1975 when Mozambique gained its independence.

An LGBTI activist confirmed that there have been no reported violent acts towards members of the LGBTI community. Mozambique has a relaxed social attitude compared to most other African nations. Despite the decriminalisation of homosexuality, the government of Mozambique hasn’t officially recognised and registered Lambda, the only LGBTI rights organisation in the country. Lambda has been campaigning for official recognition and registration for seven years. Registration would grant the organisation access to funding and tax exemptions.

“The best thing being gay or lesbian in Mauritius compared to other Commonwealth countries in Africa is we can say that, at least, have some legislations in terms of socio-economic easiness. The next best thing would be that we have a good network of people who know each other generally so, and that the younger generation in the population is more tolerant.”

Najeer Ahmad  
Young LGBTI Activist

“Since the repeal of article 70 and 71... Regarding change (in) social attitudes towards LGBT, nothing much has changed, though Lambda continues to sensitize and educate the general population for more tolerance and acceptance.”

Danilo Da Silva  
LGBT rights activist
Male same-sex sexual acts are illegal, based on the common law offence of committing "an unnatural sex crime." In May 2004, the clause 5(2), in employment rights from 1992 in which discrimination based on sexual orientation was outlawed, was struck from labour law by the government. Namibia’s Constitution however contains provisions for inalienable rights of persons. Chapter 3 of the constitution contains a list of rights that are due to every person in Namibia.

Recent developments

In May 2014, Ricardo Amunjera and Marc Theruba became the first Namibian gay couple to get married. Although they married in South Africa, the couple moved back to live in Namibia and campaign for LGBTI rights. Their activism earned Amunjera the title “Mr Gay Namibia 2013.” Their life is not without substantial risk. The LGBTI rights group OutRight Namibia expressed that LGBTI individuals face discrimination on a daily basis.

In December 2014, McHenry Venaani, the leader of the Democratic Turnhalle Alliance in Namibia, spoke out in support of LGBTI rights and refuted the popular claim that homosexuality is “un-African.” He said such claims are “manufactured lies” evidencing the fact that all races and cultures have substantial LGBTI communities. Venaai continued, “Africans must stop hiding the reality... homosexuality’s existence cannot be denied.”
The Nigerian Criminal Code, Section 214, punishes "carnal knowledge" “against the order of nature” with a maximum sentence of fourteen years imprisonment. Further, Section 215 criminalises the attempt to commit these crimes with punishment of seven years imprisonment. Both laws are gender neutral. However, male homosexual acts are further criminalised by Section 217 which states that “public or private” acts may be punished by three years imprisonment.

In January 2014, former President Goodluck Jonathan enacted a new law setting a prison sentence of ten years for belonging to a gay organisation, supporting same-sex marriage, or displaying same-sex affection in public. Same-sex marriage is also punishable by a fourteen year prison sentence. The twelve Northern states of Nigeria have also adopted Sharia law which entails capital punishment for male homosexual acts and lashing or imprisonment for women engaging in homosexual acts. To date, no executions have been reported as a result of this law.

**Recent developments**

In January 2014, a mob of angry protesters interrupted court proceedings of seven gay men on trial for homosexuality in the northern city of Bauchi demanding quick sentences for the men. In order to protect the lives of the men, the judge was forced to halt the trial and send the defendants to jail. A week prior, the same court sentenced a young man accused of homosexuality to public flogging.

In February 2014, an anti-gay mob in a shantytown of the Nigerian capital, Abuja, dragged fourteen alleged homosexual men out of their homes and brutally attacked them with wooden clubs and iron bars. Four of the victims were in critical condition following the attack and all of them went into hiding. Nigerian police officers were participants in the violent attack.

In May 2015, a theology student, Ododo Sylvester, was expelled from the Ezekiel College of Theology after confessing homosexual experiences in secondary school. The HIV positive student had to flee to an LGBTI safe-house after being attacked and beaten for challenging his expulsion. Sylvester commented, “If it is possible for me to vanish, I shall vanish from the country.”

In July 2015, the newly elected President Muhammadu Buhari categorically ruled out any chance of Nigeria legalising homosexuality.

Public attitudes seem to be changing. A 2010 Amnesty International Poll found that 96% of Nigerian residents believed homosexuality should not be accepted by Nigerian residents. A 2015 poll showed this percentage fell to 87%, with 30% of Nigerians agreeing LGBTI persons should receive education, healthcare and housing. These developments have been hailed as significant progress by Nigerian activists.
The Rwandan Constitution and Penal Code does not explicitly criminalise homosexuality. However, Article 26 of the Rwandan Constitution states, “marriage between a man and a woman is the only recognized.”118 This seems to be in direct contradiction with Article 16 of the Constitution recognising that, “all human beings are equal before the law. They shall enjoy, without any discrimination, equal protection of the law.”119 Further, Article 22 protects the private life of all individuals.120

**Recent developments**

In 2010 the Rwandan parliament attempted to pass a law criminalising homosexuality, but ultimately dropped the measure.121 The law was deemed in violation of the Constitutional protections from discrimination and freedom to private life.

Reports allege that activists and LGBTI organisations in Rwanda face eviction and societal discrimination.122 Socially, same-sex sexual activity is a taboo and highly stigmatised in Rwanda. One Rwandan lesbian was forced at the age of fourteen by her parents to marry a man in an attempt to forcefully change her sexual orientation.123 Eventually she left that marriage, but she finds that it is “difficult for most people to accept the way we [lesbians] were born...Most people think we are useless...Some of us cannot even get jobs because of our sexuality.”124 This discriminatory treatment directly contradicts Rwanda’s Constitutional protections. Furthermore, the Rwanda Biomedical Centre reported in a survey that 20% of MSM have suffered from violence as a result of their sexual orientation.125 LGBTI persons also report stigmatisation and public humiliation by health service providers at sexual health service centres. A member of Rwanda Rainbow Rights, an LGBTI advocacy group in Rwanda, Enoc Ndahenyuka, said that ridicule and mistreatment in HIV clinics caused many people living with HIV in the LGBT community to shy away from seeking vital help.126 According to the Rwanda Biomedical Center 28% of MSM said that they would not disclose their sexual orientation because of the stigma, or inadequate service that would result.127

The French Constitution and Penal Code does not explicitly criminalise homosexuality. However, Article 26 of the French Constitution states, “marriage between a man and a woman is the only recognized.”128 The penal code does not criminalise female same-sex acts. Male same-sex sexual conduct is punishable by up to fourteen years imprisonment.129 The law is not generally enforced. LGBTI individuals are, however, protected under the Seychelles employment code from discrimination on the basis of sexual orientation.130

In October 2011, the government agreed to decriminalise same-sex sexual acts. The challenge is based on the Seychelles Constitution which guarantees the right to equal protection of the law, whereby every person has a right to the enjoyment of universal rights, free from discrimination.131 Seychelles also agreed to prohibit discrimination based on sexual orientation or gender identity. When questioned about what the timeframe is for change, the second Secretary of the Ministry of Foreign Affairs, Sandra Michel, answered that “the change of relevant laws would come pretty soon, as the government and civil society want so.”132 As of August 2014, the law criminalising homosexuality is still under review.

**Recent developments**

It is reported that there are no active LGBTI organisations in the country.133 In August 2014, the Judicial College invited members of the public to discuss the “discrimination of gay people, marriage equality and morality”.134

In June 2015, two gay men, a British national and a Seychellois, became the first same-sex couple to marry in Seychelles. They were married by the then out-going British High Commissioner, Lindsay Skoll, in the High Commissioner’s residence. The Seychelles Principal Secretary for Foreign Affairs, Ambassador Maurice Loustau-Lalanne, described the event as “lacking in sensitivity” because same-sex unions are not recognised in Seychelles.135

Many people think we are useless... Some of us cannot even get jobs just because of our sexuality.
Same sex sexual activity between men is prohibited under law inherited from the United Kingdom. Section 61 of the Offences against the Person Act 1861 prohibits “the abominable crime of buggery” which is punishable by life sentences or a minimum sentence of ten years.136 Sodomy is also a felony under the common law of Sierra Leone.137 Although the law is rarely enforced, police continue to harass, detain, beat, and denounce persons perceived to be members of the LGBTI community. The law is silent on female same-sex sexual activity.

Recent developments

In February 2014, the Sierra Leone’s President Ernest Koroma made comments about certain international donors withholding aid to some African nations due to the introduction of new anti-gay laws. Koroma said “We have to take into consideration our culture, traditions, religious beliefs and all that... I think the country should be led by what it believes is right for the country and not what is necessarily right for the international community because of the variations in our traditions.”138 He added: “I believe with engagement with our communities, sensitisation and other public awareness programmes, we will get consensus.”139

In September 2014, Sierra Leone abstained from voting either for or against a resolution140 opposing violence and discrimination based on sexual orientation and gender identity in The UN Human Rights Council. The resolution passed. In March 2015 Sierra Leone voted against Russia at the UN when Russia tried to block same-sex partner benefits for UN employees.

In August 2014, a human rights activist, Mary Conteh received threats to stop her activism or else a rumour would be spread that she had contracted Ebola.141 Ms Conteh is the national coordinator of the Women’s Centre for Good Governance and Human Rights (WOCEGAR) which promotes women’s empowerment, good governance and LGBTI rights. The threats did not stop there. Mr. Osman O. Sesay, Member of Parliament for the Bombali District, has reportedly threatened to make Ms Conteh “disappear.”142

George Reginald Freeman, a LGBTI rights activist and founder of the organisation “Pride Equality,” was attacked multiple times and was lucky to escape with his life.143 In 2012 Freeman fled the country and is currently a political refugee in Spain where he continues to receive threats from prejudiced individuals in Sierra Leone.14
In 1998 South Africa became the first country in the world to constitutionally prohibit discrimination on the basis of sexual orientation. Currently, South Africa is only one of three Commonwealth countries that have constitutional protections on the basis of sexual orientation and/or gender identity (the others being Malta and Fiji) and is the only African country that constitutionally protects sexual orientation. LGBTI persons enjoy equal rights and equality before the law.

Recent developments

There are still high levels of social stigma and discriminatory attitudes, particularly in rural and economically deprived communities. In particular, black lesbians and trans men are regularly the target of hate crimes, including physical and sexual violence. The government of South Africa appears to be complicit because despite media sensationalism of attacks against gender non-conforming women phenomenon termed ‘corrective rape’ perpetrated to ‘cure’ a woman of same-sex desire or gender expression there have been no high level political statements, no specific policy action on this hate crime within strategies to combat gender based violence and there is impunity for perpetrators.

In 2014 the government of South Africa initially refused Paul Semugoma, a LGBTI rights activist from Uganda, entry into the country when he was escaping persecution after Uganda initially passed a harsh law persecuting homosexuals. Attempts to deport Semugoma failed after a court order granted him entry. Semugoma applied for asylum but was denied and was given a ‘special skills’ work permit instead allowing him to live in the country. This was seen as a measure that South Africa took to avoid embarrassing the Ugandan government.

Sandy Kalyan, Member of Parliament for the Democratic Alliance, introduced a motion in Parliament to strongly condemn Uganda for its intolerant LGBTI laws. This was fiercely opposed by the ruling African National Congress, further demonstrating the existing gap between South Africa’s legal and constitutional settlement and the current political climate.

In 2015 The Academy of Science of South Africa (ASSAF) published a multi-disciplinary report which sought to demonstrate that homosexuality is rooted in biology in response to the Ugandan president’s request for evidence of the nature of sexual orientation. This research concluded that sexual orientation is determined during the second trimester of pregnancy and the authors assert that the findings challenge claims that homosexuality is ‘un-African’.

South Africa’s national education curriculum includes sex education but it does not adequately cover same-sex sexual relationships and teachers can opt out of covering this aspect. This is a contentious and Professor Deevia Bhana of the University of KwaZulu-Natal School of education stated that, “[t]his is a much broader conversation around diversity, our constitution and human rights inclusion in our schools to make them safe places for all learners, ...That diversity is relevant for sexual orientation or gender identity.”

“Homophobia and transphobia are endemic. Policies and access to services in the private and public domain have not often been adjusted to cater for the needs of these two key populations. Attitudes are still hostile towards LGBTI persons resulting in these individuals not accessing services or accessing them when its too late. The religious communities have been slow in advocating for tolerance, inclusion and reconciliation. However, there are shifts in some larger denominations ... What I am saying is there are still gross violations of the LGBTI persons ... Micro-aggressions happen every day...”

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Alex Botha
Activist

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The Constitution of the Kingdom of Swaziland states that “the principles and rules of the Roman Dutch Common Law as applicable in Swaziland since 22nd February 1907 are confirmed and shall be applied and enforced as the common law of Swaziland.”

This means that sodomy was a crime under the 1907 common law punishable by death or a lesser punishment at the discretion of the court, male same sex sexual acts are illegal in Swaziland. This does not include same sex sexual conduct between women. There is no legal protection against discrimination based on sexual orientation in Swaziland.

In 2005 the legislature considered also criminalising female same-sex activity, but it is not mentioned by the law making its legal status uncertain. Swaziland does not provide any safeguards for the rights of LGBTI individuals.

Recent developments

In February 2014, the government Press Secretary, Percy Simelane, responding to debate around Uganda’s new anti-gay laws told the media that the government is considering its stance on same-sex sexual relationships. He added that Swaziland “was regulated by the nation’s moral obligations and biblical values.” The government has not since clearly communicated its agenda.

A recent survey of seventeen Southern African health policy makers, found that Swaziland and five other Southern African countries have included gay men and/or MSM among the key affected populations they are targeting through HIV services. These populations now have access to services to prevent and treat HIV.

In March 2015 a young lesbian, Kyalo Glover, was attacked in a bar in Swaziland by a man who objected to her presence. The man brutally murdered her with an axe and chased Kyalo’s friend, who managed to escape. A few months prior, a gay man was murdered in similar circumstances. LGBTI and human rights activists alike are decrying the increase of homophobic assaults and murders in Swaziland.

Under Section 154 of the Tanzanian Penal Code the act of “carnal knowledge against the order of nature,” is criminalised. Violation of Section 154 carries a minimum thirty-year prison sentence and a maximum sentence of life imprisonment. Further, Section 155 punishes any attempt to commit an act against the order of nature with seven years imprisonment. Section 157 also bans indecent practises between males, whether in public or in private, and such acts are punishable by five years imprisonment. Only the semi-autonomous region of Zanzibar explicitly outlaws female same-sex activity with five years imprisonment, or a 500,000 Shillings (£150) fine.

Recent developments

In March 2014, Tanzanian Member of Parliament, Hon. Ezekiel Wenye, claimed that homosexuality is spreading in Tanzania because the law is too lenient on homosexuals. He drafted and introduced a new bill in Parliament to enact more stringent laws on same-sex sexual conduct. The bill sought to criminalise the lives of “those who induce others to become gay or those who promote the behaviour.” The MP’s sentiments were not taken seriously by gay rights activists in Tanzania as most people familiar with the context view the Tanzanian government as complacent with its current position on homosexuality.

According to the U.S. State Department, LGBTI individuals “face societal discrimination that restricts their access to health care, housing, and employment.” LGBTI individuals cannot live openly, and therefore, there is not a lot of advocacy on behalf of the community. Moreover, the media fuels anti-LGBTI sentiments, making the situation worse for LGBTI persons.
In Uganda, Penal Code Section 145, criminalises homosexuality as “carnal knowledge of any person against the order of nature.” The punishment for this offence is life imprisonment. In Penal Code Section 146, Uganda criminalises attempts to commit any unnatural offences in Section 145, under punishment of seven years imprisonment. Additionally, Section 148 criminalises public and private acts of gross indecency, including homosexuality, punishable by seven years imprisonment.

In 2005 Uganda explicitly prohibited same-sex marriage in an Amendment to its Constitution. Article 31 details the rights of the family, stating “Marriage between persons of the same sex is prohibited.”

**Recent developments**

In February 2014, President, Yoweri Museveni, signed into law the Ugandan Anti-Homosexuality Act. The act, which came to known as the ‘kill the gays bill’, included stiffened penalties for same-sex sexual relations in Uganda. Additionally, the act extended punishment for individuals, companies, media, organisations and non-governmental organisations that support LGBTI persons.

LGBTI and human rights activists in Uganda, including Nicholas Opiyo and Dr. Paul Semugoma, contested the new law in constitutional court and called for annulment of the law, as it was a violation of the rights of minorities. The activists saw the politicisation of homosexuality as an attempt to avert the electorate’s attention from the economic challenges facing the country.

In August 2014, the Constitutional Court annulled The Uganda Anti-homosexuality Act on a technicality. The legislature passed the law without the requisite quorum.

The legislation attracted harsh international criticism and prompted donors including, The World Bank, The United States, Denmark and Norway, to withhold millions of dollars in development assistance to Uganda. Pope Benedict expressed his opposition for “unjust” discrimination against LGBTI individuals in his statement addressed to the UN panel by Vatican legal attaché. This international pressure likely contributed to annulment of the legislation by the constitutional court.

The atmosphere that the act generated led to increasing repression, violence, and homophobic and gender-based discrimination. According to Amnesty International some members of the LGBTI community were beaten, sexually assaulted, and detained by police. Sexual Minorities Uganda (SMUG), a LGBTI rights organisation, documented over 150 cases of abuse during the time the law was in force, from harassment to beatings and at least one suicide. A police raid on a HIV service centre that provides services to the LGBT community, resulted on a decline in access to health services because people feared arrest or harassment.

Since the annulment of the act, LGBTI rights groups previously banned or harassed by the police are operating with a limited degree of freedom. In August 2014, Uganda’s LGBTI community celebrated the first LGBTI pride event after the anti-homosexuality act was annulled. Subsequently, another pride event was held in August 2015 in Entebbe, Uganda which was attended by four hundred people. Given that up to a thousand were expected it is clear that many LGBTI persons still fear for their lives.

In February 2015, the Human Rights Awareness and Promotion Forum sought a ruling from the East African Court of Justice to clarify that anti-gay laws, such as the Ugandan Anti-homosexuality Act, are unacceptable and violate human rights. This case is still pending in the East African Community regional court.

“Actually, many homosexual Ugandans have been threatened, in fact, it is now under reported because of the misplaced belief that the LGBT community are reporting cases of violence to get sympathy . . . I get threats every day. I don’t talk about my threats because when we talk, when we’re very empathetic, about the challenges we go through, Ugandans think we are using that as a tool for sympathy.”

**FRANK MUGISHA**

Ugandan activist

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The Penal Code in Zambia criminalises same-sex activity for both males and females under Section 155, punishable by a minimum of fifteen years in prison and a maximum sentence of life in prison. Section 156 criminalises the attempt to commit “unnatural offences” with a minimum sentence of seven years and a maximum of fourteen years imprisonment. Section 158 criminalises public and private, male and female gross indecency and imposes a minimum sentence of seven years and a maximum sentence of fourteen years.

Opposition to the LGBTI community is expressed by the Zambian Catholic Church as well as other churches and civil society organisations including Zambia Against People with Abnormal Sexual Acts.

Recent Developments

In February 2014, a Zambian court acquitted human rights and HIV activist, Paul Kasonkomona, of the charge of promotion of homosexuality. He was charged with ‘soliciting for immoral purposes’ after advocating for LGBTI rights on a television programme. He was arrested and released on bail before the case where he won his acquittal.

Zambia has arrested numerous other LGBTI community members. In May 2013, two gay men, Philip Mubiana and James Mwape, were arrested and jailed until April 2014, when they were acquitted. According to Human Rights Watch, LGBTI individuals are a particularly vulnerable community in Zambia due to arbitrary arrest and prosecution.

In June 2014, the Zambian Foreign Affairs Minister, Gabriel Namulambe, stated that homosexuality is an insult to Zambia. He added, “We have the Constitution to protect and in the preamble of our Constitution, Zambia is a Christian nation and as such we live by the Christian values and we will not be able to recognise gay rights.”
Antigua and Barbuda continue to criminalise buggery under Section 12 of the Sexual Offenses Act of 1995. The punishment for such an offence is a maximum of fifteen years imprisonment.

Between the years 2010 to 2013 Antigua and Barbuda reported 12-15 instances of discrimination perpetrated against LGBTI people living in the country. The victims are mainly gay, bisexual and other men who have sex with men (MSM).

**Recent Developments in Antigua and Barbuda**

There have also been reports of discrimination and abuse against LGBTI people by law enforcement officers. In 2015 two cases of discrimination and abuse made headlines. A former Queen of Carnival, had to relocate to Canada after law enforcement chose not to respond to threats she received after revealing that she is a lesbian. Also, a transgender woman Prince “Princess” Warren, a prominent figure in the LGBTI community, was allegedly physically assaulted by two police officers which inevitably lead to her losing an eye.

Give the context of of discrimination against LGBTI people by police officers, Antigua and Barbuda is training the police to improve their ability to uphold human rights and decrease stigma and discrimination in their interaction with LGBTI people. Police officers who have received training have been stationed where the most acts of violence and discrimination against LGBTI individuals are reported to occur.

There are few LGBTI focused NGOs because the societal stigma surrounding LGBTI issues hinders the freedom of association for LGBTI individuals.

In January 2014, at a National Youth Forum, political parties were asked whether there was a possibility of the buggery law being decriminalised. The political parties joined in a resounding response that the removal of the buggery law must be approached from the “bottom up”-a move headed by society instead of the legislative body.

Joseph Hughes, Deputy Police Commissioner, defended the police force, stating that non-discrimination is part of the department’s policy regardless of sexual orientation. Hughes also referred to the duty of the department to acknowledge and ensure the rights listed in the Constitution of Antigua and Barbuda.

Antigua and Barbuda abstained from the vote within the UN on the extension of UN employee benefits to same-sex partners.

"The police are there to serve and protect, regardless of who is coming to you. Whether that person be a gay, lesbian, bisexual or trans person you’re supposed to protect them. We have a failure not only on that end but with our law . . . There are no laws on our books, if I recall correctly, that protect the LGBT community. We do have laws in terms of harassment and sexual assault ... but what we have to deal with on a holistic level is the issue of discrimination of LGBT persons and how do they feel safe in their own country."
Same-sex sexual activity between males and females has been legal in the Bahamas since 1991. It is the only English speaking, Caribbean country to take such action. However, a Constitutional Review Commission initiated in 2006 ruled “that sexual orientation did not deserve protection against discrimination.” The age of consent is 18 for same-sex sexual activity, two years higher than the age of consent for persons who engage in heterosexual sex.

In 2013, Prime Minister Perry Christie expressed that he does not believe in same-sex marriage and that it is not on the agenda of the Bahamian government. This sentiment was shared by former Minister of State and Finance, Zhivargo Laing, who, in 2011 said “as a community in The Bahamas we believe that a marriage must and should be and is between a man a woman.” He further stated that “a marriage is void if it took place between persons who were male and male or female and female.”

LGBTI NGOs have reported that stigma and discrimination is prevalent in the Bahamas. Some persons have reported facing employment discrimination and were “frustrated at the lack of legal recourse.” A study conducted by Family Health International’s Communication for Change project funded by the U.S. government indicated that many MSM are refused healthcare assistance.

An effort to stage a LGBTI Pride Event in Grand Bahama in 2014 failed after threats prevented patrons from attending. One of the promoters reported that he received death threats on social media.

Recent developments

In 2015, the Bahamas voted against the Russia motion to withhold employee benefits from same-sex partners of UN staff.

A 2014 survey by the Inter-American Development Bank found that 50.2% of participants strongly disapproved of a homosexual running for political office. The survey also queried approval of same-sex marriage which showed 74.5% indicating strong disapproval.

In 2014, Fred Smith, president of the Grand Bahama Human Rights Association, called for a constitutional amendment to condemn discrimination based on sexual orientation. He stated “It is high time that we [put] flesh to the skeleton of our constitution [and follow] the Universal Declaration of Human Rights, and The American Declaration of the Rights and Duties of Man from the Organization of American States….We also call on the government to pass a Human Rights Act to make it illegal and to make it a criminal offense to discriminate in any way on the grounds of sex, sexual orientation, gender etc.”
Under Section 9 of the Barbados Sexual Offences Act the act of buggery is criminalised.\textsuperscript{226} The punishment for buggery in Barbados carries maximum sentence of life imprisonment.\textsuperscript{227} There is no legislation in place to protect LGBTI individuals from discrimination in employment, housing, access to education, health care etc. There have also been many reports of violence against those who are LGBT. Although discrimination is prevalent, many LGBTI people live openly.\textsuperscript{228}

**Recent Developments**

In 2013, during the Universal Periodic Review, Barbados rejected calls for the decriminalisation of the buggery law.\textsuperscript{229} However, the government agreed to provide greater protection for sexual minorities from violence and abuse.

In 2014, Barbados noted it could not join the consensus on the approval of an Organisation of American States (OAS) Resolution on Sexual Orientation, citing “a number of the issues and terms contained in the Resolution are neither reflected in its national laws nor the subject of national consensus. As such, Barbados would not be in a position to meet these requirements.”\textsuperscript{230}

In August 2013, Prime Minister Freundel Stuart stated “The argument becomes even more troublesome, because it is not within the competence of any of us…to resolve the basic issue related to homosexual behaviour…We do not know, whether it is based on nature, or whether it is based on nurture. And until we can speak with pontifical certainty…whether homosexual behaviour derived from nature or from nurture, it does not lie within our competence to sit in seats of judgment and to condemn those who pursue that practice…You are going to have to ask a question: What would Christ have said, what would Christ have done? And in a case, not too, too dissimilar, His response was, ‘he that is without sin, cast the first stone.’”\textsuperscript{231}

In 2015 Barbados abstained from voting in the Russia motion to withhold employee benefits from same-sex partners of UN staff.
In Belize, Section 53 of the Criminal Code is used to criminalise homosexuality. Section 53 sentences “every person who has carnal intercourse against the order of nature with any person,” with up to 10 years imprisonment. However, the government of Belize interprets this legislation to include only sex between men. Additionally, though not enforced, Section 5 of the Belize Immigration Act prohibits homosexuals from entering the country. There are no legislative protections for LGBTI people to live free of discrimination and violence. There is speculation that Belize’s Immigration Act “could result in numerous human rights violations, including the prohibition of torture and the right to life.”

**Recent developments**

In 2015 Jamaican-born activist, Maurice Tomlinson, challenged the government of Belize’s immigration law, stating that it restricts his freedom of movement and breaches his rights as a CARICOM national—which allows for free movement of CARICOM nationals to all other member states. Tomlinson states the restriction of homosexuals entering Belize is strictly up to discretion of the immigration officer. Belize in their submission contends that they do not intend to invoke the law however will retain it in an effort to deter terrorists. The case is still ongoing.

Surveys conducted by UNAIDS in 2014, reveal that the majority of Belizesans accept or tolerate LGBTI people. The surveys focused on two areas, attitudes and perceptions towards social and health issues in the Caribbean and health issues among MSM. The report revealed that 34% of participants said they would accept a homosexual person and a similar percentage came from those who said they would tolerate them. Nonetheless, 71% of Belizean MSM report suffering verbal abuse, and 17% have been physically abused.

The main LGBTI organization in Belize, United Belize Advocacy Movement (UNIBAM), staged Belize’s first annual Pride celebration which ran for a week in September 2015. UNIBAM stated that the event was a reflection of LGBTI people’s right to freedom of association, expression and movement.

Minister of Housing Michael Finnegan, in response to the first Pride celebration, stated: “Life is never 100% and people have a right to be what they want to be, people have a right to congregate where they want to congregate once they are doing it within the scope of the laws of the country but whether you want to be gay or whatever that is your business. I hardly care, remember whether you want to be gay or straight that is for you and your God that is not for me and I will not pass judgment on people, that judgment is for God and one day God will judge all of us.”

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Canada has made progressive strides to uphold and protect the rights of LGBTI people. In 1969 Canada passed an amendment to the Criminal Code decriminalising homosexuality—a crime which before its legalisation could lead to imprisonment. In 1978 Canada adopted a new Immigration Act which removed prohibition of homosexuals. In 1992 the Federal Court lifted ban on homosexual person serving in the military. Sexual Orientation was added to the Canadian Human Rights Act in 1996 after over a decade of lobbying. In 2005 Canada became the fourth country to legalise same-sex marriage.

Recent developments

A 2013 report stated that almost 29.1% of LGBTI people in Canada have faced discrimination in the workplace, compared to just 2.9% of heterosexuals. LGBTI youth in Canada are 14 times more likely to commit suicide than their heterosexual peers. Additionally, 77% of trans Canadians revealed that they have thought about suicide, and 43% reported that they have attempted suicide.

In 2015 a private member’s bill C-279, proposed by Randall Garrison, was introduced to fight hate crimes against transgender individuals. The bill was intended to include the prohibition of discrimination on the grounds of gender identity in both the Criminal Code and the Canadian Human Rights Act. The bill was subsequently amended by Canada’s Senate Committee on Legal and Constitutional Affairs to introduce the restriction of transgender persons use of washrooms and pubic facilities and exemption of prisons from offering transgender inmates protection. LGBTI and human rights organisations have expressed disappointment at the bill’s amendments, but they still support the help the bill does offer.

Helen Kennedy of Egale Canada Human Rights Trust stated:

“The human rights of transgender people must be protected in all spaces including public bathrooms and locker rooms. The amendment to Bill C-279 fuels discrimination against transgender individuals by making it seem like people have something to fear by sharing a bathroom with a transgender person, which of course they don’t.”

“As a transgender person I have been waiting a long time for federal human rights protections... Bathrooms are dangerous for me. I fear what people will do to me if they realize I am transgender. Bill C-279 was meant to protect me from hate crimes, but in amending it, the Senate is putting me at risk. It will force me to use the men’s bathroom, and a transgender woman in the men’s room is a recipe for violence.”

“Amanda Ryan
Gender Mosaic

I fear what people will do to me if they realize I am transgender.
The Dominican Sexual Offences Act prohibits same sex relations for both sexes under Section 14, the indecency law.\textsuperscript{250} Punishment for violation of Section 14 carries a maximum of five years imprisonment.\textsuperscript{251} Also, anal intercourse carried out by any person is criminalised by Section 16 and carries a punishment of up to ten years imprisonment and Court ordered psychiatric treatment.\textsuperscript{252} Further, Section 16 criminalises the attempt to undertake anal intercourse, sentencing the person to a maximum of four years imprisonment and Court ordered psychiatric treatment.\textsuperscript{253}

The Dominican government reports that these laws are rarely enforced, though records show that between 2000 and 2010 fifty adult men were arrested on the charge of buggery.\textsuperscript{254} More recently in 2012, two men were arrested for having sex on a cruise ship that was docked at Dominica.\textsuperscript{256} There are also no anti-discrimination laws that protect persons who are LGBTI on basis of sexual orientation or gender identity in employment, housing, education, or health care.\textsuperscript{256}

In 2013 Dominica Prime Minister, Roosevelt Skerrit, declared that the buggery law will remain because he doesn’t “think any compelling argument can be made for it to be repealed.”\textsuperscript{257}

Recent Developments

In 2014 the United Nations 19\textsuperscript{th} Session of the Universal Periodic Review, a number of countries made recommendations for Dominica to address discrimination on the basis of sexual orientation and gender identity and to act to remove legislation which criminalises same-sex sexual activity.\textsuperscript{258}

Advocates from the Caribbean HIV/AIDS Partnership Dominica Chapter (DomCHAP) report that the media has not openly taken a position on LGBTI rights and equality. However, the media has regularly published stories and press releases submitted by DomCHAP.\textsuperscript{259} The Head of The Pan American Health Organization, Massimo Ghidinelli, said, “there is a serious lack of knowledge about these groups’ real health problems—they are basically invisible.” This is likely a product of the social stigma LGBTI issues carry because of criminalization.
The Grenadian Criminal Code, Section 431 criminalises same-sex activity with a punishment of up to 10 years imprisonment. However, no legislation in Grenada criminalises same-sex relations between females. Although there is no legal prohibition of female same-sex conduct, lesbians - like gays, bisexuals, transgender and intersex persons - are not protected from discrimination under the law. Most LGBTI Grenadians are not open about their sexual orientation or their gender identity because society is generally intolerant of same-sex activities. Fortunately there have been no reported cases of violence against LGBTI individuals in Grenada within the past year.

Recent Developments

The United Nation’s Universal Periodic Review made recommendations to Grenada to remove laws criminalising same-sex relations between consenting individuals and to create laws to prohibit discrimination on the grounds of sexual orientation and gender identity. In response, Grenada said that the issue of discrimination against those who are LGBTI is being considered within the context of the country’s ongoing constitutional review.

However, Grenada has not demonstrated moves to remove its laws criminalising sexual orientation. Grenada responded to the UPR recommendations stating: “Within the democratic process, it was obvious that there was not much support for that issue nationally. It should be noted, however, that apart from the recommendations on constitutional reform made by the Committee to the Government, the Committee had recommended that ordinary legislation be passed with regard to ‘protection against discrimination at workplaces based only on sexual orientation.’”

Jason Latty Travis, Director of the Caribbean Alliance for Equality, wrote an open letter to the Grenada Constitution Reform Committee in which he expressed concerns about the lack of community participation of LGBTI persons. He urged the committee to:

“Ensure that the fundamental rights and freedoms guaranteed in the new constitution include sexual orientation and gender identity. The explicit inclusion of these terms is necessary to protect the inalienable rights of LGBT Grenadians to life, liberty, security of the person and equal protection under the law.”
In Jamaica, Sections 76-78 of the Offences Against the Person Act prohibit anal sex between consenting adults, punishable by up to ten years in prison with hard labour.\textsuperscript{269} The gross indecency law, Section 79, criminalises physical intimacy between males and is punishable by up to two years in prison and the possibility of hard labour.\textsuperscript{270} The Charter of Fundamental Rights and Freedoms which was passed in April 2011, protects the human rights of Jamaicans, however, it does not include protection on the grounds of sexual orientation or gender identity.\textsuperscript{271} However, Justice Minister, Mark Golding stated that all Jamaicans are protected under the charter, including those who are LGBT.\textsuperscript{272}

Recent Developments

The Jamaica Forum of Lesbians, All-Sexuals and Gays (J-FLAG) made headlines in 2015 by staging the island's first LGBTI pride celebration.\textsuperscript{273} The event was themed “The Pride of a People: Breaking the Rules of Oppression.” It included a series of events spanning six days and included an open mic night, an opening ceremony, an art exhibition, and a flash mob.\textsuperscript{274} The events received endorsement from Senator Dr. Angela Brown-Burke and Justice Minister Mark Golding.

The Ministry of Education, under the leadership Rev. Ronald Thwaites, initiated a school safety manual to address the problem of homophobic bullying in schools.\textsuperscript{275} The move resulted in somewhat of a backlash but the Minister defended the action by stating that ‘LGBTI youths are human beings and have the same rights as everyone else in the society’.\textsuperscript{276}

NGOs continue to report widespread human rights violations and homophobia, such as assault with deadly weapons, corrective rape, mob attacks, and health-care discrimination.\textsuperscript{277} Homophobia is perpetuated within Jamaican dancehall culture when songs that stigmatise LGBTI people are played.\textsuperscript{278} Organisations such as J-FLAG are working to alter these dynamics. J-FLAG, collaborated with the Ministry of Health to train over 300 healthcare workers in order to sensitize health-care providers about issues specific to LGBTI people and to enable effective care for LGBTI patients.\textsuperscript{279}

“I arrive at Norman Manly International Airport ... the Immigration Officer came back an ask “are you a male or female because your passport state male”, I humble reply and said I am biologically male but identify myself as woman. Then I told her that I rather be called Lady Jessica. I arrived at the security checking point... I clearly state I am a woman. She said “no because your identification states male.” She said “well the male security will have to search you” then I reply and said I needed female officer to search me, she said “ok”. Whispers of “gal bowy” spread like wild fire throughout the airport among staffs, male Security Officers leave duty to witness the famous “gal bowy”. This my experience being Lady Jessica at the Airport.”
In Saint Lucia same sex intercourse is criminalised by Sections 132 and 133 of Criminal Code.\textsuperscript{280} The punishment for committing, or attempting to commit the act of buggery - criminalised by Section 133 - is imprisonment ranging from five years to ten years.\textsuperscript{281} While the laws are rarely enforced, the widespread social stigmas against LGBTI persons force the community underground.\textsuperscript{282} Additionally, there are no laws in St. Lucia to protect the rights of LGBTI individuals from discrimination.\textsuperscript{283}

**Recent Developments**

In 2014, the LGBTI NGO, United and Strong, conducted a series of human rights training exercises with police officers covering general and LGBTI-specific content.\textsuperscript{284} United and Strong has initiated a targeted project to address healthcare and social services interventions.\textsuperscript{285} Members of the LGBTQI community were trained in HIV and STI education and information sharing.\textsuperscript{286} Moreover, partnerships with the Ministry of Health’s Bureau of Health Education and other national stakeholders, enhanced direct outreach to conduct education sessions targeting youth and other vulnerabilities populations.\textsuperscript{287}

Each year United and Strong celebrates International Day Against Homophobia, Biphobia and Transphobia (IDAHOT).\textsuperscript{288} In 2015 the theme was “Stand with LGBTQI Youth” and discussion focused on the criminalization of same-sex intimacy between consenting adults under Sections 132 and 133 of the Criminal Code, as well as the religious, cultural and social stigmas faced by LGBTI individuals.\textsuperscript{289}

The St. Kitts and Nevis Offences Against the Person Act, Section 56, criminalises same-sex intimacy and carries a punishment of up to ten years in prison with the possibility of hard labour.\textsuperscript{290} Further, Section 57 criminalises the attempt to commit buggery and carries a punishment of up to four years and the possibility of hard labour.\textsuperscript{291} The enforcement of the laws is relaxed and the law does not prohibit same-sex activity between women.\textsuperscript{292} There are no laws protecting LGBTI individuals from discrimination on the grounds of sexual orientation or gender identity.\textsuperscript{293} The government maintains that there have been no reported cases of violence or discrimination among the LGBTI community.\textsuperscript{294} According to the U.S. State Department’s Human Rights Report of 2014 “negative societal attitudes towards the LGBT community impeded the operations of LGBT organizations and the free association of LGBT people.”\textsuperscript{295}

**Recent Developments**

In June 2015, law enforcement officers and other security personnel in St. Kitts and Nevis completed a four-day sensitivity training in dealing with LGBTI people and individuals in communities who are most vulnerable.\textsuperscript{296} The training included personnel from the Police Force, Customs and Excise Department, and Fire and Rescue.

In speaking about the training Assistant Commissioner of Police, Vaughn Henderson, said “I think it is timely and I believe that education brings a deeper understanding for people of different beliefs, different cultures and different sexual orientation... Discrimination is an issue that is widely discussed internationally and our Constitution, in Chapter Two, speaks to constitutional rights and it says that no person shall be discriminated against for their religion, their beliefs, cultures etc. We are bound by our constitutional ideals and the rule of law, and so everything that we do must encapsulate those ideals.”\textsuperscript{297}

Speaking at the Caribbean launch of UNAIDS Lancet Commission’s report *Defeating AIDS – Advancing Global Health* UN General Secretary Ban Ki-moon said “Homophobia threatens both human rights and public health. We cannot tolerate discrimination on the basis of sexual orientation nor on the basis of gender identity.”\textsuperscript{298} St. Kitts and Nevis Prime Minister Hon. Dr. Timothy Harris attended the launch and stated that in efforts to respond to HIV in the region that “Caribbean countries must continue to confront the issues that are related to the elimination of stigma and discrimination and disentangle them from the misperception that this is a gay agenda.”\textsuperscript{299}
The St. Vincent and the Grenadines Criminal Code Section 146 criminalises buggery with imprisonment of ten years. Further, Section 148 criminalises the attempt to commit an act of gross indecency with another person of the same sex and carries punishment of five years imprisonment. There are no laws that prohibit the discrimination of LGBTI people on the grounds of sexual orientation or gender identity. Although social discrimination still exists in the society, some have suggested that the society is slowly becoming more tolerant to those who are LGBT.

Recent Developments

In 2014, the President of the Scouts Association of St. Vincent and the Grenadines, Morrison Baisden, announced that gay and lesbian leaders will not be tolerated. In a statement to the annual meeting of the scouting association he said “The World Scout movement took the decision... that you have zero tolerance of homosexuality.” This statement was inaccurate though as in 2015 after much debate the Boy Scouts of America removed the national restriction on openly gay leaders and employees in the US Scouting movement.

In 2014 the Director of the Caribbean Alliance for Equality, Sean Macleish, published correspondence sent to the Prime Minister of St. Vincent and the Grenadines, Dr. Hon. Ralph Gonsalves. Macleish pointedly stated that the country “continues to discriminate against its citizen with the criminalization of homosexuality.” He also explained that LGBTI individuals are constantly humiliated by police officers which deters them from reporting cases of abuse and explicitly asked the Prime Minister what his position was in regard to decriminalization and what steps he would be willing to take.

Opposition Senator, Vynnette Frederick, the New Democratic Party’s spokesperson on gender issues, argued that St. Vincent and the Grenadines need to start a conversation about same sex relationships. She reiterated the importance of the issue pointing to the possibility that the country could lose its foreign assistance if it continues to discriminate against those who are LGBT. She has said “the International community will force the conversation, because, pretty soon, financing opportunities for us to get grant money will be denied on the basis that our legislation doesn’t adequately address, but instead discriminates against people who are not heterosexual.” Frederick concluded that “the New Democratic party will always have a listening ear” for LGBTI individuals who are suffering from discrimination.
Same-sex intimacy is proscribed under Section 13(1)(b) of Trinidad and Tobago Sexual Offences Act which stipulates a sentence of up to twenty-five years in prison for consenting adults participating in anal intercourse. Section 8(1)(e) of the Immigration Act explicitly grants power to Immigration Officers to refuse entry to, inter alia, homosexuals. Although it is not enforced, the Immigration Act poses a threat of arbitrary discrimination at the border. Gerry Downes, the Chief Immigration Officer argues that CARICOM nationals are allowed free movement in and out of the country. Nonetheless, Jamaican-born LGBTQI activist, Maurice Tomlinson is challenging the law on the grounds that it infringes upon his freedom of movement.

Despite the existence of these statutes, the human rights situation for LGBTQI people in Trinidad & Tobago is improving. A 2013 survey commissioned by UNAIDS found that 32% of people state they are homophobic but 56% of people either tolerate or accept homosexuals. In addition, 78% of people believe homosexuals should not be treated with indifference, and 64% say violence against gays is discrimination.

Recent Developments

While there are only a handful of organisations advocating for the rights of LGBTQI people, activists were successful in lobbying Trinidad and Tobago’s political leaders to include, for the first time, references to sexual orientation in the manifesto of the People’s Partnership Coalition for the 2015 general election. There were a number of other significant achievements for the LGBTQI community within the election. Jowelle DeSouza, a 41 year-old philanthropist who is a transgender woman ran for office. Activists formed a coalition called Allies for Justice & Diversity and made a number of proposals, including a request for an independent senator in the country’s parliament.

Dr. Keith Rowley, the new elected Prime Minister, has said LGBTQI issues are “very sensitive” which his government will not make “fashion statements about” but every citizen of Trinidad and Tobago should enjoy the protection of the law.

There are a number of other initiatives being undertaken to advance the rights and improve the well-being of LGBTQI people in Trinidad & Tobago. The Silver Lining Foundation, an organisation founded in 2012 by students at the University of the West Indies, St Augustine, has been working with young people who are bullied because of their sexual orientation or gender identity. The Centre for Indic Studies recently hosted a panel on Queering Hinduism which featured noted scholars Dr Arvind Singh, a Lecturer in Engineering at UWI, Krystal Ghisyawan, a PhD candidate and Indo-Trinidadian artist Shalini Seereeram who is also involved in a gay-straight alliance effort entitled We Can’t to Wait End LGBT Discrimination in TT.
“As an advocate for the human right to love since 1998 and now a full time volunteer for Roopbaan, life has treated me well. Nevertheless, that, of course, is not the story of most LGBT people in Bangladesh, a country where: the predominant religion identifies a same sex lover as a sinner; the law of the land as a criminal; social norms as a pervert; culture as “imported.” How should life be for LGBTs in Bangladesh? For me, it’s like living in a ‘comfortable closet’. Comfortable because it is actually ‘easy’ when it comes to ‘doing it’; the culture and social norms are so focused on preventing heterosexual acts between unmarried couples: man-to-man or woman-to-woman sexual acts go almost unnoticed. Even in some more conservative regions homosexual acts between teenage boys is seen as the ‘safer’ way of exploring sexuality; so as long as they get married in their adulthood, no one cares much. However, it’s a closet! The moment someone decides to leave that they’ll be ostracized by family, friends and society.”

Section 377 of the Penal Code of Bangladesh makes same-sex activity between both men and women illegal, carrying sentences from ten years to life imprisonment. LGBTI individuals’ freedoms and well-being are curtailed and their lives otherwise lessened in quality because of this law. There have been two recorded arrests under Section 377. Both arrests were later charged under other penal codes. To date no single case of punishment has happened under Section 377.

In April 2013 the UN Universal Periodic Review made a number of recommendations to Bangladesh based on their poor record of human rights generally, and LGBTI rights specifically. LGBTI rights activists have since lashed out at the government for rejecting the Universal Periodic Review’s recommendations that had the potential of making meaningful changes and advancing the well-being of the LGBTI population, who face serious challenges in accessing protection against discrimination and violence.

Discrimination against LGBTI people is commonplace in Bangladesh. There are no specific protections for them under the law. Though Islam is the dominant religion in the nation and there are widespread conservative views on sex and sexuality there is also a strongly progressive democratic aspect of Bangladeshi society which makes it different from some other Islamic countries.

There have been a number of online gay communities in Bangladesh over the last decade. Boys of Bangladesh is still active and there are newer platforms including Roopbaan, Shambhāb (a lesbian network) and Vivid Rainbow. Community movements, like Bandhu Social Welfare Society founded in 1996 to advocate for human rights for sexual and gender minorities, have also been more active in recent years.

Recent Developments

In November 2013, Bangladesh officially recognised the Hijra (third gender) population, a move allowing them to identify as such on passports and all other government documents. The recognition also meant that that there would be reserved places for Hijras within government employment. However, the first fourteen appointed were subjected to intrusive “gender tests” twelve of whom failed.

In November 2014 the first ever Hijra Pride Festival was held in the capital Dhaka with 1000 people in attendance. The festival was organised to mark the anniversary of the official recognition of hijras as a third gender in Bangladesh.

As part of a year long advocacy campaign Boys of Bangladesh launched the country’s first lesbian comic character. In January 2013, Bangladesh’s first ever LGBTI magazine, Roopbaan was published and it has expanded its initiatives into organising awareness and advocacy events and two pride marches in Dhaka in 2014 and 2015.
Brunei Darussalam gained its independence from Britain in 1984 and until 2014 retained the colonial era legal code. However, in 2014 a very strict form of Syariah (Sharia) penal code introduced the death penalty for male or female homosexuality and severe penalties for cross-dressing.

**Recent Developments**

In May 2014, Brunei at the instigation of the Sultan the country introduced a strict penal code based on traditional Islamic law. The legislation includes three phases where in the first phase brought in new fines and prison sentences for a variety of “crimes” including cross-dressing. The second phase includes the severing of limbs for crimes such as theft. In the final phase the death penalty will be introduced for crimes including same-sex sexual acts.

Anecdotally, there is some evidence that although the laws are strict on paper, they are not being implemented. Religious police are supposedly enforcing the new penal code but women without hijab, a crime in the new penal code, can be seen in the capital. However, there have been convictions and in March 2015 a civil servant was fined $1000 Brunei Dollars (£465) or 60 days imprisonment for cross-dressing. The U.S. Department of State reports that there are no organizations working on securing human rights for LGBTI individuals in Brunei, likely a result of fear of societal or legal recourse against them.

**Anonymous Person**

“...When I came out to my mom as having gender-dysphoria she advised me to get closer to God and in a harsh tone and it hurts really bad because she just wouldn’t listen. I then thought at that moment, that this was the reason I kept most things to myself all my life. Till now I’m still having trouble dealing with my thoughts & emotions seriously. I do have friends but even to them it’s difficult for me to express myself. Religion is still very strong here that I wouldn’t feel that safe to express myself fully in public. However, the “strict” Sharia law isn’t that strictly implemented - there are still lots of girls without their hijabs on or with “revealing” clothes. Also trans people are still visible here. Some are even on hormones which I don’t know where they managed to get... as government-funded hospitals wouldn’t allow that kind of treatment as it is against Islam. What I meant by ‘visible’ is in terms of them not being as closeted as one would expect in a strict Sharia implemented country. Even a group of foreigner friends of mine had commented on things like how “there is plenty of trans people and lesbian couples here”, which is surprising even to me as I just realised this myself.”

Religion is still very strong here that I wouldn’t feel that safe to express myself fully in public.
Homosexual acts between men are criminalised by Section 377 of the Indian Penal Code, a law dating back to 1860. Violation of Section 377 is punishable with a maximum ten year prison sentence and the possibility of fines. Although the anti-gay law was suspended briefly between 2009 and 2013, it is now in force again, though rarely used in prosecutions. Same sex behaviour between women is not criminalised.

The rights of transgender Indians have advanced substantially in recent years and current legislation which has passed through the Upper House of Parliament and is now being considered by the Lower House of Parliament will ban discrimination and confer substantial rights to transgender Indians.

Despite some evidence of liberalising attitudes among better educated middle-class Indians and the conduct of Pride marches in cities across India, LGBTI Indians continue to face stigma and discrimination in their society. There is widespread employment discrimination, harassment by police, ostracism by families, physical assault, and difficulty accessing public services, such as healthcare. Traditional religious groups remain a barrier to the assimilation of LGBTI people into the wider society.

Recent Developments

In December 2013 India’s highest court struck down the repeal of the anti-sodomy law, Section 377 of the Indian Penal Code. The law banning same-sex activity had been overturned in 2009 after the High Court of Delhi termed the criminalization of homosexuality “an affront to human dignity.” Subsequently, the Naz Foundation attempted to secure judicial review of the December 2013 judgement, but failed in January 2014.

The reinstatement of the anti-sodomy law resulted in massive protests across the country. 2014 was an election year in India and three of the political parties, Aam Aadmi Party, the Communist Party, and the Congress Party, said they would repeal Section 377 of the code. However, the Baharatiya Janata Party, which won the election, has no plans to repeal the law.

On April 15, 2014, in the case of National Legal Services Authority v. Union of India and others, the Supreme Court of India upheld the Constitutional rights of transgender persons under Articles 14, 15, 19 and 21, which guarantee the right to equality, the right against discrimination, freedom of speech and expression, and the right to life with dignity respectively. The Court accepted recommendations from an expert committee on the rights of transgender persons. These recommendations guaranteed self-identification without surgery, or medical intervention as a pre-requisite. The judgment stipulates that a transgender welfare board must be set-up in every state in India. The Supreme Court’s decision has been celebrated and welcomed by transgender persons across the country.

On 24 April 2015, the Upper House of the Indian Parliament passed The Rights of Transgender Persons Bill, 2014. This landmark bill secures the rights and entitlements of transgender Indians, allowing for reserved places in education and government, prohibition of discrimination in employment, access to a raft of benefits and the establishment of welfare boards at the centre and State level, and for transgender Rights Courts. This bill has not yet been signed into law and in August 2015, there were calls to include Intersex rights within the legislation.
Malaysia criminalises homosexuality in Section 377 of its penal code stating: “Whoever voluntarily commits carnal intercourse against the order of nature shall be punished with imprisonment for a term which may extend to twenty years, and shall also be liable to whipping.” Public and private “gross indecency” are also criminalised, punishable by a maximum two-year prison sentence.

Malaysia employs a pluralistic legal system where both civil law and Islamic Sharia law operate together. However, Article 4 of Federal Constitution reserves supremacy over all other laws, including Sharia laws. The political Islamisation of Malaysia in the 1980’s, during the Mahathir administration, has had a direct impact on the policing of public morality and bodily autonomy. Sharia laws are administered at the state level and apply only to Muslims. While Sharia law is similar in each state, the enforcement and penalties vary. Male and female same-sex acts are criminalised. In all states, male persons posing as women or wearing women’s attire are liable to be arrested under Sharia law Section 66.

Females cross-dressing as male is illegal in three states.

Gender affirmation surgeries were formerly available in the 1980’s at University Hospital in Petaling Jaya, Selangor performed by local doctors. However, this surgery was forcibly shut down, and a fatwa - or religious edict - that banned sex reassignment surgeries for people professing to Islam was introduced in the late 1980’s by the National Fatwa Council. Most laws that criminalise trans people were introduced between 1985 and 2012.

In 2011, the police banned an annual sexuality rights festival in Kuala Lumpur for causing disharmony, enmity or public disorder, or threatening national security following a number of police reports lodged against the festival. The organisers launched a judicial review on the constitutionality of the ban but this was not successful.

Recent Developments

In July 2013, Hazreen Shaik Daud became Malaysia’s first trans woman in politics after her appointment as a political secretary to Tanjung Bungah, Democratic Action Party (DAP) state assemblyman in Teh Yee Cheu.

A Human Rights Watch report documented case studies of arrests of transgender women by state religious authorities and police in Negeri Sembilan and several other states in Malaysia. The report found that Section 66 of Sharia law, criminalising cross-dressing, is frequently used by state religious authorities to conduct arbitrary raids and arrests of transgender women. These arrests typically resulted in further physical, emotional, and sexual violence perpetrated by the state authorities. Section 66 and similar laws are arbitrarily used to raid private events, including beauty pageants, weddings, and birthday parties.

In February 2011, a group of trans women filed a constitutional review of Section 66, following a series of arbitrary and violent raids and arrests of trans women in Seremban, the capital city of Negeri Sembilan. In November 2014, the Court of Appeal struck down Section 66, finding it inconsistent with six articles in the Federal Constitution. The Court declared the anti-cross-dressing law void for violation of transgender the constitutional right to “freedom of expression, movement and the right to live in dignity and equality.”

In January 2015, the Federal High Court granted the Negeri Sembilan State Court review of the opinion.

On September 11 2015, the Malaysian tourism minister, Datuk Seri Nazri Aziz, said that lesbian, gay, bisexual or transgender Malaysians would never have equal rights.

In 2013 former Malaysian Deputy Prime Minister, Anwar Ibrahim, was convicted of sodomy and sentenced to five years in prison. He was originally acquitted of the charges in 2012 which stemmed from murky allegations — at best — in 2008. During the his trial, the Malaysian Malay Network (Jaringan Melayu Malaysia) was outspoken against LGBTI rights and worked to ban a local LGBTI pride event (Seksualiti Merdeka).

More young Malaysian LGBTs are organising and engaging with their communities.

“Seksualiti Merdeka festival may be banned, but that hasn’t stopped us from organising. Many Facebook groups by Malaysian LGBTs, including Seksualiti Merdeka, host lively conversations discussing everything from relationships to democratic participation. More young Malaysian LGBTs are organising and engaging with their communities. We recently conducted workshops to mentor them on organising projects and negotiating the politics of private/public spaces. We have also been working very closely with the civil society movement at large. Our challenge remains in reaching out to poorer LGBTs, LGBT teens, and LGBTs in rural Malaysia who are being bullied by peers, punished by teachers, abandoned by parents, and harassed by authorities, in other words, those who have been failed by every level of society.”

Pang Khee Teik
Co-founder Seksualiti Merdeka
Prior to 2015 the legal system of The Republic of Maldives was largely based on Islamic law as Islam is the official religion. Political pressure from opposition groups and the international community led President Gayoom to reform the Maldives’ criminal system. Subsequently a new penal code was passed in the Maldives that does not criminalise homosexuality. However, Sharia law, still operates in conjunction with the penal code in some areas of Maldives, punishes homosexuality by banishing men from the community, imprisonment for up to three years, or lashings. Women may be placed on house arrest for a maximum of one year.

The stigma and discrimination that LGBTI Maldivians face is often directly related to the religious ethos of the islands. The first LGBTI group in the Maldives, Rainbow Maldives, was founded in 2009.

In 2008 the Maldives was one of 54 signatories to a statement initiated by Syria to oppose the UN’s declaration for the decriminalisation of homosexuality. The statement cites that decriminalisation “delves into matters which fall essentially within the domestic jurisdiction of states” and could lead to “the social normalization, and possibly the legitimization, of many deplorable acts including paedophilia.” The country also opposed the landmark 2011 LGBTI rights resolution in the United Nations Human Rights Council.

**Recent Developments**

In 2014, Parliament discussed a new bill on Sexual Offences. The Sexual Offences bill came into force last November and includes provisions against gender discrimination and sexual harassment but does not touch on the issues of same-sex relationships.

In June 2014, a Maldivian seeking asylum in New Zealand, Abraham Naim, made a public appeal to the Maldivian government about its Sharia laws against homosexuality. The President’s Office in the Maldives responded that sexual orientation is reason for prosecution under Sharia law.

In March 2015, Maldives abstained from a Russian attempt at the UN to withhold benefits from the same sex partners of UN employees. The abstention was condemned by the Adhaalath party (an Islamic party in the ruling coalition).

In August 2015, two men, aged 56 and 27, were arrested and accused of ‘homosexuality activity’ at their home on the island of Dhaandhoo after a tip off. This is the first report of an arrest for same sex sexual activity since 2013.

“Living in the Maldives as a queer person meant living in fear. It meant being constantly told that I had great potential while I was denied the opportunity to live an authentic life. During the time I was resident in the Maldives I witnessed people being oppressed for being themselves. I saw a transgendered person arrested on multiple occasions for dressing to reflect her gender identity. I saw a person be bullied and tormented into suicide. My close friend had his throat slashed for speaking out about the injustice.

I was attacked at school for my effeminate appearance. I watched people be forced into marriages and have unwanted children. For LGBTQI people, marriage is necessary to mask their sexual orientation and to live safer lives. I did not want to live a life where I had to pretend, and so it was impossible for me to stay. Leaving the Maldives as a refugee has allowed me my freedom at the sacrifice of my family. I am still sent death threats by people who disagree I should be able to live a life of my choosing. Islam is heavily embedded in the cultural consciousness and people are controlled with the fear of god. This has been problematic with the full implementation of sharia law creeping into and becoming normalized in society. The repercussions of acting out are judged by the whim of the broken down judiciary system. Thus, fear is a predominant force behind peoples’ actions.”

**Abraham Naim**

Abraham Naim aka Medulla Obongata, Formerly from Maldives, currently in NZ, Stateless Person

“I am still sent death threats by people who disagree I should be able to live a life of my choosing.”
The Pakistan Penal Code Section 377 criminalises same-sex sexual conduct. Section 377 states: “Whoever voluntarily has carnal intercourse against the order of nature... shall be punished with imprisonment for life, or with imprisonment of either description for a term which shall not be less than two years nor more than ten years, and shall also be liable to a fine.” In the 1980s, the legal system introduced Sharia law was combined with the penal code. This is known as the Hudood Ordinance and technically applies only to Muslims. Application of Sharia law places more stringent punishments in the form of public lashings or death by stoning. In practice though there is no evidence the Islamic law has ever been invoked over homosexuality and in recent years neither has the civil law. In practice when homosexual sex acts are discovered it more likely that perpetrators face short jail terms without trial, blackmail, or harassment from the police and the community.

There has been some advancement for the rights of LGBTI people, including increasing levels of tolerance amongst urban middle and upper class communities. There are no laws to protect LGBTI people from discrimination and violence on the basis of their sexual orientation or gender identity.

In 2009, a landmark ruling in the Supreme Court extended benefits and equal protection to Pakistan’s transgender community, including many persons identified as hijra’s. As a result, transgender people can now vote and run for political office. However there are still high levels of social discrimination faced by Pakistan’s hijra community. Reports suggest that hijras are denied places in schools or admission to hospitals, and landlords often refused to rent or sell property to them. A 2012 Supreme Court ruling allowed hijras to obtain accurate identification cards and granted their full participation in the 2013 elections.

In March 2012, Pakistan was one of 57 countries in the Organisation of Islamic Cooperation to oppose a UN resolution on LGBTI rights. Ambassador, Zamir Akram in a letter to the UN Human Rights Council, stated that LGBTI rights have “nothing to do with fundamental human rights.”

A 2013 survey on tolerance to homosexuality found that Pakistan was highly intolerant wherein 87% of Pakistanis believe that homosexuality should not be accepted.

**Recent Developments**

There have been many recent reports of killings and rapes of hijras which reveals that even when the law has been changed cultural norms may have not. In April 2014, a serial killer confessed to killing three gay men because of their sexual orientation and Pakistani media depicted the serial killer as “the epitome of righteousness.”

“With LGBT rights in Pakistan or for that matter in most of the Muslim world, there is no acknowledgement of LGB in this or other Muslim societies. Whatever is existing is in private and is invisible. What is visible are the transgender populations. Sexual identities get translated and rephrased in different ways than West and most other countries. As far (as) law is concerned nothing is acknowledged from LGBT except the T and that too after the Supreme Court’s judgement of 2009/10. The transgender population post this decision are considered the third gender but whether they have all the rights granted to them through this decision is a moot point. Lot has to be done on that.”

_Tahir Khilji, Ashoka Fellow working with Hijra sex workers, Lahore_
Singapore criminalises homosexuality under Section 377A of the Penal Code.\textsuperscript{379} The law specifies that “acts of gross indecency” between men, including sodomy, are punishable by a term of up to 2 years imprisonment.\textsuperscript{380} The section applies specifically to men and may be applied where same-sex acts take place in public and private spaces. In 2007, the State of Singapore undertook a review of its Penal Code, including section 377A. Although the majority of the laws under review were repealed, section 377A was not. This law is rarely used.\textsuperscript{381} Instead, if LGBTI persons are arrested in a public space, they are prosecuted under section 354—intent to outrage modesty—or under section 294(a)—obscene annoyances—of the Penal Code.\textsuperscript{382}

The Media Development Authority Act, the Films Act and the Broadcasting Act empower the Media Development Authority (MDA) to ban, classify and, through licensing, restrict the content of various media.\textsuperscript{383} Depictions or speech that advocates for the dignity or rights of LGBTI persons are routinely cut out, or barred which results in stereotypical, negative and skewed depiction and is a form of structural violence perpetuating prejudice and stigma. Because LGBTI persons are deprived of positive role models in the media this can reinforce low self-esteem.\textsuperscript{384}

Neither the law nor the state recognises same-sex relationships. Even marriages contracted in other jurisdictions between same-sex partners are specifically unrecognised in Singapore under Section 12(1) of the Women’s Charter. Consequently, many benefits and rights enjoyed by married opposite-sex couples are denied to same-sex couples. These include employee benefits whose scope extend to spouses, medical visitation and next-of-kin rights, rights to purchase subsidised public housing from the state, and tax allowances for married couples.\textsuperscript{385}

The Societies Act gives discretionary power to the Registrar of Societies to approve or disapprove any organised group of ten or more persons. The Registrar of Societies can deny registration to LGBTI groups reasoning their mission is “contrary to the national interest.”\textsuperscript{386} Thus, LGBT advocacy groups operate under threat of arrest and prosecution. Even without such clampdowns, the lack of legal status means an inability to raise funds in any organised way, and denial of access to mainstream media wary of giving legitimacy to unregistered groups.\textsuperscript{387}

**Recent Developments**

Recently, domestic and international scrutiny on LGBTI rights has increased following a Singaporean Court of Appeal ruling in October 2014, upholding the constitutionality of Section 377A of the Penal Code. The Office of the High Commissioner for Human Rights, international non-governmental organisations and Singaporean LGBTI groups have expressed dissatisfaction at the Court’s decision. The Supreme Court believes that the legislature should address the issue.\textsuperscript{388} The Singapore Government has been under pressure to reconsider Section 377A. In the meantime, LGBTI persons continue to live with harassment and the threat of enforcement of this section.

Pauline Lee
Engineer, Singapore

“With the collapse of the constitutional challenge on 377A in Singapore, it is clear as day that discrimination will not be dealt with in the judiciary or legislative sphere. Even more concerning was how 377A and censorship formed the twin power of evil to justify discrimination and spread misinformation against LGBT people. As a lesbian, I have been single out by schoolmates and colleagues for bullying and social isolation just because I look different. Authority figures often fail to protect me because they always told me to change and it is just a lifestyle. Sometimes I am told that I am disgusting and should be punished by the law, or if I am really unlucky be threatened with a beating. I carry this shame from my childhood to adult years, often hearing people condemning us ‘perverts’ who is out to destroy family values and convert children. Staying in the closet is the best way to protect myself and my loved ones because there is really no legal protection. Most worrying of all is the lack of human rights awareness amongst Singaporeans. How do LGBT people hope to see change if the government and public sees economic growth as the priority to country survival? Many LGBT people dream of leaving here and I hope I can too. I dream of that land of rainbow where I can be myself and bask in the sunlight of hope. Somewhere that the law not only protects us but saw us as human beings worthy of dignity and respect.”

Staying in the closet is the best way to protect myself and my loved ones because there is really no legal protection.
The Sri Lanka Penal Code criminalises same-sex sexual conduct under Section 365A. Homosexual acts are punishable by up to ten years imprisonment. In 1995 this law was broadened to be gender-neutral and criminalise both male and female same-sex sexual activity. This law is not necessarily enforced and is referred to by some as a ‘dead law’ even though it is legally valid. Notwithstanding this, LGBTI people still face discrimination that limits their ability to lead productive and safe lives. There is a general perception among the LGBTI community that police target and extort persons they believe to be homosexual, bisexual, or transgender. This often results in violence, but the victim is left with no access to legal recourse.

Overall there have been serious concerns with Sri Lanka’s human rights record, during three decades of civil war and in the years of authoritarian rule afterwards which adversely affected many minority communities, including LGBTI people. When Sri Lanka hosted the 2013 Commonwealth Heads of Government Meeting several member states refused to attend due to the country’s poor record of upholding human rights.

Recent Developments

In October 2014, in response to shadow reports that EQUAL GROUND, the only LGBT organisation in the country, submitted to the United Nations Human Rights Committee, the Sri Lankan Government publicly acknowledged that the non-discrimination provisions in the Sri Lankan Constitution protect people from discrimination on the basis of sexual orientation and gender identity for the very first time. Although this was an important shift in tone, the Government was silent on repealing the laws criminalising consensual same-sex sexual conduct between both men and women.

In January 2015, a new President, Maithripala Sirisena, was elected and raised the possibility of a radical change in leadership from the 10-year authoritarian rule of former President Mahinda Rajapaksa. LGBTI groups are hopeful that President Sirisena can rally support to repeal of the nation’s repressive anti-gay laws.

In March 2015, in an unprecedented move, Sri Lanka voted against Russia at the UN when Russia tried to block same-sex partner benefits for UN employees. This is viewed as a positive step towards future reforms by Sri Lankan activists.

In August 2015, the Parliamentary elections saw the United National Front for Good Governance win a majority of seats ushering a new era of democratic politics free from intimidation and fear. Activists on the ground in Sri Lanka are celebrating this hard fought victory and are feeling positive that reforms will occur in the next few years in Sri Lanka.

“\nI believe with this new government in place, we can see some real changes here for the gay community. As someone who has been closely associated with EQUAL GROUND for many years, I see the kinds of progress that is being made. It was really hard during the previous regime. Intimidation, surveillance etc. Yet, they stood firm and kept pushing. I think this new government will bring in many changes for all citizens of this country. We no longer have to live in fear and I hope that soon we will not be criminals for loving people of our own sex.”

Ranjit
Colombo

We no longer have to live in fear and I hope that soon we will not be criminals for loving people of our own sex.
Until 1998 Cyprus maintained the colonial law criminalising homosexuality. In 2002 same-sex couples were brought under the same age of consent to heterosexual couples. In 2015 Cyprus approved a bill allowing for same-sex civil partnerships which conveys all of the benefits of marriage except for the right to joint adoption.  

Cyprus has since enacted legislation to protect sexual orientation from discrimination in employment and the provision of goods and services, but gender identity has not been included. Hate crime legislation in Cyprus does not cover either sexual orientation or gender identity. These limited protections have not done much to reduce the social stigma faced by LGBTI people, with research suggesting they often feel unable to report homophobic violence and discrimination.

**Recent Developments**

A 2015 ranking of 49 European countries on the policy status of LGBTI citizens revealed that Cyprus ranked 34th in Europe with a rating of 24.9%, where 0% is gross violations of human rights, discrimination and 100% is respect of human rights, full equality.

A study published by the International Journal of Manpower revealed that gay male applicants who revealed their sexual orientation on job applications were 39% less likely to get a job interview than equivalent male applicants who did not indicate their sexuality. Moreover, openly lesbian applicants were 42.7% less likely to obtain a job interview than their heterosexual counterparts.

Furthermore, an EU-wide survey indicated that 56% of LGBTI individuals in Cyprus felt discriminated against or harassed because of their sexual orientation—nine percentage points above the EU average. Additionally, 33% felt discriminated against when buying goods or accessing services, healthcare, social services, or housing—2 percentage points above the EU average. These statistics show that the laws that Cyprus has enacted to protect LGBTI individuals from discrimination are not comprehensive enough to ensure their full gamut of civil liberties are accessible.

The Church in Cyprus has not fostered equal treatment for LGBTI individuals. In 2013 the Church in Cyprus referred to homosexuality as “an affliction and a moral downfall” leading to “an increase in divorce, paedophilia, people dying of AIDS and families torn apart.”

Following the 2015 approval of the right to same-sex civil partnerships the director of ILGA-Europe, Evelyne Paradis, commented, “[w]e sincerely welcome today’s move by the Cypriot government. This bill was promised by politicians two years ago already and we call on the parliament to support this important piece of legislation without delay.”
In 2014 Malta recognised same-sex partnerships on legal par with marriage, including adoption rights for same-sex couples seeking to adopt. The Civil Unions Bill that allowed this historic step was followed by a constitutional amendment to protect sexual orientation and gender identity. In 2015 Malta secured the right for its citizens to change gender and protected intersex minors from invasive surgical procedures. Malta has anti-discrimination laws to protect sexual orientation and gender identity in employment and the provision of goods and services. Further, in 2012 Malta passed strict amendments to its Criminal Code to punish hate speech and indirect discrimination.

Malta is hosting the 2015 Commonwealth Heads of Government Meeting.

Recent Developments

The 2015 ILGA ranking 49 European countries ranked Malta the friendliest country for LGBTI persons, receiving an 89% score. Much of this progress is attributable to the new government’s transparency and vigour in working toward achieving equal treatment for LGBTI persons.

The Malta Gay Rights Movement (MGRM) has been key to these changes. The MGRM sees deficiencies still in the safety of school environments, the reporting and monitoring of hate crimes, access to health services to support individuals with HIV/AIDS, among others.

The MGRM commends the Maltese government for the rapid changes in support of the LGBTI community, but recognises that just because legislation exists, does not mean that it is being effectively implemented.

Another EU-wide survey conducted by ILGA revealed that 51% of Maltese LGBTI respondents felt discriminated against because of the sexual orientation. Additionally, 35% felt they were discriminated against when buying goods, or accessing services, healthcare, social services, or housing. While this data puts Malta slightly above average for the rest of the EU—47% and 32% respectively—stigma still exists.

While it is important to recognise the commendable advances that the Maltese government made in such a short period of time, there are still constituents that are uncomfortable with the new protections. Edwin Vassallo, a former Nationalist MP stated he is “not comfortable with the law that gave us marriage by another name.” Vassallo added that feels that the law passed to give homosexual civil unions the same legal status as marriage is “dishonest” because no studies were conducted to determine whether implementation efforts would be effective.

The Ministry of Education and Employment appointed a representative from the MGRM to implement and review a national anti-bullying policy. The policy is aimed at tackling homophobia and transphobia in schools. As an early step, the Ministry of Education disseminated information regarding the Rainbow Support Service—a counselling service for LGBTI youth and parents, offering family support and mediation—to secondary school students.
United Kingdom

In England and Wales male same-sex sexual acts were decriminalised in 1967 under the Sexual Offenses Act. However, Scotland did not decriminalise until 1980, and Northern Ireland finally decriminalised in 1982. In 2001 England and Wales lowered the age of consent for homosexual men from eighteen to sixteen, on par with the heterosexual consent law. Northern Ireland did not equalise its consent law until 2009. In 2014 England, Wales and Scotland passed the Marriage Act allowing same-sex marriage. Northern Ireland is currently the only place in the UK where gay couples cannot get married.

The law in the United Kingdom prohibits discrimination based on sexual orientation and gender identity. Regardless, in 2013-14 police in the UK recorded 6,254 hate crimes related to sexual orientation and gender identity. Judges are encouraged to issue harsher sentences where sexual orientation or gender identity is a motive for committing a crime.

Recent Developments

A 2013 survey revealed that 76% of UK citizens believe homosexuality should be accepted by society, while 18% believe homosexuality should not be accepted. Further, this study revealed that 36% of UK citizens feel that homosexuality is morally acceptable, and 43% do not believe it is a moral issue at all. However the research showed five other countries are more tolerant of homosexuality than the UK. Over the past decade attitudes toward homosexuality in the UK have been stable, not improving. The same study shows that men and women in the UK differ in their opinion regarding the acceptance of homosexuality. Only 69% of men in the UK believe homosexuality should be accepted, while 83% women feel this way. There is a correlation between the low rate of heterosexual men’s acceptance of LGBTI people and the UK’s high rates of hate crimes based on sexual orientation and gender identity.

The Church of England submitted a report in 2014 recommending that priests bless same-sex couples. Further, the report said that the Church should fight homophobia and repent for its past attitude toward LGBTI people.

During the 2015 UK general election three parties: Labour, the Liberal Democrats, and the Greens all released plans for further legislation and funding to protect LGBTI rights. The Conservative Party indicated it wanted to tackle the stigma that exists, particularly in UK schools and workplaces. The UK still has outstanding issues such as not allowing transgender people to self-determine their sexual identity.

The Conservative Party won the election and The Rt Hon David Cameron continues to serve as Prime Minister. In August 2015 Cameron commented, upon receiving an honour for his efforts to achieve marriage equality in the UK, that he is proud to live in the “best place in Europe to be lesbian, gay, bisexual or transgender.”

In November 2015, Northern Ireland’s Assembly voted on the issue of same-sex marriage, this time the vote ended narrowly in favour of marriage equality, but the largest party in the assembly, the Democratic Unionists vetoed any change in the law. The Irish Congress of Trade Unions (ICTU) spokesperson has previously said, “Northern Ireland has slipped back in terms of the human rights agenda and is now isolated in the UK as the only place where a gay couple cannot get married.” The Democratic Unionists blocked the marriage equality law, claiming that Northern Ireland did not have the requisite cross-community support. According to a BBC News political survey, nearly two thirds of people in Northern Ireland feel comfortable with allowing same-sex marriage.
Australia’s recognition of the rights of LGBTI people are at an advanced level. However it was only in 1997 that Tasmania became the last Australian state to decriminalise same-sex sexual activity following the landmark decision of the United Nations Human Rights Committee in Toonen v Australia.442

In 2013 the Australian Senate reported on the involuntary or coerced sterilisation, however the report has not been implemented. Organisation Intersex International Australia (OII Australia) notes that this has had no tangible impact on medical practices, as far as they can determine.344 At the state level, there has been progress. Victoria, New South Wales, and South Australia enacted legislation to expunge the convictions of men for engaging in gay sex prior to the repeal of the homosexuality laws.44 Similar reform is being undertaken by the Australian Capital Territory.

In many Australian states, a partial defence to murder exists called “the gay panic defense” which allows a heterosexual man to reduce his sentence from murder to manslaughter if he believed he was the object of homosexual sexual or romantic advances.445 In 2015, the Labor government in Queensland promised to repeal this defence, the unequal age of consent laws, and expunge criminal convictions of gay men for participating in same-sex sexual acts. South Australia and Queensland plan to repeal the gay panic defence in 2015.446

Australia still needs to improve its legal protections for LGBTI individuals are there are legal inequalities at the state level, particularly in regard to age of consent and adoption rights.447 Australia has yet to introduce equal marriage.

Recent Developments

Since 2013, Australia has operated offshore detention centres for asylum seekers on Nauru and on Manus Island in Papua New Guinea. Since sodomy laws exist in both Nauru and Papua New Guinea, the safety of LGBTI asylum seekers is in limbo, both in the detention centres and during potential resettlement as refugees.448 One asylum seeker described his experience: “We have no support for our emotional problems. I’d like to have a boyfriend, to talk about the future with, to share my feelings with, but I’m too scared. All I want is a couple of hours to be together without attracting attention.”449

The Coalition Government under Tony Abbott has maintained its opposition to equal marriage legislation. In August 2015, Abbott made a vague promise of a plebiscite on the issue, but there is no certainty as to when, or if this will occur. The most recent opinion polls, suggest that any such plebiscite would result in a vote in favour of marriage equality, with 72% of Australians indicating they support marriage equality.450 Since September 2015 the Coalition Government is now head by PM Malcolm Turnbull.

“While Australia has moved significantly forward on many LGBTI reforms, in particular world-class national anti-discrimination protection, there is often still great inequity. As a trans and bi/pansexual woman who is proud of all aspects of myself, I feel saddened and torn by this paradox. Only one of Australia’s nine states/territories offers birth certificates for trans and gender diverse (TGD) people on a basis of self-affirmed identity and gives options other than male or female. TGD health care is in a crisis with few knowledgeable and sensitive health professionals available for both adults and minors. Minors face unnecessary delays in receiving irreversible hormones at 16 due to unwanted court processes and adults largely face pathologising approaches that assume we are mentally ill. Marriage equality, while needed and wanted, will not resolve these issues. True celebration of diversity of all sexual orientations, all genders and all bodies is needed. Passionate TGD and bi people are striving for this; we need changes and greater support to achieve our goals faster and more effectively.”

SALLY GOLDNER
TRANS AND BI ADVOCATE
The Pacific island nation of Fiji is one of the few countries in the region to advance LGBTI rights in recent years. In 1997, Fiji became the second country in the world to protect sexual orientation and gender identity from discrimination. In 2007, Fiji also banned discrimination based on sexual orientation in employment. Fiji also repealed its laws criminalising sodomy and “unnatural offences,” leading to the decriminalisation of homosexuality.

The 2013 constitution provides that “sexual orientation, gender, and gender identity and expression are prohibited grounds for discrimination; however, the right to equality and non-discrimination may be limited for the purposes of adoption, marriage, devolution of property on death and pension, and excluding individuals from holding public office.” While the Amithi Fiji Project, an HIV/AIDS project protecting LGBTI rights, called on the Attorney General to include protection of all transgender people and third-gender recognition in the new constitution this was not accommodated in the revised constitution.

Although the new constitution stipulates that Fiji is a secular country, religion still heavily influences politics. On 26 March 2013, Prime Minister Frank Bainimarama stated, same-sex marriage “will not be allowed because it is against religious beliefs.” Police harassment of LGBTI people is still common. Notably, in 2012 policed banned a march in Suva to celebrate the international day against homophobia. Evidence indicates that a significant amount of violence, discrimination and marginalisation of LGBTI people still occurs in Fiji. Systemic homophobic bullying is common in Fiji and can range in intensity from rape and physical assaults to verbal abuse.

Fiji was a signatory to the landmark UN declaration in support of LGBT rights in 2011.

Recent Developments

Fiji has become a hub for LGBTI rights in the Pacific region and hosted the launch of Pacific UN Free & Equal campaign in Suva, in August 2015. This is a joint initiative of UN agencies including OHCHR, UNDP, UN Women, UNAIDS, UNESCO, UNV, WHO to promote LGBT equality. The President of Fiji, H.E. Ratu Epeli Nailatikau made a strong statement of support of the Free & Equal Campaign and appealed to States across the Pacific to join the fight for LGBTI equality. The President stated “we all need to examine what we can do better, how we can take further steps, what practical measures can be adopted, to protect the human rights of lesbian, gay, bisexual, transgender and intersex people.”

In May 2015, Fiji sent the largest delegation to the Pacific Human Rights Conference on Sexual Orientation, Gender Identity and Expression (SOGIE), held in Tonga, where key recommendations on future steps for progress were discussed by all participating countries.

“My interest for activism and advocacy on LGBTQI rights and equality and acceptance is fuelled by these various experiences of discrimination, bullying and violence that I and my family have had to endure over the years. I am hopeful that my involvement will bring about changes for the younger community.”

Tamani Rarama, Rainbow Pride Foundation’s Youth Wing Ambassador, Suva, Fiji
Kiribati was a UK colony until 1979. Sodomy, regardless of sexual orientation, and acts of “gross indecency between males” remains illegal under sections 153, 154 and 155 of the Penal Code. Punishments can range up to fourteen years imprisonment. Despite these laws, a U.S. State Department report on Kiribati notes that despite the fairly stringent legal position, there was no evidence of prosecutions directed at lesbian, gay, bisexual, or transgender persons nor were there reports of societal discrimination or violence based on sexual orientation, gender identity or against any person with HIV/AIDS. There appears to be no current efforts to reform the Kiribati legal code. It is not a priority for the Kiribati government. This may be due in part to traditional views among the I-Kiribati, the Micronesian indigenous, who traditionally regard gay or transgender men as a third sex. Regardless, a person who chooses to live openly as a gay or lesbian individual faces difficulty integrating in Kiribati society.

Recent Developments

At the Universal Periodic Review of Kiribati at the UN in January 2015, France, Slovenia and Chile all called on the I-Kiribati government to decriminalise sexual orientation. Canada and Uruguay also recommended the enactment of an antidiscrimination provision covering multiple issues including sexual orientation. To date the Kiribati government has not formally responded to these recommendations.

“As a gay individual, living in the 20th and 21st century in Kiribati nothing much has changed but there is an increase of LGBT individuals coming out as openly gay or lesbian or just recently transgendered women, and this can account to the level of acceptance from members of the local community who are educated or have access to media (internet, movies, news, so on so forth), received tertiary education abroad (exposed and experienced to co-existing and making friends with LGBT students), had live abroad and those who were able to learn and understand what LGBT individuals endured when growing up (members of family, work-force, community, etc.). Bottom line is, in Kiribati homosexuality is still considered taboo and that most of the time people around you (families, friends, local church group members, so on so forth) are aware of your sexuality but prefer not to talk about it which is something I think, should be addressed to allow effective communication and for members of the LBGTI to be able to be safe and secure. For example, there are members of my family who know about my sexuality and are satisfied that I had opened up to them while some had received it bitterly (one of my uncles threatened to kill me if I am too feminine or gay in front of him, which he never did later on).”

“Bottom line is, in Kiribati homosexuality is still considered taboo and that most of the time people around you (families, friends, local church group members, so on so forth) are aware of your sexuality but prefer not to talk about it.”

Tebile Tamton
I-Kiribati gay man
Nauru, the smallest country by landmass and population in the Commonwealth. Chapter XXII of Nauru’s Criminal Code is titled “Offences against Morality”. It criminalises sexual activity between consenting male adults and contains other discriminatory and anachronistic offences.\textsuperscript{472} Officially, male-male sexual acts are illegal and can be punished by up to fourteen years imprisonment and hard labour.\textsuperscript{473} In practice though, there have been no reported cases of prosecution under these laws and the government plans to repeal them soon.\textsuperscript{474}

Early in 2011, Matthew Batsiua, the Nauruan Minister for Health, Justice and Sports stated that decriminalisation of “homosexual activity between consenting adults” was under active consideration.\textsuperscript{475} Later that year the government of Nauru made a pledge to decriminalise same sex sexual acts.\textsuperscript{476} This pledge was commended by Australia and Sweden.\textsuperscript{477, 478}

**Recent Developments**

Following the last Universal Periodic Review, Nauru was expected to decriminalise consensual homosexual activity as part of a wider platform of reforms.

In August 2012, Nauru reopened detention centres to process refugees and others seeking asylum in Australia. There have been widespread concerns about human rights violations in the facilities including several reports of rape.\textsuperscript{479} Without any evidence of reform of anti-gay laws, there are serious concerns about the conditions for LGBTI refugees on Nauru.
New Zealand has extensive legal protections for LGBTI people. Homosexual acts between men were made legal in 1986, with an equal age of consent of 16. In 1993, New Zealand passed the Human Rights Act in which sexual orientation was included amongst the groups protected from discrimination. The Act is linked to the New Zealand Bill of Rights Act 1990, which describes the basic rights of New Zealanders.

The Births, Deaths, Marriages, and Relationships Registration Act 1995 allows transgender people to change their gender on their birth certificates. Officially full sex reassignment surgery is still required, but the Courts have waived this on requirement at least one occasion. Gender identity is not explicitly covered by the Human Rights Act, but a Crown Law judgment stated that it was included under “sex” in the Act. This has not yet been tested in the Courts. New Zealand has recognised the equal standing of de facto relationships, whether gay or straight, and introduced Civil Unions for both straight and gay couples in 2004.

In 2013 New Zealand became the first place in Oceania to adopt marriage equality with the passing of the Marriage Amendment Act which defines marriage as “the union of 2 people, regardless of their sex, sexual orientation, or gender identity.” In addition, married same-sex couples may adopt. Importantly, people who are already married when they change their gender are not forced to divorce.

Gender identity is covered neither formally nor completely by human rights legislation. The Crown Law judgment that gender identity is covered by the Human Rights Act led government departments to amend their procedures to allow passports, driving licences, and other documents to be changed. The result is that document changes are increasingly based on self-identification, rather than on full reassignment surgery.

**Recent developments**

New Zealand’s antidiscrimination laws do not apply in its territories. While Niue and Tokelau have both repealed their anti-sodomy laws, the Cook Islands have not. In September 2015, there was confusion in the Cook Islands when the Te tiare Association began a campaign for gay law reform. However, Cook Islands Prime Minister Puna said that his government was not considering the issue.

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**“I have attempted to include an amendment to section 21 of the Human Rights Act in a Statutes Amendment Bill to include gender identity as part of sex discrimination. While some may argue that gender identity and gender expression should stand alone as a ground of unlawful discrimination, the reason for including it was that successive Governments have stated that gender identity is included within sex discrimination. There has been concern expressed by the Human Rights Commission and by a number of members of the transgender community that there is no guarantee that a Court would interpret the law in the same way. My purpose was to make it clear and to do it through a technical amendment process that merely reflected what the Government said. The previous Minister of Justice has refused to support the amendment because she considered it was controversial, which begs the question of whether gender identity is properly covered within sex discrimination, and the current Minister feels it is unnecessary in spite of the Human Rights Commission advocating for its specific inclusion. I intend to continue to advocate for this legislative amendment.”**

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**“We still have a way to go to fully recognize LGBTIQ rights in Aotearoa. It is a human rights issue and is about freedom to be who you are as an equal citizen.”**

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**“We still have a way to go to fully recognize LGBTIQ rights in Aotearoa. It is a human rights issue and is about freedom to be who you are as an equal citizen. However, Cook Islands Prime Minister Puna said that his government was not considering the issue.”**
Papua New Guinea (PNG) gained independence from Australia in 1975. The colonial era anti-sodomy laws still apply. Section 210 of the Penal Code prohibits male same-sex sexual activity. Individuals caught engaging in anal sex can be sentenced to fourteen years imprisonment. Other male same-sex “gross indecency” is punishable by up to three years imprisonment. These laws have not been used to prosecute LGBTI people recently.

In 2011 the PNG government declined to implement recommendations in its Universal Periodic review that it repeal anti-sodomy laws. Dame Carol Kidu, a prominent former PNG MP, called unsuccessfully in 2012 for the government to repeal anti-sodomy laws saying the laws forced gay Papua New Guineans to live lives of secrecy. Prime Minister Peter O’Neill replied that there were still strong feelings against homosexuality and the country was not ready “to accept such sexual openness.”

In 2013, PNG registered its first gay, bisexual and transgender rights NGO, the Kapul Champions. Since then, the Kapul Champions have been advancing the interests of men with diverse sexuality and transgender women in Papua New Guinea and helped LGBTI persons gain access HIV healthcare.

**Recent Developments**

In April 2014 PNG MP, Malakai Tabar was reported as supporting proposals to protect the rights of persons with various sexual orientations.

There were no reports of prosecutions for same sex behaviour in the last five years. However, in March 2015, Malalaua district resident Mr Joe Sevese was prosecuted and pleaded guilty to indecent acts between males. In that matter, the sentencing judge found that “homosexual acts or this type of behaviour is quite prevalent in society” despite the lack of reported cases, and sentenced the accused to a suspended sentence of two years imprisonment in order to “deter [him] and others from indulging in this type of behaviour.”

In 2013, following arrangements between Australia and PNG whereby asylum seekers reaching Australia by boat are sent to Manus Island detention centre in PNG, concerns were raised about the treatment of LGBTI asylum seekers in a country where homosexuality is still illegal and LGBTI people suffer social exclusion.

The detention centre is rampant with human rights abuses including rape and sexual assault, often perpetrated by staff and police forces. In 2014 the Australian government confirmed that LGBTI refugees on Manus Island would be resettled in PNG.

“My name is Obert Samba but my peers and friends called me Elizabeth Taylor. I am a Transgender Woman and I am proud of it. Born into a male dominant society it was very hard because my dad wanted me to be brought up like man and not woman. Growing up in PNG stigma, discrimination, abuses and violence is part of my daily life.

“My name is Iru Tau and I’m a gay man living in Papua New Guinea. I come from a Christian background family. As I was growing up [it] was very difficult for me to come out. As for that reason, I use to hide from my family . . . I was scared of been bashed and might not been accepted in my family. For that reason, I was in my own shell doing what my interest was as a gay man. Stigma and discrimination was also a contributing factor to my life as a gay man. I was accepted by my family as a gay man after I came out myself in 1999, when I told my parents who I really was. Growing up as a gay man in Papua New Guinea is very difficult as PNG is a very diverse country with 800 different languages. Being a gay man is very difficult to present yourself in public because you will never been accepted as who you are but instead be abused and even tortured in some other places.”

**Iru Tau**

BOARD MEMBER OF THE KAPUL CHAMPIONS

**Elizabeth Taylor**

TRANS ACTIVIST
Samoa gained its independence from New Zealand in 1962. Section 67 of the Samoa Crimes Act 2013 criminalises same-sex sexual acts between males. The punishment is a maximum sentence of five years imprisonment.

Like many Polynesian nations, Samoa has a third gender subculture called fa’afafine, or literally translated, “to be in the manner of, or to be like, a female or woman.” There are no hard and fast rules as to how and why fa’afafine exist and they been a part of the local Samoan communities and villages for a long time. The practice and display of feminine characteristics by fa’afafine means that Samoan society is traditionally tolerant of transgender people and, by extension, homosexuality.

In recent years Christian churches have heavily influenced Samoan society, thus teachings from the Bible are used to condemn individuals who identify as fa’afafine.

In 2011, in response to Nauru’s and Palau’s pledges to repeal antigay laws, the Samoan government informed the UN that it had no plans to follow suit. The Samoan Prime Minister, Tuilaepa Sailele Malielegaoi, is on record opposing equal marriage in Samoa.

In 2013, the Samoan government updated the laws around sexual offences by repealing obsolete laws in the Crimes Act 2013 which now defines “sexual connections” under Section 49(3) to include oral and anal sex, and by inference allows sexual contact between males, as long as it’s “consented to.” However, under Section 67, sodomy is still illegal even if it is consented to. Notably, female impersonation was decriminalised - a cause for celebration among the Samoan fa’afafine community and human rights activists in the Pacific.

In 2013, discrimination based on sexual orientation was explicitly prohibited in the context of employment, according to Section 20(2) of the Labour and Employment Relations Act 2013.

Recent Developments

In August 2015, Sam Stanley, a 23 year old Rugby Union player of Samoan descent, became the first international player for England to come out as gay. His brother Michael is in the Samoan national squad.

“LGBTIQ are still living uncomfortably and with fear, even in the security of their own homes, because of what the criminalisation law sets out.”

Alexander K Su’a, fa’afafine and senior barrister and solicitor of the Supreme Court, Apia, Samoa.
The Solomon Islands criminalise male and female same-sex sexual activity under Section 160 of the Penal Code. The punishment for committing “unnatural offences” is a maximum sentence of fourteen years imprisonment. There are, however, no reports of these laws being used to prosecute LGBTI people in recent years.

In 2008, the Solomon Islands Law Reform Commission proposed decriminalisation of gay and lesbian acts, but this was met with fierce public opposition and ultimately no reform was brought forward. In 2011, in response to Nauru’s and Palau’s pledges to repeal antigay laws, the Solomon Islands government informed the UN that it had no plans to follow suit. One opponent of the reform stated that “Legalizing gay and lesbian in the country would only encourage the breed of more,” and the Solomon Islands is a “long time Christian country” that should never think of legalising gay sex. The Law Reform Commission Chairman, Frank Kabui, responded that “they are not encouraging people but [they] just want to be fair.” After this failed attempt, reform in the Solomon Islands seems far away.

**Recent Developments**

Recently, a pastor from Nigeria began a ministry on the Solomon Islands, which has been seen as an attempt to spread anti-LGBTI ideology in the country.

In the Kingdom of Tonga, male same-sex sexual activity is criminalised under the Criminal Offences Act, Section 136. The maximum penalty for homosexuality is ten years imprisonment. Whipping may be administered as punishment under certain circumstances. There have been no prosecutions under these laws in recent years.

Like other Polynesian societies, Tonga has a widely accepted third gender subculture. A “Leiti” is a Tongan male who behaves in an effeminate manner. Although Leitis in Tonga do not necessarily translate to gay, lesbian or transgender identities, there are Leiti organisations that campaign on LGBTI issues with much recent activism emerging from the Tonga Leitis Association (TLA). The TLA defines Leiti as the broad range of men who have sex with other men, trans people, gay and bisexual men.

Although the Leitis are a subculture with a long history, they are traditionally outsiders to the ‘normal’ ‘Anga FakaTonga’ (Tongan ways). Tonga is traditionally a conservative society. The TLA’s mission is to make a significant difference in the lives of transgender and people attracted to the same-sex in Tonga. To date, there is no legal recognition of the Leitis and by extension cross-dressing or same-sex relationships. In 2010, the TLA launched a strategic plan to achieve legal recognition and protection from discrimination through National Human Rights Commissions.

**Recent Developments**

In May 2015, the Pacific Human Rights Conference, themed “Our Voices, Our Communities, Our Rights” was held in the Kingdom of Tonga with the support of the Tongan government and royal family. This conference focused on activism and advocacy for sexual orientation, gender identity and gender expression communities in the Pacific. Seventy regional representatives and twelve countries across the Pacific were represented. The opening remarks at the conference were delivered by the Patron of the TLA The Hon. Salote Lupepau’u Tuita Talone. The Hon. Deputy Prime Minister of Tonga, Siaosi Sovaleni, the Australian High Commissioner, and other UN Agencies attended.

“Anecdotal evidence suggests that many Leitis are bullied in school, negatively affecting their overall well-being. Anecdotal evidence also suggests that many Leitis drop out of school, adversely affecting their ability to gain meaningful employment. A key reason given for the high level of “drop out” is the stigma and discrimination experienced within the education system, in particular, bullying. A current programme conducted by the TLA is the provision of scholarships to Leitis wanting to achieve academic qualifications through attending tertiary education. This is in response to the number of Leitis who have dropped out of school and without support would not be able to receive tertiary education.”

**JOEY JOLEEN MATAELE ACTIVIST FOR TRANS AND GAY RIGHTS IN THE KINGDOM OF TONGA**
Tuvalu gained its independence from the UK in 1978. The Tuvalu Penal Code contains Sections 153, 154 and 155 criminalising same-sex sexual activity. The penalty for the various conduct ranges between five and fourteen years. However, there are no reports of recent prosecutions under these laws.

In 2008, Tuvalu signed the UN declaration in support of LGBT rights. However, to date, no progress has been made to repeal anti-LGBTI laws in the penal code.

In its first Universal Periodic Review at the UN Human Rights Council in 2008, the Czech Republic recommended Tuvalu consider the decriminalization of consensual same-sex activity between adults, and the adoption of measures to promote tolerance in this regard. In response, Tuvalu stated that, while it respects the rights of persons of all sexual orientations, the question of legal protection in the Constitution needs careful consideration. The government further explained that it is open to discussion surrounding and relevant actions. Tuvalu has not changed its position in regard to LGBTI rights since 2008.

Recent Developments

In the 2013, Universal Periodic Review at the UN Human Rights Council, the USA and UK recommended Tuvalu decriminalise homosexuality, and ensure that anti-discrimination laws cover sexual orientation. In response, Tuvalu said it was open to discussion and expressed that people with different sexual orientation did not suffer social discrimination, but the question of legal protection in the law was controversial and would need careful consideration.

“Life as a gay in Tuvalu is uncertain. To make it short it is a taboo for homosexual sex. On the other hand, gay men are allowed to wear women’s clothes and do women duties in Funafuti, the capital of Tuvalu. They have gay entertainment groups consisting of both homosexuals and lesbians. So I can say that there is a certain level of acceptance but we continue to be stigmatized just like any other society in the Pacific. People would mock us etc. I have not come across a case where men were imprisoned for having sex with another men. The bottom line is that there are laws in relation to gay rights but nothing concrete has been done about it just because of the stigma associated with gays in society.”

There is a certain level of acceptance but we continue to be stigmatized just like any other society in the Pacific.
Same sex sexual activity is legal in Vanuatu and there is an equal age of consent. Sexual orientation and gender identity are protected from discrimination in employment and occupation. There is no word in any of the local languages for homosexuality or transgender, and some evidence of social stigma attached to both.

In 2007, Vanuatu repealed its antigay laws though it has not yet introduced anti-discrimination legislation or any recognition of same sex relationships. In 2008, Vanuatu signed the UN declaration in support of LGBTI rights.

Recent Developments

In October 2013, the Minister for Internal Affairs, Patrick Crowby, warned all pastors throughout the country not to preside over any gay or lesbian marriages. As a result of this the national LGBTI group VPride Foundation worked to persuade chiefs, clergy, judges and the government on LGBTI rights. In response, the Vanuatu Christian Council of Churches responded that it does not welcome the establishment of a lesbian, gay, bisexual and transgender associations in the country, and if the church accepted the gay community, it would cause a schism and societal dysfunction.

“I was bullied and sexually abused through my school years because I was perceived as feminine. I decided to quit school. Such challenges and obstacles made a person become stronger when he/ she has faith to fight it. In 2009 I was involved in this Famous Pacific TV Show called the “Love Patrol.” In the show I play myself, a gay feminine male. The show was released in 2010 and it was a big hit in Vanuatu and the Melanesian Countries. The show addressed the gay rights issues, Sexual health and HIV awareness that Andy (my character name) played in the series. In the outside real world, it changes the audience ideas and help to make them understand about Gay people. The rate of Stigma and Discrimination has been reduced but yet needs advocates in communities to help and continuously shower knowledge for human rights and other community issues. From a high school bullied victim to Andy in Love Patrol brought me to places overseas and far as Washington DC for the International Aids Conference in 2012. I have been through a tough long journey with countless obstacles and challenges faced. However, with faith I managed to overcome it. My exposure to Love Patrol opens a door to an opportunity where I was hungry to learn to succeed and to help others. I didn’t want the upcoming generation to go through the same path I did. I want them to face an easy life that I have paved and to respect that battle I won. I am a legend/ idol before their eyes for them to look up to.”

GILLIO BAXTER, VPride Foundation Secretariat in Port Vila
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Tab 10
When A Rainbow Flag Becomes A Threat To An Entire Caribbean Country

Facebook User from Antigua

When I got the messages that "gay pride flags" were mounted on light posts across the city of my birthplace for Carnival, I became so excited. And though they weren't really rainbow flags (more like a patchwork of colours that are also in the rainbow), I immediately took my sarcasm to Facebook to celebrate while thanking the decorators for seeing my vision for a "Pride Antigua."

My excitement was short-lived as not only did the situation escalate to folks calling for prayers for the country as a gay agenda was being pushed, but it lead to the Minister of Culture responsible for the festival making the decision to take down the multi-coloured flags.

Yes, you heard me right! The flags were taken down because of the outrage that they resemble gay pride flags. Insane, right? Well these are just some of the disgusting and heartbreaking comments that were shared on Facebook and online news platforms by my fellow Antiguans.

Antiguan Homophobe
Homophobe
Facebook User
Antiguan Homophobe
Facebook User
Facebook User
Facebook User
Facebook User
Antiguan Homophobes

I must admit, when I first saw some of the bitter and disgruntled homophobes arguing on social media about the flags, I couldn't do anything else but laugh at their ignorance. I concluded that these folks woke up on the wrong side of the bed or were just tired of using common sense. I forced myself to believe that these human beings just prefer to lead their lives with ignorance and hatred, as sad as that thought is.

But after seeing the hateful comments and thinking about the last conversation I had with a fellow Antiguan lesbian and a young gay man who was assaulted by homophobes there, I broke down in tears. While many see the act as organizers simply listening to the masses, no one has stopped to think how this move might impact the lives of LGBTQ members still living in this homophobic country.

Antigua and Barbuda already has laws that criminalize homosexuality. The country has seen its fair share of queer members being attacked and harassed, most of which aren't reported since the police treats members of the LGBTQ community like any other homophobe. And I know this as I had to leave my family and this same country because of no police protection.

Just recently, "Princess" — a trans woman from Antigua who allegedly faced abuse at the hands of police officers in 2015, came to Canada to seek protection. How many more will have to leave before Antiguans and Barbudans recognize that their attitudes only fuel hate and harm towards other human beings who are just trying to be themselves? Citizens aren't even hiding like before. They are boldly showing the world just how homophobic Antigua and Barbuda truly is.

If a piece of cloth can have such an impact on one of the leading festivals in the Caribbean, imagine what really happens to actual lesbians, gays, bisexuals, trans men and women on the island.
To think the mere sight of a flag that resembles something close to the rainbow symbol used by the LGBTQ community could cause an entire country to feel threatened, is not only pathetic but shows the level of homophobia that queers have to deal with on an island of 280 square kilometres.

If a piece of cloth can have such an impact on one of the leading festivals in the Caribbean, imagine what really happens to actual lesbians, gays, bisexuals, trans men and women on the island. And that could be something as difficult as being forced to stay locked away in the closet because of attitudes like this.

Blog continues below

As you read this, there are so many Antiguans living in fear because of the crimes being committed across the country; sick folks are tired of the broken healthcare system; the electorate can't even trust their political leaders and law enforcement officers when some are at the centre of various scandals to include allegations of sexual assault and charges of incest. I could list out a whole book of problems that are plaguing the country as we speak. But somehow, multi-coloured flags that hold no real ties to the LGBTQ community are the biggest threat to this society.

If my wish for a gay pride caused such a panic in this country, then I should begin to speak up more about the shortage of running water and the irregular supply of electricity that residents put up with. That could either lead to better conditions or it could go wrong and result in a ban on Crayola crayons and Fruit Loops. Someone might even try to pull the rainbow down from the sky. I don't know!

But seriously, I look forward to the day when my fellow Antiguans stop getting offended by the wrong things like me calling out homophobia when I see it or a flag with rainbow colours and instead, stand up and speak out against things that do threaten their very survival.
My Home Country's Religion Doesn't Justify Denying LGBT Jobs

One would think that after making a claim that LGBT members are protected in Antigua and Barbuda, the government would ensure that it puts its money where its mouth is. So then why are we allowing Christian groups and evangelicals to spread hatred and encourage marginalization of any group in this country?

During an event hosted by Concerned Christians for a Healthy Society (I guess queer people are poisonous), a pastor who claims to be a "former lesbian and activist" argued that Christian-based businesses should have the right to deny jobs to LGBT applicants.

This bigot and their homophobic group are essentially trying to effect policy change that would give businesses the right to deprive lesbian, gay, bisexual and transgender men and women of one of the most fundamental rights -- employment -- simply on the basis of their sexual orientation. Shouldn’t this be a crime in itself?

That is why many like me run from our homes and families to seek a life where we can be our authentic selves and still be employed without persecution.

Has the Government of Antigua and Barbuda not seen what this type of "business" -- the evangelical business -- is doing to our motherland countries like Uganda? Is there not some understanding of the negative impact that this type of bigotry has on citizens of a country?

Let me show you! Just look at this comment from one of your most influential journalists at Antigua Observer -- Martina McDonald-Johnson -- under my Facebook post about this development.

"You have a right to choose your church, culture etc but nobody should be forced to accept what they don’t want. I have two sons and I believe I should have the discretion to turn down a baby sitter or whatever job application of a cross dresser or any other lifestyle I don’t want in my home because I don’t want that individual around my children or my children around them." [SIC]

The last time I checked, Martina, a gay babysitter simply wants to do a job of babysitting so that he or she can have some money in their pocket. That babysitter does not want your baby or you, nor does that babysitter have the power to turn you or your child into a homosexual. That babysitter just wants to survive.

This esteemed journalist -- or as I like to call them, "educator" -- is also of the view that a gay man or woman who is denied employment should simply "go somewhere else." I went into my memory bank and found that Antigua is a "Christian nation" where many use the Bible to discriminate and abuse LGBTQ members. I think I would know this from experience.

Blogger Tasheka Lavann poses at the Carribean tales International Film Festival.

That is why many like me run from our homes and families to seek a life where we can be our authentic selves and still be employed without persecution or without having to change our walk, talk and the way we dress just to keep that job.

This is the type of ignorant and divisive mindset you are creating as a government when you allow such events to take place in your country. More frightening is the fact that many within the LGBTQ community in Antigua continue to be denied jobs as we speak because of these kinds of messages.

It is no secret that state policies in this country continue to be influenced by the church. The very constitution is built on the fundamental beliefs of Christianity. So how can a government say it protects members of the LGBTQ community when this type of blatant discrimination is being encouraged and spread through the media?

Well until the church and other religious groups begin to pay taxes like every other citizen of Antigua and Barbuda, they should have no say in state affairs or labour laws and unless we are finally admitting that only some citizens have access to basic rights, then every Antiguan and Barbudan regardless of their sexual orientation and religious belief, should be granted employment at any public business profiting off
of taxpayers' money which includes the hardworking dollars of many LGBTQ members.

At the end of the day, this is not about a "gay agenda." This is about freedoms and rights which were promised to us the moment we became citizens of Antigua and Barbuda. So, what message are you sending to the world? Is this how you'd want your young and ambitious Black sons and daughters to be treated in a world that continues to mistreat them?

I think you should just stick to qualification over sexual orientation, and while you're at, rid yourselves of this hatred you spew which is rooted in pure evil homophobia. It does nothing for the advancement of Antigua and Barbuda.

Signed,

A Forever Proud Antiguan Lesbian and Activist

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Photo gallery 33 Great Moments In Cultural History That Wouldn't Have Happened Without LGBT People See Gallery
Tab 12
Caribbean: Anti-gay law is ripe for reversal, Antigua says

(May 2016, 76crimes.com)

If LGBTI rights activists in the Caribbean nation of Antigua & Barbuda mount a legal challenge, the courts there would likely nullify that nation’s ban on sexual relations between men, according to Antigua’s cabinet.

But the Antiguan government won’t take such action on its own.

As Antigua’s Daily Observer reported:

The government has said an outright no to repealing the laws [criminalising] buggery, a decision which has disappointed the Lesbian, Gay, Bisexual and Transgender (LBGT) community.

The Cabinet of Antigua & Barbuda, on [Aug. 24], agreed that “the buggery law will remain unchanged”.

In the same breath, government acknowledged that the results which were obtained in the recent historic Belize case are likely to follow, should an interest group pursue this matter in the courts, since “our jurisprudence is similar”.

The Supreme Court in Belize ruled a few weeks ago that a law which criminalises homosexuality was unconstitutional.

The decision was handed down six years after a gay citizen advocate, 42-year-old Caleb Orozco, brought the challenge against the attorney general of Belize.

LBGT activist Tasheka Lavann said she is gravely disappointed by the declaration, however she will remain undaunted.
Antiguan law provides for up to 15 years in prison for consensual anal intercourse, whether between men or between a man and a woman.

The country’s minister of social transformation, Samantha Marshall, says the law is antiquated and should be repealed.

Antigua is one of several Caribbean countries where the possibility of repealing such laws is at least being discussed. In Guyana, the prime minister has talked several times about repealing them. In Dominica, the prime minister says they’re not enforced.

Related articles:

- [Proposal for Antigua officials: Repeal anti-gay law](https://76crimes.com/2016/08/26/proposal-for-antigua-officials-repeal-anti-gay-law/) (April 2016, 76crimes.com)
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- [Caribbean overview: LGBT rights vs. anti-gay status quo](https://76crimes.com/2013/08/26/caribbean-overview-lgbt-rights-vs-anti-gay-status-quo/) (August 2013, 76crimes.com)
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- [Archive of this blog’s articles about Antigua](https://76crimes.com/2016/08/26/caribbean-anti-gay-law-is-ripe-for-reversal-antigua-says/)
- [Archive of this blog’s articles about Belize](https://76crimes.com/2016/08/26/caribbean-anti-gay-law-is-ripe-for-reversal-antigua-says/)
Tab 13
Well-known trans-gender individual Prince Warren, better known as Prince is hospitalised after what he alleges was a brutal beating from the police.

Observer has been unable to independently confirm the involvement of lawmen and efforts to reach the Police Commissioner and the PRO for a comment have been unsuccessful so far.

But Prince says he is now warded at the Mount St. John’s Medical Centre, after undergoing surgery on his right eye, following the beating.

“I am not going to be able to see out my eye again, that’s what the doctor just say to me now, my stomach is in pain and I can’t eat anything… I just keep vomiting the blood,” he said.

Prince says what started out as a prank – that is following a friend to see where she was going, turned into a nightmare.

“By time I drive up to Teacher’s Place – just above the fire station, I do a three point turn to come back down the road. Now a red car pull up to me like they blocking me, so I wind down the window to see who it was. Two police came out with guns in they hand and one the police say get out the car… Less than two minutes a next police vehicle came with about four police in there came and start to fire and kick me up, tump me up and lick me one lick with the gun in my eye. By this time I say my eye! my eye! I start to cry and stuff like that, I tried to run away from them so I can be around people, and after that one police start to drag me and pull me back up the road,” he said.

Prince says he was taken to the St. John’s Police Station and then to the hospital. He says he eventually found out that the lawmen were responding to a 911 call that he was following a car through the capital.

He tells Observer Media the lawmen did not identify themselves until after he had been slapped with four charges.

“Resisting arrest, Indecent language, Resist to give my name and Battery of a police officer,” he said were the charges filed against him.