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Discriminatory laws impacting LGBT+ persons in the Caribbean

A Caribbean RHRN Documentation



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Introduction

Right Here Right Now

Right Here Right Now (RHRN) is a five-year programme and global strategic partnership that is active in ten countries, and the Caribbean sub region. The partnership envisions a world where all young people are able to access quality and youth-friendly health services, and are not afraid to openly express who they are and who they love. RHRN believes that young people, everywhere, have the inalienable right to make their own choices, and lead happy and healthy lives.

RHRN works with civil society organisations on country levels to strengthen the visibility of young advocates working on sexual and reproductive rights and increase their ability to hold the government and other duty bearers to account for the adoption and allocation of budgets and implementation of progressive and inclusive sexual and reproductive health and rights (SRHR) legislation and policies in line with international norms and standards. In doing so in the long run, it hopes to increase support within society for young people's improved access to comprehensive sexuality education and to youth-friendly SRHR services.

The Caribbean Platform

The Caribbean Right Here, Right Now Platform (CRHRN) is a sub-regional network of the RHRN global consortium. It is a network of 11 organizations and groups across 9 states working on three regional issues: the recognition of human rights for lesbian, gay, bisexual, transgender + (LGBT+) persons; Women's right to access safe and legal abortion services; and the need and right for young people to be educated about their sexual and reproductive health and their rights through a rights-based curricular programme on Comprehensive Sexuality Education (CSE).

The Documentation of discriminatory laws impacting the lives of LGBT+ persons

This report is a documentation of discriminatory laws impacting the lives of LGBT+ persons in the nine countries of the CRHRN platform – Curacao, Dominican Republic, Guyana, Haiti, Jamaica, St. Lucia, St. Vincent, Suriname, and Trinidad and Tobago.

The report, written by Caribbean SRHR advocate Jairo Rodrigues, was compiled for the CRHRN after literature reviews of the *“Final Report and Database of Caribbean Leaders who support LGBT Rights”* (Rambarran, Nastassia. Caribbean RHRN, December, 2019); *“A Slow, but Significant Journey – Recent Developments in the Caribbean Region”* (James, Westmin R.A., and Govaard, Luciën D), International Lesbian, Gay, Bisexual, Trans and Intersex Association: Lucas Ramon Mendos, State-Sponsored Homophobia 2019 (Geneva; ILGA, March 2019); the RHRN ICPD+25 Shadow Report, *“Amplifying and accelerating action on young people's SRHR”* (Cousins, Lara. Right Here Right Now, 2019); *“Violence Against Lesbian, Gay, Bisexual, Trans and Intersex Person in the Americas”* (Inter-American Commission on Human Rights (IACHR), 2015); general research on LGBT rights of the various states, and consultations with SRHR and LGBT advocates in the sub-regional network.

Abstract

LGBT Rights in the Caribbean platform.

The Anglo-Caribbean region is among the most discriminatory in the world as it relates to LGBT+ rights due to oppressive British colonial laws that were never repealed, even after states attained their Independence in the 1960's. Same sex intimacy between two consenting adults for most of these countries is a felony with a charge of a prison sentence ranging from five years to life.

As noted in the 2019 ICPD+ 25 Shadow Report¹, a look at the legislative framework within the sub-region reveals that most of the countries do not explicitly or fully recognize the rights of lesbian, gay, bisexual, trans, queer and/or intersex people. This is primarily a result of the fact that many civil and other rights are linked to the definition of marriage and common-law unions, where same sex marriage and intimacy is often criminalised.

Laws are not easily repealed because of religious and conservative societies that refuse to even consider doing so, and governments who delay or ignore local advocacy and international pressure in fear of losing the support of their electorate.

While Curacao, the Dominican Republic, Suriname, and Trinidad and Tobago enjoy the legality of same-sex intimacy, the LGBT+ community in all the Caribbean territories face discrimination and inequalities due to a lack of protective, equal access and social equitable laws. In fact, this report has found that the lack of legislature for social protection and equality for LGBT+ persons is more detrimental to their economic, social, civil and political rights and lives, than the existing laws which are almost never enforced.

While some laws are hardly enforced, they are the sources of state-sponsored homo, bi and transphobias and are often used as threats by the government, law enforcers and legislators.

Principles of heteronormativity, cis-normativity, and the sex and gender binaries are highly prevalent across the region due to conservatism supported by religious beliefs.² This prevents updated and modern laws on social protection and non-discrimination from including provisions and rights for LGBT+ persons which in turn fuels prejudice and discrimination against this vulnerable community, creating an environment where LGBT+ persons are harassed, violated and rejected from social services and basic rights like the right to access housing, education and healthcare.

The entire situation is ironic considering the Caribbean is celebrated for its diversity, multi-ethnicity and cultures. Differences are celebrated, except for sexuality and gender diversity.

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¹ Cousins, Lara. "ICPD+25 Shadow Report. Amplifying and accelerating action on young people's SRHR" (2019). Right Here Right Now. "LGBT Rights and the Caribbean", Caribbean sub-section, p 81.

² Inter-American Commission on Human Rights (IACHR) (2015) *Violence Against Lesbian, Gay, Bisexual, Trans and Intersex Person in the Americas*. OAS/Ser.L./V/II.rev.1, www.oas.org/en/iachr/reports/pdfs/violenceigbtipersons.pdf, p. 265

Curacao

Country context

Curacao is a constituent country of the Kingdom of the Netherlands and the largest of the Dutch Caribbean Islands. Male and female same-sex sexual activities are legal; there are laws prohibiting discrimination and incitement of hatred or violence with regards to sexual orientation; and whilst same-sex couples cannot get married or enact civil unions on the island, the country recognizes these marriages and unions from elsewhere as valid. Curacao has a reputation as a very gay-friendly travel destination and has hosted Pride events since 2013, but the lack of marriage equality, along with religiously-driven anti-LGBT sentiment results in LGBT+ persons still being subject to discrimination.^{3 4}

Legal References

No legislative repeals or decriminalisation needed.

Social Protection and Equality

Primary advocacy initiatives need to target societal views and attitudes against LGBT+ persons, and government's response and action to protect LGBT+ persons from discrimination, harassment and violence while simultaneously addressing social needs for equity such as social security, access to healthcare, education, housing and employment.

Secondary advocacy initiatives would be on contracting same-sex marriages.

³ Country context edited in-part from Rambarran, Nastassia, *"Final Report and Database of Caribbean Leaders who support LGBT Rights"* (December, 2019). Caribbean Right Here Right Now. "Country Overview and Findings" Curacao. p. 5

⁴ Ricardo, M. (2015). Pink Orange Alliance: Unity in Diversity – LGBT emancipation in the Dutch Caribbean. Retrieved from: <https://www.coc.nl/wp-content/uploads/2015/11/Pink-Orange-Alliance-Unity-in-Diversity-LGBT-Movement-in-the-Dutch-Caribbean-FINAL-REPORT.pdf>

*Curacao's analysis was verified by RHRN Youth Advocate in Curacao, Cristal Abath of DEDIMA.

Dominican Republic

Country context

The Dominican Republic (DR) is an independent country that shares the island of Hispaniola with Haiti. The DR does not criminalise same-sex sexual relations, but ‘sodomy’ is outlawed among members of the police force; there are no anti-discrimination provisions on the basis of sexual orientation, gender identity or expression (SOGIE); no hate crimes legislation; and marriage equality is absent. The DR has celebrated Pride since at least 2007, and has had openly LGBT+ persons running for public office. However, the LGBT+ community still faces harassment, violence and discrimination, with the Catholic church influencing attitudes to some extent.^{5 6}

Legal References

The National Police Force discriminates in two ways against persons with diverse sexual orientations and gender identities. It maintains an official policy prohibiting them from becoming police officers, and it imposes criminal sanctions on police officers who engage in same-sex sexual conduct.

Article 210 of Law 285-66 of the Code of Justice of the National Police states that: “sodomy consists of sexual intercourse between persons of the same sex and will be punished when officers are involved with a penalty of six months to two years of prison.”⁷

In 2014, National Police Chief Manuel Castro publicly declared that, consistent with Law 285-66, homosexuals were not accepted in the National Police Force.⁸

Social Protection and Equality

Advocacy initiatives need to target societal views and attitudes against LGBT+ persons, and government’s response and action to protect LGBT+ persons from discrimination, harassment and violence while simultaneously addressing social needs for equity such as social security, access to healthcare, education, housing and employment.

Secondary advocacy initiatives would be on contracting and recognising same-sex marriages.

⁵ Country context edited in-part from Rambarran, Nastassia, “*Final Report and Database of Caribbean Leaders who support LGBT Rights*” (December, 2019). Caribbean Right Here Right Now. “Country Overview and Findings” Dominican Republic. p. 5

⁶ US State Department. (2018). Human Rights report for Dominican Republic. Retrieved from: <https://do.usembassy.gov/wp-content/uploads/sites/281/Dominican-Republic-2018-Human-Rights-Report.pdf>

⁷ National Congress of the Dominican Republic, Law 285-66 of the Code of Justice of the National Police (‘Ley 285-66 del Código de Justicia de la Policía Nacional’), Article 210; p. 35.

⁸ Discrimination and Violence, supranote 32, at p. 5; see also, Maria Teresa Moral, Castro Castilla says that the Police don’t allow homosexuals (‘Castro Castilla dice la Policía no permite homosexuales’), El Caribe, (June 12, 2014), available at <http://www.elcaribe.com.do/2014/06/12/jefe-dice-esa-institucion-permite-homosexuales>

Guyana

Country context

The Cooperative Republic of Guyana lies on the Northern coast of South America and is the only country on the continent that still criminalises sex between men, in the form of the “buggery laws⁹” (maximum penalty is life imprisonment) and the “gross indecency laws¹⁰” (maximum penalty two years). Guyana also has no anti-discrimination provisions based on SOGIE; no hate crimes legislation; and marriage equality is absent. The country has held the longest running annual LGBT film festival in the English-speaking Caribbean since 2005, and in 2018 had its first Pride parade. However, strong religious influences have opposed the decriminalization of same-sex sexual activities and contribute to the discrimination and violence which continues to be experienced by LGBT+ persons.^{11 12}

Legal References

Same-sex intimacy between men is criminalized under sections 351 to 353 of the Guyana Criminal Law (Offences) Act, Chapter 8:01.

Section 351: Any male person who, in public or private, commits, or is a party to the commission, or procures or attempts to procure the commission, by any male person, of any act of gross indecency with any other male person shall be guilty of a misdemeanour and liable to imprisonment for two years.

Section 352. Everyone who-

- (a) attempts to commit buggery; or
 - (b) assaults any person with intent to commit buggery; or
 - (c) being a male, indecently assaults any other male person,
- shall be guilty of felony and liable to imprisonment for ten years.

Section 353. Everyone who commits buggery shall be guilty of felony and liable to imprisonment for life.

⁹ Sodomy – anal sex.

¹⁰ Sexual activity between men such as oral sex, kissing, grinding, etc. non-penetrative sex.

¹¹ Country context edited in-part from Rambarran, Nastassia, “*Final Report and Database of Caribbean Leaders who support LGBT Rights*” (December, 2019). Caribbean Right Here Right Now. “Country Overview and Findings” Guyana. p. 6

¹² Human Dignity Trust. Country Profile: Guyana. Retrieved from: <https://www.humandignitytrust.org/country-profile/guyana/>

Social Protection and Equality

LGBT+ persons are not included or referenced in local social protection and equality laws.

In 2003, the 'Sexual Orientation' Amendment Bill was introduced in Guyana's Parliament to be voted on as a constitutional amendment which would include "sexual orientation" as one of the grounds for discrimination. The bill was not voted on, as it received significant opposition from sections of the religious community. The government withdrew supporting the bill even though they had introduced it to parliament.

Section 153 (1) (xlvii) of the Summary Jurisdiction (Offences) Act Chapter 8:02 made it an offence for men and women to cross-dress for an "improper purpose", in any public way or public place. In 2018, the Caribbean Court of Justice (CCJ) – Guyana highest appellate court – evaluated the cross-dressing law in *McEwan et al v AG of Guyana*¹³, 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.^{14 15}

There are active attempts to lobby the government to include Sexual orientation and Gender Identity and Expression as grounds for discrimination in the Prevention of Discrimination ACT which would protect LGBT persons from being dismissed from their employ on the basis of sexuality and gender expression.

The recognition of LGBT+ persons and to address their needs were referenced in state policies such as the National Youth Policy (2015), Social Cohesion Strategic Plan (2017), the Gender and Social Inclusion Policy (Ministry of Social Protection, 2019), and the National HIV Response Strategic Plan for 2021 – 2025 (2020).

¹³ Caribbean Court of Justice (CCJ), *McEwan et al v AG of Guyana* [2018] CCJ 30(AJ).

¹⁴ 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). Retrieved from [http://www.u-
rap.org/web2/index.php/component/k2/item/77-joint-press-release-on-mcewan-v-ag-of-guyana-nov-13-2018](http://www.u-rap.org/web2/index.php/component/k2/item/77-joint-press-release-on-mcewan-v-ag-of-guyana-nov-13-2018)
Video of the delivery of the judgement can be accessed here: [www.caribbeancourtjustice.org/audio/gycv2017-
015/20181113/gycv2017015_131118.mp4](http://www.caribbeancourtjustice.org/audio/gycv2017-015/20181113/gycv2017015_131118.mp4)

*Guyana's analysis was verified by RHRN Youth Advocate in Guyana, Juliana Lopes; and Anil Persaud of EQUAL Guyana.

Haiti

Country context

The Republic of Haiti shares the island of Hispaniola with the Dominican Republic and is the second most populous country in the Caribbean. The country does not criminalise same-sex sexual acts, but there are no laws preventing discrimination based on SOGIE, no laws preventing hate crimes, and no marriage equality. Haiti has not held any Pride events, in fact LGBT demonstrations and support is criminalised. LGBT social life is generally low-key. There are LGBT organizations, however, and these were instrumental in helping defeat 2 bills proposed in 2017 that targeted the LGBT community – one preventing same-sex marriage, and another including LGBT persons in the categories that could be denied a police certificate of character. Violence against LGBT persons have been on the rise in Haiti and the community faces significant discrimination and hardship.¹⁶

Legal Reference

The Haitian Civil Code: (a) only authorises the union of a man and a woman, (b) one of the articles bans "all public manifestations of support for homosexuality and proselytism in favour of such acts".¹⁷

In August, 2017 the Haitian senate voted a bill which prohibits marriage to same-sex couples as well as any promotion of homosexuality across the country, marked by a deep religious hold.

The text voted on specifies that "the authors, co-authors and accomplices" of a homosexual marriage risk a sentence of three years in prison and a fine of 500,000 gourdes.¹⁸

In August, 2017 the Haitian senate voted on a law on the reputation and the certificate of good lives and manners, denying homosexuals this legal document on the basis of being immoral.

Article 4: "The concept of immoral relates to any public act in relation to child or child pornography, incest, polygamy, paedophilia, child or child prostitution, pimping and proven homosexuality."¹⁹

¹⁶ Country context edited in-part from Rambarran, Nastassia, "Final Report and Database of Caribbean Leaders who support LGBT Rights" (December, 2019). Caribbean Right Here Right Now. "Country Overview and Findings" Haiti. p. 7

¹⁷ Civil Code [1825], Republic of Haiti, decreed by the House of Representatives on March 4, 1825, (Port-au-Prince: Descauriet, 1828) available at Haitian Law Digital Collection. [Haitian Law Digital Collection.\[33\]](#)

¹⁸ LeFigaro, "Haiti: Senate Bans Gay Marriage" (August 2, 2017). Retrieved (in French) from: <https://www.lefigaro.fr/flash-actu/2017/08/02/97001-20170802FILWWW00335-haiti-le-senat-interdit-le-mariage-gay.php>

¹⁹ Le Nouvelliste "The Senate passed a law on the reputation and the certificate of good character" (August 16, 2017). Retrieved (in French) from: <https://lenouvelliste.com/article/174502/le-senat-a-vote-une-loi-sur-la-reputation-et-le-certificat-de-bonnes-vie-et-moeurs>

Social Protection and Equality

LGBT+ persons are not included or referenced in local social protection and equality laws.

There is a need for advocacy against proposed discriminatory laws and against police harassment, societal prejudice and discrimination, and government's rejection of the recognition of LGBT rights.

The Chamber of Deputies (the second house in the Haitian Legislature) has not voted on these laws to date, so they remain unenforceable²⁰, but they are indicative of the widespread political and social antipathy towards LGBT people.

Government officials and the general public subject LGBT+ people to harassment, discrimination, violence, and social stigmatization. Government officials have shut down several LGBT events, while allowing anti-LGBT protest to take place, unimpeded. Persecution of LGBT+ people by police authorities has steadily increased over the years.

²⁰ VOANews. (2018). In Haiti, Slight Progress for LGBT Rights Seen as Victory. Retrieved from: <https://www.voanews.com/americas/haiti-slight-progress-lgbt-rights-seen-victory>

*Haiti's analysis was verified by RHRN Youth Advocate in Haiti, Mathania Charles of the TOYA Foundation.

Jamaica

Country context

Jamaica is an independent island nation that criminalises sex between men (the law against “buggery” has a maximum penalty of 10 years imprisonment and the “gross indecency” between men law has up to 2 years imprisonment); there are no laws preventing discrimination on the basis of SOGIE; no legislation addressing hate crimes; and same-sex marriage is illegal. Since being named possibly the most homophobic place on earth by Times magazine in 2006²¹, work by local activists has contributed to an improved climate for LGBT persons, and the country has held Pride celebrations in two locations from 2015. However, there continues to be significant anti-LGBT attitudes and persons from the LGBT+ community encounter both violence and discrimination.^{22 23}

Legal References

The Offences Against the Person Act of 1864 criminalises same sex intimacy between men.

Section 76: Whosoever shall be convicted of the abominable crime of buggery, committed either with mankind or with any animal, shall be liable to be imprisoned and kept to hard labour for a term not exceeding ten years.

Section 77: Whosoever shall attempt to commit the said abominable crime, or shall be guilty of any assault with intent to commit the same, or of any indecent assault upon any male person, shall be guilty of a misdemeanour, and being convicted thereof, shall be liable to be imprisoned for a term not exceeding seven years, with or without hard labour.

Section 79: Any male person who, in public or private, commits, or is a party to the commission of, or procures or attempts to procure the commission by any male person of, any act of gross indecency with another male person, shall be guilty of a misdemeanour, and being convicted thereof shall be liable at the discretion of the court to be imprisoned for a term not exceeding two years, with or without hard labour.

²¹ Padgett, Tim (12 April 2006). “*The Most Homophobic Place on Earth?*” Times Magazine. Retrieved from <http://content.time.com/time/world/article/0,8599,1182991,00.html>

²² Country context edited in-part from Rambarran, Nastassia, “*Final Report and Database of Caribbean Leaders who support LGBT Rights*” (December, 2019). Caribbean Right Here Right Now. “Country Overview and Findings” Jamaica. p. 7

²³ Human Dignity Trust. Country Profile: Jamaica. Retrieved from: <https://www.humandignitytrust.org/country-profile/jamaica/>

The constitution of Jamaica:

- a. The Jamaican Charter of Rights (Chapter 3 of the Jamaican Constitution) stipulates that the charter does not invalidate laws dealing with sexual offenses, for which same-sex intimacy – buggery – is considered under Sections 76, 77 and 79 of the Offences Against the Person Act.

Chapter 3, “Fundamental Rights and Freedoms”, Section 13, “Fundamental Rights and Freedoms” (Paragraph 12) states: “Nothing contained in or done under the authority of any law in force immediately before the commencement of the Charter of Fundamental Rights and Freedoms (Constitutional Amendment) Act, 2011, relating to- a. sexual offences.”²⁴

- b. In July, 1962 Jamaica constitutionally banned the recognition and contracting of same-sex marriages.

Chapter 3, “Fundamental Rights and Freedoms”, Section 18, “Status of Marriage” (Paragraph 2) states: “No form of marriage or other relationship other than the voluntary union of one man and one woman may be contracted or legally recognized in Jamaica.”²⁵

Social Protection and Equality

According to the 2012 Inter-American Commission on Human Rights report on the situation of human rights in Jamaica, there is no law which prevents discrimination against an individual on the basis of his or her sexual orientation, gender identity, or gender expression. There is no legislation addressing hate crimes in Jamaica.²⁶

²⁴ Constitution of Jamaica. Chapter 3 “Fundamental Rights and Freedoms”, Section 13 (12) “Fundamental Rights and Freedoms” p. 19 https://www.constituteproject.org/constitution/Jamaica_2015.pdf?lang=en

²⁵ Constitution of Jamaica. Chapter 3 “Fundamental Rights and Freedoms”, Section 18 (2) “Status of Marriage” p.

²⁶ https://www.constituteproject.org/constitution/Jamaica_2015.pdf?lang=en

²⁶ Chapter VII: Discrimination Based on Sexual Orientation and Gender Identity, Report on the Situation of Human Rights in Jamaica, Inter-American Commission on Human Rights, Organization of American States, 2012. Retrieved from: <http://www.oas.org/en/iachr/docs/pdf/Jamaica2012eng.pdf>

*Jamaica’s analysis was verified by Dane Lewis, Regional Coordinator of CARIFLAGS and former Executive Director of JFLAGS.

St. Lucia

Country context

St. Lucia is a sovereign nation that criminalises sex between men and sex between women in buggery and gross indecency laws with penalties from 5 to 10 years imprisonment; there are no anti-discrimination provisions except in employment; no hate crime legislation; and no marriage equality. Tourism is a significant contributor to the St Lucian economy and there are several hotels with LGBT+ supportive policies. Additionally, the first Pride celebrations was held in August 2019 and in November 2019 the regional LGBT+ advocacy group – ECADE (Eastern Caribbean Alliance for Diversity and Equality) – announced that St. Lucia was one of 5 Eastern Caribbean countries where a challenge to the same-sex sexual laws will be made²⁷. Overall, activists are working to change the climate, but LGBT persons in the country still face marginalization and discrimination.^{28 29}

Legal References

Sections 132 and 133 of the Criminal Code of St. Lucia criminalises same-sex intimacy and sodomy.

Section 132:

- (1) Any person who commits an act of gross indecency with another person commits an offence and is liable on conviction on indictment to imprisonment for ten years or on summary conviction to five years.
- (2) Subsection (1) does not apply to an act of gross indecency committed in private between an adult male person and an adult female person, both of whom consent.
- (3) For the purposes of subsection (2) —
 - (a) an act shall be deemed not to have been committed in private if it is committed in a public place; and
 - (b) a person shall be deemed not to consent to the commission of such an act if —
 - (i) the consent is extorted by force, threats or fear of bodily harm or is obtained by false and fraudulent representations as to the nature of the act;
 - (ii) the consent is induced by the application or administration of any drug, matter or thing with intent to intoxicate or stupefy the person; or (iii) that person is, and the other party to the act knows or has good reason to believe that the person is suffering from a mental disorder.

²⁷ St Lucia Star. (2019). “This is four years in the making.” Eastern Caribbean LGBT organisation launches five-country legal challenge to anti-gay laws. Retrieved from: <https://stluciarstar.com/this-is-four-years-in-the-making-eastern-caribbean-lgbt-organisation-launches-five-country-legal-challenge-to-anti-gay-laws/>

²⁸ Country context edited in-part from Rambarran, Nastassia, “*Final Report and Database of Caribbean Leaders who support LGBT Rights*” (December, 2019). Caribbean Right Here Right Now. “Country Overview and Findings” St. Lucia. p. 8

²⁹ Human Dignity Trust. Country Profile: St Lucia. Retrieved from: <https://www.humandignitytrust.org/country-profile/saint-lucia/>

- (4) In this section "gross indecency" is an act other than sexual intercourse (whether natural or unnatural) by a person involving the use of the genital organs for the purpose of arousing or gratifying sexual desire.

Section 133:

- A person who commits buggery commits an offence and is liable on conviction on indictment to imprisonment for —
 - life, if committed with force and without the consent of the other person;
 - (b) ten years, in any other case.
- (2) Any person who attempts to commit buggery, or commits an assault with intent to commit buggery, commits an offence and is liable to imprisonment for five years.
- (3) In this section "buggery" means sexual intercourse per anus by a male person with another male person"

Social Protection and Equality

Article 131 (1) (a) of the Labour Code, enacted in 2006, bans "unfair dismissal" based on sexual orientation.³⁰

Other than this law, no other pieces of legislature exist for social protection and equality for LGBT persons.

³⁰ Article 131, St. Lucia Labour Code 2006 P. 74 and 75

<http://www.govt.lc/media.govt.lc/www/resources/legislation/SaintLuciaLabourCode2006.pdf>

*St. Lucia's analysis was verified by Nadine Constantine, St. Lucian SRHR Advocate and Regional Coordinator of ASPIRE Youth Network.

St. Vincent

Country Context

St Vincent and the Grenadines is a multi-island independent country that criminalizes same-sex sexual activities between both men and women in the “buggery” law (with maximum penalty 10 years jail time) and gross indecency laws (maximum penalty 5 years jail time). The country also has no anti-discriminatory protections, hate crime laws or marriage equality. St Vincent has held no Pride activities and LGBT life on the islands is practically invisible due to stigma. In July 2019 two gay men launched a challenge against the buggery and gross indecency laws, which was followed by a public march of thousands of church-goers in November 2019 protesting this challenge^{31 32}. This served to illustrate the significant discrimination faced by the LGBT+ community in the country.³³
³⁴To date the case has not been called to trial.

Legal References

Sections 146 and 148 of the Criminal Code of Saint Vincent and the Grenadines criminalises same-sex intimacy for both men and women.

Section 146: "Any person who commits buggery with any other person; commits buggery with an animal; or permits any person to commit buggery with him or her; is guilty of an offence and liable to imprisonment for ten years".

Section 148: "Any person, who in public or private, commits an act of gross indecency with another person of the same sex, or procures or attempts to procure another person of the same sex to commit an act of gross indecency with him or her, is guilty of an offence and liable to imprisonment for five years."

Social Protection and Equality

LGBT+ persons are not included or referenced in local social protection and equality laws.

³¹ “Gay men file legal challenges to homosexuality laws in St Vincent,” Barbados Today. (27 July 2019). <https://barbadostoday.bb/2019/07/27/gay-men-file-legal-challenges-to-homosexuality-laws-in-st-vincent/>

³² Compton, L. (2019). *Christians march in protest of anti-buggery laws challenge*. Retrieved from: <https://searchlight.vc/searchlight/front-page/2019/11/15/christians-march-in-protest-of-anti-buggery-laws-challenge/>

³³ Country context edited in-part from Rambarran, Nastassia, “*Final Report and Database of Caribbean Leaders who support LGBT Rights*” (December, 2019). Caribbean Right Here Right Now. “Country Overview and Findings” St. Vincent. p. 9

³⁴ Human Dignity Trust. Country profile: St Vincent and the Grenadines. Retrieved from: <https://www.humandignitytrust.org/country-profile/saint-vincent-and-the-grenadines/>

*St. Vincent’s analysis was verified by RHRN Youth Advocate in St. Vincent, Ademola Williams of YAM SVG.

Suriname

Country context

Suriname is the smallest independent country on the South American continent, the Dutch-speaking country neighbours Guyana on the South American coast. There are no laws prohibiting same-sex sexual activity; there are anti-discrimination laws that afford LGBT+ citizens broad protection, including in employment; laws preventing incitement to violence but not specifically pertaining to hate crimes; and same-sex marriages are not allowed. Suriname started celebrating Pride in 2011 and hosts a month-long calendar of events in October of each year.^{35 36}

In January, 2017 the Surinamese court ruled in favour of a transwoman the right to have her gender formally changed from “Male” to “Female” with the Central Bureau of Civil Affairs. The court ordered the registry to officially change her registration to reflect her amended status.³⁷

In spite of the protections afforded to LGBT+ citizens, they continue to face societal prejudice and discrimination.

Legal References

No legislative repeals or decriminalisation needed.

Social Protection and Equality

Primary advocacy initiatives need to target societal views and attitudes against LGBT persons, and government’s response and action to protect LGBT persons from discrimination, harassment and violence while simultaneously addressing social needs for equity such as social security, access to healthcare, education, housing and employment.

Secondary advocacy initiatives would be on contracting and recognising same-sex marriages.

³⁵ Country context edited in-part from Rambarran, Nastassia, “*Final Report and Database of Caribbean Leaders who support LGBT Rights*” (December, 2019). Caribbean Right Here Right Now. “Country Overview and Findings” Suriname. p. 9

³⁶ US State Department. (2015). Human rights report for Suriname. Retrieved from: <https://2009-2017.state.gov/documents/organization/253255.pdf>

³⁷ “Transgender wins case for same sex recognition” The Daily Herald. Philipsburg, Sint Maarten. (12 January 2017). <https://web.archive.org/web/20170113153842/https://www.thedailyherald.sx/regional/62860-transgender-wins-case-for-sex-change-recognition>. Summary of court case here (in Dutch) <https://rechtspraak.sr/sru-k1-2017-2/>

*Suriname’s analysis was verified by SRHR Youth Advocate in Suriname, Lansdorf Joey Jordon of YAM Suriname; and Regional LGBT Rights Advocate, Lucien Govaard.

Trinidad and Tobago

Country Context

Trinidad and Tobago is a twin island republic which had criminalised both anal and oral sex between any sexes before the law was repealed in 2018. The country legally prohibits the entry of homosexuals in an unenforced law; has no legislation addressing discrimination on the basis of SOGIE; no laws on hate crimes; and does not allow same-sex marriage. Trinidad and Tobago has been celebrating Pride non-publicly since at least the 1990s, had its first public Pride parade in 2018, has gay clubs. Despite these advancements, LGBT+ persons still face discrimination especially in rural areas, and connected to religiosity.³⁸

Legal References

Section 8 “Prohibited Cases” (1) of the Immigration Act of Trinidad and Tobago states:

Entry into Trinidad and Tobago of the persons described in this subsection, other than citizens and residents, is prohibited, namely –

(e) prostitutes, homosexuals or persons living on the earnings of prostitutes or homosexuals, or persons reasonably suspected as coming to Trinidad and Tobago for these or any other immoral purposes.³⁹

Social Protection and Equality

LGBT+ persons are not included or referenced in local social protection and equality laws.

In April, 2018 the High Court of Trinidad and Tobago ruled that the country’s laws criminalising same-sex intimacy (buggery laws - similar to other anglo-Caribbean states) were unconstitutional as it violates the privacy and rights of Trinidadians, citing it infringed on the rights of LGBT citizens and criminalised consensual sexual acts between adults.⁴⁰

The law stipulated that those found guilty of buggery would be sentenced to 25 years in prison, while other sexual acts (such as oral sex) carried a 5-year sentence.

³⁸ Country context edited in-part from Rambarran, Nastassia, *“Final Report and Database of Caribbean Leaders who support LGBT Rights”* (December, 2019). Caribbean Right Here Right Now. “Country Overview and Findings” Trinidad. p. 10

³⁹ Section (1)(e) of the Immigration ACT of Trinidad and Tobago. P 11.
http://www.oas.org/dil/Immigration_Act_Trinidad_and_Tobago.pdf

⁴⁰ Supreme Court of Trinidad and Tobago, Jason Jones vs Attorney General of Trinidad & Tobago and others, H.C.720/2017. CV.2017-00720, 4th April, 2018. Retrieved from: <https://ufdc.ufl.edu/AA00063330/00001>

*Trinidad and Tobago’s analysis was verified by RHRN Youth Advocate in Trinidad, Shania Wilson of ASPIRE Youth Network TT; and LGBT Activist Chivaughn Charles.

Recommendations

This report fully endorses recommendations made in the 2019 RHRN ICPD+25 Shadow Report.⁴¹ Governments should be lobbied to:

- Improve the recognition and protection of the civil, political, cultural, and socio-economic rights of LGBT+ persons in the Caribbean, by undertaking actions to foster the Caribbean Community (CARICOM)'s inclusion of SOGIE provisions made under the 2013 Montevideo consensus on Population and Development⁴² and the Programme of Action of the International Conference on Population and Development (ICPD)⁴³. The 2018 Inter-American Commission on Human Rights Report on the Recognition of LGBT+ Rights, "Advances and Challenges towards the Recognition of the Rights of LGBTI Persons in the Americas" would also be a good resource⁴⁴.
- Enact comprehensive anti-discrimination legislation to prohibit all forms of discrimination, including SOGIE-based discrimination. This legislation should prohibit discrimination at the hands of the State and non-state actors in all areas of life, including but not limited to housing, employment, education, and provisions of services. Additionally, this legislation should establish a body to receive and investigate complaints and conduct hearings where necessary.

Technical guides for anti-discrimination legislation:

- United Nations International Covenant on Economic, Social and Cultural Rights (ICESCR Articles 2, 6, 7, 11, 12 and 13 specifically supports SOGIE).⁴⁵
- Covenant on the Elimination of All Forms of Discrimination against Women.⁴⁶
- United Nations Covenant Against Torture and Other Inhuman or Degrading Treatment or Punishment.⁴⁷
- International Covenant on Civil and Political Rights.⁴⁸
- Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women.⁴⁹

⁴¹ Cousins, Lara. "ICPD+25 Shadow Report. Amplifying and accelerating action on young people's SRHR" (2019). Right Here Right Now. "LGBT Rights and the Caribbean", Recommendations, p 82.

⁴² Montevideo Consensus on Population and Development (United Nations ECLAC) https://repositorio.cepal.org/bitstream/handle/11362/21860/4/S20131039_en.pdf

⁴³ ICPD Programme of Action https://www.unfpa.org/sites/default/files/pub-pdf/programme_of_action_Web%20ENGLISH.pdf

⁴⁴ "Advances and Challenges towards the Recognition of the Rights of LGBTI Persons in the Americas" IACHR (December 7, 2018) OEA/Ser.L/V/II.170 Doc. 184, Retrieved from: <http://www.oas.org/en/iachr/reports/pdfs/LGBTI-RecognitionRights2019.pdf>

⁴⁵ UN CESCR <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>

⁴⁶ UN CEDAW <https://www.ohchr.org/en/professionalinterest/pages/cedaw.aspx>

⁴⁷ UN CAT <https://www.ohchr.org/en/professionalinterest/pages/cat.aspx>

⁴⁸ UN CCPR <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

⁴⁹ Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women <https://www.oas.org/juridico/english/treaties/a-61.html>

- Support constitutional challenges to discriminatory laws impacting the LGBT+ community within the region, particularly in countries with colonial-era laws on same-sex intimacy.
- Undertake human rights public education campaigns in the Caribbean to engender a culture of respect for the rights of all persons, including LGBT+ persons; specifically targeting families, employers, community members and state actors, in order to reduce discrimination and violence as well as the number of displaced and vulnerable LGBT+ persons.

Advocates should review the following references as guides for social change and lobbying Caribbean governments for LGBT+ rights:

- a.) *“An LGBT+ Advocacy Pathway for legislative change in the Caribbean”* (Rodrigues, Jairo. J., Caribbean RHRN. July, 2020) for recommended pathways and action plans for legislative and social change.
- b.) *“Database of Caribbean Leaders who support LGBT Rights”* (Rambarran, Nastassia. Caribbean RHRN. December, 2019) for a list of political allies across the Caribbean RHRN network.

End of Documentation.

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