

Criminalisation of Homosexuality

Updated 25 October 2015

Barbados	
	
<p>National Law: <i>Sexual Offences Act (1992) Chapter 154</i>¹</p> <ul style="list-style-type: none"> - S9: Buggery² - S11: Indecent Assault³ - S12: “Serious” Indecency⁴ 	<p>Maximum Penalties:</p> <ul style="list-style-type: none"> - Life imprisonment - 5 years’ imprisonment - 10 years’ imprisonment
<p style="text-align: center;"><u>Treaty Ratification</u></p> <p style="text-align: center;">ACHR CEDAW CRC ICCPR ICCPR OP ICESCR</p>	
<p>S9 is applicable only to men. S11 and S12 are applicable to both men and women.</p>	
<p>Enforcement</p>	<ul style="list-style-type: none"> - 2013: In its most recent Universal Periodic Review, Barbados repeatedly stated that the law is not used to prosecute consensual acts.⁵ - 2014: The US Human Rights Country Report indicated that there were no reports of the law being enforced during the year.⁶
<p>Statements by Public Figures</p>	<ul style="list-style-type: none"> - January 2015: The head of B-GLAD (Barbados Gays and Lesbians Against Discrimination) Donnya Piggott was presented with a Young Leaders Award by Queen Elizabeth II. Piggott said: <i>‘I’m elated, happy for this award. What it does is it recognises the cause’.</i>⁷ - December 2014: CariFLAGS, a coalition of lesbian, gay, bisexual and transgender (LGBT) organisations in the Caribbean, sent a letter to the Prime Minister, Freundel Stuart, expressing disappointment in his silence on the matter of equality and gender-neutral legislation, and reminded him of his duty and pledge to uphold human rights for all Barbadians. The letter was prompted by the debate swirling around Barbadian Minister of Environment & Drainage, Dr Denis Lowe, who had spoken out in opposition to gender-neutral laws. The group further urged Stuart to clarify the position of the Barbados constitution and his own Government on the exclusion of specific Barbadians from social protection, since Lowe continues to serve in his Cabinet.⁸ - June 2014: Youth leaders from Caribbean countries with anti-gay laws met last in

	<p>Port-of-Spain, Trinidad, where they signed a declaration seeking greater social acceptance of LGBT people and the repeal of unfair laws against them.⁹</p> <ul style="list-style-type: none"> - May 2014: A press release of the Inter-American Commission on Human Rights quoted Barbados' Prime Minister Freundel Stuart as supporting: <i>'the elimination of all forms of discrimination including discrimination against persons of differing sexual orientation'</i>.¹⁰ In Antigua and Barbuda, politicians also had the chance to publicly discuss LGBTI issues at the National Youth Forum.¹¹ - 12 August 2013: Speaking to the Christian Church, Barbados Prime Minister, Freundel Stuart, warned that until there was conclusive evidence on whether or not homosexuality was genetic, the church should show compassion - adding that, whilst the church could argue on moral grounds, it would lose the human rights argument: <i>'until we can resolve the issue of nature and nurture, until we can clearly put ourselves in a position where we can say people who pursue that orientation, do it out of perverseness, rather than out of the fact that their own physiological make up, makes it very difficult for them to go in any other direction - until we can resolve that, we have a challenge on our hands.'</i>¹² - 4 November 2011: Following calls by UK Prime Minister David Cameron to legalise same-sex relations, Barbadian Attorney-General Adriel Brathwaite stated that Barbados' <i>'position on homosexuality was not for sale and that its legislative agenda would be determined at home'</i>.¹³ - 14 September 2010: The Prime Minister of Barbados spoke in defence of gay rights: <i>'Very little attempt is made now to consider that it might just be that practitioners of this lifestyle [homosexuality] were responding to the irresistible promptings of nature with the result that imputing fault to them satisfied no known definition of fairness. Further, that even if rather than responding to nature's promptings, these practitioners were pursuing this lifestyle as a result of nurture, in which case they may have been exercising some measure of choice, the right to choose in these circumstances was protected by the Constitution as long as its exercise did not interfere with the rights of others.'</i>¹⁴ - 25 November 2009: The Minister of Family, Youth and Sports, Esther Byer-Suckoo, spoke on the issue of violence against LGBTI people: <i>'It can no longer be gender-biased ... The law has to protect all its citizens. If we're amending legislation or drafting new legislation we have to take into consideration the nuances of the environment in which we live today.'</i>¹⁵
<p>Persecution and Discrimination</p>	<ul style="list-style-type: none"> - Despite many reports discussing poor societal attitudes towards homosexuality, there have been few reported instances of actual persecution. - May 2015: A Barbados bus driver and fellow passengers allegedly verbally abused a

	<p>female passenger after identifying her as a lesbian. The driver stated that her throat should be cut, and none of the passengers objected.¹⁶</p> <ul style="list-style-type: none"> - May 2015: Barbados' Ministry of Industry, International Business, Commerce and Small Business Development partnered with the Canadian HIV/AIDS Legal Network and the Movement Against Dissemination Action Coalition (MOVADAC) to deliver an LGBTI sensitisation workshop attended by representatives of Barbados Defense Force, the Office of the Ombudsman, the Prisons, the National HIV/AIDS Commission, and the Ministry of Labour.¹⁷ - 2014: The US Human Rights Country Report documented that activists reported that stigma against LGBT persons persisted, although LGBT civil society groups reported no impediments to their activities. Activists reported a few violent incidents based on sexual orientation or gender identity but suggested that social stigma and fear of retribution or reprisal rendered the problem underreported by LGBT persons. Anecdotal evidence suggested that LGBT persons faced discrimination in employment, housing, and access to education and health care. Activists suggested that while many individuals lived open LGBT lifestyles, disapprobation by police officers and societal discrimination against LGBT persons occurred.¹⁸ - June 2014: Donnya Piggott, Director of Barbados Gays, Lesbians and All-Sexuals against Discrimination (B-GLAD), stated that a recent study on discrimination against LGBT people in Barbados found more than 60 unreported instances of discrimination based on sexual orientation in the preceding five years. - 7 August 2013: One man had stones thrown at him and was insulted with homophobic slurs, an act which was condemned by local LGBT groups. The president of Gays and Lesbians against AIDS Barbados, Darcy Dear, called for the Church and authorities to recognise that acts of persecution against LGBT persons exist.¹⁹
Legislative News	<ul style="list-style-type: none"> - November 2014: Minister of the Environment Dr Denis Lowe stated he would resign rather than co-sponsor a bill that would make the domestic violence gender-neutral. This followed a commitment by Minister of Labour Senator Dr Esther Byer Suckoo in 2009 to implement domestic violence legislation covering all unions.²⁰ - 5 June 2014: The country noted it could not join the consensus on the approval of an OAS resolution on sexual orientation, stating, <i>'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.'</i>²¹ - 2013: (UPR) Barbados rejected recommendations to decriminalise consensual

	<p>same-sex sexual relations. However, the state accepted recommendations to implement measures which would protect sexual minorities from violence and abuse.²²</p> <ul style="list-style-type: none"> - 2009: (UPR) Barbados rejected recommendations to decriminalise consensual same-sex sexual relations. Government set out its position as follows: - <i>'Barbados cannot accept at this time, the recommendation to decriminalize such sexual acts between consenting adults of the same sex... significant sections of the community are opposed to such decriminalization... This is a topic which has been widely considered in society not only on the basis of its legality but from the socio-cultural and historical perspectives. It must be noted that Barbados is a heavily religious society and there is a significant lobby by the church on such issues.'</i>²³ - There are no existing laws preventing discrimination based on sexual-identity.
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¹ The law is : <http://www.easterncaribbeanlaw.com/sexual-offences-act-chapter-154/>

² Sexual Offences Act 1992, Chapter 154, s9: 'Any person who commits buggery is guilty of an offence and is liable on conviction on indictment to imprisonment for life.'

³ Sexual Offences Act 1992, Chapter 154, s11: '(1) A person who indecently assaults another is guilty of an offence and is liable on conviction on indictment to imprisonment for assault. 5 years. [...] (3) In this section "indecent assault" means an assault accompanied by words or circumstances indicating an indecent intention.'

⁴ Sexual Offences Act 1992, Chapter 154, s12: '(1) A person who commits an act of serious indecency on or serious towards another or incites another to commit that act with the person or with another person is guilty of an offence and, if committed on or towards a person 16 years of age or more or if the person incited is of 16 years of age or more, is liable on conviction to imprisonment for a term of 10 years [...] (3) An act of "serious indecency" is an act, whether natural or unnatural by a person involving the use of the genital organs for the purpose of arousing or gratifying sexual desire.'

⁵ UNHRC, Report of the Working Group on the Universal Periodic Review, (12 March 2013) UN Doc A/HRC/23/11

⁶ Bureau of Democracy, Human Rights, Labor, Country Reports on Human Rights Practices for 2014: Bangladesh, (2014) <<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dliid=236664>> accessed on 5 September 2015

⁷ Nation news, 'Queen's award for Donnya Piggott', (12 January 2015)

<<http://www.nationnews.com/nationnews/news/62013/queen-award-donnya-piggott>>

⁸ Antillean Media Group, 'CariFLAGS, a regional LGBT organisation, has called on Prime Minister Stuart to clarify his government's human rights position towards gays, following comments by one of Stuart's cabinet ministers', (1 December 2014) <<http://www.antillean.org/position-government-barbados-gays3/>> accessed on 5 September 2015

⁹ Stewart, C., 'Caribbean youths seek repeal of 6 nations' anti-gay laws', (Erasing 76 Crimes, 13 June 2014)

<<http://76crimes.com/2014/06/13/caribbean-youths-seek-repeal-of-6-nations-anti-gay-laws/>>

accessed on 5 September 2015

¹⁰ IACHR, The IACHR Welcomes Recent Developments in OAS Member States to Protect and Promote the Rights of Lesbian, Gay, Bisexual, Trans and Intersex Persons (LGBTI), Press Release 060/2014 (20 May 2014)

<http://www.oas.org/en/iachr/media_center/PReleases/2014/060.asp>

¹¹ OAS, The IACHR Welcomes Recent Developments in OAS Member States to Protect and Promote the Rights of Lesbian, Gay, Bisexual, Trans and Intersex Persons (LGBTI), (20 May 2014)

<http://www.oas.org/en/iachr/media_center/PReleases/2014/060.asp> accessed on 5 September 2015

¹² Barbados Today, 'PM: Don't judge yet', (Barbados Today 12 August 2013)

<<http://www.barbadostoday.bb/2013/08/12/pm-dont-judge-yet/>> accessed 19 July 2014

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- ¹³ *Stabroek News*, 'Barbados says will not be dictated to by UK on gay laws', (*Stabroek News* 4 November 2011) <<http://www.stabroeknews.com/2011/news/regional/11/04/barbados-says-will-not-be-dictated-to-by-uk-on-gay-laws-2/>> accessed 19 July 2014
- ¹⁴ CARICOM, *ADDRESS DELIVERED BY THE HON. FREUNDEL J. STUART*, (CARICOM 14 September 2010) <http://www.caricom.org/jsp/pressreleases/pres358_10.jsp?null&prnf=1> accessed 19 July 2014
- ¹⁵ Tomlinson, M., 'Progress in Barbados despite harsh anti-gay laws', (*76 Crimes* 6 March 2013) <<https://76crimes.com/2013/03/06/progress-in-barbados-despite-harsh-anti-gay-laws/>> accessed 19 July 2014
- ¹⁶ Tomlinson, M., 'Will tourist-dependent Barbados risk staying anti-gay?', (*Erasing 76 Crimes*, 11 May 2015) <http://76crimes.com/2015/05/11/will-tourist-dependent-barbados-risk-staying-anti-gay/>
- ¹⁷ *Ibid.*
- ¹⁸ Bureau of Democracy, Human Rights, Labor, Country Reports on Human Rights Practices for 2014: Bangladesh, (2014) <<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dliid=236664>> accessed on 5 September 2015
- ¹⁹ Parris, D., 'Gay Plea', (*Nation News* 7 August 2013) <<http://www.nationnews.com/index.php/articles/view/gay-plea/>> accessed 19 July 2014
- ²⁰ *Nation News*, 'B-GLAD calls for Lowe's resignation', (19 November 2014) <http://www.nationnews.com/nationnews/news/59531/b-glad-calls-lowe-resignation>
- ²¹ OAS General Assembly, *Draft Resolution Human Rights, Sexual Orientation, and Gender Identity and Expression*, (5 June 2014) AG/CG/doc.12/14 rev. 1
- ²² UNHRC, *Report of the Working Group on the Universal Periodic Review*, (5 June 2013) UN Doc A/HRC/23/11/Add.1
- ²³ UNCCPR, *Consideration of Reports Submitted by State Parties Under Article 40 of the Covenant*, (2 June 2009) CCPR/C/BRB/CO/3/Add.1