

Criminalisation of Homosexuality

Updated 25 October 2015

 Dominica	
<p>National Law:</p> <p><i>Sexual Offences Act 1998</i>¹</p> <ul style="list-style-type: none"> - S14: Gross Indecency² - S16(1): Buggery³ - S16(2): Attempted Buggery 	<p>Maximum Penalties:</p> <ul style="list-style-type: none"> - 5 years' imprisonment - 10 years' imprisonment with admission to a psychiatric hospital should the court see fit - 4 years' imprisonment with admission to a psychiatric hospital should the court see fit
<p><u>Treaty Ratification</u></p> <p>ACHR CEDAW CRC ICCPR ICESCR</p>	
<p>Section 14 is applicable to both men and women. Section 16 is applicable only to men.</p>	
<p>Enforcement</p>	<ul style="list-style-type: none"> - July 2014: In a statement to Caribbean Media Corporation, Dominica's Prime Minister Roosevelt Skerrett asserted that Dominica does not enforce its law against homosexual activity, at least in private homes, and has no plans to do so. <i>'This has never happened in Dominica and I don't think that will be happening any time now or later,'</i> he said.⁴ - 2014: The US Human Rights Report noted that the government had reported rare enforcement of the country's statutes that criminalise same-sex consensual sexual conduct.⁵ - 28 May 2013: Responding to an article which stated that <i>'between 1995 and 2000, 35 people were arrested by local authorities and charged with buggery'</i>, a Dominican police inspector, John Carbon, rejected the claims. Admitting that 35 people were arrested, he claimed that police reports show nobody was sent to jail.⁶ - 2010: Reports suggest that the law is only rarely enforced. A CHAP (Caribbean HIV Aids Partnership Dominican Sector) Shadow Report reveals that between 2000 and 2010 there were 50 reported cases of buggery. The report stresses, however, that these statistics do not show whether those arrested were gay men (the sodomy law applies to both homosexual and heterosexual couples), and did not show whether they involved a lack of consent.⁷

	<ul style="list-style-type: none"> - See also the comments of the Prime Minister (below).
<p>Statements by Public Figures</p>	<ul style="list-style-type: none"> - July 2015: Coordinator of Minority Rights Dominica (MIRIDOM), Daryl Phillip, has been calling on the government to repeal the part of the Sexual Offense Act of Dominica relating to buggery and argues that Act <i>'discriminates against people because of their sexual preferences.'</i>⁸ - May 2015: Speaking to the 30th biennial conference of the Caribbean Union of Teachers in Dominica, CUT President Marvin Andall said that <i>'we have to begin to see the rights of people with different sexual orientation as that of basic human right.'</i>⁹ - July 2014: In response to a request from Minority Rights Dominica (MiriDom) to re-examine the Sexual Offence Act of Dominica, Prime Minister Roosevelt Skerrit said he was prepared to meet with MiriDom at any time, but that he would not support same-sex marriage. <i>I will make it clear that there are some things that this Government will not accept and we will never allow for the state to recognise same-sex marriage in our country. If other countries want to do it, that's a matter for them but there are certain guiding principles that we must follow.</i>¹⁰ - 29 May 2013: The President of the Dominican Association of Evangelical Churches, Michael Daniel, called for the government to keep the country's anti-gay laws: <i>'The DAEC unequivocally calls upon both the ruling party and the opposition to take a unified stand and oppose the LGBTI agenda to legislate their sinful behaviour.'</i>¹¹ - 27 May 2013: Prime Minister Roosevelt Skerrit spoke on the issue of criminalisation, arguing that Dominica will not repeal its buggery laws: <i>The government's position in relation to this matter is stated in law and this matter is still on our books and will remain there for the foreseeable future...The point is, it could be buggery today, tomorrow it will be incest and what other law they will want the government to repeal?</i> In his statement, the Prime Minister did at least suggest that the law does not apply to consensual acts committed in private: <i>As it is now, anybody who wants to engage in whatever activities can do so in the privacy of his home but one should not believe that the government is prepared, or thinking of or wanting to make this a public affair.</i>¹² - 21 May 2013: Bishop of Roseau - Gabriel Malzaire, speaking for the Catholic Church of Dominica, argued against the continued criminalisation of homosexuality in the country: adhering

	<p><i>to the call of the Holy See in its statement to the 63rd session of the General Assembly of the United Nations on the Declaration of Human Rights, sexual orientation and gender identity, to condemn all forms of violence against homosexual persons as well as to urge all States to take necessary measures to put an end to all criminal penalties against them.</i>¹³</p> <ul style="list-style-type: none"> - 27 July 2011: Former Chief Justice of the Eastern Caribbean Supreme Court, Sir Brian Alleyne, criticised laws which criminalise homosexuality: <i>'I think it is totally wrong. What a person does in the privacy of his home with another person is his business, he is answerable to the Lord and not to anyone else.'</i>¹⁴
<p>Persecution and Discrimination</p>	<ul style="list-style-type: none"> - 2014: During Dominica's Universal Periodic Review (UPR) at the UN Human Rights Council, the Sexual Rights Initiative, claimed that: <p><i>human rights defender groups in Dominica are forced to operate underground because of fear that their members will be victimised. Those who are openly gay complain of acts of physical abuse and are often victims of vandalism committed against their positions, as well as being expelled from home.</i>¹⁵</p> <p>In response, the delegation noted:</p> <p><i>The Constitution of Dominica guaranteed all individuals protection from discrimination based on race, place of origin, political opinion, colour, creed or sex and, also, guaranteed the right of freedom of association. The Government had never used fear or intimidation to prevent defenders of any cause from exercising their rights, and there was no law requiring individuals to state their sexual preference or conscientious position when associating. The relevant legislation only criminalized specific sexual acts, and not what might be considered as physical manifestations or association, and nobody had been arrested or prosecuted for such acts.</i>¹⁶</p> - 2014: The 2014 US Human Rights Country Report indicated that there were no legal impediments to organisations for LGBT persons, and a few groups operated in the country and were able to speak openly and publicly about their issues. In addition, there were no official reports during the year of violence against LGBT persons, but anecdotal evidence suggested societal discrimination against persons due to their real or perceived sexual orientation or gender identity was common in the socially conservative society. Furthermore, civil society organisations reported that LGBT victims of violence or harassment avoided notifying police of abuse because of social stigma.¹⁷ - 2010: The 2010 CHAP report provides some examples of discrimination and persecution on the grounds of sexuality, as well as hate crimes within the country. In 2010, Clement James was murdered after being accused of 'watching' the perpetrator. The man responsible, Davis St Jean had been heard singing about killing gay people. Before the murder he was reported to have said <i>'all battie boi</i>

	<i>must dead.</i> ¹⁸
Legislative News	<ul style="list-style-type: none"> - 2014: (UPR) The delegation maintained that <i>'the Government was not prepared to introduce any legislation to Parliament decriminalizing sexual relations between adults of the same sex.'</i>¹⁹ Dominica did not directly respond to the recommendations made by other States with respect to the decriminalisation of consensual same-sex conduct and increasing efforts to reduce discrimination based on sexual orientation. However, in its concluding remarks, the delegation pointed out that <i>Dominican people hold no animus towards persons who have same-sex relationships. Stating that Dominica, either state institutions or non-state actors, persecute and/or discriminate LGTB persons, is a serious misrepresentation of the reality. Non-governmental organizations should respect the right of peoples to self-determination, including the right to determine the laws which will govern them. Dominica strongly expressed its concern about these reiterated attacks that falsify the reality of the LGTB persons' situation in the country.</i>²⁰ - 2010: (UPR) Dominica rejected recommendations to decriminalise consensual same-sex sexual conduct.²¹
Legislative News	<ul style="list-style-type: none"> - 2014: Government officials in Cameroon defended the law criminalising consensual same-sex activity by claiming the Universal Declaration of Human Rights and the African Charter on Human and Peoples' Rights state that countries may limit freedoms in the interests of preserving public order and that individuals have the duty to preserve African values and morals.²² - 2009 and 2013: (UPR) Cameroon rejected recommendations to decriminalise. Also in its 2013 UPR, Cameroon also rejected recommendations to respect the right to privacy, protect LGBTI human rights defenders, protect LGBTI people from violence and take steps to eliminate discrimination against LGBTI people.²³ - 2011: Cameroon opposed the 2011 UN Human Rights Council Resolution which called on the UN High Commissioner on Human Rights to prepare a report on the rights of LGBTI people. - Cameroon opposed the 2008 UN General Assembly Declaration on Human Rights and Sexual Orientation and Gender Identity.

¹ The law is : <http://www.dominica.gov.dm/laws/1998/act1-1998.pdf>

² *Sexual Offences Act 1998, s.14: '(1) Any person who commits an act of gross indecency with another person is guilty of an offence and liable on conviction to imprisonment for five years... (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.'*

³ *Sexual Offences Act 1998*, s.16: '(1) A person who commits buggery is guilty of an offence and liable on conviction to imprisonment for... (b) ten years, if committed by an adult on another adult... and, if the Court thinks it fit, the Court may order that the convicted person be admitted to a psychiatric hospital for treatment. (2) Any person who attempts to commit the offence of buggery, or is guilty of an assault with intent to commit the same is guilty of an offence and liable to imprisonment for four years and, if the Court thinks it fit, the Court may order that the convicted person be admitted to the psychiatric hospital for treatment.'

⁴ 'Dominica PM says no to same-sex marriage', *Jamaica Observer*, 10 July 2014,

<http://www.jamaicaobserver.com/news/Dominica-PM-says-no-to-same-sex-marriage_17128008>

⁵ US Department of State, Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 2014: Dominica*, 2014,

<<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dclid=236682>>

accessed on 26 August 2015

⁶ 'Police shoot down gay website allegations', *Dominica News Online*, 28 May 2013,

<<http://dominicanewsonline.com/news/homepage/news/general/police-shoot-down-gay-website-allegations/>> accessed on 19 July 2014

⁷ Heartland Alliance and CHAP, *A Shadow Report on the Violations of ICCPR Obligations Relating to Lesbian, Gay, Bisexual, Transgender Persons in the Commonwealth of Dominica*, Heartland Alliance, July 2011,

<<http://www.heartlandalliance.org/gishr/publications/dominica-lgbt-iccpr-shadow-report.pdf>>

accessed 19 July 2014

⁸ 'Attorney says US gay ruling could have implications for Caribbean islands', *Dominica News Online*, 26 July 2015,

<<http://dominicanewsonline.com/news/homepage/news/crime-court-law/attorney-says-us-gay-ruling-could-have-implications-for-caribbean-islands/>> accessed on 26 August 2015

⁹ 'Regional teachers urged to pay attention to same-sex relationships', *Jamaica Observer*, 5 August 2015, <http://www.jamaicaobserver.com/news/Regional-teachers-urged-to-pay-attention-to-same-sex-relationships_19222181>

¹⁰ 'Dominica PM says no to same-sex marriage', *Jamaica Observer*, 10 July 2014,

<http://www.jamaicaobserver.com/news/Dominica-PM-says-no-to-same-sex-marriage_17128008>

¹¹ 'Evangelical churches call for political unity on homosexuality', *Dominica News Online*, 29 May 2013,

<<http://dominicanewsonline.com/news/homepage/news/religion/evangelical-churches-call-for-political-unity-on-homosexuality/comment-page-1/>> accessed 19 July 2014

¹² 'Buggery laws will not be repealed – PM', *Dominica News Online*, 27 May 2013,

<<http://dominicanewsonline.com/news/homepage/news/general/buggery-laws-will-not-be-repealed-pm/>> accessed on 19 July 2014

¹³ Malzaire, G., 'COMMENTARY: Decriminalization of homosexuality – what it means for the Catholic Church in Dominica', *Dominica News Online*, 21 May 2013,

<<http://dominicanewsonline.com/news/homepage/features/commentary/commentary-decriminalization-of-homosexuality-what-it-means-for-the-catholic-church-in-dominica/>> accessed on 19 July 2014

19 July 2014

¹⁴ Alleyne, B., 'Homosexuality laws in Dominica impractical – Sir Brian Alleyne', *Dominica News Online*, 27 July

2011, <<http://dominicanewsonline.com/news/homepage/news/general/homosexuality-laws-in-dominica-impractical-sir-brian-alleyne/>> accessed on 19 July 2014

¹⁵ UNHRC, *Summary prepared by the Office of the United Nations High Commissioner for Human Rights*, (14 January 2014) UN Doc A/HRC/WG.6/19/DMA/3

¹⁶ UNHRC, Report of the Working Group on the Universal Periodic Review, (26 June 2014), UN Doc A/HRC/27/9*, para. 22

¹⁷ US Department of State, Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 2014: Dominica*, 2014,

<<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dclid=236682>>

accessed on 26 August 2015

¹⁸ Ibid 2.

¹⁹ UNHRC, Report of the Working Group on the Universal Periodic Review, (26 June 2014), UN Doc A/HRC/27/9*, para. 22

²⁰ UNHRC, *Report of the Human Rights Council on its twenty-seventh session*, (22 December 2014) UN Doc A/HRC/27/2 paras. 557-584

²¹ UNHRC, *Report of the Human Rights Council on its thirteenth session*, (8 February 2011) UN Doc A/HRC/13/56 at 167

²² US Department of State, Bureau of Democracy, *Human Rights and Labor, Country Reports on Human Rights Practices for 2014: Cameroon*, June 2015

²³ UNHRC, *Report of the Working Group on the Universal Periodic Review*, 5 July 2013, UN Doc A/HRC/24/15