

	Saint Kitts and Nevis	
<p>National Law:</p> <p><i>Offences Against the Person Act 1986 (revised edition 2002)</i>¹</p> <ul style="list-style-type: none"> - S56: Sodomy and Bestiality² - S57: Attempt to Commit An Infamous Crime³ 	<p>Maximum Penalties:</p> <ul style="list-style-type: none"> - 10 years' imprisonment with or without 'hard labour' - 4 years' imprisonment with or without 'hard labour' 	<p><u>Treaty Ratification</u></p> <p style="text-align: center;">CEDAW CEDAW OP CRC</p>
<p>The law is applicable only to men.</p>		
<p>Enforcement</p>	<ul style="list-style-type: none"> - 2014: The 2014 US Human Rights Country Report on Saint Kitts and Nevis reported that there were no reports of the law being enforced during the year.⁴ - 2011: In its 2011 UPR, St Kitts & Nevis explained, '<i>despite the existence of [anti-gay laws] on the books, there has been no known prosecution of sexual activity between consenting adults in private within recent years. This therefore means that the law has not been used in any discriminatory manner against such individuals.</i>'⁵ All recent cases that have been reported in the press tend to suggest either a lack of consent, or a victim under the age of 16. 	
<p>Statements by Public Figures</p>	<ul style="list-style-type: none"> - July 2015: At the Caribbean launch of the UNAIDS-Lancet Commission Report, Prime Minister Dr. Timothy Harris made an address as the CARICOM Lead Head for Human Resources Health and HIV. The Prime Minister highlighted some of the lessons from the Report that included increased focus on populations at higher risks: especially our girls and young women, men who have sex with men and commercial sex workers. The Prime Minister stressed '<i>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.</i>'⁶ - June 2015: Law enforcement officers and other security personnel in St. Kitts and Nevis took part in a 4-day LGBT sensitivity training course. The course was intended to bring about a greater understanding of sexual orientation and better equip law enforcement officers and other public service workers with knowledge of how to deal with individuals in communities that are most vulnerable. Assistant Commissioner of Police, Vaughn Henderson, lauded the initiative stating '<i>I think it is timely and I believe that education brings a deeper understanding for people of</i> 	

*different beliefs, different cultures and different sexual orientation.'*⁷ Maurice Tomlinson, Jamaican attorney and LGBT rights activist, was the course facilitator, having undertaken similar training in Suriname, Barbados and St. Lucia.

- **October 2014:** During a special sitting of the High Court, Queen's Counsel Dr Henry Browne advocated for a national debate on the issue of same-sex marriage. Browne said *'Governments, lawyers, scientists and societies included must grapple with new beliefs and practices trending in our several communities. Same sex marriage or union is one such phenomenon... This is no light matter. Sooner than later our national conversations would have to be engaged in this delicate regard. I look forward with all progressive thinking lawyers to preparing our minds to take up and inform and master challenges such as this which lies ahead.'*⁸
- **9 April 2014:** During an address focusing on human rights and AIDs at the PANCAP Justice For All Consultation, now former Prime Minister Denzil Douglas explained that stigma and discrimination were the most challenging issues that could erode the gains in the AID response. One of the elements highlighted by the Prime Minister of 'Justice For All Roadmap' was *'Actively promoting and identifying the processes for reducing and eliminating those laws that actually contribute to discrimination on the basis of gender, race and sexual preferences, and those that particularly infringe the rights of the LGBT communities.'*⁹
- **September 2013:** Archdeacon Valentine Hodge, head of the Anglican Church in St Kitts and Nevis drew a distinction between legal and moral rights: *'Yes people should have the right to do whatever, the right to freedom to engage in whatever activity they wish to engage in.... I know that in other parts of the Caribbean you've had the decriminalization of homosexuality and that's consenting adults, it's not a crime, but that doesn't mean it's not a sin.'*¹⁰
- **August 2013:** While in office, Prime Minister Denzil Douglas called for more tolerance towards the LGBTI community. He expressed his desire for people to *'be light'* when dealing with LGBTI individuals within their community, as they have a right to express their identity just like anyone else.¹¹

The Prime Minister stated that he would like everyone to *'[d]iscuss the issue, stop the discrimination, stop the stigmatization and let us therefore discuss this matter in an open, matured and frank way so that we can deal seriously and comprehensively with the spread of HIV.'*¹²

He added that *'rather than judging homosexuals, the Caribbean national should support them, particularly around helping them get tested for HIV.'*¹³

The Prime Minister has advocated for greater tolerance for homosexual individuals in a bid to combat the spread of HIV, explaining: *'if you condemn that person as being a homosexual, that person will be afraid and reluctant to go and get tested. If*

	<p><i>he doesn't get tested and does not get the care, treatment and advice needed if he is positive; or if he is positive, but does not know he is positive as he is afraid to go and get tested because of discrimination, the virus spreads.'</i>¹⁴</p>
<p>Persecution and Discrimination</p>	<ul style="list-style-type: none"> - 2014: The 2014 US Country report indicated 'that negative societal attitudes towards the LGBT community impeded the operation of LGBT organizations and the free association of LGBT persons. The government asserted it received no reports of violence or discrimination based on sexual orientation; however, unofficial reports indicated that violence and discrimination remained a problem. Anecdotal evidence suggested that LGBT persons were reluctant to report incidents of violence or abuse out of fear of retribution or reprisal due to their sexual orientation or gender identity.'¹⁵ - 8 August 2014: It was reported that a gay teen lost his sight and was paralyzed from the waist down after he was shot in the head and chest by a neighbour in 2012 at the age of 16. He is openly gay and believes that his sexuality was the motivation for the attack. Appearing on a radio programme, he said that he had often been the target of homophobic rhetoric.¹⁶ - 2011: (UPR) The National Report submitted by Saint Kitts and Nevis claimed that sexuality remained taboo and stigma and discrimination continued to be major barriers to accessing VCT, treatment of Sexually Transmitted Diseases (STDs) and seeking care and support for HIV infection.¹⁷ Stakeholder information submitted noted that Saint Kitts and Nevis had support the OAS resolution on human rights, sexual orientation and gender identity in each of 2008, 2009 and 2010.¹⁸ <p>Concerning discrimination against lesbian, gay, bisexual and transgender people, the delegation stated that the reality was that, despite the existence of a piece of legislation, in terms of the society at large, such persons did enjoy the same rights and privileges as everyone else. No instances of denial of job opportunities or attacks against such people took place. There was a culture of tolerance in respect of those individuals in the society.¹⁹</p>
<p>Legislative News</p>	<ul style="list-style-type: none"> - 24 March 2015: Voted against a failed Russian draft decision at the UN General Assembly's Fifth Committee (Administrative and Budgetary) that would have had the Secretary-General withdraw his bulletin laying UN staff benefits for same-sex couples.²⁰ - 2011: (UPR) Saint Kitts and Nevis accepted that the criminalization of sexual relations between consenting adults was controversial. While it was aware of the many arguments advanced by those who would wish to see them repealed, the Government of Saint Kitts and Nevis explained that it had no mandate to do

so. In fact, there was strong opposition to them being repealed. However, despite their existence on the books, there had been no known prosecution of sexual activity between consenting adults in private within recent years.²¹

Saint Kitts and Nevis rejected recommendations to repeal provisions that criminalise sexual relations between consenting adults of the same sex, but confirmed that it would continue to engage on the issue through a consultative process.²²

Saint Kitts and Nevis did accepted the recommendation by Sweden that it take effective measures to effectively combat discrimination on all grounds, including on grounds of sexual orientation or identity and maintained that *“Chapter II of its Constitution prohibits discrimination against any person on the grounds of race, tribe, place of origin, political opinions, colour, creed or sex, and, as such, any person of the view that his or her rights have been violated could, at any time, seek redress before the Court... The Government regards seriously its commitment to protect all members of society from discrimination regardless of sexual orientation.”*²³

The 2nd Cycle UPR will take place in November 2015.

¹ Law : <http://www.easterncaribbeanlaw.com/offences-against-the-person-act-chapter-4-21/>

² *Offences Against the Person Act 1986, Chapter 4.21, s.56: “Any person who is convicted of the abominable crime of buggery, committed either with mankind or with any animal, shall be liable to be imprisoned for a term not exceeding ten years, with or without hard labour.”*

³ *Offences Against the Person Act 1986, Chapter 4.21, s.57: ‘Any person who attempts to commit the said abominable crime, or is guilty of any assault with intent to commit the same, or of any indecent assault upon any male person, commits a misdemeanour, and, on conviction, shall be liable to be imprisoned for a term not exceeding four years, with or without hard labour.’*

⁴ Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 2014: Saint Kitts and Nevis* (US Department of State 2014)

<<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dclid=236712>>

accessed on 26 August 2015

⁵ UNHRC, *Report of the Working Group on the Universal Periodic Review* (15 March 2011) UN Doc A/HRC/17/12 Para 35

⁶ PANCAP, *Address by Prime Minister St Kitts- Nevis, Hon Dr. Timothy Harris, CARICOM Lead Head for Human Resources Health and HIV -Caribbean Launch of UNAIDS- Lancet Commission Report* (3 July 2015)

<<http://www.pancap.org/en/speeches-and-presentations/2601-address-by-prime-minister-st-kitts-nevis-hon-dr-timothy-harris-caricom-lead-head-for-human-resources-health-and-hiv-caribbean-launch-of-unaid-lancet-commission-report.html>> accessed on 21 September 2015

⁷ Loshawn Dixon, *Security personnel participate in LGBT Sensitivity Training* (SKNVibes 14 June 2015)

<<http://www.sknavibes.com/news/newsdetails.cfm/92250>> accessed on 26 August 2015

⁸ Andrew Huie, *Time is right for same sex marriage debate, says St Kitts-Nevis QC* (Caribbean News Now 9 October 2014) < <http://www.caribbeannewsnow.com/topstory-Time-is-right-for-same-sex-marriage-debate,-says-St-Kitts-Nevis-QC-23116.html>> accessed on 26 August 2015

⁹ Caribbean Community Secretariat Press Release, *Remarks by Hon. Denzil Douglas, Prime Minister of St. Kitts and Nevis – PANCAP Justice For All Regional Consultation 9 April 2014 The Jamaica Pegasus* (11 April 2014)

<http://caricom.org/jsp/pressreleases/press_releases_2014/pres72_14.jsp> accessed on 21 September 2015

¹⁰ Toni Frederick, *Anglican Church in the Caribbean says no to same sex marriage* (Caribbean News Now 2 September 2013) <<http://www.caribbeannewsnow.com/headline-Anglican-Church-in-the-Caribbean-says-no-to-same-sex-marriage-17486.htm>> accessed on 19 July 2014

¹¹ Andrew Potts, *St Kitts and Nevis Prime Minister calls for gay tolerance* (Gay Star News 30 August 2013) <<http://www.gaystarnews.com/article/st-kitts-and-nevis-prime-minister-calls-gay-tolerance300813>> accessed on 19 July 2014

¹² Ibid

¹³ Ibid

¹⁴ Ibid

¹⁵ Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 2014: Saint Kitts and Nevis* (US Department of State 2014) <<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dliid=236712>> accessed on 26 August 2015

¹⁶ Toni Frederick, *Popular Teen Fights To Keep Spirits Up After Shooting Leaves Him Blind and Paralyzed* (West Indies News Network 8 August 2014) <<http://www.winnfm.com/news/local/9340-popular-teen-fights-to-keep-spirits-up-after-shooting-leaves-him-blind-and-paralyzed#sthash.Sfj44v9J.qp2Cod4S.dpuf>> accessed on 21 September 2015

¹⁷ UNHRC, *National report submitted in accordance with paragraph 15 (a) of the annex to Human Rights Council resolution 5/1: Saint Kitts and Nevis*, (10 November 2010) UN Doc A/HRC/WG.6/10/KNA/1, para. 44

¹⁸ UNHRC, *Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 (c) of the annex to Human rights Council resolution 5/1* (30 September 2010), UN Doc A/HRC/WG.6/10/KNA/3, para. 10

¹⁹ UNHRC, *Report of the Working Group on the Universal Periodic Review* (15 March 2011) UN Doc A/HRC/17/12, para 35

²⁰ Michael K. Lavers, *Bid to block spousal benefits for gay U.N. employees fails* (Washington Blade 24 March 2015) <<https://www.washingtonblade.com/2015/03/24/bid-to-block-spousal-benefits-for-gay-u-n-employees-fails/>> accessed 25 October 2015

²¹ UNHRC, *Report of the Working Group on the Universal Periodic Review* (15 March 2011) UN Doc A/HRC/17/12, para 14

²² UNHRC, *Report of the Working Group on the Universal Periodic Review** *Saint Kitts and Nevis Addendum* (31 May 2011), UN Doc A/HRC/17/12/Add.1, para. 43

²³ Ibid, para. 40