

|  Trinidad and Tobago | | |
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| <p>National Law:</p> <p><i>Sexual Offences Act 1986 (Consolidated Version 2000)</i>¹</p> <ul style="list-style-type: none"> - S13: Buggery² - S16: Serious Indecency³ | <p>Maximum Penalties:</p> <ul style="list-style-type: none"> - 25 years' imprisonment - 5 years' imprisonment | <p><u>Treaty Ratification</u></p> <p>ACHR</p> <p>CEDAW</p> <p>CRC</p> <p>ICCPR</p> <p>ICESCR</p> |
| <p>Section 13 is applicable only to men, whilst Section 16 is equally applicable to both men and women.</p> | | |
| <p>Enforcement</p> | <ul style="list-style-type: none"> - 2014: The 2014 US Report on Human Rights Practices in Trinidad and Tobago suggested that the laws are not currently enforced, <i>'except in conjunction with more serious offenses such as rape.'</i>⁴ The report further noted that the Trinidad and Tobago's immigration laws preventing the entry of 'homosexuals' were not enforced during 2014. - August 2011: Amnesty International's submission to the UN Universal Periodic Review of Trinidad and Tobago suggested that the laws were not, at the time of the submission, enforced.⁵ | |
| <p>Statements by Public Figures</p> | <ul style="list-style-type: none"> - 7 September 2015: In the general election in Trinidad and Tobago, the opposition People's National Movement (PNM) claimed victory with 52% of the vote. During the election campaign, leader of the PNM Keith Rowley - now Prime Minister of Trinidad and Tobago - stated that while his party's manifesto did not address LGBT issues, <i>"it is the view of the PNM that all citizens of Trinidad and Tobago should enjoy the protection of the Constitution"</i>.⁶ - 31 August 2015: The Silver Lining Foundation (SLF)⁷ has condemned an apparent rise in the use of homophobic phrases on the 2015 general election campaign trail. In a statement, the SLF said <i>'The foundation is calling all parties and candidates contesting this year's general election, and their supporters, to refrain from using discrimination as a cheap political plot against the lesbian, gay, bisexual, transgender and intersexed (LGBTI) community to garner political support and votes.'</i>⁸ - August 2015: Ahead of the elections in Trinidad and Tobago in September, LGBTI group Allies for Justice and Equality published a 12-point manifesto called <i>'Initiatives to Improve LGBTI Lives - 12 Options for National Decision Makers.'</i>⁹ The advocacy group is calling on the nation's leaders to address what it says are critical areas affecting members of the LGBTI community. Colin Robinson, executive director of CAISO (Trinidad & Tobago's Coalition Advocating for Inclusion of Sexual Orientation), said <i>'This government has said that our sodomy</i> | |

laws are not enforced but the Director of Public Prosecutions can make that moratorium formal because clearly we know they offend human rights commitments that we have with other nations, treaties that we've signed...One of the things we also highlight in the document is a law that came in to effect on the 18th of May, provisions of the Children's Act (2012), now criminalise with life sentences, two young persons of the same sex engaging in sexual exploration.'¹⁰ Robinson added 'There are some bold steps that we think are very attainable and that is the President and the leaders of the Opposition and the Prime Minister appointing people capable of representing that part of national diversity.'

- **August 2015:** Leaders of two opposition parties, the People's National Movement (PNM) or the Independent Liberal Party (ILP), have indicated that if either of them wins the elections scheduled for September 2015, the issue of LGBT rights will be on the agenda.¹¹ Responding to questions at his party's manifesto's launch, Dr. Keith Rowley, PNM leader, said that while the document did not address same-sex marriage, changing the country's homosexuality laws - or the decriminalization of marijuana, for that matter - those controversial issues would not be ignored under a PNM government.
- **July 2015:** The head of the Law Association of Trinidad and Tobago, Dominican born Reginald T.A Armour, said that the recent ruling by the US Supreme Court with respect to same-sex marriage could have implications for islands in the Caribbean. 'How will it impact on us in the Caribbean? It will impact on us in the Caribbean only to the extent that it is a persuasive authority, and the day might come when someone will invoke the equality of treatment provisions of our constitutions which are guaranteed by all of our constitutions and to say that all gender, all rights are to be treated equally and fairly and not to be discriminated against,' he said.¹²
- **June 2015:** Trinidad & Tobago born United States Superior Court Judge, Helen Whitener, urged the removal of laws that discriminate against LGBT people during a speaking event being held at the University of West Indies. St Augustine. She said 'The time has come. Break down these laws.'¹³ During the event, Judge Whitener also spoke of her own experience of overcoming intolerance due to being a lesbian.
- **April 2015:** The President of the Inter-Religious Organization of Trinidad & Tobago, Harrypersad Maharaj, said he supported a trans woman's right to stand in the Trinidadian elections.¹⁴
- **September 2014:** Prime Minister Persad-Bissessar stated Trinidad & Tobago was not ready to decriminalise homosexuality, stating, '[decriminalisation] is a very touchy, a very sensitive issue... there's no consensus.'¹⁵
- **May 2014:** Maurice Tomlinson, a Jamaican gay rights activist, was granted leave by the Caribbean Court of Justice to challenge immigration laws in Belize and Trinidad & Tobago which discriminate on the grounds of sexual orientation.
- **13 February 2014:** Speaking at the launch of a programme, 'Integrating Gender-based Violence Services with Sexual and Reproductive Health Services for Young

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| | <p><i>People,</i> head of Victims and Witness Support of the police service, Margaret Sampson-Browne, called for police to do more when LGBTI complaints of violence are brought: <i>'Violence is violence perpetrated by anybody. Whether it is same sex, opposite sex, adults or children we have to deal with it and leave all the emotions behind...We need to train our investigators to address situations like that so that people can feel comfortable knowing that they exist in a domestic-violence situation and they could come to the police and get a response.'</i>¹⁶</p> <ul style="list-style-type: none"> - 18 May 2013: After embarking on a consultation process in late 2012 on a national policy on gender and development, the Minister of Gender, Youth and Child Development, Marlene Coudray, stated she had <i>'convened a meeting with faith-based organisations'</i> and they would not support the policy in its original form: <i>'there is nothing in (it) that speaks to any gay rights. There were rumours all over the place that certain things are in the draft that are not...The draft policy is before Cabinet and those issues were not part of it, so they are not likely to come up to affect the policy at all at this stage.'</i>¹⁷ - December 2012: Prime Minister Kamla Persad Bissessar was reported to have written a letter pledging to end discrimination against LGBTI people in the Sexual Offences Act and signalling her intention to devise a new gender policy. In the letter she notes that <i>'stigmatisation of homosexuality in T&T is a matter which must be addressed on the grounds of human rights and dignity to which every individual is entitled under international law.'</i>¹⁸ |
| <p>Persecution and Discrimination</p> | <ul style="list-style-type: none"> - October 2014: In a poll of 1,176 people in Trinidad and Tobago commissioned by UNAIDS, 78% said that it was not acceptable for people to be treated differently on the basis of sexual orientation and 64% said violence against sexual minorities is discrimination.¹⁹ - 26 June 2014: Akil Thomas, a 26-year-old man who was stabbed multiple times and robbed by masked men, stated his belief that the attack was carried out because of his sexuality.²⁰ - 13 February 2014 Head of Victims and Witness Support of the police service, Margaret Sampson-Browne (see above) reported that only two complaints were brought in 2013.²¹ - 17 May 2013: A poll of 1,000 people conducted by a national newspaper found that over 50% of the population supported, or were tolerant of gay people. According to the poll, 36% of people polled as homophobic. This stands in contrast to a 2011 report which indicated 49% of people were totally unsupportive of gay rights and a further 20% unsupportive.²² - 2013: Few studies on persecution and discrimination exist, however individual reports of violence and intimidation can be found. The 2013 US country report suggests <i>'a reluctance to report crimes to police due to fear of harassment by police and court officials'</i>²³ |
| <p>Legislative News</p> | <ul style="list-style-type: none"> - May 2015: On 18 May 2015, the Children's Act No. 12 of 2012 was proclaimed.²⁴ This new children's protection legislation was enacted by Parliament in 2012 and, among other things, repealed the buggery and serious |

indecent provisions of the Sexual Offences Act that refer to minors as offenders and victims.²⁵ These provisions were replaced with a substantially revised regime of sexual offences against persons under 18 (with generally harsher penalties), and at the same time exemptions from criminalisation were put in place for young persons between 12 to 20 years where there is non-coercive sexual touching or penetration with someone within two or three years of their age, except if they are of the same sex. Same-sex sexuality between young people (paragraphs (20)(1)(c), 20(2)(c) and 20(3)(c) of the Act) is made subject to the new, enhanced penalty of life imprisonment for genital touching or penetration of a person under 18. According to reports, the independent senate bench opposed the provisions and the Attorney General was apparently prepared to revisit the legislation, but opposition support was not forthcoming. In response to the new children's legislation, the CSO network, Justice Diversity, have called on the cabinet and the Attorney General to introduce an amendment to the legislation. Failing that, the organisation has pledged to bring a constitutional challenge to the provisions of the Children's Act.²⁶

- **5 June 2014:** The country noted it could not join the consensus on the approval of an OAS resolution on sexual orientation.²⁷

- **2012:** (UPR) Trinidad and Tobago accepted a number of recommendations regarding discrimination and sexuality, however, the country did not expressly accept the recommendations to remove the criminalisation of consensual same sex relations between adults: *'The Government seeks to recognise the human rights of all citizens, which includes the Lesbian, Gay, Bi-Sexual and Transgendered (LGBT) community. The development of law is a dynamic process which adapts to the development of any given society. The issue of discrimination based on sexual orientation is one which remains a matter of concern in the forefront of the minds of the GOTT [Government of Trinidad and Tobago]. Trinidad and Tobago is seen as a leader in the region in relation to the manner in which it addresses the changing needs of its population. While this issue may be the subject of much public debate it is not one which will be ignored. The law must evolve and grow to suit the needs of a continually developing society. In that regard, in recent debates on the Statutory Authorities (Amendment) Bill, 2010 in Parliament, the GOTT recognised the need for a definitive debate on the protection of same sex couples.*

In relation to incidents of violence against a member of the LGBT community, Section 4 of the Constitution enshrines fundamental rights and freedoms, namely, the right of the individual to life, liberty and security of the person. Every person has the right to equality before and protection of the law. A person also has the right to respect for his private and family life. The exercise of these rights is guaranteed free from discrimination based on race, origin, colour or sex.

*With particular reference to violence against the LGBT community, the definition of rape in the Sexual Offences Act, 1986 was amended by Act 31 of 2000 to reflect a gender neutral position with regard to the complainant and the victim. This amendment serves to include protection for victims of violent same sex activity.'*²⁸

- **2011:** The Data Protection Act provides limited protection from discrimination for

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| sexual minorities, including sexual orientation as a form of sensitive information. ²⁹ |
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¹ The law is : http://rgd.legalaffairs.gov.tt/laws2/alphabetical_list/lawspdfs/11.28.pdf

² *Sexual Offences Act 1986, s.13: '(1) A person who commits buggery is guilty of an offence and is liable on conviction to imprisonment- (a) if committed by an adult on a minor, for life; (b) if committed by an adult on another adult, for twenty-five years; (c) if committed by a minor, for five years. (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.'*

³ *Sexual Offences Act 1986, s.16: '(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... (b) if committed on or towards a person sixteen years of age or more for five years... (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.'*

⁴ Bureau of Democracy and Human Rights, *Country report on human rights for 2014: Trinidad and Tobago* (June 2015) <<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dld=236720>>

⁵ Krystal Rambally, *Amnesty International to T&T Govt: Stop the hangings* (Guardian Trinidad and Tobago 22 August 2011) <<http://www.guardian.co.tt/news/2011/08/22/amnesty-international-tt-govt-stop-hangings>> accessed on 19 July 2014

⁶ PNM Party, *PNM Manifesto 2015* (20 August 2014) <<https://www.youtube.com/watch?v=OlvdwaiKELc>> accessed on 22 September 2015.

⁷ The Silver Lining Foundation is a youth led Non-Governmental Organization (NGO) acting to serve the interests of the youths of Trinidad & Tobago and the Caribbean region, as a whole. The organization primarily acts as a guardian body for marginalized youths seeking to prevent suicide and discrimination. The focus, while on bullying and discrimination, is centred on youth with regards to Lesbian, Gay, Bisexual and Transgender (LGBT) issues and those of Gender Identity & Expression.

⁸ Kim Boodram, *Parties warnes against using anti-gay slurs*, (Daily Express, 31 August 2015) <<http://www.trinidadexpress.com/20150831/news/parties-warned-against-using-anti-gay-slurs>> accessed on 1 September 2015

⁹ The entire manifesto document can be viewed here: <http://bit.ly/1K3SpsA>

¹⁰ LoopTT, *LGBTI group launches manifesto* (26 August 2015) <<http://www.looptt.com/content/lgbti-group-launches-manifesto>> accessed on 25 September 2015

¹¹ Caribbean 360, *Gay rights discussion on agenda of Trinidad opposition parties* (21 August 2015) <<http://www.caribbean360.com/news/gay-rights-discussion-on-agenda-of-trinidad-opposition-parties>> accessed on 26 August 2015

¹² Dominica News Online, *Attorney says US gay ruling could have implications for Caribbean islands* (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

¹³ Sean Douglas, *TT-born US judge bats for gay rights* (Trinidad and Tobago Newsday 17 June 2015) <<http://www.newsday.co.tt/news/0,212800.html>> accessed on 26 August 2015

¹⁴ Caribbean New Media Group, *IRO head on Jowelle De Souza's candidacy* (30 April 2015) http://www.ctntworld.com/cnews2/index.php?option=com_content&view=article&id=14927:iro-head-on-jowelle-de-souza-s-candidacy&catid=137&Itemid=707> accessed on 25 September 2015

¹⁵ Aaron Day, *Trinidad and Tobago: Prime Minister says gay rights is 'not legally possible'* (Pink News 26 September 2014) <<http://www.pinknews.co.uk/2014/09/26/trinidad-and-tobago-prime-minister-says-gay-rights-is-not-legally-possible/>> accessed on 25 September 2015

¹⁶ Geisha Kowlessar, *LGBT community reporting more cases of violence* (Guardian Trinidad and Tobago 13 February 2013) <<http://www.guardian.co.tt/news/2014-02-13/lgbt-community-reporting-more-cases-violence>> accessed on 19 July 2014

¹⁷ Yvonne Baboolal, *Coudray: Gay rights out of proposed gender policy* (Guardian Trinidad and Tobago 18 May 2013) <<http://www.guardian.co.tt/news/2013-05-18/coudray-gay-rights-out-proposed-gender-policy>> accessed on 19 July 2014

¹⁸ Joshua Surtees, *Gay rights in spotlight at reform forum* (Guardian Trinidad and Tobago 12 February 2014) <<http://www.guardian.co.tt/news/2014-02-12/gay-rights-spotlight-reform-forum>> accessed on 19 July 2014

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- ¹⁹ Corey Connelly, *Yes or no to gay rights?* (Trinidad and Tobago Newsday, 14 October 2014) <<http://www.newsday.co.tt/features/0,201616.html>> accessed on 25 September 2015
- ²⁰ Rhondor Dowlat, *Man survives hate crime* (Guardian Trinidad and Tobago 26 June 2014) <<http://www.guardian.co.tt/news/2014-06-26/man-survives-hate-crime>> accessed on 19 July 2014
- ²¹ Geisha Kowlessar, *LGBT community reporting more cases of violence* (Guardian Trinidad and Tobago 13 February 2013) <<http://www.guardian.co.tt/news/2014-02-13/lgbt-community-reporting-more-cases-violence>> accessed on 19 July 2014
- ²² Kim Boodram, *Poll: More than half the population accept gays* (Trinidad Express 16 May 2013) <<http://www.trinidadexpress.com/news/Poll-More-than-half-the-population-accept-gays-207814281.html>> accessed on 19 July 2014; Ministry of the People and Social Development Social Investigations Division, *Volume 2: Perceptions of Teenager Violence and Sexual Behaviours, Disability and Homosexuality* (Ansa McAL Psychological Research Centre 2011)
- ²³ Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 2013: Trinidad and Tobago* (US Department of State 2013) <<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dlid=220475>> accessed on 19 July 2014
- ²⁴ Sections 1 to 59, 60(1), 60(2) 60(5), 61,62, 63, 65, 66,67, 68, 69,71, 74 to 123 and Schedule 1, Schedule 2 and Schedule 3 of the Act became operative on 18 May 2015. See: http://www.ctntworld.com/cnews2/index.php?option=com_content&view=article&id=15201:proclamation-of-1-the-children-s-authority-act-chap-46-10-2-the-adoption-of-children-act-3-the-children-s-community-residences-foster-care-and-nurseries-act-4-the-children-s-act-no-12-2012&catid=137:c-news&Itemid=707
- ²⁵ The legislation is : <http://www.ttparliament.org/legislations/a2012-12.pdf>
- ²⁶ <https://justicediversitytt.wordpress.com/2015/08/14/v-legislation-%E2%80%A2-equal-protection/>
- ²⁷ OAS General Assembly, *Draft Resolution Human Rights, Sexual Orientation, and Gender Identity and Expression*, (5 June 2014) AG/CG/doc.12/14 rev. 1
- ²⁸ UNHRC, „*Report of the Working Group on the Universal Periodic Review: Trinidad and Tobago - Addendum*, A/HRC/19/7/Add.1, paras. 25-27 (1 March 2012) <http://lib.ohchr.org/HRBodies/UPR/Documents/session12/TT/A_HRC_19_7_Add.1_TrinidadandTobago_E.doc> accessed on 25 September 2015
- ²⁹ Act No. 13 of 2011, section 2, : <http://www.ttparliament.org/legislations/a2011-13.pdf>