

Henry & Edwards v. Jamaica

Human
Dignity
Trust

Offences Against the Person Act, 1864

76. (Unnatural Crime): 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.

77. (Attempt): Whosoever shall attempt to commit the said abominable crime [. . .] 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.

79. (Outrages on Decency) : 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.

Timeline

2011

The petition was first filed with the Commission on 22 December 2011.

2014

In January the Government submitted its initial response arguing that the case was not admissible

2014

On 15 October Simone was introduced to the petition as a new victim. Gareth submitted a response to Jamaica's arguments on admissibility.

2018

The Commission found the petition admissible, meaning the petition could move to the merits stage.

2019

On 28 September the Commission issued its preliminary report on the merits, finding in favour of Gareth and Simone.

2020

On 14 September, the Commission released the final report on the merits, identical in all material respects to the 2019 report.

2020

On 27 November Gareth and Simone submitted observations on Jamaica's non-compliance with the recommendations.

2020

On 31 December the Commission agreed to publish the decision.

2021

On 17 February the Commission announced it has made the decision public

'All my life people have told me that who I am and who I love is wrong. Now, for the first time ever, I finally feel I am right.'

Summary of Key Findings

Right to a private life (Art. 11)

Principle of equality and non-discrimination (Art. 24)

Right to humane treatment (Art. 5)

Right to freedom of movement and residence (Art. 22.1)

Principle of legality (Art. 9)

Right to judicial protection (Art. 25)

Recommendations

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To provide reparations to Gareth and Simone for the human rights violations they suffered.

To repeal the buggery and gross indecency laws.

To enact legislation to prohibit discrimination on the basis of sexual orientation or gender identity.

To collect data on the prevalence and nature of violence and discrimination against LGBTI people in Jamaica.

To ensure all allegations of violence against LGBTI persons are properly investigated and prosecuted.

To increase LGBTI awareness training for public officials.

To provide gender and sexuality education in schools in order to modify social and cultural patterns of harmful behaviour.

Impacts

- Vindicates Gareth, Simone and all LGBTI Jamaicans.
- First decision of its kind in Inter-American system.
- Source of pressure on Jamaica.
- Supports other cases ongoing across the Caribbean.

Human Dignity Trust

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