Assessing good practice and gaps in Commonwealth sexual offences legislation

Across the Commonwealth, outdated sexual offences laws fail to protect women, children, LGBT people and people with disability. The Human Dignity Trust has developed a set of good practice criteria, outlining what is necessary for these laws to be human rights compliant. Based on these criteria, this map provides a snapshot of positive developments and critical issues in sexual offences legislation in the Commonwealth.

Positive Developments

- All 5 jurisdictions separately criminalise marital rape
- No jurisdiction in this region: 
  - creates discrimination against a person with a disability
  - uses discriminatory and stigmatising terms to describe people with disability such as ‘moronic’, ‘subnormal’, ‘idiodidiot’, etc.
  - uses morally stigmatising terms in the law such as ‘criminal law’ or ‘criminal public order laws’

Critical Issues

- 11 of the 13 jurisdictions:
  - do not define ‘consent’ as free and voluntary
  - do not explicitly criminalise all non-consensual sexual acts
  - do not criminalise consensual sexual activity with a person with a disability

Positive Developments

- All 7 jurisdictions in this region:
  - meet all of the good practice criteria
- only 7 jurisdictions in this region: 
  - 6 do not explicitly criminalise all non-consensual sexual acts
  - 6 do not explicitly criminalise sexual activity with a person with a disability

Critical Issues

- Of the 7 jurisdictions in this region:
  - 5 do not explicitly criminalise marital rape
  - 5 do not define ‘consent’ as free and voluntary

Positive Developments

- Of the 7 jurisdictions in this region:
  - meet all of the good practice criteria
- only 7 jurisdictions in this region: 
  - 6 do not explicitly criminalise all non-consensual sexual acts
  - 6 do not explicitly criminalise sexual activity with a person with a disability

Critical Issues

- Of the 7 jurisdictions in this region:
  - 5 do not explicitly criminalise marital rape
  - 5 do not define ‘consent’ as free and voluntary

Positive Developments

- Of the 18 jurisdictions in this region:
  - meet all of the good practice criteria
- only 1 jurisdiction in this region: 
  - criminalises consensual sexual activity with a person with a disability

Critical Issues

- Of the 18 jurisdictions in this region:
  - 15 do not define ‘consent’ as free and voluntary

Positive Developments

- Of the 13 jurisdictions in this region:
  - meet all of the good practice criteria
- only 7 jurisdictions in this region: 
  - 6 do not explicitly criminalise all non-consensual sexual acts
  - 6 do not explicitly criminalise sexual activity with a person with a disability

Critical Issues

- Of the 7 jurisdictions in this region:
  - 5 do not explicitly criminalise marital rape
  - 5 do not define ‘consent’ as free and voluntary

Positive Developments

- Of the 13 jurisdictions in this region:
  - meet all of the good practice criteria
- only 7 jurisdictions in this region: 
  - 6 do not explicitly criminalise all non-consensual sexual acts
  - 6 do not explicitly criminalise sexual activity with a person with a disability

Critical Issues

- Of the 7 jurisdictions in this region:
  - 5 do not explicitly criminalise marital rape
  - 5 do not define ‘consent’ as free and voluntary

More information can be found in the five regional reports that make up Next Steps Towards Reform: Assessing good practice and gaps in Commonwealth sexual offences legislation. https://www.human dignitytrust.org/hd-resources/