



**Human Rights of  
Lesbian, Bisexual and Transgender Women in Barbados:  
A Shadow Report**

Submitted for consideration at the 67<sup>th</sup> Session of the Committee of the  
Convention on the Elimination of Discrimination Against Women

Submitted to the United Nations Convention on Elimination of Discrimination Against Women  
Committee by:

- Empowerment, Quality, Unity, Acceptance, Love, Strength (EQUALS)

## Executive Summary

While the Barbadian government has taken legislative and policy measures to address discrimination against women, there are several critical steps that the government has yet to take to ensure that Lesbian, Bisexual and Transgender (LBT) women have protection from discrimination on the basis of their sexual orientation and gender identity. Worse, the government maintains legislation that actively discriminates against this vulnerable subset of women.

As General Recommendation 28 recognizes, LBT women are “particularly vulnerable to discrimination through civil and penal laws, regulations and customary law and practices.” Barbados has three penal codes from Sexual Offences Act (1992) Chapter 154 that impinge on LBT women’s rights to “non-discrimination and equality in all fields of [their] lives throughout their lifespan.”<sup>1</sup> Beyond the maintenance of discriminatory penal codes, Barbados has not yet passed affirmative protective legislation such as an Equal Opportunities Act, Gender Equality Act or Anti-Discrimination Act, that would enable women (particularly vulnerable subsets such as LBT women) to achieve substantive equality. There is also an absence of affirmative legislation to provide LBT women with legal structures that support their lives, recognize their lived realities and needs or enable them to build the families they desire.

Instead LBT women in Barbados are often pressured to live their lives conformed to stereotypical gender norms and gender roles. As a marginalized group, they face a great deal of discrimination and harassment, which are not fairly governed by the law. Despite the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) which ensures women protection from discrimination, violence and cultural stereotypes, the government of Barbados remains disincentived to make positive advancements to ensure LBT women their human rights.

There is considerable groundwork that needs to be done by the government, and not just CSOs, to meet the obligations of CEDAW regarding the lives of LBT women. Major concern lies in the discrimination and abuse of LBT women within family life, the workplace, the healthcare system and the justice system. This report will present the major issues LBT women face and our preferred recommendations to the Government of Barbados.

### Key Recommendations:

- To modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women, notably repealing Sexual Offences Act 1992, Chapter 154 § 9 and amending § 11-12.
- To enact legislation allowing transgender individuals to alter legal documents to reflect their gender-identity.

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<sup>1</sup> Sexual Offences Act 1992, Chapter 154 available at <http://www.easterncaribbeanlaw.com/sexual-offences-act-chapter-154/>.

- To enact proactive legislation and policy that enables individuals to live full lives, whatever their gender identity, gender expression or sexual orientation, notably an Anti-Discrimination Act, Equal Opportunities Act, Gender Equality Act.
- Programming on government-owned networks that (a) offers positive, diverse portrayals of LBT woman, (b) addresses prejudices and traditional practices that promote discrimination and (c) educates the public about gender identity and sexual orientation.
- Support services must be extended to LBT women who are victims of aggression or abuses. These services should be tailored to address the unique needs of LBT women and offer varied resources from temporary shelter, counselling and health care.

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## Introduction

Equals is a Barbadian civil society organisation that works to promote the human rights of marginalized communities, with specific emphasis on the local LGBTI community. Officially incorporated in 2013, the main mandate is to work for and with persons within the LGBTI population to help them access quality services such as healthcare, welfare, counseling, etc and to advocate for their needs in these systems. For Equals this is done by creating safe social spaces and programmes, accessing stigma and discrimination free services, defending and advocating for the human rights of persons in these key populations. Equals undertook the preparation of this report, utilizing desk research to present key findings on the state of Lesbian, Bisexual and Transgender (LBT) women in Barbados, in relation to the Barbadian government's commitments under the Convention on the Elimination of Discrimination Against Women.

## Substantive Violations

While the Barbadian government has taken legislative and policy measures to address discrimination against women, there are several critical steps that the government has yet to take to ensure that Lesbian, Bisexual and Transgender (LBT) women have protection from discrimination on the basis of their sexual orientation and gender identity. Worse, the government maintains legislation that actively discriminates against this vulnerable subset of women.

## Article 2 as Informed by General Recommendation 28

As General Recommendation 28 recognizes, LBT women are “particularly vulnerable to discrimination through civil and penal laws, regulations and customary law and practices.” Barbados has three penal codes from Sexual Offences Act (1992) Chapter 154 that impinge on LBT women's rights to “non-discrimination and equality in all fields of [their] lives throughout their lifespan.”<sup>2</sup>

- Sexual Offences Act 1992, Chapter 154, § 9, which reads ‘Any person who commits buggery is guilty of an offence and is liable on conviction on indictment to imprisonment for life’ and establishes one of the most severe punitive measures for sodomy in the Commonwealth.
- Sexual Offences Act 1992, Chapter 154, § 11, which reads ‘(1) A person who indecently assaults another is guilty of an offence and is liable on conviction on indictment to imprisonment for assault. 5 years. [...] (3) In this section “indecent assault” means an assault accompanied by words or circumstances indicating an indecent intention.’

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<sup>2</sup> Sexual Offences Act 1992, Chapter 154 available at <http://www.easterncaribbeanlaw.com/sexual-offences-act-chapter-154/>.

- Sexual Offences Act 1992, Chapter 154, § 12, which reads ‘(1) A person who commits an act of serious indecency on or serious towards another or incites another to commit that act with the person or with another person is guilty of an offence and, if committed on or towards a person 16 years of age or more or if the person incited is of 16 years of age or more, is liable on conviction to imprisonment for a term of 10 years [...] (3) An act of “serious indecency” is an act, whether natural or unnatural by a person involving the use of the genital organs for the purpose of arousing or gratifying sexual desire.’

Legal scholars and human rights researchers have identified critical ways in which these codes entail and promote discrimination against lesbian and bisexual women engaging in same-sex intimacy. , The criminalization of sodomy in § 9 “has the effect of amounting to *per se* discrimination against homosexuals” while the vagueness of ‘serious indecency’ and its link to the notion of ‘unnatural’ behaviour in § 11-12 allow these laws to “be easily engineered to target and prosecute homosexuals and more generally, all non-reproductive sexual behaviour.”

While the Barbadian government has long argued that these laws, particularly § 9, are not enforced against consensual same-sex intimacy, they alternately defend their reluctance to alter these antiquated, discriminatory laws by stating that cultural values are rooted in religion and the public is reluctant to see these laws removed. This defence, and the maintenance of the laws, reveals the ingrained cultural bias against sexual and gender minorities. “Beyond establishing a legal ground for the deprivation of life, liberty, health and opportunity, these laws preserve ingrained stereotypes about LGBTI individuals and, in effect, serve to strengthen social stigmas against them. That stigma, in turn, can be even more effective than legal penalties in stripping individuals of the economic, social, and political rights guaranteed to them.”<sup>3</sup> Further, it undermines LBT women’s rights to “privacy, equality, dignity, physical and sexual autonomy, freedom from violence, an adequate standard of health and removal of gender stereotypes.”<sup>4</sup>

Beyond the maintenance of discriminatory penal codes, Barbados has not yet passed affirmative protective legislation such as an Equal Opportunities Act, Gender Equality Act or Anti-Discrimination Act, that would enable women (particularly vulnerable subsets such as LBT women) to achieve substantive equality. There is also an absence of affirmative legislation to provide LBT women with legal structures that support their lives, recognize their lived realities and needs or enable them to build the families they desire. LBT women have flagged the lack of legislation for same-sex union or marriage, custody and adoption as issues. As one LBT woman noted, “Once you start to live with someone for a period of time, the issues become more and

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<sup>3</sup> Shadow Report for Barbados’ Submission to ICCPR, Global Rights, Partners for Justice, International Gay and Lesbian Human Rights Commission, (March 2017).

<sup>4</sup> Breaking the Silence: Criminalisation of Lesbians and Bisexual Women and its Impacts, Human Dignity Trust, (May 2016).

more apparent. For example, with regards to housing, only one of us can claim income tax refund. Were we to go forward for a mortgage together, we would be turned down.”<sup>5</sup>

Finally, the lack of legislation to allow transgender individuals to alter legal documents and identifications to reflect their gender-identity renders transgender women and men particularly vulnerable. It impedes their ability to acquire accurate travel documents, to open or maintain bank accounts, to access critical services and to conduct business.

Recommendation:

- To modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women, notably repealing Sexual Offences Act 1992, Chapter 154 § 9 and amending § 11-12.
- To enact legislation allowing transgender individuals to alter legal documents to reflect their gender-identity.
- To establish legal protection of the rights of women on an equal basis with men and to ensure through a competent national tribunal that has representation from the LBT community.
- To enact proactive legislation and policy that enables individuals to live full lives, whatever their gender identity, gender expression or sexual orientation, notably an Anti-Discrimination Act, Equal Opportunities Act, Gender Equality Act.
- To enact legislation that recognizes the diverse realities of LBT women’s lives and families, namely allowing Same-Sex Union, custody and adoption.

### Article 5 and 7

LBT women face an environment of pervasive, culturally-ingrained stigma and discrimination. Government-owned public networks perpetuate this discrimination, with the national radio stations aired homophobic songs and material that incorporated discriminatory slurs. This serves to erase LGBT individuals, particularly LBT women, from the public domain and coercing them into remaining hidden. This effect is magnified within political life.

One participant from 2014 study noted, “It’s a scary climate to come out in. You will not be successful. Once you disclose that you’re gay, you lose validity; you’re taken less seriously” while another stated, “I understand that there are private radio stations, but on the government stations, it’s in poor taste to play homophobic music. Even at the National Cultural Foundation events they [could] regulate it. You can’t go up and say racist stuff but somehow they just allow homophobia. It’s okay to use gay as an insult. These are government entities that allow for [this discrimination]. There needs to be strict rules.”<sup>6</sup>

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<sup>5</sup> HAYNES, T. & INNISS-GRANT, S.K., Input to the National Gender Policy: Capturing Voices of Lesbian, Gay, Bisexual and Transgender Individuals. Institute for Gender and Development Policy, developed for the National Gender Policy, Bureau of Gender Affairs, Government of Barbados, (Bridgetown, July 2014).

<sup>6</sup> HAYNES, T. & INNISS-GRANT, S.K.

Another participant surmised that these actions were intended to remove LGBT individuals from the public space and view. She added, “They want us to stay at home; they want us to disappear...[We should] hide all the time. There were a lot of comments implying gay people should not be in the country, should not be in the public eye, should not be part of the festival...The same way I have to live and breathe and I’m subject to the same laws as everyone else, when I have to step up I will. I will not be second class citizen.”<sup>7</sup>

Recommendations:

- Programming on government-owned networks that (a) offers positive, diverse portrayals of LBT woman, (b) addresses prejudices and traditional practices that promote discrimination and (c) educates the public about gender identity and sexual orientation.
- Promotion of the participation of LBT women in formulation of government policy, whether through national committees, engagement with civil society organizations or other modalities.

## Article 11

Gender identity and expression have a significant, negative impact on employment. “Individuals with non-traditional gender expression (be they transgendered or cisgendered persons whose appearance does not align with rigid traditional gender expectations) face discrimination in the job market and a lack of protection in the workplace.” LGBT interviewees reported experiences of discrimination, where employers evinced “reluctan[ce] or unwilling[ness] to hire qualified applicants with non-traditional gender expression..While these applicants may receive a call-back or interview on the basis of their written application, employers may discontinue the interviewing process once visual or verbal cues reveal a non-traditional gender expression. Women are penalized for a lack of femininity; men for a lack of masculinity and transgender persons are subject to intense scrutiny.”<sup>8</sup>

Neither public nor most private employers have policies to address discrimination on any basis, including sex, gender identity or expression or sexual orientation. The lack of national legislation to offer protection to employees leaves LBT women vulnerable to discrimination. Further, as the research notes, “where discrimination on the basis of gender identity frustrates the ability of LGBT individuals to earn a living, it exacerbates their vulnerability and narrows their choices. As one participant added, it can lead to poverty...‘I have to change my gender expression to find a job. Jobs are hard to find for everyone, but we become the poorest of the poor because we have an extra disadvantage.’”<sup>9</sup>

These obstacles have a financial and emotional toll on LBT women. As participants relay, “[It is frustrating] for people to decide what I can and cannot do based on the way I look.” Another detailed the lived experience, adding, “You get passed over for jobs and for promotions you

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<sup>7</sup> HAYNES, T. & INNISS-GRANT, S.K.

<sup>8</sup> HAYNES, T. & INNISS-GRANT, S.K.

<sup>9</sup> HAYNES, T. & INNISS-GRANT, S.K.



know you're qualified for. I've had interviewed where in the middle the person got up and carried on a conversation; in another the interviewer shut down and stopped taking notes.”<sup>10</sup>

Recommendations:

- There is an urgent need for affirmative legislation that would offer LBT women protection from discrimination in employment, such as Anti-Discrimination Legislation and Equal Opportunities Act.
- The government should undertake human rights and sensitization training of government departments and private employers. The civil society organization MOVADAC has initiated this on a small-scale and would be an ideal partner for upscaling this initiative.
- The government should undertake a public awareness campaign focused on non-discrimination, diversity and equality of treatment.

## Article 12

The pervasive stigma and discrimination that LBT women face has a negative impact on mental and emotional health, “leading to higher levels of stress, anxiety and self-harming behaviours such as suicide. However the cost of qualified mental health care [sensitized to the needs of the LGBT community] barred low-income individuals from accessing these services.” The research added that individuals seeking care to address the anxiety and stress triggered by discrimination were sometimes re-traumatized by negative, discriminatory experiences with staff. Participants “suggested that government could save a percentage of health care costs by addressing stigma and discrimination.”<sup>11</sup>

There is a “dearth of LGBT-friendly health care providers in the public sector and only a few in the private sector. For LGBT-identified individuals who seek health care services, their ability to access appropriate care relies on the potential openness of individual doctors and service providers. One participant noted, ‘[It’s] only by pure chance of [individuals] being open-minded, but there’s no adopted policy [of non-discrimination] at any polyclinic.’”<sup>12</sup> The research further emphasized the need to train medical professionals and service providers to engage with and advise “all members of the Barbadian community, including those who engage in sexual [intimacy] with members of the same-sex and individuals who are transitioning from male to female and vice versa” in a professional, efficient manner.<sup>13</sup> This is central to ensuring that LBT women in Barbados have equitable access to health care and family planning.

Recommendations:

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<sup>10</sup> HAYNES, T. & INNISS-GRANT, S.K.

<sup>11</sup> HAYNES, T. & INNISS-GRANT, S.K.

<sup>12</sup> HAYNES, T. & INNISS-GRANT, S.K.

<sup>13</sup> HAYNES, T. & INNISS-GRANT, S.K.

- The Barbados government should ensure all employees in health care, whether health care professionals or support staff, undergo training that involves sensitization to the needs of LBT women.
- The Barbados government should offer training to private health care providers in engaging with LBT women in a professional, effective manner.

#### **Article 4 as Informed by General Recommendation 12 and 19**

LBT women exist at the intersection of homophobia, transphobia and gender discrimination and are uniquely vulnerable to gender based violence. However, Barbados lacks disaggregated data to offer a comprehensive account of the varying types of violence that LBT women face. Research, reporting of specific high-profile incidents and first-hand accounts offers some insight into the danger that LBT women face and the lack of resources.

There is no systematic safe house network existing to specifically protect LGBTQ individuals from discrimination/persecution; also there is no shelter that would be equipped to cater to the unique challenges the LGBTQ community faces. LBT women may find shelter from some community members that open their home to LGBTQ individuals who have been evicted from their homes by their family, but this is often limited or temporary.

In dealing with the police the treatment given to members of the LGBTQ community varies depending on the individual officer. There have been documented cases of discrimination by the police towards members of the LGBTQ community. Recently a trans-woman was taken into police custody. This individual was subjected to discriminatory, egregiously insulting and derogatory statements and hostile treatment meted out by several of the police officers that were present at the station. She was insulted about gender identity and her female attire by the police officers. The police officers refused to treat her as a female, told her that she was not a female, and persisted to refer to her, using male pronouns and styles of address. She was also subjected to a strip search in the presence of males.

Some members of the LGBTQ community have reported having positive interactions with police officers, noting that certain police stations were sensitized to the needs of the LGBTQ community and maintained confidentiality while protecting their safety. Others describe experiencing discrimination at the hands of the police while reporting crimes committed against them or seeking protection. A female LGBTQ individual reported, “When I interact with the police, it ends up being about my sexuality rather than the incident. I can’t find justice. Safety and justice are things that are so basic. [Does this mean] I can’t count on you (the police) to protect me from being shot because I am a lesbian?” Another individual relayed an incident in which the police respondent refused to provide protection to men in gender non-conforming attire who feared for their lives. In response to these concerns, the officer stated, “he did not

care” and added that if his son was among the group, “he would kill him just then. There is a need for well –trained, sensitized police officers and police stations.<sup>14</sup>

In short there is no uniform standard of treatment given to the LGBTQ community by police officers, it varies and is very much dependent on the individual officer’s attitude and feelings about LGBTQ persons and the police station at which the complaint is made.

Recommendations:

- Support services must be extended to LBT women who are victims of aggression or abuses. These services should be tailored to address the unique needs of LBT women and offer varied resources from temporary shelter, counselling and health care.
- Training to sensitize police and first-responders to the needs of LBT women is critical. The civil society organization MOVADAC has started this on a small scale and it should be mainstreamed throughout the police force.
- The Barbados government must compile disaggregated data on the violence against women, particularly LBT women.
- Government and civil society organizations must partner to combat harmful stereotypes about LBT women that promotes or normalizes violence against them. Public information programmes would be particularly useful.

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<sup>14</sup> HAYNES, T. & INNISS-GRANT, S.K.

## Final Recommendations

- To modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women, notably repealing Sexual Offences Act 1992, Chapter 154 § 9 and amending § 11-12.
- To enact legislation allowing transgender individuals to alter legal documents to reflect their gender-identity.
- To establish legal protection of the rights of women on an equal basis with men and to ensure through a competent national tribunal that has representation from the LBT community.
- To enact proactive legislation and policy that enables individuals to live full lives, whatever their gender identity, gender expression or sexual orientation, notably an Anti-Discrimination Act, Equal Opportunities Act, Gender Equality Act.
- To enact legislation that recognizes the diverse realities of LBT women's lives and families, namely allowing Same-Sex Union, custody and adoption.
- Programming on government-owned networks that (a) offers positive, diverse portrayals of LBT woman, (b) addresses prejudices and traditional practices that promote discrimination and (c) educates the public about gender identity and sexual orientation.
- Promotion of the participation of LBT women in formulation of government policy, whether through national committees, engagement with civil society organizations or other modalities.
- The government should undertake human rights and sensitization training of government departments and private employers. The civil society organization MOVADAC has initiated this on a small-scale and would be an ideal partner for upscaling this initiative.
- The government should undertake a public awareness campaign focused on non-discrimination, diversity and equality of treatment.
- The Barbados government should ensure all employees in health care, whether health care professionals or support staff, undergo training that involves sensitization to the needs of LBT women.
- The Barbados government should offer training to private health care providers in engaging with LBT women in a professional, effective manner.
- Support services must be extended to LBT women who are victims of aggression or abuses. These services should be tailored to address the unique needs of LBT women and offer varied resources from temporary shelter, counselling and health care.
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- The Barbados government must compile disaggregated data on the violence against women, particularly LBT women.

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