



Antigua and Barbuda's Compliance with the International Covenant on Civil and Political Rights

Suggested List of Issues Prior to Reporting Relating to: LGBTQ+ Rights

Submitted by The Advocates for Human Rights

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and

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The Advocates for Human Rights (The Advocates) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law since its founding in 1983. The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publication. The Advocates is the primary provider of legal services to low-income asylum seekers in the Upper Midwest region of the United States, including LGBTQ+ individuals who have experienced discrimination and violence based on sexual orientation, gender identity and expression, and sex characteristics.

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EXECUTIVE SUMMARY

1. On 5 July, 2022, the Eastern Caribbean Supreme Court’s High Court of Justice (“High Court”) decriminalized consensual same-sex sexual activity between adults in a landmark decision.¹ This Court has jurisdiction over nine states: Antigua and Barbuda, Dominica, Grenada, St. Kitts-Nevis, St. Lucia, St. Vincent, the Grenadines, Anguilla, the British Virgin Islands, and Montserrat.² Antigua and Barbuda, however, continues to discriminate against lesbian, gay, bisexual, transgender, queer, and other sexual and gender minorities (“LGBTQ+”) through its failure to enact legislation to protect the rights of such individuals, including the legalization of same-sex marriage; the ability for an individual to change their gender marker; and the protection against discrimination on the basis of real or perceived sexual orientation, gender identity, and gender expression. Instead of implementing laws and policies to protect members of the LGBTQ+ community, the Government has stated that it will not take any active steps to enact protections.³
2. Antigua and Barbuda also fails to protect members of the LGBTQ+ community from violence by both State and non-State actors.
3. In this report we use the acronym LGBTQ+ to refer to individuals who self-identify as lesbian, gay, bisexual, transgender and/or queer. These terms necessarily do not include everyone who may experience violations of their human rights on the basis of their real or perceived sexual orientation, gender identity, and gender expression (SOGIE), which is why we also include a “+” with the acronym. Any use of a modified acronym is intentional in that we are speaking only about certain members of the LGBTQ+ population. According to reports, many Antiguan and Barbudians do not understand the term “intersex” and conflate it with transgender identities and/or sexual orientation.⁴ Thus, while the authors found no information that pertains to intersex individuals, it is possible that some information on transgender people applies to both transgender and intersex individuals.

Antigua and Barbuda fails to uphold its obligations under the ICCPR

4. Antigua and Barbuda has failed to uphold its obligations under the ICCPR with respect to members of the LGBTQ+ community.

¹ Library of Congress, *Antigua and Barbuda: Buggery Laws Struck Down as Unconstitutional*, accessed Dec. 6, 2024, <https://www.loc.gov/item/global-legal-monitor/2022-08-15/antigua-and-barbuda-buggery-laws-struck-down-as-unconstitutional>.

² WorldLII, *Eastern Caribbean Supreme Court*, accessed Dec. 6, 2024, <http://www.worldlii.org/catalog/55933.html>.

³ Kadeem Joseph, *Gov’t will not ‘actively’ implement LGBT-focused legislation*, Antigua Observer, July 7, 2022, <https://antiguaobserver.com/govt-will-not-actively-implement-lgbt-focused-legislation/>.

⁴ DECIDES Antigua and Barbuda, *Research Report on Issues Related to Stigma, Discriminations and Human Rights of LGBTI People in Antigua and Barbuda*, by Schuyler Esprit, Koren Norton, Anne Harewood George, and Alexandrina Wong (Saint John’s: DECIDES Antigua and Barbuda, 2022), 40, 45.

I. The State does not adequately protect LGBTQ+ people violence by State and non-State actors (ICCPR Art. 7)

5. There are reports that people commonly experience violence and harassment because of their real or perceived sexual orientation, gender identity, and/or gender expression.⁵ Although LGBTQ+ people most often experience discrimination (see Section II below) as “mainly snide remarks due to toxic masculinity,” “homophobia in Antigua and Barbuda sometimes manifests itself in sporadic brutality too.”⁶
6. For example, “men who exhibit what are viewed as feminine traits experience violence and ostracization” and “transsexual [sic] women as part of the LGBTQ+ community are more vulnerable because their presence ‘challenges people’s ideas of masculinity.’”⁷
7. There are further reports that some churches and Christian communities encourage LGBTQ+ people to go through so-called “conversion therapy,”⁸ which the previous Independent Expert on sexual orientation and gender identity, among others within the UN human rights system, has said may amount to torture, cruel, inhuman, or degrading treatment.⁹ There appears to be no laws prohibiting so-called “conversion therapy” in Antigua and Barbuda.
8. It is not only random State and non-State actors who perpetrate violence against LGBTQ+ people, but also LGBTQ+ people’s family members. GBQ men and transgender women “report being threatened with violence by their families as a result of their sexual orientation and gender identity[, respectively].”¹⁰ As a result of this, a closet culture has emerged as a manner of protecting oneself.
9. Given that government officials and law enforcement often speak publically about the immorality of LGBTQ+ people and stigmatize LGBTQ+ people (see paragraph 13 below),¹¹ it is possible that many LGBTQ+ people do not feel comfortable reporting incidents of violence to police for fear of further victimization.

⁵ Outright International, *Antigua and Barbuda: At a Glance*, accessed Nov 6, 2024, https://outrightinternational.org/our-work/americas/antigua-and-barbuda?gad_source=1&gclid=EAIaIQobChMIyvrYqM2OigMV5kX_AR07gQG5EAAYASAAEgJvffD_BwE.

⁶ Gemma Handy, *The region which legislates who you can love*, accessed Dec. 4, 2024, <https://www.bbc.com/news/world-latin-america-50822222>.

⁷ Elesha George, *Being LGBTQ in the Caribbean; Sentencing of transgender woman’s killer throws spotlight on discrimination*, accessed Dec. 2, 2024, <https://antiguaobserver.com/being-lgbtq-in-the-caribbean-sentencing-of-transgender-womans-killer-throws-spotlight-on-discrimination/>.

⁸ Luis Andres Henao, *Meet the LGBTQ activist who challenged his Caribbean country’s anti-sodomy law and won*, AP News, accessed Dec. 2, 2024, <https://apnews.com/article/lgbtq-caribbean-religion-antigay-law-christians-f44674fbc7442eb4c7d752c8f4e992de>.

⁹ Human Rights Council, *Practices of so-called “conversion therapy”: Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity*, (May 1, 2020), U.N. Doc. A/HRC/44/53, ¶ 62.

¹⁰ Women Against Rape (WAR) and The Eastern Caribbean Alliance for Diversity and Equality (ECADE), *Report on Antigua and Barbuda 39th Session of the Universal Period Review (UPR)*, accessed Dec. 2, 2024, <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=9088&file=EnglishTranslation>.

¹¹ Outright International, *Antigua and Barbuda: At a Glance*, accessed Nov 6, 2024, https://outrightinternational.org/our-work/americas/antigua-and-barbuda?gad_source=1&gclid=EAIaIQobChMIyvrYqM2OigMV5kX_AR07gQG5EAAYASAAEgJvffD_BwE.

10. LGBTQ+ people who have reported crimes have found that the police are slow to respond and do not take these issues seriously. There have been calls for specialized training and sensitization sessions for persons employed in law enforcement on GBV and gender. Yet, there have been no comprehensive trainings on same. As a result, individuals within the community are unlikely to report crimes due to the perception that the police would either not take it seriously or not understand.¹²

11. **Suggested questions** relating to Article 7 of the ICCPR:

- What steps, if any, have been taken to protect members of the LGBTQ+ community from physical and verbal attacks by State and non-State actors?
- What has Antigua and Barbuda done to ensure that its law enforcement impartially and promptly investigates all reports of violence against LGBTQ+ people?
- What steps, if any, has Antigua and Barbuda taken to ensure that prosecutors and judges will impartially and promptly charge, prosecute, convict, and sentence State and non-State actors who commit violence against LGBTQ+ people?
- What trainings, if any, are provided to criminal justice systems actors on countering bias against LGBTQ+ people? Are these trainings mandatory or optional?
- Provide data on crimes against LGBTQ+ individuals, including the perpetrator's relationship to the victim, report date, investigation steps, hate crime classification, prosecution actions and outcomes, and any restitution to victims.

II. LGBTQ+ people experience widespread discrimination by State and non-State actors because of their sexual orientation, gender identity, and gender expression (ICCPR Art. 26)

12. On 5 July, 2022, the Eastern Caribbean Supreme Court's High Court of Justice decriminalized consensual same-sex sexual activity between adults in a landmark decision,¹³ stating that "Antigua's 1995 Sexual Offences Act 'offends the right to liberty, protection of the law, freedom of expression, protection of personal privacy and protection from discrimination on the basis of sex.'"¹⁴

13. Although the High Court's decriminalization decision cited a protection from discrimination on the basis of sex as one reason why it overturned the Sexual Offences Act, it failed to expand non-discrimination protections for members of the LGBTQ+ community in other aspects of life, including but not limited to employment, housing, same-sex marriage, access to loans through the financial sector, and access to governmental assistance and programs.

¹² Email from Caribbean human rights defender to Nathan Madson (Dec. 30, 2024) (on file with authors).

¹³ Library of Congress, *Antigua and Barbuda: Buggery Laws Struck Down as Unconstitutional*, accessed Dec. 6, 2024, <https://www.loc.gov/global-legal-monitor/2022-08-15/antigua-and-barbuda-buggery-laws-struck-down-as-unconstitutional>.

¹⁴ Luis Andres Henao, *Meet the LGBTQ activist who challenged his Caribbean country's anti-sodomy law and won*, AP News, accessed Dec. 2, 2024, <https://apnews.com/article/lgbtq-caribbean-religion-antigay-law-christians-f44674fbe7442eb4c7d752c8f4e992de>.

Consequently, many LGBTQ+ people “are often excluded from social protection laws and policies.”¹⁵

14. While Sections 12 and 15 have been formally repealed in Antigua and Barbuda, “the [G]overnment has said it doesn’t intend to make further efforts to enshrine rights and protections for the country’s LGBTQI+ people because it doesn’t want to ‘move too far away from the population’.”¹⁶ It is unknown whether the Government has conducted any public opinion surveys on acceptance of LGBTQ+ people among the general public or, more specifically, whether the general public would be in support of anti-discrimination protections.
15. Some Government officials, however, make their stance on LGBTQ+ people’s rights clear: “some politicians publicly espouse the belief that same-sex relations and gender nonconformity are immoral...LGBTIQ people have experienced violence, harassment, and discrimination. Social stigmatization at the hands of law enforcement and private citizens is common.”¹⁷
16. While the July 2022 decriminalization of same-sex sexual activity in Antigua and Barbuda is a step in the right direction, “more action is needed beyond legal change....Even after laws are reformed, the everyday lives of countless LGBTQI+ people will remain marred by marginalisation and social exclusion.”¹⁸
17. In addition to a general lack of anti-discrimination legislation that encompasses sexual orientation, gender identity, and gender identity, “[t]ransgender people are particularly vulnerable because there is no mechanism for legal gender recognition in Antigua and Barbuda.”¹⁹ Specifically, “[t]here is no law in Antigua and Barbuda or court process under the Civil Procedure Rules for an individual to have their gender marker...changed.”²⁰
18. Further, Antigua and Barbuda has not enacted any legislation expressly allowing or recognizing same-sex marriage.²¹ Immediately following the decriminalization decision, the Information Minister, Melford Nicholas, noted that “the government is not actively seeking to reframe the country’s legislative framework to give LGBTQ+ Antiguan and Barbudians rights that include the ability to marry their partners.”²²

¹⁵ Outright International, *Antigua and Barbuda: At a Glance*, accessed Nov. 6, 2024, https://outrightinternational.org/our-work/americas/antigua-and-barbuda?gad_source=1&gclid=EAIaIQobChMIyvrYqM2OigMV5kX_AR07gQG5EAAYASAAEgJvffD_BwE.

¹⁶ Civicus Lens, *Antigua and Barbuda: A Step Forward for LGBTQI+ Rights*, accessed Nov. 27, 2024, <https://lens.civicus.org/antigua-and-barbuda-a-step-forward-for-lgbtqi-rights/>.

¹⁷ Outright International, *Antigua and Barbuda: At a Glance*, accessed Nov 6, 2024, https://outrightinternational.org/our-work/americas/antigua-and-barbuda?gad_source=1&gclid=EAIaIQobChMIyvrYqM2OigMV5kX_AR07gQG5EAAYASAAEgJvffD_BwE.

¹⁸ Civicus Lens, *Antigua and Barbuda: A Step Forward for LGBTQI+ Rights*, accessed Nov. 27, 2024, <https://lens.civicus.org/antigua-and-barbuda-a-step-forward-for-lgbtqi-rights/>.

¹⁹ Outright International, *Antigua and Barbuda: At a Glance*, accessed Nov. 6, 2024, https://outrightinternational.org/our-work/americas/antigua-and-barbuda?gad_source=1&gclid=EAIaIQobChMIyvrYqM2OigMV5kX_AR07gQG5EAAYASAAEgJvffD_BwE.

²⁰ Women Against Rape (WAR) and The Eastern Caribbean Alliance for Diversity and Equality (ECADE), *Report on Antigua and Barbuda 39th Session of the Universal Period Review (UPR)*, accessed Dec. 2, 2024, <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=9088&file=EnglishTranslation>.

²¹ Equaldex, *LGBT Rights in Antigua and Barbuda*, accessed Dec. 2, 2024, <https://www.equaldex.com/region/antigua-and-barbuda>.

²² Dillon De Shong, *Legalising gay rights & abortion not on the table for the Antiguan Gov*, Loop News, accessed Dec. 2, 2024, <https://caribbean.loopnews.com/content/legalising-gay-rights-abortion-not-table-antiguan-gov>.

19. It is not just politicians and government leaders who are publically announcing their opposition to legislative reform that would better secure LGBTQ+ people’s rights, but also prominent religious figures who possess considerable influence over the general public. Christian pastor and president of the Antigua and Barbuda Council of Church Leaders, Bishop Charlesworth Browne, has openly “campaign[ed] against easing the country’s anti-gay laws,” stating his opposition to easing such laws is “for the sake of our children, the health of the nations, and the preservation of our people.”²³ This rhetoric further stigmatizes LGBTQ+ people as harmful to children and the fabric of society.
20. As in many other Caribbean islands, religion plays a significant role in the lives of Antiguan and Barbudians. Religious leaders therefore have significant influence over citizens and in turn have significant influence over the Government. As a result, many governmental decisions and actions are taken from a standpoint of appeasing religious leaders.
21. Due to the stigma against LGBTQ+ people and the public scrutiny of LGBTQ+ people and their issues by influential leaders, many LGBTQ+ individuals “prefer to stay in the closet” and “continue to face stigma and discrimination in their lives, forcing many to mask their sexual identity out of fear.”²⁴
22. **Suggested questions** relating to Article 26 of the ICCPR:
- What has Antigua and Barbuda done to ensure that members of the LGBTQ+ community do not experience discrimination by State and non-State actors?
 - What steps, if any, have been taken to enact anti-discrimination legislation that prohibits discrimination on the basis of sexual orientation, gender identity, and gender expression?
 - What, if any, legal remedies exist for individuals who experience discrimination based on their real or perceived sexual orientation, gender identity, and/or gender expression?
 - What steps, if any, have been or are being taken by the Ombudsman to conduct investigations of complaints received by members of the LGBTQ+ community?
 - What steps, if any, has the Government taken to create a process for transgender individuals to change their legal gender marker and names?
 - What steps, if any, have been taken to enact legislation to recognize and allow same-sex marriages in Antigua and Barbuda?
 - What steps, if any, has Antigua and Barbuda taken to ensure that social and/or public services provide support to members of the LGBTQ+ community?
 - What has Antigua and Barbuda done to ensure that LGBTQ+ individuals are provided fair access to social services without facing discrimination?

²³ Luis Andres Henao, *Meet the LGBTQ activist who challenged his Caribbean country’s anti-sodomy law and won*, AP News, accessed Dec. 2, 2024, <https://apnews.com/article/lgbtq-caribbean-religion-antigay-law-christians-f44674fbe7442eb4c7d752c8f4e992de>.

²⁴ Women Against Rape (WAR) and The Eastern Caribbean Alliance for Diversity and Equality (ECADE), *Report on Antigua and Barbuda 39th Session of the Universal Period Review (UPR)*, accessed Dec. 2, 2024, <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=9088&file=EnglishTranslation>.

- Please describe any and all education campaigns that the Government has provided to Government officials, service providers, and/or the general public on LGBTQ issues and LGBTQ+ people's human rights in an effort to reduce stigma and negative social perception of LGBTQ+ people.
- Describe any government system tracking discrimination complaints from LGBTQ+ individuals. Provide data disaggregated by sexual orientation, gender identity, and expression; perpetrator-victim relationship; the entity handling the complaint; actions taken; outcomes; and any redress provided to victims.
- Please provide information on any and all governmental support provided to civil society organizations whose purpose is to provide support and services to LGBTQ+ people.