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**Exploring Civil Society Perspectives on the Human Rights Situation of LGBT+ People in the Caribbean Community**

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# Exploring Civil Society Perspectives on the Human Rights Situation of LGBT+ People in the Caribbean Community

This study is the first pan-regional analysis of civil society organisations' perspectives on the human rights situation of LGBT+ people in Caribbean Community (CARICOM) countries. Paradoxically, whilst UN treaties extend anti-discrimination rights to LGBT+ people in most member countries, simultaneously, colonial-era legislation makes intimate same sex relations unlawful. Analysis of the corpus of civil society organisations' (CSO) submissions to the United Nations Universal Periodic Review (UPR), reveals how governments' failure to reform the law is often based on public opposition grounded in religious conservatism. Moreover, the endurance of anti-LGBT+ colonial era legislation is shown to underpin a raft of rights pathologies and reinforce prejudice and negative social attitudes. The principal rights breaches stem from systemic institutional discrimination, and include violence, hate crimes and harassment; police malpractice and denial of justice; as well as failings in healthcare and social protection. Analysis of framing in the civil society UPR corpus reveals the personal impacts of on LGBT+ people, including criminalisation, victimisation, stigma, fear and lack of self-worth.

**Key Words:** LGBT+, Human Rights, Caribbean Community, Civil Society, Pathology.

## Introduction

This study analyses civil society perspectives on the rights of LGBT+ people in Caribbean Community (CARICOM) countries. The latter is an organisation of fifteen states and dependencies in the Caribbean. It aims to promote integration, cooperation and development among its members and coordinate foreign policy.<sup>1</sup> Most member countries have ratified the United Nations International Covenant on Civil and Political Rights (ICCPR) and/or the International Covenant on Economic, Social and Cultural Rights (ICESCR) (Table 1). Following a landmark ruling in 1992, the United Nations Human Rights Council determined that references to ‘universal’, ‘other statuses’ or ‘sex’ in the ICCPR and allied treaties are regarded as including LGBT+ rights, thereby requiring government to prohibit discrimination and include sexual orientation as a protected group.<sup>2</sup> LGBT+ rights is a deserving locus of enquiry here because of the legal contradiction whereby, notwithstanding the rights extended from UN treaties, many CARICOM countries have failed to update their legal codes and retain laws from the colonial era making homosexual relations unlawful. In addition, homophobic attitudes and discrimination are commonplace and deeply entrenched across the region (King, 2014). This has led to condemnation from the United Nations, typified by calls on governments to, ‘decriminalize same-sex sexual acts and enact protective legislation for lesbian, gay, bisexual, transgender and intersex persons [... furthermore, ] the Human Rights Committee noted with concern reports of incidents of discrimination, harassment and violent attacks against lesbian, gay, bisexual and transgender persons and the alleged failure of the State to prevent and investigate such attacks’ (UNHRC, 2020: 2, para 9). Reflecting on the prevailing situation in the Caribbean, one international human rights organisation highlighted how ‘existing discriminatory legislation negatively impacts LGBT+ populations, making them ready victims of discrimination, violence, and abuse’ (HRW, 2018: 2). Accordingly, as noted, this study addresses a lacuna by offering the first pan-regional analysis of civil society views on how post-colonial, small-island developing CARICOM countries with long colonial cultures of inequality, have responded to UN international rights obligations regarding sexual minorities; people who are well documented to be vulnerable to victimization, violence, and other rights violations.

The terminology used in this study uses the shorthand term LGBT+. However, it should be noted that UN human rights instruments refer to sexual orientation and gender identity rather than LGBT+. The present use of LGBT+ is for brevity reflecting practice in academic works, popular discourse and commentary and guidance by the UN.<sup>3</sup> LGBT+ rights are not a discrete issue. For this reason, one of the research questions (see below), explores issues of intersectionality and LGBT+ people. This study's methodology is discourse analysis of the corpus of civil society organisations' submissions to their most recent cycle of the Universal Periodic Review (UPR), the United Nations' (UN) monitoring mechanism. The five-yearly cycle of the UPR and its staggered introduction by the UN after 2006 means that some CARICOM states have undergone two UPR cycles whereas others have undergone three. The following analysis explores the 'issue-salience' - or level of attention afforded to - different human rights issues – or 'pathologies' (Hogwood and Peters, 1985)<sup>4</sup> (in other words, rights violations, and implementation failings), related to LGBT+ people in the civil society UPR corpus. Furthermore, to provide an in-depth understanding of inherent meanings, lived experiences and sentiments around contemporary LGBT+ rights, it uses textual analysis to examine CSOs' use of language – or 'framing' – in the discourse. Analysis of civil society perspectives is appropriate because they offer an independent viewpoint based on the situated knowledge of organisations familiar with campaigning and working for LGBT+ people in community settings.

This study's overarching research aim is to provide pan-regional analysis of civil society organisations' perspectives on how post-colonial, small-island developing CARICOM countries are responding to their UN treaty obligations on the rights of LGBT+ people. The four associated research questions to address this aim are: 1. What human rights issues or pathologies do CSOs identify in their UPR discourse? 2. What priority do they attach to these issues? 3. How do the CSOs' UPR reports address issues of intersectionality for LGBT+ people? And 4. How do they frame their UPR discourse on LGBT+ rights? Accordingly, the remainder of this paper is structured thus: following an outline of the research context, the research methodology is summarised; subsequently relevant aspects of social

theory are summarised. The findings in relation to each research question are then presented, followed by a discussion of the key findings and their significance.

[Temporary Note – Table 1 – about here]

## **Research Context**

The Caribbean Community was established in 1973. Its major activities involve coordinating economic and development policies and operating as a regional single market for many of its members. It currently includes all the independent anglophone island countries plus Belize, Guyana, and Montserrat. This study examines all fifteen-core member CARICOM states (Table 1). They gained independence between 1962 and 1983 and their populations range from 54,000 (St. Kitts and Nevis) to 2.9 million (Jamaica).

In a manner that resonates with much of the region, Gutzmore (2004) underlines how homophobia in Jamaica is underpinned by the illegality of homosexuality; this ‘mobilizes the authority of the state and the celebrated connection between law and morality to deny the right of sexual privacy’ (2004: 133). Gaskins (2013: 429) develops this point by noting, ‘The law and heterosexuality are positioned as the basis of order, while consensual same-sex intimacy is placed on the legal continuum alongside heterosexual sexual violence – scripting the psyche of homosexuality as one of criminality’. Accordingly, it is germane to consider the legal and human rights situation of LGBT+ people in CARICOM states.

As noted, the Universal Declaration of Human Rights (UDHR) does not explicitly refer to sexual orientation or gender identity but following an earlier UNHRC ruling (*Toonen v. Australia*, 1992), discrimination on the basis of sexual orientation is held to be violating the UDHR.<sup>5</sup> Thus, references to ‘universal’, ‘other statuses’ or ‘sex’, are regarded as including sexual orientation and gender identity

(Wintemute, 2002). The same applies to the UN International Covenant on Civil and Political Rights (ICCPR) (Article 26) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) (Article 2, paragraph 2) to which twelve Caribbean states are signatories (Table 1). Thus, UN treaties extend anti-discrimination rights to LGBT+ people in all but three of the fifteen CARICOM states. In addition to UN treaties, seven CARICOM states have ratified the American Convention on Human Rights (ACHR). This has driven LGBT+ rights reform in three countries in the region following a January 2018 ruling by the Inter-American Court of Human Rights. It decreed that the ACHR recognizes same-sex marriage as a human right which in turn, made the legalization of such unions mandatory in Barbados, Haiti, and Suriname.

The domestic legal codes of CARICOM countries present a mixed picture in relation to LGBT+ people's rights (Table 2). Same-sex intimacy is unlawful in nine CARICOM countries (Table 2). These are covered by laws often dating back to the colonial era. As Gaskins (2013: 430) notes, whilst there are country-specific narratives and complexities, the underlying fact is that 'the laws in the Commonwealth Caribbean that criminalise same-sex intimacy are remnants of the region's colonial past'. With some variations, they are importations of the seventeenth century anti-buggery laws that applied in England and Wales (and were not repealed in these countries until 1967). In contrast, same-sex intimacy is legal in six CARICOM member states: Bahamas, Belize, Surinam, Trinidad and Tobago, Monserrat, and Haiti. Yet even here aspects of the prevailing legal code remain discriminatory and LGBT+ people are denied key freedoms. This legalised discrimination is typified by the legal code of Trinidad and Tobago where the Immigration Act (Section 8(1) e)<sup>6</sup> bans the entry of homosexuals into the country (Caserta and Madsen, 2016). Overall, the regional situation is that most CARICOM countries are caught in a paradoxical situation whereby they have ratified international treaties extending LGBT+ rights, yet their own domestic legal codes define homosexual acts as unlawful.

A further key factor shaping prevailing attitudes to LGBT+ people in the region is religious ideology. Notably, this is underpinned by strong links between political parties and Christian

institutions. Case study analysis by Williams et al (2020: 735) in St. Lucia concludes that religion-fuelled homophobia is more complicated than simply being driven largely by conservative religious institutions. They showed how,

Saint Lucian advocates and citizens have nuanced perspectives on how religion sustains legislated and systemic discrimination against LGBT people in Saint Lucia and, with that knowledge, are able to conceptualize advocacy strategies that can challenge religious institutions and, potentially, engage them as allies. Their assertions suggest that advancing a human rights agenda for LGBT people in Saint Lucia will be more effective if it incorporates religion and religious institutions.

Notwithstanding such inflections, the reality is that religion continues to play a major role in shaping public attitudes and government disposition towards legal reform of LGBT+ rights. In terms of public attitudes, Jackman's (2016: 263) analysis of attitudes to same-sex marriage across the Americas reveals the lowest approval scores are those from the Commonwealth Caribbean countries, 10.9 per cent of respondents; compared to 16.3 per cent in other Caribbean counties (and 21.3 per cent in Mexico and Central America and 64.8 in the USA and Canada). Furthermore, her analysis in Barbados revealed that many heterosexuals hold ambivalent attitudes about gay and lesbian rights. Barbadians whose views on sexuality were theologically based were less likely to support restrictions on same-sex intimacy when they (the research survey respondents) had a close relationship with a gay man or lesbian (Jackman, 2019: 1512). The prevalence of conservative public attitudes warding against greater rights for LGBT+ people is illustrated by Grenada's constitutional referendum in 2016.<sup>7</sup> Bill No.6 was designed to expand fundamental rights and freedoms, yet it was unpopular. Conservative religious groups argued that the proposed changes would increase rights and protections of the LGBT+ community and legalize same sex marriage. In consequence the reforms were subsequently rejected by the electorate.

[Temporary Note – Table 2 – about here]



## Methodology

The dataset for this study comprises civil society submissions to the United Nations Universal Periodic Review (UPR). Their scrutiny of UN human rights observance is an integral part of the Universal Periodic Review. In furtherance of the UN General Assembly resolution (60/251), the policy guidance is clear; the UPR should 'ensure the participation of all relevant stakeholders, including non-governmental organizations and national human rights institutions' (Cochrane and McNeilly, 2013: 60). Accordingly, civil society reports submitted to the UPR form the basis of the following analysis and provide a rich data source based on the situated knowledge of CSOs made up of - and working on behalf of, LGBT+ people in the case study countries. This approach complements extant legal analyses. The five-yearly cycle of the UPR and its staggered introduction by the UN means that some CARICOM countries have undergone two UPR cycles, whereas others have undergone three. For each country studied, the dataset includes submissions to the latest UPR. In total 95 reports were analysed; although this figure under-reports the extent of civil society input for many are joint submissions authored by broad alliances and networks of CSOs.<sup>8</sup>

The discourse analysis combined inductive and deductive coding techniques (Fereday and Muir Cochrane, 2006). First, to generate initial codes of human rights pathologies related to LGBT+ rights, a formative exploratory reading was undertaken of the submissions. Subsequently, the texts were re-read and all references to violations and implementation issues around human rights ('pathologies') were copied into a database. This was then carefully and systematically coded. Not only did this procedure reveal the nature and breadth of the (non-discrete) rights pathologies in the CSO discourse, but it also showed the 'issue-salience' or level of CSO attention to (and prioritization of) the different issues raised by CSOs in the UPR corpus. The coding process was used to divide the UPR reports into 'quasi-sentences' (or 'an argument which is the verbal expression of one term, idea or issue', Volkens, 2001: 32). This is a technique used in electoral studies. It is designed to reflect the reality that most

policy documents are made-up of non-discrete sentences that contain two or more ideas. Quasi-sentences involve sub-dividing sentences that contain multiple references to LGBT+ issues. This avoids a coding process that requires the researcher to make reductive decisions about recording a single coded meaning for a sentence. It is illustrated by the following example. Using this methodology, the sentence ‘in the last UPR it was recommended that government repeal the provisions that criminalize consensual homosexual relations - this recommendation has not been implemented’ would be coded under two separate codes: ‘legal reform’ and ‘Government failure to implement previous UPR recommendations’. This method provides a relative index of CSOs’ issue prioritisation in their UPR submissions. All quasi-sentences were logged into a database that enabled descriptive statistical analysis discussed below.

The concept of framing derives from the classic work of Erving Goffman (1974). It refers to the language used by policy actors. It is concerned with the inherent meanings, emotions, messages and criticality in relation to social and political communication (Heine and Narrog, 2015). As the following discussion reveals, framing deepens the analysis for it moves beyond the level of attention to different types of rights violation – or pathology - to consider the way that language is expressed (Druckman, 2001). The frames were inductively generated through systematic reading of the corpus of LGBT+ extracts in the database. For example, they include victimisation, stigma, and threat. Here the analysis draws on corpus analysis used in linguistics (Baker and Egbert, 2016). The level of attention to the different frames in the corpus was determined by content analysis of electronic versions of the CSOs’ UPR submissions. Lastly, relevant statutes, appropriate secondary sources, including United Nations documentation, were consulted to compile Tables 1 and 2 setting out the legal situation of LGBT+ people (see Research Context – above).

## **Social Theory**

At this juncture it is also germane to ask, ‘why is civil society central to the present analysis’? The answer has three components. First, as classical accounts underline (cf. De Tocqueville, 1835), civil society provides a democratic check on governing elites and plays a pivotal role in upholding minority rights and freedoms. Second, allied to this, the strength of exploring civil society perspectives lies in standpoint theory (Stoetzler and Yuval-Davis, 2002) and CSOs’ situated knowledge of rights implementation, as played out in Caribbean societies. The present focus on the language of civil society organisations provides a necessary complement to arguably narrower assessments of human rights based on quantitative indicators. As one CSO report said, ‘the situational evidence presented in this report are first accounts from LGBTQ+ individuals [... complemented by] focus group dialogs with members of the LGBTQ+ population’ (Equals – Barbados, 2018: 4).

## Findings

[Temporary note - Table 3 – about here]

*1. What human rights issues or pathologies do CSOs identify in their UPR discourse? And 2. What priority do they attach to them?*

Discrimination was the first-ranked rights pathology in the CSO discourse, accounting for almost a quarter (24.7 per cent) of quasi-sentences (Table 3). One CSO described the situation in a manner that resonates with the region as a whole, ‘discrimination towards LGBTI people remains widespread and institutionalized’ (Amnesty International Jamaica, 2020: 7). Another referred to ‘consistent and repeated... discrimination against the LGBTI community. Transwomen are routinely ridiculed and attacked; some have even been murdered...The treatment of LGBTI individuals violates their rights under Articles 2, 7, 9, 10, 14, 17, and 18 of the International Covenant on Civil and Political Rights’ (Justice Institute Guyana, 2020: 1). Others alluded to the negative psychological impact on LGBT+

people: 'discriminatory treatment... go[es] to the core of diminishing LGBTQ+ individuals' self-worth, self-respect, physical and psychological integrity, and punish a form of self-expression for LGBTQ+ individuals and devalue them in broader society' (EQUALS et al – Barbados, 2018: 7).

Legal reform was the second-ranked issue alluded to by CSOs in their UPR discourse, accounting for just over a fifth of quasi-sentences (20.5 per cent) in the corpus. A key issue highlighted by CSOs was ruling elites' lack of commitment to changing discriminatory, colonial-era legislation. As one opined, 'The State has not demonstrated any political will to reform this legislation' (International Network of Human Rights – Guyana, 2020: 5). Civil society organisations' criticism was not limited to states' equality and anti-discrimination laws. As one complained, 'there are other laws which are discriminatory in their effect as it relates to LGBT persons in Jamaica. [For example,] The Property (Rights of Spouses) Act 2004,<sup>9</sup> the Domestic Violence Act 2005,<sup>10</sup> and the Maintenance Act 2005<sup>11</sup> all exclude same-sex couples from their protection. The Domestic Violence Act [has ...] exclusively heterosexual definitions, LGBT persons are not protected from domestic violence where the relationship is non-cohabitational' (J-FLAG1 and Women's Empowerment for Change2, 2019: 8). A key trope in the CSO discourse is the wider social impact of colonial era discriminatory laws:

While buggery and gross indecency laws in Saint Kitts and Nevis are seldom enforced against consenting persons, their impact is pernicious. Laws criminalizing same-sex conduct reinforce already-existing societal prejudices, effectively giving social and legal sanction for discrimination, violence, stigma, and prejudice against LGBT individuals... Saint Kitts and Nevis currently does not have any comprehensive laws that prohibit discrimination on grounds of gender identity and sexual orientation, including in the employment, housing, access to education, and health care contexts (Human Rights Watch - Saint Kitts and Nevis, 2015: 6).

Similarly, in the case of Saint Kitts and Nevis, 'the mere existence of the discriminatory penal code singles out LGBT persons, an already globally vulnerable group, by formally stigmatizing and sanctioning LGBT personhood' (Just Atonement inc., St. Kitts and Nevis, 2015: 4). However, ruling administrations

appear deaf to such entreaties. For example, one CSO noted that in Trinidad and Tobago, the Equal Opportunity Commission, an independent state body, recommended to Government that current legislation be amended to include sexual orientation as a protected status in relation to employment, education and the provision of housing, goods, and services. Yet no action was taken (Coalition Advocating for Inclusion of Sexual Orientation et al, 2016: 5).

Violence against LGBT+ people was the third-ranked pathology (12.1 per cent of quasi-sentences). The CSO reports give powerful testimony of this pathology. For example, one gave details of how a gay man and his partner were attacked in St. Lucia:

[I knew] it was motivated by us being gay because the term ‘buller’ was used. As we were entering the house, a car pulled out, two persons jumped out...a gun was raised and they tried to pull the trigger, but the trigger did not work. I told my boyfriend to run. They stabbed me, several times, the deepest one was below the navel. My boyfriend was also attacked with stones (HRW St. Lucia, 2015: 2).

Another account referred to online threats saying, “no gays” and “we will kill you and beat you up” (HRW St. Lucia, 2015: 2). In Trinidad and Tobago one CSO’s UPR submission highlighted tensions between the constitutional rights to life, due process and equality, and LGBT+ persons. It cited homicide cases where a “homosexual advance defence” has been raised by defendants. It concluded, ‘the relevant criminal law shows insufficient regard for the life of a deceased LGBT person; the law fails to respect the criminal law principles of reasonableness and proportionality; and the law reflects a perception of the LGBT person as criminal’ (CAISO, 2016: 8) (for a discussion see Wheatle, 2016).<sup>12</sup> The CSO discourse also detailed violent public backlashes against proposed reforms aimed at increasing LGBT rights.

LGBTI persons suffer high levels of discrimination in Haiti, often translating into acts of violence, harassment, and intimidation. A spike in violence occurred in the summer of 2013, following speculation by some religious groups that LGBTI activists were seeking the adoption of

legislation authorizing same-sex marriage. Religious groups organized demonstrations against same-sex marriage, during which [there were] acts of violence and aggression against persons perceived to be LGBTI... No individuals are known to have been prosecuted for these acts' (Amnesty International Haiti, 2016: 5).

The CSO corpus repeatedly underlined the deep-seated nature of anti-LGBT+ violence: 'Gender-based and homophobic violence is not only expected but normalized; many believe men have the prerogative to punish women, and sexual minorities frequently suffer harassment, physical violence, and "corrective" rape' (JS16 Haiti, 2016: 5). The discourse often underlined how those that were perceived to be LGBT+ were targeted regardless of their actual sexual orientation, 'Thousands of Haitians today are at risk of violence and discrimination as a result of their actual or perceived sexual orientation, their gender identity, or nonconformist social behaviour... The mere perception that individual may be LGBT can place their life directly at risk because extreme hostility and discriminatory attitudes toward LGBT members are so pervasive. They are deprived by of their human rights, marginalized, harassed, [and] beaten' (The Human Rights and Gender Justice (HRGJ) Clinic, 2016: 11).

Several CSOs underlined the pervasiveness of homophobic violence in the region. One described how it had commissioned a study that found 'of 316 LGBT Jamaicans, 32 per cent reported being threatened with physical violence in the last five years [... and] 12 per cent reported being attacked... However, 41 per cent did not report incidents because they did not think the police would do anything [... and] 1 in 4 feared homophobic reaction from police' (J-FLAG1 and Women's Empowerment for Change2 (WE-Change), 2019:11). In response, another CSOs reported that, 'Faced with intolerance and violence, many young gay men are contemplating exile' (JS7 Haiti, 2016: 5).

Authorities' failure to uphold LGBT rights (including police malpractice, and the need for redress/ effective jurisprudence) was the fourth pathology (11.7 per cent). This discourse is typified by this CSO's reference to 'longstanding hostility in the justice system'. It continued, 'Without bribes, government officials at all levels are less likely to process complaints. Victims already facing

stigmatization for reporting a crime can be easily pressured to drop complaints due to the menace of re-traumatization, homophobia, threats and intimidation from the court, and financial strain' (JS16 Haiti, 2016:5). The CSO discourse also alluded to how this malaise was compounded by institutional failings, notably the absence of watchdog and regulatory bodies. For example, 'Trinidad & Tobago does not have a Paris Principles-compliant NHRI' (CAISO, 2016: 11).

Many CSOs also referred to how the police took a selective approach to law enforcement. For example, 'Crimes, including murder and serious assault, are rarely investigated further when police suspect they involve "homosexual issues"' (FASCDIS et al, 2016: 9). In response, others asserted that, 'The State must take all necessary steps to safeguard the rights, dignity, and access to justice for LGBT Jamaicans' (Joint Civil Society Coalition – Jamaicans for Justice, 2020: 9). Amongst the reforms called for was police training. For example, 'operate diversity training programs for the Royal St. Lucia Police Force that focus on police interactions with the LGBTQ+ community' (Just Atonement Inc. 2015: 4).

Government failure to respond to earlier UPR cycle recommendations on LGBT+ rights was the fifth-ranked pathology (4.5 per cent of quasi-sentences). States have two options when responding to UPR recommendations; they can accept them or merely 'note' them. They cannot reject them. This strand of the CSO discourse reflects their anger and frustration at governments' inaction. For example, 'During Jamaica's last UPR cycle, eleven delegations recommended decriminalization of same-sex relations between consenting adults and the enactment of anti-discrimination provisions... These recommendations did not enjoy the support of the Government of Jamaica' (J-FLAG1 and Women's Empowerment for Change2 (WE-Change), 2019:7); and 'Decriminalization of same-sex conduct... The present submission aims to remind Saint Kitt and Nevis that its inaction on these recommendations places it in violation of its international human rights obligations' (Human Rights Watch, 2020: 7). As one CSO submission put it, 'Strengthening of national machinery and accountability, beyond the facile rhetoric of the first cycle, and use of technical assistance and special mechanisms in this regard, must be an outcome of the second-cycle review' (CAISO, 2016: 5).

Subsequent strands of the CSO discourse highlight LGBT+ rights violations across policy areas including, healthcare (4.1 per cent), poverty / social protection issues (3.1 per cent), employment/ labour market (2.9 per cent), education (2.5 per cent) and housing (2.5 per cent). In the case of healthcare, as one CSO noted, ‘Discrimination and stigma are major barriers to accessing health care for LGBTQ+ individuals. Discrimination can result in outright refusal to provide health care, poor quality care and disrespectful or abusive treatment. Health care providers may also have a poor understanding of the specific health care needs of LGBTQ+ people’ (EQUALS et al, 2018: 5). Further rights issues highlighted in the CSO discourse include systemic failings in data-gathering, and a reductive approach that associates LGBT+ healthcare with HIV prevention. For example,

The Rights to Life and Health are international human rights standards enumerated in conventions that Jamaica is a party to. Overall, data collection on health disparities among trans people is virtually non-existent, and primarily focuses on HIV/AIDS, often further pathologizing the trans community. As a result, the actual health needs and disparities amongst trans persons is largely unknown, therefore leaving a large demographic medically underserved. Trans persons do not have state-provided access to hormone replacement therapy and gender-affirming surgeries (TransWave Jamaica, 2020: 3).

Education is a key policy area because it has the potential to break the intergenerational transmission of prejudice and discrimination (██████████). Yet CSOs’ UPR discourse condemns the avowedly heterosexist nature of school curriculums and the teaching of sex education. There are repeated calls on governments to implement reforms. For example, ‘Establish and implement policies to implement education programs to raise awareness on gender and sexual diversity’ (Just Atonement, 2015:4); and ‘Implement human rights education and anti-discrimination awareness-raising programs in collaboration with LGBTI rights organizations’ (Amnesty International Haiti, 2016:5). The dataset also revealed that, ‘many LGBTQI people interviewed were victims of bullying and harassment within the schools and that teachers were unprepared to handle the situations’ (GrenCHAP, 2020:3).



In the case of LGBT+ rights in housing, the UPD discourse reveals repeated examples of discriminatory behaviour by landlords. For example, one CSO reported that,

Multiple people from the LGBTQI community have been forced out of their homes by family members due to sexual orientation and gender identity. One client was forced out of his family house when his stepfather found out that he was gay. Reports from other people within the LGBTQI community has also revealed housing discrimination is a recurring issue. Some landlords are unwilling to rent to people from the LGBTQI community due to religious beliefs (GrenCHAP, 2020:6).

The CSO dataset also documents how such discrimination leads to homelessness. As one reported,

Since the last UPR process, [... we have] received nine reports of incidents, whether home invasion or expulsion, that led to a member of the LGBT community being displaced from their homes. The absence of a government-run shelter that caters generally to the homeless population, means that homeless LGBT persons live in state of precarity when they are displaced. The absence of laws and policies which prohibit discrimination also adds to this precarity for LGBT persons (J-FLAG1 and Women's Empowerment for Change2 (WE-Change), 2019:11).

Transgender people's rights issues are a further key strand in the UPR data. The data show how archaic legislation is used in a discriminatory way: 'cross-dressing is forbidden in this country [Guyana]. In fact, this law, which was enacted in 1893, was first elaborated to regulate and control the ex-slave population by prohibiting them to use the same clothes as their masters. Then, the scope *ratione materiae*<sup>13</sup> has changed and prohibits cross-dressing' (Red Internacional de Derechos Humanos (RIDH), 2020:8). The case of Trinidad and Tobago illustrates the institutional dimensions of discrimination and how transgender issues are subject to reversal in the face of party politics. Over the years several gender-focused policy programmes were repeatedly moved between different government ministries. In response, a gender-centred ministry was created in 2011. Its aim was gender development in

response to human rights frameworks and to 'provide expertise and support to government agencies... as well as institutionalizing gender in the planning process'. Its mandate included masculinity, femininity, sexual orientation and gender and special interest groups. Yet in the 2016 UPR CSOs complained that after just four years of existence, the Ministry of Gender, Youth and Child Development was being decommissioned (CAISCO, 2016:7).

A further core trope in the UPR discourse is religious faith factors denying LGBT+ rights. For example, one CSO observed that, 'Conservative religious traditions reinforce the Government's discriminatory practices and emphasize rigid gender roles. Cultural norms favour men and the elite, relegating women and LGBT persons to an inferior and dependent caste' (JS 16, Haiti, 2016:7). Another said, 'a double life is common for Haitian homosexuals. This identity dilemma is all the more profound because young people are, for the most part, very religious, and face [the] daily hatred of homophobic preaching. In church, they say that homosexuals are the devil, and that they are even responsible for earthquake[s]!' (JS7, Haiti, 2016:6). In Trinidad and Tobago, a CSO reported that, 'Cabinet twice deferred action on an omnibus national gender policy... Religious opposition to recognition of the rights to LGBTI persons and recognition of gender as a social construct were widely reported as the barriers to government leadership in moving it forward... the media reported that "God still reigns supreme in T&T according to the Constitution, and gay rights will not be a part of the Government's draft national policy on gender and development"' (Coalition Advocating for Inclusion of Sexual Orientation et al, 2016:7).

### *3. How do the CSOs' UPR reports address issues of intersectionality for LGBT+ people?*

Intersectionality refers to promoting equality of opportunity and upholding human rights in a sophisticated manner; one that takes account of the multiple, simultaneous identities held by individuals (such as sexual orientation *and* disability; see Crenshaw et al., 1995; Crenshaw, 2000). The dataset gives limited attention to intersectionality (there are no direct uses of the term). Specifically, a

few references are made to intercategorical intersectionality. This strategically uses the 'relationships of inequality among already constituted social groups (or 'protected characteristics'), as imperfect and ever changing as they are, and takes those relationships as the centre of analysis' (McCall, op cit, 2005: 1779). Thus it focuses on inequality or discrimination issues in relation to one strand, subsequently adding on consideration of others in order to identify 'compound discriminations' (Yuval-Davis, 2006: 197). The main example of this in the UPR corpus is the intersection between LGBT+ identities and socio-economic status. Thus, CSOs underline how poverty/ social protection issues are linked to the employment/ labour market inequalities and discrimination faced by LGBT+ people. As one CSO reported, 'Due to workplace discrimination LGBTQI people are less likely to be employed or receive promotions resulting in LGBTQI people earning less over the course of their lifetime. A recent study conducted in 2017 revealed that 54 percent of men who have sex with men earned below the average of \$1500 Eastern Caribbean Dollars (ECD)' (GrenCHAP, 2018:7). Another complained of the lack of legal protection noting that, 'Section 131 of Saint Lucia's 2006 Labour Act... does not prohibit dismissal on the basis of gender identity' (HRW St Lucia, 2015:4).

In a further example a CSO noted that,

Social Protection & LGBT Persons. There is no constitutional protection within the Jamaica Charter of the rights to social security, housing or work as guaranteed in Articles 6, 9, 10 and 11 of the ICESCR. ... there was a failure to address discriminatory attitudes as a cause of poverty. The latter is particularly important when considering social protection for LGBT persons as it speaks to the institutional framework to address poverty among this vulnerable group' (J-FLAG1 and Women's Empowerment for Change2 (WE-Change), 2019:11).

Intersectional concerns are also evident in CSOs' calls for legal reform in order that LGBT+ people are added to pre-existing anti-discrimination legislation in CARICOM countries. Examples of this include, we demand the 'Adoption of comprehensive legislation that bars housing discrimination on the basis of

sexual orientation and gender identity; sex, disability, religious belief, place of origin' (GrenCHAP, 2020:5); and government should 'Amend the Charter of Rights to prohibit all forms discrimination, including explicitly on the basis of age, sex, gender, gender identity, sexual orientation, health status, disability and marital status, whether in the public or private sector' (J-FLAG & WE-CHANGE, 2019:4). The significance of these findings on the limited reference to intersectionality in the UPR discourse is that they underline the early stage of LGBT+ rights advocacy in the region; such that campaigning CSOs are principally focused on getting LGBT+ rights onto the political agenda, rather than pressing more sophisticated claims on government.

[Temporary Note – Table 4 – about here]

#### *4. How do CSOs frame their UPR discourse on LGBT+ rights?*

As noted, the concept of framing derives from the classic work of Erving Goffman (1974). It refers to the language used by policy actors and the inherent meanings, sentiments, messages, and criticality in relation to social and political communication. A burgeoning literature reveals the negative health and psychological effects on LGBT+ people of oppressive laws (Clarke, 2014; Knight and Wilson, 2016). Allied to this, criminalisation was the first-ranked frame in the CSO discourse (22.9 per cent of frames) (Table 4). For example,

Although such laws purport to regulate conduct and not status, the reality is that criminalizing consensual sexual conduct between partners of the same sex has the effect of marking individuals as criminals on the basis of their sexual orientation. These laws go to the core of diminishing LGBTQ+ individuals' self-worth, self-respect, physical and psychological integrity, and punish a form of self-expression for LGBTQ+ individuals and devalue them in broader society (EQUALS- Barbados, 2018:7).

The international victimisation of LGBT+ people is well documented (Nel and Judge, 2002; Katz-Wise and Hyde, 2012). CARICOM countries are no exception and victimisation is the second-ranked frame in the CSO discourse. For example, ‘the lack of legislative protections exposes the LGBT community to discrimination... lesbian, gay, bisexual, and transgender persons often choose not to express their sexual orientation or identity out of fear of being threatened, subjected to discrimination, or victimized’ (International Network of Human Rights (INHR) on the situation of the Guyana's LGBT peoples' rights, 2020:3).

Stigma is the third-ranked frame in the UPR discourse. As a broad literature attests, this has a series of negative impacts on LGBT+ people including preventing LGBT+ people accessing the services they need (Whitehead, Shaver and Stephenson, 2016), as well as the incidence of ill-health and suicide (Kaniuka, et al, 2019). As one CSO noted, ‘Discrimination and stigma are major barriers to accessing health care for LGBTQ+ individuals... The pervasive stigma and discrimination that LGBTQ+ individuals face has a negative impact on mental and emotional health... individuals seeking care to address the anxiety and stress triggered by discrimination [are] sometimes re-traumatized by negative, discriminatory experiences with [health] staff’ (Eastern Caribbean Alliance for Diversity and Equality (ECADE), 2018:5). Several CSOs highlighted how greater collaboration between government and civil society would help to address the issue. For example, one called on the Jamaican Government to ‘Standardize collaboration with civil society to scale up efforts to reduce stigma and discrimination across all sectors, in particular education, health, labour, and social security’ (J-FLAG and WE-CHANGE, 2019:4).

Fear was also a prominent frame in the discourse. It is typified by, ‘Frequent threats of violence have led to trans people to living in fear and, in some cases, to fleeing their homes. A lack of reliable reporting and statistics, often compounded by the fact that the police do not believe trans people, specifically trans women, indicates that the problems may be much larger than presently known’ (Transwave Jamaica, 2020:7). Further key tropes in the discourse are exclusion (e.g., ‘Being homosexual

in Haiti, often means fear and exclusion. Disappointment too. As the family often does not accept us, is disappointed in us, we feel this disappointment and this feeling, we live it', JS7, 2016:2); and marginalisation (e.g., 'The mere perception that individual may be LGBT can place their life directly at risk because extreme hostility and discriminatory attitudes toward LGBT members are so pervasive. They are deprived by of their human rights, marginalized, harassed, beaten', FASCDIS et al, 2016:7).

CSOs also highlighted how LGBT+ people face injustice when dealing with the authorities. For example, one said, 'A female LGBTQ+Q+ 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"' (Eastern Caribbean Alliance for Diversity and Equality (ECADE), 2019:3).

A further trope in the discourse is the "unnatural" nature of LGBT+ relations. For example, 'The criminalization of consensual same sex activity in Sections 9, 11 and 12 has the effect of amounting to *de facto* discrimination against LGBTQ+ persons and their links to the notion of "unnatural" behaviour in Section 11 and 12 allow these laws to be easily engineered to target and prosecute LGBTQ+ individuals who engage in non-reproductive sexual behaviour' (EQUALS, 2018:4). In a further example reference was made to the fact that, 'In Grenada, the national law forbids "gross indecency" and "unnatural connections." These prohibitions cover all types of homosexual activity. Discriminatory laws empower regular citizens to harass, threaten, and physically harm members of the LGBT community who then often do not to report these incidents for fear of legal prosecution' (Just Atonement, 2020:5).

## Discussion

This study makes an original contribution to knowledge by offering the first pan-regional analysis of civil society perspectives on how post-colonial, small-island developing CARICOM countries with long colonial cultures of inequality and oppression have responded to UN international rights obligations regarding sexual minorities. The analysis reveals multiple failings on the part of governing elites. Moreover, drawing upon standpoint theory – or the situated knowledge of civil society organisations, the CSO dataset reveals the nature of current LGBT+ rights pathologies and underlines how much remains to be done before LGBT+ rights are upheld in a manner consistent with the Yogyakarta Principles<sup>14</sup> and the ICCPR and allied UN treaties.

The current analysis also points to the pervasive nature of the discrimination, inequality and oppression facing LGBT+ people across the region. The second-ranked pathology is the need for legal reform to uphold LGBT+ rights. In almost two-thirds of CARICOM states, colonial era legislation remains in force making same sex relations unlawful. The study data show governments' failure to reform the law is often based on public opposition grounded in religious conservatism. Moreover, they reveal how civil society views the endurance of anti-LGBT+ colonial era legislation as underpinning a raft of pathologies. Notably, the way that discriminatory legislation criminalises LGBT+ people and reinforces prejudice and negative social attitudes. In turn this results in them being targeted by violence, hate crimes and subject to harassment. The CSO discourse also reveals that a further dimension to the malaise is the lack of legal redress for LGBT+ people facing rights violations. Civil society accounts highlight police malpractice, with LGBT+ people afraid to report crimes for fear of further victimisation and abuse. The corpus of UPR submissions also confirms the systemic nature of LGBT+ rights violations and provides powerful testimony of prejudice and discrimination in many areas of social welfare; including healthcare, social protection, education, and housing. Rights violations were also found to pervade LGBT+ people's experience of the labour market.

The present study's attention to framing in the civil society UPR corpus revealed the personal impacts of contemporary rights denial on LGBT+ people. They spoke of criminalisation and victimisation leading to stigma and lack of self-worth. Furthermore, the discourse highlighted the fear felt by LGBT+ people, as well their experiences of injustice and social exclusion. In the face of manifold rights violations a key problem is the non-justiciability of the ICCPR and allied treaties. The present findings point to the need for a unified treaty body for monitoring compliance with UN human rights conventions (Bowman, 2007; Cole 2009). As noted, the way that the UPR presently works means governments can either 'accept' or 'note' recommendations from the UPR (they cannot reject them). This frequently means that recommendations from previous UPR cycles are 'noted'. The upshot of this is that they remain unactioned by the time of the next Universal Periodic Review.

As Chayes and Handler Chayes (1993: 178) point out, the reality is that regimes such as found in many CARICOM countries often sign international treaties without full intent to comply. Instead, they do so in order 'to appease a domestic or international constituency'. At this juncture Neumayer's rejoinder (2005:921) is pertinent to understanding the future trajectory of LGBT+ rights in the region: 'improvement in human rights is typically more likely the more... non-governmental organizations [CSOs] a country's citizens participate in... [In short,] ratification [of human rights treaties] is more beneficial the stronger a country's civil society is'. Thus, it is argued that future progress in overturning the toxic impact of colonial era discriminatory legislation in the CARICOM region will depend upon stronger civil society mobilisation and greater government receptiveness to CSOs' critical LGBT+ rights claims.

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State	Population <sup>15</sup>	Independence <sup>16</sup>	International Covenant on Civil and Political Rights ICCPR <sup>17</sup>	International Covenant on Economic, Social and Cultural Rights ICESCR <sup>18</sup>	American Convention on Human Rights <sup>19</sup>	Date of Latest UPR <sup>20</sup>
Antigua and Barbuda	90,000	November 1, 1981	Not ratified (a)	Not ratified (a)	-	2016
Bahamas	386,000	July 10, 1973	December 23, 2008	December 23, 2008	-	2018
Barbados	285,000	November 30, 1966	January 5, 1973	January 5, 1973	December 5, 1981	2018
Belize	419,000	September 21, 1981	June 10, 1996	March 9, 2015	-	2018
Dominica	72,000	November 3, 1978	June 17, 1993	June 17, 1993	June 3, 1993	2019
Grenada	106,000	February 7, 1974	September 6, 1991	June 17, 1993	July 14, 1978	2020
Guyana	783,000	26 May 1966	February 15, 1977	February 15, 1977	-	2020
Haiti	11,439,000	1934 end of US occupation	February 6, 1981	October 8, 2013	September 14, 1977	2016
Jamaica	2,900,000	August 6, 1962	October 3, 1975	October 3, 1975	-	2020
Monserrat†	5,000	N/A	May 25, 1976 [UK]	May 20, 1976 [UK]	-	2017 [UK]†
St. Kitts and Nevis	54,000	September 19, 1983	Not ratified	Not ratified	July 19, 1978	2015
St. Lucia	182,000	February 22, 1979	Not ratified (s)	Not ratified	-	2015
St. Vincent and the Grenadines	109,000	October 27, 1979	November 9, 1981	November 9, 1981	-	2016
Suriname	581,000	November 25, 1975	December 28, 1976	December 28, 1976	December 12, 1987	2016
Trinidad and Tobago	1,300,000	December 21, 1978	December 21, 1978	December 8, 1978	April 4, 1991	2016

**Table 1. Caribbean Community States – Key Details and UN Human Rights Treaty Ratification status/ Dates.**

(a) Denotes a state has acceded to a treaty but not ratified it.

† Unlike other CARICOM member states, Monserrat is not an independent state – but an overseas British Territory. It does not have its own UPR. It must comply with the UK's international treaties obligations.

State	Domestic Law	Male-Male legal?	Female-Female legal?
Antigua and Barbuda	Sexual Offences Act of 1995 (Act No. 9). <sup>21</sup> Article 12 – Buggery. (1) A person who commits buggery is guilty of an offence and is liable on conviction to imprisonment... (b) for fifteen years, Article 15 - Serious Indecency... does not apply to an act of serious indecency committed in private between - (a) a husband and his wife; or (b) a male person and a female person each of whom is sixteen years of age or more;	No	Yes
Bahamas	Legal since 1991. Same-sex sexual acts were decriminalised via an amendment to the Sexual Offences Act (1989) <sup>22</sup>	Yes	Yes
Barbados	Sexual Offences Act 1992, Chapter 154, <sup>23</sup> Buggery - Section 9, “Any person who commits buggery is guilty of an offence and is liable on conviction on indictment to imprisonment for life.”	No	Yes
Belize	December 2019, Court of Appeal confirms that non-discrimination on the basis of sexual orientation is protected by Belizean Constitution. <sup>24</sup>	Yes	Yes
Dominica	Sexual Offences Act 1998, <sup>25</sup> Section 16 – Buggery “(1) A person who commits buggery is guilty of an offence and liable on conviction to imprisonment for... ten years, if committed by an adult on another adult.	No	No
Grenada	Criminal Code of 1987 as amended in 1993, <sup>26</sup> Article 431. “If any two persons are guilty of unnatural connexion, or if any person is guilty of unnatural connection with any animal, every such person shall be liable to imprisonment for ten years”.	No	Yes
Guyana	Criminal Law (Offences) Act of Guyana <sup>27</sup> - Section 352. Any male person who, in public or private, commits, or is a party to the commission, or procures or attempts to procure the commission, by any male person, of any act of gross indecency with any other male person shall be guilty of a misdemeanour and liable to imprisonment for two years. Also, Section 353. Section 354.	No	Yes
Haiti	When Haiti became independent from France in 1804, no law that criminalized consensual same-sex sexual acts was introduced, and no such law has come into the penal code since. <sup>28</sup>	Yes	Yes
Jamaica	1864 Offences Against the Person Act, <sup>29</sup> which punishes the ‘abominable crime of buggery’ and acts of ‘gross indecency’ between males with up to ten years in prison with hard labour.	No	Yes
Monserrat	Article 16 of the Montserrat Constitution <sup>30</sup> and Article 79 of the Labour Code <sup>31</sup> ban discrimination based on sexual orientation. <sup>32</sup> As a British Overseas Territory, Montserrat is required to comply with its obligations under international human rights instruments. Specifically, this includes an adherence to the European Convention on Human Rights.	Yes	Yes
St Kitts and Nevis	Offences Against the Person Act Revised in 2002. <sup>33</sup> Part XII. Unnatural Offences- Section 56 - Sodomy and Bestiality, “Any person who is convicted of the abominable crime of buggery, committed either with mankind or with any animal, shall be liable to be imprisoned for a term not exceeding ten years, with or without hard labour”. Also Section 57	No	Yes
St. Lucia	Criminal Code, No. 9 of 2004 (Effective 1 January 2005), <sup>34</sup> Section 132 - Gross Indecency, when person commits an offence and is liable on conviction on indictment to imprisonment for ten years or on summary conviction to five years. Section 133 – Buggery “(1) A person who commits buggery commits an offence and is liable on conviction on indictment to imprisonment for — (b) ten years.	No	Yes
St. Vincent & Grenadines	Criminal Code, 1990 Edition, <sup>35</sup> Section 146 – Buggery ... liable to imprisonment for ten years.” Section 148 - Gross Indecency - “Any person, who in public or private, commits an act of gross indecency with another person of the same sex or procures or attempts to procure another person of the same sex to commit an act of gross indecency with him or her, is guilty of an offence and liable to imprisonment for five years.”	No	Yes
Surinam	Legal since 1869. <sup>36</sup>	Yes	Yes

Trinidad and Tobago	Prior to 2018, Section 13 of the Sexual Offences Act 1986 <sup>37</sup> (strengthened in 2000) criminalised "buggery", with 25 years imprisonment. Repealed 2018.	Yes	Yes
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**Table 2., The Legal Status of Homosexuality in CARICOM Countries**

Human Rights Issue	%
Discrimination, (in)equality and oppression	24.7
Need for legal reform to uphold LGBT+ rights	20.5
Violence/ hate crimes/ harassment against LGBT+ people	12.1
Authorities' failure to uphold LGBT+ rights (inc. police malpractice)/ need for redress/ effective jurisprudence	11.7
Government failure to respond to earlier UPR recommendations on LGBT+ rights	4.5
LGBT+ rights violations in healthcare	4.1
General ICCPR and other treaty violations in relation to LGBT+ people	3.5
LGBT+ people and Poverty / Social protection issues	3.1
Transgender rights issues	3.0
LGBT+ people's human rights in employment/ labour market	2.9
Religious faith factors denying LGBT+ rights	2.5
LGBT+ rights in education	2.5
LGBT+ rights in housing	2.5
CSO calls on CARICOM governments to ratify HR treaties	2.4

**Table 3., The Issue Salience of Human Rights Issues in CARICOM CSOs' UPR Submissions 2015-20 (Percentage of all quasi-sentences, N= 1,517).**

Frame	%
Criminalisation of LGBT+ people	22.9
Victimisation	17.8
Stigma/ lack of self-worth	14.0
Fear / afraid	9.2
Attack on LGBT+ people	8.6
(in)Justice	8.6
Threats to LGBT+ people's safety	5.1
(Social) exclusion	3.4
(non)conformity and LGBT+ people	3.1
"Unnatural" behaviour	2.7
Repression	1.7
Marginalisation	1.7
Humiliation	1.0

**Table 4., The incidence of different frames in the corpus of CARICOM CSOs' UPR Submissions 2015-20 (Percentage of all frames, N= 292).**

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<sup>1</sup> See <https://treaty.caricom.org/> [Last accessed 11.05.21]

<sup>2</sup> Toonen v. Australia, Communication No. 488/1992, U.N. Doc. CCPR/C/50/D/488/1992 (1994).

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<sup>3</sup> For example, <https://www.ohchr.org/EN/Issues/Discrimination/Pages/LGBT.aspx>

<sup>4</sup> The use of the term ‘pathology’ follows the classic work of Brian Hogwood and Guy Peters’ seminal work *The Pathology of Public Policy* comparing the human body and the body politic using the language of medical pathology to investigate the disorders and challenges governments experience in making and implementing policy, including imperatives such as upholding human rights..

<sup>5</sup> Art. 2. ‘Everyone is entitled to all the rights and freedoms ... without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status’. See ‘Toonen v. Australia, Communication No. 488/1992, U.N. Doc CCPR/C/50/D/488/1992 (1994)’, 1995, available at:

<http://hrlibrary.umn.edu/undocs/html/vws488.htm> [Last accessed 11.05.21]

<sup>6</sup> [https://rgd.legalaffairs.gov.tt/laws2/alphabetical\\_list/lawspdfs/18.01.pdf](https://rgd.legalaffairs.gov.tt/laws2/alphabetical_list/lawspdfs/18.01.pdf) [Last accessed 07.11.21]

<sup>7</sup> <https://today.caricom.org/2016/11/25/no-vote-dominates-in-grenadas-constitutional-reform-referendum/> [Last accessed 07.11.21]

<sup>8</sup> For example, *la Fondation Zanmi Timoun et al* (Haiti) a network of 12 NGOs (See Appendix). Analysis of the CSOs addresses suggests that two-thirds are indigenous to CARICOM states, whilst the remainder are INGOs (or hybrid indigenous/ INGOs). Disaggregation of the CSO corpus between the categories in relation to the research questions did not reveal any significant differences.

<sup>9</sup> [https://moj.gov.jm/sites/default/files/laws/Property%20\(Rights%20of%20Spouse\)%20Act.pdf](https://moj.gov.jm/sites/default/files/laws/Property%20(Rights%20of%20Spouse)%20Act.pdf) [Last accessed 07.11.21]

<sup>10</sup> [https://moj.gov.jm/sites/default/files/laws/The%20Domestic%20Violence%20Act\\_0.pdf](https://moj.gov.jm/sites/default/files/laws/The%20Domestic%20Violence%20Act_0.pdf) [Last accessed 07.11.21]

<sup>11</sup> <https://moj.gov.jm/sites/default/files/laws/Maintenance%20Act.pdf> [Last accessed 07.11.21]

<sup>12</sup> A pair of Trinidad & Tobago cases, *Cox v The State* and *Marcano v The State*. Cr. App. No. 2 of 2002 (July 26, 2002) (CA, Trinidad and Tobago)

<sup>13</sup> Subject-matter jurisdiction or the court's authority to preside over a particular case. In particular, the court’s jurisdiction over the subject of the case and the type of redress sought.

<sup>14</sup> Over recent years the Yogyakarta Principles have been influential driving LGBT+ rights. They were set out in a charter of human rights in relation to sexual orientation and gender identity and published following a meeting of international human rights groups in Yogyakarta, Indonesia, in 2006 – and launched the following year. They were supplemented in 2017 (Yogyakarta +10), to include gender expression and sex characteristics.

<sup>15</sup> <https://population.un.org>

<sup>16</sup> <https://atlas-caraibe.certic.unicaen.fr/en/page-82.html>

<sup>17</sup> [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-4&chapter=4&clang=en](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&clang=en)

<sup>18</sup> <https://indicators.ohchr.org/>

<sup>19</sup> [https://www.oas.org/dil/treaties\\_b-32\\_american\\_convention\\_on\\_human\\_rights\\_sign.htm](https://www.oas.org/dil/treaties_b-32_american_convention_on_human_rights_sign.htm)

<sup>20</sup> <https://www.ohchr.org/en/hrbodies/upr/pages/uprmain.aspx>

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- <sup>21</sup> <https://evaw-global-database.unwomen.org/-/media/files/un%20women/vaw/full%20text/americas/antigua%20and%20barbuda%20-%20sexual%20offences%20act%201995.pdf?vs=1854>
- <sup>22</sup> [http://laws.bahamas.gov.bs/cms/images/LEGISLATION/PRINCIPAL/1991/1991-0009/SexualOffencesAct\\_1.pdf](http://laws.bahamas.gov.bs/cms/images/LEGISLATION/PRINCIPAL/1991/1991-0009/SexualOffencesAct_1.pdf)
- <sup>23</sup> <https://www2.ohchr.org/english/bodies/hrc/docs/ngos/lgbti2.pdf>
- <sup>24</sup> [https://www.blackstonechambers.com/documents/Attorney\\_General\\_v\\_Caleb\\_Orozco\\_and\\_Others.pdf](https://www.blackstonechambers.com/documents/Attorney_General_v_Caleb_Orozco_and_Others.pdf).
- <sup>25</sup> [https://oig.cepal.org/sites/default/files/1998\\_dma\\_act1.pdf](https://oig.cepal.org/sites/default/files/1998_dma_act1.pdf)
- <sup>26</sup> [https://www2.ohchr.org/english/bodies/hrc/docs/ngos/lgbtshadow\\_grenada\\_annex.pdf](https://www2.ohchr.org/english/bodies/hrc/docs/ngos/lgbtshadow_grenada_annex.pdf)
- <sup>27</sup> <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/72106/73070/F-965231282/GUY72106%202012.pdf>
- <sup>28</sup> See Malta et al, (2019), p.7.
- <sup>29</sup> [https://moj.gov.jm/sites/default/files/laws/Offences%20Against%20the%20Person%20Act\\_0.pdf](https://moj.gov.jm/sites/default/files/laws/Offences%20Against%20the%20Person%20Act_0.pdf)
- <sup>30</sup> [http://agc.gov.ms/wp-content/uploads/2010/02/constitution\\_of\\_montserrat.pdf](http://agc.gov.ms/wp-content/uploads/2010/02/constitution_of_montserrat.pdf)
- <sup>31</sup> <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/100186/120073/F878703857/GBR100186.pdf>
- <sup>32</sup> <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/100186/120073/F878703857/GBR100186.pdf>
- <sup>33</sup> <http://scm.oas.org/pdfs/2011/CIM03051-IV.pdf>
- <sup>34</sup> <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/88074/132555/F201091458/LCA88074%20Act.pdf>
- <sup>35</sup> [https://www.oas.org/en/sla/dlc/mesicic/docs/mesicic5\\_svg\\_annex8.pdf](https://www.oas.org/en/sla/dlc/mesicic/docs/mesicic5_svg_annex8.pdf)
- <sup>36</sup> Fatah-Black (2017), p. 248.
- <sup>37</sup> [https://rgd.legalaffairs.gov.tt/laws2/Alphabetical\\_List/lawspdfs/11.28.pdf](https://rgd.legalaffairs.gov.tt/laws2/Alphabetical_List/lawspdfs/11.28.pdf)