

Stakeholder Submission to the United Nations Universal Periodic Review for the 2nd-Cycle Review of Trinidad & Tobago, during the 25th Session

Submitted: 21 September 2015

Joint NGO Submission by:



1. CAISO (Coalition Advocating for Inclusion of Sexual Orientation)

47 Norfolk St, Belmont, Port of Spain, Trinidad & Tobago • caisott@gmail.com • +1 868-322-7373 • gspottt.wordpress.com • Contact: Colin Robinson, Executive Director • CAISO (est. 2009, inc. 2012, Trinidad & Tobago) works to make sex/gender diversity part of T&T's national identity through: a multi-organizational casework programme using law and social work to prevent and redress violations of human rights and dignity related to sexual orientation, gender identity and expression, and to strengthen human rights self-efficacy and advocacy by LGBTI persons; advocacy leadership to strengthen national human rights machinery and mobilize collaborative civil society use of human rights mechanisms; and work to shift public understanding, discourse and policy on sexuality, gender, citizenship and rights.



2. CariFLAGS (Caribbean Forum for Liberation and Acceptance of Genders and Sexualities)

47 Norfolk St, Belmont, Port of Spain, Trinidad & Tobago • cariflagssecretariat@gmail.com • +1 876-844-9366 • www.facebook.com/groups/cariflags • Contact: Dane Lewis, Co-Chair • CariFLAGS (est. 1997, Curaçao; inc. 2014, Trinidad & Tobago) incorporates national NGOs in Belize, the Dominican Republic, Grenada, Jamaica, St. Lucia, Suriname and Trinidad & Tobago as directors of a regional network whose mission is to build Caribbean

nations where LGBTI people enjoy full fruits of citizenship, and to strengthen cultural understanding, policy, litigation, leadership and domestic movements that enable that.



3. Family Planning Association of Trinidad & Tobago

79 Oxford St, Port of Spain, Trinidad & Tobago • ed.fpatt@gmail.com • +1 868-623-4764 • www.ttfpa.org/fpa • Contact: Dona Da Costa Martinez, Executive Director • FPATT (est. 1956, Trinidad & Tobago) has a mission to advance sexual and reproductive health and rights, through advocacy and the provision of quality services to men, women and young people in Trinidad and Tobago. FPATT is an affiliate of the International Planned Parenthood Federation.



4. Friends for Life

47 Norfolk St, Belmont, Port of Spain, Trinidad & Tobago • friendsforlife.tt@live.com • +1 868-379-1952 • Contact: Luke Sinnette, Social Worker • FFL (est. 1997, inc. 1999 Trinidad & Tobago), Trinidad & Tobago's oldest LGBTI NGO, is a grassroots organisation with a focus on working-class issues, trauma and resilience, Trans MTF sex work, and transformative social work pedagogy. A founding partner in Wholeness & Justice (a casework and advocacy initiative which blends clinical practice with critical consciousness and therapeutic social action), FFL also runs a volunteer hotline and HIV outreach programme, provides group and family counseling, and finds emergency housing for those made homeless by discrimination.



5. Silver Lining Foundation

thesilverliningfoundation@gmail.com • www.silverliningtt.com • Contact: Jeremy Steffan Edwards, Chairman • SLF (est. 2012, inc. 2013 Trinidad & Tobago) is an NGO which primarily acts as a guardian body for marginalized youths seeking to prevent suicide and discrimination. The focus, while on bullying and discrimination, is centered on youth with regards to LGBT issues and those of gender identity and expression.

Submission Focus & Goals

1. This joint thematic submission focuses on human rights practice and protection related to fulfilment of **sexual and reproductive rights** (with the exception of violence against women and children, which deserves its own thematic focus) in **Trinidad and Tobago**.
2. It reviews implementation steps and assesses achievements by Trinidad & Tobago with regard to each recommendation accepted and voluntary commitment made by the state, at all stages of the UPR first cycle, that are related to the submission theme.
3. It assesses the development of normative and institutional frameworks for ensuring and protecting human rights in Trinidad & Tobago, in particular state machinery and initiative.
4. In the course of the review and framework assessment, it highlights relevant developments in domestic law, policy and international cooperation since March 2012, and identifies challenges and constraints they present in domesticating human rights norms.
5. It makes recommendations with specific indicators for achieving unmet commitments and outstanding obligations.

Review of First-Cycle Commitments

6. Six recommendations on the theme of our submission were described by the state during the first cycle as already “implemented or in the process of implementation” (*A/HRC/19/7, para. 87*). One additional first-cycle recommendation on this theme enjoyed the support of the state (*A/HRC/19/7, para. 86.10*). We reproduce these *in blue italics, indented*, along with the paragraph number from UPR documents in which they appear, and review each in the paragraphs that follow it.
 7. *87.17. Continue to develop and implement measures aimed at protecting the rights of all children, particularly those in vulnerable situations (A/HRC/19/7)*
 8. *87.26. Continue and strengthen current efforts to increase the accessibility and quality of health services and education for all its citizens (A/HRC/19/7)*
9. **New child protection legislation and improvements in health and education services leave critical gaps in sexuality education, maintain laws enabling child marriage, and radically increase criminal penalties for same-sex sexuality between minors, while decriminalizing similar conduct between children of opposite sexes.**
10. Important pieces of child protection legislation have been passed since March 2012, and a Children’s Authority has accomplished critical advances in functionality. Sections of the landmark Children Act of 2012 which became law in May 2015 revised and expanded the regime of sexual offences against children, with generally enhanced penalties, raised the age of sexual consent to 18 years, and decriminalised non-coercive sexuality between minors close in age in non-familial or -custodial relationships. It explicitly withheld this decriminalisation provision when children are of the same sex (paragraphs 20(1)(c), 20(2)(c) and 20(3)(c)), and by repealing previously age-scaled penalties for sexual offences when committed by minors, makes non-

coercive sexual activity between minors of the same sex subject to life imprisonment, regardless of their ages.¹ The age of criminal responsibility in Trinidad & Tobago is effectively seven years. Further, although “GOTT has recognized that this is a specific human rights issue which must be addressed” (A/HRC/19/7/Add.1, para. 8), the Children Act not only fails to repeal legislation that drew attention in the first cycle permitting marriage of girls as young as 12 and boys at 16—it provides exemptions from criminalisation for sexual offences against minors for the spouses of minors. Overall, the Act deliberately seeks to entrench pre-existing laws known to be violations of human rights; e.g., excluded from the child marriage exemption is “buggery” (anal intercourse), because it is criminalized even when consensual. Every Independent (non-political) member of the Senate withheld support for the legislation, and members of that bench forced a voice vote on the unequal decriminalization provision.

11. Statistics on teenage pregnancy and HIV in Trinidad & Tobago underline the link between inadequate education, early sexual activity and negative sexual health outcomes. These include data from the Central Statistical Office that since the turn of the century teen pregnancy rates have not declined. Little “debate” remains^{2,3,4,5,6,7} regarding children’s right to access age-appropriate comprehensive sexuality education as a norm. The August 2008 Mexico Declaration on Comprehensive Sexuality Education in Schools (“Prevention through Education”) united Ministers of Health and Education across Latin America and the Caribbean to commit to reducing “by 75% the number of schools [administered by the Ministries of Education] that do not provide comprehensive sexuality education” and “reduce by 50% the number of adolescents and young people who are not covered by health services that appropriately attend to their sexual and reproductive health needs”.⁸ Yet, the Minister of Education who took office in September 2015, at his swearing-in, addressed efforts to access to sexual education and health services for those of school-age with “religious education must form a part of the curriculum in all our schools. Sex education is something we need to discuss and we feel it is the responsibility of the parent to educate his or her child with respect to their sexual well-being, so although it might form part of our social studies curriculum it is largely a matter of the parents to deal with that.”^{9,10}

12. *87.25. Further action to reduce maternal mortality (A/HRC/19/7)*

13. **Maternal mortality rates rose 40% over a three-year period.** Media reports on the *Third Annual Report 2014—Making Progress, Strengthening a Nation*,¹¹ laid in Parliament in April 2015, quote the then Planning minister that the maternal mortality rate rose from 46 per 100,000 births in 2010 to 64 in 2013. “That means that this is something that we did not do well. And this is an issue of major concern,” he acknowledged.¹² He also told Parliament, the mortality rate was among indices that “fell below their targets, and therefore require immediate and urgent attention”¹³

14. *87.5. Adopt measures so that traditional stereotypes referring to the roles of men and women in society and family can be overcome (A/HRC/19/7)*

15. *87.3. Continue its significant efforts to promote gender equality, in particular the implementation of the “Draft National Gender Policy” (A/HRC/19/7)*

16. **With the September 2015 change in Government, a six-year-old document criticized by human rights advocates as weak will displace the policy referenced, which was never**

enacted. The gender portfolio moves to its fourth ministry in five years, as a sub-unit of a broad social development and family services umbrella, after gender rights machinery with a Ministry-level champion had been put in place over four years.

17. Between May 2010 and September 2015, a suite of gender-focused programmes (including Defining Masculine Excellence, addressing stereotyping of masculinities) has been shifted across four different government ministries (community development, gender, planning, social development). A gender-centred ministry, established in June 2011, with a “gender development” mission to “provide expertise and support to government agencies and other stakeholders or focal points, as well as institutionalizing gender in the planning process”, in response to human rights frameworks, had a defined mandate that included masculinity, femininity, sexual orientation and gender and special interest groups. After four years, that Ministry of Gender, Youth & Child Development (cited four times by the state during the first cycle) is currently in the process of being split and decommissioned and the gender units are reportedly being merged into a new Ministry of Social Development and Family Affairs.
18. Cabinet twice deferred action on an omnibus national gender policy before it, which had been the subject of considerable consultation and resources, and intended to achieve domestication of CEDAW. It languished without action for close to three years of the last Government’s term, which ended without its enactment. Religious opposition to recognition of the rights to LGBTI persons, to decriminalization of abortion, and to recognition of gender as a social construct were widely reported as the barriers to government leadership in moving it forward. However, even when 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... Minister of Gender, Youth and Child Development Marlene Coudray, finally breaking her silence on the controversy... said¹⁴”, the Policy still failed to be implemented. Whether the policy proposed measures related to workplace discrimination based on sexual orientation was the subject of a media dispute between Coudray¹⁵ and a former minister of state in the Gender ministry¹⁶. In September 2015, a new government took office and has adopted its manifesto¹⁷ as government policy. That manifesto declares an intention to enact an older, 2009 gender policy document,¹⁸ which states explicitly in its executive summary that it “does not provide measures dealing with or relating to... same-sex unions, homosexuality or sexual orientation” (p. 5).
19. *87.23. Increase measures to ensure that violence and discrimination against members of vulnerable groups, such as women and lesbians, gay, bisexual, and transgender persons, are both prevented and prosecuted (A/HRC/19/7)*
20. *86.10. Undertake proactive policies to promote the rights of individuals, especially with regard to their sexual orientation and HIV/AIDS status (A/HRC/19/7)*
21. **No new measures or policies have been adopted, despite recommendation by other state bodies. The first clear institutional framework for doing so will be weakened.**
22. No new measures or policies related to promotion of rights or prosecution or prevention of violence or discrimination with respect to LGBT persons or sexual orientation have been implemented since 2011. Proposals by arms of the state to do so have not yet been enacted by Government or Parliament (see paras. 24 & 43).

23. A Gender ministry with a clear mandate to “provide expertise and support to government agencies and other stakeholders or focal points”, accountability to human rights frameworks, and an explicit responsibility for sexual orientation will be subsumed into a Ministry of Social Development & Family Affairs (see para. 17).
24. The Equal Opportunity Commission, an independent state body created by legislation, has recommended to Government, pursuant to its mandate to keep the legislation under review, (see paras. 43 & 50) that it be amended to include sexual orientation as a protected status on the basis of which discrimination is prohibited in employment, education and the provision of housing, goods and services. That recommendation does not have the force of policy, and no amendment to the legislation has yet been introduced.
25. Trinidad & Tobago made several additional written statements of commitment at adoption. We again reproduce these *in blue italics, indented*, along with the paragraph number from UPR documents in which they appear, and review each in the paragraphs that follow it.
26. **One of these has come to life as a repeated policy statement of majoritarianism in recognizing human rights of LGBTI persons and other rights. Others have been undermined by policy and practice.**

27. 24. The Government seeks to recognise the human rights of all citizens, which includes the LGBT community....The development of law is a dynamic process which adapts to the development of any given society. The law must evolve and grow to suit the needs of a continually developing society....GOTT recognised the need for a definitive debate on the protection of same sex couples. (A/HRC/19/7/Add.1)

28. The intention to afford rights recognition was repeated by the then Justice minister for an audience of representatives of other states and international organizations in March 2013, and reported in the local media¹⁹. No legislative developments have been enacted; the last legal measure recognizing LGBT-related rights came into force in January 2012. Parliamentary debate on the LGBT community and the protection of the law has been ongoing and encouraging, but led in almost all instances by non-Government Parliamentarians.
29. Of greater concern, “the need for a definitive debate” is repeatedly framed by Government and political parties as a need for debate and assent of a majority of citizens as to whether members of the LGBT community should enjoy human rights and their protection. Most recently, in August 2015, this was articulated by the then Prime Minister as: “Our position is...that that is not a decision that could be made by us or the Cabinet sitting. It is a matter that requires tremendous...stakeholder consultations to arrive at the consensus view...Gay rights...with the greatest of respect is not my decision to make, but is one that will require full consultation with the national population.”²⁰

30. 26. In relation to incidents of violence against a member of the LGBT community, Section 4 of the Constitution enshrines fundamental rights and freedoms, namely, the right of the individual to life, liberty and security of the person. (A/HRC/19/7/Add.1)

31. A University of the West Indies Faculty of Law report, *Adjudication in Homicide Cases involving Lesbian, Gay, Bisexual and Transgendered (LGBT) Persons in the Commonwealth Caribbean*²¹, after “a close examination of how justifiable homicide and provocation doctrines have been applied by

courts in the Commonwealth Caribbean”, finds “significant tensions between the constitutional rights [to life, due process and equality] and obligations and the law as applied to homicide cases involving LGBT persons” “in which a ‘homosexual advance defence’ has been raised by the defendant in a homicide case”. It concludes “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.” A pair of Trinidad & Tobago cases, *Cox v The State*²² and *Marciano v The State*,²³ are at the core of the analysis.

32. 27. With particular reference to violence against the LGBT community, the definition of rape in the Sexual Offences Act, 1986 was amended by Act 31 of 2000 to reflect a gender neutral position with regard to the complainant and the victim. This amendment serves to include protection for victims of violent same sex activity. (A/HRC/19/7/Add.1)

33. Sexual violence involving a perpetrator’s mouth and a victim’s penis are not covered in the 2000 amendments to the definitions of rape and grievous sexual assault in the Sexual Offences Act. They are prosecuted using section 16 “serious indecency”, which carries a far lesser sentence if both parties are adults, of five years (ten for a subsequent offence).

34. Further, buggery (section 13) is still routinely used to prosecute anal rape because of the ease of conviction without needing to prove a lack of consent, since buggery criminalizes all anal intercourse, regardless to age, gender or consent. Buggery carries a maximum sentence of 25 years, compared to life for rape, so such prosecutions deny justice to both victim and accused.

35. Further commitments and statements of policy were made by the state during the interactive dialogue in November 2011. These include:

36. 71. It clarified that laws criminalizing same-sex activity were not enforced... (A/HRC/19/7)

37. This remains accurate as a description of prosecutorial practice. However, prosecutorial policy is the province not of the executive but **an independent Director of Public Prosecutions. A policy statement/moratorium by that Office with regard to ending prosecution of consensual adult sexuality should be recommended during the 2016 UPR.**

38. 72. It explained that the immigration laws were being reviewed and it was not yet clear what the result of the review would be. Moreover a new policy to afford easier access to HIV care and services for migrants was being developed. (A/HRC/19/7)

39. Notwithstanding the review, the immigration law provisions with respect to homosexuals, persons living off their earnings, persons reasonably suspected of coming to the state for the purposes of living off the earnings of homosexuals or of attempting to bring persons into the state for homosexual purposes, and persons who practise, assist in the practice or share in the avails of homosexuality, remain on the books. They have been challenged in the Caribbean Court of Justice under the freedom of movement provisions of the Revised Treaty of Chaguaramas of the Caribbean Community.²⁴ Despite conflicting testimony at times, the acting Chief Immigration Officer told the court that Trinidad & Tobago would not apply the law, in breach of the Treaty, to CARICOM nationals. Counsel for the state, however, told the Court the

state had no plans to repeal the legislation, but saw an interest in keeping it, and twice made reference to its role with regard to terrorists from other states.²⁵

40. In July 2015, the then Health minister announced that one of the explicit goals of introduction of a new national health card was to make it harder for migrants to access HIV care and services.^{26,27,28,29,30} In September 2015, following a change in government, the new Health minister promised to review this policy and told the media that at present “Anyone can go to any health care facility and receive treatment.” He announced plans for a universal health insurance system “especially for vulnerable groups... regardless of their personal financial circumstances”.³¹ (Trinidad & Tobago also indicated a first-cycle recommendation to 87.33. *Endeavour to sustain the maximum humane care for “illegal immigrants” and assist them to utilize, on a timely basis, the prevailing legal system in the country to address their situation (A/HRC/19/7)* was already in the process of implementation.

41. In both *A/HRC/19/7/Add.1* and during the interactive dialogue at adoption, **Trinidad & Tobago made a number of bold assertions about its human rights leadership. Two of note, regarding domestic human rights legislation and human rights dialogue with civil society, it has honoured in the breach:**

42. 479. Trinidad and Tobago’s domestic legislation dealing with discrimination was in the process of being amended to include a person’s HIV/AIDS status, as one of the recognized categories under which a person is protected from discrimination. This legislative recognition is not only necessary but pioneering in the region. It noted this maverick attitude towards the protection of human rights of all would propel national debate and eventual change in Trinidad and Tobago, in relation to issues such as sexual orientation. (A/HRC/19/2)

489. Trinidad and Tobago reiterated its appreciation for the active and constructive exchange...throughout the UPR process...as well as its continuing dialogue with non-governmental organizations at the consideration of its UPR report to the Government which prides itself on dialogue and transparency in the amendment of all legislation. (A/HRC/19/2)

43. Legislation introduced in Parliament in 2011 to include HIV/AIDS status in the protections of the Equal Opportunity Act lapsed in June 2012³² without being brought to the floor for debate, and was never reintroduced. The legislation was re-drafted to frame HIV/AIDS status as a disability; however, non-governmental HIV/AIDS organizations (who object to this) were not consulted on this step. When sent the legislation for comment, the HIV/AIDS Advocacy & Sustainability Centre at the Labour ministry requested permission to include one HIV NGO with which it partners in its response. No sexual orientation NGOs have been included in dialogue on amendment of the equal opportunity legislation. In March 2015, after repeated requests “since 2007” to “Parliament, the Attorney General, and the Chief Parliamentary Counsel...to offer input on behalf of the citizens” they “represent in improving the Equal Opportunity Act”, and “[i]n June of 2013” writing “the state urging an IACHR hearing on some of the issues”, without a response, HIV, sexual orientation and other NGOs requested a hearing at the InterAmerican Commission on Human Rights (IACHR) to, among other goals (see paras. 51-52), engage in dialogue with the state on adding HIV status and sexual orientation to equal opportunity legislation. The state failed to appear.^{33,34} Trinidad & Tobago’s mission to the Organization of American States made a telephone apology, but the state has not followed up with the NGOs who requested the hearing in any other way. A written submission sent by the Equal Opportunity Commission to the IACHR has not been shared with the NGOs.

**Normative & Institutional Framework:
Progress in Strengthening Human Rights Machinery, Promoting
Human Rights, and Achieving Paris-Principles Compliance**

44. During the interactive dialogue

45. *32. Trinidad and Tobago further indicated that the Ministry of the Attorney General in conjunction with the Equal Opportunity Commission was in the process of developing a nationwide human rights awareness campaign. A feasibility study was conducted to determine the most effective mechanism to reach the widest demographic by the International Law and Human Rights Unit of the Ministry. (A/HRC/19/7)*

46. In late 2015, such a campaign has not yet materialized.

47. As part of Parliamentary reforms, new Standing Orders have been adopted for both houses of Parliament, which **in November 2014 established a standing Joint Select Committee (JSC) on Human Rights, Diversity, the Environment and Sustainable Development**—an important development in engaging the Parliament with oversight over human rights. The Committee has **“the duty of considering from time to time, and reporting whenever necessary on all matters related to...the compatibility of Acts of Parliament with human rights, and any matters relating to human rights in Trinidad and Tobago (but excluding consideration of individual cases)”**.³⁵ LGBTI advocates met with the Committee in March 2015 through the aegis of a global parliamentary organization, briefed it on LGBTI matters and the forthcoming equal opportunity hearing (see para. 43), and made themselves available to the JSC on legislative and other matter. The Committee established domestic violence as its first priority and produced a June 2015 report examining programmes and services which provide support to victims of domestic violence. It invited 28 NGOs to make submissions. LGBTI NGOs were not among them, and the report makes no recognition of the gaps in services for victims of same-sex domestic violence and the stigma they face in existing programmes.

48. Trinidad & Tobago does not have a Paris Principles-compliant NHRI. In Cycle 1, the state indicated that

49. *20...seeking technical expertise via the Special Procedure Mechanism of Human Rights Council would be a matter for consideration in the future (A/HRC/19/7/Add.1)*

50. and that it was “reviewing the process of” the constitutionally constituted Office of the Ombudsman “becoming accredited under the Paris Principles” (para. 10, A/HRC/19/7/Add.1). A focus on the Equal Opportunity institutions—a Commission and quasi-judicial Tribunal—established through 2000 legislation that extends rights protections beyond those in the Constitution and creates horizontal rights would provide an institutional framework with greater potential, and allow the Government greater legislative agility, for establishing a compliant NHRI. They meet seven of eight key characteristics of NHRIs,³⁶ and enjoy greater functional power, compared to the Office of the Ombudsman, described in the Government Constitutional Reform Commission report as “viewed as an ineffective institution” and “Parliament does not take it seriously” (para. 225, p. 36)³⁷.

51. Human rights defenders requested a hearing with Government at the InterAmerican Commission on Human Rights in March 2015 (para. 43) “to dialogue with dutybearers...about

how we strengthen relatively weak, but promising, human rights machinery in Trinidad and Tobago”, noting that “new opportunity exists for state institutions outside of the political branch to seize and fulfil our human rights obligations”. We noted that **“Section 5(2)(h) of our Constitution enumerates a ‘right to such procedural provisions as are necessary for the purpose of giving effect and protection’ to its Bill of Rights”**³⁸ and quoted parliamentarian Wade Mark’s comment that “If there are no institutions available to give effect to...fundamental rights, they become meaningless.”³⁹ Government did not participate.⁴⁰

52. Post-colonial, small-island developing states like Trinidad & Tobago, with still-maturing institutions and long colonial cultures of inequality, have a heightened obligation to strengthen human rights machinery and protect minority rights. Rightsbearers in such states (where extrajudicial punishment of difference is likely, impunity common, social interdependence high, stigma amplified, redress machinery admittedly weak, and state regimes of evidence-based sexuality education underdeveloped), especially those who are sexual minorities, are well documented to be vulnerable to victimization, violence and other rights violations, and single violations can effect multiple ruptures to safety, dignity and livelihood. **Other than the IACHR, Trinidad & Tobago affords rightsbearers no access to supranational human rights adjudication mechanisms, which are expressly designed to backstop failures, negligence or weaknesses in domestic mechanisms.** In 1998 the state renounced the jurisdiction of the InterAmerican Court of Human Rights, to which it had acceded in 1991. It declined to embrace several recommendations in the first cycle regarding the adoption of convention optional protocols to provide such access, and demurred on greater embrace of special procedures.
- 53. 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.**
54. Trinidad & Tobago in its bloc-voting with other CARICOM states also plays a dangerous role in retarding global progress in norming and development goal-setting on sexual and reproductive health and rights. CARICOM, which votes according to the lowest common denominator of the Caribbean bloc, repeatedly resists advances on sexual and reproductive rights norms, often in tandem with the OIC and Holy See. This voting not only undermines the maturation of global human rights norms, but holds Trinidad & Tobago’s own rightbearers to a lower standard than the state’s commitments. In December 2013, the executive director of UNFPA visited the Caribbean to convene a high-level summit in response to the crisis of teenage pregnancy (see para 11). Trinidad & Tobago, as the host nation, wrote UNFPA to resist inclusion in the working document of the terms “sexual and reproductive health”, “sexual education”, “contraception” and “contraceptives”. A letter from the Ministry of Foreign Affairs noted “the term ‘sexual’ is vague and open to different interpretations and may incorporate issues of Lesbian, Gay, Bisexual and Transgender” and that “It is also unclear if the term ‘sexuality education’ includes references to sex between men and men or sex between women and women.” This behaviour has done particular harm within the InterAmerican system, which leads the globe in advancing sexual rights norms. Trinidad & Tobago has joined other Caribbean states in attaching footnotes to consensus resolution on human rights, sexual orientation and gender identity and expression. In 2014, the state noted: “In the context of existing policy and legislation, the Republic of Trinidad and Tobago is unable to support the resolution. However, Trinidad and Tobago is signatory to the Universal Declaration of Human Rights. The Equal Opportunity Act 2000 which aims to ‘prohibit certain kinds of discrimination, to promote

equality, opportunity between persons of different status’, ensures that persons cannot be discriminated against in employment, education, health, protection and other social good based on characteristics including their religion, race, class, sex and socio-economic status. Under the Sexual Offences (Amendment) Act (No. 31 of 2000) the act of sodomy whether between same sex partners or heterosexual partners is illegal. However, this legislation is rarely enforced.”⁴¹

55. A testament to the right to public participation, during recently concluded Parliamentary elections, a well-known transgender woman ran for a seat. Though her right to do so was challenged in a front-page newspaper story that interviewed only clergymen, her campaign was largely well received.⁴²

Recommended Indicators For Fulfilment of Recommendations, Voluntary Commitments & Outstanding Obligations

56. The Government, in partnership with state institutions—the Office of the President, the Office of the Ombudsman, the Equal Opportunity institutions, the Parliamentary Joint Select Committee on Human Rights &c—and human rights advocates, develop and implement from 2016 onward a national campaign of human rights and anti-discrimination education in the national media, in schools and in local communities, that explicitly includes sexual and gender diversity and NGOs and representatives from LGBTI communities.
57. In consultation with the Judiciary and a broad range of human rights stakeholders, and with the technical assistance of the Office of the United Nations High Commissioner for Human Rights and others, a Joint Select Committee of Parliament draft, introduce and bring to a debate by 2017 enabling legislation to amend the authority and functions of the Equal Opportunity institutions and the Office of the Ombudsman to establish therefrom a Paris Principles-compliant national human rights institution.
58. The Government and Opposition jointly pass legislation to amend the Constitution’s Bill of Rights (currently Section 4) to protect sexual orientation and gender from discrimination.
59. The Government introduce and bring to a debate in Parliament a legislative amendment to the Equal Opportunity Act to add sexual orientation, age and HIV to statuses protected from discrimination under Section 3.
60. The Government introduce and bring to a debate in Parliament legislation to repeal paragraphs 8(1)(a), (e), (f) and 9(4)(a) of the Immigration Act.
61. The Director of Public Prosecutions declare a formal moratorium on prosecutions of consensual sodomy (including under Sections 13 and 16 of the Sexual Offences Act, and paragraphs 20(1)(c), 20(2)(c) and 20(3)(c) of the Children Act).
62. The Police Service and the Director of Public Prosecutions end use of Section 13 of the Sexual Offences Act (buggery) to prosecute anal rape.
63. The Government, the Equal Opportunity institutions and other state institutions make requests of special procedures mandate-holders and enter into technical cooperation and assistance agreements with neighbouring governments, regional and international institutions (e.g. Brazil’s

Special Secretariat for Human Rights, Cuba's Centro Nacional de Educación Sexual (CENESEX), the United Nations Development Programme's sexual diversity practice) to build state capacity to strengthen human rights recognition and develop policy and programmes in response to the needs of LGBTI members of the national community.

64. The Office of the Prime Minister fund and staff for a minimum of 24 months a desk dedicated to policy development, training and capacity-building on sexual orientation, gender identity and expression and sexual and bodily diversity.
65. The Ministry of Labour & Small Enterprise Development bring to Cabinet for adoption a simple policy statement on nondiscrimination in public employment, including all uniformed services, on the basis of sexual orientation and gender identity. The Ministry of Labour & Small Enterprise Development negotiate a Decent Work joint initiative with the International Labour Organisation, Joint Trade Union Movement, domestic labour unions and chambers of commerce focused on "promoting structures and programmes to reduce discrimination" against LGBTI persons.
66. The Children's Authority, Cabinet Ministers responsible for Health, Children & Youth, and health training institutions develop and promulgate protocols for the clinical care and counseling of intersex children and their families that delay gender assignment, foster autonomy of gender identity, and permit adults to make legal adjustments to gender markers on identity documents.
67. The Government ensures that women have universal access to equitable, quality health care, including reproductive health services.
68. Cabinet Ministers responsible for Education, Health and Gender ensure delivery of accurate, developmentally-appropriate sexuality and gender education to all schoolchildren; programmes to equip parents and teachers and other school personnel to perform these roles and manage their faith beliefs; initiatives to prevent bullying and bias violence and promote school cultures of diversity and tolerance; and to promote public education and knowledge-based discourse about sexuality, sexual diversity and sexual citizenship.
69. The Government ratify the InterAmerican Convention Against All Forms of Discrimination & Intolerance.
70. The Government convene a CARICOM working group and summit meeting to engage in political dialogue and mutual cooperation on human rights, sexual orientation and gender identity/expression.

References

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