

Stakeholder submission of the Commonwealth Human Rights Initiative (CHRI) for the 2nd Universal Periodic Review of Grenada

15 June 2014



The Commonwealth Human Rights Initiative (CHRI) is an independent, non-partisan, international non-governmental organisation, mandated to ensure the practical realisation of human rights across the Commonwealth. CHRI was founded in 1987 by the Commonwealth professional associations. It is headquartered in New Delhi, India and has offices in Accra, Ghana and London, UK. CHRI is an NGO in Special Consultative Status with the Economic and Social Council of the United Nations.

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**The Commonwealth Human Rights Initiative (CHRI) stakeholder submission for the 2nd
Universal Periodic Review of the Grenada
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This Universal Periodic Review (UPR) stakeholder submission for Grenada includes information on the following areas: cooperation with international human rights mechanisms, the death penalty, freedom of expression, access to information, sexual orientation and gender identity and children's rights.

A. Cooperation with international human rights mechanisms, core international human rights instruments and their monitoring bodies

1. Since its first UPR, Grenada ratified the Convention on the Elimination of All Forms of Racial Discrimination, signed the Convention on the Rights of Persons with Disabilities and acceded to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict and the Optional Protocol to the Convention on the Rights of the Child on the sale of children child prostitution and child pornography.
2. Grenada has four overdue treaty reports – one for the Human Rights Committee, pending since 1992, one for the Committee on Economic, Social and Cultural Rights, overdue since 1993, and two for the Committee on the Rights of the Child (both concerning the recently adopted Optional Protocols to the Convention), pending since March 2014.
3. Grenada does not have a standing invitation to the Special Procedure mandate holders. During the first UPR, Grenada rejected all five recommendations related to extending a standing invitation, as a result of limited resources.
4. There are no pending visit requests from the Special Rapporteurs or Independent Experts.

CHRI recommends that the Government of Grenada:

1. **extend an open invitation to all special procedures of the UN Human Rights Council; and**
2. **demonstrate its commitment to the UN human rights mechanisms by complying with its treaty reporting obligations.**

B. The death penalty

5. During the last UPR, Grenada rejected all eleven recommendations on the abolition of the death penalty, despite being a *de facto* abolitionist country since 1978. Furthermore, at the UN General Assembly Grenada has continuously voted against a resolution for a moratorium on the use of the death penalty.
6. Grenada retains the death penalty for treason and aggravated murder.
7. At the time of writing Grenada does not have anyone on death row, the last remaining person on death row had his sentence commuted in 2013.

CHRI recommends that the Government of Grenada:

1. **ratify the 2nd Optional Protocol to the ICCPR and formally abolish the death penalty.**

C. Freedom of expression and access to information

1. Freedom of expression is enshrined in the Constitution of Grenada and is generally respected by the government and law enforcement officials.

2. During the intervening period since the first UPR, when Grenada did not receive any recommendations related to freedom of expression and access to information, the government of Grenada has adopted several pieces of legislation which directly impact on freedom of expression. Moreover, we are aware of the reporting of several cases of alleged state interference in the work of the media.
3. In 2012, Grenada became the first Caribbean country to decriminalise defamation and libel as part of the Criminal Code (Amendment) Act by repealing sections 252 and 253 of the Criminal Code, which regulated negligent and intentional libel and criminal defamation. The provisions provided for imprisonment, ranging from a maximum sentence of six months to a maximum of two years for these offences. Nevertheless, seditious libel or “*a publication with intent to injure the person ... in a substantially greater degree ... than reasonably necessary for the interests of public*”, regulated under section 327, remains a criminal offence, punishable by up to two years imprisonment¹.
4. In September 2013, Grenada adopted the Electronic Crimes Act, which provides for up to one year of imprisonment and/or a fine of 100,000 East Caribbean dollars (approximately 37,000 US dollars) for sending grossly offensive or menacing content by email, thereby restricting electronic expression. Furthermore, civil society has also raised concerns regarding the range of the law’s applicability, which includes “*any person, of any nationality or citizenship in any place outside or inside Grenada, having an effect on the security of Grenada and its nationals*”². Both clauses can easily constitute an obstacle to the dissemination of information and freedom of expression as officials have a broad leeway to interpret what constitutes an “effect on the security”.
5. In 2012, following an alleged intervention by the Prime Minister’s office, a reporter was fired from the privately owned Grenada Advocate weekly newspaper due to his recent publications on the selection process of the Prime Ministerial candidates from the ruling party³. Similarly, two radio stations have reported receiving warnings from the Prime Minister’s office regarding their political reporting⁴.
6. There is no Right to Information law or “open government” policy in Grenada. Thus, citizens cannot follow any formal path to access information held by the public authorities.

CHRI recommends that the Government of Grenada:

1. **ensure that all allegation of government interference in the work of media are diligently investigated by an impartial and independent body; and**
2. **adopt a Right to Information Act that corresponds with international best practice.**

D. Sexual Orientation and Gender Identity

1. During the last UPR, Grenada rejected all five recommendations related to the protection of the SOGI community and decriminalisation of same-sex sexual conduct. However, Grenada did affirm its commitment to raise awareness of the rights of the LGTB community and to encourage tolerance.

¹ International Press Institute, “Grenada abolishes criminal defamation”, 18 October 2012, at: <http://www.freemedia.at/special-pages/newssview/article/grenada-abolishes-criminal-defamation.html> (last accessed 10 June 2014)

² International Press Institute, “Once withdrawn, electronic defamation bill passes in Grenada”, 9 September 2013, at: <http://www.freemedia.at/home/singleview/article/once-withdrawn-electronic-defamation-bill-passes-in-grenada.html> (last accessed 10 June 2014)

³ Reporters Without Borders, “Government blamed for newspaper reporter’s dismissal”, 28 March 2012, at: <http://en.rsf.org/grenada-government-blamed-for-newspaper-27-03-2012.42195.html> (last accessed 10 June 2014)

⁴ Ibid.

2. Consensual adult male same-sex conduct remains a criminal offence in Grenada as a result of section 435 of Grenada's Criminal Code (1990) which criminalises an "unnatural connection", defined as anal intercourse, and specifies a punishment of 10 years imprisonment⁵. The law makes no provision for same-sex sexual activities between women.
3. In May 2011, police arrested two men on charges of homosexuality⁶. Shortly after the arrests, several men called a press conference to deny rumours regarding their sexuality, allegedly spread by law enforcement officials⁷.
4. There is no explicit legislation against discrimination based on sexual orientation and gender identity in Grenada.

CHRI recommends that the Government of Grenada:

1. **promote and facilitate constructive dialogue on sexual orientation and gender identity with stakeholders, including government ministries, civil society and religious leaders;**
2. **work towards repealing Section 435 of the Criminal Code; and**
3. **introduce policies aimed at ending discrimination based on sexual orientation and gender identity.**

E. Children's rights

1. During the last UPR, Grenada rejected all three recommendations to eliminate corporal punishment of children from existing laws and to prohibit the use of corporal punishment at home or in educational facilities. Nevertheless, Grenada also affirmed its commitment to encouraging its non-application.
2. Corporal punishment against children is lawful at home, in schools and alternative care settings.
3. In accordance with Grenada's response during the last UPR, when Grenada accepted all recommendations related to implementation of a juvenile justice system, Grenada adopted a Juvenile Justice Act in 2012. The Juvenile Justice Act explicitly prohibits corporal punishment against juveniles (person under 18 years of age) in penal institutions and as a sentence for a crime, which is still lawful against adult male offenders under sections 54 and 65 of the Criminal Code⁸.

CHRI recommends that the Government of Grenada:

1. **eliminate corporal punishment provisions from current legislation and completely prohibit the use of corporal punishment.**

⁵ Section 435, Criminal Code, 1990, at : www.vertic.org/media/National%20Legislation/Grenada/GD_Criminal_Code.PDF (last accessed 10 June 2014)

⁶ Pink News, "Men arrested for gay sex in Grenada", 26 May 2011, at: <http://www.pinknews.co.uk/2011/05/26/men-arrested-for-gay-sex-in-grenada/> (last accessed 10 June 2014)

⁷ LGTB Asylum News, "In Grenada, arrests for homosexuality - and public denials of homosexuality", 27 May 2011, at: <http://madikazemi.blogspot.in/2011/05/in-grenada-arrests-for-homosexuality.html>, (last accessed 10 June 2014)

⁸ Global Initiative to end all corporal punishment against children, "Corporal punishment of children in Grenada", April 2014, at: <http://www.endcorporalpunishment.org/pages/progress/reports/grenada.html> (last accessed 10 June 2014)