

## Executive Summary

1. In 2016, Grenada attempted to reform the country's constitution through a constitutional referendum. Bill no.6 proposed to expand the fundamental rights and freedoms of individuals. The bill was largely unpopular as it sought to increase gender equality so that both men and women would have equal rights and status in all spheres of life<sup>1</sup>. Opponents of the bill argued that the proposed amendment would increase rights and protections of the LGBTQI community and legalize same sex marriage in Grenada. The attempt to reform the constitution ultimately failed with all seven proposed bills failing. In 2018 the Ministry of Health partnered with GrenCHAP to increase access to HIV testing by members of the LGBTQI community, but no attempt has been made to repeal discriminatory legislation that impacts members of the LGBTQI community.
2. GrenCHAP has received direct information about the human rights violations detailed in this stakeholder report from clients in the LGBTQI community in Grenada over the last four years. This Stakeholder report addresses Grenada's success and failure to comply with its human rights obligations and makes recommendations to address and improve the human rights of LGBTQI people in Grenada.

## Background and Framework

3. During Grenada's second Universal Periodic Review, the Government noted 42 recommendations and accepted 62 recommendations of the 104 recommendations provided by the working group<sup>2</sup>. Grenada noted 16 recommendations related to decriminalization of homosexual conduct between consenting persons and amending laws to ensure the protection of person on the basis of sexual orientation and gender identity<sup>3</sup>.
4. Grenada has ratified the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) international instruments relevant to this submission. Grenada is legally bound by the respective provisions outlined in these Covenant, particularly, rights without discrimination (Article 2 ICCPR; Article 2 ICESCR), the right to life (Article 6 ICCPR), the right to work (Article 6 ICESCR), freedom from inhuman or degrading treatment or punishment (Article 7 ICCPR), the right to liberty and freedom

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<sup>1</sup> NowGrenada, Fact Sheet: Grenada Constitution Reform, (September 19, 2016). Available online at <https://www.nowgrenada.com/2016/09/fact-sheet-grenada-constitution-reform/>

<sup>2</sup> Report of the Working Group on the Universal Periodic Review: Grenada (April 9, 2015), U.N. Doc. A/HRC/29/14. Also available online at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/074/28/PDF/G1507428.pdf?OpenElement>

<sup>3</sup> Report of the Working Group on the Universal Periodic Review: Grenada (April 9, 2015), U.N. Doc. A/HRC/29/14. Also available online at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/074/28/PDF/G1507428.pdf?OpenElement>

from arbitrary arrest or detention (Article 9 ICCPR), the right to attainable standard of health (Article 12 ICESCR) the right to privacy (Article 17 ICCPR), the right to freedom of opinion and expression (Article 19 ICCPR) and equality before the law and rights to legal protection of the law without discrimination (Article 26 ICCPR).

5. Grenada underwent its 2nd UPR cycle in January 2015. The following recommendations in reference to sexual orientation and gender identity are relevant to this report and were noted by Grenada, but have not been implemented:
  - a. **Decriminalize sexual activity between consenting adult and adopt legislation and public policies that prevent discrimination based on sexual orientation and gender identity** (72.61, 72.68, 72.62, 72.63, 72.64, 72.65, 72.66, 72.67, 72.69, 72.70, 72.71, 72.72, 72.74, 72.75, 72.76; A/HRC/29/14; noted).
  - b. **Implementation of human rights awareness and anti-discrimination education programs** (72.40, (supported) 72.41(supported); 72.73(not) A/HRC/29/14/Add.1; noted)
6. See the matrix of recommendations at Annex A to this submission for the exact wording of each recommendation summarized above.

#### **Human Rights Situation in Grenada since the 2nd cycle of UPR (January 2015)**

7. Grenada has yet to implement the UPR recommendations mentioned above. This has continued to have a major impact on the rights of LGBTQI people in the country.
8. Since Grenada's second UPR cycle in 2015, a constitutional referendum with the aim of expanding the rights and freedoms of individuals failed to garner enough support. While the bill sought to enshrine gender equality between men and women in the constitution, it did not incorporate sexual orientation or gender identity. The proposed bill faced sharp criticism conservative religious groups who argued that such a bill will grant protections to people from the LGBTQI people and provide the legislative framework to legalize same-sex marriage in Grenada. No action has been taken to repeal section 431 of Grenada's Criminal Code that criminalizes sexual activities between consenting adults of the same sex<sup>4</sup>.
9. Criminalization of same-sex intimacy has a profound effect on the State's ability to safeguard the rights and protections guaranteed to them under the ICCPR. Legal penalties for same-sex intimacy strengthens social stigma against people whose sexual orientation and gender identity do not conform to societal norms, manifesting in discrimination within areas of housing, education, access to healthcare and access to legal process. Additionally, the State's failure to adopt legislation or public policies that prevent the discrimination on the basis of housing, employment and access to various services is a contributing factor of LGBTQI people living meaning full lives. Since the

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<sup>4</sup> The Laws of Grenada Section 431 "If any two persons are guilty of unnatural connexion, or if any person is guilty of unnatural connexion with any animal every such person shall be liable to imprisonment for ten years"

second UPR cycle in 2015 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<sup>5</sup>. 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<sup>6</sup>.

10. LGBTQI people experience additional discrimination with regards to access to safe employment. One client indicated that hearing homophobic slurs was a norm and witnessed people who are apart of the LGBTQI community experience workplace bullying due to their sexual orientation or gender identity. The client hid his sexual orientation from his co-workers so as to avoid the same harassment that he had seen<sup>7</sup>. Another report of work place discrimination came from a butch lesbian who experienced workplace harassment from both her co-workers and boss<sup>8</sup>. Additional clients have claimed that they have experienced a hostile work environment as a result of their sexual orientation<sup>9</sup>. 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 (MSM) earned below the average of \$1500 Eastern Caribbean Dollars (ECD) while only 30 percent earned more<sup>10</sup>. The data collected by in the study revealed that a vast majority of MSMs earn below the median average of \$2800 ECD.
11. Violence against LGBTQI people remains a persistent issue. People who do not conform to societal norms of gender expression are at an increased risk of being victims of physical and emotional violence within the public sphere. One client of GrenCHAP indicated that LGBT persons are bullied at the local college by both students and teachers because they are non-binary. Teachers often target the person because they refuse to identify as female and the students often ridicule them<sup>11</sup>. A report from the Human Rights Watch highlights that many LGBTQI people interviewed were victims of bullying and harassment within the schools and that teachers were unprepared to handle the situations<sup>12</sup>. Another client of GrenCHAP is afraid of walking through the streets of St. George's because they are constantly the victim of harassment. The client, is an effeminate male who is often targeted for not conforming to the norms<sup>13</sup>. One client of GrenCHAP received death threats from people in his community after videos surfaced of him being intimate with another the male. When he went to the Police Station the attending officer refused to take a report citing that

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<sup>5</sup> Interview conducted by GrenCHAP Inc.

<sup>6</sup> Interview conducted by GrenCHAP Inc.

<sup>7</sup> Interview conducted by GrenCHAP Inc.

<sup>8</sup> Interview conducted by GrenCHAP Inc.

<sup>9</sup> Interview conducted by GrenCHAP Inc.

<sup>10</sup> Caribbean Vulnerable Community Coalition Population Size Estimate of Men who have Sex with Men in Grenada (2017)

<sup>11</sup> Interview conducted by GrenCHAP Inc.

<sup>12</sup> Human Rights Watch, 'I Have to Leave to Be Me' Discriminatory Laws against LGBT People in the Eastern Caribbean, (March 21, 2018). Available online at <https://www.hrw.org/report/2018/03/21/i-have-leave-be-me/discriminatory-laws-against-lgbt-people-eastern-caribbean>

<sup>13</sup> Interview conducted by GrenCHAP Inc.

his actual name was not used in the threat<sup>14</sup>. The inaction of Police Officers in this case is not unique. Women and men within same-sex relationships who are victims of intimate partner violence have reported that when they have attempted to file a complaint are often laughed and not taken seriously<sup>15</sup>. The Human Rights Watch reports highlights the story of Michaele, a woman from the LGBTQI community in Grenada who has encountered homophobia within the school system and has been the victim of physical and emotional abuse<sup>16</sup>.

12. Multiple clients of GrenCHAP have reported being victims of rape. One such client was raped by a group of men as he walked home from a party. During the incident the perpetrators used homophobic language to further demean him. Another client was raped by a man in his community. In both of these cases the clients refused to report the matter to the police for fear of societal stigma once they have been identified as homosexual and the fear of law enforcement charging them with a criminal offence under section 431 of Grenada's Criminal Code<sup>17</sup>. The Population Size Estimate conducted indicated that 23 percent of respondents were forced to have sex, and only 4 percent of MSM indicated that the perpetrators were arrested<sup>18</sup>.

13. Grenada has made significant headway in promoting access to HIV testing for marginalized populations. The Ministry of Health identified Grenada Planned Parenthood Association and GrenCHAP as strategic partner to increase access to HIV testing for people within the LGBTQI and Sex Worker communities. In addition to increasing access the Ministry of Health in partnership with GrenCHAP has provided a number of trainings aimed at delivering healthcare services that are free of stigma and discrimination. While Grenada has been able to advance access to HIV testing the issue of stigma is still persistent. Many healthcare workers during some of these workshops have indicated that they do not support LGBTQI communities because it is in conflict with their religious beliefs<sup>19</sup>. One of GrenCHAP's clients indicated that it is not uncommon for nurses to breach confidentiality through discussing clients with individuals not involved in the delivery of healthcare services. Clients indicated that confidentiality of information and fear of being outed by healthcare workers<sup>20</sup>.

### **Recommendations**

14. This stakeholder report suggests the following recommendations for the Government of Grenada:

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<sup>14</sup> Interview conducted by GrenCHAP Inc.

<sup>15</sup> Interview conducted by GrenCHAP Inc.

<sup>16</sup> Human Rights Watch, 'I Have to Leave to Be Me' Discriminatory Laws against LGBT People in the Eastern Caribbean, (March 21, 2018). Available online at <https://www.hrw.org/report/2018/03/21/i-have-leave-be-me/discriminatory-laws-against-lgbt-people-eastern-caribbean>

<sup>17</sup> Interview conducted by GrenCHAP Inc.

<sup>18</sup> Caribbean Vulnerable Community Coalition Population Size Estimate of Men who have Sex with Men in Grenada (2017)

<sup>19</sup> Workshop feedback conducted by GrenCHAP Inc.

<sup>20</sup> Interview conducted by GrenCHAP Inc.

- a. Repeal of section 430<sup>21</sup> and 431<sup>22</sup> of Grenada's Criminal code which criminalizes sexual relationships between consenting adults of the same sex.
- b. Adoption of comprehensive legislation that bars housing discrimination on the basis of sexual orientation and gender identity; sex, disability, religious belief, place of origin etc.
- c. Adoption of comprehensive legislation that bars discrimination and bullying within the education system with a focus on sexual orientation and gender identity.
- d. In consultation with civil society organization adopt legislation that addresses both physical, mental and emotional violence committed against a person on the basis of sexual orientation and gender identity and addresses discrimination of people on the basis of sexual orientation and gender identity.
- e. In collaboration with civil society engage in the implementation of a comprehensive human rights education and anti-discrimination campaign with special focus on sexual orientation and gender identity.

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<sup>21</sup> The Laws of Grenada Section 430 "whoever publicly and willfully commits any grossly indecent act is guilty of a misdemeanor".

<sup>22</sup> The Laws of Grenada Section 431 "If any two persons are guilty of unnatural connexion, or if any person is guilty of unnatural connexion with any animal every such person shall be liable to imprisonment for ten years"