



## Introduction

This report is submitted by United and Strong Inc. and is concerned with the status of lesbian, gay, bisexual, and transgendered people in Saint Lucia.

United and Strong Inc was informed in 2001 and registered in 2005. This group represents the interest of persons who live, love and identify differently from cultural normativity. The persons of interest are the Lesbian, Gays, Bisexual and Transgendered people of Saint Lucia (LGBT). United and Strong Inc in 2009 made recommendations to St Lucia Constitutional Reform Commission (CRC) to speak to the discrimination within the constitution of individuals based on sexual orientation and gender Identity. The legal structure of St Lucia has been inherited from British colonialism and although our constitution has enshrined within it the principles of equality and non-discrimination of all persons, it is not the reality. St Lucia stands as one of the many countries in the world today which still criminalizes same- sex acts between consenting male adults.

The current constitution recognizes that every person in Saint Lucia is entitled to all fundamental rights and freedoms, and is endowed equally with inalienable rights and dignity. The constitution also speaks of the right to privacy, the rights of expression and the right of assembly and association under the law.

The Saint Lucia Constitution currently protects against discrimination based on sex, race, place of origin, political opinions, colour or creed<sup>1</sup> not including include sexual orientation and gender identity.

The existence of the buggery laws prohibits equal access to treatment, care and prevention by men who have sex with men. This hinders and prohibits a full and meaningful impact in combating HIV and AIDS.

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<sup>1</sup> Constitution of Saint Lucia, Chapter 1, 13 (3).

Criminal Code, No 9 of 2004(effective January 2005)

Gross Indecency

132.--(1) any person who commits an act of gross indecency with another

Person commits an offence and is liable on conviction on indictment to imprisonment for ten years or on summary conviction to five years.

(2) Subsection (1) does not apply to an act of gross indecency committed in private between an adult male person and an adult female person, both of whom consent.

Buggery

133.--(1) A person who commits buggery commits an offence and is liable on conviction on indictment to imprisonment for --

(a) Life, if committed with force and without the consent of the

Other person;

(b) ten years, in any other case.

(2) Any person who attempts to commit buggery, or commits an assault with intent to commit buggery, commits an offence and is liable to imprisonment for five years.

(3) In this section "buggery" means sexual intercourse per anus by a male person with another male person."

For the purposes of the section "gross indecency" is considered an act other than intercourse (whether natural or unnatural) by a person involving the use of the genital organs for the purpose of arousing or gratifying sexual desire. Subsection 132(2)\*, clearly states also that for the purposes of prosecution, gross indecency will not apply to private acts between a consenting male and female adult. The section as a result, criminalizes private acts between consenting male to male or female to female adults. The law can also be easily engineered to target and prosecute homosexuals and more generally, all non-reproductive sexual behavior.

Buggery by virtue of the section 133 criminalizes anal sexual intercourse between two male persons. Anal intercourse is a crime whether it is occurred in public or private or whether force is use in

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Criminal Code, 132 (2) Subsection (1) does not apply to an act of gross indecency committed in private between an adult male person and an adult female person, both of whom consent.

Sexual Offences 124- Unlawful Sexual connection,

its commission or not. The section does not outlaw anal intercourse between a male and female adult, as a result the section is specifically criminalizing male homosexual conduct.

The social effect of these two laws strengthens social stigma and discrimination against homosexuals. The buggery law targets gay men specifically, by making homosexuals unequal in the eyes of the law by making particular conduct-and only that conduct-subject to criminal sanction. This is further supported by the fact that consensual anal penetration of a female is not prosecuted under the law. Notwithstanding that there are no penal sanctions against lesbian conduct; homosexual females are affected by the same social stigma and discrimination as their male homosexual counterparts.

Under sexual offences St Lucia has done a fabulous job in ensuring the definition of Rape takes into consideration persons in general and not sex. Rape is now gender - neutral within our constitution. Unlawful Sexual Connections addresses any sexual connection with minors under the age of 16. Whereas the females are stated within the constitution to have a stipulated age of consent males do not.

## **Recommendations**

1. To condemn acts of violence and human rights violations committed against persons because of their sexual orientation and gender identity; and to urge St Lucia to investigate these acts and violations and to ensure that their perpetrators are brought to justice.
2. We propose that the State make strong recommendations to expand the civil, political, economic, social and cultural rights of all Saint Lucians. As such, we recommend that the right not to be discriminated against by virtue of ones sexual orientation and gender identity be expressly protected under Saint Lucian Constitution.
3. To encourage St Lucia to consider ways to combat discrimination against persons because of their sexual orientation and gender identity by amending the constitution in include gender identity and sexual orientation as grounds for non discrimination so as to protect LGBT citizens and to allow for redress or recourse.
4. To urge St Lucia to ensure adequate protection for human rights defenders who work on issues related to acts of violence, discrimination, and human rights violations committed against persons because of their sexual orientation and gender identity.
5. The sexual offences legislation must be reformed to set an age of consent for boys.

6. St Lucia should have a Human Rights Commission to hold the Government accountable to amending or implementing its legislation in conformity with the international Human Rights obligations.