

LGBTQ+ Protections and Their Importance to The New Constitution

Presented by
LGBTQ+ Coalition of Barbados

PREAMBLE

Any constitution that seeks to address discrimination should be concerned with facilitating the maximisation of potential of all its citizens and their full integration into mainstream society, especially those who are most vulnerable and marginalised. Its primary concern should be the achievement of social justice which recognises that equity and inclusion, should be strived for, as opposed to simply equal treatment and mere tolerance.

By virtue of being human, members of the LGBTQ+ community have inalienable rights. Currently these rights tend to neither be acknowledged nor protected. As such, this is not a matter of seeking "extra rights" but highlighting the need to have these inalienable human rights explicitly protected.

We recognise that rights and responsibilities go hand in hand and are of the opinion that ALL Barbadians have a responsibility to respect and uphold each other's rights. Naturally, this means that members of the LGBTQ+ community are obliged to uphold the rights of each other, as well as those of other citizens. Therefore, it is important to underscore that in no way are we suggesting that the rights of other citizens or groups of citizens be curtailed. In fact, the essential point is that no feelings, views or opinions should be allowed to trump anyone's safety or ability to enjoy the basic rights to which they are entitled by virtue of being human.

In considering our submission to this commission we conducted a survey of 355 LGBTQ+ people and allies to determine the priorities for a more equitable constitution. The respondents of the survey were 43% heterosexual, 10% did not disclose their sexuality, and the remaining 47% comprised members of the LGBTQ+ community. We have inserted the relevant data throughout the submission in order to understand and demonstrate what their views are in relation to the issues.

In this submission we will be addressing the following:

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1. The LGBTQ+ Community: Dispelling some Myths

The LGBTQ+ community is an extremely diverse group. We are not homogenous but what binds us together is our shared experience of the consequences of existing outside of societal norms.

Sexual orientation and gender identity are not choices. The choice lies in whether to live openly and face social repercussions or not.

Estimates¹ indicate that an average of 11% of persons across the world identify as LGBTQ+, and this doesn't include those who choose not to disclose or express their sexual orientation. In Barbados the 2013 CADRES Study² showed that between 8 to 16% of Barbadians are LGBTQ+.

Whether it is believed that our lived reality is an objective fact or is considered to be a "lifestyle" choice is irrelevant. The choice to be a member/follower of a particular faith or denomination and, to adhere to the relevant teachings, is protected by the freedom of religion, freedom of association and of expression. Similarly, this perceived choice made by an LGBTQ+ person also deserves protection.

For the avoidance of doubt, we wish to address concerns raised by some members of the Barbadian public regarding same-sex relationships between consenting adults. In [ANNEX 1](#) we attach some of the frequently asked questions that will be distributed to the public and any other concerned parties but one essential point bears reiterating here. In at least one recent article³ and certainly in general public discourse, whether on social media or in call-in programmes and even at the public discussion held on October 30th 2022, offensive and inaccurate assertions have been made. The view has been expressed that recognizing and protecting rights of LGBTQ+ persons will lead to a push for the recognition of certain unrelated behaviours; bestiality, necrophilia, and pedophilia. This view is harmful to our community because it equates **consensual** same-sex relationships with acts in which one party **cannot consent**. These acts are reprehensible precisely because there is no possibility of consent.

¹https://www.ipsos.com/sites/default/files/ct/news/documents/2021-06/LGBT%20Pride%202021%20Global%20Survey%20Report_3.pdf

²CADRES. (2013). Attitudes towards homosexuals in Barbados

³<https://barbadostoday.bb/2020/09/25/why-not-legalise-bestiality-necrophilia-pedophilia/>

2. Why Protections for the LGBTQ+ Community Should be Explicitly Included in the Constitution

The question has been asked, given the spirit of the Constitution, whether it is necessary to explicitly include protections against discrimination on the basis of sexual orientation, gender and gender identity. The short answer to that question is yes. Without specific inclusion, we run the risk of creating an opportunity for discriminatory persons to avoid the intention of the Constitution - fairness and inclusion.

Every person has a sexual orientation and a gender identity. Various sexual orientations and gender identities exist both within and outside of the LGBTQ+ community. However, every day LGBTQ+ persons in Barbados experience discrimination *because of* their sexual orientation, gender identity, and/or gender expression. This is not an exaggeration, and we are all familiar with situations in which one group of persons disproportionately experiences a particular disadvantage or harm⁴.

In many instances, because we do not share the same lived experience, we can be unaware of the impact, prevalence or even existence of discrimination to groups that are outside of our own. Consider these examples: discrimination against Muslim women who choose to wear hijabs, xenophobia, widespread early sexualization of girls, sexual and physical assault and/or trafficking of sex workers, direct and indirect discrimination against persons with disabilities.

If you never fit into one of these example categories; a Muslim, a young girl, non-Barbadian, a sex worker or a person with a disability; it would be easy to underestimate the scale of the problem. As such, the only way to address the problem is to acknowledge it exists and to listen to those who experience it.

As a community, we are taking this opportunity to tell you the problems we routinely face, and we hope that you will listen. We are not saying that every instance of discrimination is due to malicious intent but, whether intended or unconsciously done, the effects are the same. We believe that the imperative to include “sexual orientation” and “gender identity” as protected characteristics is valid based on our island’s needs. It is not catalysed by international pressure being levied on our government as purported by some members of the public and some faith based organisations. It is a plea from our citizens and residents.

We are Barbadian citizens who work, pay taxes and/or volunteer in our communities. We are your doctors, lawyers, politicians, teachers, plumbers, mechanics, artists, professors, farmers, and engineers. We are human beings with hopes, dreams, skills and aspirations. Like everyone else, why should the ability to reach our full potential and the opportunity to contribute substantially to our country’s progress be curtailed due to the physical, psychological, financial, and spiritual impacts of discrimination?

In addition to the statistics on LGBTQ+ discrimination in [ANNEX 1](#), here is a sample of publicly documented instances of abuse or discrimination:

- *The Nation Newspaper made light of the “corrective rape”⁵ of a person presumed to be a lesbian:*

⁴See ANNEX 1 for statistics on this discrimination

⁵See definitions

Article

<https://redforgender.wordpress.com/2016/05/27/barbados-newspaper-describes-rape-as-male-medicine/>

Apology <https://www.nationnews.com/2016/05/25/we-apologise/>

- *[Not a Blood Type Research and Advocacy Project](#) has found that at least 10% of Barbadians have been denied the opportunity to donate blood because they are LGBTQ+*
- *Alexa Hoffman, a transgender woman's negative experience with authorities after being viciously attacked: <https://barbados.loopnews.com/content/alexas-near-death-attack-wake-call>*
- *Homophobia in sports is not reported: https://barbadostoday.bb/2020/10/08/gay-bashing-in-sport-present-but-never-reported/?fbclid=IwAR2YLk60D_rvxk3ru2kreeME7gWWTok9RUW1X2E7Pvztgb5P0zenWEGM0Z*

3. Definitions for Common Terms

Sex, also called **biological sex**, is one of the four main characteristics of human sexuality, and classifies people as **male, female** or **intersex (pejoratively known as hermaphrodites)**. It is a medically constructed category. At birth, a baby's sex is assigned based on a combination of personal characteristics including chromosomes, hormones, internal reproductive organs and genitals. Babies whose personal characteristics do not fit typical binary notions of male or female bodies are intersex. The male/female binary is biologically artificial because intersexism naturally occurs in up to 1.7% of the population according to experts. Therefore, sex is not just whether a person is biologically male or female.⁶

Sexual orientation is the sexual/emotional attraction someone feels towards persons of the same and/or different gender. Common categories include heterosexual, bisexual and homosexual. Sexual orientation is often mistakenly referred to as sexual preference.

Sexuality refers to the components of a person that include their biological sex, sexual orientation, gender identity, sexual practices, etc.

Gender is a social construct used to classify a person as a man, woman or some other identity. This is a subjective category and a different concept from sex. Yes, it does **include** "the behaviours and characteristics that society thinks are typical of men/boys or women/girls." However, more broadly gender also covers gender identity and gender expression and this should be made clear in the new Constitution in the section where the definitions are set out.

According to the Canadian Institutes of Health Research, gender refers to "the socially constructed roles, behaviours, expressions and identities of girls, women, boys, men, and gender diverse people. It influences how people perceive themselves and each other, how they act and interact, and the distribution of power and resources in society. Gender identity is not confined to a binary (girl/woman, boy/man) nor is it static; it exists along a continuum and can change over time. There is considerable diversity in how individuals and

⁶ UN Office of the High Commissioner of Human Rights:

<https://www.ohchr.org/EN/Issues/LGBTI/Pages/IntersexPeople.aspx#:~:text=Intersex%20people%20are%20born%20with,are%20born%20with%20intersex%20traits>

groups understand, experience and express gender through the roles they take on, the expectations placed on them, relations with others and the complex ways that gender is institutionalised in society⁷.”

Gender identity is the internal perception of one’s gender and how they label themselves. Common identity categories include man, woman, and transgender. The term is used by persons to describe what they feel is the relationship between their gender and their biological sex. Persons whose gender identity corresponds with their biological sex are referred to as **cisgender** (cis comes from Latin and means “on the same side as”) and those whose gender identity does not correspond to their biological sex are referred to as **transgender**.

Gender expression is the way in which persons express their gender through actions and appearance. Gender expression can be any combination of masculine, feminine and androgynous. For a lot of people, their gender expression goes along with the ideas that our societies deem to be appropriate for their gender. For other people it does not. People whose gender expression does not fit into society’s norms and expectations, such as men perceived as ‘feminine’ and women perceived as ‘masculine’, often face discrimination. A person’s gender expression is often but not always linked to the person’s biological sex, gender identity or sexual orientation.

Transgender (1) An umbrella term covering a range of identities that transgress socially defined gender norms. (2) A person who lives as a member of a gender other than that expected based on anatomical sex

Transsexual is a person who identifies psychologically as a gender/sex other than the one to which they were assigned at birth and has transformed their bodies hormonally and surgically to match their inner sense of gender/sex.

Transvestite is an outdated term for a person who dresses as the binary opposite gender expression (“crossdresses”) for any one of many reasons, including relaxation, fun, and sexual gratification.

Queer is used as an umbrella term to describe individuals who identify as non-straight. Also used to describe people who have non-normative gender identity or as a political affiliation. Due to its historical use as a derogatory term, it is not embraced or used by all members of the LGBTQ+ community. The term queer can often be used interchangeably with LGBTQ+.

Ally is a straight-identified person who supports and respects members of the LGBTQ+ community.

Heteronormativity is the assumption, in individuals or in institutions, that everyone is heterosexual, and/or that heterosexuality is superior to all other sexualities. It leads to invisibility, discrimination and stigmatising of other sexualities.

Outing is the involuntary or unwanted disclosure of another person’s sexual orientation, gender identity, or intersex status.

Corrective Rape originally referred to rape perpetrated by straight men against lesbians in order to “correct” or “cure” their homosexuality—a punishment for being gay and for violating traditional gender presentation. The term is now used more broadly to refer to the rape of any member of a group that does not conform to gender norms or heterosexuality when the motive of the perpetrator is to “correct” the individual.

⁷ <https://cihr-irsc.gc.ca/e/48642.html>

4. The Right to Freedom from Discrimination

*"The people that want to put us in a box that will allow people to be discriminated against for any reason, that is not who we are. We are not that person and we have never been."*⁸ - Prime Minister Mia Mottley

As demonstrated by the statistics presented in Annex 1 and in '**2. Why protections for the LGBTQ+ community should be explicitly included in the Constitution**' above, discrimination is a major problem faced by members of the LGBTQ+ community.

What does our current Constitution say about discrimination?

Section 11 states that "every person in Barbados is entitled to the fundamental rights and freedoms of the individual" but only mentions race, place of origin, political opinions, colour, creed or sex and section 23 which specifically deals with discrimination only mentions race, place of origin, political opinions, colour or creed.

We submit that the new Constitution needs to expand the categories of persons that it explicitly protects.

What do our respondents say about discrimination?

87.8% believe that the new Constitution should state that the right to freedom from discrimination also applies to LGBTQ+ persons.

66.9% believe that the new Constitution should include the "other status" or "particular social group" as a category of persons with the right to freedom from discrimination.

78.7% believe that the Constitution should state that persons should not be discriminated against because of their age.

85.1% believe that the Constitution should state that persons should not be discriminated against if they have a disability.

89.2% believe that the rights of LGBTQ+ citizens are just as important as the rights of all citizens.

We therefore submit that Section 11 of Chapter 3 of the Constitution (or the equivalent provision in the new Constitution) and Article 1 of the Charter of Barbados be combined, and that gender identity and creed are also included so that the section reads:

"Whereas every person in Barbados is entitled to the fundamental rights and freedoms of the individual, that is to say, the right, whatever their age, race, place of origin, political opinions, colour, ethnicity, faith, creed, class, cultural and educational background, ability, sex, gender, gender identity, or sexual orientation, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following, namely..."

Following this, Section 23 (Protection from discrimination on grounds of race, etc.) or the equivalent section in the new Constitution should be reworded to read:

"(2) In this section the expression "discriminatory" means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by age, race, colour, creed, place of origin, political opinions, ethnicity, faith, class, cultural and educational background, ability,

⁸ <https://barbados.loopnews.com/content/pm-says-all-welcomed-barbados>

sex, gender, gender identity, or sexual orientation, whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not afforded to persons of another such description.”

5. The Rights of the Child

There are no provisions in Barbados’ Constitution that are explicitly discriminatory against LGBTQ+ children. However, the creation of our new Constitution is an opportunity for us to include language that recognises a child’s right to non-discrimination, identity, self-determination, and health.

It is also important to note that Barbados has made two important international commitments:

1-To protect the rights of children through ratification of the Convention on the Rights of the Child (C.R.C.) and 2-The International Covenant on Economic, Social and Cultural Rights (ICESCR)

*(C.R.C) Article 2: States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child’s or his or her parent’s or legal guardian’s race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or **other status**.*

Other Important Rights Under the C.R.C to Consider :

Article 12 asserts that children should be able to express their views in matters that affect them and for those views to be taken seriously.

Article 13 defines children’s right to freedom of expression.

Article 16 articulates every child’s right to privacy, including protection against reputational attacks.

Article 29 sets out that education should prepare children and young people for life in a free society in the spirit of peace and tolerance amongst people from all groups.

Article 42 requires states to make children aware of the Convention and the rights enshrined therein.

And

*(ICESCR) Article 2: The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or **other status**.*

***Please note that the use of the words “other status” can be used to cover and protect members of the LGBTQ+ community.**

Why do LGBTQ+ children need these protections and access to education?

Schools at all academic levels should be a safe environment for all students. However, “Lesbian, gay, bisexual, trans and intersex (LGBTI) children are often victims of bullying and violence in schools, at home and via social media. This has a serious effect on their well-being and prevents openness about their personal identity. Like all children, LGBTI [i] children are entitled to enjoy human rights and require a safe environment in order to participate fully in society.”⁹

⁹ https://www.coe.int/en/web/commissioner/-/lgbti-children-have-the-right-to-safety-and-equality#_edn1

In the 2019 edition of the “Born Free and Equal” UN publication, it was noted that the Committee on the Rights of the Child called on States to “take effective action to protect all lesbian, gay, bisexual, transgender and intersex adolescents from all forms of violence, discrimination or bullying by raising public awareness and implementing safety and support measures.”¹⁰

The true measure of any society can be found in how it treats its most vulnerable. Therefore it is urgent that we have language that protects LGBTQ+ children from discrimination in the new Constitution. While a Constitutional change cannot in itself effect changes in social norms, it is important that the supreme law of the land reflects the intention of the State to take steps to protect LGBTQ+ children.

With the creation of our new Constitution, Barbados can begin to do the real work of creating a culture of acceptance and equality. Empowered by a Constitutional mandate to protect ALL children, the ministries tasked with the protection and education of our nation’s children can create policies and guidelines that facilitate healthy and inclusive learning environments for all. Such policies can include :

- *Providing educators with sensitivity training.*
- *Creating LGBTQ+ safe spaces within educational institutions.*
- *Having proper youth services for young LGBTQ+people.*
- *Providing better access to mental health resources.*
- *Making sure LGBTQ+people are included in all types of education.*
- *Creating comprehensive sexual health education that includes the LGBTQ+ community.*

What do our respondents say about the rights of the child?

74.1% agree that the current laws do not provide adequate protection against discrimination of LGBTQ+ children

74.9% agree that there should be anti-discrimination laws for children that include sexual orientation as a category

94.3% agree that LGBTQ+ youth should have access to sexual education

87.4% agree that Barbados needs a comprehensive Child Act

64.4% agree that Juvenile Justice Reform is important

50.3% agree that corporal punishment of any kind should be outlawed

6. Immigration and Citizenship

Prime Minister Mottley has spoken about the importance of migration policies on numerous occasions and a few examples are listed below. Not only are Barbadians at risk of becoming displaced persons due to climate change and natural disasters¹¹, but we have an unsustainably low population growth rate¹². It is therefore important that our Constitution contains provisions which expands the categories of persons entitled to citizenship and protects those who come to our shores seeking refuge from climate and other disasters.

¹⁰ https://www.ohchr.org/sites/default/files/Documents/Publications/Born_Free_and_Equal_WEB.pdf

¹¹ https://www.huffpost.com/entry/barbados-warns-mass-climate-migration_n_5d891b9ce4b0938b59329653

¹² <https://barbadostoday.bb/2020/09/09/pm-says-population-hasnt-grown-enough-in-last-40-years/>
<https://gisbarbados.gov.bb/blog/barbados-to-tackle-declining-birth-rate/>
<https://gisbarbados.gov.bb/blog/barbados-to-tackle-declining-birth-rate/>

It is also important to note that while everyone will experience the effects and burden of climate change, minority communities such as the LGBTQ+ community are disproportionately affected. This is because existing structural inequalities are exacerbated in disasters.¹³

What our survey respondents said about immigration and citizenship

Rights of displaced persons:

53.8% strongly agree that persons fleeing unsafe situations in their countries (can include human rights abuses, environmental disasters etc) should have the right to protection in Barbados. The breakdown of other positions is as follows

28.7% Agree

9.7% Neutral

1.6% Disagree

6.3% Strongly disagree

Acquired Citizenship:

87.8% believe that same-sex spouses married overseas should be able to have their marriages legally recognised as such. Only **8%** believe that same-sex couples should not have the same immigration rights.

86.2% agree that children adopted from overseas by same-sex couples, where one parent is Barbadian, should be recognised as Barbadian.

90.4% believe that a non-Barbadian partner in a same-sex relationship should be able to join their legally resident/Barbadian partner in Barbados.

Individual Responses:

“Barbados' discrimination against our Caribbean and Latin American neighbours especially when it comes to immigration and residency must end. We are all too willing to allow citizens from wealthy countries to flout our laws while we replicate their worst behaviour when it comes to discrimination against those from countries we deem "lesser".”

“Diversity is a valuable resource”

“We should uphold equality with immigration laws and protect the rights of citizens and those married to citizens as well as the wider global community.”

“I recommend that the leaders of Barbados proceed with caution on this issue regardless of sexual orientation, because our system is already challenged with how to equitably take care of their own citizens, first.”

“A Barbadian permanent resident as a female should be allowed to marry a non-Barbadian male to gain permanent resident or citizenship status”

“A person living in Barbados for 10 years or more can apply for citizen status, and should be considered for a Barbadian passport”

“Asylum is a human right. Equality in immigration laws and policies is a must”

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<https://www.un.org/sustainabledevelopment/blog/2016/10/report-inequalities-exacerbate-climate-impacts-on-poor/>

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Birthright citizenship

In keeping with the goal of creating sustainable population growth rates, we submit that the following categories of children should automatically become Barbadian citizens upon birth:

- a. children born to a Barbadian citizen
- b. children born in Barbados (with the exception of non-nationals engaged in foreign or diplomatic service) regardless of the immigration status of their parents
- c. children adopted in Barbados
- d. children adopted overseas by a Barbadian parent
- e. children whose birth certificates (wherever issued) state that one of their parents is Barbadian
- f. Children born overseas to parents who are married/in union other than marriage which is legally recognised in the country of their birth and one of their parents is Barbadian.

We therefore further submit that the following rights should be included in the new Constitution

1. Birthright citizenship as defined above
2. The right to seek asylum from persecution, war and other natural and man-made disasters
3. The right to a family life (addressed further below)

7. Right to Work

As it stands there is no right to work in the Constitution. However, in keeping with the sentiments of Article III of the Charter that “Every Barbadian has the right and a duty to participate in the economic, political and social life of Barbados as an expression of active citizenship,” we submit that a right to work should be included in the new Constitution and should be stated in accordance with the Article 23.1 of the Universal Declaration of Human Rights:

“(1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.”

There should also be a provision that limits the scope of the right to work to those of legal working age as defined by legislation passed by Parliament. Notably the South African Constitution has the following provisions in relation to child labour and state that children should:

28 (f) not to be required or permitted to perform work or provide services that—
(i) are inappropriate for a person of that child’s age; or
(ii) place at risk the child’s well-being, education, physical or mental health or spiritual, moral or social development

What do our respondents say about the right to work?

95.3% Agreed to the right to a safe working environment

96.9% Agreed to freedom for bullying, discrimination and victimisation in the workplace.

77.3% of survey respondents agreed to the right to work regardless of status

61.9% Agreed that sex work is work that should be legally recognised as such

8. Religious Freedom

Religion plays a strong cultural role in Barbados and the Constitution has clear and explicit language that protects religious rights and freedoms:

19. (1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of conscience and for the purpose of this section the said freedom includes freedom of thought and of religion, freedom to change his religion or belief, and freedom, either alone or in community with others, and both in public and in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance.

(2) Every religious community shall be entitled, at its own expense, to establish and maintain places of education and to manage any place of education which it wholly maintains.

(3) No religious community shall be prevented from providing religious instruction for persons of that community in the course of any education provided by that community whether or not that community is in receipt of any government subsidy, grant or other form of financial assistance designed to meet, in whole or in part, the cost of such a course of education.

(4) Except with his own consent (or, if he is a person who has not attained the age of twenty-one years, the consent of his guardian), no person attending any place of education shall be required to receive religious instruction or to take part in or attend any religious ceremony or observance if that instruction, ceremony or observance relates to a religion which is not his own.

(5) No person shall be compelled to take any oath which is contrary to his religion or belief or to take any oath in a manner which is contrary to his religion or belief.

What do our respondents say about freedom from religion?

58% strongly agreed that political decisions should remain uninfluenced by religious beliefs or practices.

50.6% believed that the Constitution should protect freedom of and from religion

46.9% agreed that public activities should remain uninfluenced by religious beliefs or practices

58.4% agreed that political decisions should remain uninfluenced by religious beliefs or practices

We submit that provisions dealing with religious freedom in the new Constitution explicitly ensure that those who do not follow any religious practice, have equal protection. It is not enough for such protections to have to be implied. As such, “freedom to not have a religious belief” should be inserted in the definition of freedom of conscience.

Furthermore, we submit that the perceived conflict between the right to religious freedom and the recognition of the inherent human rights of LGBTQ+ persons necessitates constitutional provisions which recognise these inherent rights. To exclude language which protects LGBTQ+ person from the new

Constitution is to create the impression the inherent rights of LGBTQ+ persons are less important than the right to religious freedoms.

9. Right to Private and Family Rights

The right to private and family life includes recognition that everyone has the right to have their chosen family and that relationships that make up that family are respected.

LGBTQ+ people in Barbados are not afforded either the right to a private life or the right to a family life in a number of areas, such as legal recognition of their gender identity and relationships with other consenting adults.

What do our respondents say about the right to private and family rights?

In your opinion, what should be protected as part of your right to a private life?

79.3% are of the opinion that your gender identity and your ability to have your identification reflect that should be a protected part of your right to a private life.

86.3% are of the opinion that your sexual orientation should be a protected part of your right to a private life.

76.2% are of the opinion that your gender expression should be a protected part of your right to a private life.

79.3% are of the opinion that body autonomy should be a protected part of your right to a private life.

94.2% are of the opinion that your right to enjoy family, platonic and romantic relationships without interference from the government should be a protected part of your right to a private life.

86.9% are of the opinion that your records (e.g medical history, employment records, finances) should be a protected part of your right to a private life.

Which statement best describes how you feel about the right to found a family life?

86.3% agree that same sex couples should have the same rights as heterosexual couples

8.8% agree same sex couples or LGBTQ+ persons should not be allowed to raise children.

84.1% agree that LGBTQ+ persons should be able to legally adopt both individually and as couples

80.8% agree that both persons in a same sex couple should have the right to be on their child's birth certificates

What rights should same-sex couples have regarding financial and medical matters?

90.9% agree that if one of the persons in a committed same sex relationship is in the hospital, their partner should be able to make medical decisions on their behalf.

92.2% agree that if one of the persons in a committed same sex relationship dies their partner should be able to make funeral arrangements.

88.1% agree that if one of the persons in a committed same sex relationship dies, their property should be passed on to their partner in the same way as with heterosexual couples.

92.5% agree that same sex couples should be able to apply for mortgages together.
90.9% agree that same sex couples should be able to access the same benefits as heterosexuals (e.g tax benefits, maternity grants, pensions, spousal benefits etc)
91.3% agree that same sex couples should be able to share insurance benefits
7.2% agree that same sex couples should have none of these rights

What rights should same-sex couples have regarding marriage?

70.6% agree that marriage is the same regardless of same sex or heterosexual
64.8% agree that same sex marriage should be legalized
71.6% agree that all marriages should be considered equal
74.9% agree that every couple (same sex or male females) should have the option to choose whether they want a marriage or civil union.
71.3% agree that same sex couples should be able to have common law marriages after 5 years of living together like heterosexuals
9.8% agree that same sex marriage should be illegal
7% agree that same sex couples should have civil unions but not marriages

10. Right to Life

Barbados has established a de facto moratorium on executions. No executions have been carried out since 10th October, 1984 when Noel Jordan, Melvin Inniss, and Errol Farrell were hanged. Therefore, there appears to be no reason why the death penalty should remain on the books given the effective moratorium and judgments of regional courts.

The cases of *McEwan*, and *Nervais and Severin* before the CCJ as well as **Boyce** before the Inter American Court of Human Rights (IAcHR) have made it clear that no one should be arbitrarily deprived of their right to life and therefore, the mandatory death penalty has been deemed unconstitutional.

This was remedied by legislation but both the legislation and judgments stopped short of “striking down” the death penalty. This is because the death penalty is currently an explicit exception to the right to life (section 12 of the Constitution).

What do our respondents say about the right to life?

56.3% agree that the death penalty should be taken off the books.
94.8% agree that healthcare (including mental healthcare) is part of the right to life.
1.8% agree that healthcare is not a part of the right to life.
94.5% agree that the right to a clean and safe environment is a part of the right to life.
2.1% agree that a clean and safe environment is not a part of the right to life.

A such, we submit that:

1. The death penalty should no longer be an exception to the right to life in the new Constitution

2. The right to healthcare should be explicitly included in the new Constitution
3. The right to a clean and safe environment should be explicitly included in the new Constitution

11. Savings Clause

We are aware that the the Constitution (Amendment) Act 2019-15 subsequently altered the provisions of the savings clause to the effect that existing laws must now be interpreted in such a way that they are consistent with the Constitution.

However, we urge that the savings clause be removed. This was recommended in paragraph 7.39 of the 1998 Constitution Commission Report (“Forde Commission Report”) long before the 2019 amendments.

Further and more importantly, we oppose any move to implement a new savings clause which preserves otherwise unconstitutional laws which pre-date the commencement date of the new Constitution. If it is decided that there is a need to insert such a clause, we suggest that there be a definitive time limit on the operation of such clause (for example, 2-5 years).

What do our respondents say about the savings clause?

79.4% of respondents did not know that the savings clause existed prior to the survey

67% agreed with the removal of the savings clause

27% were unsure about the removal of the savings clause

6% disagreed with the removal of the savings clause

Instead of a provision saving existing laws, we submit that a provision should be included in the new Constitution which allows enables the High Court to review any legislation to determine whether it conforms with the Constitution upon an application by:

- a. Any person acting in their own interest,
- b. Any person acting as as a member of a group or class of persons,
- c. Any person acting in the interest of a group or class of persons
- d. A person acting on on behalf of another person/persons who cannot act in their own name or
- e. An association (whether incorporated or not) acting on behalf of its members

The above was previously recommended in paragraph 4.8 of the 1998 Constitution Commission Report (“Forde Commission Report”),

The High Court should also be granted jurisdiction to make a declaration and or grant any relief/remedy as it considers appropriate to the person, group or class of persons affected by the unconstitutional legislative provisions.

A provision should also be inserted which requires any legislative provisions that violate the Constitution to be amended as soon as possible but no later than a specified time (for example 2 years) after being declared unconstitutional.

12. Closing Thoughts

As a country and a new Republic, we are presented with the priceless opportunity to craft and shape a future that is inclusive of everyone in our society. For far too long, LGBTQ+ persons have not been afforded many of the protections and freedoms that other Barbadians enjoy without a second thought whether by the operation of existing law or the absence of protective law and many have suffered the effects. We are discriminated against in our homes, healthcare (public & private), education, employment sector, places of worship, transportation, finance, social services and our broader society.

Protections in our new Constitution should not be seen as a special treatment for a niche group but as a fundamental necessity for our ability to contribute, thrive and succeed. Now more than ever is the time to ensure that our new Constitution does the work to explicitly prevent this type of discrimination for ALL vulnerable people. We hope that our contribution to this conversation is approached with the care and respect it deserves, as the quality of our lives depend on it.

Contributions Made By:

Equals Barbados, Butterfly Barbados, Nastasssia Rambarran, Yemi Knight, Raven Gill, Isadora Barrow, Zahra Clarke, Nia Brathwaite, M. Danielle Millington, Luke Lascaris, Rene Holder

ANNEX 1

LGBTQ+ COALITION OF BARBADOS

FREQUENTLY ASKED QUESTIONS

PREAMBLE

When addressing the issue of LGBTQ+ rights, certain important questions have been raised by members of the public, and some members of the constitutional reform commission about the legitimacy of LGBTQ+ issues and their experiences. To help address some of the rampant misinformation around LGBTQ+ individuals and their lives we present some of the frequently asked questions and their answers below.

WHAT IS SEX?

A medically constructed category. Sex is often assigned at birth based on the appearance of genitals but is a combination of anatomy, hormones and chromosomes. Most persons can be categorised as male or female sex but between 1.7 to 4% of persons are intersex with diverse sex development outside of what is expected for a male or female body. The true percentage is likely higher since many intersex conditions are not visible.

WHAT IS SEXUAL ORIENTATION?

The sexual/emotional attraction someone feels towards persons of the same and/or different gender. Common categories include heterosexual, bisexual, homosexual...

WHAT IS GENDER?

A social construct used to classify a person as a man, woman or some other identity. This is a different concept from sex.

WHAT IS GENDER IDENTITY?

The internal perception of one's gender and how they label themselves. Common identity categories include man, woman, transgender...

WHY INCLUDE SEXUAL ORIENTATION, GENDER AND GENDER IDENTITY AS A GROUNDS FOR NON-DISCRIMINATION?

Protecting persons from discrimination on the grounds of sexual orientation, gender and gender identity doesn't only protect vulnerable minorities but also protects straight people, women and men of any identity and orientation.

People often think that Barbados is considered a tolerant society because 'things' aren't spoken of and therefore, there is almost no discrimination towards LGBTQ+ people. However, over the last 5 years, 106 cases of human rights abuses have been reported to Equals (an LGBTQ+ NGO). Only 8% of them were reported to the police. Many persons who made reports to Equals experienced multiple forms of abuse or discrimination simultaneously. Among other forms, 70% were verbal abuse, 43% physical violence, 13% being forced to leave home. Others included being denied services, being fired from work or being denied educational opportunities.

2014-2015 study conducted by the National HIV AIDS Commission on discrimination experienced by 199 men who have sex with men and transgender persons - 92% had experienced discrimination. 80% verbal discrimination, 23% denied access to services, 19% had wellbeing threatened.

Women are no less affected by this discrimination. In a 2020 study of lesbian, bisexual, queer and transmasculine women 85% reported being insulted or verbally harassed because of their sexual orientation or gender identity. 24 to 31% had been physically or sexually assaulted in past because of sexual orientation or gender identity; 27% had postponed or failed to challenge stigma and discriminatory practices because of their knowledge of the existence of discriminatory law/policies; 19% had experienced violations/ mob action and failed to challenge it because of their knowledge of the existence of discriminatory laws/policies. Sexual harassment at school as a result of Sexual Orientation, Identity and Expression (SOGIE) 34%. Denied housing on account of your dress preference or real or perceived SOGIE 16%

The Barbadian public would agree on the inclusion of sexual orientation and gender. The 2019 CADRES study of 872 Barbadians show that 81% of persons think it's wrong to discriminate against a person on the basis of sexual orientation and 85% think it's wrong to discriminate on the basis of sex/gender.

DOES INCLUDING SEXUAL ORIENTATION MEAN OPENING THE DOOR FOR PAEDOPHILES AND ZOOPHILES (PEOPLE WHO ARE SEXUALLY ATTRACTED TO ANIMALS) TO CLAIM DISCRIMINATION?

Given the definition of sexual orientation as attraction towards a gender, neither pedophilia or zoophilia can be classified as sexual orientations. Neither of those two categories can ever claim discrimination under a sexual orientation clause as they would not be persecuted for their gender attraction but their attraction to human children and non-human animals. The sexual orientation clause also implies consensual activity (since non-consensual activity and statutory rape are already covered by other laws), which is never present in pedophilia and zoophilia. Zoophilia is already covered by the bestiality provisions in section 10 of the Sexual Offences Act Cap. 154, and pedophilia is covered by sections 4, 5, 6, 7 12(2) and 13(a) and 17.

DOES THIS OPEN THE DOOR FOR CHILDREN TO HAVE “TRANSGENDER SURGERY”?

Children presently, and will likely always, require guardian approval for medical interventions. The medical community does not sanction any type of gender surgery for persons below the age of 18. The recommended course of action for transgender children is to have a discussion with the parents, child and several health care professionals including the physician and mental health professional. Depending on that discussion, recommendations can include social transitions (such as clothing and name changes), or sometimes medication that prevents or slows the changes of puberty until the child becomes an adult and can then make an informed decision about any continued treatment. These are the same medications used to treat early puberty in non-trans children and have been proven safe.

DOES THIS OPEN THE DOOR FOR SAME-SEX MARRIAGE AND ADOPTION?

Marriage in Barbados is governed by the Marriage Act Cap. 218A which, perhaps surprisingly, does not define marriage in gendered terms. However, the Family Law Act Cap. 214, Section 22 gives an indirect definition of marriage: “ the institution of marriage as the union of a man and a woman to the exclusion of all others voluntarily entered into for life.” Adoption is governed by the Adoption Act Cap. 212 and currently allows a single person of any sexual orientation to adopt depending on the approval of the Child Care Board, age and citizenship requirements. Single men are only allowed to adopt girls under special circumstances and persons in a marriage can also adopt depending on certain stipulations.

Neither of these two Acts will be affected by the discrimination clause in the Constitution.

I THINK HOMOSEXUALITY AND BEING TRANSGENDER IS WRONG. DON'T THESE INCLUSIONS INFRINGE ON MY RELIGION AND MY RIGHTS?

Chapter 3, section 11 of the Barbados Constitution states " every person in Barbados is entitled to the fundamental rights and freedoms of the individual, but subject to respect for the individual rights and freedoms of others and for the public interest".

Chapter 3, section 19 further states “Except with his own consent, no person shall be hindered in the enjoyment of his freedom of conscience and for the purpose of this section the said freedom includes freedom of thought and of religion.” Additionally Chapter 3, section 23.3 states that the discrimination clauses do not apply to laws on adoption, marriage, divorce, burial, devolution of property on death or other matters of personal law. These numerous provisions prevent the prohibited grounds of discrimination from affecting your personal practices, religion, opinion or other laws that deal with personal matters. The inclusion of the various grounds for discrimination are simply the government protecting those persons who are most vulnerable and marginalised in society.

ANNEX 2

SUBMISSION ON BEHALF OF THE LGBTQ+ COMMUNITY IN BARBADOS

October 7th 2021

Explanatory Note

This submission reflects the views of key stakeholders in the LGBTQ+ community such as LGBTQ+ CSOs and independent activists along with those of 341 persons who responded to a survey. The survey was published before the draft Charter so not all of the data is directly relevant to the Charter. It is still active and may be accessed [via this link](#).

Further submissions which reflect the entirety of the survey will be made when constitutional consultations begin in January 2022.

This submission consists of two parts:

- (i) Areas of key concern raised by key LGBTQ+ stakeholders and/or survey respondents
- (ii) A reworded version of the draft Charter

KEY AREAS OF CONCERN:

1. Religious language

In our survey:

- 58% strongly agreed that political decisions should remain uninfluenced by religious beliefs or practices.
- 50.6% believed that the constitution should protect freedom of and from religion
- 46.9% agreed that public activities should remain uninfluenced by religious beliefs or practices
- 58.4% agreed that political decisions should remain uninfluenced by religious beliefs or practices

Suggestions and comments coming out of stakeholder consultation:

- “Specifically religious language is problematic”
- “ instead of faith, say belief”
- “religion or lack thereof”
- “use creed”
- “remove creator”
- “Use of the ‘Creator’ immediately alienates those who do not believe that humans were not created by any one entity.”
- “What about polytheistic religions?”
- ‘If the use of ‘Creator’ makes a segment of the population feel excluded, why include it? There are other ways to convey the concept of equality.

2. Family

In our survey:

Regarding founding a family:

- 86.3% agree that same sex couples should have the same rights as heterosexual couples
- 84.1% agree that LGBTQ+ persons should be able to legally adopt both individually and as couples
- 80.8% agree that both persons in a same sex couple should have the right to be on their child's birth certificates
- 17.1% agree that they are concerned with the deterioration of the nuclear family (i.e Mother, Father, Children)
- 8.8% agree same sex couples or LGBTQ+ persons should not be allowed to raise children.

Regarding marriage:

- 70.6% agree that marriage is the same regardless of same sex or heterosexual
- 9.8% agree that same sex marriage should be illegal
- 64.8% agree that same sex marriage should be legalized
- 71.6% agree that all marriages should be considered equal
- 7% agree that same sex couples should have civil unions but not marriages
- 74.9% agree that every couple (same sex or male females) should have the option to choose whether they want a marriage or civil union.
- 71.3% agree that same sex couples should be able to have common law marriages after 5 years of living together like heterosexuals

Regarding financial and medical matters:

- 90.9% agree that if one of the person is a committed same sex relationship is in the hospital, their partner should be able to make medical decisions on their behalf.
- 92.2% agree that if one of the persons in a committed same sex relationship dies their partner should be able to make funeral arrangements.
- 88.1% agree that if one of the persons in a committed same sex relationship dies, their property should be passed on to their partner in the same way as with heterosexual couples.
- 92.5% agree that same sex couples should be able to apply for mortgages together.
- 90.9% agree that same sex couples should be able to access the same benefits as heterosexuals (e.g tax benefits, maternity grants, pensions, spousal benefits etc)
- 91.3% agree that same sex couples should be able to share insurance benefits
- 7.2% agree that same sex couples should have none of these rights

From stakeholder consultations:

There was a general wariness of the family being mentioned without making it explicit that family does not just mean a nuclear heterosexual family. There needs to be a recognition of different family types like multigenerational households, chosen families, non-heteronormative families etc

3. Gendered language

This was not a consideration in the survey.

From stakeholder consultations:

- All references to ‘brothers and sisters’ throughout the document should be replaced with gender-neutral language.
- The reference to ‘fathers’ in the preamble is unnecessarily gendered as those categorised as women contributed, albeit more behind the scenes and uncredited work.
- If ‘fathers’ is meant to refer to Errol Barrow and Grantley Adams specifically, this could be made explicit.

4. Lack of emphasis on other forms of oppression

This was not a consideration in the survey.

From stakeholder consultations:

- Not just racial or socio-economic oppression
- Oppression based on sexual orientation through laws
- No explicit recognition of the marginalization as a result of intersecting factors e.g. poor, undereducated, transgender women with disabilities has very specific vulnerabilities which are inextricably linked.

5. Laws of the land

This was not a consideration in the survey.

From stakeholder consultations:

There were strong feelings on this point. It is factually incorrect to state in the preamble that we are equal according to the laws of the land. There are laws which do not reflect the fact that we are equal. Furthermore, equality does not stem from the laws. It's the other way around, the laws should reflect equality.

6. Use of the word 'tolerance'

This was not a consideration in the survey.

From stakeholder consultations:

All individuals and organizations consulted felt very strongly about the use of 'tolerance'. It was agreed that the term 'inclusion' should replace tolerance and accompany respect each time it is mentioned because in order to earn respect, one must be included.

While it was understood that the primary definition of 'tolerate' has neutral to positive connotations, the secondary definition does not (see below).

We also must not minimise the effect that culture has on language. The LGBTQ+ community in Barbados is acutely aware of how a seemingly innocuous word like 'tolerance' has been used to its detriment. The word 'tolerance' is often used by a significant minority of persons to justify the status quo in Barbados in relation to the human rights of LGBTQ+ persons. For instance, 'tolerance' is often used when referring to the fact that the vast majority of our laws are not explicitly discriminatory. However, when the discriminatory *effects* of the laws are pointed out, the responses are to the effect that the absence of active discrimination means that there is tolerance. This trivialises but also justifies the unequal lived reality of LGBTQ+ persons in Barbados.

tol·er·ate

Verb

1. allow the existence, occurrence, or practice of (something that one does not necessarily like or agree with) without interference.

"a regime unwilling to tolerate dissent"

2. accept or endure (someone or something unpleasant or disliked) with forbearance.

"how was it that she could tolerate such noise?"



early 16th century (in the sense 'endure pain'): from Latin *tolerat-* 'endured', from the verb *tolerare* .

7. Not only Bajans but those who live here

In our survey:

- 53.9% strongly agree and 28% agree that persons fleeing from unsafe situations in their countries (can include human rights abuses, environmental disasters etc) should have the right to protection in Barbados.

- Comments related to immigration and citizenship included:
 - “Barbados' discrimination against our Caribbean and Latin American neighbors especially when it comes to immigration and residency must end. We are all too willing to allow citizens from wealthy countries to flout our laws while we replicate their worst behavior when it comes to discrimination against those from countries we deem "lesser".”
 - “Diversity is a valuable resource”
 - “We should uphold equality with immigration laws and protect the rights of citizens and those married to citizens as well as the wider global community.”
 - “I recommend that the leaders of Barbados proceed with caution on this issue regardless of sexual orientation, because our system is already challenged with how to equitably take care of their own citizens, first”.

From stakeholder consultations:

It was felt that we as a marginalised community must highlight the fact that xenophobia is much too common in Barbados. We must also acknowledge that too many of us seek refuge elsewhere because they feel unable to live full lives in Barbados. Therefore, there is consensus that the Charter should explicitly state that we will uphold the fundamental equality and human dignity of all within our jurisdiction (so inhabitants, Barbadians and residents)

8. The mention of ‘consumers’

This was not a consideration in the survey.

From stakeholder consultations:

It was felt that the section that mentions the Social Partnership and Social Justice Committee should make it clear that it is about protecting the interest of Barbadians and those who live here, not just consumers.

9. Right and duty to participate in economic and social life

This was not a consideration in the survey.

From stakeholder consultations:

The general consensus was that if there is a duty to participate, there must be the corresponding right. This is of particular concern to the LGBTQ+ community because there are real and tangible impediments to full participation in the social and economic life of Barbados. For example:

- *‘Not a Blood Type’ Research and Advocacy Project has found that 10% of LGBTQ+ Barbadians have been denied the opportunity to donate blood*
- *The Nation Newspaper made light of the “corrective rape” of a person presumed to be a lesbian:*

- Article <https://redforgender.wordpress.com/2016/05/27/barbados-newspaper-describes-rape-as-male-medicine/>
- Apology <https://www.nationnews.com/2016/05/25/we-apologise/>
- See Annex A Health Insurance application form q. 17 asking “Have you ever engaged in homosexual activity?”
- *Alexa Hoffman, a transgender woman’s negative experience with authorities after being viciously attacked:* <https://barbados.loopnews.com/content/alexas-near-death-attack-wake-call>
- *Homophobia in sports is not reported:* https://barbadostoday.bb/2020/10/08/gay-bashing-in-sport-present-but-never-reported/?fbclid=IwAR2YLk60D_rvxk3ru2kreeME7gWWTok9RUW1X2E7Pyztgb5P0zenWEGM0Z

10. Rights of the Child

In our survey:

- 73.9% agree that current laws do not adequately protect LGBTQ+ children.
- 74.7% believe that anti-discrimination laws for children should include the sexual orientation and gender identity as categories.
- 94% agreed that LGBTQ+ children should be provided with protections from violence and bullying at home, in schools, on the internet, in sports and in public spaces.
- 94% said youth should have access to comprehensive sexual and reproductive health education.
- Comments related to the rights of the child included:
 - “Right to assessments and fair academic accommodations for children with learning disabilities”
 - “Children didn’t choose to be here, they should be protected at all costs”
 - “As a nation we have unfortunately normalize the harsh punishment for children more than we normalize and stride to protect them from discrimination especially on the grounds of their undecided sexual orientation status.”
 - “I recommend that human children be recognized as human children based on their age category by law. I am not sure what an lgbtq+ child is.”
 - “Disabled children should have access to free primary, secondary and tertiary education like other children.”
 - “Juvenile laws should be diverse and specific and wholly intent on protecting children and not criminalising them.”
 - “I don’t believe children should be raised by same sex couples at all.”

From stakeholder consultations:

There was concern that children were not explicitly mentioned. If we are to move away from “children must be seen and not heard”, they must be included in the Charter. Children must have a voice regarding their wellbeing and their right to also participate in civic life must be acknowledged.

There was also a concern that if the rights of the child are to be mentioned, it should be made clear that LGBTQ+ children have the same rights as other children. There is also the issue of the assumption that LGBTQ+ children have been pressured or influenced. However, from our own experience as LGBTQ+ children and from our interactions with LGBTQ+ youth, children have agency and are well aware of who they are. This should be acknowledged and respected.

11.Environmental related duties and rights

In our survey:

- 81.7% considered environmental issues to be very important and 15.7% considered them to be important.
- Comments related to environmental related duties and rights include:
 - “While we as a nation recognize that we contribute little to the cause of climate change, we must mitigate its effects.”
 - “Right for services such as water and sanitation to be distributed equally without preference based on social class”
 - “Link to sustainable development and the incorporation of environmentally comprehensive laws that are pervasive throughout the state so as to make as much of an impact as possible.”
 - “Environmental Responsibility is what we need and not just rights.”

From stakeholder consultations:

It was agreed that there was not enough emphasis put on the fact that the environment should be protected whether or not there are direct and easily quantifiable benefits to us as human beings. We have a duty to do as little harm as possible and to preserve biodiversity.

The section on the environment needs to be fleshed out more and the focus should be expanded beyond anthropocentricity.

EDITED AND REWORDED CHARTER

WE, THE PEOPLE OF BARBADOS, in this 55th year of our constitutional independence, reaffirming our commitment to the fundamental rights and freedoms won by those who came before us, shall preserve and protect those benefits for all Barbadians and make the solemn pledge in this Charter of Barbados

PREAMBLE

RECOGNISING the importance of the pledges we make towards one another to securing the peace and ensuring the foundation for prosperity and enfranchisement;

FURTHER RECOGNISING that we are entering into a new chapter of our Independence, having taken the decisive step of choosing a Barbadian as our Head of State and seeking to patriate our Constitution as an Act of the Parliament of Barbados;

STEADFAST in our support for the concept of a democracy with its capacity for constitutional reform in accordance with the lawfully expressed wishes of the people;

RECOGNISING this land, its surrounding waters and its peoples as the uniquely unifying elements that nurture the spirit of our Bajan society;

REMEMBERING with gratitude the indigenous inhabitants of this island, then known as Ichirouganaim, and **vowing to honour them in various ways including** the preservation of the material evidence of their civilisation. [honouring goes beyond preserving and we can never own the history or culture of indigenous peoples]

RECALLING the different journeys and the diverse **factors which resulted in the arrival of our ancestors** to this land; most by compulsion and against their will, **others by coercion** and others in search of new frontiers and exploits;

UNDERSCORING we are all equal by virtue of being human, that this fact is inviolable, and that our laws must reflect this reality;

EMPHASIZING that despite our origins and realities, we commit to healing this nation and its people from the shame, pain, and injustice of slavery on which it was founded, **and the unjust colonial laws that followed;** [shame, pain and injustice stemmed from slavery but also from subsequent laws that perpetuated the oppressive philosophy of slavery]

RECOGNISING that the work of dismantling the inequalities of the past and the building and sustaining of strong communities in their place requires us to confront morally and sensibly, the problems and difficulties faced by our most vulnerable citizens through our daily choices and actions;

CONVINCED of the critical role **that** further integration and unity of our Caribbean community must play in fostering closer ties within our hemisphere and **that we should pursue** peace and friendship with all the peoples of the world;

CHERISHING the foresight of the **founders** of our democracy and independence in securing our right to vote so that we may claim our destiny as an independent nation that affirms the principle that we shall be "friends of all and satellites of none"; **[Is it Fathers or Founders? - see above comments on gendered language vs acknowledging the specific men]**

TAKING INTO ACCOUNT the growing interdependence of the global community, and the international cooperation and collaboration necessary to solving our greatest challenges;

And REAFFIRMING our solidarity in the vision of a truly free, independent, fair and just Barbados for all;

RESOLVE to adopt the following:

THE CHARTER OF BARBADOS

Article I

All Barbadians are born free and are equal in human dignity and rights regardless of age, race, ethnicity, faith, **creed, socioeconomic status**, cultural and educational background, ability, sex, gender or sexual orientation. **['creed' encompasses those who don't have a faith and 'socioeconomic status' should replace 'class'. The term class doesn't seem forward facing and it is reminiscent of 'caste'. Language nuance is important.]**

We must always remember the courageous and long struggle of the indigenous peoples of our region and of our enslaved African ancestors who fought against the oppressive and inhumane institution of slavery in which this country was ~~settled~~. **occupied OR colonised OR founded. [It wasn't settlement, it was conquest]**

We are grateful for the legacy, bequeathed to us, of their cultural, artistic, entrepreneurial, and scientific achievements carved out of the bleak wasteland that was slavery.

TOWARDS A JUST SOCIETY

We commemorate the courage and sacrifice of all those who, through the centuries, fought for freedom and justice. We especially acknowledge those who took part in the rebellions of 1675 and 1816 which were instrumental to the emancipation of the enslaved in 1834; and those of 1876 and 1937.

We recognise the contribution of those who came to our shores as indentured servants from Britain and Ireland and all those who followed later under other circumstances.

We commit to working in good faith to heal the wounds inflicted on our people through centuries of enslavement, racism, and other forms of oppression, in order to reconcile the fractures such inhumanity produced, and to seek reparatory justice and the economic enfranchisement of the systemically oppressed.

We reflect the intent and spirit to define our national identity and to guide our conduct towards the realization of our social vision. This vision entails the creation of a truly just and fair society in which all citizens can find personal and collective satisfaction through empowerment, in order to develop their individual talents to the fullest benefit of our nation.

DIVERSITY

We acknowledge the multi-faith heritage of our society, and we appreciate the value added to our religious culture by the diversity of all faith communities and spiritual entities and their continuing capacity to have a positive influence on the quality of life in Barbados. ['strong and lasting' has a connotation which can either be positive or negative depending on the nature of your interaction with faith and/or religion. As was heard in some of the consultations between LGBTQ+ stakeholders and RSTAC, some interactions have been 'strong and lasting' but negative e.g. conversion therapy etc. However, 'capacity to have a positive influence' conveys a specific, unambiguous and uplifting message.]

We value the cultural diversity brought to our shores by those ~~people~~ who were uprooted and those who arrived from near and distant lands for religious, economic, and other varying reasons. As a collective, we stand proudly as this is an integral part of the Caribbean civilisation that has given vibrancy to our own national identity.

We value the cultural diversity brought to our shores by the people who, for varying reasons, be it economic, persecution, environmental or otherwise. We also welcome those future persons who wish to make Barbados their home while positively contributing to our society. [this reflects the multifaceted reality of the makeup of our society and explicitly shows our commitment to embracing the benefits of those who may make our society more diverse in the future]

We recognise the many ways in which languages, cultures and ethnicities were historically weaponized to separate the peoples of our Caribbean community. We commit to strengthening our connections throughout our region and the wider world through learning and embracing the many languages represented. We acknowledge that language cannot be separated from the values of respect, inclusion, tolerance and cooperation, and are germane to the national vision of nurturing global citizens with Barbadian roots.

Article II

Everyone in Barbados has a duty to care for each other and to ensure that our interpersonal relationships are at all times characterized by courtesy, civility and mutual respect.

RESPECT

We commit to resolve our conflicts in the spirit of ~~tolerance~~, respect, and acceptance of the diversity found amongst persons and within institutions. We pledge to forge a more humane and inclusive society. Our single greatest responsibility to one to another is to safeguard and protect the dignity of our common humanity - to be the true keepers of each other. In particular, the elderly, youth, persons with disabilities, the incapacitated and other vulnerable people in our society and to endeavour to ensure that they are no longer marginalized. [(i) 'each other' is a good gender neutral term, (ii) while we cannot all speak for persons with disabilities (although there are of course LGBTQ+ persons with disabilities), the persons we have interacted with indicated that 'disabled persons' or 'persons with disabilities' are preferable terms for many reasons. However, we defer to the consensus reached by the bodies representing persons with disabilities. (iii)]

We shall seek to strengthen ties between Barbadians of all ages in order to enshrine the dignity of and respect for one another. We uphold the family as the key institution through which our present and future generations are and shall be nurtured. In doing this, we recognize that family is a function and that diverse family types exist and have always existed in Barbados. In acknowledging that the family is a key institution, we also recognize that there must be a corollary right to have and found a family and to enjoy a family life.

The Rights of the Child must be respected. Children have the right to be protected and to have their voices heard in a meaningful way.

EQUITABLE DEVELOPMENT

We endeavour to make the best use of opportunities for our further education, both formal and informal. We shall encourage pride in and industry, a spirit of innovation, entrepreneurial endeavour, artistic creativity, media literacy, critical thinking, responsible use of technology, pluri-lingualism and the development of a culture of lifelong learning within our society.

We commit to the giving of time, energy and resources to our communities and national organisations so that they may increase their influence in the society. We remain conscious that every generation is indebted to the one which preceded it and is morally obligated to the ones that follow.

We recognise the critical role that Barbadians by birth, by descent, by marriage, by adoption, and by choice throughout the Barbadian diaspora have and continue to play in all aspects of national endeavour. We welcome that contribution. We commit to ensuring its continued and strengthened collaboration. We reflect with pride on the past and future accomplishments of Barbadians all over the globe and who remain rooted in our Bajan values and traditions, and who give life to the character of who we are as a people to the rest of the world.

We pledge to continue building a caring Barbados in which we commit to the fostering of greater opportunities for everyone to participate in the betterment of our society, the expansion of our economy and the provision of a good standard of living to all [This perhaps better captures the spirit of what was intended]

SOCIAL PARTNERSHIP

We acknowledge the invaluable contribution of the Social Partnership of workers, employers and government, and of the Social Justice Committee to the stability and good governance of Barbados, and shall strengthen and expand this form of social consensus as an instrument of policy to protect the interests of **consumers Barbadians, and , in doing so, improving our nations economic and social development and the competitiveness of its economy.**

We urge that relations within the workplace be based on fairness, mutual respect and dignity so as to enhance the goals of the organisation. Workers and the trades union are indispensable partners in our economic prosperity. Equally, those who take the chance to invest create **an** environment that allows for more opportunities for workers and our entrepreneurs selling goods and services.

We pledge in our **employment** relationships to strive, at all times, to create an environment of decent work, to follow established industrial relations best practices, **and to ensure that employment circumstances are conducive** to good physical mental health, and productivity. **In general, we strive to work together** with pride to increase the productivity and efficiency of the enterprises with which we are associated.

We commit to working towards a more efficient, transparent, and **consultative public sector** that places our citizens at the centre of service delivery. **We endeavour to ensure that** it meets the **needs and** expectations of our citizens, and facilitates the equitable growth and development of our country.

Article III

Every Barbadian has **a right and** a duty to participate in the economic, political, and social life of Barbados as an expression of active citizenship. Every Barbadian has the right to vote and run for public office in accordance with the Laws of this country. **[see above - if one has a duty to participate, then there must be the right to participate without undue hardship. For many LGBTQ+ persons, participating in economic, political and social life is extremely challenging in the face of exclusion and mistreatment]**

DEMOCRACY

We acknowledge the establishment of a Barbados Parliament in 1639 and the Charter of Barbados made at Oistins in 1652. We affirm the fact that a Parliament has met without interruption since 1639. With its changing composition over the years, it has both been a tool of oppression against the masses and an institution of empowerment and enfranchisement. Parliament enacted legislation to end slavery, to give us the right to vote, to protect the rights of workers, to undertake an aggressive reform of ownership of our tenancies, and to establish our political independence and republican status. As we chart a new course, we must ensure that our Parliament is never again used to oppress or marginalize the inhabitants of Barbados. **[Our laws to this day oppress**

groups of Barbadians. This statement does not refer to the LGBTQ+ community alone. There must be a commitment to ensuring that Parliament is used in the future to remove barriers, not create them.]

We celebrate the unique part played in our history by each of our National Heroes for the betterment of some aspects of the lives of Barbadians and for their contribution to our national development.

We cherish the legacy of all those numerous Barbadians, heroes in their own right, whose actions distinguish them as true patriots and whose lives of achievement and service enrich our history and continue as examples for us to follow.

We champion in our nation and across the world democratic freedoms, human rights, the rule of law, and the peaceful resolution of all conflicts. We affirm, principally by our own self-discipline and respect for the rule of law, support for our several law enforcement agencies as they endeavour to rid our society of crimes of violence, lawlessness, human trafficking, illegal drugs, bribery and all other forms of corruption, abuse and illegal activity. We acknowledge our duty to assist them in their work.

We commit ourselves to understanding the multiple overlapping vulnerabilities that some persons face and we endeavour to dismantle the structures and institutions that contribute to their vulnerabilities.

We shall promote the right of access to information and the right to freedom of communication and expression, provided always that there is protection of a citizen's personal data and that social or other media shall be respectful of the rights and reputation of citizens.

We agree to adhere to the basic tenets on which the rights and liberties of a representative democracy are founded in order to ensure that there is a full understanding of the role and function of civil society and the values that bind us as a people. We commit to participate actively by providing ideas for the improvement of all aspects of national development.

Article IV

Everyone has the right to live in a healthy and balanced environment. Everyone has a duty to participate in preserving, **conserving**, and enhancing the environment. Our public policies shall promote sustainable development through the protection and enhancement of the environment in all aspects of our economic and social progress.

ENVIRONMENT, SUSTAINABLE DEVELOPMENT AND RESILIENCE

As responsible stewards, we commit to respect, conserve and protect our unique and vulnerable environment. It is our duty to ensure that the actions taken to secure the needs of our present generations do not jeopardise the rights of future generations of Barbadians and their ability to meet their own needs.

We commit to taking a justice-centered approach to the protection of our land and marine environment, ecosystem, biodiversity and human health through progressive public policies which support education, research, and innovation towards our sustainability. We undertake to mitigate and,

where possible, reverse environmental degradation, conserve natural resources, and avoid actions which result in chemical and biological hazards. We also commit to the maintenance of a clean environment which includes safe food, water, land, air and soil.

As a small island state, we recognise the vulnerability of our economy and society to external factors. We therefore commit to expanding our support of locally produced goods and services for domestic consumption as well as exportation. We realise that by establishing ourselves as both creators and consumers of high-quality products and services, we will secure that level of national development which will benefit the entire society.

We shall protect the free and unrestricted access to all of our beaches and public spaces which is the inalienable right of every Barbadian. We acknowledge the historical trauma associated with our relationship to the land and to the sea. Hence, it is our responsibility to repair this relationship for current and future generations of Barbadians, and to ensure that it is defined through ownership, enfranchisement, and access. As inhabitants of an island, we fully appreciate the importance of our land and sea to our livelihoods and quality of life and We shall forever embrace the quintessential way of life of our island home.

We further commit to strengthening our network of international relations, recognising that the challenges and solutions of sustainable development are the collective responsibility of our global village, and must be addressed through dynamic and ethical leadership, global action, and collaboration among states.

We pledge to ensure that our successive elected governments remain mindful that the Barbadian definition of growth and progress must always consider the wellbeing of its people first.

Our progress shall be defined by our duty of care to one another. Our duty of care recognises economic and social enfranchisement, access to free universal quality education, free healthcare, affordable housing, and the provision of social care protections to reduce poverty and provide for the most vulnerable and marginalized people within our society. This is integral to ensuring an acceptable standard of living, an enhanced quality of life and affording full participation to all citizens in the overall development of our country. We are each other's our sisters' and brothers' keepers.

We commit to expressing our Barbadian culture and our values with unbridled confidence, and we acknowledge that our authenticity as a caring, just, respectful, and inclusive people is at the heart of our social and economic development.

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We, the people of this great nation Barbados, encouraged by the resilience and ingenuity of those who came before us, stand on the threshold of a bright future that we boldly embrace and solemnly affirm the aspirations contained in this Charter of Barbados.

May the hope it engenders permeate the length and breadth of this nation and distinguish it as a land of equal opportunity and enfranchisement, fairness and social justice, peace

and security, solidarity and cooperation;

May the commitment we now champion, progressively foster and nurture the 'Soul of our Nation' from generation to generation.

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