

GRENADA

LITTLE MOVEMENT ON HUMAN RIGHTS CHALLENGES

*Amnesty International
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Periodic Review, January 2015*

**AMNESTY
INTERNATIONAL**



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INTRODUCTION

This submission was prepared for the Universal Periodic Review (UPR) of Grenada in January 2015. In this submission, Amnesty International evaluates the implementation of recommendations made in the previous cycle of the UPR, assesses the national human rights framework and the situation of human rights on the ground, and makes recommendations to the government of Grenada on how to address some of the major human rights challenges with which it is faced.

Grenada has taken some steps to strengthen the national human rights framework, most notably through its progress toward ratification of certain international human rights treaties, notwithstanding the resource constraints under which it is operating. Much more remains to be done in this area, however, and Amnesty International encourages Grenada to continue to work toward ratification of further human rights instruments, availing itself of technical and financial support from the UN and Inter-American system as necessary.

Amnesty International's main substantive concerns relate to the continued discrimination affecting lesbian, gay, bisexual, transgender and intersex (LGBTI) persons and the retention in statute of the death penalty. With regard to the former, Amnesty International is seriously concerned that no meaningful steps have been taken to combat such discrimination since Grenada's first review in May 2010. With regard to the latter, Amnesty International is calling for an official moratorium on executions with a view to the eventual total abolition of the death penalty.

FOLLOW UP TO THE PREVIOUS REVIEW

Grenada committed to consider the ratification of a number of international human rights standards during its first UPR in May 2010,¹ while acknowledging that the country did not have the capacity to ratify all the treaties recommended during the review.²

Amnesty International welcomes the steps taken by Grenada towards ratifying a number of core human rights standards, including its signature in July 2010 to the Convention on the Rights of Persons with Disabilities, its accession in May 2011 to the Rome Statute of the International Criminal Court,³ and its ratification in May 2013 of the International Convention on the Elimination of All Forms of Racial Discrimination. Amnesty International encourages the government to complete at the earliest possible time the ratification of the Convention on the Rights of Persons with Disabilities and the International Convention for the Protection of All Persons from Enforced Disappearance, signed by Grenada in 2010 and 2007, respectively. A number of other core international human rights standards should also be considered for ratification by Grenada, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Inter-American Convention to Prevent and Punish Torture, the Inter-American Convention on the Forced Disappearance of Persons, and the Inter-American Convention on the Elimination of All Forms of Discrimination Against Persons with Disabilities. Despite rejecting recommendations to abolish the death penalty,⁴ Grenada acknowledged the existence of "a *de facto* moratorium on the death penalty" which "has not been applied for decades".⁵ However, Grenada maintains the death

penalty in national legislation.

During the 2010 review, Grenada also rejected recommendations calling for the “decriminalization of sexual offences between consenting adults of the same sex”.⁶ While the government committed to “continue to [...] encourage tolerance”,⁷ no steps have been taken since the last review to protect individuals from discrimination due to their sexual orientation or gender identity.

THE NATIONAL HUMAN RIGHTS FRAMEWORK

As mentioned above, Grenada has yet to ratify a number of international human rights standards. Amnesty International is aware of the technical and financial challenges faced by Grenada in meeting its commitments in this regard and notes its request for technical and financial support from the UN, including to extend an open and standing invitation to the Special Procedures of the Human Rights Council.⁸

In January 2014, a Constitution Reform Advisory Committee was established “to continue the consultation process on Constitution Reform” and “to advise the government on the way forward” regarding the adoption of a new constitution.⁹

PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

DISCRIMINATION AGAINST LESBIAN, GAY, BISEXUAL, TRANSGENDER AND INTERSEX PERSONS

There is no legislation in Grenada to protect individuals from discrimination based on their sexual orientation or gender identity. Moreover, consensual same-sex conduct is criminalized. Under Article 431 of the Criminal Code anyone found guilty of “unnatural connexion” is liable to 10 years’ imprisonment. By continuing to criminalize consensual same-sex conduct Grenada is in violation of its international obligations under the treaties to which it is a party, including Article 17 of the International Covenant on Civil and Political Rights.

During its first UPR in May 2010, the Grenadian delegation confirmed that consensual same-sex conduct is an offence under its legal framework and acknowledged that such legislation could be viewed as “discriminatory, as it took away from the freedom of the individual” and further that “it was a policy issue on which the Cabinet would have to deliberate”.¹⁰ Unfortunately, at the 15th session of the Human Rights Council in September 2010, at which its UPR outcome was formally adopted, Grenada rejected recommendations to decriminalize consensual same-sex conduct stating that “this was an offence under domestic legislation”; the delegation committed, however, to “continue to raise awareness of the issue and to encourage tolerance”.¹¹

According to local groups working on behalf of LGBTI persons, no public awareness campaigns have been undertaken since the last review.

Amnesty International remains concerned that since the last review prosecutions based on Article 431 of the Criminal Code have been reported by local activists campaigning for LGBTI rights. In May 2011, a 41 year old man was charged under Article 431 for allegedly having had consensual sex with a 17 year old male.¹² The charges were later dropped at the first hearing.

Under international human rights law, LGBTI persons have the right not to be discriminated against on the basis of their sexual orientation or gender identity.¹³ The law criminalizing same-sex conduct also breaches other international human rights standards, including through arbitrary deprivation of liberty on grounds of sexual orientation.¹⁴ The UN Treaty Monitoring Bodies have consistently called on states to abolish such laws.¹⁵

THE DEATH PENALTY

Two crimes are punishable by death in Grenada: murder under Article 230 and treason under Article 322 of the Criminal Code.

The last execution in Grenada was carried out in 1978 and the last time a death sentence is known to have been imposed was in 2002.¹⁶ At the end of 2013, following the commutation of the last remaining prisoner under sentence of death, Grenada's death row was reported empty for the first time since Amnesty International began keeping records.¹⁷

Although Grenada acknowledged during its last UPR that a moratorium on executions was being observed, Amnesty International was disappointed to note that the country voted against the UN General Assembly resolutions on a moratorium on the use of the death penalty, in both December 2010 and December 2012.¹⁸

RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

Amnesty International calls on the government of Grenada:

Ratification of regional and international human rights instruments

- To sign, ratify and implement key international human rights standards, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, with technical and financial support by the UN and Inter-American systems as necessary;
- To ratify and implement the Convention on the Rights of Persons with Disabilities and the International Convention for the Protection of All Persons from Enforced Disappearance, with technical and financial support of the UN and Inter-American systems as necessary;
- To sign, ratify and implement the Inter-American Convention to Prevent and Punish Torture, the Inter-American Convention on the Forced

Disappearance of Persons, the Inter-American Convention against Racism, Racial Discrimination and Related Forms of Intolerance, the Inter-American Convention against All Forms of Discrimination and Intolerance Discrimination, and the Inter-American Convention on the Elimination of all Forms of Discrimination Against Persons with Disabilities, with technical and financial support of the UN and Inter-American systems as necessary.

Discrimination against lesbian, gay, bisexual, transgender and inter-sex persons

- To repeal all laws prohibiting and punishing consensual same-sex relations, including in the Criminal Code;
- To include in national legislation, and particularly as part of the ongoing review of the Constitution, sexual orientation and gender identity as basis for protection from discrimination and to establish and implement policies and initiatives to address discrimination based on sexual orientation or gender identity;
- To implement human rights education and anti-discrimination awareness-raising programs in collaboration with local human rights organizations working on behalf of lesbian, gay, bisexual, transgender and intersex persons.

The death penalty

- To establish an official moratorium on executions with a view to abolishing the death penalty, as provided by four UN General Assembly resolutions adopted since December 2007, including most recently resolution 67/176 of 20 December 2012;
- To approve appropriate constitutional provisions in order to abolish the death penalty, as part of the ongoing review of the Constitution;
- To support calls to abolish the death penalty nationally and internationally, including by voting in favour of UN General Assembly resolutions on a moratorium on the use of the death penalty;
- To ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at abolition of the death penalty.

ENDNOTES

¹ Human Rights Council, Report of the Working Group on the Universal Periodic Review on Grenada, A/HRC/15/12, 16 June 2010, recommendations 71.1-12 (Algeria, Brazil, Slovakia, Chile, Spain, Argentina, Uruguay, South Africa, France, Netherlands, Mexico, China).

² A/HRC/15/60, paragraph 505.

³ Amnesty International, Public statement, AMR 32/001/2011, 20 May 2011, *Grenada becomes the 115th state party to the Rome Statute of the International Criminal Court*

⁴ A/HRC/15/12, paragraph 57, recommendations 71.38-48 (Slovakia, Spain, Australia, France, Brazil, Uruguay, Slovenia, Germany, United Kingdom, Argentina, Hungary).

⁵ A/HRC/15/12, paragraph 57.

⁶ A/HRC/15/12, recommendations, 71.82-86 (Chile, Spain, Netherlands, France, Australia)

⁷ A/HRC/15/60, paragraph 514.

⁸ A/HRC/15/60, paragraphs 504 and 505.

⁹ See <http://www.grenadaconstitutionreform.com/>

¹⁰ A/HRC/15/12, paragraph 26.

¹¹ A/HRC/15/60, paragraph 514.

¹² See Associated Press, 25 May 2011, *Police accuses man in Grenada of having gay sex*, http://www.boston.com/news/world/latinamerica/articles/2011/05/25/police_in_grenada_accuse_man_of_having_gay_sex/

¹³ Human Rights Committee, *Toonen v. Australia* (1992), CCPR/C/50/d/499/1992, para 8.7.

¹⁴ Working Group on Arbitrary Detention, Opinion No. 42/2008 on Egypt (A/HRC/13/30/Add.1); and No.25/2009 on Egypt (A/HRC/16/47/Add.1). See also Report of the Working Group on Arbitrary Detention (A/HRC/16/47), at Annex para. 8).

¹⁵ See, for example, Human Rights Committee, Concluding Observations on Chile, para. 20, CCPR/C/79/Add.104; Concluding Observations of the Human Rights Committee on Cameroon, para 12, CCPR/C/CMR/CO/4.

¹⁶ Amnesty International, AMR 05/001/2012, 30 November 2012, *Death penalty in the English-speaking Caribbean: a human rights issue*.

¹⁷ Amnesty International, ACT 50/001/2014, 27 March 2014, *Death sentences and executions in 2013*

¹⁸ UN General Assembly resolutions 65/206 of 21 December 2010, and 67/176 of 20 December 2012.

ANNEX

AMNESTY INTERNATIONAL DOCUMENTS FOR FURTHER REFERENCE¹

Amnesty International, Public statement, AMR 32/001/2011, 20 May 2011, *Grenada becomes the 115th state party to the Rome Statute of the International Criminal Court.*

Amnesty International, AMR 05/001/2012, 30 November 2012, *Death penalty in the English-speaking Caribbean: a human rights issue.*

Amnesty International, ACT 50/001/2014, 27 March 2014, *Death sentences and executions in 2013.*

¹ All of these documents are available on Amnesty International's website:
<http://www.amnesty.org/en/region/grenada>