

Introduction

1. Pride TT began as a committee to organize national LGBTQI+ Pride Activities in 2018, following the success of the Jones v TT High Court case. Its mission was to provide a new platform, through LGBTQI+ Pride events and activities, for continued equitable social change in the Republic of Trinidad and Tobago. In 2018, Pride TT executed over 50 events that provided visibility, activism and entertainment for the LGBTQI+ community. Similar programming and processes were executed in 2019 on a larger scale. In 2020 there was the execution of mainly virtual programming in keeping with COVID-19 restrictions. The general outcome of these proceedings is to build a stronger local LGBTQI+ community, create visibility and platforms for LGBTQI+ issues in a national sphere, take care of the needs of displaced LGBTQI+ nationals while creating partnerships to enhance developmental programming.
2. Trinidad and Tobago Transgender Coalition (TTTC) began its activities in 1999 through the advocating, strategizing, and organizing by its founder, to procure rights for the country's trans community. Having legally registered as a non-profit organization during 2017, TTTC ramped up its programs and services to meet the needs of trans persons, migrants, sex workers, people living with HIV and the LBGTQI+ population.
3. As the world commemorated the 50th anniversary of the Stonewall Riots in 2019, Pride TT acknowledged there can be no true pride until all can celebrate their truth equitably. Recognizing that most vulnerable of the community they serve is transgendered persons, hence the theme for programming was #equALL – Equity and Equality for All, and the collaborative effort with TTTC.
4. For the purpose of this submission the partnership is identified as Alliance of Pride and Trans TT (APTTT).

Methodology

5. APTTT is resolute in maintaining that their undertakings are grounded in the fact that it is what the groups they serve need, want and deserve to ensure a better future for the community and the nation. Through the hosting of “townhall” meetings, workshops, talks and surveys the alliance was able to compile the data to support the perspectives put forth in this submission.
6. The primary concerns identified were mental health, self-harm, suicide & wellness; violence protection and justice; discrimination in dress, the workplace, by authorities, in housing or other; addition of 'sexual orientation' to the Equal Opportunity Act; and LGBTQI+ marriage / civil union. While not in the top five of primary concerns, access to PrEP and gender identification (i.e. amendment to legal documents) were selected by 57.1% and 46.1% respectively of the respondents in the 2020 LGBTQI+ Needs Assessment.
7. The next step was a review of our nation’s UPR history and past performance. The focus of which was categorizing the primary concerns to recommendations made in the two prior cycles. It is noted our nation has a reputation of overdue reports. This is verified by our inability to uncover a midterm report for the 2nd cycle and by the Government of the Republic of Trinidad and Tobago (GORTT) through its responses documented in 2RP: Responses to Recommendations & Voluntary Pledges published by UPR
 - A - 106.7 Submit overdue reports to the relevant treaty bodies (Sierra Leone);*
 - A - 106.8 Take steps to submit overdue reports to treaty bodies (Ghana);*
 - A - 106.9 Avail itself of technical assistance from OHCHR towards implementation of its obligations under international laws and treaties (Maldives);*
8. APTTT gave attention to only the matters of human rights practices and protections of sexual orientation and gender identity specifically related to communities we represent. After thirty years of advocacy and activism LGBTQI+ persons are still denied their rights as a citizen under the Republican Constitution of Trinidad and Tobago. Not only are they denied rights but are left to deal with discrimination, abuses and violence without any system or machinery that seeks to curtail incidences or allow for compensation to victims.

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9. By this submission APTTT seeks to highlight the difficulties faced by these minorities and to the outstanding recommendations supported by GORTT.

Issues

10. ***Legal gender recognition*** GORTT does not allow the amendment of gender markers. Through a Deed Poll, an administrative and legal process, a transgender person can change their name in public registries and on some key documents. Failure to officially recognize the gender identity through the amendment of the gender marker exposes transgender persons to abuse, humiliation and the denial of access to education, healthcare, employment, housing and other such things. The disparity between their appearance and their gender marker on official documents often leads to demands of an explanation which cannot be provided without revealing intimate details. In trying to reduce these risky and distressing events they are unable to fully participate in society.
11. ***Restrictive Medical Models*** Current medical models, policies and protocols are obstructive in nature for trans-persons accessing medical care. Without proper and accurate identity documents trans-persons cannot access essential services such as applying for benefits and social and medical support. For trans persons their sex and gender alignment are not as for cisgender persons. Simply stated cisgender people who are men their assigned sex at birth was male. Cisgender women were assigned female at birth. The gender trans people know themselves to be is not what they were assigned at birth and therefore, does not align. Medical practitioners need to be aware and educated to the issues and trained in best practices and treatments to offer much needed healthcare.
12. ***Pre exposure prophylaxis (PrEP)*** GORTT will not introduce PrEP as a subsidised form of HIV medication in the public sector. The Minister of Health, Terrence Deyalsingh was quoted in the Sunday Newday, 15 December 2019 as stating
“PrEP is to give drugs to people before exposure or with no exposure to HIV...It means that knowingly you are going to engage in some sort of behaviour that would cause you to be at a higher risk of getting HIV and you want to take a drug to prevent yourself from getting HIV...”
13. This seems to be an opposing position to its signed agreement to eliminate the spread of the virus by 2030. In both prior cycles of review GORTT supported recommendations to address the prevalence of HIV and AIDS.

A- 106.56 Continue national efforts to address the prevalence of HIV and AIDS (South Africa);

A - 106.57 Ensure the right to health of persons living with HIV/AIDS, through the strengthening of inter-institutional coordination, the establishment of programs to make available essential medicines, as well as strategies to address the increased rate of infection by HIV and new infections among adolescents and young women (Colombia);

14. ***Criminalization of consensual same-sex relations and legislation that discriminate against LGBTI persons.*** Many countries have made recommendations for GORTT to repeal all provisions that criminalize consensual same sex relationships between adults or discriminate against homosexuals. To date this remains outstanding. The Equal Opportunity Commission through its functions has suggested the Act be amended so as to include LGBTQI+ people which is explicitly excludes. In Part I Preliminary section 3 Interpretation “sex” does not include sexual preference or orientation. The Act lists the functions of the Commission in Part VI under paragraph 27 section 1. One of the functions is

.....(c) to keep under review the working of this Act and any relevant law and, when so required by the Minister, or otherwise thinks it necessary, draw up and submit to the Minister proposals for amending them.

15. On 12th April, 2018 the Honourable Mr. Justice Devindra Rampersad handed down his judgement in the Jones vs The Attorney General of Trinidad and Tobago. In that judgement the court granted the following relief:

“The court declares that sections 13 and 16 of the Act are unconstitutional, illegal, null, void, invalid and are of no effect to the extent that these laws criminalise any acts constituting consensual sexual conduct between adults”

GORTT advised via the Attorney General they intended to appeal the judgement however, there is no appeal date set.

16. From feedback provided to APTTT during its hosted “townhall” meetings and surveys, community respondents revealed they encountered homophobia, transphobia and discrimination in high levels. For many, it increased in April 2018, when Justice Devindra Rampersad delivered his judgment. Front pages of the local newspapers bore headlines such as “Gays Kicked Out”. Many see their only recourse is to remain

“in the closet” and not risk losing their jobs, housing, avoiding family disownment, physical and mental abuse.

17. The late Colin Robinson stated

“In a system in which human capital is a primary resource, discriminatory practices and social exclusion deprive the economy of productive expertise, talent, and skills that remain unharnessed, to the detriment of everyone in society. Scholars, internationally and in the Caribbean, have begun to measure these economic costs of discrimination.”

18. ***Discrimination and abuses perpetrated against LGBTQI+ people.*** Systemic and systematic discrimination towards LGBTQI+ persons in our country is rampant and ongoing. For that reason the lives of this marginalized community is actively threatened. In December 2017 in unconnected cases two (2) trans women were murdered and their bodies dumped as if they were not human but something of little value. In both these cases suspects were arrested and the cases are ongoing.

19. Pride TT is one of several NGOs who raised the issue of the murders of gay men and other crimes against LGBTQI+ people in several separate meetings with the Commissioner of Police. Historically NGOs that work to better the lives of LGBTQI+ people would meet periodically with different departments within the government and with other bodies with the objectives of informing, educating and seeking some sort of action to alleviate the hardships suffered. The murders of the gay men with similar modes of death, their throats slashed, prompted a few of the meetings with the commissioner. These murders remain unsolved and happened within months.

20. The LGBTQI+ community are often considered “easy targets” as some live their lives quite secretive, or alone, seeking to find love facilitated through the use of the internet. During March 2020 the Trinidad and Tobago Police Service warned the public to be very wary of using social media sites to set up dates. They had arrested three (3) young men for assault and robbery. Media reports drew attention to how the men targeted their victims. The men would join chat rooms, especially those used by members of the gay community, then arrange to meet with the victims. Acting upon several reports the Arouca Police Station conducted a sting operation and held the men.

21. After first hand experience or hearing about humiliating incidences suffered by LGBTQI+ people while interacting with the police services a large number of incidences of abuses and crimes go unreported.
22. NGOs that serve the LGBTQI+ population are inundated with requests for housing from young LGBTQI+ people who are evicted from their homes when their sexual orientation and/or gender identity is uncovered or revealed. Requests made to traditional groups that offer housing and operate shelters often deny such requests when it is made on behalf of LGBTQI+ persons. This prompted the suggestion made to GORTT to add three Housing Development Corporation (HDC) units for emergency shelter to an existing legal and social-work support programme. Emergency housing and shelter remains a priority issue.
23. The list of rights infringed upon, abuses and violence experienced and redress denied or impeded because of legalized discrimination is long. APTTT has drawn attention a few they believe are the most important. If GORTT were to act upon APTTT recommendations and those supported in the two prior cycles, it would allow for equality and equity for some of the most vulnerable populations of the Republic.

Recommendations

24. Create a legislative framework for the recognition of trans-persons affirmed gender identities. Within that legal framework there must be consideration to diminish all serious threats to their personal liberty, human dignity and personal security and provisions to allow for damages and amends to be sought before the courts. It is suggested it be done by the next review.
25. Remove all Constitutional and legislative barriers which prevent the recognition of trans and non-binary identities by the next review.
26. Undertake proactive policies and promote training in the specific concerns and vulnerabilities with those in education, delivering key social services, and protecting trans and non-binary identities.
27. Amend the Ministry of Health guidelines to allow PrEP to be provided as part of a comprehensive combination prevention approach to reduce exposure to infection thereby reducing the rate of infection by HIV. A similar recommendation (see following) was accepted by GORTT.

A - 106.57 Ensure the right to health of persons living with HIV/AIDS, through the strengthening of inter-institutional coordination, the establishment of programs to make available essential medicines, as well as strategies to address the increased rate of infection by HIV and new infections among adolescents and young women (Colombia)

28. Accept the decision of the High Court and decriminalize same sex consensual relations by removing section 13 and 16 of the Sexual Offences Act Chapter 11:28. Given that GORTT noted other prior recommendations on decriminalization we suggest this be done by next review.

N - 108.40 Enact legislation prohibiting discrimination against LGBTI persons, including removing laws criminalising same sex activity (Australia);

N - 108.41 Repeal articles 13 and 16 of the Law on Sexual Offences of 1986, penalizing sexual relations between consenting individuals of the same sex. Despite the fact that laws criminalizing same sex activity are not enforced, a formal withdrawal of the law is highly recommended (Netherlands);

29. Amend the Equal Opportunities legislation by adding grounds to cover the elderly, persons living with HIV and sexual orientation by accepting the recommendations of

the National Commission for Equal Opportunities.

A - 106.38 Put in place a system to support victims of sexual and gender-based violence (Spain)

N - 108.36 Take into account the recommendations of the National Commission for Equal Opportunities concerning the need to amend the Equal Opportunities legislation so that it covers the elderly, persons living with HIV and discrimination on the grounds of sexual orientation (Colombia);

N - 108.37 Put into effect first cycle recommendations 87.23 and 88.50, and develop policy and programmatic responses to the needs of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons (United States of America);

N - 108.38 Amend the Equal Opportunity Act to include sexual orientation and gender identity as prohibited grounds for discrimination, as part of a proactive strategy to promote respect for the dignity and rights of all individuals (Canada);

N - 108.39 Adopt legislation prohibiting discrimination on the grounds of sexual orientation and gender identity, introducing also awareness-raising programs that promote respect for sexual diversity (Chile).

29. GORTT has been good about taking action on the recommendations made to it by way of the UPR. APTTT is very disappointed with what can be described as “a wait and see” reaction to recommendations regarding sexual orientation and gender identity by just taking note of them. Even though there is legislation that criminalizes consensual same-sex relations there is no record anyone was prosecuted under these statutes. These laws and the lack of provisions to end discrimination enforce society’s general belief and thinking that LGBTQI+ persons are somehow less than and undeserving of protections and access to redress when their rights are denied.
30. The majority of the recommendations are very similar to recommendations advised to the country via its previous two UPR reviews. APTTT suggest questions be asked to GORTT as to their inertia regarding supporting the recommendations and execution.

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