



**International covenant  
on civil and  
political rights**

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HUMAN RIGHTS COMMITTEE

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 40 OF THE COVENANT**

**BARBADOS**

**Information received from Barbados on the implementation of the concluding observations of  
the Human Rights Committee (CCPR/C/BRB/CO/3)**

[23 March 2009]

## **Introduction**

1. Barbados has taken note of the Committees' observations regarding the late submission of its third periodic report (CCPR/C/BRB/3) in fulfilment of its obligation under the Covenant on Civil and Political Rights and will endeavour to adhere to the reporting schedule, notwithstanding the delay in submitting the responses contained herein. Barbados' responses to the recommendations contained in paragraphs 9, 12 and 13 of the Committee's concluding observations (CCPR/C/BRB/CO/3) are set out hereunder.

### **I. Human Rights Committee's recommendations- paragraph 9**

**The State party should consider the abolition of the death penalty and accession to the Second Optional Protocol to the Covenant. In the meantime, the State party should amend its laws relating to the death penalty, removing the prescription of mandatory death sentences and ensuring their compatibility with article 6 of the Covenant.**

2. Article 6, paragraph 1, of the mentioned Covenant provides that every person has an inherent right to life and shall not be deprived arbitrarily of this right. Article 6, paragraph 6, provides that nothing in article 6 should delay or prevent the abolition of capital punishment. However, paragraphs 2, 4 and 5 of the same article should be noted.

3. Paragraph 2 provides that "In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime..." Paragraph 4 provides that "Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases." Paragraph 5 provides that "Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women."

4. In Barbados, currently a person shall be sentenced to death where convicted of murder (section 2 of the Offences against the Person Act, Cap. 141). The crime of murder is considered to be a serious crime and this indicates that domestic law reflects the principle stated in article 6, paragraph 2 of the Covenant. Further, section 78(1) of the Constitution of Barbados provides that where a person is convicted of any offence under the law, the Governor-General has the authority to grant a pardon or substitute a less severe form of punishment. Therefore there is domestic legislation which reflects the principle stated at article 6, paragraph 4. According to the Sentence of Death (Expectant Mothers) Act, Cap. 153, the sentence of death shall not be passed on a pregnant woman. Further, section 14 of the Juvenile Offenders Act, Cap. 138 has abolished the sentencing of death on persons under the age of 18. These latter mentioned pieces of legislation reflect the principle stated in article 6, paragraph 5, of the Covenant.

5. Article 6, paragraph 2, of the Covenant recognizes that there are States which have not abolished capital punishment and that it may be imposed for serious crimes. It states the principles which States with capital punishment should follow, notwithstanding article 6, paragraph 6. The fact that the mentioned pieces of domestic legislation reflect the principles stated at the mentioned paragraphs of article 6 indicates that there is compatibility of domestic legislation with article 6 in relation to capital punishment.

6. It should be noted that the Cabinet of Barbados in January 2009 has agreed to the abolition of the mandatory death penalty and is in the process of amending the relevant laws.

7. The death penalty *per se* however will remain available under the laws of Barbados. All of the opinion polls and surveys taken in the country show that public sentiment strongly favours retention of the death penalty as the suitable punishment against the crime of murder.

## **II. Human Rights Committee's recommendations - paragraph 12**

**The State party should take immediate measures to eliminate corporal punishment as a legitimate sanction in its law and to discourage its use in schools. The State party should also take all necessary measures towards the eventual total abolition of corporal punishment.**

8. Barbados does not accept at this time that all forms of corporal punishment should be eliminated from its legislation. It should be noted, however that the laws of Barbados criminalize the abuse of children and in the event that corporal punishment is administered in schools, it is done so in compliance with the Code of Discipline promulgated under the Education Act. The Code of Discipline which was produced by the Ministry of Education in 2004 identifies the due process to be followed in the event that disciplinary action is to be considered, the type and the level of violations and the disciplinary options.

9. The Prison Rules Act 168, Section 40 states that corporal punishment is only administered in Her Majesty's Prison by order of the Visiting Justice and no such order shall be made except after an inquiry in which the evidence is given on oath.

10. The retention of the use of corporal punishment as part of a judicial sentence and within the education system is a matter of policy but is being debated from time to time by the public, with the popular view being that it should be retained.

### **III. Human Rights Committee's recommendations-paragraph 13**

**The State party should decriminalize sexual acts between adults of the same sex and take all necessary actions to protect homosexuals from harassment, discrimination and violence.**

11. The Sexual Offences Act of Barbados criminalizes buggery. Barbados cannot accept at this time, the recommendation to decriminalize such sexual acts between consenting adults of the same sex. Decriminalization of sexual acts between adults of the same sex has not received the consensus of religious denominations or the public of Barbados as a whole. In fact significant sections of the community are opposed to such decriminalization. In a national consultation conducted by National HIV/AIDS Commission the weight of public opinion was against the recommendation to decriminalize the consensual sexual acts between adults of the same sex. This is a topic which has been widely considered in society not only on the basis of its legality but from the sociocultural and historical perspectives. It must be noted that Barbados is a heavily religious society and there is a significant lobby by the church on such issues.

12. The Government is however committed to protecting all members of society from harassment, discrimination and violence regardless of sexual orientation. Section 11 of the Barbados Constitution speaks to the protection of fundamental rights and freedom of the individual and section 23 of the Constitution guarantees freedom from discrimination for all people.

#### **Conclusion**

13. Notwithstanding the above responses, the Committee should be made aware that the Cabinet of Barbados has decided on 12 March 2009 that a Cabinet Sub-committee on Governance should consider the following: (a) the need for drafting of legislation on discrimination, sexual harassment and torture; (b) upgrading the office of the Ombudsman and the Bureau of Gender Affairs; and (c) the implementation of the recommendation of the Constitutional Commission in areas of human rights and the establishment of a National Human Rights Commission.

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