



UNIVERSITY OF TORONTO  
FACULTY OF LAW

INTERNATIONAL  
HUMAN RIGHTS  
PROGRAM

# St. Lucia

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Country Report for use in refugee claims based on persecution relating to sexual orientation and gender identity

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## **I: Introduction**

This report reveals a general consensus that there is widespread social stigma and discrimination against homosexuals in St. Lucia. At law, buggery is a criminal offence under the St. Lucian *Criminal Code* (2004). While it is not perceived to be enforced, at least some in the St. Lucian queer community have expressed that they are legally defenceless to the discrimination that might ensue if they make their sexual orientation known.

Sources indicate that the deeply religious and conservative nature of St. Lucian society has driven homosexuals underground, or into closeted double-lifestyles. The result is that there are few openly gay people in the country. A UN AIDS report showed that discriminatory attitudes towards gays are promoted by the media, church, and police. Also, acts of discrimination are reportedly justified by biblical passages. Among the acts of discrimination found were reports of doctors refusing treatment to gay men, employment discrimination, and acts of violence and murder.

The extent of police protection for homosexuals is unclear. While in an interview, a police official stated that attacks on homosexuals are treated seriously, other reports indicated that complaints by gay men to the police have gone un-investigated.

## **II: Legislation**

### **St. Lucia**

#### 1. *Criminal Code* (2004)

Source: Daniel Ottosson, International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), *State-Sponsored Homophobia: A World Survey of Laws Prohibiting Same Sex Activity Between Consenting Adults*, (May 2009), online:

<[http://www.ilga.org/statehomophobia/ILGA\\_State\\_Sponsored\\_Homophobia\\_2009.pdf](http://www.ilga.org/statehomophobia/ILGA_State_Sponsored_Homophobia_2009.pdf)>.

- **Section 133 sets out the offence of buggery, an offence that is liable on conviction on indictment to imprisonment for varying periods of time, depending on the nature of the act committed.**
- **Section 132 sets out the offence of gross indecency**

## **III: Jurisprudence**

## Canada

1. *Altenor v. Canada* (Minister of Citizenship & Immigration) [2008] F.C.T. 570

- **Application for judicial review allowed.**
- **Female applicant (bi-sexual), sexual orientation claim, fear of persecution.**
- **Beaten by boyfriend and mother, police refused to help.**

2. *Christopher v. Canada* (Minister of Citizenship & Immigration) [2004] F.C.T. 1128

- **Appeal dismissed, due to lack of credibility.**
- **Female applicant (bi-sexual), sexual orientation claim.**
- **Board had concluded that in St. Lucia there is a credible judicial system, a “live and let live” attitude toward homosexuality despite its illegality, as well as various support groups and NGO’s to assist the gay community.**
- **Claimant said she cannot return to St. Lucia because homosexuality is a crime and the police are corrupt and ignore complaints about violence against women.**
- **Despite fear, claimant did not file for 2-3 years.**

### IV: Reports by Government Organizations

#### **Immigration and Refugee Board of Canada:**

1. Immigration and Refugee Board of Canada, *Saint Lucia: Situation of homosexuals; availability of support groups and state protection (2006 - 2009)*, (11 June 2009), online: <<http://www2.irb-cisr.gc.ca/en/research/rir/?action=record.viewrec&gotorec=452400>>.

- **Laws criminalizing homosexuality in Section 133 of Saint Lucia's *Criminal Code*, No. 9 of 2004 are still in effect, but according to one source, not always prosecuted**
- **"Widespread social discrimination" against homosexuals in Saint Lucia and "few openly gay people"**
- **There were at least two cases of violence against homosexuals in Saint Lucia, including a case where an openly gay man was hung from a tree (2005 and 2006).**
- **Information about police protection for homosexuals in Saint Lucia was scarce among the sources consulted by the Research Directorate.**
- **Police do not always investigate complaints of homophobic violence (e.g. no one was convicted for the two murders of gay men in 2005 and 2006)**
- **Homosexuals reluctant to seek protection of their rights**

*The Research Directorate found that the 2004 Criminal Code laws criminalizing homosexuality are still in effect in St. Lucia. It states that, “the laws are enforced, although not always prosecuted”. The report documents various sources that affirm the existence of abusive and violent treatment of homosexuals. According to the Caribbean Association for Feminist Research and Action there is “a significant amount of discrimination which is driving activities of gay men underground”. The Research Directorate contacted homosexual advocacy organization United and Strong, which states that, “police do not always investigate complaints of homophobic violence and many homosexual victims face ‘ridicule’ at the police station,” and that “homosexuals were reluctant to approach police officers for protection of their rights”. United and Strong reports that there have been two murders of gay men in St. Lucia: in both cases, no one was convicted.*

2. Immigration and Refugee Board of Canada, *St. Lucia: Whether police protection is available for gay and lesbian individuals and bisexuals who have been victims of crime; whether homosexuality is prosecuted (January 2003 - November 2005)*, (06 Dec. 2005), online: <<http://www2.irb-cisr.gc.ca/en/research/rir/?action=record.viewrec&gotorec=449720>>.

- **2005 telephone interview with the official in charge of police services in Saint Lucia.**
- **To his knowledge, no individuals currently being arrested for homosexual activities**
- **Most homosexuals are “in the closet”**
- **Police official perceives there to be little incidence of homosexual attacks, though one is described in the interview where a cross-dresser was attacked, sodomized, and had to be treated**

*In this report, the Research Directorate interviewed a high-ranking St. Lucia police official. The official stated that the provision in the Criminal Code criminalizing homosexuality is not enforced, and that “to his knowledge, no individuals were currently being arrested for homosexual activities”. He stated that most homosexuals are in the closet and that most would not come out openly as being gay. He gave one example of a male cross-dresser who goes out publicly dressed as a female, who was attacked by three men and sodomized. The victim had to seek medical treatment but continues to go out publicly dressed as a female. The police official explained that the police do take anti-homosexual attacks seriously, and in fact they did prosecute the offenders for the assault, but that there is not much incidence of such attacks in St. Lucia. The official stated that in general, attacks on homosexuals were “not that big a problem”. The official also noted that while there exists no specific protection for homosexuals, the government was working on establishing a witness protection program. The report quotes a 2003 article from the St. Lucia Star, which states that, “while the government does not go around arresting people who are suspected to be gay, a climate of fear and intolerance prevails”.*

## **St. Lucia Official Government Website**

1. Government of St. Lucia, “New Criminal Code Comes into Force on New Year’s Day,” (16 Dec. 2004), online:

<[http://stlucia.gov.lc/pr2004/december/new\\_criminal\\_code\\_comes\\_into\\_force\\_on\\_new\\_years\\_day.htm](http://stlucia.gov.lc/pr2004/december/new_criminal_code_comes_into_force_on_new_years_day.htm)>.

- **Press release announces the coming into effect of St. Lucia’s current laws on homosexuality.**
- **“Any unlawful homosexual act can now constitute rape and rape is now defined as any unsolicited or un-consensual sexual act with any other person”**

## **United States Department of State:**

1. United States Department of State, “2008 Human Rights Report: Saint Lucia,” (25 Feb. 2009), online: <<http://www.state.gov/g/drl/rls/hrrpt/2008/wha/119172.htm>>.

- **Details societal abuses and discrimination in St. Lucia.**

*The U.S. State Department reports that St. Lucia is a “widespread social discrimination against homosexuals in the deeply conservative, highly religious society”. There were few openly gay people in the country. There were also at least two cases of violence against homosexuals, “including one young man who was killed when he was hung from a tree because he was openly gay”. Also, there is much stigmatization of persons infected with HIV/AIDS.*

## **Joint United Nations Programme on HIV/AIDS**

1. Joint United Nations Programme on HIV/AIDS, “United Nations General Assembly Special Session on HIV/AIDS (UNGASS): Saint Lucia Country Progress Report” (31 Jan. 2008), online: <[http://data.unaids.org/pub/Report/2008/saint\\_lucia\\_2008\\_country\\_progress\\_report\\_en.pdf](http://data.unaids.org/pub/Report/2008/saint_lucia_2008_country_progress_report_en.pdf)>

- **Reports a high level of intolerance towards homosexuals**
- **Discriminatory attitudes towards gays are perceived to be promoted by the media, church, and police; religion being seen as the “major culprit” – persons use the bible to justify stigma and discrimination against homosexuals or those perceived to be homosexual**
- **Reports of doctors refusing treatment to some gay men**

- **Reports of discriminatory treatment in employment on the basis of sexual orientation**

### **V: Reports by Non-Government Organizations**

#### **International Gay and Lesbian Human Rights Commission:**

1. International Gay and Lesbian Human Rights Commission, *United Nations: General Assembly Statement Affirming Human Rights Protections Include Sexual Orientation and Gender Identity*, (19 Dec. 2009), online:

<<http://www.iglhrc.org/cgi-bin/iowa/article/takeaction/resourcecenter/957.html>>.

- **On December 18, 2009, 66 countries signed a statement presented in the General Assembly that affirmed that international human rights protections include sexual orientation and gender identity.**
- **In response to this statement, Syria read a statement maintaining that there are no legal foundations in international human rights documents to include protection on the basis of sexual orientation and gender identity, linking sexual orientation to pedophilia.**
- **Syria read the statement on behalf of 39 countries, including St. Lucia.**

#### **Agua Buena Human Rights Association:**

1. Richard Stern, *Caribbean AIDS Outreach Efforts Hampered by Homophobia, Violence* (25 July 2003), online: <<http://www.aguabuena.org/ingles/articulos/caribbeanoutbreak.html>>

- **The community of men who have sex with men (MSM) is forced to remain underground**
- **Buggery law is not enforced, but a climate of fear and intolerance persists**
- **AIDS prevention for MSM is a “daunting task”**

*Informal interviews reveal that some men live a closeted double life, reinforced by their fear of being discovered at work. One interviewee notes that he is legally defenceless against discrimination, harassment, and violence. “Neither my government, nor my church, nor any other social welfare organization is even willing to acknowledge my natural existence, far less support my right to live a safe, healthy and fulfilling life.” Also, AIDS prevention for the gay community in St. Lucia is “a daunting task” since virtually no one is willing to admit that they are gay or bisexual.*

## **Freedom House**

1. Freedom House, *Freedom in the World – St. Lucia*, (2007), online:  
<[http://www.freedomhouse.org/modules/mod\\_call\\_dsp\\_country-fiw.cfm?year=2007&country=7261](http://www.freedomhouse.org/modules/mod_call_dsp_country-fiw.cfm?year=2007&country=7261)>.

- **Homosexuals occasionally targeted for hate crimes; the body of Jermaine Nestor was found bound and gagged at the bottom of a cliff**

## **VI: Media Reports**

1. Global Gayz, *Gay St. Lucia Island, West Indies, News & Reports*, online:  
<[http://globalgayz.com/country/Saint%20Lucia/view/LCA/gay-st-lucia-island-west-indies-news-and-reports />](http://globalgayz.com/country/Saint%20Lucia/view/LCA/gay-st-lucia-island-west-indies-news-and-reports/).

- **Religiously-based intolerance against homosexuals in St. Lucia**
- **Buggery law is not perceived to be enforced**

## **VII: Scholarship**

### **Journal of Men's Studies**

1. Tracy Davis, Alvin Thomas, and Christopher Sewalish. *Exploring the Constructions of Masculine Identities among St. Lucian Men*, Journal of Men's Studies (Fall 2006), 292 – 310.

- **Twenty St. Lucian men were interviewed using a constructivist approach aimed at better understanding participants' gender-related development**
- **Strong aversion to gay men emerged as a theme**
- **Participants had significant confusion around what it means to be gay**

*The authors identify four central themes regarding masculinity shared by the St. Lucian men interviewed for the study: taking responsibility and establishing independence, familial and gender-related influences on the definition of a man, a struggle with culturally appropriated gender roles, and a strong aversion toward gay men. The research indicates that the participants felt that being a man meant taking on responsibilities, at the same time that it meant not being gay. One participant voiced the perception that if a man was gay, he was not a man. Strong*

*aversion to gay men emerged as a theme. There was also significant confusion to the interviewees around what it means to be gay – it was common for participants to confuse being gay with being a transsexual. Most participants had personal opinions that were homophobic, although they also generally disagreed with mistreatment towards gays. According to the authors, this view “demonstrates a generalized sense of human acceptance and a fear of homosexuality,” in part determined by the participants’ religious background.*

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