



## LAW ASSOCIATION OF TRINIDAD AND TOBAGO

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### **MEDIA RELEASE**

The Law Association has noted the recent decision of the Court of Appeal in ***Attorney General v Jason Jones***. The Court ruled unanimously that sections 13 and 16 of the Sexual Offences Act which criminalise buggery and gross indecency did not pursue a legitimate aim, disproportionately interfered with freedom of thought and expression and were not reasonably justifiable. They were accordingly inconsistent with the fundamental rights provisions of the Constitution. The Court also noted that the sections were rarely enforced. However, the majority held that the sections could not be declared unconstitutional because they were colonial laws which were saved by the savings law clauses of the Constitution. The Court noted the broad scope of the savings law clause, which applies even when a later act repeals and replaces an existing law with modifications, as occurred in this case. The dissenting judge disagreed with this latter conclusion.

With this ruling, the offence of buggery remains on our statute books and is now punishable by five years' imprisonment. The offence of gross indecency also remains and is punishable by imprisonment for two years, but with special protections for child offenders.

This decision highlights the need for urgent constitutional reform to remove the savings law clause. The LATT has consistently advocated for this change, most recently in its recommendations to the National Advisory Committee on Constitutional Reform. Our data shows that 54% of our membership agrees that the savings law clause should be abolished, while 65% believe that Section 4 of the Constitution should be amended to include protection from discrimination based on gender and sexual orientation.

The savings law clause has attracted sustained criticism, including from preeminent Caribbean constitutional scholars. The immunisation of colonial laws and punishments from being declared unconstitutional, more than fifty years after independence, has no place in modern times. The removal of the savings law clause will not have catastrophic consequences. Such clauses only applied for a short period in Belize, and they are read to conform with the Constitution in Barbados, Dominica, Guyana and St. Lucia.

In Trinidad and Tobago, the savings law clause applies to an array of colonial laws such as sedition, loitering, exhibiting obscene prints, singing a profane ballad, being an incorrigible rogue and trundling a hoop. All these laws, which have questionable place in any modern democracy and which have been abolished by our former colonial masters, unfortunately remain fossilised in our statute books. The LATT hopes that urgent legislative action will be taken to correct this state of affairs. The Constitution is the supreme law. It sets out the rights and freedoms of all individuals and celebrates the dignity of us all. It should no longer preserve legislation that clearly violates human rights and fundamental freedoms.

**LAW ASSOCIATION OF TRINIDAD AND TOBAGO**

**2<sup>nd</sup> April 2025**