

# Press Release

14 March 2022



## FOR IMMEDIATE RELEASE

### THE PRIVY COUNCIL'S DECISION IS AN AFFRONT TO HUMAN DIGNITY AND CONSECRATES SEGREGATION OF LGBTQIA+ PEOPLE

We send our love to Chantelle, Vickie and their daughter, whose brave fight as a family for equality over the last five years sought to make the Cayman Islands a more decent society. Notwithstanding today's judgement, your fight has given people hope and has helped to change the narrative, steering us on a path that will ultimately lead to equality.

**The Privy Council has told LGBTQIA+ people that they have no right to be treated equally;** that the Constitution permits them to be segregated on the basis of their sexual orientation and that religious views are to be elevated over and above the values of human dignity, equality, mutual respect and social harmony—all matters affirmed in the Constitution's Preamble, alongside reference to Christian values.

We are perplexed as to why the Privy Council restricts expansion of rights and favours segregation by fixating itself on the "god-fearing" aspects of the Preamble only. British judges have favoured the views of certain religious folk, who enjoyed the benefit of a seat at the table when the Constitution was being discussed. In doing so, those judges failed to address that which the Chief Justice—a home-grown judge with immense experience and standing in the region—had pointed out in his decision: none of the "participants" in those discussions identified as homosexual and yet they managed to "compromise" a matter of such importance to LGBTQIA+ people in the Cayman Islands.

Furthermore, *Colours Caribbean*, the only local organisation seeking to represent and support the LGBTQIA+ community of the Cayman Islands which would be impacted by the outcome of this decision, was denied the opportunity to act as intervenor in both cases of Bermuda and the Cayman Islands, with no explanation given from the Privy Council.

So, *Colours Caribbean* asks the obvious question: did the UK Parliament intend to create, in effect, a theocratic state where majority religious views override the Preamble's other principles of human dignity, equality, mutual respect and social harmony?

**This decision will go down in LGBTQIA+ history:** it is the first ultimate court of appeal in the American continent in modern times to entrench segregation and in the case of Bermuda, against the unanimous legal view of the judiciary of the jurisdiction. The last time that this was seen was in the United States in 1896 in the case of *Plessy v Ferguson*, a decision that endorsed segregation on grounds of race.

*In the words of the Chief Justice, one "can no more justify exclusion from the institution of marriage on ground that a couple are of the same sex, than exclusion could be justified on the ground that a couple are of difference races."*

The Privy Council has done nothing more, by its decision, than reassert the oppressive political environment of yesteryear. Are we to believe that the UK Parliament enacted for the Cayman Islands or Bermuda a Constitution that intended to enshrine segregation on the basis of sexual orientation?

Sadly, the Privy Council's decision does not come as a surprise. As noted by our esteemed Dr Raznovich in his recent article in the *Counsel Magazine* (page 42): "<https://q.uir.ky/3t4S7hv>" **the Privy Council has never delivered any judgement in the Caribbean region to progress LGBTQIA+ rights.** Despite hopes that this case would mark a turning point in that clear trend, it has failed to do so.

The Privy Council's decision has, instead, entrenched inequality towards Caribbean British citizens, contrary to the Crown's obligations under Article 14 of the *European Convention on Human Rights [ECHR]*. This may feel as though it may be homophobia—something that would not be surprising in light of a lacerating report regarding racism in the British judiciary that was published by David Lammy MP, Shadow Foreign Secretary, in 2017: "<https://q.uir.ky/3CGiKfY>"—but racism, misogyny, and homophobia all have the same roots. It is unacceptable in modern times to live in a state of institutionalised segregation on any of those grounds.

*Colours Caribbean* reaffirms our petition made to the UK government in 2016 to end, immediately, this indignity and segregation. We ask the UK government to comply with the *Foreign Affairs Select Committee* report of February 2019, in which it was recommended that the UK government should bring about marriage equality for all overseas territories via order in council or legislation. *Colours Caribbean* notes that the UK Parliament legislated same-sex marriage for Northern Ireland in 2019, even though it was a devolved matter, as it is in the Cayman Islands.

Caribbean LGBTQIA+ families should not be worth less than, nor should it be less equal to, Northern Irish LGBTQIA+ families. We can only hope we are not being racially discriminated against as well.

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