21 June 2018

Open letter to the Premier of Bermuda, the Honourable David Burt, JP MP, from the
International Bar Association’s Human Rights Institute

Dear Premier,

We are writing to you on behalf of the International Bar Association’s Human Rights Institute (IBAHRI) to welcome the positive development made by the Bermuda Supreme Court with respect to the human rights of the LGBTI citizens of Bermuda by holding that the purported legislation, discriminating against sexual minorities in respect of marriage, was unlawfully discriminatory and unconstitutional. The IBAHRI urges the Government of Bermuda to support fully the judgement of the Supreme Court, implement it in good faith, and give leadership to countries of the Caribbean which continue to discriminate against their citizens, contrary to universal human rights on the basis of sexual orientation and gender identity.

The International Bar Association, established in 1947, is the world’s leading organisation of international legal practitioners, bar associations and law societies. It has a membership of over 80,000 individual lawyers, and 190 bar associations and law societies, spanning over 170 countries. The IBAHRI, an autonomous and financially independent entity, works with the global legal community to promote and protect human rights and the independence of the legal profession worldwide.

The IBAHRI understands that, in May 2017, the Supreme Court of Bermuda decided in a properly constituted and fully argued decision that citizens of Bermuda were entitled to marry persons of the same sex. Following this, the legislature introduced amending legislation purporting to reverse the Supreme Court’s decision, by exempting same-sex marriage from the operation of the Human Rights Act, and enacting a different, lesser entitlement (‘civil union’) to take effect from 1 June 2018.

The IBAHRI received reports that the Supreme Court of Bermuda, on Wednesday 6 June, found this reversal to be inconsistent with the Bermudan constitution and therefore invalid. It also understands that the Chief Justice of the Supreme Court agreed to stay the implementation of the
The IBAHRI welcomes the steps taken by the Supreme Court to protect basic rights of the LGBTI minority in Bermuda and encourages further action towards the protection against the diminution of such rights. This decision is in accordance with the international principles such as the principle of non-discrimination and equality before the law, enshrined in the *International Covenant on Civil and Political Rights* (ICCPR), which has territorial application to Bermuda following the ratification by United Kingdom of Great Britain and Northern Ireland. The United Nations Human Rights Committee has confirmed that differential treatment based on sexual orientation is discriminatory under the ICCPR. Equality and respect are also values protected in the *Charter of the Commonwealth*.

Following the decision of the Supreme Court, we respectfully urge that the Government of Bermuda adopt a policy of removing all like discrimination against sexual minorities, in both criminal and civil laws, within its own jurisdiction and urging their removal in other countries of the Commonwealth Caribbean. With the benefit of the judgment of the Supreme Court of Bermuda, the Government of Bermuda should give leadership and example to neighbouring countries in this important area of human rights law and policy.

Yours sincerely,

Ambassador (ret) Hans Corell
IBAHRI Co-Chair

The Hon Michael Kirby AC CMG
IBAHRI Co-Chair

Cc

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