

CONSTITUTION (AMENDMENT) BILL, 2014

EXPLANATORY MEMORANDUM

In light of the decision of the Inter-American Court of Human Rights in Case 12645: Tyrone Dacosta Cadagon v. Barbados, the Cabinet¹ determined that

- (a) the mandatory imposition of death penalty in respect of the offence of murder should be abolished; and
- (b) section 2 of the *Offences Against the Person Act*, Cap. 141 be amended specifically to abolish the mandatory imposition of the sentence of death for offence of murder.

It is important to note that the Cabinet did not express any intention to abolish the death penalty.

The *Constitution (Amendment) Bill, 2014* would alter the *Constitution* of Barbados to

- (a) delete the provision authorising a mandatory imposition of death for the offence of murder in section 15; and
- (b) amend section 26 to redefine the effect of existing law in relation to the fundamental rights provisions;
- (c) refine the exercise by the Governor-General of the Prerogative of Mercy.

Clause 1: Clause 1 states that this Act may be cited as the *Constitution (Amendment) Act, 2014*.

Clause 2: Clause 2 repealed and replaced section 15 to remove the provision authorising a mandatory imposition of death for the offence of murder.

¹ Cabinet Note (2014) 73/AG.2, M.P. 2800/8/9/8 Vol. I, January 30, 2014

- Clause 3:*** Clause 3 redefine the effect of existing law in relation to the fundamental rights provisions.
- Clause 4:*** Clause 4 repealed and replaced section 78 to remove the Governor-General's capacity to direct that there should be time limits within which person may appeal to, or consult, any person or body of persons (other than Her Majesty in Council) outside Barbados in relation to an offence. This alteration was necessary since it is the policy of the Government to allow persons to appeal or consult with entities outside of Barbados in relation to offences particularly that of murder. The imposition of a time limit on this right to appeal or consult would operate as an unfair restriction of that right.