

## PRESS RELEASE

Aruba, February 24<sup>th</sup>, 2023

Orguyo has taken note of the advice requested by the government of Aruba regarding appealing to the supreme court in The Netherlands which confirms that what the Foundation has been advocating for since 2019, that excluding same-sex couples from marriage is discriminatory and not tolerated by Aruba's Constitution. The advice has confirmed its verdict and interpretation of the matter.

Therefore, appealing to the verdict of December 6<sup>th</sup> 2022, will not bring any change in the obligation to open marriage to same-sex couples in Aruba. For this reason, Orguyo regrets the government's decision to appeal to the part where the Court of Appeal has surpassed its authority. Given that the Court of Appeal itself has stated that marriage must come, the Foundation does not understand the added value of spending public funds to continue fighting this issue, especially since the essence of the verdict will not change. Especially when considering that this decision prolongs discrimination longer than necessary.

Orguyo is of the opinion that the Court of Appeal has fulfilled its duty. When Aruba obtained its Status Aparte in 1986, and became the first country in the Dutch Kingdom, where the Court got the task to safeguard that our laws comply with all human rights as stipulated in our own Staatsregeling of Aruba, which is our Constitution.

This task, under Article 1.22 of our Constitution, is comparable to the task of the Supreme Court of the United States, where a law can be pulled aside if it is considered unconstitutional. Obviously, the founders of our country, including our liberator Betico Croes, considered human rights to be so important that they entrusted the task to the Court to safeguard that our laws comply with all human rights stipulated.

When the Court determines that a law is contrary to one or more human rights mentioned in our Constitution, the Court is obliged not to apply the law. But according to the Supreme Court, not applying the law is not sufficient. The Court must also see if the discrepancy can be removed (HR 13 October 2017, ECLI:NL:HR:2017:2614 r.o. 3.4.7 e.v.).

In this specific case, when it has been determined that excluding same-sex couples is discriminatory, the only option is to open marriage to them. As there is no political choice, the task of the Court is to ensure that citizens' human rights are actually respected. This is according to our own Constitution and based on the jurisprudence of the Supreme Court.

Orguyo has always considered that this case may be appealed. Although it regrets that it has come to this point, it is fully prepared for the process. The Foundation has every confidence that it will prevail in the Supreme Court.

It is evident that the discrimination, confirmed by the Court of Appeal and the advice to appeal to the Supreme Court, cannot continue. While the process at the Supreme Court is underway, the Aruban legislator must ensure an immediate end to this discrimination. Orguyo will continue to dialogue with stakeholders and work towards an inclusive Aruba, where human rights are respected, and everyone can live in harmony with each other and reach their full potential.

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Terminology of LGBTQI+ can be found on the website of Orguyo

<https://orguyo.org/lgbtqi>