

# News Release

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## **JAMAICAN GAY ACTIVIST LAUNCHES CONSTITUTIONAL CHALLENGE**

*Country's anti-sodomy law criminalizes consensual sex between men, contributes to discrimination, violence and high rates of HIV*

**TORONTO, December 9, 2015** — Jamaican human rights activist Maurice Tomlinson has filed a claim in the Supreme Court of Judicature, challenging the constitutionality of Jamaica's laws criminalizing consensual sex between men. The legal challenge — which will be announced at a press conference tomorrow in Kingston, Jamaica — is being supported by the Canadian HIV/AIDS Legal Network and AIDS-Free World. In its arguments, the legal challenge outlines the ways in which the law violates the constitutional rights of Jamaicans.

The current law, the colonial-era *Offences Against the Person Act* of 1864, criminalizes consensual sexual conduct between men. This includes not only a prohibition on “gross indecency” between men but also a provision that outlaws the “abominable crime of buggery” (i.e., anal sex, including between any people of any sex). As a result of recent legislative developments, Jamaican law now also mandates registration, monitoring and potential additional penalties as a “sex offender” of any person convicted of such an offence.

“The law is a gross violation of my human rights and those of all LGBTI people in my country,” says Mr. Tomlinson, who is represented by his legal counsel, Anika Gray. “It directly infringes numerous rights guaranteed by Jamaica's *Charter of Fundamental Rights and Freedoms*, and also fuels horrific violence.”

A senior policy analyst at the Legal Network, Mr. Tomlinson highlights the deadly consequences of such laws in terms of delivering an effective response to the HIV epidemic. “The criminalization and marginalization of consensual sex drives gay men and other men who have sex with men underground, away from desperately needed HIV prevention, treatment and testing services.” The Caribbean has the second-highest HIV prevalence in the world, after sub-Saharan Africa. UNAIDS, regional organizations and national agencies have identified homophobia as a factor contributing to this troubling statistic, and have urged the removal of national laws that criminalize gay men and contribute to the stigma, discrimination and violence faced by LGBTI people.

“We hope that this landmark case will have positive implications across the region,” said Veronica Cenac, a St. Lucia-based lawyer, international legal advisor, and board member of the Caribbean Vulnerable Communities Coalition. “Jamaica is not the only Caribbean country where the human rights of LGBTI people are being violated, or where violence and homophobia are contributing to escalating rates of HIV. For these reasons, Mr. Tomlinson's case has the support of many human rights advocates and is an opportunity for the courts to take action in advancing both universal human rights and public health.”

The constitutional challenge comes in the midst of a series of other international Human Rights Day—events, which aim to raise awareness about LGBTI human rights in Jamaica. Events include a “Stand for Equality and Inclusion” and a public forum about the case in Kingston on December 10, as well as a public screening and discussion of the award-winning documentary *The Abominable Crime* in Montego Bay on December 13.

For more information on Mr. Tomlinson's constitutional challenge, see our Q&A at [www.aidslaw.ca/JamaicaQA](http://www.aidslaw.ca/JamaicaQA).

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