



First-Ever Legal Challenge to Jamaica's Anti-Gay Laws

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KINGSTON, JAMAICA, Oct. 26 — At a press conference in Kingston today, Jamaican attorney Maurice Tomlinson announced that his organization, AIDS-Free World, has presented a first-ever legal challenge to the country's anti-gay laws. AIDS-Free World has filed a petition at the Inter-American Commission on Human Rights on behalf of two gay men whose names are being withheld to protect their safety. A legal team assembled by AIDS-Free World argues that by criminalizing homosexuality under its constitution, Jamaica is in violation of international human rights law. (*See details about the legal case and Commission procedure in the attached Q&A.*)

The so-called "anti-sodomy law" in Jamaica has cast a destructive pall over the lives of gay Jamaicans. It has fed a homophobic society in which gays and lesbians are harassed, mocked, vilified, beaten and killed simply because of their sexual orientation. Driven underground, many fear that seeking an HIV test will brand them as homosexual, and therefore criminal. The national prevalence of HIV is over 30 percent among men who have sex with men, compared to a rate of 1.6 percent in the general population. The petition establishes clear ties between the country's active promotion of discrimination and its AIDS epidemic.

Tragically and unconscionably, the Government of Jamaica is determined to sustain its discriminatory legislation. The petition brought by AIDS-Free World makes clear that this law tramples on the American Convention on Human Rights, to which Jamaica is a party, and violates numerous guarantees contained in other international treaties that the country has signed and ratified. Jamaica's law legitimizes abuses against homosexuals by state actors, including the police. It also encourages vigilante justice by private citizens, most of whom believe that the "anti-sodomy" law grants them permission to commit acts of violence against sexual minorities. Because the Government and its highest officials support and enable homophobia, the only possible way to end the persistent violation of the human rights of gay Jamaicans is to strike down the law as soon as possible and usher in an era of tolerance.

Because measures to reverse the homophobic legislation are unavailable within Jamaica, AIDS-Free World is bringing its challenge at the regional level, to the Inter-American Commission. If the Commission decides favorably, other countries in the region with similar anti-homosexuality legislation will be forced to take notice. In fact, it is the conviction of AIDS-Free World that a favorable outcome will have a dramatic impact on all countries that persist in the medieval persecution of their citizens on the grounds of sexual orientation.

There is great irony to the fact that the Jamaican legislation derives directly from the days of the British Empire. Despite being an independent country, Jamaica has not rid itself of the discriminatory shackles of colonialism. This is also true of some 40 other members of the Commonwealth of Nations, an association of countries once ruled by Great Britain. Hence, the issue of decriminalizing homosexuality is on the agenda of the Commonwealth Heads of Government meeting that begins in Australia in two days' time.

Mr. Tomlinson is joined in representing the petitioners by Lord Anthony Gifford, noted counsel on a similar and successful case before the European Court of Human Rights, and a formidable legal team assembled by AIDS-Free World Legal Director Betsy Apple that includes pro bono attorneys from the US firm Thompson Hine and the Law Center at Nova Southeastern University.

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