

News Release

JAMAICAN SUPREME COURT ADMITS RELIGIOUS GROUPS AS INTERESTED PARTIES IN CHALLENGE TO ANTI-SODOMY LAW

“Truly a David and Goliath situation”

TORONTO, July 8, 2016 — The Jamaican Supreme Court on July 6 handed down its ruling on applications by nine religious groups and the Public Defender to be interested parties in a challenge by Jamaican lawyer Maurice Tomlinson to the country’s anti-sodomy law. All the groups except the Public Defender were allowed in the case with full rights of participation.

“This is truly a David and Goliath situation, requiring me to respond to not only the government’s, but also the religious groups’ arguments,” says Mr. Tomlinson. The legal challenge, which is supported by the Canadian HIV/AIDS Legal Network and AIDS-Free World, argues that Jamaica’s anti-sodomy law violates the constitutional rights of its people.

The religious groups allege that they must participate in the case to defend the 1864 British colonially imposed anti-sodomy law that criminalizes all forms of intimacy between consenting adult males, even in private, because the statute protects their rights under the 2011 *Charter of Fundamental Rights and Freedoms*. These rights they claim include freedom of religion, equality before the law, the right to a healthy environment, and the right to privacy. They also claim that gay men must be banned from having sex because that will inevitably lead to the exploitation of children.

“During the hearing of the applications, the court stated that some of the churches’ allegations seem far-fetched. Nevertheless, the court found that the opinion of the majority of Jamaicans — as reflected by the religious groups — was important in deciding what two consenting adults do in the privacy of their bedrooms,” says Mr. Tomlinson, asserting that the law violates his rights to privacy and non-discrimination.

There are other serious concerns with the anti-sodomy law. UNAIDS and other groups involved in the national HIV response have identified the law as contributing to the reason Jamaica has the highest HIV prevalence rate among men who have sex with men (MSM) in the western hemisphere, if not the world (33%). MSM are driven underground and away from effective HIV prevention, treatment, care and support interventions.

The Public Defender has indicated that she will seek leave to appeal the court’s ruling and the matter will likely be suspended until that appeal is heard. The full hearing is not expected to take place before 2017.

For more information on Mr. Tomlinson’s constitutional challenge, see our Q&A at www.aidslaw.ca/JamaicaQA.

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