

Dominica High Court Decriminalizes Same-Sex Conduct

All Caribbean Nations Should Repeal Similar Criminal Laws



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Dominica's High Court of Justice in the capital Roseau, pictured with other commercial and government buildings, January 9, 2023. © 2023 Nandani Bridglal/Shutterstock

In a historic [judgment](#) published on April 22, the Dominica High Court decriminalized consensual same-sex relations. Dominica becomes the fourth Eastern Caribbean country to strike down discriminatory legal provisions and decriminalize gay sex, following [Antigua and Barbuda](#), [Saint Kitts and Nevis](#), and [Barbados](#).

Dominica's [Sexual Offences Act](#) had punished "buggery" with up to 10 years' imprisonment and the court could "order that the convicted person be admitted to the psychiatric hospital for treatment." "Gross indecency" was sanctioned with up to five years' imprisonment. Both provisions were understood to criminalize consensual same-sex conduct and were [relics of British colonial law](#).

While laws criminalizing same-sex intimacy in the Caribbean are rarely enforced, they are broad, vaguely worded, and serve to legitimize bias and hostility toward lesbian, gay, bisexual and transgender (LGBT) people. A 2018 Human Rights Watch [report](#) documented discrimination, violence, and prejudice against LGBT people in seven island nations in the Eastern Caribbean, including Dominica, that criminalized gay sex.

The court's ruling this week held that the provisions of the Sexual Offences Act violated Dominica's Constitution, specifically "the right to liberty, freedom of expression, and protection of personal privacy," buttressing its arguments with international jurisprudence on decriminalization.

The landmark ruling follows efforts by local and regional civil society groups to challenge anti-LGBT legislation in the Eastern Caribbean, spearheaded in part by the [Eastern Caribbean Alliance for Diversity and Equality](#).

In the Anglophone Caribbean, the [Belize Supreme Court](#) in 2016 became the first to hold that laws criminalizing same-sex intimacy were unconstitutional. [Trinidad and Tobago](#)'s High Court followed suit in 2018.

Still, five countries in the Caribbean – Grenada, Guyana, Jamaica, Saint Lucia, and [Saint Vincent and the Grenadines](#) – have versions of "buggery" and "indecency" laws on the books, making them outliers in the Western Hemisphere, where all other countries have decriminalized same-sex conduct.

The criminalization of same-sex conduct [violates international standards](#), including the rights to be protected against arbitrary and unlawful interference with one's private and family life and to one's reputation or dignity, as [emphasized](#) by the United Nations independent expert on sexual orientation and gender identity.

The Dominica ruling should remind governments in the region and beyond that upholding individual freedoms, including for LGBT people, bolsters the rule of law for everyone, regardless of their sexual orientation or gender identity.