



Northwestern
PRITZKER SCHOOL OF LAW
Gender Equity Initiative



PRESS RELEASE

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“Historic Constitutional Challenge to Colonial-Era Abortion Laws in the Caribbean”

This month, two women and two health care providers from Dominica and Antigua and Barbuda, stepped into the arena to create history. They have filed the first ever constitutional challenges to colonial-era [abortion laws](#) in the Caribbean. In seeking gender justice for impacted women and health care providers, they have asked the local courts to determine whether these laws – imposed during British colonial rule – are consistent with rights granted under their constitutions created at independence.

England itself amended the 1861 law with the passing of the Abortion Act in 1967, which allow for abortion on specified grounds. Only Barbados (1983) and Guyana (1995) have enacted comprehensive non-criminal legislation expanding legal access to abortion care. All other Caribbean countries still leave their women at the mercy of a vague criminal law, which in Dominica and Antigua creates a near total ban on abortions – [with the only apparent exception being made for pregnancies over 28 weeks and only if done to save the life of the woman](#). The abortion laws in both countries, subject women, girls and health care providers to imprisonment of up to 10 years if convicted.

The brave women and health care providers contend that the laws are an affront to women’s and girls’ bodily autonomy, disproportionately impact poor women and girls and constitute unjustifiable sex discrimination since men are not subjected to similar restrictions on their sexual and reproductive health. Additionally, they assert that the laws are used to justify the governments’ failure to put in place effective policies and services to ensure all women and girls have access to abortion care as part of a broader access to sexual and reproductive health services.

There are those who will counter that the laws are largely unenforced and therefore have little impact on access to and provision of abortion. This is far from the truth. “Unenforced” does not mean the law is dead – it can be used at any time, sometimes arbitrarily to prosecute women, girls and their health care providers. For example, [in 2013, a woman and a pharmacist in Dominica were charged for helping a pregnant teenager terminate her pregnancy](#). There have also been recent cases in other Caribbean countries where women and health care providers have been convicted or charged under abortion laws similar to those in Dominica and Antigua and Barbuda. In 2021, [a woman in the British Virgin Island was convicted for assisting her daughter to access abortion care](#) and a [healthcare provider in the Bahamas was charged with helping a teenager procure an abortion in 2023](#).

Moreover, criminalization, in and of itself, reinforces the general social stigma associated with abortion and forces women and girls to undergo risky procedures that can lead to harmful, sometimes fatal results, especially for those from lower socio-economic circumstances. For instance, in [May 2023 a healthy young woman died suddenly in Pointe Michel](#), a rural and low



income community in Dominica. Many suspect her death was the result of complications from a self-administered abortion, following the discovery of a foetus buried at her home.

The laws should be repealed since they have failed miserably in achieving their professed purpose – protecting prenatal life by preventing abortions. [The data shows that criminal abortion laws do not prevent abortions, they just make them unsafe.](#) According to the World Health Organisation(WHO) in its [2022 Abortion Care Guidelines](#), women and girls will find means to end an unwanted or unplanned pregnancy – even if those means are harmful and life threatening.

Criminal abortion laws have no place in modern constitutional democracies, like Antigua and Dominica, which have declared their commitment to ensuring gender equality for women through effective access to sexual and reproductive health services. The WHO in its 2022 Abortion Care Guidelines was unequivocal in its call for countries to treat abortion access as a medical treatment that is available on request and without restrictions. Moreover, both the [Human Rights Committee in 2020](#) and the [CEDAW Committee in 2019](#) asked Dominica and Antigua and Barbuda respectively, to expand access to abortion services and remove penalties that criminalise women, girls and their health care providers.

Other than the problematic US [Dobbs v Jackson](#) decision, [courts in the Americas](#) have found [restrictive abortions laws as being a breach of women’s and girls’ human rights](#). In so doing they have expanded access to essential abortion care. We are hopeful the courts in the Caribbean will also be inclined to find the abortion laws as unconstitutional – thereby vindicating the rights of thousands of women, girls, and health care providers, living under the yoke of an oppressive, antiquated and colonial-era law.

The claims filed could not have been possible without the hard work of the following individuals, who are providing legal representation as well as medical and social science research for the constitutional challenge:

<i>Lawyers</i>	<i>Legal Research</i>	<i>Researchers and Medical Practitioners</i>
<i>Rishi Dass, SC Anika Gray Sasha Sukhram Sherrie-Ann Bradshaw Dawn Yearwood Shanice Henry</i>	<i>Rebecca Cook, J.S.D. Syrria Marshalleck Akilah Southwell Lashaun Peters</i>	<i>Fred Nunes, Ph.D. Sheridon Elliston Tonia Frame, Ph.D. Dr. Dane Abbott Dr. Geoffrey Lafond Yusuf Yakuba, Ph.D. Trudy Christian</i>



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We have chosen not to name the four individuals who have filed the claims. This is done to protect the safety of the claimants given the hotly contested nature of abortion law reform. We would ask the press and others reporting on the case, to kindly follow our example.

Signed by:

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