

Wandering Law in Barbados Declared Unconstitutional, Discriminatory

Following decades of failed political promises, the court's ruling sends a strong message that the outdated wandering legislation must be taken off the books.

NEW YORK, USA, March 23, 2023 /EINPresswire.com/ -- The High Court of Barbados has ruled that the outdated wandering legislation in Barbados, long-used as a way to house and punish youth in juvenile detention, is both unconstitutional and discriminatory. This judgment comes after decades of advocacy and failed political promises that the law will be taken off the books.

The case brought to the Court centred around two teenage claimants who were housed in the Government Industrial School (GIS) – a state institution for children in need of care or in conflict with the law, which operates as a detention centre. Both girls were detained at the GIS on charges of “wandering”, which can include running away from home or vagrancy, and is treated as a criminal act.

In 2022, the girls, working with the assistance of survivor-led civil society organisation Operation Safe Space Movement for Change (OSS), filed an application through their attorney, Anya Lorde, alleging that their fundamental rights and freedoms were violated while at the GIS.

As part of his judgment, High Court Judge Westmin James ruled that section 14 of the Reformatory and Industrial Schools Act, which deals with wandering, was “unconstitutionally vague and offends the rule of law”, as well as “discriminatory on the grounds of age and sex and violates the right to protection of the law”. Combined, the claimants were awarded more than BBD \$200,000 in damages.

Anya Lorde said: “The acknowledgement of wandering as unconstitutional is a major step forward and long overdue. It is now critical that it is met with legislative change. The government of Barbados must also apply this decision retroactively to anyone in the GIS who has been committed for wandering.”

A new Child Protection Bill is currently in Parliament and is expected to be debated shortly, which includes removing the wandering offence. Wandering currently falls under the category of status offences, which are charges that criminalise acts of minors that would otherwise not be unlawful, including running away from home, sex with another minor or truancy. More children in Barbados are charged with wandering than with drug possession, burglary, bodily harm,

robbery or theft.

Dr. Marsha Hinds Myrie, Co-founder of OSS and former Deputy Chair of the GIS, has been at the forefront of seeking to dismantle the institutional abuse meted out to minors due to this unjust legislation. The International Center for Advocates Against Discrimination ([ICAAD](#)) has supported OSS with strategic litigation campaigns by providing international human rights law and comparative law research with the assistance of pro bono counsel at Clifford Chance LLP.

“Along with removing archaic legislation, we must not forget that the GIS itself is in need of urgent reform due to its abhorrent conditions and total lack of accountability,” said Dr. Hinds Myrie. “If Barbados wants to live up to its international human rights commitments, it must restructure the GIS so that it no longer favours the criminalisation and mistreatment of children.”

Conditions at the GIS are poor, with children barely getting any education nor proper nutrition. Despite a recent panel of inquiry condemning the current state of affairs and recommending a “[major overhaul](#)” of the GIS, there has been little progress to improve the conditions.

The criminalisation of minors and poor juvenile detention facilities is not unique to Barbados. The origin of wandering legislation comes from colonial times, and similar patterns can be seen in Jamaica and other former colonies in the Caribbean.

“With this decision, commonwealth jurisdictions that continue to rely on similar laws have been put on notice,” said Jaspreet Singh, Co-Founder + Advocacy Strategist at ICAAD. “They should take a very close look at their own legislation and determine which reforms are needed.”

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Notes to editor:

Damages awarded to the claimants: To A.B in the sum of BBD \$45,000 for compensatory damages and BBD \$50,000 for vindictory damages, and to C.D in the sum of BBD \$65,000 for compensatory damages and in the sum of BBD \$50,000 for vindictory damages.

About OSS: OSS is a civil society organization based in Barbados. OSS was founded in 2019 and provides advocacy and strategic litigation services for women, their children and girls who are victims of domestic violence and other forms of abuse, inclusive of systemic abuse by State agencies. It is currently the only organization of its kind in Barbados that is completely managed and ran by survivors of domestic violence for the benefit of women and girls who are victims/survivors of domestic violence.

About ICAAD: ICAAD is a human rights advocacy center that helps communities and governments create a more equitable future by increasing access to justice and strengthening

democratic institutions. Rather than confronting each individual act of discrimination in isolation, the center focuses on systems-level change: changes in policies, practices and mindsets. Each intervention is innovative and brings together diverse teams – leveraging law, data, tech, and the arts to meet the needs of local communities. ICAAD first met with OSS in 2021 to better understand the systemic abuse of women and girls in Barbados as part of its TrackGBV program, which is centered around tackling structural discrimination and bias within justice systems.

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