
International Dialogue on Gender, Sexuality, HIV/AIDS & Human Rights: *Focus on Asia*

- Seoul, November 24-27, 2005

Final Report



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ARC International (www.arc-international.net) is a project-driven organization which advances the development of a strategic international LGBT human rights agenda. ARC works cooperatively with existing domestic and international organisations active on lesbian, gay, bisexual and transgender (“LGBT”) and related issues, to foster the development of global networks and collaborations, create practical and accessible learning tools, and facilitate the engagement of groups and individuals in UN processes, and other human rights mechanisms, in ways that are relevant and meaningful for them.

The Korean Sexual-Minority Culture and Rights Center (KSCRC) is the first center for sexual minorities, people living with HIV/AIDS, and those who support the rights of sexual minorities in Korea. KSCRC, through working in/outside of the sexual-minority communities of Korea and the world, serves as a national center to protect and promote the well being of Korean sexual minorities as well as to celebrate diversity. The website of the KSCRC is www.ksrc.org.

A. Overview

ARC International worked in collaboration with the Korean Sexual-Minority Culture & Rights Center to present a conference entitled *International Dialogue on Gender, Sexuality, HIV/AIDS and Human Rights: Focus on Asia*, which took place in Seoul, South Korea, from November 24-27, 2005.

We hosted this year's Dialogue in Seoul in order to honour the historic decision of **South Korea** to support a statement on sexual orientation and human rights delivered by New Zealand at the 2005 UN Commission on Human Rights, the only Asian country to do so.

The Dialogue was attended by about 50 participants from 30 different countries, comprised of stakeholders in the international arena (NGOs, academics, activists etc) from all geographic regions, particularly those with some experience advancing human rights regionally and/or internationally. Building on previous consultations in Rio de Janeiro and Geneva, the **goals of the Dialogue** were to:

- ✓ Conduct specific training on domestic, regional and international human rights mechanisms;
- ✓ Explore linkages between civil and political rights and economic, social and cultural rights, including through an HIV/AIDS lens;
- ✓ Build NGO capacity, e.g. by developing tools to document and report human rights violations;
- ✓ Engage with UN experts;
- ✓ Identify strategies and concrete measures to support the Korean government's commitment to human rights, and build support with other Asian countries poised to follow Korea's lead;
- ✓ Raise awareness of proposals for UN reform, and discuss possible impact for our communities;
- ✓ Explore faith-based and other responses to religious fundamentalism;
- ✓ Identify regional priorities, and develop strategies to assist in advancing those priorities, with particular focus on the Asia region.

The Dialogue began with a one-day **Preconference Institute**, which outlined the social context and development of the LGBT communities within South Korea, and provided participants with human rights training on how to access domestic, regional and international mechanisms. Through a gift exchange, participants shared personal stories and histories from their regions and cultures.

In the following days, **regional caucuses** allowed participants to focus on their distinct areas of need and priority, and a broad range of **thematic discussions** covered issues such as documenting human rights violations, building interfaith networks, identifying challenges in addressing HIV/AIDS issues, and building linkages with other movements. A major focus of discussion, information-sharing and planning was on the **UN reform process**, which is likely to dominate debate in international human rights fora in the upcoming year. **Strategy discussions** were woven throughout the Dialogue and were also the subject of two dedicated plenary sessions. Local **media interest** also helped increase visibility.

Presentations by participants were supplemented by **guest speakers** from South Korea, including Prof. Chung, a member of the Subcommission on the Promotion and Protection of Human Rights; Suk Tae Lee, President of Lawyers for a Democratic Society; and Prof. Nohyun Kwak, Secretary General of the National Human Rights Commission of Korea.

Enriching **cultural events** organized by the KSCRC included an activist presentation and exchange, and a performance evening featuring guest singers, drag performances and traditional drumming, as well as a presentation by Korean actor and comedian Hung Suk Chun, who made national news when he acknowledged his homosexuality on television in 2000. A moving ceremony was organized by participants to commemorate **Transgender Day of Remembrance**, and the Dialogue culminated in the adoption of the **Seoul Declaration**, as a focal point of our joint discussions and strategizing.



B. Pre-Conference Institute & Human Rights Training

The Pre-Conference Institute was a one-day forum, designed to provide training to local and international activists on how to access domestic, regional and international human rights mechanisms, and develop a common base of knowledge and understanding for the strategic discussions taking place throughout the remainder of the International Dialogue.

Domestic Human Rights Mechanisms:

The day began with an informative presentation by **Prof. Nohyun Kwak**, the **Secretary General of the National Human Rights Commission of Korea** – the only Human Rights Commission in Asia to expressly include “sexual orientation” in its legislation as a prohibited ground of discrimination.

Prof. Kwak outlined the history of the formation of the Commission beginning with a government commitment in 1997. From the outset, there was debate over whether the Commission should be a State body or public corporation. NGOs felt strongly that it should be a State and constitutional body and the President ultimately agreed, despite some opposition from his own Ministry of Justice. The Commission was launched in November 2001 as an independent body. It has a broad mandate, which covers 19 grounds of discrimination, including sexual orientation, but cannot investigate or provide remedies in the area of social rights, such as the right to food, health, education etc.

Prof. Kwak gave a detailed overview of the structural elements of the Commission and statistics regarding complaints. The Commission has responded to 1800 complaints, many of which relate to detention centres. Twelve complaints based on sexual orientation have been received, of which a number have been accepted. Prof. Kwak referred to the paper prepared by Prof. Doug Sanders for an excellent summary of some of the key cases, including:

- A complaint by Dong in Ryun (the Lesbian and Gay Human Rights Federation) against the publishers of dictionaries containing disparaging definitions referring to homosexuality as “abnormal” or a “perversion”. The publishers voluntarily complied and changed the definition in the course of the Commission investigation;
- A complaint about the censorship of gay Websites, in which the Commission agreed that the sites were not harmful and that the censorship violated constitutional guarantees of freedom of expression, equality, and the right to pursue happiness;
- A Commission report about sexual violence in the military, including hatred of gays by younger males;
- Commission concerns that blood donor questions about same-sex conduct (including by lesbians, who are at very low risk of HIV) inappropriately linked homosexuality and HIV;
- A request by the Commission that the title and certain provisions of the *Healthy Families Basic Act* be changed, since it suggested some families were “unhealthy” and could result in “discrimination in society in which the number of diverse types of families is on the rise”.

In terms of the Commission’s power, other State organs do feel pressure to accept the decisions of the Commission for fear they will be labeled “anti-human rights”. The Commission also has an 80% acceptance rate within the private sector for discrimination remedies. The Commission’s future

directions include an increased role in improving social rights, protection to socially vulnerable groups and strengthened connection with NGOs.

Prof. Kwak concluded with some thoughts on how the Commission can play an international role. It has certainly recommended to government the ratification of international conventions and would continue to do so. In addition, strong domestic human rights policy does have an influence on South Korea's foreign policy. Domestic human rights language on sexual orientation was likely an influencing factor in South Korea's decision to support the New Zealand statement on sexual orientation at the 2005 UN Commission on Human Rights.

In response to questions, Prof. Kwak indicated that the Commission would host public consultations in a couple of months on a draft Anti-Discrimination Act, and encouraged LGBT groups and individuals to attend. He also mentioned that the Human Rights Commission is planning to commission a survey of the human rights of LGBT people.



Regional Human Rights Mechanisms:

Asia

Prof. Douglas Sanders from Chulalonghorn University in Thailand presented a paper “Human Rights in Asia”, providing an overview of the state of human rights protection throughout the Asian region:

Constitutional protection: The only Asia-Pacific country with explicit constitutional protection for sexual orientation is Fiji. Many other national constitutions have more general provisions protecting human rights, non-discrimination or privacy. Any new or newly-amended constitution will likely contain human rights provisions, including for example, the constitutions of Cambodia, China, Indonesia, the Philippines and Thailand.

Human Rights Treaties: There is no regional human rights treaty in Asia. Many Asian countries have, however, signed international human rights treaties, giving rise to an obligation to report to and be reviewed by the relevant treaty bodies. A number of major Asian countries - such as China, India, Indonesia, Japan - have signed the International Covenant on Civil and Political Rights, but not the Optional Protocol, with the result that individuals cannot bring complaints against their government under the Covenant for breach of the guaranteed rights. Only 7 States in the region (Nepal, the Philippines, Republic of Korea, Sri Lanka, Tajikistan, Turkmenistan and Uzbekistan) have signed the Optional Protocol. China signed the ICCPR some years ago and entered into an agreement with the UN Office of the High Commissioner for Human Rights in August 2005 to collaborate on reforming China's domestic legal system to bring it into compliance with the Covenant.

Human Rights Commissions: In Asia-Pacific, there are now national human rights commissions in Afghanistan, Australia, Fiji, India, Indonesia, Jordan, Malaysia, Mongolia, Nepal, New Zealand, Palestinian Territories, the Philippines, Qatar, Republic of Korea, Sri Lanka, Thailand and Timor Leste (see www.asiapacificforum.net). Many of these are quite new. They have very broad mandates and can investigate complaints, issue recommendations, and host seminars. They cannot make binding legal decisions or provide remedies. The National Human Rights Commission of the Republic of Korea is the only Asian Commission with express legislative authority to address discrimination based on sexual

orientation. Others may do so by implication. For example, the Commission in Thailand has investigated the case of a student excluded from school because of sexual orientation, the Commission in the Philippines dismissed the complaint of a cross-dresser who had been excluded from a disco bar, and the Commission in Indonesia has identified homosexuals as a “special group” whose rights are of concern to the Commission. The National Human Rights Commission in India issued a report in 2001 on AIDS issues recommending reform of s. 377 of the Indian Penal Code, saying that sexual activities between consenting adults should be legalized.

Criminal laws: Laws prohibiting “carnal intercourse against the order of nature” exist in all the former British Colonies in Asia, except Hong Kong, which reformed its law in 1991. Such provisions remain in Bangladesh, India, Malaysia, Myanmar, Pakistan, Singapore and Sri Lanka. Criminal prohibitions also exist in the Muslim majority States in the Middle East and Central Asia, and in Brunei, Bhutan and Nepal. Countries in the rest of Asia, such as China, Japan, Indonesia, Thailand and Korea, have no criminal prohibitions. The law in India is subject to legal challenge, a colonial-era British law in Fiji was struck down by a court in an August 2005 decision which is under appeal, and a Hong Kong decision, also subject to appeal, struck down an unequal age of consent for homosexual and heterosexual acts.

Equality rights: A pioneering equality-based court challenge in Asia was *Occur v. Tokyo* (1994), in which the Japanese LGBT group Occur successfully challenged the Tokyo Municipal government’s refusal to allow them to use a residential conference centre. Other legal challenges include *Exzome v. Korea*, a challenge to the censorship of gay websites, and *Leung v. Hong Kong*, a challenge to unequal age of consent provisions.

There is limited recognition in Asia of same-sex relationships, although the government of Taiwan at one stage suggested it would open up marriage. In July 2005, a Philippines court rejected a father’s claim that a mother’s lesbianism should disqualify her from receiving custody.

The post-operative gender of transsexuals is recognized in China, Japan and Singapore. In South Korea some courts have also ordered that documentation be changed to reflect a transsexual’s post-operative status, and a similar result may be available in Indonesia.

Social attitudes and visibility: The Pew Global Attitudes Project in 2003 conducted a survey in countries around the world, asking whether homosexuality should be accepted by society. Results varied greatly by region, with greatest support in Europe and North America, followed by Eastern Europe and Latin America, and least support in Africa (ranging from 33% support in South Africa and 30% in Angola down to only 1% support in Kenya). Responses from Asia varied widely, from majority support in the Philippines (64%) and Japan (54%) down to 5% support in Indonesia. The study was not permitted to ask the question in China.

Visibility is limited, with few “out” role models. Korean actor and comedian Hung Suk Chun was fired by two national television networks when he initially came out, but has been able to rebuild his career. On August 13, 2005, Konako Otsuji, an elected member of Japan’s Osaka Prefectural Assembly came out as lesbian at Tokyo’s LGBT Pride parade. Zheng Yuantao was described by China Daily on November 11, 2005 as “the first gay man in China to broadcast his sexual orientation.” In many parts of Asia, transgender people remain the most public face of sexual diversity.

LGBT NGOs operate publicly in Bangladesh, Hong Kong, India, Indonesia, Japan, Korea, Malaysia, Taiwan and Thailand, often legitimated through HIV/AIDS education and prevention work. There are LGBT bookstores in Taiwan, Hong Kong and Japan, and some LGBT magazines in China, Hong Kong, Indonesia, Japan and Taiwan. The internet is a primary source of accessing LGBT information and resources, although government censorship remains a problem in some countries.

Documentation such as “*Because I have a voice*”, a compilation of materials on sexuality in India edited by Arvind Narrain and Gautam Bhan, is extremely valuable in increasing visibility and understanding.

Prof. Sanders noted that conferences publicly addressing sexual orientation and gender identity issues have previously take place almost exclusively in Bangkok, in addition to the ILGA World Conference in Manila, so it is encouraging that Seoul is now amongst the Asian cities where such an event can be safely and successfully held.

Europe

Kurt Krickler from HOSI Wein (Austria) discussed the regional European human rights system, specifically the European Court of Human Rights based in Strasbourg:

The European Court of Human Rights is a body of the Council of Europe, an international organisation that comprises 46 member states, i. e. all European states except Belarus and the Vatican.

The Court issues rulings based on the European Convention on Human Rights. The Convention originally dates from 1950; following a major amendment in 1998, the previous European Commission of Human Rights and the European Court of Human Rights were merged into one permanent court.

The articles that are often used to challenge sexual orientation and gender identity discrimination are art. 8 (respect for private and family life) and art. 11 (freedom of assembly and association). A major flaw is that the European Convention does not contain a free-standing non-discrimination clause. Article 14 only secures the non-discriminatory enjoyment of those rights and freedoms set forth in the other articles of the Convention. This situation is now being remedied through Protocol 12 to the Convention which constitutes such a free-standing equality provision, but it only applies to those member States which have individually ratified the Protocol (about a dozen of the 46 member States). Sexual orientation and gender identity are not explicitly listed in the protected grounds, but have been held to fall within the ground “other status”.

Additional problems are that the Court of Human Rights has often lagged behind European consensus on these issues, the average time for a complaint to be resolved is between 8-10 years and often the same issue will need to be relitigated from different jurisdictions.

Criminal laws: A major victory was achieved in 1981 when the Court ruled in *Dudgeon v. UK* that Northern Ireland’s total ban on homosexual activity between consenting adults was in breach of the Convention. The issue, however, had to be relitigated in *Norris v. Ireland* (1988) and *Modinos v. Cyprus* (1993), in order to successfully challenge identically-worded provisions.

After the collapse of the Soviet Union and Yugoslavia, new States seeking to join the Council of Europe had to repeal their total ban on homosexual acts, thanks also to a strong lobby by ILGA-Europe. In the last 15 years, the total ban on homosexual behaviour has been repealed in 19 other European countries and dependent territories: Albania, Azerbaijan, Armenia, Bermuda, Bosnia-Herzegovina, Estonia, Georgia, Gibraltar, Guernsey, Jersey, Latvia, Lithuania, Isle of Man, Macedonia, Moldova, Romania, Russia, Serbia, and Ukraine. Today there is no country or territory left in Europe with a total ban.

Similarly, the European Commission held in *Sutherland v. UK* in 1997 that a higher age of consent for homosexual conduct violated the Convention, a decision confirmed by the Court in a 2003 judgment against Austria. These decisions were successfully used by the European LGBT movement to demand the repeal of such discriminatory laws as a precondition for accession to the European Union, resulting

in legal reform in Bulgaria, Cyprus, Estonia, Hungary, Latvia, Lithuania and Romania. Today, Albania and Serbia are the only European countries with higher age of consent legislation.

Same-sex partnerships: In December 1999, in the case of *Salgueiro da Silva Mouta v. Portugal*, the Court ruled that a judge's denial of custody to a gay man constituted a discriminatory violation of art. 8 (privacy and family life). However in a 2002 complaint against France, the Court ruled that art. 8 was not violated by the French authorities' refusal to grant an adoption licence to a gay man, since there is no right to adoption set out under the Convention. There might have been a different outcome if Protocol 12 – the free-standing equality clause – had been in force. In July 2003, the Court ruled in *Karner v. Austria* that it was a discriminatory violation of the Convention to evict a gay man from the apartment of his deceased partner, in circumstances where a heterosexual family-member would have had the right to assume the lease. A similar case is pending regarding whether a same-sex partner is covered under Austria's insurance legislation.

The next issue will be how the Court might decide a complaint of discrimination based on a right that is exclusively granted to married couples, or a challenge to legislation restricting marriage to opposite-sex couples only. A marriage challenge filed by two Austrian men is pending.

Transgender rights: In 1992, the Court ruled in *B. v. France* that a transgender person was entitled to have her reassigned gender reflected on her birth certificate following surgery. In 1998, however, a conflicting ruling was handed down in a case against the UK, where it was argued that the refusal to issue new birth certificates had less severe practical consequences than in France. In 2002, however, a major victory was achieved in the cases of *Goodwin v. UK* and *I. v. UK*, in which the Court held that the rights of two transsexual women to respect for their private lives (art. 8) and to marry (art. 12) were violated by the UK's refusal to revise their birth certificates to reflect their post-operative gender.

Another positive judgment in a transsexual case was handed down by the Court in 2003 in *van Kück v. Germany*, which dealt with the costs of gender reassignment surgery. In this case, the Court held that German courts violated art. 6 (right to a fair trial) and art. 8 (respect for private life) by interpreting a health insurance contract between a transsexual and a private insurance company as not requiring reimbursement for the costs of the surgery and other medical treatment necessary for her gender reassignment. The Court stated that there had been a violation of "the applicant's freedom to define herself as a female person, one of the most basic essentials of self-determination".

Other cases: Other cases have included a 1997 UK decision involving sadomasochistic sex between men, in which the Court did not find a violation of the right to respect for private life, a 1999 case (*Smith and Grady v. UK*, *Lustig-Prean and Beckett v. UK*), in which the Court ruled that the UK ban on homosexuals in the military constituted a violation of the right to respect for private life, and a 2000 case against the UK, in which the Court found that art. 8 was violated by a British law that banned homosexual activity between more than two consenting adults in private.

Latin America

Ana Elena Obando from CIMA (Costa Rica) provided an overview of the Inter-American human rights system. It is governed by the American Convention on Human Rights, which was adopted in 1969 and entered into force in 1978. This has subsequently been supplemented by additional Protocols and Conventions, such as a Protocol to Abolish the Death Penalty, an Inter-American Convention to Prevent and Punish Torture, an Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, etc.

Uniquely amongst the regional human rights mechanisms, economic, social and cultural rights are also addressed, as a result of both art. 26 of the Convention and the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (“Protocol of San Salvador”).

Article 1 of the American Convention on Human Rights provides that all people are entitled to respect for their rights “without any discrimination for reasons of race, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition”. Article 24 also provides a broad guarantee of equality: “All persons are equal before the law. Consequently, they are entitled, without discrimination, to equal protection of the law.”

The Convention creates two key mechanisms: the Inter-American Commission on Human Rights (www.cidh.org) and the Inter-American Court of Human Rights (www.corteidh.or.cr). Countries must present reports to the Commission, so there is the opportunity for NGOs to monitor and challenge the country reports. Individuals can also present cases to the Commission based on a State’s treaty obligations, but they must have exhausted all domestic remedies in their countries first. In addition, the Commission can conduct site visits to countries where there appears to be a pattern of discrimination or to investigate a particular complaint. Having reviewed a complaint, the Commission may submit a case to the Inter-American Court, which is empowered to order that the human rights violation be rectified and may also award compensation to the victim. The Court may also issue advisory opinions regarding the interpretation of the Convention or whether a State’s laws comply with the Convention or other human rights treaties. As with other international institutions, however, there are limited enforcement mechanisms.

During discussion, Germán Rincón Perfetti noted that there is a complaint before the Commission dealing with the denial of conjugal visits to the partner of a jailed lesbian in Colombia, and another complaint relating to the denial of equal pension benefits. Both complaints are still in process.



Also of note is that during the Dialogue, participants signed on to an NGO statement directed to a Working Group of the General Assembly of the Organization of American States (OAS), which is preparing a draft Inter-American Convention Against Racism and All Forms of Discrimination and Intolerance. The statement urges drafters to use language pertaining to sexuality and gender identity-based discrimination. Such language would provide a remedy explicitly pertaining to discrimination based on sexual orientation and gender identity.

Africa

Fadzai Muparutsa from GALZ (Zimbabwe) gave an overview of the African regional human rights system.

The African Charter on Human and People’s Rights entered into force in 1986, and established the African Commission on Human and People’s Rights (www.achpr.org) to seek to implement the rights set out in the Charter. The functions of the Commission include research and education, promoting and protecting human rights, and interpreting the Charter at the request of a State Party. It may also

consider communications from States about Charter violations by another State, and can receive complaints from individuals and organisations provided all local remedies have been exhausted. The complainant must be identified, but need not be related to the victim of the abuse, who can request anonymity. The complaint must not be based exclusively on media reports, although information from more “reliable” sources such as the police can be a problem, given that police are often part of a system of State actors that violate LGBT human rights.

The African Court of Human and People’s Rights was established upon the coming into force of an Additional Protocol in January 2004. The Court has an adjudicative and advisory role, and can receive cases from States, African intergovernmental organizations, individuals and NGOs with observer status before the Commission. However, complaints from individuals can only be received if the State has recognized the Court’s competence to receive individual communications, and only Burkina Faso has provided such recognition.

The African Court of Justice was also set up as an organ of the African Union, with authority to interpret the Constitutive Act of the African Union (2001). A proposal to merge the African Court of Justice with the African Court of Human and People’s Rights was adopted by a July 2004 resolution of the African Union, which has caused concern among NGOs given the differing mandates of the two Courts, and the fact that only States and other AU organs can bring cases to the African Court of Justice.

Fadzai was not optimistic about the usefulness of these mechanisms for LGBT rights within Africa, given that the system is more geared towards inter-State rather than individual complaints. Even during and following the Rwandan genocide, no complaint was lodged by another State. Two relevant submissions to the Commission include a 1996 complaint following a ban on the participation of GALZ (Gays and Lesbians of Zimbabwe) in a 1995 book fair (this complaint was later withdrawn at the request of the organization), and a 2000 complaint from Gambia dealing with gender-based language, which is still pending.

Some recommendations for African LGBT groups included greater collaboration, cross-regional organizing and planning strategically about what kinds of complaints might have the greatest chance of success, advancing status-based complaints and identifying an appropriate complainant with a lot of local support, highlighting disparities between national laws and international human rights instruments signed by relevant States, ensuring good communications and media engagement, working with more established human rights organizations with status before the Commission, and setting up a Multicultural Committee to work on a report exploring issues of sexuality within the different African cultural contexts.

At the domestic level, South Africa is the only African State to explicitly prohibit sexual orientation discrimination in its Constitution, and the South African Constitutional Court has delivered favourable decisions on issues such as same-sex immigration, partnership benefits, adoption and marriage. Despite this, however, South Africa has not yet supported international statements or resolutions on sexual orientation and human rights.

General discussion:

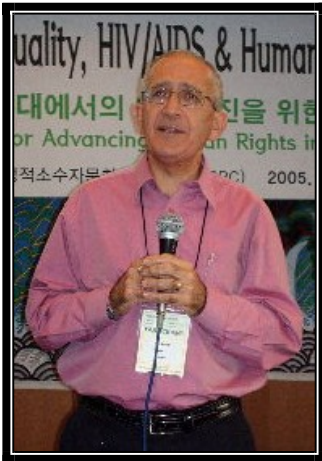
Participants debated the pros and cons of the regional mechanisms. It was noted that the European experience seems very different than those of the other regions, and has generated a lot of case-law. Some wondered whether it was a useful priority to seek to establish a regional human rights mechanism within Asia, or whether the African experience was a deterrent.

In general, it was agreed that the regional mechanisms are important, provided that one has a realistic appreciation of their limitations. They at least allow complaints to be brought, enable some scrutiny of States' human rights records, and help ensure that States do not operate in a climate of total impunity. Often, the process of seeking to use the regional and international mechanisms builds visibility and community collaboration, which can be just as important as the end result. For example, although the Brazilian resolution did not reach fruition at the CHR, it raised expectations, put our issues on the UN human rights agenda, and set in motion the ARC International Dialogue process, which has served as a valuable tool for cross-regional community-building and joint strategizing.

The value of the regional mechanisms could be greatly enhanced with more education work by all our organizations about how to make best use of the mechanisms. That said, we also cannot underestimate the value of grassroots, creative, domestic work, and should not seek to rely exclusively upon regional or international mechanisms.

Although some participants noted Audre Lorde's caution that "the master's tools will never dismantle the master's house", others pointed out that in some countries, there is a complete absence of domestic protection, and an atmosphere of State repression, fundamentalism, hostility and impunity – in these circumstances, the "master's tools" of the regional and international human rights protection mechanisms may be the only tools we have.

International Human Rights Mechanisms:



Chris Sidoti and **Katrine Thomasen** from the International Service for Human Rights (ISHR) gave an in-depth presentation on United Nations mechanisms for advancing human rights. Their presentation covered the current UN system: the process of UN reform currently unfolding formed part of a separate Dialogue panel discussion, and is addressed further in section D of this report.

It was emphasised that the UN is not a world government, but an essentially political intergovernmental organisation made up of 191 member states, each committed to defending and protecting its own national interests and priorities. The challenge for progressive NGOs is to ensure that States see it as in their interests to advance human rights.

The other major weakness is the lack of enforcement mechanisms. Only the Security Council has the power to take enforcement action. Here, the challenge for NGOs is to have realistic expectations about the deficiencies of the system, but to nonetheless develop strategies to extract from the system the most that it can deliver.

Promoting human rights and fundamental freedoms is affirmed in the UN Charter as a principal purpose of the UN. This is done through both the **Charter-based** system and **treaty-based** system.

(a) Charter-based system:

The UN Charter creates 6 principal organs of the UN:

- the **General Assembly**: the GA is the main deliberative and decision-making body of the UN, consisting of all 191 member states, each with one vote. The GA carries out its work through 6 Committees – in particular, the Third Committee deals with "Social, Humanitarian and Cultural" issues;

- the **Security Council** (New York): all UN States must comply with resolutions of the Security Council, which is composed of 5 permanent members with a power of veto, and 10 regional members elected by the GA;
- the **Economic and Social Council** (Geneva and New York): it is under the Economic and Social Council that the **Commission on Human Rights** is set up as one of the 6 functional ECOSOC Commissions. The ECOSOC acts as a ‘transit stop’ between the CHR and the GA;
- the **Secretariat** (Geneva, New York, Vienna, Nairobi, etc.): The Office of the High Commissioner for Human Rights, based in Geneva, forms part of the Secretariat, but has limited resources with less staff even than Amnesty International’s Secretariat;
- the **International Court of Justice** (The Hague): the Court deals only with cases between States (e.g. the wall being built by Israel), rather than with individual complaints;
- the **Trusteeship Council**.

The **Commission on Human Rights** has a number of standard-setting **Working Groups**, which are responsible for negotiating new legal standards in the area of human rights – i.e. declarations or treaties. The **Special Procedures** of the CHR are its investigatory mechanisms. Their role is to provide a central point for studying and increasing understanding of a particular human rights matter, receiving information and reporting on particular human rights violations. All Special Procedures are either **thematic** or **country-specific** in their mandates, and are created by the CHR through a resolution which will establish its mandate. Thematic mandates are usually for a 3 year period, but can be renewed. Country-specific mandates are usually for a 1 year period, but can be renewed.

A Special Procedure (Working Group, Special Rapporteur) will be empowered to:

- receive information from a wide variety of sources;
- receive individual communications (cases of violations);
- undertake country visits;
- transmit urgent appeals (either individually or jointly);
- report on the status of the rights related to its mandate and make recommendations about strengthening their implementation ;
- comment on information or communications received;
- analyse trends related to their mandate or to the information received;
- encourage co-operation with other procedures.

The Special Rapporteurs are volunteers, with only expenses, not time, covered by the UN.

The current thematic Special Procedures can be found at:

<http://www.ohchr.org/english/bodies/chr/special/themes.htm>.

The current country-specific Special Procedures can be found at:

<http://www.ohchr.org/english/bodies/chr/special/countries.htm>.

The CHR also has available to it the “**1503 Procedure**” (named after the ECOSOC resolution which created it), which enables the CHR to consider complaints about a consistent pattern of gross human rights violations in particular countries. Any individual or group claiming to be the victim of such human rights violations may submit a complaint, although the process can be protracted and the CHR deliberations are private. The CHR may ultimately discontinue the matter, keep the situation under review, or appoint a special procedure with a country-specific mandate.

(b) Treaty-based system:

Treaty bodies have been established under the major human rights treaties in order to monitor their implementation by States parties. They are technical bodies composed of independent experts, rather than political bodies composed of State representatives.

The existing treaty monitoring bodies are:

- Committee on the Elimination of Racial Discrimination (CERD);
- Human Rights Committee (HRC);
- Committee on Economic, Social and Cultural Rights (CESCR);
- Committee on the Elimination of Discrimination Against Women (CEDAW);
- Committee Against Torture (CAT);
- Committee on the Rights of the Child (CRC);
- Committee on Migrant Workers (CMW).

Most treaty bodies meet twice a year for a three-week session; the Human Rights Committee and the Committee on the Rights of the Child meet three times per year. Key functions of the treaty bodies include:

Examination of State reports

States parties have an obligation to submit **periodic reports** to each treaty body, usually every 4 or 5 years, on their implementation of the relevant treaty obligations in the domestic legal system. After a report is submitted, the Committee examines it during a session where the State party concerned is invited to participate in a public **dialogue** aimed at highlighting areas needing improvement and suggesting steps to be taken.

Prior to the meeting, the Committee may send to the State party a **list of issues** and questions to which the Committee wishes to draw attention. The Committees also usually receive **information from other sources**, such as UN agencies, inter-governmental organisations and NGOs. If a State fails to provide a report, the Committee can conduct a review anyway, making NGO and other material even more valuable.

The outcome of this dialogue is represented by the **concluding observations**, a document which includes recommendations for future action. Treaty bodies have also started putting in place **follow-up** mechanisms to help monitor the implementation of the Committee's recommendations.

There are a number of ways in which NGOs can be involved in these processes. Increasingly, NGOs are engaging in producing alternative (or "shadow") reports to the treaty bodies in order to provide the Committee with additional information about the status of treaty compliance in their country.

Two Committees, namely CESCR and CRC, have published **guidelines** for NGOs wishing to submit alternative reports. In general, with regard to all treaty bodies, NGOs should consider the following suggested guidelines when drafting a shadow report. The information should be:

- **specific** to the Covenant;
- **objective**, based on documentary sources and properly referenced (no mere opinions);
- concise and succinct;
- **reliable** and not abusive;
- not worded in an overly political tone;
- structured following the **guidelines for State reports**, in order to facilitate the comparative review of the information;
- clearly indicate the article(s) breached and in what way;
- preferably, submitted as a **single consolidated report** representing a broad consensus by a number of NGOs, rather than several reports by different organisations.

To maximise its effectiveness, it is also useful to include an executive summary and specific questions that Committee members could ask the delegation, as well as recommendations.

It should be noted that local NGOs may also interact with **UN agencies** involved in the country concerned, such as UNHCR or UNICEF local offices, who often provide treaty bodies with confidential comments, and thus influence their submissions. Finally, NGOs can also lobby their government to adopt a **participatory approach** to the drafting process of the **State report**, which has been consistently advocated by all Committees.

In addition, NGOs can meet informally with Committee members, or organise open meetings or presentations. Some Committees allow formal participation of NGOs in the Committee's work, in the plenary or during the meetings of pre-sessional working groups.

Finally, NGOs also have a role to play with regard to the **follow-up procedure**, collecting and submitting information on the implementation of concluding observations to the person in charge (country Rapporteur, follow-up coordinator or pre-sessional working group).

Individual complaint procedure

In the case of certain treaties (HRC, CERD, CAT & CEDAW), an individual may complain, under certain circumstances, to the relevant treaty body about alleged violations of their rights by a State party. Generally, the State must have accepted the competence of the Committee to receive individual complaints by ratifying an Optional Protocol or through either an opt-in or opt-out mechanism provided in the treaty itself.

For the complaint to be admissible the following **conditions** must be satisfied:

- the individual complaining must be the victim of a violation, or acting on behalf of a victim; in the latter case the consent of the victim is usually required;
- domestic remedies must have been exhausted, unless their application has been unreasonably prolonged or they are unlikely to bring effective relief;
- the complaint must not be anonymous, although it is possible to request that the victim's identity not be revealed to the State party;
- the complaint must not be abusive or incompatible with the provisions of the Convention;
- the same matter must not currently be pending before other international bodies (e.g. regional human rights systems);
- in some cases other conditions, such as time limits, may also apply.

Once a case is considered admissible, the State party concerned is invited to reply to the allegations and the complainant is given an opportunity to comment upon the State submission. If the Committee finds in favour of the complainant, the State party is requested to provide information within a fixed time on the steps taken to implement the decision, which may include compensation or other forms of restoration of the right(s) violated.

The complaints procedure was used to good effect in the case of *Toonen v. Australia*, decided by the Human Rights Committee, which ultimately resulted in the repeal of laws criminalising homosexuality in the State of Tasmania.

General Comments and Interpretation

One of the functions assigned by the treaties to the monitoring bodies is the discussion and adoption of **General Comments**, aimed at clarifying the scope and content of the provisions of the Conventions. In some cases, General Comments have addressed the situation and rights of **specific groups**, such as non-citizens, Roma or persons with disabilities. The Committee must however take care not to unduly expand the scope of a provision lest States challenge it for acting outside its mandate.

As part of the UN reform process, consideration is being given to merging treaty bodies or streamlining country reporting in order to avoid duplication and better manage resources.

In summary, a number of ways for NGOs to engage in UN human rights procedures were identified:

- Initiate a 1503 complaint before the CHR;
- Engage with Special Rapporteurs, providing them with information and encouraging them to conduct a country visit;
- Work with States to advance resolutions before the CHR or General Assembly;
- Advocacy and visibility through participation in international meetings, parallel events, oral and written statements;
- Engage with the Office of the High Commissioner for Human Rights, particularly in relation to country visits, field presences and regional offices;
- Submit shadow reports to treaty bodies;
- Bring individual complaints before the treaty bodies;
- Encourage the development of General Comments regarding recognition of sexual orientation and gender identity issues.

The International Criminal Court

Ana Elena Obando summarized the history and role of the International Criminal Court, more fully detailed in her article “the International Criminal Court: an Opportunity for Women”.

(http://www.whrnet.org/docs/issue-international_court.html)

Human rights protections - often celebrated during times of peace – are all too often overlooked during periods of armed conflict. The International Criminal Court represents an attempt to secure international humanitarian standards and the inviolability of the principle of respect for human life.

On July 17, 1998 the United Nations Conference of Plenipotentiaries on the Establishment of an International Criminal Court approved the ICC statute, commonly referred to as the Rome Statute, where it was signed. With 94 ratifications currently, the court is the first permanent international criminal tribunal to establish individual criminal liability for the commission of international crimes such as genocide, war crimes and crimes against humanity.

For the court to exercise its jurisdiction, the crime must have been committed in the territory of a member State or by a national of a member State. Additionally, the ICC can exercise its jurisdiction if a State that is not a party agrees and the crime has been committed in the territory of that State or by a national of that State.

A legally binding instrument for State Parties, the Rome Statute contains legal, policy and symbolic opportunities that may help advance women's human rights. The gender perspective contained in the principles, crimes and proceedings of the ICC is due to the immense work and sustained efforts of many

women throughout the world who, year after year, challenge the increased conservative and fundamentalist attempts at marginalizing women's rights.

Despite the existing international human rights norms and legal protections, in domestic and international conflicts, girls and women are disproportionately brutalized, and subject to rape and violations by military and paramilitary forces and rebel groups. Sexual violence is characterized by the violation of one's physical body. It is also characterized by a sexual element, as in the case of sexual slavery, forced pregnancy, rape or sexual mutilation. Gender-based violence is related to sexual violence in that it recognizes one's gender and sexual identity as central, but it has much broader parameters for defining violence, and includes, for example, psychological violence or non-sexual physical violence.

The creation and implementation of the International Criminal Court is a great legal-political step in the international community's efforts to end global impunity. For the first time in the history of law, this legal instrument codifies the investigation and prosecution of gender crimes against women; it establishes the right of victims to protection and participation in some stages of the process; it recognizes their right to restitution, compensation and rehabilitation; and perhaps most importantly, it creates a new paradigm of justice within international law, that symbolizes the construction of peace, rather than the sanction of war.

In a time when counter-terrorism is often advanced at the expense of human rights, some of the more powerful States have been relentless in their opposition to the International Criminal Court. The ICC therefore provides an essential brake on unilateralism, and an opportunity to guide national legal systems towards a gendered justice that translates into a culture of peace and respect for human rights.

The national and global union movements: perspectives and strategies for advancing human rights

Maria Gigliola Toniollo and **Stefano Fabeni** presented a paper on the role of the national and international union movements in advancing human rights.

At the **national level**, the role played by unions in advancing human rights varies greatly from union to union and from one country or region to another. The national union movement can offer tools and remedies against individual and group discrimination, but also, especially in those countries where the union movement is particularly strong, political support for legislative reforms or social changes. The central area of social justice addressed by many unions is of course employment and occupation. Unions often play an invaluable role in integrating social and economic rights within broader campaigns for social inclusion and social justice.

Of course union movements have differing characteristics, strengths and shortcomings in each country, depending on the legal system (and their specific legal status) and the political structure (and their political position); furthermore, the ability to take on issues related to sexuality and rights depends on a variety of social and cultural features. Invisibility, social biases, and the reluctance of members themselves may all provide barriers to advancing LGBT rights, but unions nonetheless have potential to be powerful allies in the struggle for global justice and equality.

As an example, the New Rights Section of the Italian General Confederation of Labour (CGIL) has been very active in advocating for a broad range of social justice issues, nationally, regionally and internationally. Its approach is not limited to workplace issues, but instead recognizes that to address discrimination and prejudice, it is necessary to consider the whole person and fit specific issues within a broader campaign for social inclusion.

At the **international level**, the global union movement is slowly moving toward addressing sexuality and discrimination issues in a more proactive way. There are specific international standards established by ILO conventions, binding on the States that have signed and ratified them. In particular, two relevant conventions are:

- Convention no. 111 of 25 June 1958, concerning Discrimination in Respect of Employment and Occupation, which sets out a generic definition of discrimination in the context of employment and occupation, and
- Convention no. 117 of 22 June 1962, concerning Basic Aims and Standards of Social Policy which focuses on the socio-economic criteria that should be adopted by contracting States in the planning of economic development, and consequently considers a wide range of social and economic rights, including health, welfare, education rights, as well as the condition of migrant workers. Article 14 of the ILO convention no. 117 introduces a non-discrimination clause which is however stricter than the one established by ILO convention no. 111.

In addition, unions (or groups of LGBT unionists) have increasingly started advocating for the global movement to address questions of discrimination on grounds of sexual orientation and gender identity. Two specific world forums have taken place (in Amsterdam, 1998, and Sydney, 2002), and international union confederations have added the question of sexual orientation discrimination to their agendas.

At the regional European level, the **European Trade Unions Confederation** (ETUC) adopted at its last congress (Prague, 2003) a four-year action program the objectives of which include fighting discrimination on grounds including sexual orientation and gender identity, and “[r]eflect[ing] and act[ing] on prejudices that may be inherent in trade unions’ own structures.” The adoption of these objectives is also a consequence of European Council Directive 2000/78/EC of 27 November 2000 Establishing a General Framework for Equal Treatment in Employment and Occupation, which prohibits discrimination on the ground of sexual orientation and is being progressively implemented by EU member states.

On a broader scale, global unions (both general and sector-focused international confederations) have started taking into account the issue of discrimination on grounds of sexual orientation and gender identity. For example, **Education International and Public Services International** (EI/PSI), the largest international confederation in the public sector, has been working on rights of LGBT employees since 1998 when a Resolution on the Protection of the Rights of Lesbian and Gay Education Personnel was approved by the Second World Congress. In Porto Alegre in 2004 the EI/PSI International Gay, Lesbian, Bisexual and Transgender Forum was launched during the Fourth World Congress. The Forum is an advisory body to the EI and PSI Executive Committees/Boards, whose action lines are: create awareness among EI/PSI member organizations; document cases of discrimination and harassment; organize training programs; advocate for the inclusion of LGBT rights in the ILO Convention against discrimination and other international conventions and recommendations; seek the active cooperation of all Global Unions.

More recently, the **International Confederation of Free Trade Unions** (ICFTU) has become proactively involved in questions of rights and sexuality. During the 60th UN Commission on Human Rights, the ICFTU Circular, which was sent to all the 223 affiliates, for the first time addressed sexual orientation discrimination by “support[ing] the resolution against discrimination based on sexual orientation”. A few months later, the Eighteenth World Congress of the ICFTU in December 2004 approved a resolution “Fighting Discrimination and Achieving Equality” reaffirming the ICFTU’s commitment to fight discrimination at work on the ground of sexual orientation. A specific Resolution “Fighting HIV/AIDS” was also approved.

Strategies for increasing union support still further include local, regional and international lobbying; ensuring action and awareness campaigns which are socially and culturally focused; coalition-building between the labour movement, human rights and grassroots groups to obtain support, identify common objectives, and plan broader political, legal or social actions; and international cooperation among national or global unions, human rights and grassroots organizations to promote and create the conditions for the proactive involvement of the labour movement in different areas of the world.

C. Regional needs, challenges and priorities

History of Korean LGBT Movement and Activist Exchange



At the conclusion of the Pre-Conference Institute, the Korean Sexual-Minority Culture and Rights Center (KSCRC) hosted an informal evening exchange between Dialogue participants and representatives of the local Korean community.

Chaeyun Han, Director of KSCRC, gave an excellent slide show presentation about the history of the LGBT movement in South Korea. International participants were generally surprised at how little they knew of the communities in Korea and impressed with the progress that had been made, as well as with many features of the movement that stood out as unique, both internationally and within Asia. It was obvious that, as in other countries within Asia, the internet has been an essential key to the

development of a movement that has topped over 40 organizations dealing with LGBT and HIV/AIDS issues. Censorship of the internet, and the denial of fundamental rights to freedom of expression, has been a key area of mobilization in Korea.

A unique feature of the Korean movement has been the visibility of lesbians, and the resources and publications available for lesbian women. Many Asian (and international) participants commented that this was a positive model to highlight in their own countries. Of particular note was the fact that there is a lesbian radio show broadcasting on mainstream public radio in Seoul, one night per week. This equality in the movement was partially attributed to the fact that LGBT activism arose from pro-democracy movements in Korea, as opposed to other roots of activism elsewhere in Asia (e.g. HIV/AIDS) which may have separated or divided men and women.

During the facilitated activist exchange, Chinese and Korean lesbians strategized about ways to highlight the South Korean progress on lesbian visibility within China, and decided that sharing the slide presentation for use in Beijing would be a good start. A lesbian activist and representative of the Sexual Minorities Caucus within the Democratic Labour Party in South Korea exchanged ideas with union activists from Italy and with those organizations which have received solid union support in the Global North.

Asian activists discussed some common problems with internet censorship by governments, and how this has affected their work, especially in technologically advanced Asian countries where people use the internet constantly. Access to accurate and unbiased information about sexuality and HIV/AIDS is crucial, especially for young people who face isolation and lack of knowledge. Even in Korea, where great strides have been made, discussing sexuality and sexual orientation remains highly taboo and strictly regulated.

A number of activists wanted to discuss recent advances around relationship recognition and marriage in North America and Europe. Family is a fundamental pillar of many Asian cultures and the concept of building same-sex families was both exciting and saddening for many who felt that they would not experience that in their lifetime, if they remained in their home country. Many activists in the more economically advanced countries in Asia have received education or spent time in North America and/or Europe. The freedom they experience regarding their sexuality, while uplifting, is also undercut with a sense of cultural isolation and disconnection from their own families.

Overall, the excellent and professional presentation and informal setting were a perfect combination for an evening of information-sharing, strategic discussion and networking.

Regional Caucuses:

Four regional caucuses met to identify general concerns and priorities for their region. The questions posed to each group were: What are the challenges and strategies for capacity-building at the domestic level and organizing cross-regionally? How do we maximize regional support at the UN level?

Asia – Obviously, Asia is being identified at this Dialogue as a region, like Latin America, where there is great potential for advancing LGBT human rights, especially at the UN. One problem with the structure of the UN itself, however, is that Asia is vastly under-represented despite being the region with the largest population in the world. UN reform may lead to a greater ability for Asia to exert some positive influence. The difficulty, of course, is that despite containing some very supportive governments, Asia also contains some very regressive regimes and has the most social, economic, linguistic, religious, and cultural diversity of any other regional grouping.

Challenges:

- NGO networking across diversity of realities in different sub-regions;
- Many language barriers for communication among NGOs;
- Rising religious fundamentalism, and from a variety of religious perspectives (Christianity, Islam, Hinduism, etc.);
- Legacy of colonial criminal laws;
- Poverty in many areas, yet strong economic growth in some regions;
- Lack of visibility was a common theme throughout the region. Discussing sexuality, in general, is taboo;
- In some regions, lack of a civil society movement and human rights discourse, in general;
- Rising rates of HIV infection;
- Some thriving gay centres, like Thailand, but very commercial in nature;
- Civil conflict and political instability;
- Police violence, particularly against transgender people, and corruption;
- In many countries, lack of human rights legislation and Human Rights Commissions;
- Funding barriers, and limited funding beyond the sphere of HIV/AIDS work;
- Unfamiliarity with international processes.

Given the challenges, the group felt that the following strategies would be useful for organizing cross-regionally and maximizing support at the UN.

Strategies:

- There was some debate about the potential effectiveness of a regional human rights instrument for Asia, but there is certainly some headway being made at the domestic level in countries like Indonesia that needs support and strengthening;

- In countries where there is a strong civil society, the LGBT communities must reach out and become part of broader human rights struggles;
- Develop human rights and sexuality-based discourse, framed within the context of local cultures and traditional perspectives;
- Greater joint organizing and collaborations between NGOs across the Asian region;
- NGO capacity-building, especially re: funding and international processes;
- Engage with efforts to support UN reform that will give the region a stronger voice. This could also be a tool to connect with governments in a friendly way;
- Use Korea's support of the New Zealand statement as a base for lobbying other Asian countries to sign on. Share information and empower domestic groups to write to their governments to support the statement;
- Draw on sub-regional politics in beneficial ways. For instance, convince Japan that there will be "no harm" in supporting the New Zealand statement and that there could be some advantage in the perception of supporting human rights for all people;
- Lobby for domestic human rights protections, using South Korea and the Philippines as models.

Africa – The group identified a number of regional realities that impact, negatively or positively, on human rights advancement. They are: large youth population; people are vulnerable and poor; high HIV/AIDS infection, and LGBT persons not recognized by governments (except South Africa, which is not living up to its commitments).



Challenges:

- Active and legal State repression;
- Areas of civil conflict and political volatility;
- Inability to register organizations, so many work underground with no formal structure or bank accounts;
- High level of colonialism and religious influence; LGBT cultural history has been lost;
- Freedom of expression is generally limited;
- Lack of domestic adoption or implementation of international instruments such as treaties. Countries will sign treaties and "leave them at the airports" and there is also a problem of lack of awareness of their treaty obligations;
- General lack of information about LGBT persons and their issues.

Given the challenges, the group felt that the following strategies would be useful for organizing cross-regionally and maximizing support at the UN.

Strategies:

- African leaders listen to their donor countries. Progressive donors need to set conditions on receipt of funds;
- LGBT people and organizations need better linkages to human rights movement;
- All Africa Rights Initiative (AARI) and Coalition of African Lesbians (CAL) need to be supported and strengthened;
- Lobby funders to relax conditions of funding, but strengthen monitoring systems to ensure their money is being spent effectively;
- Capacity-building within LGBT communities (i.e. training, International Dialogue, mentoring between established organizations and smaller underground ones, etc.);

- Crucial to have African LGBT voices at UN meetings to counter the argument that homosexuality is “Un-African”;
- Build and strengthen relationships with organizations with ECOSOC status. It is hard for African groups to get this.

Latin America and the Caribbean – Many look to the Latin American region as an area of huge potential to help advance LGBT issues. With Brazil’s initial introduction of a resolution at the CHR, strong support from countries like Argentina and Uruguay, and new politically left governments in Venezuela and Chile, this region seems poised to take the lead with its counterparts in the North, some of which are even retreating under more conservative influences.

Challenges:

- Less State repression than in some other regions, although this still happens, especially regarding trans people;
- Rising levels of religious fundamentalism, and not always traditional religions like Catholicism, but more right-wing U.S.-style evangelical fundamentalism as well;
- Poverty is wide-spread across the region;
- Very strong political movements, but some difficulty integrating LGBT issues, and getting LGBT groups to take on broad social mandates.

Given the challenges, the group felt that the following strategies would be useful for organizing cross-regionally and maximizing support at the UN.

Strategies:

- Oppose religious fundamentalism. Support other movements also concerned about this, such as women’s movement. LGBT communities need to be seen not as “anti-religion”, but rather adopting the position that “we are all children of God, no matter the religious affiliation”;
- Develop stronger cross-movement linkages, e.g. with women’s, health organizations;
- Use last year’s New Zealand statement as a base for lobbying all Latin American governments to broaden the language and sign on. Include references to gender identity. Share information and empower domestic groups to write to their governments to support the statement;
- Use media to build awareness of Latin American support of New Zealand statement;
- Work with ARC International and other NGOs in Geneva to monitor when Special Rapporteurs are making country visits and ensure that they meet with domestic groups and hear about violations;
- Obtain and distribute information about UN reform;
- Enhance NGO participation at the UN;
- Exploring the possibility of a region-wide action or demonstration on the same day to protest lack of advancement on LGBT issues internationally and domestically.

WEOG (Western European and Other) – Although a number of steps have been made in the West towards political and legal gains for LGBT people, and good use has been made of regional mechanisms such as the European Court of Human Rights, we are facing a rise in neo-Conservatism resulting in weakened government support and the potential loss of traditional allies. While the evangelical right is united in its rhetoric and strength, the response from the left is often fragmented. The ‘war on terror’ has dominated the international agenda at the expense of human rights, and has been accompanied by an assault on the integrity and credibility of the UN itself. It is a challenging time, in which those opposed are unified, but even well-meaning governments are often unwilling to prioritise our issues.

Challenges:

- Freedom of assembly is under threat in a number of European States. There has been difficulty obtaining permission for pride events, and public and even police brutality at such gatherings;
- The transgender experience is often invisibilized and trans rights unrecognized;
- The use made of domestic and regional human rights mechanisms is often unstrategic (e.g. a same-sex marriage case from Italy coming up before the European Court is unlikely to be successful and could set a negative precedent);
- The anti-LGBT right-wing is well organized, well-funded and gaining in influence. The rhetoric of the right is becoming more sophisticated and is designed to appeal to anti-immigration, racist sentiments;
- In several countries, the fundamentalist right is becoming more active in the political process, leading to the incorporation of regressive policies on sexuality within the mainstream political agenda;
- The left is often poorly-organized and fails to articulate a clear vision. Many governments in their attempt to appear centrist are apologetic in their support for our rights (e.g. “the Courts made us do it”);
- For our opponents, anti-sexuality positions are a priority; for our supporters, our issues are often one item amongst many, and subject to compromise;
- European pluralism is challenged and struggling to respond to multicultural identities;
- The ‘war on terror’ has led to an assault on human rights standards and the UN as a multilateral institution.

Given the challenges, the group felt that the following strategies would be useful for organizing cross-regionally and maximizing support at the UN.

Strategies:

- Make human rights mainstream: articulate a clear unapologetic vision based on pluralism, and engage in political process directly and indirectly to advance that vision;
- Better communication with other NGOs to enhance strategic use of domestic, regional and international mechanisms;
- Recognize interlinkages between our work and those of other communities to foster coalition work and situate our issues within a broader social justice agenda;
- Build stronger relationships with NGOs in capitals to enhance domestic lobbying;
- Ensure year-round education and support of government bureaucrats, particularly given ongoing staff turnover;
- Where supportive governments are wavering, work with opposition parties, domestic groups and media to hold them accountable;
- Engage in UN reform process with broad NGO coalitions;
- Share information with our allies cross-regionally;
- Engage in UN General Assembly Special Session on HIV/AIDS in 2006;
- Support progressive efforts of NGOs in Central and Eastern Europe and foster stronger linkages with these groups;
- Use and understand trade and aid as pressure points in international political contexts;
- Encourage States to engage in cross-regional strategy and information-sharing;
- Education of funders to recognize the importance and broader implications of the ideological struggle taking place and to match their donor policies to these expanding needs;
- Ensure LGBT and sexuality issues are incorporated within the priorities, strategies and agendas of domestic and allied groups.

D. Engaging Internationally

UN Reform and its implications for LGBT Rights

Presenters: Katherine MacDonald (ACPD – Canada), Cynthia Rothschild (CWGL – USA), Katrine Thomasen (ISHR – Switzerland)

Presenters provided an overview of the UN reform process. This is outlined here in some detail, since it is likely to be the dominant focus of UN human rights discussions as States and NGOs prepare for the next session of the Commission on Human Rights and the proposed replacement of the CHR with a Human Rights Council.

Background:

2005 was both the 60th anniversary of the United Nations (established in 1945), and also coincided with the Millennium+5 World Summit, designed to assess progress towards meeting the Millennium Development Goals.

Discussion of reforming the United Nations to better meet modern challenges was a focal point of the World Summit, involving Heads of States and Governments at the beginning of the General Assembly's 60th session on September 14-16, 2005.

High-level Panel:

Although the topic of UN reform has been an ongoing one, a major precursor to the current reform discussions was the High-level Panel on Threats, Challenges and Change, convened by UN Secretary General Kofi Annan in 2003 to review the processes and mechanisms through which the UN responds, particularly to security threats. The High Level Panel released its report “*A More Secure World: Our Shared Responsibility*” in December, 2004. A brief (2-page) section of the High-level Panel report focuses on the UN Commission on Human Rights, criticizing its “eroding credibility and professionalism”, particularly as a result of the membership in the CHR of States which have sought “not to strengthen human rights but to protect themselves against criticism or to criticize others.”

Reform suggestions proposed in the **High-level Panel report** included:

- that membership in the CHR be made universal;
- that States designate human rights experts as the heads of their delegations;
- that the CHR be supported in its work by an advisory council of human rights experts;
- that the High Commissioner prepare an annual report on the situation of human rights worldwide;
- that greater financial resources be provided to the Office of the High Commissioner;
- that in the longer term the Commission be upgraded to a “Human Rights Council”, standing alongside the Economic and Social Council and the Security Council.

Secretary General's Report:

Building upon this report, on March 21, 2005 the Secretary General issued “*In larger freedom: towards development, security and human rights for all*”.

(A/59/2005, available at www.un.org/largerfreedom/contents.htm)

“In larger freedom” is designed to serve as a five-year progress report on implementation of the Millennium Declaration, and is built upon three pillars: development (described as “freedom from want”), security (described as “freedom from fear”) and human rights (described as “freedom to live in dignity”). The report highlights the interconnected nature of these pillars, and emphasizes the importance of increased engagement with civil society.

In the field of human rights, the Secretary General echoes the High-level Panel’s critique of the “declining credibility and professionalism” of the CHR because of States’ lack of commitment to human rights, leading to a “credibility deficit” which “casts a shadow on the reputation of the UN system as a whole” (para 182). The Secretary General does emphasize, however, the positive value of the Commission’s “close engagement with hundreds of civil society organizations [which] provides an opportunity for working with civil society that does not exist elsewhere”.

Reform suggestions proposed in the **Secretary-General’s report** include:

- Replacement of CHR with a Human Rights Council;
- Council to be a standing body, able to meet regularly and at any time;
- Left open whether Council to be a principal organ of the UN (alongside the Economic and Social Council and Security Council), or a subsidiary body of the General Assembly;
- Human Rights Council to have a smaller membership than the CHR;
- Members of the Council to be elected by two-thirds majority of the General Assembly;
- Members to abide by [unspecified] “highest human rights standards”;
- The Secretary General also proposed increased resources to strengthen the Office of the High Commissioner for Human Rights, who was requested to submit a plan of action within 60 days.

A number of these proposals were short on detail or explanation, however. In an Explanatory Note issued following the 2005 CHR, (<http://www.un.org/largerfreedom/add1.htm>), the Secretary General further clarified:

- The Human Rights Council would be based in Geneva, allowing close cooperation with the OHCHR, but with flexibility to “enhance” its presence in New York;
- A peer review function would reduce allegations of selectivity by subjecting all States to universal scrutiny on a periodic basis;
- “The fate of many of the Commission’s existing functions, procedures and working groups would be left to the Council to endorse, renew or consider obsolete”, but “the special procedures and NGO engagement ... should continue.” In particular:

“A forum for dialogue among Member States and involving civil society on human rights issues should be preserved. The dialogue would allow for constructive engagement on areas of disagreement and creative responses to deal with new and emerging issues, especially human rights problems for which existing international standards are ambiguous.”

World Summit:

A number of consultations with Member States followed the release of the Secretary General’s report leading to the release in June 2005 of a Draft Outcome Document by the General Assembly President in preparation for the World Summit.

Based upon additional consultations, the Draft Outcome Document went through a series of revisions leading into the World Summit in September 2005. On August 17, 2005, just weeks before the Summit, the US submitted over 700 proposed amendments to the Draft Outcome document.

At the UN World Summit on September 14-16, 2005, an Outcome Document was adopted (A/60/L.1: www.reformtheun.org/index.php/united_nations/1433).

The **World Summit Outcome Document** does commit to increased resources for HIV prevention, treatment and care, and working towards the elimination of stigma and discrimination for those affected by HIV/AIDS. It also recommits to “the full and effective implementation of the goals and objectives of the Beijing Declaration and Platform for Action” and “ensuring equal access to reproductive health”. It also commits to doubling the budget of the Office of the High Commissioner for Human Rights over five years.

However, the Outcome Document contains just 4 paragraphs (paras. 157-160) on the proposed Human Rights Council, agreeing in principle to establish a Council, but leaving virtually all the core elements to be determined. Paragraph 160 requests the President of the General Assembly to conduct negotiations on all the outstanding issues, specified as including:

“establishing the mandate, modalities, functions, size, composition, membership, working methods and procedures of the Council.”

Many NGOs expressed disappointment at the failure to achieve more substantive progress. The process was complicated by many States’ lack of commitment to strengthening human rights scrutiny, and in some cases lack of commitment to the UN as a multilateral institution.

After the Summit: Options paper

On November 3, 2005, the Co-Chairs of the General Assembly circulated an **Options Paper** reflecting discussions and negotiations towards the establishment of the Human Rights Council. The main issues to be resolved include:

Status:

- HRC to be either a principal organ of the UN, a subsidiary organ of the General Assembly, or a subsidiary organ of the General Assembly with a review of its status within 5 years;
- HRC to be a standing body that meets throughout the year, or have regular sessions and the ability to meet urgently.

Mandate and functions:

HRC to:

- promote universal respect for the protection of all human rights and fundamental freedoms for all “without distinction of any kind and in a fair and equal manner” (Outcome Doc. para. 158);
- serve as a forum for dialogue on thematic issues on civil, political, economic, social and cultural rights, including the right to development;
- undertake a universal periodic review (“peer review”) of the fulfilment by each State of its human rights obligations, based on reports submitted by the States and the High Commissioner, including an annual global report;
- work to prevent human rights violations and respond to emergencies, including by dispatching fact-finding missions;
- address situations of violations of human rights;
- maintain Special Procedures system;

- work in close cooperation with national human rights institutions and civil society;
- assume, review and rationalise the mandates, functions and responsibilities of the CHR and Sub-Commission on the Promotion and Protection of Human Rights.

Size, composition and membership

- HRC may be smaller, the same size or larger than the current CHR (53 members);
- Equitable geographical distribution to be either a requirement or a consideration;
- “Due consideration” will be given to a State’s contribution to human rights protection and promotion;
- Membership open to all States, with the possible requirements of “letters of commitment”, pledges, cooperation with the Council, regional endorsement etc, to help ensure that Member States “abide by the highest standards for the promotion and protection of human rights”;
- Members of the Council to be the first to undergo universal periodic review.

Election, duration of terms

- HRC Members to be elected by either a simple or two-thirds majority of the General Assembly;
- Candidates to be elected directly and individually in the General Assembly;
- A higher number of candidates than seats should be presented (no “clean slates”);
- Terms of either two or three years;
- HRC Members either eligible for immediate re-election when their term expires, not eligible for immediate re-election, or subject to a limit of two consecutive terms;
- The first Members of the HRC to either be elected by the General Assembly or to be the current members of the CHR.

Rules of procedure and methods of work

- HRC either to make its own rules of procedure or apply the rules of subsidiary organs of the GA;
- HRC to make suitable arrangements for the continued participation of Observer States;
- HRC to make suitable arrangements for consultations with NGOs and adopt arrangements and practices of the CHR for NGO participation;
- HRC either to adopt its own methods of work, or have its methods of work endorsed by the GA;
- Methods of work shall build on the arrangements of the CHR regarding Special Procedures, and allow for “substantive interaction”.

Transitional arrangements

- Final session of the CHR to be of short duration in order to conclude its work;
- Transfer of all mandates, functions and responsibilities of the CHR to the Council;
- Dates for election of the HRC members and first meeting to be decided.

Moving forward: CHR62 and the Council

It will be seen from the above summary of the Options Paper that many of the core features of the proposed Human Rights Council remain unresolved or are still subject to discussion. A series of negotiations to establish the terms of the Council is ongoing. In the meantime, tentative dates have been set for the 2006 session of the Commission on Human Rights (March 13 –April 21, 2006), but it is still unknown whether the proposed session of the Commission will be a shortened session focused on the transition to the Council, a full substantive session or something in-between.

The two scenarios which may unfold are:

- The GA adopts a resolution on the Council;
- The CHR62 meets for a short procedural session;

- First elections for the new Council take place;
- The first Council meeting occurs (at a date to be determined).

or:

- No agreement is reached on the text of a resolution on the Council;
- The CHR62 meets as planned and attempts to conduct business as usual.

Note that additional background material and ongoing updates are available through the following websites:

- www.reformtheun.org
- www.ishr.ch
- www.amnesty.org/un

Advocacy suggestions are highlighted in an ACPD report titled “UN Reform and Advancing Human Rights”, which can be ordered on-line at:

http://www.acpd.ca/forms/unchr_order_frm.cfm

Implications and General Discussion:

NGO participation: Presenters expressed concern at hostility by some States to NGO participation, and the fact that we cannot take for granted the same level of NGO participation that we have seen historically. Once the UN human rights mechanisms are no longer under the auspices of the Economic and Social Council, then the ECOSOC rules governing NGO accreditation and participation can no longer be assumed to apply. Notwithstanding these risks, most NGOs favour the increased status and priority that would be accorded to human rights if the Human Rights Council were a principal organ of the UN, alongside ECOSOC and the Security Council.

Human rights under attack: It was also emphasized that the core human rights framework of the UN is under attack, from States who do not wish their human rights records to come under enhanced scrutiny, or by powerful States uncommitted to multilateralism. States such as the USA have been adamantly opposed to any reference to the International Criminal Court. Even principles that are supposed to be established as universal are not immune from challenge, let alone advancing LGBT rights within this context.

Changing the culture: Many governments embrace the critiques of the CHR’s credibility and legitimacy, but fail to acknowledge that any UN body is only as credible as the governments which comprise it. It is the bad behaviour of States which undermines the credibility of the CHR, and little will be achieved by a transition to a new HRC unless it is accompanied by a genuine change in the culture of antipathy towards human rights fostered by many States. Many NGOs are concerned that a name change from Commission on Human Rights to Human Rights Council will be purely cosmetic unless it is accompanied by a fundamental shift in States’ willingness to proactively promote and defend human rights.

Counterterrorism, security and human rights: The reform leading to the proposed establishment of the HRC is part of a broader process of UN reform driven by counterterrorism and security concerns. Although human rights are described in the Secretary General’s report as one of three interlocking principles, in practice many States are willing to subordinate human rights to security concerns.

Sexual and reproductive rights: Anti-abortion and anti-LGBT rights perspectives are fundamentally intertwined, as is opposition to reproductive rights generally and an abstinence-based approach to HIV/AIDS education and prevention. At the World Summit, governments were not willing to maintain language on “sexual health or rights”, and the only references were to “reproductive health”. A lot of energy these days has to go into simply holding the line. We have seen strange alliances as the OIC joins with the USA and the Vatican in an attempt to undo the Beijing commitments to women’s equality. We can no longer afford to see our issues in isolation, but must work in collaboration with other social justice and progressive human rights organizations.

Defending the Special Procedures: The Special Procedures have been very strong in recognizing and documenting human rights violations based upon sexual orientation and gender identity, incorporating sexual and reproductive rights language and addressing economic, social and cultural rights. A number of the Special Procedures feel they are under attack, and their capacity is limited by the lack of resources allocated to support their work. As NGOs we must be active in providing advocacy and support for maintaining and enhancing the Special Procedures.

Time to engage: As human rights NGOs, we have an interest in a strong and healthy UN human rights system, both in the context of LGBT rights, and as part of our general commitment to advancing human rights. It’s time for us to join with other human rights NGOs to support progressive UN reform. We also need to promote substantive, not just cosmetic, reform. It’s worth taking the time to get it right, and if the reform proposals represent a weak compromise, we should advocate continued negotiation, rather than replacing the CHR with a system that is as likely to be flawed and ineffective.

Preparing for the CHR62: It is simply not known what form the 2006 CHR will take. We need to be prepared for all eventualities. If agreement is not reached on a new Human Rights Council, and the CHR meets as usual, we should remain willing to advocate for progressive change. On the other hand, if the CHR is exclusively focused on the question of UN reform, and transitioning to a new Council, then it would be unrealistic to attempt to focus State attention on a resolution on sexual orientation and gender identity. Participants agreed that we should nonetheless engage in the upcoming CHR, and support progressive reforms in which we all share an interest. It was also agreed that we can situate our issues within the context of UN reform, by highlighting the human rights violations identified by the Special Procedures, recognizing that the previous CHR has not proven itself effective in responding to these violations, and calling for measures to ensure that any future body is better equipped to address the needs of marginalized communities.

The Subcommittee on the Promotion and Protection of Human Rights

Guest speaker: Professor Chin-Sung Chung, South Korea



Prof. Chung was introduced by **Kiho Uhm** who indicated that in addition to being a member of the Sub-Commission, she was appointed Special Rapporteur with the task of preparing a comprehensive study on discrimination based on work and descent, and has served as a member of the Working Group on transnational corporations.

Prof. Chung explained that the Subcommittee on the Promotion and Protection of Human Rights was created by the Commission on Human Rights in 1947, and is comprised of 26 independent experts from 5 regional groups (including 5 representatives from Asia). Each expert is nominated by their respective government, and appointed by the Commission on Human Rights which must approve all resolutions and decisions of the Subcommittee.

The Subcommission is the only multilateral, multifaceted forum for discussion of a broad range of human rights issues. Unlike the CHR, which is a highly politicized body made up of government representatives, the Subcommission has much greater independence, although some political oversight remains due to the requirement that Subcommission members be nominated by their government.

The status of the Subcommission is in doubt, as the UN reform process leads to the prospective replacement of the CHR itself. A number of efforts have been made in recent years to downsize the Subcommission, precisely because it is less susceptible to political influence. For example, the Subcommission function in putting forward country-specific resolutions has now been abolished, and the meeting time shortened from 4 to 3 weeks.

One initiative of the Subcommission was a set of guidelines to regulate transnational corporations. In the context of HIV/AIDS, for example, transnational pharmaceutical corporations are driven by profit, with the result that many living in poverty, particularly in the Global South, cannot afford to access needed medications. The ethical guidelines developed by the Subcommission Working Group were, however, rejected by the CHR, citing mandate concerns.

Other issues researched by the Subcommission include HIV/AIDS, female genital mutilation (as a result of advocacy by NGOs), leprosy and the elimination of poverty. The issue of sexual slavery by Korean “comfort women” during the Japanese occupation has also been the subject of a strong paper by Gay McDougall who, as a member of the Subcommission, explored the issue from an international law perspective and concluded that the treatment constituted a war crime. Women’s organizations were quite active in supporting this initiative, and the Subcommission’s Social Forum also provides a valuable opportunity for NGO involvement.

Participants thanked Prof. Chung for her work and presentation. It was mentioned that at some point a cross-regional resolution on sexual orientation and gender identity would likely be advanced at the CHR (or replacement body), and it would be very helpful if she could encourage the government of South Korea to continue to play a leadership role.

Interest was expressed in the Subcommission’s work on transnational corporations, particular since the patent law in India would have allowed generic versions of HIV/AIDS medications to be manufactured much more cheaply. Following intensive lobbying by pharmaceutical corporations, however, a law was adopted to preclude this, leading to protests by ACT UP and others.

In response to a question, Prof. Chung acknowledged that it would be difficult to address sexual orientation issues through the Subcommission, particularly since the Subcommission cannot deal with issues that are before the CHR, although there may be opportunities to integrate our issues within other thematic areas, e.g. through a health perspective.

International Preview

International organizations were invited to highlight their priorities and vision for the upcoming year(s):

ILGA (International Lesbian and Gay Association, www.ilga.org): Rosanna Flamer-Caldera, Co-Secretary General, explained ILGA’s background as a membership-based global federation, comprising both group and individual members. Now 27 years old, ILGA started as a gay organization, expanded its name and mandate to include lesbians, and now also affirms the rights of transgendered people.

Although it previously held ECOSOC status, this status was revoked in 1994 as a result of a campaign by anti-gay opponents focused on the inadvertent inclusion of paedophile organizations which were subsequently expelled. ILGA has reapplied for ECOSOC status.

ILGA has supported the Brazilian resolution on sexual orientation and human rights, but also engages in oral interventions, petition campaigns, and letter-writing at both the international and domestic levels.

The Website has been updated to provide many current resources, and key upcoming projects include a World Legal Survey and a booklet on lesbian health issues around the world.

IGLHRC (International Lesbian and Gay Human Rights Commission, www.iglhrc.org): Alexandra Teixeira outlined IGLHRC's mandate to "secure the full enjoyment of the human rights of all people and communities subject to discrimination or abuse on the basis of sexual orientation or expression, gender identity or expression, and/or HIV status".

In 2002, IGLHRC grounded its mandate in a sexual rights framework, recognizing that an identity-based framework can sometimes be problematic. IGLHRC was very active in Beijing+10, addressing issues of trafficking, participating in the World Social Forum, the CHR etc.

Organizational priorities for IGLHRC include decentralizing the New York office to further its regional work, building on the model of its very active Latin American and Caribbean regional program; strengthening linkages with the women's, union and other movements; and promoting a sexual rights analysis in the work of mainstream human rights organizations.

IGLHRC has both thematic and regional programs, maintains an ongoing initiative to support LGBT asylum-seekers, is seeking to increase collaboration to enhance documentation and reporting to UN mechanisms and recently completed a two-week training institute for Trans and Intersex Activists in Argentina.

The Latin American program will continue to coordinate institutes directed towards Central American lesbians, facing religious opposition and advocacy beyond the law. Programs in Africa and Asia are also being developed on family violence.

International Service for Human Rights (www.ishr.ch): Katrine Thomasen described the work of the ISHR, which has a 12-staff office in Geneva and a small New York office. The ISHR facilitates access to the UN system for activists, human rights defenders, and human rights organizations in general, and empowers them to use the system.

The Service conducts training and education, both in Geneva and regionally, on how to use international, regional and occasionally national human rights systems. It runs a yearly training course during the CHR, with a specific focus on human rights defenders.

In addition, the Service provides documenting and reporting on all UN human rights meetings, both in hard copy and on-line. It works with governments and UN officials to encourage them to address issues of sexual orientation and gender identity, which are identified as priorities in the ISHR's 5-year strategic plan.

The ISHR is working in collaboration with other NGOs to organize a meeting of 20 international human rights experts, to develop a stronger jurisprudential framework for addressing human rights issues related to sexual orientation and gender identity. The meeting will take place in September 2006,

and is expected to result in a set of guidelines and recommendations, which can be further developed into an activists' guide for use by domestic NGOs cross-regionally.

ARC International (www.arc-international.net): Kim Vance outlined ARC's development as a project-driven organization, founded in 2002, designed to foster collaborations, support the development of NGO networks and coalitions, facilitate opportunities for engagement in UN processes and advance the development of an international strategic vision and action plan.

Through the International Dialogue processes, strategic priorities are identified, and specific projects are subsequently advanced in collaboration with domestic, regional and international NGOs.

ARC has a Board structure, is incorporated as a federal not-for-profit organization in Canada and has two staff-members: Kim Vance, who is based in Canada, and John Fisher, who recently relocated to Geneva to better facilitate access between NGOs worldwide and UN mechanisms, such as the Special Procedures, country missions, the Commission on Human Rights and the Office of the High Commissioner for Human Rights.

ARC's priorities include a continuation of the strategic Dialogue process, which in 2006 will likely be advanced in combination with existing planned conferences (such as the Montreal Outgames) and in 2007 will likely take place in Africa (by popular demand!), continued facilitation of NGO involvement in the CHR, a focus on developing our Geneva presence to enhance NGO participation in UN processes, development of the Website to help make UN mechanisms more accessible, continued involvement in the planning committee for the UN experts meeting, continuing to foster collaboration with other international NGOs, and strengthening domestic and regional participation in our growing listserv and network.

E. Coalition & Capacity-Building

Building the Capacity of Human Rights Defenders: Documenting, Reporting and Responding to Human Rights Violations

Presenters: Sunil Pant (Blue Diamond Society - Nepal), Alex Teixeira (IGLHRC - U.S.A.), Rosanna Flamer-Caldera (ILGA - Sri Lanka)



Sunil Pant spoke of the work of the Blue Diamond Society to document human rights violations in Nepal, particularly in view of high levels of police and family violence against transgender people. Trust and relationship-building are critical issues when working with people who are victims of human rights abuses. It took years for the Blue Diamond Society to build that trust, particularly since many victims were unwilling to take the risk of speaking out. Organizations who are seeking to engage in documentation work cannot just “document”. In order to build the required trust, they also need to be the ones who care for the victims, provide services, take them to the hospital, find them a doctor or a lawyer, liaise with senior police offices, ensure that their security is not violated, etc. “We cannot expect the victims to come to us, we have to go to them” – but support must come first; then documentation can follow.

As the Blue Diamond Society became more successful in providing services and documenting abuses, it was able to attract more international support, including letters from international organizations and visits from the Office of the High Commissioner for Human Rights. With the increased scrutiny, police officers and the government are more careful to respond appropriately, since they know that the organization is connected to the UN and other international human rights watchdogs. Over time, relations with senior police have improved, and the Blue Diamond Society has been invited to make a presentation to police. The Society has also developed positive relationships with taxi-drivers, bouncers in restaurants and other late-night workers, who are often the first to alert the Society when an assault has taken place.

Alexandra Teixeira from IGLHRC talked specifically about reporting human rights violations through the four of the seven human rights treaties which allow complaints to be laid against States:

- the International Covenant on Civil and Political Rights (treaty body is the Human Rights Committee);
- the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) (treaty body is the Committee Against Torture);
- the Convention on the Elimination of All Forms of Racial Discrimination (CERD) (treaty body is the Committee on the Elimination of Racial Discrimination); and
- the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (treaty body is the Committee on the Elimination of Discrimination Against Women).

The first step in a complaint process is admissibility. This is not a finding or judgment on the merits of the case, but rather a determination that it meets the criteria for a complaint to proceed. It is important that a petitioner's State has signed the relevant treaty and Optional Protocol and that all domestic remedies have been exhausted. There may be time limits (6 months under the CERD), and the petitioner should be a victim or authorized by the victim's family. Anonymous complaints generally cannot be accepted, and the same complaint should not be before another international mechanism. The complaint should identify a violation of the rights guaranteed by the treaty as a result of State action, although in some cases States can also be held accountable for omissions or a failure to act, investigate or provide redress. An excellent resource for filing a complaint or finding out more is www.bayefsky.com, which also includes a complaint form that a group or individual can fill out on-line.

Rosanna Flamer-Caldera talked about the ways in which ILGA goes about campaigning and lobbying. ILGA has 400 members worldwide and an extensive network in almost all countries. She made it clear that they only respond to requests from within the country where violations are occurring as "international meddling" is often not helpful. She outlined some previously successful campaigns such as the declassification of homosexuality as a disease through a campaign involving the World Health Organization, and the withdrawal of a nomination to the European Commission of an Italian doctor who had made discriminatory comments. ILGA has also used methods like petitions and direct lobbying around issues such as the Brazilian Resolution, although resource limitations place severe constraints on what they can and cannot do.

In discussion, presenters and participants made the following additional points:

International response to human rights violations:

- There was significant controversy regarding the international community's response to the State killings of young people in Iran. Some felt that the response was slow and not strong enough, others that time was needed to ensure accuracy in facts and reporting.
- Different methods of responding can be mutually complementary. Overfocusing on the sexual orientation of the victims can 'ghettoize' our communities and detract from the clear human rights violation that is entailed in the public execution of minors.
- All agreed that accurate fact-checking is important, and that it is necessary to take the lead from groups within the country, although this can create tensions when a prompt response is required or local activists are unwilling or unable to come forward.
- Particular sensitivity is required when addressing rights violations in Muslim countries, because Western groups can be seen as selective in expressing outrage about rights violations in regions other than their own. This does not mean that there should not be a strong international response, but care must be taken over use of language and the need for communication with those within the region.
- Greater development by international organizations of regional offices can help balance regional autonomy and sensitivities with a consistent international response.
- ISHR produces an Info-Pack with the names of those in the UN system who receive and handle complaints under different mechanisms. You are more likely to get a response if you know who to approach directly at the outset.

How do we protect the safety of victims of human rights violations?

- Transgender people in Nepal often have an alternative name, which helps protect their identity.
- Going to the police station together with journalists, lawyers, human rights defenders or members of the international community can make a difference, since the police often behave differently when official representatives are involved than when they feel they can act with impunity.
- Involving foreign embassies can be very useful.
- Special Rapporteurs, e.g. visiting Nigeria, have agreed to meet separately with LGBT groups in order to increase privacy and address security concerns.
- In lodging complaints with the treaty bodies, it is essential to document as many facts as possible, and unfortunately complaints cannot be anonymous. In the absence of a name, demonstrating a broader pattern of gross human rights violations over time may be possible.

Responding to Religious Fundamentalisms: Building and strengthening progressive interfaith networks and links to other movements

Presenters: Vanja Hamzić (International Initiative for Visibility of Queer Muslims – Bosnia), Shanon Shah bin Mohd Sidik (Sisters in Islam – Malaysia), Arvind Narrain (Alternative Law Forum – India), Maria Gigliola Toniollo and Stefano Fabeni (CGIL – Italy)

Vanja Hamzić spoke about the work of his organization International Initiative for Visibility of Queer Muslims. He emphasized the need to present an LGBT perspective from within the Islamic faith. His organization focuses on a number of areas:

- advocacy and visibility: it is important to be at the table, to be present for all interfaith, international, Muslim events. This requires courage, and a willingness to face hostility, but overall he has found that respectful dialogue is possible and that the response has often been better than anticipated;
- research and educational programs to emphasize the diversity of views within the faith, including progressive religious interpretations;
- community-building, both within and between the general Muslim communities and the community of Queer Muslims, many of whom do not feel comfortable embracing their faith.

Those seeking to advance a progressive analysis come from a variety of backgrounds:

- a Muslim background which recognizes the plurality of different denominations of Islam (e.g. Sufi communities, which are particularly open to embracing diversity);
- a Muslim feminist background, seeking to use a gender analysis to deconstruct more rigid concepts of Islam;
- an LGBTI background, seeking to understand Islam from within, often linked with a framework of legal activism.

Many within the LGBTI communities avoid religion and don't want to talk about it. Many LGBT funders do not see building constructive faith-based dialogue as a priority; greater support is often obtained from funders of women's issues, who see the connections with and importance of supporting feminism within a culturally-diverse modern world. Through educational opportunities such as the ILGA World Conference preconference on religion, the Montreal Outgames, and building coalitions with the feminist movement, trans groups and others, real progress is achievable.

Shanon Shah spoke of the work of Sisters in Islam, and their recent presentation at the First International Congress on Islamic Feminism, held in October 2005 in Barcelona. The significance of this event was described from the Malaysian perspective as “akin to someone generously cupping her shivering hands over her friend's fingers in order for them to successfully strike a match in the midst of a lightless, unforgivably windy night.



The organizers of the Barcelona Congress framed their approach as follows:

“There are those that take for granted that Islam oppresses women and that this cannot be changed. [...] Opposing this interpretation which attacks their traditions, is a women’s movement claiming the possibility of achieving liberation within the framework of Islam.”

Shanon pointed out, however, that many terms including ‘feminist’, ‘human rights’, ‘Islam’, ‘secularism’, ‘gender’, ‘Islamist’, ‘fundamentalist’ and ‘religion’ have been problematized, and are used to discredit human rights advocates, Islam as a religion, or both.

Critiques come from both a secular and religious perspective. The secular feminist critique can be captured by a quote from African American feminist Audre Lorde: “The master’s tools will never dismantle the master’s house.” In other words, why should feminists adopt a discourse that seems to have been designed to exclude and oppress women to begin with?

The Islamic religious critique dismisses Islamic feminism either as a foreign import of the ‘infidel’ West that can never be reconciled with the ideals and praxis of Islam, or as the product of ‘elite, misguided women who have lost the plot’.

Sisters in Islam, for example, is a women’s organization which defends human rights by engaging with the Islamic framework. As a result, they are sometimes labeled Islamic feminists or Muslim feminists, usually in an attempt to discredit their work.

It is only recently that there has been a response from some sectors of the public on how Shari’ah affects LGBTs in Malaysia. For example:

- In March this year, Shari’ah enforcement officers in Perak state barged into a home to harass and detain a male-to-female transsexual for violating Shari’ah laws on ‘men impersonating women’. They found out later she was not Muslim, and the outcry that ensued was not because the officers had violated her fundamental rights to privacy and sexual identity, but because they had mistakenly applied their Islamist zeal to a non-Muslim.
- Gay Muslims have been detained and harassed by Shari’ah enforcement officers, not because they have been caught in the act of having sex, but because they have been suspected of engaging in ‘preliminaries to sex’. Concerned sectors among the Malaysian public are making more of an effort to speak out against the media’s complicity in persecuting LGBTs.

It is not only the Shari’ah laws which are problematic. For example, under the secular Penal Code, the infamous Sections 377A and 377B on ‘carnal intercourse against the order of nature’ have been used to persecute gay and bisexual men. Lesbian and bisexual women are persecuted by other State mechanisms.

There are many Malaysians who want to see a more just, open and democratic Malaysia. Sisters in Islam seeks to uncover diverse interpretations of Islam that have existed throughout the history of Islam. By building the literacy on Islamic discourses amongst Malaysians of all faiths, ordinary Malaysians feel more able to articulate their concerns on Islamic fundamentalism, gender justice and human rights, without harbouring resentment or fear towards Islam or any other religious tradition. This strategy enables the group to wrestle the stranglehold on religious interpretation away from forces who exploit it to discriminate against women and to persecute sexual and religious minorities, and forge a small but growing coalition of progressive Muslim, interfaith and secular forces to counter the onslaught of Islamic fundamentalism.

Shanon emphasized in that context the value of the Barcelona Congress on Islamic feminism: “In a world that is swiftly being robbed of light, it is one of the many candles being lit so that we do not have to curse the darkness.

Arvind Narrain explained that in the context of India, he prefers the term “religious nationalism” to “religious fundamentalism”. He traced the rise of Hindu religious nationalism in India through several key moments, from the formation in 1925 of the Rashtriya Swayamsevak Sangh, a Hindu nationalist organization, which gave rise to the creation of the Bharatiya Janata Party (BJP), through Partition in 1947, to the demolition of the Babri Masjid mosque in 1992.

Thousands participated in the vandalism of the mosque in the city of Ayodha, and thousands also lost their lives in the ensuing riots. While the mosque was being destroyed some local Hindus from Ayodhya pleaded with Acharya Dharmendra of the VHP's Marg Darshak Mandal and BJP leader Uma Bharati to intervene and help stop the gangs who were attacking Muslims and burning their homes. In response, Acharya Dharmendra was quoted in the Times of India as having said, “Although the local Hindu residents did ask me to hold the crowds from burning Muslim homes I would have never stopped them. This is the only way in which Ayodhya could become like the Vatican.”

Muslims were further attacked and murdered in the Gujarat genocide of 2002, with police and State complicity.

Against that backdrop, Arvind identified 4 key moments at which issues of ‘queer’ sexuality have intersected with Hindu nationalism:

- The film “Fire”, which portrayed a lesbian relationship, provoked outrage from the Hindu right, which responded by vandalising theatres. However, it also served as a catalyst for a positive response from feminists and others, particularly in defence of a woman who held a sign reading “Indian and lesbian” (although this was treated as a freedom of expression issue, rather than a question of sexual orientation).
- The film “Girlfriend” depicted lesbians as psychopathic killers, and evoked protests from the Hindu right and LGBT communities alike.
- A major source of legal conflict is section 377 of the Indian Penal Code, a carry-over from the British Penal Code, which prohibits “unnatural sexual offences”, and is used to legitimise violence, harassment, sexual abuse and blackmail against LGBT people. The section has been challenged constitutionally in *Navtej Singh Johani v. Govt of India* (2018). The Government of India continues to defend the section as a reflection of “public morality” in Indian society. Section 377, and its attendant stigmatization of homosexuality, is now a linchpin in the nation-building efforts of the Hindu right.
- The Brazilian resolution on sexual orientation furthered engaged the government of India, which gave every indication at the highest levels that it would vote no.

In responding to religious nationalism, it is important to draw out queer histories in Indian culture, which in temple religious sculpture depicts androgyny, cross-dressing and same-sex love. It is also important to link with secular movements, women’s groups and human rights groups, through mechanisms like the World Social Forum, where there was a very good protest against s. 377. There is a perception that queer groups are not interested in other issues, and we need to build an analysis which sees oppressions as structurally linked.

Maria Gigliola Toniollo and **Stefano Fabeni** discussed the increase of Catholic religious influence within Italy, particularly with the election of Pope Benedict XVI. Italy is generally felt to be an open society, but there is a culture of adoration towards the Pope, whose conservative religious influence undermines progress on issues of sexuality and reproductive rights. The political parties are not felt to be strong, and the trade unions do what they can to raise awareness and advance education efforts.

The Vatican has become increasingly politically active, intermingling religion with the affairs of the State. The Church supported a referendum on medically-assisted procreation, and has started challenging other areas such as same-sex families and a woman's right to choose abortion.

This is leading to a redefinition of secularism and the advancement of theological values as public policy in Western democracies. The Church in Italy is now the most powerful political subject, with no other political party having such influence. The Vatican is also active advancing its agenda at the UN, where it has observer status, and is petitioning for full member status.

In developing strategic responses, we need to focus on the notion of secularism, and engage in broader debates around political and social values. Many of the more extreme positions of the Church go beyond what society would be willing to accept, so we also need to highlight potential contradictions between the Church's political approach and its fundamentalist policies.

Health and Issues of HIV/AIDS: Challenges to health education, outreach and prevention

Presenters: Minoru Tatebayashi (Japanese JaNP+- Japan), Hyun-goo Kim (ISHAP – Korea), Fadzai Muparutsa (GALZ – Zimbabwe), Amitava Sarkar (SAATHII - India)

Presenters and participants identified a range of challenges to health education, outreach and prevention issues in the context of HIV/AIDS. These included:

- Many repressive governments deny the existence of HIV/AIDS or are unwilling to acknowledge the prevalence of the problem;
- There is a reluctance to talk about or public acknowledge issues of sex or sexuality, much less homosexuality, which drives much behaviour underground;
- When there is discussion of homosexuality, moralizing and judgmentalism can undermine education efforts;
- In India, discriminatory legislation such as s. 377 of the Penal Code can hinder community responses;
- In a difficult social climate, there is a lot of self-denial amongst gay or bisexual men;
- Many feel that HIV is now more controllable, even though access to medication remains a serious problem;
- Many living with HIV/AIDS are deprived of self-esteem, despair of finding love or support, and face continuous harassment and ostracization because of their sexual orientation;

- Perception of HIV/AIDS as a “gay disease” can lead some heterosexuals to believe themselves immune from risk;
- Although many companies in Japan include HIV tests within general health and physical exams, employees will often avoid work on that day;
- Anonymous testing is critical, but often unavailable, particularly in smaller communities;
- Poverty has a direct impact on access to HIV education, care and treatment programs, so measures to address poverty are important;
- Efforts of NGOs in Zimbabwe have been severely restricted by repressive government legislation. The government is not addressing the issues, and is preventing civil society from doing so, with the result that the HIV/AIDS situation is one of the worst in Africa;
- Communication about sex is not seen as culturally acceptable, so parents won’t talk with their children about sex, nor will schools, and communication is strictly controlled by the government;
- It is difficult to address these issues through the media, since the media response is often sensationalised and feeds public hysteria;
- Women lack equal access to testing, are not empowered to ensure adequate contraception and are treated as the property of men;
- In Zimbabwe, there is a high incidence of rape of minors as a result of beliefs that sex with a virgin can protect against or even cure HIV infection. In one case, a 3-day old child was raped by a 70-year old man;
- Care and support programs, hospital visits, counselling etc are often carried out by people living with HIV/AIDS themselves, without State or institutional support. Nonetheless, many of these programs have proven very successful in empowering people living with HIV/AIDS;
- Despite the fact that people living with HIV/AIDS are usually the ones providing services, they are often excluded from official policy-making. It is crucial to ensure that people living with HIV/AIDS are involved at all levels of decision-making;
- Although there is now much discussion about retrovirals, this has tended to overshadow basic research, education and prevention efforts. There is a need to refocus our discourse and put HIV/AIDS back in the context of sexuality and health;
- Historically, control over others’ bodies is a form of asserting power. Regaining control over our own bodies requires us to fundamentally challenge the assertion of ownership by the State and by men over the bodies of others, to link with other movements, to break down barriers of denial surrounding sex and sexuality, and to alter the dominant discourse.

Mainstreaming Equality I:

Guest speaker: Suk Tae Lee, South Korea

President of the pro-Democracy organization *Lawyers for a Democratic Society*

(<http://minbyun.jinbo.net/english/index.htm>).



Suk Tae Lee explained that Lawyers for a Democratic Society was established in 1988, and has grown from about 50 to 500 members. The organization consists of practicing lawyers, with a mandate to “contribute to the development of democracy in South Korea through litigation, research, and investigation, and by increasing public awareness and joining in the activities to protect basic human rights and attain social justice.”

Although discrimination based on sexual orientation is prohibited by law, this is not always respected in fact. The government is often reluctant to address the needs of a group it perceives as a small minority, and it can be helpful to work with mainstream groups to situate the issue within a broader human rights perspective.

Lawyers for a Democratic Society has been to court on several occasions on behalf of LGBT people:

- to seek the removal of references in a school textbook blaming gays for HIV;
- to challenge the media’s failure to honour a commitment to protect the privacy of gay youth during interviews about a youth film festival;
- on 2 occasions, to obtain Court approval for transgender people to ensure that a national identification registry reflects their reassigned gender;
- to challenge a decision by the Korean Information and Communications Ethics Committee that a gay website was harmful and obscene.

The organization does not yet have any openly lesbian, gay, bisexual or transgender members, however, which indicates that there is still work to be done. Nonetheless, with some education, the members of Lawyers for a Democratic Society have proven very open to incorporating sexual orientation and gender identity issues within their work, which highlights the value of building linkages with mainstream allies.

Mainstreaming Equality II: How do we situate lesbian, gay, bisexual and transgender issues within broader human rights, sexual rights, and health agendas?



Presenters: Huso Yi (KSCRC – Korea), Zhang Liping (China HIV/AIDS Information Network – China), Femi Aina Fasinu (Youth Coalition – Nigeria), Neusa Cardoso de Melo (Rede Nacional Feminista de Saúde – Brasil)

Presenters emphasized that many of our organizations are grounded in other movements, particular in the Global South. In the West, there is more emphasis on “lesbian”, “gay”, “bisexual” and “transgender” as identities, and domestic organizations are often focused on identity-based politics. In the South, many organizations working on sexual orientation and gender identity issues have a primary mandate to address HIV/AIDS, health, gender or other issues.

Huso Yi pointed out that the South Korean LGBT movement was founded on a prodemocracy movement, perhaps more than in other Asian countries. An arts organization promoting diversity was also able to achieve some success, because of its artistic nature and approachability. Nonetheless, a need for LGBT-focused organizing and support was identified, particularly in view of the negative reaction to the outing and subsequent firing of television personality Hong Suk Chun. Today, the Korean Sexual-Minority Culture and Rights Center addresses the needs of sexual minorities, but goes by the acronym KSCRC – the “M” for minority” has been deliberately omitted from the acronym since the goal of the organization is to eliminate the minority label and achieve greater acceptance within the mainstream.

Zhang Liping explained that in China mainstreaming is essential, because human rights discourse is limited, nor is it acceptable to publicly discuss questions of sex – so linking sexuality and human rights in public discourse is impossible. China does not have a strong civil society in general, and the greatest entry-point for consideration of questions of sexuality has been through responses to HIV/AIDS. As recently as 2-3 years ago, the government believed that blood transfusions were the primary means of transmission, followed by drug use, and sexual activity was rarely addressed. The SARS outbreak led to greater awareness and pressure to develop more open and effective responses to public health needs, which in turn facilitated more public awareness and discussion around HIV/AIDS. Mainstreaming to incorporate a gay perspective within the work of HIV/AIDS groups has proved effective, and the government has set up an office to address health issues related to men who have sex with men. The AIDS Conference in Thailand in 2004 provided an important opportunity for the Chinese community to engage in these issues in a more open and organized way. The international donor community has also demonstrated more willingness to support HIV/AIDS initiatives with financial resources, which are often unavailable for LGBT issues alone.

Femi Aina Fasinu spoke of his work in Africa with the Youth Coalition and as a member of the UNFPA Youth Advisory Panel. Although mainstream human rights groups, and groups working on issues of HIV/AIDS, should in theory embrace a progressive LGBT and sexual and reproductive rights perspective, in practice many activists working within these fields are unsupportive of sexual orientation or pro-choice issues, even though an understanding of sexual orientation and women’s issues is crucial to education, prevention, care and treatment efforts relating to HIV/AIDS. There is a need for continuous dialogue, consciousness-raising, and regional collaborations. Civil society needs to take responsibility for sensitizing itself if we are to truly work together on issues which are inextricably linked. The importance of working in coalition cannot be overemphasized: “when a bunch of firewood is bundled together, it cannot be broken; an individual stick can easily be broken in two.”

Neusa Cardoso de Melo discussed the strong civil society movements within Brazil, both with regard to sexual and reproductive rights, and with regard to sexual orientation and transgender issues. The Brazilian resolution increased awareness, and provided opportunities for collaboration, but at the same time it was acknowledged that there have been historic tensions between some of the gay male groups and some of the women’s/lesbian organizations, as well as tensions between some feminists and those advocating for the rights of trans women and prostitutes. It is important to acknowledge that these tensions exist, to address them in a calm, respectful and constructive way, and to promote discussion and understanding by identifying the points that we share in common. For example, there is a natural commonality between the rights of women, of gays, of transgender people, and of prostitutes, all of

whom are advocating for our right to control over our own bodies. Similarly, there is a commonality in the position of those who oppose us, and who seek to assert State control over our bodies and our sexuality. Increasingly, progressive social justice groups in Brazil and Latin America more generally have been active in developing joint responses to religious fundamentalisms, and working together to advance our common cause.

In discussion, participants queried whether mainstreaming can result in LGBT issues being assimilated within broader agendas and dilute critiques that the queer community sometimes brings to mainstream issues.

While it was recognized that HIV/AIDS provides an important entry-point for many of our organizations, it also tends to de-emphasize and contribute to the invisibility of lesbian issues. HIV/AIDS and access to retrovirals, is an important human rights issue in and of itself. At the same time, the specificity of LGBT needs and priorities can sometimes require that we foster the development of organizations with a sexual orientation and gender identity focus. This may require educating funders that the needs of our communities extend beyond the immediate health context. Ultimately, a wellness framework recognizes that health needs are inseparable from a supportive and non-discriminatory social, political and cultural environment and each requires support.

Participants supported the need to work with youth, many of whom are more open to the issues and have experienced greater awareness and discussion of sexual orientation and gender identity issues than previous generations. Investing in youth-led initiatives is an important priority.

It is also important to support, but avoid speaking on behalf of, those whose identity we may not share – a gay man cannot always speak to the transgender experience, for example, so it is necessary to create the space within which members of our communities can speak for themselves.

Transgender Day of Remembrance



As a way to recognize **Transgender Day of Remembrance** and honour the lives of trans people who have been victims of violence leading to death, International Dialogue participants gathered on Sunday, November 26th. Edgar Atadero (Progay Philippines) and Amitava Sarkar (SAATHI) led a moving candlelight vigil naming some of the victims of anti-transgender violence

around the world, and then inviting participants to share their personal experiences. Participants were invited to reflect on our responsibility to understand transgender needs, experiences and identities and make space for these within our communities. The ceremony closed with a beautiful music video presentation from India. For more information on Transgender Day of Remembrance, please visit www.rememberingourdead.org.

Accessing Resources

A planned workshop on funding was unable to take place, since the funders who had hoped to attend were unfortunately unable to do so. Andrey Kuvshinov invited participants interested in knowing more about European funding initiatives to contact him (a505@mail.ru) and Kim Vance directed participants to the "International Funders" section from the directory of Funders for Lesbian and Gay Issues, and Websites such as www.hrfunders.org, and www.lgbtfunders.org/lgbtfunders.

F. Strategies and Next Steps

Background

Presenter: John Fisher (ARC International – Geneva)

John outlined recent developments on sexual orientation and gender identity issues at the UN, and provided background on the strategies developed by the coalition through previous International Dialogues:

Brazilian resolution on sexual orientation

The attention and awareness paid by many LGBT activists and organizations to UN processes was increased when Brazil presented a resolution on sexual orientation and human rights at the Commission on Human Rights in 2003.

The Commission (following an unsuccessful no action motion) voted to defer consideration of the resolution until 2004. ARC International and ACPD hosted the first International Dialogue in Rio de Janeiro, Brazil, in December 2003, to develop strategies for supporting the resolution and advancing sexual orientation and gender identity issues generally in international fora.

At the 2004 CHR, Brazil was unwilling to proceed with the resolution, and the Commission adopted without objection a Chair's statement proposing the further deferral of the resolution until 2005.

Geneva Dialogue

In December 2004, ARC International hosted a follow-up International Dialogue in Geneva, at which participants expressed support for a three-pronged strategy:

- (i) building support for a cross-regional resolution on sexual orientation and gender identity;
- (ii) integrating sexual orientation and gender identity throughout a range of relevant CHR resolutions, such as extrajudicial executions, human rights defenders, violence against women, torture etc;
- (iii) building visibility, support and awareness of sexual orientation and gender identity issues through country statements, NGO panels and parallel activities.

CHR 2005

In the intervening period, it became clear that Brazil did not plan to proceed with the resolution and that no cross-regional grouping of States was willing to assume responsibility for the resolution at the approaching session of the CHR. As expected, there was no discussion at the 2005 CHR of the original Brazilian resolution under agenda item 17, nor any attempt to carry it over for another year. As a result, the resolution has now lapsed from the CHR agenda.

Certainly, the Brazilian resolution has had the effect of raising visibility, awareness and expectations, and the way is now clear for a new resolution that NGOs can be actively involved in negotiating and discussing with supportive States cross-regionally. At the same time, the CHR is itself in transition as a

result of the UN reform process, so it is difficult to anticipate whether there will be any realistic opportunity to advance substantive issues in the upcoming session.

Other resolutions

It also became apparent at the 2005 CHR that there were substantial challenges to integrating sexual orientation and gender identity issues into other resolutions. States and NGOs alike were reluctant to jeopardize existing language by including issues perceived to be controversial, particularly at a time when many fundamental human rights principles are threatened. For example, there was a reluctance to include references to sexual orientation in the resolution against torture at a time when the basic principle of an absolute prohibition against torture is itself under attack. Similarly, in the resolution on Violence against Women, Canada initially presented co-sponsors with a draft that included both “sexual orientation” and “HIV status” as grounds of intersectional discrimination. The sexual orientation language was ultimately withdrawn, however, as a result of concerns that retaining the reference might jeopardize consensus on the resolution. In response to opposition from a number of States, references to “sexual and reproductive rights” were replaced by the language “reproductive rights and sexual health”, and a number of States also underlined that they did not understand the Beijing language to constitute a right to abortion.

“Sexual orientation” was retained in the resolution on extrajudicial executions, and Sweden as lead sponsor included a reference to “gender identity”, which was retained up until the final draft. Although it did not make it into the final draft, this was the first time that “gender identity” has been included in a UN resolution, which provided a valuable opportunity for raising awareness of transgender and intersex issues.

The resolution on the question of the death penalty also retained language calling on States “to ensure that the death penalty is not imposed for non-violent acts such as ... sexual relations between consenting adults.”

New Zealand statement

A particularly encouraging development at the 2005 CHR was the item 17 statement addressing sexual orientation and human rights, made by New Zealand on behalf of 32 States from 4 of the 5 CHR regions. By contrast, in 2004, New Zealand delivered a statement on behalf of only itself and Canada, which in turn inspired a statement by the UK on behalf of 18 EU countries. This demonstrates a significant increase in State support for sexual orientation issues, and a solid base from which to advance a future resolution. South Korea was the only Asian State to express support for the statement, and six Latin American States also joined the statement (Argentina, Chile, Guatemala, Mexico, Uruguay, Venezuela). No State from the African region supported the statement, a particular concern in view of South Africa’s constitutional prohibition against discrimination on the ground of sexual orientation.

Group Discussion

Discussion ensued on how best to maximize support and advance a positive strategic LGBT human rights agenda. Comments and suggestions included:

Documentation:

- There is a need to address the **North-South divide**. Many States take a “**not in our cultures and communities**” approach, or even deny that homosexuality exists except as a result of

Western influence. We need to engage in the hard work of **documenting** what goes on in our cultures and communities, and compile this information into a common source document.

- Similar information and fact sheets to refute the “**new rights**” language used by many opposing States would be helpful.
- Collating LGBT-themed **documentaries** and **films** in different communities would also be valuable.
- It would be helpful to document human rights abuses to produce an **annual world-wide report** on sexual orientation and gender identity.
- A **resource and documentation centre** to draw this information together would be invaluable.

Coalition-building:

- Many participants emphasized the importance of **working in coalition**. Indeed, we cannot underestimate the danger of *not* working in coalition. Our opponents are well-organized, have strong State support and are vigorously opposed to sexual and reproductive rights, responsible HIV/AIDS education programs, LGBT rights etc. Opposition to these issues is part of a cohesive interrelated agenda, and our support for these issues cannot be fragmented or isolated from the broader context. HIV/AIDS, harm reduction, prisoners’ rights, sex workers’ rights all overlap with our issues, and afford us opportunities to situate our issues within a broader progressive agenda. We have a responsibility to learn about the issues of other movements, and take them up in a concerted way. Similarly, other movements have to recognize that many of us live multiple identities, that we have always been part of their movements, and that they too have a responsibility to learn about and support our work.
- A concern arising from the North-South divide is identifying ways of challenging the opposition of OIC countries without feeding an emerging and increasing **Islamaphobia**. Many States in a post-9/11 world simply equate “Muslim” with “terrorist”, and even supporting a resolution on Iran could well pave the way for future aggressive action by the US as part of its campaign against the “axis of Evil”. At the same time, sometimes well-meaning States and NGOs are reluctant to speak out against human rights violations in these countries for fear of sounding like cultural imperialists. **Sisters in Islam** works to train decision-makers, policy-makers and others, and **build sensitivity to the politics of Islam**. There is a way of criticizing human rights abuses without being imperialist, particularly through recognizing the importance of self-determination, **strengthening alliances** and **working in collaboration with local and domestic organizations**.
- The interfaith panel at the Dialogue was valuable, and we need to build the level of **progressive religious discourse** to advance these issues. We should not assume that religious forces are uniformly oppositional, but should both recognize the destructive impact of extreme fundamentalisms upon LGBT people while also engaging the expertise of progressive religious scholars from a diversity of faiths. Just as a seminar of human rights experts is being organized to analyse LGBT issues from a human rights perspective, so too there is room for a seminar of religious experts. The ILGA preconference on religion is a good start, which could seek to engage not just those from within the LGBT communities, but leading religious scholars.
- We also need **more LGBT organizations participating at the international level** – many domestic NGOs are understandably busy with domestic and local priorities, and don’t engage at

the international level. Domestic groups also need to hold States accountable for their voting records internationally, but often aren't even aware of the positions their governments are taking. **Support and capacity-building** where domestic movements are weak, **stronger connections between international and domestic NGOs**, **distribution of information** and suitable **follow-up** would all be helpful. **Media support** is often helpful in publicizing government positions and failure to respond to human rights abuses.

- **ARC's CHR listserv** was identified as a valuable tool for sharing knowledge, information and strategies. A good starting-point in engaging a broader range of domestic groups in international work might be to pass the word around, e.g. through some of the African networks, and seek to expand the listserv.

Regional initiatives:

- Korean activists spoke of the three-year struggle to get **South Korea** to include sexual orientation in its national human rights legislation. Once it was included, however, supporting the issue internationally was seen as a straightforward matter of consistency, although it was also recognized that greater visibility may create the possibility of greater opposition. Others spoke of the need to build upon South Korea's leadership to leverage support within other Asian countries, such as **Thailand, Japan** and possibly **the Philippines**.
- Identifying **individuals with some influence** within States we are seeking to encourage is valuable. For example, Prof. Chung was nominated by South Korea to serve on the Subcommission for the Promotion and Protection of Human Rights, and therefore has some ability to engage with the **Korean government** in a progressive and proactive way.
- There are many challenges in working **regionally across Asia**, particularly in view of the range of different languages, cultures, histories and religions. For example, there is not a lot of solidarity between Japanese and Korean NGOs, and Malaysia has more in common with Pakistan than with some of its closer neighbours. Nonetheless, our issues afford opportunities to develop a **subregional solidarity movement**. This might start by greater collaboration between NGOs in those countries most likely to be supportive of LGBT issues.
- An African participant emphasized the need for **South Africa** to fulfill its role, and recognize its constitutional obligations to support non-discrimination based on the ground of sexual orientation. It will be important to work with groups such as the Coalition of African Lesbians and All-African Rights Initiative to build support within Africa. It might also be possible to move **Morocco** to a more neutral position.
- It was also commented that many African governments and NGOs depend heavily on foreign aid, and are more influenced by donors than by their own constituencies, so **capacity-building** to create greater ability to exercise independence and self-sufficiency will be important. **South Africa** might be a good choice for a further **International Dialogue in 2007**.
- In **China**, these issues are subject to strict government control, but the government keeps silent on many issues. The civil society movement is fairly recent, with HIV/AIDS and environmental groups amongst the most strong. "Human rights" discourse is not well-developed and is not the best means to advance the issue. An **HIV/AIDS or health perspective** is probably the most effective way of opening doors. China is hosting the **Olympic Games** in 2008, which will attract greater world scrutiny and attention, and activists are planning a series of Dialogues to

ensure discussion of a range of issues. **China** might be a good choice for a further **International Dialogue in 2008**.

- In **Russia**, the issues are not much talked about, and many within the LGBT communities themselves would **rather not be too visible** in case they attract negative attention. As a result, a form of “**don’t ask, don’t tell**” prevails, which makes it difficult to advocate for change. The **closeness of any vote at the UN** may itself be a useful tool to highlight the fact that Russia’s vote does carry weight and is important since it could make a difference to the outcome.
- Communication between supportive States outside their regional blocs is often limited. Progressive NGOs can play a role in ensuring **strategic communications across regional groups**, bring allied blocs together, ensuring they receive a consistent message about our priorities, and assisting them in coordinating strategies, even to the point of considering who will speak to an issue and in what order.

Engaging internationally:

- **UN reform:** The UN itself is under attack from those who advance a unilateralist agenda, or who are unsupportive of human rights in general, and sexual and reproductive rights in particular. Our issues can not be seen in isolation. We need to join with other progressive groups to defend and strengthen the **UN human rights mechanisms** themselves, and develop a common minimum agenda. LGBT groups and individuals are interested in the whole spectrum of human rights, and we need to be asking ourselves, what do we want for the UN?
- In particular, we need to defend the role of NGOs and join with other movements to support the **Special Procedures**, many of whom are under attack precisely because their work is effective.
- We need to fit our issues into a **broader political and philosophical perspective**. How do we work towards a system that is meaningful in advancing human rights and will one day make our issues binding upon States? It was also emphasized that we should not separate **sexual orientation** from **gender identity**.
- The **process** of advancing a **resolution on sexual orientation and gender identity** is valuable in and of itself. One resolution will not change the world, but the process will. Already through the Brazilian resolution, we have seen increased engagement of LGBT groups and individuals in UN processes, increased awareness and support by many States, especially in Latin America, emerging public support in Asia, greater visibility, cross-regional NGO linkages, a stronger network, and enhanced communication and support among our respective NGOs for our domestic work.
- The **country visits** of **Special Rapporteurs** are an extremely effective way of raising issues domestically, but many LGBT groups are unaware that such visits are even taking place, are unprepared for such visits or are reluctant to speak out. NGOs can be **proactive** in inviting or encouraging Special Rapporteurs to visit their country.
- Support was expressed for **ARC’s newly-established Geneva presence**. In particular, advance notice of visits by Special Rapporteurs and engagement with NGOs would provide these NGOs with the opportunity to prepare documentation beforehand. Liaison with Special Rapporteurs to provide other opportunities to meet with LGBT organizations would be useful, recognizing that for some NGOs it is not always safe to speak out in broader, more public meetings. Since many

NGOs do not have the funds and resources to get to Geneva, it was felt that a presence there to monitor State reports, responses to shadow reports, and questions from treaty bodies, and to pass this information back to local NGOs would be particularly helpful.

- Similar support was expressed for liaising with the **High Commissioner for Human Rights** in advance of and during her country visits. CHA prepared a report on sexual orientation and gender identity issues during her visit to Argentina, which was very well received.
- Presenting cases and examples drawn from many States at the same time before the **CHR and treaty bodies** would assist in emphasizing that our issues are cross-regional, and deal with basic human rights, not special rights.
- A **coordinated strategy** to enable LGBT-identified groups to obtain **ECOSOC status** would facilitate access to UN meetings and enhance visibility.
- Many States in the global South also see **poverty, development and economic issues as their greatest priorities**, and would be more receptive to issues that they perceive as part of the agenda of the West, if they felt that Western countries were more supportive of **economic, social and cultural rights**. If we truly want broad cross-regional support for our issues, we also have to be willing to support the range of issues which are priorities cross-regionally.
- Support was expressed for the **meeting of UN experts** being planned by ISHR, ICJ and others to strengthen the legal and jurisprudential framework for recognizing LGBT rights. Strengthening the relationship with the Office of the High Commissioner for Human Rights was also seen as important.
- The **Statement of Principles** developed at the last CHR was a valuable focus for lobbying and efforts should be made to develop the base of State and NGO support for this statement.
- It was suggested that a **letter of support** be sent to all countries that supported the New Zealand statement on sexual orientation, expressing our appreciation for their support and engaging them on next steps to build on that support and carry the issue forward.

Conclusion:

In conclusion, John noted that this is a transition year, because of the UN reform process, but that did not mean our voices should be silenced. We have a common interest in joining in the process of reform and defending a strong United Nations human rights system, with a particular focus on NGO participation and supporting the Special Procedures. This also affords an opportunity for us to work in coalition with other movements and our mainstream allies. We can still bring specificity to sexual orientation and gender identity issues by highlighting the human rights violations identified by the Special Procedures, pointing out that the previous CHR has not proven effective in responding to these violations and calling for meaningful reform to ensure a UN human rights system capable of responding to the needs of marginalized communities.

The New Zealand statement can serve as a focal point, both of international advocacy and providing opportunities for regional and domestic engagement. A statement at the upcoming CHR, supported by as broad a cross-section of States as possible, would lay the groundwork for a future resolution.

In the meantime, building upon the panel on documenting human rights abuses, we can gather the factual material needed to make a compelling case. Documentation of abuses will provide the factual

framework to supplement the jurisprudential framework that will be advanced through the September 2006 experts' meeting.

Taken together, these steps should provide a solid platform for international advocacy, and the process itself will strengthen our relationship with supportive States, build collaborations with other movements, enhance regional support, particularly within Asia and Latin America, and afford domestic groups the opportunity to engage with their own governments in a constructive way.

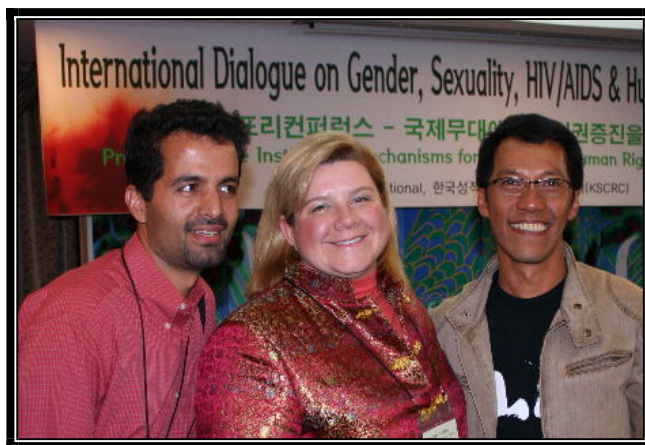
Opportunities for future collaboration:

Participants agreed that the International Dialogue process represents an invaluable opportunity to strengthen our movements, develop strategic priorities and plan for the year ahead.

Follow-up is essential, and a number of opportunities for future collaboration were identified:

- UNCHR, 17 March-21 April, 2006 (dates tentative), Geneva
- ILGA World Conference, 27 March – 3 April, 2006, Geneva
- UN General Assembly Special Session on HIV/AIDS, May 31-June 2, 2006, New York
- Outgames Human Rights Conference, 26-29 July, 2006, Montreal
- World Pride, 6-12 August, 2006, Jerusalem
- International AIDS Conference, 13-18 August, 2006, Toronto

ARC International will seek to host a further International Dialogue, possibly by allocating time in collaboration with other scheduled events such as the Montreal Outgames Conference. ACPD has been invited by the Canadian government to lead a stream on sexual and reproductive rights at the International AIDS Conference in Toronto.



G. Seoul Declaration

Participants at the Dialogue felt it important to gather the key priorities arising from our discussions into a unifying statement that could be used as a focal point for building NGO support and approaching governments.

The Seoul Declaration was therefore developed on the final day of the Conference and approved on January 27, 2006, following additional feedback:

Seoul Declaration

We, the undersigned, have come together in an International Dialogue in Seoul, South Korea to discuss, strategize, network and build our capacities as NGOs deeply committed to the advancement of human rights for all, and with particular concern for those who face discrimination and abuse on the basis of sexual orientation, gender identity or expression, and/or HIV/AIDS status.

In every region of the world, lesbians, gays, bisexuals, transgender and intersex (LGBTI) people face systematic and persistent violations of fundamental human rights. Though widely documented by UN

Special Procedures and other UN mechanisms, these rights violations are all too often met with silence by our governments and the international community as a whole.

We celebrate recent advances in Asia in this regard, and welcome the leadership shown by South Korea in the promotion and protection of human rights, especially on the basis of sexual orientation. We encourage other Asian governments to follow this leadership, particularly within United Nations human rights mechanisms. We also acknowledge advances in other regions, such as Latin America, where religious fundamentalisms can create a difficult climate for advancing human rights for all persons.

With regard to the proposed reform of United Nations human rights mechanisms, in particular the Commission on Human Rights, **we express our concern to ensure that new proposals and discussions be framed in a context of:** maximizing NGO participation; protecting established international standards; supporting and strengthening the essential role of the Special Procedures; encouraging ratification of, and ensuring compliance with, relevant international treaties; and having the capacity to identify gaps and inadequacies in existing standards. The proposed Human Rights Council's success in addressing persistent human rights violations against marginalized groups will be a litmus test of the credibility and effectiveness of the reform process and the United Nations as a whole.

Building on the ideals of collaboration, as representatives of NGOs from diverse regions and sectors, **we affirm our commitment to work with other social justice movements** to advance human rights for all people who face violations and persecution on many grounds, including, but not limited to, gender, race, age, class, dis/ability, culture, religion, language, and economic status. We also urge that issues of sexual orientation and gender identity/expression be incorporated into mainstream discourse on human rights, women's rights, sexual and reproductive health and rights, children and youth rights, and HIV/AIDS.

As NGOs who work directly and indirectly in the areas of health, human rights and education, **we recognize the indivisibility of civil and political rights, and economic, social, and cultural rights.** We will continue to emphasize and advocate for these linkages, especially with regard to HIV/AIDS, at the upcoming five-year review of the UN General Assembly Special Session on HIV/AIDS and at the International AIDS Conference.

With regard to religion, **we assert that the right to religious belief and expression is part of the framework of inalienable human rights** and that many LGBTI persons hold deep and personal religious and spiritual convictions. We celebrate that governments of many countries acknowledge various interpretations of religious thought and we seek to engage with that plurality of discourses. We are also concerned that the politicization of religions leads to fundamentalisms that endorse or condone the violation of the inalienable human rights of LGBTI persons and other groups (including those of other religious beliefs).

And finally, building on our commemoration of *International Transgender Day of Remembrance*, **we honour those marginalized persons within our own communities** who face particularly egregious violations and pledge to recognize and respect their rightful space within our communities and take responsibility for our failure to do so.

We encourage States and NGOs world-wide to join with us in advancing these principles, to better ensure that the identities of lesbian, gay, bisexual, transgender and intersex people can be celebrated with the freedom, dignity and respect to which all human beings are entitled.

Action Canada for Population and Development, Canada
Alternative Law Forum, India

ARC International, Canada/Switzerland
 Blue Diamond Society, Nepal
 Center for Women's Global Leadership, U.S.A.
 China HIV/AIDS Information Network (CHAIN), China
 CHINGUSAI - Korean Gay Men's Human Rights Groups
 Coalition of African Lesbians (CAL), Zimbabwe
 Common Language, China
 Comunidad Homosexual Argentina (CHA), Argentina
 Concertación Interamericana de Mujeres Activistas por los Derechos Humanos de las Mujeres (CIMA), Costa Rica
 Confederazione Generale Italiana del Lavoro (CGIL), New Rights Section, Italy
 El Closet Sor Juana, Mexico
 Equal Ground, Sri Lanka
 GAY a NUSANTARA, Indonesia
 Gays and Lesbians of Zimbabwe (GALZ), Zimbabwe
 Gays Without Borders, Thailand
 Global Youth Coalition Against AIDS, Zambia
 Gong-Gam (Beautiful Foundation) - Korean Public Interest Lawyer's Group
 Homosexuelle Initiative (HOSI) Wien, Austria
 International Gay and Lesbian Human Rights Commission (IGLHRC), U.S.A.
 International Initiative for Visibility of Queer Muslims (IIVQM), Bosnia and Herzegovina
 International Lesbian and Gay Association (ILGA – World), Sri Lanka
 International Lesbian and Gay Legal Association (ILGLAW), Latinoamerica & Europe
 International Service for Human Rights (ISHR), Switzerland
 iSHAP - Korea Federation for AIDS Prevention, Korea
 Japanese Network of People Living with HIV/AIDS (JaNP+), Japan
 Korean Sexual Minority Culture and Rights Center (KSCRC), Korea
 Landsforeningen for lesbiske og homofil frigjøring (LLH), Norway
 Lentswe La Rona, Zambia/Nigeria
 ProGay Philippines, Philippines
 QQ, Japan
 Rainbow Forest -Korea Sexual Minority Women's Network
 Rede Nacional Feminista de Saúde, Direitos Sexuais e Direitos Reprodutivos, Brasil
 Sexual Minority Committee in Korean Democratic Labour Party (KDLP)
 Siberian Human Rights Network "Right Society", Russia
 Sierra Leone Lesbian and Gay Association, Sierra Leone
 Sisters in Islam, Malaysia
 Solidarity and Action Against The HIV Infection in India (SAATHII), India
 UMBRELLA -Prevention and Social Education Center, Poland
 Youth Coalition, Nigeria

H. Evaluation

At the end of the Dialogue, participants were asked to complete an evaluation form. In total, we received responses from 30 participants representing all geographic regions. They are summarized below.

1. Participants were asked to rate (on a scale of 1-10 where 10=excellent and 1=very poor) how they evaluated the following:

Conference Site: Participants were uniformly impressed with the conference site itself, and the fact that the Dialogue took place in Korea. There were some visa challenges, mainly for African participants, but many less than in previous Dialogues in Brazil and Geneva. (9.1 - average response)

Accommodation: Generally, people found the hotel rooms comfortable. Climate control in the rooms and lack of free internet access were concerns for a few participants. Many commented on the friendliness of hotel staff and local hosts. (8.9 - average response)

Food: Participants seemed satisfied overall with the food, and a few participants either totally loved experiencing Korean food or disliked it intensely. Personal tastes aside, most appreciated the constant availability of drinks and snacks within the conference room. (7.9 – average response)

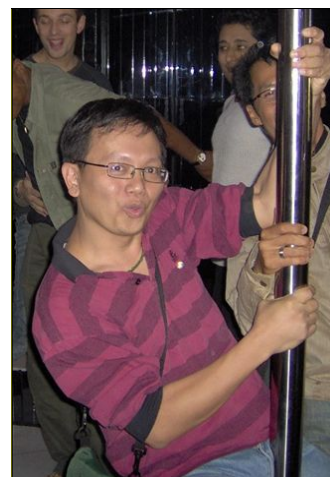
Background Documents: It was clear that participants were impressed with the documents provided in the registration binders. Some Korean participants commented that not all documents were helpful, if only available in English. (8.7 - average response)

Facilitation: It was noted throughout the evaluation forms that the facilitation, which was shared between organizers and selected participants, was excellent. (9 – average response)

Pre-Conference Institute: Those who attended found the Pre-Conference informative and useful. One participant noted that presenters did a good job making what can be very “dry” content accessible and interesting. Some unavoidable last-minute cancellations and late arrivals affected the flow of the day, but many appreciated those that stepped in at the last minute or presented by themselves. (8.3 – average response)

Social/Cultural Activates: Everyone enjoyed the activities put together by the local Korean hosts. They offered a nice blend of socializing, information sharing and cultural exchange. One piece of constructive feedback was that greater opportunities for integration of men and women during the nightclub outing would have been preferred. (9.2 – average response)

Overall Coordination: People seemed genuinely impressed with the coordination, both by ARC and KSCRC. They particularly commented on the clear and helpful information received both in advance of and during the Dialogue. (9.3 – average response)



“It seems the organizers were on top of the situation, thank you. All of the above were truly wonderful.”

2. Participants were asked an open-ended question about what **expectations they had for this Dialogue**. The responses can be summarized in the following categories:

- To increase general knowledge about the UN and other international mechanisms;
- To learn about or expand knowledge of the CHR, in particular, and the various resolutions of interest (including a possible sexual orientation/gender identity resolution), and updates on the UNCHR reform process;
- To meet other organizations and unions, network, share country-specific experiences and build relationships cross-regionally;
- To strengthen our own coalition and capacity to work collaboratively across diverse sectors;
- To develop clear international and regional priorities and strategies to advance LGBTI issues internationally and for the UNCHR (or reformed Human Rights Council);

- To learn about global advocacy efforts for LGBTI people and how to apply this to participants' own area of work;
- To discuss positive practices and challenges for doing LGBTI and HIV/AIDS work in Asia and beyond;
- To extend and strengthen Korean and more broadly, Asian, participation in international strategies and coalitions.

Several people indicated that, having attended previous Dialogues and meetings, they had a good idea of what to expect. In addition, the objectives for the Dialogue and the Agenda (which were circulated in advance) helped ensure that participants had clear expectations.

3. Participants were then asked to rate (on a scale of 1-10 where 10=excellent and 1=very poor) how well this Dialogue met their expectations and explain their answer.

Most participants commented that the Dialogue met or exceeded their expectations. The average response was 8.6 out of 10.

"There was a lot to learn, especially since it was the first international conference about LGBT people in Korea. The conference gave me a great opportunity to exchange ideas and build up a coalition among LGBT groups in Asia, in particular."

"They were fulfilled and even topped; I never thought of a Dialogue as open and enriching as this one."

A majority of participants identified networking as a goal of the Dialogue and felt there were many good formal and informal opportunities to facilitate this goal, both regionally and internationally.

"10/10 - My expectations were fulfilled: high-quality information and excellent integration with other people."

In particular, several delegates felt that the HIV/AIDS discussions were important, but needed more time and more analysis, in addition to explanation of local overviews and contexts. And the loss of the funding workshop from the agenda was noted by a couple of participants and needs to be brought forward at future Dialogue opportunities.

"9/10 - The only reason it was not a 10 was because of the funding session that did not happen, but I understand that wasn't the fault of the organizers. There should have been some information sharing utilizing expertise from participants."

4. Using the same 1-10 scale above, participants were asked the following questions:

a) Did this Dialogue increase your knowledge and understanding of international entry points for advancing sexual rights, sexual orientation, HIV/AIDS and gender identity issues?

Participants definitely felt their knowledge and understanding increased, especially those who were able to participate in the Pre-Conference Institute. Even returning participants and international specialists felt that their knowledge was broadened/enhanced by the presentations and discussions. The average response was 8.4 out of 10.

"I am a newbie so every panel / session was valuable."

"I will not say that it increased my knowledge that much, but I will say that it refreshed it and brought to light issues that have been dormant in our operations."

"I had a more local/regional perspective, and because of the Dialogue I learned a lot and gained international perspective."

There were some mixed messages about the approach to covering international entry points. The presenters were quite detailed and practical in their presentations, but perhaps more use of particular case studies to demonstrate the use of entry points would be even more effective in the future.

"I would have preferred more discussion on practical matters, a more practical (less theoretical) approach on the explanations of the international mechanisms."

"This is the first conference I attended with a nuts-and-bolts approach, where actual issues on lobbying for LGBT rights were deeply focused on."

b) How successful was this Dialogue in generally developing a coordinated international strategy to advance sexual rights, sexual orientation and gender identity?

Overall, participants felt that there was success in developing a coordinated strategy. The average response was 7.8 out of 10. The majority of responses acknowledged that, while the Dialogue afforded time to develop priorities and strategies, even more time was needed to develop concrete actions.

"Strategic recommendations were listed but concrete steps and timing not discussed."

"Most significant annual opportunity for joint strategizing between/among local activists and international activists, to exchange views on current situations and jointly strategize for next round of the battle. Focus should stay on UN/CHR/International strategies."

Admittedly, partly because there was a predominant regional group (Asia), the agenda afforded limited time to integrate the regional strategy suggestions into a cohesive international strategy. It was clear, however, that providing space to even discuss strategy openly is rare and often done during breaks and personal time during other conferences focused on "training" or "capacity-building."

"I think this Dialogue is an incredibly important and strategic space. As an international organization it provides an opportunity for us to ensure our work is firmly grounded in collaborative priorities. It also helps us identify our organizational priorities around global advocacy for the coming years. It would be most valuable to have this Dialogue continue."

c) How successful were the opportunities to identify priorities for the future, at both regional and international levels?

The average response was 8 out of 10 indicating a strong feeling of success around identifying priorities. A number of participants affirmed that the regional strategy break-out groups were very important in this regard. There was at least one suggestion that they be broken down even further to groupings with more commonalities. This was likely a reference to the large Asian group and the vast social, cultural, political and economic differences within that grouping. The break-out groups also allowed for discussion/strategizing that was not as layered with global North/South power relations, which at least one participant felt warranted more discussion as a topic itself.

"It's better to have sub-regional discussion or discussion between delegates with common needs."

“We really need to figure out a strategy to address Global North-South power relations without detracting from defending LGBTIQ rights.”

“There were lots of strategies mentioned. In Latin America we talked about strategies and specific challenges. This was also true at an international level.”

The efforts of the organizers to encapsulate the main international priorities and commitments from the discussions into a “Seoul Declaration” were well-received. To many, it became clear when that document was read, that we really had agreed on some major strategies for moving forward.

d) How successful were the opportunities to strengthen networks and support, particularly within Asia?

Participants agreed that the Dialogue was successful in this regard. Only a couple of weeks after the Dialogue, the Asia Pacific Rainbow Network (AP Rainbow Network) announced major structural advances in their own network. Although already in development before the Dialogue, it is encouraging to note that many groups and individuals that were, or have been involved in the Dialogue, are also key players in that organization. Participants gave this question a rating of 7.9 out of 10.

“I believe goals in this sense were reached, especially in Asia, as Japan and other Asian countries seemed to be disconnected from one another in terms of what was happening, and even Korea did not know it was being taken as a model and inspiration by other Asian countries. I believe it was a good start, the rest depending on the people themselves to keep up-dated and in contact with each other.”

“The opportunities for networking within Asia were excellent and gave impetus to the efforts to build linkages at least between two country networks (bilateral).”

“Great networking. Great for me and my organization. Broadens our framework very much for further growth of the LGBTIQ & larger human rights movement.”

“A number of meetings were conducted with Asia participants, and their cooperation can be useful to promote changes elsewhere, like in Russia.”

“I’m optimistic because many participants in Asia and other countries from Latin America have a strong willingness to make networks after this conference and exchange information.”

It was clear that people craved more time in all goal areas, including this one. Especially because Asia is so huge and diverse, a significant amount of time could have been dedicated to this goal.

“I felt Asia issues needed more time to be addressed. Also how to link Asia to international efforts and activities needs more discussion.”

A participant from Africa commented, however, that he appreciated the focus on Asia without the entire Dialogue being about Asia, as there are many issues to discuss in Africa and globally. And finally, it was noted that some of the best networking happens outside of formal presentations/sessions. In this regard, the structure of social events was important to maximize networking opportunities.

5. Participants were asked to outline any issues that were not adequately addressed in the time available and how they would like to see those addressed in the future.

As stated in other sections, some participants felt there was not enough time to adequately address certain relevant and engaging topics, like religious fundamentalism, and focus on in-depth strategy-building regionally and internationally. At least a few participants acknowledged that there simply was not time to accomplish this, and appreciated that the organizers pushed forward with the agenda to ensure all topics were covered. Others suggested a few topics that could have been dropped, although some of these were the very themes that others wanted more time to discuss.

“The issue about religious fundamentalisms is important (whether we like it or not) and there was not enough time for debate.”

“What I was hoping would be discussed during the Dialogue was discussed. Glad that we pushed on even when some panels started late, etc.”

In terms of thematic suggestions, religious fundamentalism, HIV/AIDS and health issues were predominant. Relating to this, suggestions to discuss UN mechanisms beyond the CHR, such as UNGASS, ICPD and Beijing were raised by a few participants.

“There are conferences and workshops which are very much happening regarding HIV/AIDS issues but we need to realize the link between HIV/AIDS and sexuality, hence this kind of conference needs to be organized to highlight related issues with HIV/AIDS like gender identity, sexuality, lgbt rights, etc.”

Trans and intersex issues were also raised and intersected with issues of representation. For instance, there was a suggestion to have more participation from Africa and the Caribbean, thus enabling those regions to more appropriately plan strategies. In fact, people were not shy about suggesting a future Dialogue location.

“Africa and LGBT issues in Africa. I would like this addressed by having a Dialogue focused on Africa.”

“Please the next Dialogue should be in Africa.”

A few new thematic areas were suggested, such as desire and pleasure, working with political parties, general sexual and reproductive health and rights, and North/South power relations. However, it was also clear that a number of participants felt there were already too many topics to explore which did not give sufficient time to any one of them.

Finally, there was, as in previous years, a desire expressed to explore opportunities for the Dialogue to bring participants in closer contact with funding organizations, and offer a better exchange of information about funding priorities and how those link to regional priorities.

6. Participants were asked how useful and relevant the International Dialogue is to their work/activism. They were also asked if they'd like to see it continue and with what focus in the future.

There was overwhelming and unanimous support for continuing to create the space for an International Dialogue. It is clear that the opportunity to discuss strategy across movements and regions is rare and unique. In addition, even talking about LGBT issues openly is difficult in many regions/countries.

“It is one of the most beneficial meetings for my activist work; it would be great if we can carry on with the Dialogue because it is a unique opportunity to strategize on this level; focus on the CHR; sexual orientation and/or gender identity/expression resolution; combating religious opposition; and building cross-regional and cross-movement cooperation.” (Europe)

“Having participated at the international dialogues has increased by much my understanding of the international processes. As you know, my activism has been mostly in relation to the feminist movement; the dialogues have opened for me a venue for communication between the feminist movement and the LGBT movement in Brazil. This will ultimately help my action in the sexual rights arena become stronger.” (Latin America)

“Each year it focuses on different issues which is very good but these plannings or strategies need a continuous follow up. Transparency is required within each group. This initiative should continue with issues like gender rights, lgbt issues, etc, since there are countries where people don’t want to talk much about these issues.” (Asia)

“They are relevant for building coalitions, learning from other organizations and showing and identifying links within struggles. It gives us a chance to re-evaluate some of the strategies that we use in our advocacy work. On a personal level, the process helped me grow... the information from the discussions was mind manure. Yes, for the initiative to continue, maybe with a focus on a protocol that States should be signatory to, that’s my dream.” (Africa).

Most of the suggestions for a future focus have already been articulated in previous answers. For instance, the discussions already begun require more time, and strategies need further and ongoing development. There is support for a regional focus to the Dialogue discussions, and perhaps even regional dialogues.

7. To conclude, participants were invited to add **any further comments** about the Dialogue:

“I loved the Dialogue! I never thought it would be such an enriching experience; I feel motivated and compelled to work harder in the struggle for our rights.”

“The agenda was INCREDIBLE! And also extremely packed. It would be helpful to have a little more space to take breathers and naps!”

“I appreciate that Spanish interpretation was provided. The last day of presentations (with UN officers) and debate was very good and enriching.”

“Very much inspired! Learned a lot.”

“I especially thank organizers and volunteers for their devoted work.”

“Thank you for the work that you continue to do, you are inspiring activists.”

“Really good few days again – with stunning facilitation by Kim and organization by you both.”

“This is the first time I attended a conference about human rights. I do believe that it will be useful to our organization and I want to be involved in this dialogue next time.”

“Thank you ARC International and KSCRC. I am energized to work very hard!”

“Beautifully organized with thoughtful care, wonderful participants and excellent diversity.”

