



**United Nations Human Rights Council
20th Regular Session, 18 June –6 July 2012
Agenda Item 3**

**Oral Statement by Canadian HIV/AIDS Legal Network, ICJ and ILGA-Europe
in the Interactive Dialogue on the Report of the Special Rapporteur on the promotion
and protection of the right to freedom of opinion and expression, Frank La Rue
(A/HRC/20/17)**

19 June 2012

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Distinguished Special Rapporteur,

The Canadian HIV/AIDS Legal Network, the International Commission of Jurists (ICJ) and the ILGA-Europe* draw your attention to recent laws that threaten the right to freedom of expression of lesbian, gay, bisexual and transgender (LGBT) individuals and others.

While not seeking to be exhaustive, but also wanting to bring concrete examples to your attention, we note the following examples:

1. In Russia, laws criminalizing the “propaganda of homosexuality” have been enacted in five regions. The laws prohibit “propaganda” considered to promote homosexuality. Similar laws have been proposed in other regions and are currently being considered in the State Duma. A number of people have already been arrested.
2. In Ukraine, the Parliament is also considering a law that would criminalize the propaganda of homosexuality. This is defined as the intentional distribution of any positive information about homosexuality. The penalty ranges from a fine to five years’ imprisonment.
3. In Hungary, Bills have been introduced to prohibit the promotion of disorders of sexual behaviour, defined to include same-sex relationships. Public events, speeches, and media relating to same-sex relationships would all be prohibited. The penalties would range from a fine to eight years’ imprisonment.
4. In Latvia and Moldova, Bills have been introduced or adopted prohibiting the propaganda of non-traditional sexual orientations.

These laws are all impermissible restrictions on the right to freedom of expression. First, they are so vague that no one can be certain what kind of expression is prohibited. Ordinary individuals fear that their conduct would run afoul of the law. Lesbian mothers might be fined for telling their children that their family is just as good as any other family. Journalists don't know whether reporting on LGBT stories would lead to their arrest and punishment. Concerts, plays, and poetry readings could be banned. Public health messages might be censored. Services ranging from counselling organizations to medical centres to dating sites might not know whether they could advertise to LGBT clientele. These bans fail the requirement of a restriction under Article 19 of the International Covenant on Civil and Political Rights (ICCPR), namely that they be "provided for by law" by being formulated with sufficient precision so that the citizen can regulate her or his conduct.

Second, these restrictions fail the test of necessity. There is no evidence that public statements about sexual orientation or information about same-sex relationships is harmful to society, morality, or children.

Finally, the bans on "homosexual propaganda" discriminate against LGBT individuals, which is prohibited under international law. Restrictions on rights must not be applied for a discriminatory purpose or in a discriminatory manner, as the Human Rights Committee recalled in its most recent General Comment on freedom of expression.

Mr Rapporteur,

What can be done to ensure that national laws that limit the right to freedom of expression do so in a manner consistent with the boundaries of permissible limitations? What actions would you consider taking regarding these bans on "homosexual propaganda"?

I thank you.

- * ILGA-Europe is the European Region of the International Lesbian Gay Bisexual Transgender and Intersex Association

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