

LGBT and Human Rights: New Challenges and Next Steps

Monday, June 3, 2013

The pros and cons of a unified international approach to LGBT rights

The “biblical” rain kept away Michael Loening, German Federal Government Human Rights Commissioner, one of the panelists for the opening discussion, but in his and many other stranded Fellows’ absence, those who could be in Salzburg ploughed on regardless with the opening discussion.

Tackling ‘The Rule of Law, International Institutions and LGBT Human Rights: How can they move from aspiration to reality in the application of national and trans-national law?’, Venezuelan human rights activist and university professor, Tamara Adrian, together with Sibongile Ndashe, South African human rights lawyer, and Li Yinhe, sociologist at the Chinese Academy of Social Sciences, and moderated by Dutch former politician Lousewies van der Laan, drew on their experiences in disparate countries in tackling the issue of legislating for LGBT human rights at a national and global level.

It was apparent from even just these three countries represented that different countries and regions of the world have different attitudes towards and thus different approaches needed to achieve LGBT human rights.

Four key questions emerged:

1. *Does what is happening in the UN help or hinder LGBT human rights processes at a national and social level?*
2. *What happens when “the same side” wants or needs a different approach?*
3. *What language or terms can be used to be most beneficial to all?*
4. *On national level should a radical or conservative approach to legislation be taken?*

In the group exercise that followed, many of the problems raised by the Fellows were the same from country to country – but different, and appropriate solutions will needed in each situation; one solution does not suit all.



Session chair Klaus Mueller opens the seminar ‘LGBT and Human Rights: New Challenges and Next Steps’

Ground-breaking session on LGBT and Human Rights opens “Now is the time for a new Global LGBT Forum”

A new international forum for LGBT rights was launched on Sunday, June 2, 2013, with the opening of the Salzburg Global Seminar program ‘LGBT and Human Rights: New Challenges, Next Steps’ at Schloss Leopoldskron, Salzburg, Austria.

Speaking at the opening session, seminar Chair Klaus Mueller said: “I strongly believe now is the time to create a Global LGBT Forum. A space to come together and reflect on the new challenges we are facing and consider the next steps needed to secure the safety, free expression and equality of lesbian, gay, bisexual and transgendered people and communities.

“Human kind is defined by its diversity: the free expression of sexuality and gender is increasingly defining the societies in which we want to live in the 21st century. But progress is by no means certain. In 2011, South Africa spearheaded the first UN Resolution on Human Rights, Sexual Orientation and Gender Identity, supported by 40 other countries – yet in 78 states, governments

continue to legitimize and sponsor violence against their LGBT citizens.”

Mueller, who is a museums consultant, film-maker and historian, and whose academic work includes in-depth study of the persecution of homosexuals under the Nazi regime, hopes this seminar will serve as the inaugural session of this new Global LGBT Forum.

The seminar, supported by funds from HIVOS, Stiftung EVZ, the German Federal Foreign Office and Michael Huffington, is bringing together over 60 participants from 35 countries to discuss wide-ranging topics, from the rule of law and international institutions, data gathering on LGBT issues, and the potential role of philanthropy, to queer film-making and the use of social media. A cultural showcase evening is also scheduled.

Welcoming the newly inducted Salzburg Global Fellows to the historic Schloss, Clare Shine, VP and Chief Program Officer of Salzburg Global called the program “ground-breaking” for its multidisciplinary and global approach.



Li Yinhe, sociologist at the Chinese Academy of Social Sciences joins fellow panellists Sibongile Ndashe, Lousewies van der Laan and Tamara

From the Floor Fellows share their views on the day's Hot Topics

“ Colleagues from global North feel they should have special rapporteur, but the global South feel this isn't the time and could backfire. Some special rapporteurs are already not invited to our countries; this rapporteur would not be invited to Zimbabwe, for example. But people from North feel the South are delaying things by not agreeing to an office or rapporteur. ”

“ One of cases from India – the sodomy law took three years of inter-movement talking to draft a law without using sexual orientation in. Instead the law states ‘Any consenting adult acting in private should not be criminalized,’ thus offering protection against marital rape, incest and sex with minors [as well as consenting adults in same-sex relationships]. ”

“ Law is imagined as single barrier to progress. This narrow focus on the law has stopped people from thinking of other ways of engaging.

Sometimes there will be opportunities where government passes something that sounds good but the lived realities of the intended beneficiaries mean that they aren't

able to benefit because the change has not happened [in society].

South Africa [which has some of the most progressive laws in Africa] has one of the highest murder rates for LGBT people in the continent as opposed to other countries where illegality continues. South Africa still has to do work that enables change to be stable once it takes place in law. ”

“ Any strategy is time specific; had South Africa gone through its struggle [against Apartheid] today, the outcome [including its progressive constitution] might have been different.

The framing needs to be context specific. We know it is time-bound because it capitalizes on the conversation that happens then. Multiple discourses are happening concurrently; you need to tap into discourses and make them work for you. ”

“ Many argue that the [LGBT] community isn't unanimous; but why should there be only one voice? These issues should not look as though they are imposed on us by the West.

I haven't met people or organizations that really have a strategy; their actions are mostly led by instinct and ad hoc actions. We need to take time to decide on short, long, medium term goals. Instead we are just responding to the actions from our opponents. ”

“ One of the best ways to resolve this issue – is UN imposing things on us? – is to give more power to local activists and people who can find a balance between human rights and local discourses. Activists in particular cultures know that culture, its traditions, the legal language of that place more than outsiders. They would be best placed to take UN resolutions, appropriate, adopt and turn them into something relevant for that culture and context - bringing global and local together. ”

All quotes are approximate and thus have not been attributed to individuals. If you would like your quote amended and attributed so that it may appear in the session report, please notify Salzburg Global Editor Louise Hallman or Session Rapporteur Todd Sekular.

Calling all bloggers!

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LGBT and Human Rights: New Challenges and Next Steps

Tuesday, June 4, 2013

Using the Yogyakarta Principles

Ajub Asfinawati

Since the Yogyakarta Principles have not been made legally binding, here are some thoughts on how to utilize them:

- *As an educational tool:* For LGBT people and others, to raise awareness among them for their rights, and help them to identify the violence they have faced
- *As comparative material*
- *As a resource of law:* At the domestic level, it can be used to revise issues or build new laws.

In the future, the Yogyakarta Principles should be made into a legally binding human rights document. But in the meantime, we can refer to each of the principles through other legally binding documents, for instance the International Covenant on Civil and Political Rights; Economic, Social and Cultural Covenant; and CEDAW.

Culture and Resilience

In a change to our regular panel discussions, Fellows were invited to share their artistic sides with an Open Forum on the topic of 'Culture and Resilience'

Hosted by UK-based American cabaret artist and broadcaster Amy Lamé, Fellows from across the world showed films, read poetry and novel excerpts, sang songs and gave short presentations inspired by their work with and identity as LGBT people. Included were:

- Reading of the novel *Aroos Amman* by Fadi Zaghmout from Jordan
- Poetry from Elizabeth Khaxas from Namibia and Jo Shaw from the UK
- Showing of the following short films: *The Night is Still Young* about gay men in India; the trans ally video *I am You* from Malaysia; a cartoon on embracing diversity in Burma; *The Riddle* by the UN Human Rights Office; and oral histories from "gay elders" in Hong Kong.



Van der Veur shares the findings from EU's LGBT survey available here: <http://fra.europa.eu/DVS/DVT/lgbt>.

Too afraid to even hold hands

The worrying statistics from the EU's largest ever LGBT hate crime & discrimination survey

Dennis van der Veur, programme manager for Equality and Citizens' Rights at the EU Agency for Fundamental Rights (FRA) presented his findings from the EU's largest LGBT hate crime and discrimination survey ever conducted at the inaugural session of the new Global LGBT Forum at Salzburg Global.

Speaking on the panel: 'Multiple discrimination against and within LGBT communities: What data do we have or lack?' van der Veur presented a number of worrying statistics from the 93,000+ LGBT respondents from the 27 EU member states and Croatia:

- On average, 20% said they have faced discrimination in finding and retaining employment
- 56% knew that there were laws to counter such workplace discrimination, but only 10% of those who had suffered used such laws;
- 32% felt discriminated against in their social and home lives;
- 91% of respondents had witnessed homo- & transphobia in schools and 67% hid their sexual orientation and

gender identity whilst in school;

- 26% had faced violence in the last five years, with 10% saying they had faced violence in the last 12 months.

One of the starkest examples of the level of discrimination and homophobia felt by the EU's LGBT community was that 66% of respondents felt that they could not even hold hands in the street with their partner, a seemingly innocuous public expression of affection. The survey also showed that transgender Europeans face a much higher level of discrimination than lesbian, gay or bisexual Europeans. Despondently, van der Veur admitted that the survey had not shown that younger LGBT Europeans experience less of hate crime and discrimination.

More positively, van der Veur hoped this extensive survey could not only better inform governments of the EU member states in the formulation of policy in countering hate crime and discrimination - as they can no longer deny the existence of a problem - but also inspire other countries and regions to apply the methodology and formulate their own extensive surveys.



Travis Kong, Elizabeth Khaxas and Jo Shaw share their personal stories of truth and transformation with Fellows of the session 'LGBT and Human Rights'

From the Floor **Fellows share their** **life stories for** **Truth & Transformation**

“ I was born and raised in Hong Kong, in a very traditional working class Chinese family. So when I was young, I was just a boy with a little bit of queer wonder. I didn't really try anything. I did very well in my studies so I didn't experience any major bullying.

I was particularly drawn to my brother, who's only three years older than me, but we turned out to have two very different lives. I turned out to be gay and he turned out to be a very committed Christian, even later becoming a missionary in Afghanistan.

The hardest part for me was to come out to my brother. I think he knew something so he just said, 'Travis, I just want to have a talk to you. Are you gay?' I just said, 'Yes, I am,' and we got into a really long debate. At the end of the day he couldn't really argue with me, but he said, 'Travis, I love you but you better not be gay, you had better quit!' Like alcohol or drugs!

Later on he would always try to 'convert' me back and saying being gay might be just a phase, but I always defend myself and say 'If being gay can be a phase, then being a Christian could also be a phase - the next day you might turn into a Buddhist!'

Travis Kong, Associate Professor of Sociology, University of Hong Kong

“ You wished me love
like you never experienced
You wished me marriage
unlike your painful one

You wanted a man to take care of me
No one ever took care of you
Mama why did you think
life would be so different for your daughter?

You said I betrayed
my womanhood by loving a woman
Mama you must admit
that I have tried hard
I sent out my love
to me in all directions
It was thrown back at me
raped, battered and humiliated

I recalled myself
the way I love
with wholeness and tenderness
These are not new feelings
I learnt them from you
Finally I knew where
to look for love
you always wished for me

I will not bless this relationship you said
You had no words for it
no understanding
So I bless myself
in creating my own words
for the way
I love women ”

**Elizabeth Khaxas, Director,
Women's Leadership Centre, Namibia**

“ My sense of myself, from an early age, was complicated. I was dressing as a girl from the age of four, but not routinely. It felt completely natural and normal, and no one really cared.

When I got to the age of nine or 10, I started to realize this was something society took a very dim view of. It became something I suppressed.

I remember [at 16-17] sitting looking at a girl with absolute longing thinking 'I wish I was you. Why am I not you?'

At university I was thinking of myself as a crossdresser - I could put it away. It couldn't be more, it would be so dangerous if it were more.

So I pushed it away and I got married. I loved her, we had three children and she knew [before the marriage]. She was trying to accommodate it but then things changed and she came to the view it wasn't acceptable. So we got into this 'Don't ask, don't tell' thing.

I would dress in hotel rooms. It was a moment of release. Something inside me was trying to burst out. It became something I couldn't just put in a suitcase.

I became depressed that I couldn't express this in my life. It got to a point in 2007 where we were at breaking point. I went to tell my mother I was getting a divorce. She asked why. I showed her pictures of me as Jo. She said, 'Who's that? It's you, isn't it?' She was really shocked but accepted me in an instant. So for the next six months [until her death] she became my safe haven. We'd go out together, me as Jo.

We told the children. It was the worst day of my life. I was separated from them, but gradually, over the course of five years, my wonderful children have come back to me. ”

**Jo Shaw, Co-Founder,
Trans Media Watch, UK**

LGBT and Human Rights: New Challenges and Next Steps

Wednesday, June 5, 2013

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The global campaigns group, led by HRC's Ty Cobb, discuss their recommendations to the Salzburg Statement

First musings of Salzburg Statement underway “This is not a UN resolution!” - Session Chair reminds Fellows

The first recommendations for incorporation into the Salzburg Statement on LGBT and Human Rights are in! But despite the lengthy drafting process as panel moderators send in their recommendations and Fellows spend hours in working groups hashing out their ideas on the various aspects to be incorporated into the Statement, Session Chair Klaus Mueller was keen to remind everyone: “This is not a UN resolution!”

Unlike a UN resolution, the Salzburg Statement is supposed to be a collection of shared principles – not directives for signatories to follow.

So far recommendations have come in from the moderators of the panel on ‘The rule of law, international institutions and LGBT human rights’, ‘Multiple Discrimination against and within LGBT communities’ and ‘What do local organizations really need?’
The rule of law, international institutions and LGBT human rights

1. Donor countries should be careful when linking aid conditionalities to LGBT rights. This can – and has – backfired in the past.

2. Western donors should not be prescriptive and should understand local contexts and listen to the advice of local organizations on the ground. ‘Parachuting’ in and dictating approaches and strategies is not a conducive means of engagement.
3. Action by progressive states at the United Nations is important because a global minimum standard is then set. This, theoretically, trickles down to regional and then national levels. Furthermore, what is achieved at the UN must be protected and this too requires ongoing engagement.

Multiple Discrimination against and within LGBT communities - What data do we have and what is still missing?

1. It is essential that the United Nations and its entities set up groups or workforces which are designed to address human rights issues related to sexual orientation and gender identity.
2. It is essential that the United Nations and its entities carry out a worldwide survey into the human rights situations confronting LGBT people across the world. Special

reference should be given to methodologies that are to be used.

3. It is essential that the United Nations and its entities incorporate gender identity into documenting and monitoring human rights violations around the world.

What do local organizations really need?

1. Alliance-building. There is too much “navel-gazing” and LGBT organizations need to move beyond silos and build allies with other movements and causes.
2. There should be a willingness and an ability to learn from other movements so that best practice is shared.
3. There is increasingly the need to move beyond the human rights discourse towards the economic discourse. New emerging economic powers have little appreciation of human rights and the LGBT movements need to take this into account in their planning.

The Salzburg Fellows will continue to discuss the different elements of the Statement in their themed groups today. **Your recommendations should be shared with Sudeshan Reddy.**



Author Shereen El Feki explains the complexities of sex and sexuality (for heterosexuals & LGBTs) in the Arab world - the topic of her book, *Sex and the Citadel*

“LGBT organizations need to get over themselves!”

In a panel ‘conversation’ on ‘What do local organizations really need?’, speaker Ian Southey-Schwartz somewhat controversially said: “LGBT organizations need to get over themselves!”

Despite that sounding hostile on paper, his advice that followed was sound: strengthen your cause by allying yourself with other causes than can, in turn, advance your own.

As had already been highlighted in the example of repealing India’s sodomy laws, which had been achieved through a broad-base coalition of interests including women’s, children’s and LGBT rights groups, Southey-Schwartz urged the LGBT activists in the room that if they not only wanted to advance their cause but also receive greater funding from grant-makers, they should broaden their focus.

“Your agenda can’t always be LGBT because in some situations it will take you nowhere,” he said. Instead, he advised, LGBT rights groups should be pushing also for greater women’s rights, as that should also advance the rights of lesbians and tran-women, as well as all men; “Women are not the only ones to benefit from greater women’s rights!”

He also advised LGBT groups to make sure their voices are heard on other pertinent issues such as food security.



Ian Southey-Schwartz advises on a allied approach

But, as one Fellow pointed out, “If we don’t speak up for us, who will?”

Another suggestion to come out of the conversation, which also featured Georges Azzi, from Lebanon and Samira Montiel, from Nicaragua, was: If LGBT groups are to continue and be successful in advancing the human rights of LGBT people, then perhaps instead of focusing on human rights, groups should instead present the economic argument for their greater freedoms.

“The language of economics is more universal,” suggested one Fellow, especially as human rights rhetoric from Western nations can be seen as an ‘imperial’, non-indigenous imposition to some Global South governments.

In his explanation of how LGBT groups in Lebanon had successfully overturned the violating “anal tests” that were being carried out to “check” for homosexuality, Azzi said their target had been the medical legitimacy of the tests, rather than campaigning on a human rights violation platform.

“Find the weak spots,” he advised.

Global intentions and local consequences

When the UK declared it would make its foreign aid to Uganda conditional on its compliance with human rights norms, including abandoning its pending legislation on the further criminalization of homosexuality, many, especially in the West, thought this was a great advance in how we encourage the globalization of human rights.

But these conditions didn’t take into consideration the consequences for the local LGBT community on a day-to-day level. As the audience heard during the panel ‘Violence and Trauma: When does global outrage improve or endanger the safety and security of local LGBT communities?’, in Uganda, following the UK declaration, a homosexual was attacked by neighbors who blamed him for the death of their daughter due to the lack of medicine in hospitals.

The key issues facing LGBT communities are not the same across the world. In the West, there is currently a push for equal marriage - led by Human Rights Campaign in the US. Yet in 76 countries, homosexuality remains illegal, thus in many places decriminalization is far more pressing than marriage rights. Some Fellows also expressed concern that the vocal Western campaigns for marriage is distracting from other, perhaps more urgent campaigns for LGBT rights.

We might live in an increasingly global world, but a global approach, without taking account local contexts, may not be the answer.