



INTERNATIONAL GAY AND LESBIAN HUMAN RIGHTS COMMISSION

Outcome Statement on the Implementation of the Recommendations of the Advisory Council of Jurists, “HUMAN RIGHTS, SEXUAL ORIENTATION AND GENDER IDENTITY”

This Statement is the outcome of a convening of the International Gay and Lesbian Human Rights Commission and civil society activists working to address human rights violations faced by lesbian, gay, bisexual and transgender (LGBT) people in Indonesia, Malaysia, Mongolia, the Philippines, and Thailand. This Statement highlights key issues that we, as civil society groups and individuals see as important for the ongoing engagement with National Human Rights Institutions.

The International Gay and Lesbian Human Rights Commission (IGLHRC) notes with pleasure that some national human rights institutions (NHRIs) have begun to progress in their commitment to realizing the Advisory Council of Jurists (ACJ) recommendations in its report, “Human Rights, Sexual Orientation, and Gender Identity.” In particular, IGLHRC notes that when lesbian, gay, bisexual and transgender (LGBT) rights organizations from the countries mentioned reach out to NHRIs about specific individual instances of abuse, the NHRIs have been largely responsive. Additionally, according to reports from IGLHRC allies in at least five countries in the region, NHRIs that have received reports of discrimination on the basis of sexual orientation or gender identity have taken at least some form of action. Furthermore, IGLHRC notes that since the release of the ACJ report on human rights, sexual orientation and gender identity, the Asia Pacific Forum (APF) itself has demonstrated a consistent willingness to identify avenues to advance LGBT rights.

RECOMMENDATIONS TO THE NATIONAL HUMAN RIGHTS INSTITUTIONS OF THE ASIA PACIFIC FORUM

The following are recommendations that we are making to National Human Rights Institutions who are members of the Asia Pacific Forum.

- The attention of NHRIs to LGBT rights has largely been reactive, specifically in response to entreaties by LGBT rights organizations or individual complaints of human rights violations based on sexual orientation or gender identity. It is important that the NHRIs should become proactive, acting on their own initiative to ensure respect, protection and fulfillment of LGBT rights.
- NHRIs should develop both strategic and annual plans that demonstrate consistent and long-term commitment to the advancement of LGBT rights, and should consult LGBT organizations when developing such plans.

- While the establishment of dialogue and the development of relationships with LGBT communities is paramount, the NHRIs should additionally initiate LGBT rights-affirming dialogue with stakeholders which are typically less friendly to LGBT rights, including mainstream human rights organizations, state authorities, and perhaps most significantly, legislators. This dialogue may be within the context of on-going activities and conversations or as a part of new, LGBT-specific undertakings.
- NHRIs should insist that national and provincial authorities repeal laws, amend policies, and end practices that discriminate on the basis of sexual orientation and/or gender identity. Furthermore, NHRIs should oppose proposed laws, policies and practices with the potential to discriminate on this basis.
- NHRIs should develop accessible and expedient complaint reception mechanisms for all survivors of human rights violations, regardless of sexual orientation or gender identity or other status such as race, gender, ethnicity, health, religion, social origin, or economic or education status.
- NHRIs should under no circumstances mandate a police report of alleged abuse as a pre-requisite for opening an investigation into a specific complaint.
- NHRIs should start, continue, and/or expand their education of themselves with regard to the diverse issues and expertise required to address LGBT rights. In particular, NHRIs should do this by consulting LGBT individuals, activists, and organizations of diverse classes, races, geographic locations, and/or health statuses.
- In addition to integrating LGBT rights into the work of all NHRI commissioners and staff, NHRIs should designate a specific LGBT rights liaison.
- NHRIs should recognize that the principles of universality and intersectionality mean that they should both integrate LGBT rights into their work generally and allocate resources, including time, for LGBT human rights violations specifically. NHRIs should not make the mistake of perceiving LGBT human rights violations as secondary to other human rights concerns.
- NHRIs should immediately document and research human rights, including, inter alia: the criminalization of consensual homosexual acts and its impact; the possibility of official recognition of changes to a person's gender identity; and the lack of explicit prohibition of discrimination on the basis of sexual orientation or gender identity.
- NHRIs should translate into local languages, publish and disseminate the Yogyakarta Principles.
- When NHRIs receive complaints from individuals whose rights have been violated on the basis of their sexual orientation or gender identity, they should seek to understand how individual violations fall into larger patterns of abuse and work to prevent the repeat of similar human rights violations.
- When engaging with vulnerable groups such as LGBT individuals, NHRIs should take every precaution to ensure that interlocutors are not put at risk; they should exercise the highest standards for maintaining privacy and confidentiality.

- When there are no domestic LGBT organizations, NHRIs should strive to identify LGBT-friendly interlocutors such as those working on women's human rights, sex work, HIV/AIDS and related issues as well as regional or international LGBT rights organizations.
- The NHRIs should actively include references to sexual orientation and gender identity in interventions, references, and opportunities at United Nations fora.
- NHRIs should strive to ensure the full and meaningful participation of civil society organizations, including LGBT organizations, in all areas of civic and political life. That effort should entail fostering a safe climate for LGBT organizations and striving to increase their capacity to fully participate.

RECOMMENDATIONS TO THE ASIA PACIFIC FORUM

The following are recommendations that we are making to the Asia Pacific Forum.

- The APF should develop concrete toolkits to aid NHRIs in their efforts to operationalize the ACJ recommendations on the basis of sexual orientation and gender identity in a timely manner. The toolkits should be developed in consultation with LGBT organizations.
- The APF should review the progress of NHRI implementation of the ACJ recommendations on sexual orientation and gender identity. Such review should be conducted annually and guarantee that LGBT organizations are meaningfully engaged.
- The APF should facilitate the participation of LGBT organizations in the review of NHRIs by the International Coordinating Committee (ICC).
- The APF should facilitate the inclusion of references to human rights violations on the basis of sexual orientation and gender identity by NHRIs in United Nations fora.