



UN Commission on Human Rights, 61st session Geneva, 5 April 2005

Canadian HIV/AIDS Legal Network

Oral Intervention by Mr. Philipp Braun

Agenda Item 11: Civil and Political Rights

Sexual Orientation and Gender Identity

Chairperson, distinguished delegates,

My name is Philipp Braun and I am speaking on behalf of the Canadian HIV/AIDS Legal Network which has links with many organisations including the Lesbian and Gay Federation in Germany, of which I am a Board Member.

Today I am addressing the issue of the civil and political rights that lesbians, gay men, bisexuals and transgender people are entitled to under both the Universal Declaration of Human Rights and the International Covenant of Civil and Political Rights. I am doing this coming from a country that epitomizes both some milestones of activism for LGBT people as well as one of the darkest hours faced by LGBT people in the last century.

The fight against the criminalization of gay men and lesbians through so called “sodomy laws” stood at the beginning of the more than 100 years old movement of LGBT people for emancipation and equality before the law. Indeed it still is our most basic demand today!

In 1867, Karl Heinrich Ulrichs, the first known gay activist, spoke against sodomy laws at a legal conference in Germany. In 1897, the first gay activist group (the Scientific Humanitarian Committee) was formed by Magnus Hirschfeld in Berlin. The issue of Germany’s infamous Section 175 was discussed in parliament the same year. After being the site of the first political movement for LGBT rights that flourished in the 1920s, Germany was also the site for the worst persecution of LGBT people under the Nazis. Gay men were forced to wear the infamous pink triangle in the Nazi concentration camps and thousands perished.

Germany's example demonstrates how societies can change and overcome extreme discrimination and prejudice. In 2000, the German Parliament unanimously apologized for the prosecution of lesbians and gays under the Nazis and for their continuing criminalization in the 50s and 60s. In 2003, it voted for the construction of a memorial for the persecuted homosexual victims of the Nazis for which a design competition is being currently held¹. We invite High Commissioner Arbour and all delegations and NGOs at the Commission to come to Berlin for the inauguration of the memorial and to contemplate the painful lessons we have had to learn in Germany about persecution and intolerance.

Today over 70 countries still criminalize consensual same-sex sexual relations in spite of the fact that in 1994 the Human Rights Committee ruled in *Toonen v. Australia*² that such laws are in contravention of the International Covenant on Civil and Political Rights. Indeed there are members in this Commission that still torture and execute gay men and lesbians for consensual same-sex activity.

On all continents LGBT people continue to have their rights to free speech, association, privacy, liberty, freedom from torture and even to life itself infringed by states and private actors. In Egypt gay men have been entrapped by the state and charged with debauchery. In Nepal transgender people are subject to police harassment and violence. In Jamaica some popular dance hall music has called openly for the murder of gay men and last year the founder of the group J-FLAG Brian Williamson was murdered. In Poland the mayor of Warsaw prohibited a LGBT pride parade because he saw it as violating public decency.

Many special rapporteurs and treaty bodies have repeatedly underlined the obligations of states to prohibit discrimination on the grounds of sexual orientation or gender identity. Today together with the International Lesbian and Gay Association, which has members in 90 countries, we call upon this Commission to recognize the human rights of LGBT people and upon states to uphold their duty to protect people from discrimination on the grounds of sexual orientation and gender identity.

¹ <http://www.gedenkort.de/eng-chronicle.htm>

² Communication No. 488/1992: Australia, CCPR/C/50/D/488/1992, Nicholas Toonen, v. Australia, April 4, 1994