

Human Rights Lawyers Association Event Proposal:

LGBT rights in the UK and around the world

Context for event:

This year we marked the 50th anniversary of the partial decriminalisation of same-sex sexual activity between men in England and Wales through the introduction of the Sexual Offences Act 1967. 2018 will be 15 years since full decriminalisation was achieved through the Sexual Offences Act 2003, and 15 years since the repeal of the notorious and damaging Section 28. In January 2017, the UK Government pardoned thousands of gay men convicted under historic anti-gay laws through the introduction of the Policing and Crime Act 2017, and in November Scottish First Minister Nicola Sturgeon issued a landmark apology to gay men similarly convicted for same-sex sexual activity – to be followed by the Historic Sexual Offences (Pardons and Disregards) (Scotland) Bill. Similar apologies also came from the governments of Canada and Western Australia. In 2013, the UK introduced the Marriage (Same Sex Couples) Act and the first same-sex marriages took place on 29th March 2014. In July last year, the UK Government announced proposals to reform the process by which transgender people can achieve legal gender recognition, currently outlined in the Gender Recognition Act 2004.

At this year's Pink News Awards, Prime Minister Theresa May notably asserted that *"the anti-LGBT laws which remain in some Commonwealth countries are a legacy of Britain's Colonial past, so the UK government has a special responsibility to help change hearts and minds."* In April 2018, the UK will host the Commonwealth Heads of Government Meeting, where it is hoped that LGBT rights will be a prominent item on the agenda. In response to developments in Chechnya, Egypt and Azerbaijan, the All Party Parliamentary Group on Global LGBT Rights arranged a debate in the House of Commons on 26th October 2017, in which MPs from all major parties expressed concern and solidarity. Much has been achieved, and yet significant challenges remain. Stonewall's 2017 School Report revealed troubling evidence of the grave challenges facing young LGBT people in the UK. The aftermath of the Brexit referendum saw an alarming 147% rise in anti-LGBT hate crime. Transphobic articles appear to be a recurring feature in much of the tabloid media, obstructing any hope of a rational and informed discourse, and the treatment of LGBT asylum-seekers in the UK is a source of shame.

In 2017, same-sex marriage was recognised in Australia, Germany, Malta, Taiwan and Chile, among others. Decriminalisation of same-sex intimacy has been achieved in recent years through legislative reform in Nauru, Seychelles, Mozambique, Palau, and São Tomé & Príncipe. The Cook Islands have also indicated their intention to decriminalise. Successful litigation efforts in Belize resulted in decriminalisation in 2016, and following a remarkably progressive Supreme Court judgment in India on the right to privacy in August 2017, in which the court determined that *"sexual orientation is an essential attribute of privacy"* and described discrimination on the basis of sexual orientation as *"deeply offensive to the dignity and self-worth of the individual"*, there is renewed hope among LGBT activists that a successful challenge to s.377 of the Indian Penal Code is within sight. At the international level, the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity delivered his first two reports, and a group of human rights experts from across the world drafted the *'Yogyakarta Principles plus 10'* – reinforcing the international human rights law standards applicable to LGBT people, and the obligations of States. And yet...

According to ILGA's 2017 *'State-Sponsored Homophobia'* report, 72 countries criminalise consensual same-sex activity, of which around 45 countries criminalise same-sex activity between women. 2017 was marked by troubling developments – the *'gay purge'* in Chechnya, crackdowns against the LGBT

community in Azerbaijan, Egypt (which is now considering introducing criminalising legislation), Indonesia, Tanzania, Nigeria, and elsewhere. In many societies, lesbian women are confronted with being forced into heterosexual marriages, as well as falling victim to the appalling phenomenon of 'corrective rape'. In many countries transgender individuals are particularly vulnerable to abuse and violence. Many LGBT people are entirely unable to seek the protection that should be afforded to them by state authorities.

Despite the legalisation of same-sex marriage by the US Supreme Court in the landmark 2015 case of *Obergefell v. Hodges*, in Trump's America LGBT rights are very much under threat and much of the hard-fought progress achieved in recent years is already being reversed. In 2017, 25 trans individuals were killed – the highest number on record – President Donald Trump indicated an intention to ban trans people from serving in the US military, and moves have already been made to remove anti-discrimination protections for LGBT people in the context of employment.

It would seem highly apposite then to consider the challenges facing LGBT people, both in the UK and around the world, and in doing so give serious thought to how the law can be utilised effectively to advance the realisation of LGBT equality.

Proposed Panel Members:

This event would bring together a panel of 4-6 individuals from various backgrounds – legal academics, NGO professionals, LGBT activists, human rights lawyers, and politicians. Obviously, I would be absolutely delighted to Chair the event – having volunteered for Stonewall in 2014, written my LLM research essay on LGBT rights in Africa, and worked at Human Dignity Trust for 9 months in 2017 – otherwise Paul Dillane (listed as a potential panel member below) would certainly be entirely suitable, as a member of the HRLA Executive Committee and as Executive Director of the Kaleidoscope Trust. Below is a list of possible panel members:

Legal academics:

1 of the following...

- **Robert Wintemute** (Professor of Human Rights Law, King's College London);
- **Michael O'Flaherty** (Director of the EU Agency for Fundamental Rights, former Professor of Human Rights Law, National University Ireland Galway, Professor of Law, University of Nottingham, and former Vice-chair of the UN Human Rights Committee)
- **Dominic McGoldrick** (Professor of International Human Rights Law, University of Nottingham);

NGO professionals/LGBT activists:

2 of the following...

- **Paul Dillane** (Executive Director, Kaleidoscope Trust and HRLA Executive Committee member);
- **Téa Braun** (Legal Director, Human Dignity Trust);
- **Sara Hall** (Head of International Campaigns & Policy, Stonewall) or **Kit Dorey** (International Policy Officer, Stonewall) or **Alysha Khambay** (International Officer, Stonewall).
- **Leila Zadeh** (Executive Director, UK Lesbian & Gay Immigration Group (UKLGIG);

- **Aderonke Apata** (Nigerian LGBT activist who recently obtained refugee status in the UK);
- **Sir Ian McKellen** (LGBT activist & co-founder of Stonewall)

Lawyers:

2 of the following...

- **Tim Otty QC** (Blackstone Chambers and Counsel for the Interveners in *Orozco v Attorney General of Belize*);
- **Raza Husein QC** (Matrix Chambers and Counsel in *HJ (Iran) & HT (Cameroon) v. Secretary of State for the Home Department*) or **Monica Carss-Frisk QC** (Blackstone Chambers and Counsel in *HJ (Iran) & HT (Cameroon) v. Secretary of State for the Home Department*);
- **Karon Monaghan QC** (Matrix Chambers and Counsel for the Equality & Human Rights Commission in *HJ (Iran) & HT (Cameroon) v. Secretary of State for the Home Department*);
- **Lord Anthony Gifford QC** (Doughty Street Chambers – Counsel in *Dudgeon v. UK*);
- **S Chelvan** (No5 Chambers – leading barrister on LGBT asylum cases);
- **Allan Briddock** (One Pump Court & Trans Equality Legal Initiative);
- **Jane Ryan** (Bhatt Murphy);

Politicians:

1 of the following...

- **Lord Cashman** (Co-founder of Stonewall & Vice-Chair of the All Party Parliamentary Group on Global LGBT Rights);
- **Baroness Barker** (Vice-Chair of the All Party Parliamentary Group on Global LGBT Rights);
- **Nick Herbert MP** (Chair of the All Party Parliamentary Group on Global LGBT Rights)

Format:

Every panel member will have 10 minutes to speak, each offering their own unique insight into LGBT rights in a different context. Such remarks will be informed by their activism and campaigning, litigation work, legal reform and/or academic research. If it is possible to arrange for six speakers, it may perhaps be appropriate to have a short intermission after the first three.

The remarks from panel members will be followed by a period of Q&A, allowing audience members to participate and engage with the panel on a range of issues relating to LGBT rights. There will be a drinks and networking reception afterwards.

This event will provide HRLA members with a profound insight into LGBT issues at the domestic, regional and international level, as well as the various mechanisms that can be used to achieve progressive change. For aspiring human rights lawyers, it will also place LGBT rights litigation into a fuller context, and help audience members to understand what role human rights law can play in advancing LGBT equality worldwide.

Location:

Preferably a human rights law firm/barristers' chambers or lecture theatre in central London.