



Statement for Working Session II, HDIM 2017

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**The right to freedom of peaceful assembly and of association
of LGBTI people**

The OSCE Guidelines on Freedom of Peaceful Assembly prohibit any discrimination on the grounds of sexual orientation.¹ This inclusion is important, since as recognised by the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, LGBTI people are some of the most vulnerable in terms of having their rights to free association and peaceful assembly denied.²

Russia – and potentially Kyrgyzstan – violates these basic rights through laws that criminalise public assembly and association of LGBTI groups and restrict the work of organizations defending LGBTI people and their rights. Moreover, such laws have been accompanied by bans and proposed bans on non-governmental organizations receiving funding from abroad, allegedly in order to curb the influence of “foreign agents.”³

The 2013 Russian law banning the distribution of material on LGBTI rights is officially for “for the Purpose of Protecting Children from Information Advocating for a Denial of Traditional Family Values.” The underlying assumptions upon which this ‘purpose’ relies are morally obnoxious and benighted, and amount to state-sponsored hate speech against a minority group.

Indeed, anti-LGBTI initiatives, like the homosexual “propaganda” laws and bans on LGBTI peaceful assembly, suggest that homophobia is officially sanctioned, and inevitably inculcates a climate of impunity and hate, further inhibiting the freedom of assembly and association of LGBTI people.

Vigilante acts, including outing, hunting, torture and even murder of known or suspected LGBTI people and activists, have been reported in Russia,⁴ and in Chechnya state instruments have been implicated.⁵ In Kyrgyzstan, whilst homophobia is not a new phenomenon, local activists have observed that the draft law has created a permissive climate in which vigilante groups feel justified to take the law into their own hands, often with the silent approval of state institutions.⁶

¹ Guidelines on Freedom of Peaceful Assembly (Warsaw/Strasbourg: ODIHR, 2010, 2nd ed.), §48.

² A/HRC/26/29, “Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai”, United Nations Human Rights Council A/HRC/23/39, 24 April 2013, para. 43.

³ <https://www.hrw.org/russia-government-against-rights-groups-battle-chronicle>, <http://thediplomat.com/2016/03/kyrgyzstans-ngo-and-lgbt-crackdown/>

⁴ Whilst official numbers of homophobic attacks in Russia are low, it has been argued that this is a result of attacks often not being reported, and when they are police rarely label them as such. One poll last year of nearly 900 people by the Russian LGBT Network found more than 15% had experienced physical violence between November 2011 and August 2012. http://www.upr-info.org/IMG/pdf/lgbtnet_upr_rus_s16_2013_lgbtnetwork_e.pdf, and <http://www.channel4.com/news/gay-russian-sochi-hunting-season-we-are-the-hunted>, <http://www.pinknews.co.uk/2013/07/26/russia-gay-teenagers-tortured-and-made-to-come-out-on-video-by-militant-anti-paedophilia-group/>, <https://www.hrw.org/news/2016/04/13/dispatches-presumed-gay-and-paying-it-your-life-russia>

⁵ <https://www.theguardian.com/commentisfree/2017/apr/13/gay-men-targeted-chechnya-russia>

⁶ In one such incident, members of the self-anointed patriotic group Kyrg-Choro (“Kyrgyz Knights”) and Kalys (“Justice”) crashed a private party on May 17, 2015, where participants were celebrating the International Day against

Whilst some OSCE participating states may argue that there are no specific commitments on this issue, the Copenhagen document,⁷ Ministerial Decision No. 9/09 on Combating Hate Crimes, and international human rights standards make plain the grave violations against the realisation of freedom of peaceful assembly such laws encapsulate.

In sum, states have an unequivocal obligation to protect right to freedom of association and peaceful assembly without discrimination on the grounds of sexual orientation or gender identity.

To that end, we call on Russia to repeal its discriminatory provisions and urge Kazakhstan to halt the process of introducing its 'gay propaganda' and 'foreign agent' laws.

We call on both states to protect LGBTI persons seeking to associate and assemble from attacks and reprisals through preventive measures and by investigating attacks, prosecuting perpetrators and ensuring remedy for victims.

Finally, we call for full investigation of all the facts about unlawful repression in Chechnya of LGBTI population, punishment for the guilty parties and an end to the practice of extra-judicial violence and killings in the republic.

Homophobia and Transphobia. An amateur video of the event shows one of the attackers shouting "I will punish you" at the guests. <http://thediplomat.com/2016/03/kyrgyzstans-ngo-and-lgbt-crackdown/>

⁷ "all persons are equal before the law and are entitled without any discrimination to the equal protection of the law," Article 5.9 of the Copenhagen Document, <http://www.osce.org/odihr/elections/14304?download=true>