



Working Session 10: Tolerance and Non-Discrimination OSCE Human Dimension Implementation Meeting

**Warsaw, Poland
October 5, 2009**

Eleven years ago this week, a 21-year-old gay American named Matthew Shepard was brutally beaten and tied to a fence in Laramie, Wyoming, where he was left to suffer alone on a cold country road for 18 hours before anyone found him. Mathew died five days later. Today, Matthew's violent murder is recognized as a national tragedy; the fact that similar tragedies have been repeated so often across the entire OSCE region is a shameful reality. It is time for OSCE participating States to take a formal decision at the Ministerial level to address hate crimes directed at lesbian, gay, bisexual and transgender (LGBT) communities as part of the organization's important tolerance and non-discrimination mandate.

Unfortunately, based on statistics collected by the Federal Bureau of Investigation in the United States, we know that Matthew's death was not an isolated incident. In 2007, crimes directed at individuals because of their sexual orientation were at their highest level in five years in the United States. The trends in other OSCE countries are equally alarming and point to a regional pattern of exceptionally violent crimes directed at LGBT individuals. Too often these crimes are sexualized in an apparent attempt to "punish" the victim for transgressing social and sexual stereotypes. Indeed, the daily reality facing many LGBT citizens in OSCE countries is one of violence, discrimination and fear.

Existing documentation in the annual ODIHR report on Combating Hate Crimes in the OSCE region, as well as reports by the EU Fundamental Rights Agency, the U.S. Federal Bureau of Investigation and the 2008 Hate Crime Survey by Human Rights First, are beginning to raise awareness and provide information on the nature of these crimes. But far greater efforts are still needed to document adequately these crimes across the region. We urge all participating States to find ways to work with the ODIHR to document the scope, severity and communal impact of violence committed against LGBT communities within their jurisdiction.

In addition to documenting LGBT violence, we also call on participating States, if they have not already done so, to enact laws that expressly address LGBT hate crimes. Such laws should recognize bias as an aggravating circumstance in the commission of violent crime and should provide enhanced penalties for crimes motivated by animus on the basis of the victim's real or perceived sexual orientation or gender identity. We are very pleased that the United States may soon join eleven other OSCE participating

States that have enacted some form of LGBT hate crime law by adopting a new law in the United States to prosecute crimes committed on the basis of either sexual orientation or gender identity at the federal level. We call on all other participating States to review the legal tools at their disposal to ensure they have adequate mechanisms to investigate and prosecute such crimes and to punish the perpetrators of LGBT-related hate crimes with sentences that reflect both the severity of the crimes and their social assault on communal tolerance and group identity.

While accurate documentation and effective prosecutions are absolutely essential, LGBT violence cannot possibly be eliminated without an even broader commitment to a full range of legal, financial and social reforms to promote equality for all LGBT citizens in the region. As an important first step, we call on all participating States in the OSCE region to remove any laws that continue to criminalize homosexual conduct or identity or the public dissemination of scientifically-supported information on homosexuality and sexual health. Over the past year, 67 UN Member States joined a UN Statement calling for an end to all laws that criminalize consensual homosexual conduct. We also note with great appreciation that the Holy See announced that it, too, “continues to advocate that every sign of unjust discrimination towards homosexual persons should be avoided and urges States to do away with criminal penalties against them.” As such, we now call on Uzbekistan and Turkmenistan to reform or repeal laws that criminalize consensual, homosexual conduct. We also call on Lithuania to revise its “Law on the Protection of Minors against the Detrimental Effects of Public Information” in light of its human rights commitments. Such laws represent grave violations of human rights and they are drivers of intolerance and violence against LGBT communities.

Moving beyond decriminalization, participating States must also adopt policies that entrench equality for all, regardless of an individual’s real or perceived sexual orientation or gender identity. In this context, we call upon OSCE participating States to be guided in their development of national legislation and policies by the “Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity.”

After her son Matthew was killed eleven years ago, his mother, Judy Shepard, created a foundation in his memory to “replace hate with understanding, compassion and acceptance.” So, too, let us all work together – as individuals, NGOs and participating States – to provide the tools, funding and expertise necessary to replace hate with understanding, compassion and acceptance across the OSCE region. To do this, we call on the Chair-in-Office of the OSCE and participating States to explicitly include sexual orientation and gender identity in all relevant Ministerial decisions related to tolerance, non-discrimination or hate crimes, and in the work of all OSCE tolerance related mechanisms.