

The International
Tribunal on Human
Rights Violations Against
Sexual Minorities



Tuesday, October 17,
1995
New York City, USA

Tribunal Co-Chairs

Urvashi Vaid

James Hormel

Tribunal Co-Sponsors

The International Gay & Lesbian
Human Rights Commission

Community United Against Violence

The **International Gay and Lesbian Human Rights Commission** (IGLHRC), founded in 1991, is a San Francisco-based non-governmental human rights organization. IGLHRC's primary work is to monitor, document and mobilize responses to human rights abuses against lesbians, gay men, bisexuals, transgendered people, people with HIV and AIDS, and those oppressed due to their sexual identities or sexual conduct with consenting adults. For more information please contact IGLHRC:

1360 Mission St., Suite 200, San Francisco, CA 94103 USA
Phone +1-415-255-8680 Fax +1-415-255-8680

Community United Against Violence (CUAV) was the first organization in the United States dedicated exclusively to preventing and treating violence against and within the lesbian, gay, bisexual, and transgendered communities. For more information please contact CUAV:

973 Market Street, Suite 500, San Francisco, CA 94103 USA
Phone +1-415-777-5500 Fax +1-415-777-5565

**A 30 minute video of the Tribunal is also available.
Please contact IGLHRC at the above address if interested.**

Table of Contents

Opening Remarks

Charlotte Bunch, Director, Center for Women's Global Leadership
2

Testimonies

Part I: Human Rights Violations Based on Sexual Orientation

Herbert Mondhlani, Zimbabwe

4

Elizabeth Lim, Philippines

6

Ciprian Cucu, Romania (Translated by Scott Long)

9

Part II: HIV/AIDS and the Persecution of Sexual Minorities

Alfredo Gonzalez reading testimony of Wilfredo Valencia-Palacios, El Salvador

12

Anuja Gupta, India

15

Part III: Human Rights Violations Based on Gender Identity and Sexual Orientation

Daphne Scholinski, USA

18

Serkan Altan, Turkey

21

Mariela Muñoz, Argentina (Translated by Patricia Montoya)

23

Judges' Remarks

Rory Kennedy statement in place of Kerry Kennedy-Cuomo,

27

former Executive Director of the Robert F. Kennedy Human Rights Center

Deputy Marta Suplicy, Member of the Brazilian Parliament and

28

Brazilian Human Rights Commission, Brazil

Nomtuse Mbere, Member of the South African government delegation to

31

Beijing World Conference on Women, South Africa

Gara LaMarche, Associate Director of
Human Rights Watch, USA

33

Judges' Final Statement

34

Opening Remarks

Charlotte Bunch, Director of the Center for Women's Global Leadership, USA

It is a pleasure to open this historic event which comes at a critical time both for the lesbian and gay movement and for the United Nations.

For 50 years, since the UN was founded and its charter of nondiscrimination proclaimed in 1945, and for 47 years since the Universal Declaration of Human Rights was signed by all nations of the world in 1948, there has remained a conspiracy of silence about the human rights of sexual minorities. The UN, governments, and most of the human rights community around the world have turned away from and avoided discussion of the human rights of lesbians, gays, bisexuals, and transgendered individuals. They have chosen not to see the many violations of human rights principles in this area that they espouse elsewhere:

- the right of sexual minorities to freedom of assembly and to freedom of speech;
- their right to equal protection under the law and to non discrimination, as the Universal Declaration states "without distinction of any kind, such as race, sex...or other status;" (art.2)
- the right to work, to health, and to education;
- the right to bodily integrity and determination of one's sexuality;
- the right to free choice in marriage and family;
- the right to asylum from persecution and to refugee status;
- and most basic of all, the right to

life, liberty, and security of person without fear of violence, torture, or arbitrary imprisonment.

All of these human rights are spelled out in various UN instruments and conventions and elaborated further in UN world conference declarations and other treaty body communications. Yet, when these rights are violated because of a person's sexual orientation, the world bodies and most governments remain silent or even declare that sexual minorities do not deserve human rights and protections and that we can be treated as less than human. This implication that we are not fully human is then an invitation to more violence and abuse.

As you will hear in today's testimonies and as Rachel Rosenbloom spells out so clearly in her introduction to *Unspoken Rules: Sexual Orientation and Women's Human Rights*, published by IGLHRC for the IV World Conference on Women in Beijing, all of these fundamental human rights are violated daily in the lives of lesbians, gays, bisexuals, and transgendered people all over the world. Additionally, such violations are often questions of life and death and not trivial behavioral or lifestyle choices as some would imply. There has been a wall of silence erected around these abuses that has proven stronger than the Berlin Wall, but we are here today because cracks have been made in that wall and we seek to make it crumble further.

Over the past five years, the women's human rights movement has been working to end the silence sur-

rounding abuses based on gender. This movement shares many common concerns with the movement for lesbian and gay human rights—not to mention sharing many women. Both of these movements address how distinctions between violations in private and public and the reluctance of the human rights community to address sexuality and rigid gender identities have kept such violations invisible or even sanctioned them.

Women have utilized tribunals like this one both locally and at the UN World Conferences in Vienna, Cairo, Copenhagen, and Beijing:

- to break down that wall of silence;
- to make such violations visible and concrete in terms of how they impact our lives;
- and to demand accountability for their neglect.

The demand that "women's rights be understood as human rights" gained ground at the World Conference for Human Rights in Vienna in 1993, and was ratified in Beijing where many, including Hilary Rodham Clinton, acknowledged that the conference was about the human rights of women and how they are violated in many areas. With that acceptance has come a gradual opening for understanding better that lesbian and gay rights are also human rights.

In Beijing, this issue advanced to the first open discussion of sexual orientation and lesbian human rights in the UN. Lesbianism has always been raised by NGOs at the UN World Conferences for Women, but it has never before been on the inter-governmental conference agenda. It began as a scandal at the first Mexico City Women's Conference in 1975 and

moved to an issue only spoken to by the Dutch government in 1985. So in 1995, the issue moved into an extraordinary debate with 30 countries from all regions openly supporting lesbian rights. Some even declared that they considered the issue to be included in the prohibition of discrimination based on "other status"—already in the Universal Declaration and the Beijing document.

The Beijing Platform for Action also specifically recognized:

- that various forms of family exist (p. 30)
- the human right of women to have control over and decide freely matters related to their sexuality (p. 97)

Not a revolution, but a big crack.

Commitment to the human rights of sexual minorities has also emerged from some other struggles, most notably, as evidenced in the recent South African Constitution which is the first to include protection from discrimination on the basis of sexual orientation. Indeed the open participation of lesbians and gays in that historic struggle against human rights abuse based on race opened the way to the inclusion of lesbian and gay rights in the vision of human rights that emerged out of this liberation movement. It is only as we speak openly and name the abuses done to lesbians, gays, and other sexual minorities and demand accountability for them that we can hope to see them included on future human rights agendas.

The vision of this tribunal is that as more people of all genders and sexual persuasions understand human rights violations and discrimination based on

Testimonies

Part I. Human Rights Violations Based on Sexual Orientation

sexual orientation, they will join forces to end these abuses just as many lesbians and gays struggle for the human rights of others. The only hope for a future realization of human rights for all is in acting on our understanding that human rights are indeed universal, indivisible, inalienable, and interrelated. If the human rights of any group are left behind, the human rights of all are incomplete.

Our challenge to the UN today is to exert its ethical leadership on human rights in its next 50 years. To do so, it must begin now to redress this neglect and to move toward a truly inclusive interpretation and implementation of its human rights instruments and mandates. It must investigate and document violations of the human rights of sexual minorities and find ways to hold governments and non-state actors accountable for these abuses. It must declare once and for all that all human beings deserve full human rights.

The courageous women and men who will testify today make real what those abuses are and make concrete what must be done if we are to live in a world that respects the human rights and dignity of all its citizens. Let us listen and learn from them and take their stories and our demands across the street and around the world.

Herbert Mondhlani, Zimbabwe

I was born and grew up in Zimbabwe which until 1980 was called Rhodesia. In my childhood, I experienced rejection and discrimination

because of the colour of my skin. Blacks were regarded as second class citizens under the racial government of Ian Smith. The apartheid of race came to an end in 1980 with the birth of Zimbabwe under the leadership of President Robert Mugabe.

Today, there is racial equality in Zimbabwe. But today there is another form of apartheid in Zimbabwe. This is the apartheid of gay oppression. As a gay man in Zimbabwe, I have no place, I have no voice, I have no status simply because of my sexual orientation.

Homosexuality is illegal under the Sexual Offences Act which classifies gayness together with bestiality, incest, child abuse and prostitution.

My sexuality, like my skin colour, is something I have no control over. I did not choose to be black, nor did I choose to be gay, but this world has punished me for being both. I have been gay as far as I can remember.

However, it was only when I was at a university in 1986 that I came to terms with my sexuality, with my identity. My university days were the days of exploring the outside world. They were also days of misery. As is natural with university life, I began to experiment with the unexplored world. I could not hide my feelings any more. I became more daring and more open about my sexuality.

This landed me in trouble with some of my colleagues who could not stomach the fact that I was attracted

to people of the same sex. One evening a group of students convened a "kangaroo" court and summoned me to the Student Union. There were fifteen of them. In a hostile manner, they put me under intensive interrogation. One of the students suggested that I should be flogged publicly at campus so that I abandon this morally decadent behaviour and as a lesson to others who might be tempted. Luckily this was never carried out. The rest of my university life was never the same again. I suffered from social ostracism and I was labelled a misfit. Most of my friends abandoned me and I was subjected to a lot of ridicule and gossiping on campus. I withdrew completely from university activities and became a complete loner.

After graduating with honors and obtaining a Masters' degree in 1990, I took a job with The Herald, one of our daily newspapers, as a night sub-editor. During the day I was teaching part time at the University of Zimbabwe.

It so happened that one evening a court story landed on my desk for editing. The story was about two black gays who had been caught red-handed by a friend making love. The friend demanded some money from these two so that he would maintain his silence. The couple refused and the friend reported them to the police. The two were arrested, charged and eventually fined under the Sexual Offenses Act for sodomy.

I made contact with the couple and we had a long chat before they began to trust me. Lo and behold they told me the sweetest news I had ever heard in my life. They told me that there was an organization in Zimbabwe for gays and lesbians (GALZ). They invited me to one of their social functions. That was in 1991. I immediately applied to join GALZ.

Since then, I have become an

active member of GALZ and I have seen GALZ transform itself from a mere social organisation to a political force to reckon with. Today GALZ has grown tremendously and aside from being an organisation for gay men and women, it offers counselling service and safe sex advice to people from all walks of life. The sad news is that the existence of GALZ is now under threat from the government.

In 1993 the Minister of Home Affairs/Internal Affairs issued a press statement warning all homosexuals in Zimbabwe that the net was closing. "It (homosexuality) is illegal in this country. Their organisation (GALZ) is an illegal organisation and the police are going to clamp down on their activities. Police are anxious to make arrests."

Last year, police raided the GALZ office in the city centre seizing literature and video material but without laying any charges. Pornographic material is illegal in Zimbabwe but none of the material seized was pornographic. The material included an international directory of lesbian organizations.

However, the worst happened this year at the International Book Fair which was held in Harare in August. The Zimbabwe International Book Fair is the largest event of its kind in Africa and is held annually. The theme of the Book Fair this year was human rights and justice. Naturally, GALZ like any other civic organisation, applied to participate. After much foot dragging by the organisers of the fair we were allowed to participate. However, on the eve of the event, the government issued a directive to the Book Fair organizers to expel GALZ from the Fair. The organisers obliged. This was despite the fact that the organizing committee had signed a contract with GALZ for our participation, GALZ had paid its participation fee, and a stand had already been allocated to us.

Testimonies-Part I

The Zimbabwean government threatened to withdraw financial support to the Book Fair and in a letter to the Fair organizers stated that it was "dismayed and shocked by the decision of the Book Fair trustees to allow the so called Gays and Lesbians Association of Zimbabwe to participate." At the official opening of the Book Fair, President Robert Mugabe took the issue further by attacking gays and lesbians in a very hard-hitting speech calling homosexuality "immoral" and an "abhorrent Western import" and stated that he found it "extremely outrageous and repugnant that such immoral and repulsive organizations like those of homosexuals...should have any advocates in our midst." At three subsequent separate functions, President Mugabe renewed his attacks on the gay community by saying that homosexuality "degrades human dignity" and that it's unnatural and there is no question of ever allowing these people to behave worse than dogs and pigs." In one of his homophobic statements he closed his remarks by saying "Americans should keep their foolish and stupid ways to themselves."

Speaking at a state function to honour our heroes who died in the war of independence, President Mugabe called for the arrest of gay people and he encouraged the people in the townships to report any gay people to the police.

In some way, President Mugabe's statement was a blessing in disguise because after his speech, many people came to know of the existence of our organisation and we received several applications from people to join GALZ. However, it is important to analyze the political and legal impact of the anti-gay crusade that has been launched in Zimbabwe since the Book Fair fiasco. From a legal perspective, the banning of GALZ from the Book Fair by both the

Zimbabwean government and the Book Fair trustees in the name of morality was illegal. Having a homosexual orientation is not a crime and not all forms of homosexual activities are illegal in Zimbabwe.

The Zimbabwean constitution protects a number of human rights, including the right to the privacy of one's home and the rights to freedom of speech and association which means the right to receive and impart ideas and information without interference. GALZ, as an organization which provides counselling and support to members of the community, has a right to exist. This is enshrined in our constitution. The intolerant and dictatorial attitude expressed in this instance runs directly contrary to our constitution. The attitude expressed is also contrary to the government's declared adherence to international human rights law which it is obliged to uphold.

Politically, President Mugabe's attacks on the gay community have created an environment in which persecution of gays and lesbians is condoned. Since the President's speech, there have been several anti-gay demonstrations and threats towards gay and lesbian people in Zimbabwe. There has been discussion in the Zimbabwean parliament to quarantine gay people. Remarks such as those made by President Mugabe, especially when emanating from a head of state, not only legitimize, but encourage precisely the sorts of rights violations to which gays are subjected to around the world.

What we are seeing in Zimbabwe now is a contradiction of the cause that thousands of people in Zimbabwe died for to obtain independence from colonialism and apartheid. We fought to be free of prejudice emanating from race and gender oppression. Zimbabwe must also in the same breath fight against the apartheid of gay oppression. At the end of the day it's not only the freedom of gays that is under threat but the basic tenets of democracy and civil liberties.

Today, as an African gay man, I stand here not only for my sake. I stand here not only for the sake of gays in Zimbabwe. I stand here on behalf of gays, lesbians and bisexual people of the whole continent of Africa. They have no voice. African gays are regarded as victims of a decadent Western culture. It is said homosexuality is alien to African culture. But today I stand as testimony that African gays exist. We call upon the international community to pressure African governments to stop oppressing gay men and women now. Tomorrow might be too late.

Elizabeth Lim, Philippines

Greetings...

First of all allow me to thank the International Gay and Lesbian Human Rights Commission for the privilege of inviting me here to personally testify about our case of illegal dismissal based on our sexual orientation. It was a tough decision for me to come out in public on the issue of sexuality.

But I decided to take the rough path because of the courage I share with my partner, Evangeline "Vangie" Castronuevo. We have both made this decision as a way of offering our personal ordeal to our fellow lesbians in the Philippines and now in the whole

world. This is also a way to give meaning to our lives by being the living example of sexual discrimination by no less than a human rights institution. While we know that there are similar cases of discrimination against lesbians, our act of bringing our case to court is the first ever in Asia. Should we win our case, it will set an important precedent for other similar cases in the future.

Breaking my invisibility as a dignified lesbian at age 39 is not too late after all. Looking back to my childhood days, I knew I was a lesbian. I was attracted to some special girls at age 10. As I grew up, I tried real hard to dress and act in the same manner as the heterosexual girls my age were doing. I was strongly affected by the false notion of other people, perpetrated by the sexists, that a lesbian or a homosexual relationship is a taboo, a perversion, something sinful and dirty. At age 22 I tried to cleanse myself through confession to a priest and a nun. The priest told me to say some prayers as an act of penance while the nun made me realize the reality of lesbians' existence and lesbianism's naturalness. Among other things she said, "Don't worry my child. We do it here too." This is when I began to accept myself and by 38 I came to a conclusion and realization that there is beauty, tenderness and purity in my lesbian relationships. I was happy with who I was and who or what I would become.

Belonging to a lower class family and having suffered economic, social and political oppression, I got myself involved in the Philippine National Democratic movement. For fifteen years I have worked within the framework of the movement, and out of these years I spent a total of eight years in the human rights movement. I found myself more effective in the United Front work and considered human rights work as a chosen career

Testimonies-Part I

and personal commitment. In July 1992, I was hired as a programme coordinator at BALAY Rehabilitation Center, a human rights service institution catering to the psychosocial needs of former political prisoners and other victims of human rights violations.

Although I had already come to terms with my sexual identity, I was not brave enough to admit my sexuality to my human rights co-workers and fellow-activists. There was one experience in a human rights NGO where my co-workers wanted me to admit to the whole staff my alleged relationship to another female co-worker. I denied such allegation, much as I wanted to break my invisibility but fearful of being subjected to disciplinary action. All my life as a lesbian I had only one important wish, that is to find a partner who would dare open our relationship to other people, someone who could be proud of it. I even prayed for that someone whom I deserve to come along. It was answered in the person of Vangie, who, far from my expectation, was a married woman with a child.

On April 8, 1994 Vangie and I confirmed our feelings for each other and decided to share this, in confidence, with a co-staff member who happened to be a "friend" of mine for over ten years. She also has a lesbian sister. That was the gravest mistake we ever made.

The days following that revelation turned out as a nightmare. Within a week almost all the BALAY workers knew about our relationship. Some of the members of the Executive Committee began to question us separately on very personal matters while other staff started to isolate us. I was not spared of derogatory remarks. The atmosphere in BALAY began to change, the camaraderie was no longer visible, and the spirit of one

big happy family no longer existed.

A few days later I was approached by our officer-in-charge. He said that the issue about us had already spread among the staff and he was afraid that if BALAY tolerated our relationship, the organization would lose prestige in the eyes of our clients and the human rights community.

I was so disappointed by his reaction and decided to file a leave of absence for ten days. I took solace in a faraway place. I contemplated committing suicide but later on decided to return to the office to resume my work and to face reality.

When I came back, the members of the Executive Committee met with us separately before talking to Vangie and I together. This was when they recommended that one of us must go for the reason of "delicadeza" and in consideration of the reactions of the other staff members (five of them). Despite our strong opposition, the officer-in-charge seemed to push us against the wall. I felt cornered and offered to leave my job, as I had already proven myself in the human rights movement.

Surprisingly, our Board Chairperson, a woman lawyer, sat in on this meeting and made it clear that an issue like this is very personal and there is no legal basis to terminate either one of us. It was agreed upon to let the operations of BALAY remain as normal as possible, and subsequently to hold a forum to listen to the sentiments of each of the staff members and to refrain from talking about the issue off-handedly.

However, even after the Executive Committee decision, the officer-in-charge drumbeat for the elevation of the issue to the Board. On August 1, 1994, five workers of BALAY wrote a petition letter to the Board asking that management's handling of the issue be reviewed. In response, the Board created a Committee of Inquiry

to hear staff views.

Both Vangie and I decided to write separate letters to the Board for them to consider our side before the inquiry. I was also at that time so depressed that I sought counselling at a women's group, which later wrote a letter of support appealing for BALAY to accept our personal choices within the context of women's right to self-actualization, and expressed hope that in the end, truth, justice and fairness will prevail. But instead of understanding my psychological and emotional needs, BALAY accused me of not respecting their process and breaking their trust.

The Committee of Inquiry conducted several sessions with the BALAY staff before questioning us. To our surprise, they did not stick to the purpose of the inquiry and instead delved into my management capability, and their loss of trust in me. I was never aware that they would "interrogate" me on my job performance.

After the inquiry, four out of nine Board members who were opposed to our dismissal wrote a letter stating that: "fundamental principles such as respect for human dignity and individuality lead us to take the position that the issue of the extra-marital relationship is not within the ambit of any action or interference which BALAY may permissibly take. What we are doing is an invasion of the private lives of two individuals, in total disrespect for their individualities and personal decisions which they have made at this time."

Despite this resolution, the other five Board members issued a notice of termination handed to us on 6 September, 1994, effective on that

very day. Attached to it was the Board resolution stating the alleged grounds for our termination as follows: "Acts grossly damaging to BALAY, the staff and other people such as: (1) engaging in extra-marital relationship of Ms. Catronuevo with Ms. Lim, flaunting of the affair in the office and before the staff and the subsequent break-up of Ms. Castronuevo's marriage; (2) both personnel had deliberately engaged in lobbying for support from outside women's organizations to derail the process undertaken by the Board and to undermine the Board's capacity in addressing the issue."

For your information, a female staff member of BALAY lives and has a family with a married man. The institution has accepted this heterosexual relationship without reservation.

On 9 September 1994, our legal counsel sent a letter to the BALAY board stating that our termination is illegal and unjust as we were not afforded procedural due process and as there is no valid and sufficient ground for our termination. Through the letter, the Board was also informed that the matter will be brought to the proper court and labor tribunal.

On 15 September 1994, Vangie and I filed a complaint with the National Labor Relations Commission against BALAY for illegal dismissal. In this complaint, we sought for reinstatement, payment of moral and exemplary damages, and more importantly, a public apology.

Our court hearing formally started last October 10, 1994. BALAY's settlement proposal was to reinstate us to our former positions but only for the purpose of allowing us the opportunity to resign later. We did not settle for such an inhuman offer and decided to carry on with the court battle instead. We expect that this judicial process will go on until next year.

Testimonies-Part I

Aside from the in-court advocacy, the Advocates for Lesbian Rights (ALERT) picketed during BALAY's general assembly meeting and outside the National Labour Relations Commission. Some members of ALERT distributed documents to their local and international networks, resulting in public awareness of our case and numerous responses, particularly from various international groups and individuals expressing support for us. The case was also published in the local newspapers as well as international magazines. It has also been featured on a leading television show in the Philippines.

The breaking of our invisibility has its equivalent pluses and minuses. We were deprived of our economic rights. I was almost jobless for six months. Our financial situation was and still is an added psychological burden. Right now, I am fighting against a total loss of self-esteem. I am still picking up the pieces to regain my almost shattered self-confidence.

I can now see some bright light as the case progresses and gains international recognition. We hope that our co-Filipinos and especially the human rights community (which has remained silent about the case until now) will be awakened and put aside any shade of politics. Yes, there is politics involved. For us, recognition of lesbian rights is political. I challenge the progressive bloc to examine their own homophobia, eliminate their hypocrisy and recognize the reality that lesbians are everywhere. It is long overdue for the human rights community to expand its definition of human rights to include lesbian rights for humane treatment.

We hope that global pressure will force the Philippine government to view our case, not simply as a labour case but as a discrimination case that will hopefully result in a bill against discrimination based on one's sexual orienta-

tion.

As I often say, whatever the result of the case may be, Vangie and I will make our relationship our priority. Taking the advice of our friend, "people may come and go, but by the end of the day it will be only me and Vangie."

Ciprian Cucu, Romania

My name is Ciprian Cucu. I am twenty years old and come from Simnicolau Mare, a town in the west of Romania, near the city of Timisoara. I have come here from Romania to tell this Tribunal about what happened to myself and to my lover when we were arrested under Article 200 of the Romanian penal code, which criminalizes sexual relations between persons of the same sex.

In November 1992 I placed a personal advertisement in a Timisoara newspaper in which I sought a friendship with another gay man. The advertisement was signed, "November Dream." I received many responses, but I chose only one. This is how I met the man who later became my lover, Milorad Marian Mutascu.

I was seventeen years old, and Marian was twenty-two. Later, Marian would be accused of having sexual relations with a minor of the same sex. It is important to note that if our relationship had been a heterosexual one, it would have been perfectly legal. (The age of consent for women in Romania is 14; there is no heterosexual age of consent for men.)

It was November 27, 1992. We made a date to meet in a bar in Timisoara. We admired one another at first sight—he was my ideal.

Sometimes we would go to a hotel in Timisoara, but we could not always afford to do this. This is how I came to stay with Marian in his apart-

ment, which he shared with his mother. Marian introduced me to his mother as a friend. I lived with him there for two weeks, but soon his mother began to change her attitude towards me. Since he was in love with me, Marian left his mother's apartment and followed me to the town of Sinnicolau Mare, to my parents' home. There, I introduced him as a friend who was helping me with schoolwork.

After a time, my elder sister began to be suspicious of our relationship. She asked Marian to leave the house. I did not accept this, and, on January 19, 1993, after an argument in the family, I admitted that Marian and I were lovers. This was a shock for the entire family. My parents did not want to believe it and kept saying that I had been corrupted by Marian. I tried to prove them wrong, and showed them my diary which included a detailed account of our relationship. My sister threatened Marian that she would go to the police. Immediately after the argument, my sister indeed went to the police and lodged a complaint of which I knew nothing.

The next morning, on January 20, Marian was supposed to leave our house and return to Timisoara. In the station of Sinnicolau Mare the police stopped him and took his identity papers, without arresting him. Marian came back immediately to our house and told me what had happened. I knew right away that we would run into trouble with the police. We agreed to go together to the station, so that the police would not humiliate us by arresting us at the house. On the way, we decided to admit nothing of which we might be accused.

I was the first one to be interrogated. The investigators called me a "whore" repeatedly. They threatened to take me to the Forensic Institute for a medico-legal examination of my body.

Officer Gigi Horodinca promised me that he would write a "hot" article in the press about our case. Marian admitted everything during the interrogation. I tried to deny it, until I was shown my diary, which had been brought to the police by my sister. Then I realized that I would lose everything.

We were both very frightened, and we repeatedly asked to be told what was going to happen to us. The police told us that everything would be fine and that no formal charges would be pressed against us. We did not realize then that they were lying. At one point they handcuffed us and from that moment on we were no longer allowed to speak to one another under threat of being beaten.

On the same day, we were taken from Sinnicolau Mare to the Timisoara police, where we were asked to identify other homosexuals in Timisoara, giving their names and addresses. Out of fear, I gave the names of two homosexual men I knew. In the office where the interrogation took place, very many police officers gathered to laugh at us.

Then we were taken to the county police lockup. Upon finding out the reason for which we had been arrested, the warden of the lockup (known as "the karate man") jumped on Marian, kicking him in the mouth and the stomach. He continued to kick him even after Marian fell down and lost consciousness. I was only insulted and mocked repeatedly.

Marian and I were separated. I was taken to the preventive arrest ward for juveniles. My cell had six beds in which, during the two months I was incarcerated, up to sixteen suspects at a time slept. Before I came into the cell, officers told the supervising inmate that a homosexual was going to be put in the room. As a result, he told me from the very start that I had to have sex with him if I did not want things to

go very badly. At first I resisted, but after a few blows, I was forced to give in. It was the first time I was raped—but not the last.

In the course of the following month, he forced me to have sex with other inmates as well, while the other colleagues watched the "show". For this "privilege," the other suspects

offered the supervising inmate packs of cigarettes and other gifts. Likewise, for the whole period I spent in preventive arrest, my cellmates avoided touching my dish or spoon because I was homosexual.

On January 21, we were brought before the local prosecutor who issued thirty-day preventive arrest warrants

Note:

*In November 1995, the Romanian Chamber of Deputies rejected a package of revisions to the Romanian penal code, a package which would have included amendments to Article 200—Romania's notorious law criminalizing consensual homosexual acts between adults. As a result,

Part II. HIV/AIDS and the Persecution of Sexual Minorities

for Marian and myself. Marian was charged under Article 200, paragraph 2, which criminalizes same-sex relations with a minor. I, the minor, was also charged under paragraph 1 of the same article, which criminalizes all consensual sexual relations between persons of the same sex.

We were given a court-appointed attorney who said nothing in our defense. After thirty days of incarceration, as a simple formality, I was taken to court and asked whether I agreed to a further thirty days' prolongation of the arrest warrant. I said no, and told them that homosexual rape was widely practiced in the police lockup. Nonetheless, the warrant was extended "so that an HIV test could be performed" (I was not asked whether I agreed to be tested). Upon my return to the lockup, the warden beat me up in the presence of around twenty inmates, because I had "exposed the secrets of lockup."

The supervising inmate of the cell forced me to give him the cigarettes and other goods I was receiving from home, so that he could bribe the officers. For five weeks, my family was not allowed to visit me, against the regulations for police arrest.

At the end of January we were visited by a journalist from Radio Timisoara. She was working on a four-part series on sexual minorities. She interviewed both of us, and after the shows were aired, my parents were allowed to visit me for the first time. During the visit the investigator told my parents that he would no longer allow the journalist to air shows that "violate the criminal code by defending a crime." He said he would make the reporter reveal the name of a man who, on one show, had admitted he was homosexual.

During the first month of arrest, we were taken to the Forensic Institute and the psychiatric wards of two local

hospitals. The result of the psychiatric examinations was that I suffered from "diminished responsibility", a diagnosis which was given in order to help me in court. The forensic report said they could not prove that I had had sex with another man. But both the prosecutor and the forensic doctor insisted on discovering "who was the passive and who was the active" in my relations with Marian.

In March 1993, I was released awaiting trial, on request of my lawyer. At the same time, Marian was taken from police lockup to the preventive arrest ward of the local penitentiary, as his appeals for release had been rejected.

Marian told me later that he had been taken to a cell with around ninety inmates, and was forced to have sex with many of them. Marian told me that he had seen other inmates raped. One of them, he said, was so traumatized that he lost the ability to speak. Once, during a religious service in the penitentiary, Marian kissed the cross, as a believer. On his return to the cell, his cellmates beat him for "defiling the cross."

In February, the investigator from Sinnicolau Mare, Gigi Horodincea, published an article in the Timisoara police weekly, in which our case was described with full presumption of guilt.

The article was picked up by a national newspaper, and came to the attention of representatives of the International Gay and Lesbian Human Rights Commission in Romania. Following their investigations, the Romanian Helsinki Committee agreed to hire two lawyers for us and Amnesty International also took up our case. As a result, in May 1993, Marian was finally freed conditionally.

On June 9, 1993, our trial took place in the Timisoara court. Solely because of international pressure, the sentences given us were suspended. Marian

was sentenced to two years' imprisonment, and I was given one. Although the sentences were suspended, both of us could be imprisoned automatically in case of a repeat offense.

After all this, our legal problems were not over. A newspaper had published an interview with Marian in which he described the conditions of our detention. After the sentence, both of us were summoned to give declarations before the Military Prosecutor in Timisoara [prisons and police are military institutions in Romania]. The prosecutor in charge of the case asked to see our lawyers first, and told them that he would not antagonize the whole police force "for two homosexuals' sakes"—and that, if we told the truth about our experiences, "we would regret we had ever been born." Being deeply afraid, we said nothing to incriminate the police.

After my release, I was expelled from the last year of high school, under the pretext that I had missed too many days of school. In fact, teachers declared my homosexuality a danger to the other students. Marian tried to find a job, but no business would hire him. He finally found employment, but had to give it up because of harassment from his colleagues who knew about his case. We tried to continue our relationship, but it eventually ended because of the pressure we encountered from those who knew our story.

In May of this year, Marian committed suicide.

He killed himself because he could not bear the pressure of isolation and fear. I had lived with the hope that one day we would stand together again. I loved him tremendously and could not believe I had lost him. But destiny took away this ultimate hope. Marian is no longer. A part of me went into the earth with him: what continues to live is surrounded by hatred and dis-

Testimonies-Part II

grace. It is too difficult to live in a society sick with prejudice, which condemns you for things that should carry no dishonor and cause no guilt. Marian was the victim of this society. I ask myself why he did not believe to the end in that November dream which was so violently cut short. Why?

A draft amendment to Article 200 has now been adopted by the Romanian parliament. It criminalizes same-sex relations which take place in public, or which "produce a public scandal." * The Romanian authorities present this change as a "liberalization". It is not.

Public scandal, according to the only definition available in Romanian legal history, is constituted by two persons expressing their disapproval of an act. According to this new law, Marian and I--who were turned over to the police by my scandalized family--would still be subjected to imprisonment and trial. Moreover, the unequal ages of consent for homosexuals and heterosexuals remain unchanged.

The President of Romania, Ion Iliescu, is now in New York. He is the only person who has the power at this moment to change this new law. I appeal to him to relieve the barbarous oppression of gays and lesbians in Romania. I appeal to all of you to remember their sufferings, and to act to end them, in the name of my lover, Marian Mutascu.

The following text is a letter written in

San Salvador by Wilfredo

Valencia explaining his absence from the Tribunal.

To Whom It May Concern:

Dear panel members, please permit Alfredo Gonzalez to give my testi-

mony about the persecution of sexual minorities here in El Salvador. Please help us to stop the repression and human rights violations of any kind in the world. I'm very sorry that I'm not there to give the testimony myself, but the United States' Ambassador denied my visa because he believes that I want to stay in the U.S. and will not come back to El Salvador. One of the reasons that I was offended by the embassy personnel when I came to request a visa was because they called me a "mojado" in their country. Now the ambassador is saying that it is a common term here in El Salvador and that maybe I'm not familiar with the use of this word yet, because I recently returned from the USA to El Salvador. This is not true. The word is recognized in all of Latin America as a way to refer to some one in a racist and derogatory way. Now they are saying that I don't have the economic stability here or social ties to come back.

For me the prevention of HIV/AIDS work is more than enough reason to come back to my country. Let me also tell you that because I was a child, I did not have the opportunity to say NO to my family when they took me away from my culture and friends here in El Salvador. Thanks to the people that I grew up with, I learned to work for the betterment of my community. I understand that it is the color of the money that they see, and not the need for social work to better this world. Not even when I was beaten up and shot at did it go through my mind to run to the USA and seek shelter. I don't believe in just leaving the work that I have been doing for over a year here in El Salvador for personal, economic reasons, or because individuals from the death squad Sombra Negra want me to stop my work. I believe that we (the sexual minority) should be standing up against any human rights

violations and with open eyes for any persecution of our community. Those that can help us to organize and educate ourselves in third world countries, please do it. I thank everyone at the International Gay and Lesbian Human Rights Commission for their support given to my community here in El Salvador and to every one of you for your time and concern.

POR UN NUEVO AMANECER ; ; LA REPRESION CONTRA LESBIANAS Y GAYS
VAMOS A VENCER !!

In Solidarity,

Wilfredo Valencia-Palacios
October 11, 1995

Wilfredo Valencia-Palacios, El Salvador

My name is Wilfredo Valencia-Palacios. I was born on May 28, 1967. I am a Salvadoran by birth. My family and I went to the United States in early 1980. We moved to San Francisco, California, and it was there that I learned to work with different communities. Through that work, I learned to work in whatever circumstance or need which was presented to me, because my objective was and is to try to build a brighter tomorrow for our generation and future generations.

During the second week of August 1993, I visited El Salvador. In the time that I was in El Salvador I did not see, read, or hear any information regarding prevention of HIV/AIDS, even though I was looking for such information. This frightened me, because it was obvious that both male and female prostitution was prevalent. I was propositioned more than 30 times and when I asked what kind of protection they used, the women told me that condoms

were for faggots (homosexuals) and the latex burned their sexual organs. The men (bisexual and homosexual) told me that they were afraid that a condom would stay inside their anus or that it would break easily. People had very little information about sexually transmitted diseases in general.

I returned to El Salvador in July 1994 to work with the Oscar Romero AIDS Project. When I arrived in El Salvador I contacted FUNDASIDA (AIDS Foundation), because the Oscar Romero AIDS Project had sent a donation of medicines. While I worked as a volunteer with FUNDASIDA, I became aware of the areas where FUNDASIDA was not doing HIV/AIDS education and prevention, specifically with the homosexual and bisexual communities and sex workers in the marginalized areas. So that is how the Oscar Romero AIDS Project began functioning in El Salvador, actively and directly with the highest risk communities in San Salvador. At the Oscar Romero AIDS Project, we believe that HIV/AIDS information and education needs to reach all of the communities, without exception. Since we know that the homosexual community in the marginalized zones and the sex workers are not considered to be important by the institutions in El Salvador, we do our outreach to them knowing the dangers that exist and trying to take the necessary security measures that we have learned through experience.

On October 28, 1994, as I was leaving the Hilton Bar on Second Avenue in the Pravia neighborhood of

Testimonies-Part II

San Salvador, two men grabbed me by the neck and started to beat me. They did not identify themselves but I knew that they were members of one of the death squads that operate in San Salvador. It is common knowledge that there are close ties between these death squads and the Salvadoran security forces. These men said that what I was doing was against God and that if I didn't stop educating the faggots (homosexuals) and giving them condoms then things would get worse for me. While they were saying these things to me they continued to beat me. When they left, they said that this was just a warning, and that if I tried to look at their faces to recognize them, they would kill me right then—since killing a faggot would be doing the world a favor. About five minutes after they left. I had cried from anger at not being able to do anything about it, took a taxi and went home.

The next day, October 29, 1994, I came back to do my rounds, starting at the Hilton Bar. Since I got there a little late, or later than I usually did, one of the sex workers told me that two men were asking for the guy who gives out condoms. This frightened me, and I went home.

I did not return until Saturday, November 5, 1994, when I began to do my rounds again. When I got to the Hilton Bar, I was told that one of the male sex workers, "Thalia" was very ill. That morning, they had tried to bring him to the public hospital Rosales for treatment, but the security guards refused to allow him to enter the hospital. The security guards said that since the sick person was a faggot and he might have AIDS, it was better for them to stay away from him (Thalia) because just by touching him they could get AIDS. The people who were accompanying Thalia took the time to explain to the security guards that HIV

is not transmittable like that, and that in order to get it there had to be an exchange of bodily fluids, such as blood or semen, between the sick person and the healthy person. I was glad to hear this, and to know that the project's educational efforts were not in vain. Seeing the hospital employees' negative attitude, they brought Thalia back to the Hilton Bar. They did not know what to do. By the time I got there, about 11:00 PM, there was not much we could do. With the money I had to take a taxi home later, we bought him oral re-hydration serum and pills for the pain, and we prayed to God that Thalia would last through the night. After we gave him the medications, we put wet cloths on his forehead to reduce his fever, and he slept. That day I just did prevention work in the Praviania neighborhood.

Once Thalia was asleep, I went home at about 12:30 AM. I walked along Second Avenue to the Gerardo Barrios Park, and when I reached the Northeast corner of the park, in front of the National Palace, a black car pulled up in front of me. One of the men inside the car asked if I was the person who was handing out little boxes of condoms, and he showed me a box. I said that yes I was. At the same time, another man got out of the car and shouted at me, "we already told you, son of a bitch, that if you don't stop this that we are going to kill you." As I saw him reach towards his waistband I began to run. I heard 4 or 5 gunshots, and I continued running until I reached the marketplace where I waited there about half an hour, then I began walking home again. When I got to the general cemetery, they attacked me again. They hit me in the chest and knocked me into the wall. At the same time, they hollered at me, "You think we are joking? We already told you that what you are doing is against the moral

of God. If AIDS does not do away with all of you faggots then we will!

We will clean the country of all of you. Stop this shit and we'll give you to the end of the month to leave the country. We know where you live!" I believed them, because we were only two blocks from my house. As one of the men hit me, the other yelled, "do it at once, kill that faggot." At that moment, I realized that the man who was hitting me was not watching me for an instant. I got the courage to push him and run off. As I turned the corner, there were lots of people in a party or some celebration in the street, and I think that that's what saved me from the death squad that wanted to kill me that night.

Since that night, there have been several times when those people followed me, and they let me know they were following me. They even followed me to the meetings we had to support HIV+ people in FUNDASIDA, and found out this way that FUNDASIDA was working with sex workers in the marginalized zones.

Starting in November 1994, we began to work on a project to have a shelter in San Salvador for people with HIV or AIDS, in coordination with FUNDASIDA and the Rosales Hospital. This only worked up to a point, since neither the hospital nor FUNDASIDA had the medical personnel available to take care of the medical conditions of the patients in the shelter. They wanted to see the shelter as a place where they could send patients who did not want to cooperate in their recovery. This was not acceptable to me. Even the families of the patients did not want to help out when the patients passed away.

While we were trying to figure out how to make the shelter work, FUNDASIDA was working with a group

of young homosexuals, trying to educate, inform and organize them. It was out of this group that we formed the first group of male homosexuals known in El Salvador as, Entre Amigos (Among Friends). I became the president of the group by election. An employee of FUNDASIDA was the coordinator of the group, and the list of members was kept in FUNDASIDA's files.

In June 1995, the offices of FUNDASIDA were broken into and the FUNDASIDA director was threatened with death by a group of men who identified themselves as members of La Sombra Negra, a well-known death squad. When the FUNDASIDA offices were broken into, confidential documents were stolen, and I think that that's how they found out the names of the members of Entre Amigos. Members of La Sombra Negra telephoned FUNDASIDA, mentioned individual members by name, and threatened that a bomb would be placed in the FUNDASIDA office on the day of the next Entre Amigos meeting. The police were called to investigate the attack on FUNDASIDA and the bomb threat, but instead of filing a report, they inquired about the HIV status of the men who were in the office. We filed a report with the governmental office in charge of investigating human rights violations. However, there has been no indication that any investigation is being pursued by this office or by the police.

At the time of the break in and the threats, more than 90 men were participating in the Entre Amigos meetings. However, after receiving threatening phone calls and other threats as well, Entre Amigos stopped meeting because we realized that the homosexual community did not have the support of the Salvadoran authorities.

Our human rights are violated by the death squads and the security forces of our country. I have gone back to working with the sex workers and the homosexual community in the marginalized zones.

Persecution of sexual minorities is a clear violation of human

rights and must be denounced, so that the crimes that are committed do not go unpunished. This includes the denial of entry to health centers in any part of the world and the right to work on HIV education free of death threats.

Part III. Human Rights Violations Based on Gender Identity and Sexual Orientation

San Salvador, El Salvador

Anuja Gupta, India

It means a lot for me to testify at this tribunal. I bring to you years of experience and work of my own and that of my colleagues and family. I would like to dedicate this testimony to my brother, Siddhartha Gautam, who brought HIV/AIDS and gay activism to India. If he were still alive, he would be testifying today. My brother's death in January 1992, led me to become involved in issues of gay and lesbian rights and HIV/AIDS activism. Testifying here today is a significant step towards realizing his dream and mine of creating a safe space for sexual minorities and those living with HIV or AIDS in India.

India currently has about two million people infected with HIV making it the epicenter in Asia. In the face of this, it is important for policy makers to acknowledge the various ways that individuals express their sexuality. There must be an understanding, respect and sensitivity to the wide range of sexual orientations and behaviours if any HIV and AIDS prevention measures are to be effective.

I am here today to testify about the continued persecution of gays and lesbians, namely, the denial of the right to freedom of association, the right to free-

dom of expression and access to information, and the right to be treated equally under the law. The denial of these rights makes this community extremely vulnerable to HIV and AIDS.

I would like to begin by reading a testimony of a gay man that was tape recorded earlier this year in New Delhi. This is what he said: "I was taking a walk with a friend. We were talking when two policemen came, took me aside and asked me to give them my watch and gold chain. They said they would take us to the police station and punish us. I was very scared. My only thought was that they can take anything they want so long as they leave me alone. If they had taken me to the police station they would have raped me. They kept repeating that they would beat me up and sodomise me. I got really scared and gave them what I had in my pocket: 100 rupees and my watch. Then, they asked me to come back next month with more money. "

This incident is not isolated but an ongoing reality of gay life in India.

Extortion, blackmail, rape and physical abuse at the hands of the police are common occurrences. Nevertheless, cruising in public parks continues because gay men have few other options where to meet each other. There are virtually no public safe spaces for gay men such as bars or clubs. As most Indians live with their families, there is also no privacy at home.

Policemen arbitrarily harass men in public parks at night who they presume to be gay without referring to any particular law. If they do refer to a law, section 377 of the Indian Penal Code is used, which outlaws unnatural carnal intercourse. This British law against sodomy was originally drafted and extended to all the colonies in the early 1830s. It became part of the Indian Penal code in 1861 and remains today, even though it has been repealed in its country of origin. However, gay men do not have to be engaged in sexual activity in order to be vulnerable to police harassment under this law. The Delhi police have a motto, "With you, for you, always." This is supposedly reassuring. But for gay men in India's capital it is a sinister threat. Recently, I witnessed this first hand.

On Sunday, November 20th, 1994 at 8 PM I was waiting outside Nehru park. Suddenly a group of boys came running out of the park. Anxiously, they shouted, "Run, the cops are here, they've caught somebody." I hesitated but then decided to go take a look.

The incident seemed to take place in a kind of slow motion blur, but the images are still clear in my mind. Two uniformed cops were armed with sten-guns, which are sub-machine guns that Delhi police sometimes carry. One policeman was holding a young boy by the scruff of his neck. The other was a

little behind, hidden by the darkness. I remember the fear on the boy's face as the cop shook him violently. Panicked whispers. Some men crowding around me, others hurriedly walking away. The look of surprise on the cop's face at the sight of a woman when I walked up to him.

Delhi policemen are not the safest people to encounter at any time of the day or night and I was scared. I knew I might be molested, raped, beaten up, or dragged to the police station. Both of the policemen smelled strongly of liquor and neither was wearing their identification badge.

I casually asked the policeman what was going on. He replied that he had been chasing the boy who was doing something dirty and unnatural and was arresting him under Section 377. Knowing that policemen often misuse this law, I pressed further about what exactly the boy had done. The policeman, though hesitant at first, said he was sucking. I told the policeman that under Section 377 sucking was not a crime, and even if he were sucking where was the other man. It became clear to me that the boy had done nothing, but had been unluckily the target of these drunken policemen. The policeman was amazed that I continued to question him and visibly became more uncomfortable. The last thing he said to me was, "but madam, you can't do such dirty things here, this is a public place. And no wonder AIDS is spreading." Luckily, with a push and a few verbal abuses the boy was let off.

Though these two incidences evidence arbitrary harassment of gay men by the police, there has also been a well planned effort by the Delhi police to arrest gay men under a "clean up the parks" drive. In July 1992, for almost a week plainclothes policemen acting as decoys roamed around central

Testimonies-Part III

park, one of the popular cruising spots located in the heart of Delhi. They approached gay men inviting them for a cup of coffee or a walk and other such seemingly harmless offers. When the men accepted, they were arrested and taken to a police vehicle waiting nearby. In total, eighteen men were arrested within three days.

This time the police did not use Section 377 but Sections 92, 93 of the Delhi Police Act for public nuisance. The campaign ended with a press conference hosted by the Delhi police. At this press conference, the police provided to the press the names and work addresses of those arrested.

To protest against the campaign, the AIDS Bhedbhav Virodhi Andolan or ABVA, an HIV/AIDS activist group, held a demonstration outside the Police Headquarters. This was the first public demonstration in defense of gay rights to be held in India. When the officer in charge was presented with the memorandum he was unable to hide his amusement at what he felt was a non-issue.

Section 377 has also been used against lesbians by viewing lesbian relationships as unnatural offenses. Other lesbians have been subject to grueling questioning by families, the police and district officials if they make their relationship known. Some are ostracized from their localities or are constantly harassed. However, it is practically impossible to get stories of lesbian women, their lives and feelings, apart from those of a few who have had the courage to live an openly lesbian lifestyle. There is no public discussion of lesbian relationships except for a few reports in the press of lesbian marriages and double suicides. Though gay men are harassed by the police in the parks, they at least have access to public space, something which is completely denied to lesbian women. The

silence surrounding lesbians is in itself powerful evidence of the violation of their rights.

Section 377 which has been used to abuse the rights of gay men and lesbians is now facilitating the rapid spread of HIV and AIDS in India. In Delhi's Tihar jail, the largest prison in Asia, Section 377 is being used to deny prisoners access to condoms. Originally built to house 2,500 prisoners, the prison currently holds about 9,000 prisoners according to official estimates. Sixty to seventy per cent of those in prison are waiting for their trials to begin which can take many years.

The controversy started in early 1994 when doctors from the Indian Medical Association surveyed two wards and concluded that two thirds of the prisoners practiced homosexual acts. They recommended that condoms be distributed as an HIV/AIDS prevention measure. However, the Inspector General of Police in charge of the prison objected, stating that consensual homosexual acts between inmates were virtually unknown because the prison is too crowded. Furthermore, she argued, since homosexuality is a crime under the Indian Penal Code, distribution of condoms would be abetting a crime.

As a response, ABVA filed a public interest litigation in the Delhi High Court in March 1994. This petition seeks the repeal of Section 377 and authorization to supply condoms to prisoners in Tihar jail. It challenges the constitutional validity of Section 377 for violating the fundamental rights to life and liberty as guaranteed under the Indian Constitution and International human rights law.

Though there is day to day State persecution and societal discrimination of gays and lesbians, there are positive signs that a definitive movement is emerging. Beginning in 1990 many gay maga-

zines, reports and newsletters have been published including Bombay Dost, Less than Gay, and Pravartak. There have also been seminars, conferences, TV programs, and film screenings. Along with these much publicized events, I know there are other efforts that continue to take place in various parts of India.

Not surprisingly, as the emerging gay movement gains visibility, state sponsored and societal violence against gays and lesbians is also increasing. At the same time, gay men and other sexual minorities are particularly vulnerable to HIV and AIDS, as the criminalization of their sexual behaviours and the consequent lack of self-esteem inhibits their ability to make positive choices about their bodies and safer sex practices.

At the fiftieth anniversary of the United Nations, I appeal to the leaders of the world coming to this city to stop the violations of the rights of sexual minorities and people living with HIV and AIDS. I appeal especially to the Prime Minister of India, P.V. Narsinha Rao, to repeal section 377 of the Indian Penal Code. I also appeal to everyone present at the tribunal here, to write to the Petitions Committee of the Delhi Parliament for repeal of this unjust and discriminatory law.

Daphne Scholinski, USA

My name is Daphne. I am 29 years old and currently live as an artist/writer in San Francisco, California. I am here today as a surviving, living testimony, and to give voice to the experience of many lesbian, gay, bisexual youth and young people who do not conform to traditional gender roles. Thousands of us continue to be stripped of dignity and brutalized by psychiatric abuse in institutions or are struggling to survive after psychiatric incarceration. I must stress Living, because many never make it this far,

due to high suicide rates resulting from this abuse or the internalized fear and shame of their experiences.

Most of my childhood I was mistaken for a boy. Constantly in need of defense for my-self expression, I spent a lot of time hiding. I would be asked, "Why don't you try to look more like a girl?" I couldn't even if I tried. Throughout grammar school and into junior high school, I was continually abused verbally and physically by my family, teachers, and peers for being too masculine. In my defense I frequently needed to fight with people and eventually was forced out of social activities or refused to go to events because of the stress it created for me. I became angry and rebellious. Resulting from a background of abusive and unsupportive family members, teachers, counselors, and peers, I eventually gave in to the depression caused by these circumstances, and at the urging of doctors and teachers, my parents had me institutionalized.

So in 1981, at the age of 14, I was labeled "mentally ill" and confined to the psychiatric ward of Michael Reese Hospital in Chicago, Illinois. I was later transferred to Forest Hospital in Des Plaines, Illinois and then to the Constance Bultman Wilson Center in Faribault, Minnesota-losing four entire years of my youth. I was admitted for reasons of: depression, not adjusting well to adolescence, not attending school, suicidal thoughts and gestures, but most specifically, as they put it, for lacking signs of being a "sexual female". The initial comment given to

Testimonies-Part III

my parents was, "people in your daughter's condition usually spend the rest of their lives in mental institutions."

My primary diagnosis was "gender identity disorder". Although the American Psychiatric Association removed homosexuality from its official list of mental disorders in 1973, the U.S. mental health system remains an extremely hostile environment for lesbian, gay, and bisexual youth, who are still routinely viewed by child and adolescent psychiatrists as "emotionally disturbed" and in need of aggressive psychiatric treatment "to prevent adult homosexuality."

The doctors attempted to "cure" me of "pre-homosexuality" and any wish, they thought I had of being a boy. This was based on assumptions due to my "choice of clothing, friendship patterns, and career goals." Much of my so called "treatment" consisted of pressure to conform to norms of heterosexuality and femininity. I was being forced to try to be more feminine. I was to become more concerned with my appearance, and more "obsessive about impressing boys." The goals set for me were: "learn about make-up; dress more like a girl; curl and style hair; and spend quality time learning about girl things with female peers—like, what boys like, etc. "

These attempts to force me to be what they thought I should be were failing. So they saw me as a failure, I was never going to be a "normal female." I was on a "point system", and received points for "good behavior" and lost points for "bad behavior". You needed these points to receive "privileges"; like being able to walk to meals unescorted, watch a movie, make a phone call, or even to shower without someone watching you, or leave your room. Having no privileges was not only embarrassing but torturous. You had no escape. I would spend months never

leaving my unit, never going to the bathroom without someone staring at me (which I must add was not always by female attendants). Stretches of solitary confinement, heavy medication, physical restraint and horror stories from staff became routine. Though I don't remember if I ever received shock treatment, I witnessed it and it was one of the most terrifying things I have ever seen. I lived with people who claimed to be Jesus and angrily accused me of "stealing their bones". The woman who lived next door to me screamed over and over again "I want to die, let me die!" And I was supposed to be maintaining my sanity? I was growing up in a mental hospital.

Beginning at the age of 14 and continuing until I was 18 years old, I was in three different hospitals. I was subjected to abuse all around me; feeling deserted by my family and left in a mental hospital with extremely "disturbed" adults who yelled, teased and abused me. One of the first statements ever made to me by a patient was while I was in seclusion. She walked right up to the little window in the door, looked in and said, "I think I'm going to have to kill you." I was sexually molested by a male in his late 20's while I was restrained and helplessly strapped to my bed, not to mention how many times I had patients masturbating around me. I was physically assaulted countless times by out of control patients. Staff were sometimes equally as violent. Restraining was often painful. All I would have to do is get a little angry, maybe just call someone a name, and I would get thrown to the floor with my arm twisted so far behind my back that I feared it would be broken. This was usually followed by a shot of Thorazine, a powerful tranquilizer that would put me to sleep for the rest of the day, only to awaken in seclusion, often without any memory of

how I got there. A staff person once held his foot on top of my head while he said "shut up you fucking crazy ass queer," and then yelled for help to calm me down because he felt I was "out of control". None of this was ever dealt with, instead I would have to continually be accused of insanity for my actions, while I believed I was responding very sanely to a very insane situation.

Stranded in a place where you can not win, everything you do becomes a symptom of something. If you stand or pace, you are hyperactive. If you sit you are withdrawn. If you say you need help, you are looking for attention. If you say you do not need help, you are in denial. I was to explore, in therapy, my "feelings related to the opposite sex." The goals of treatment at this time were stated as:

"Elimination of depression, and for the patient to come to terms with herself, as a sexual female." They described my relationship with my best friend as "an expression of a fixated level of sexuality that was being acted out." Nothing about our friendship was out of the ordinary. But because of my "masculine manner" we became suspect to "acting gay" and presumed to be sexual, which we never were. They never believed us. We were forced to be restricted from each other. We were not allowed to speak about each other, to each other; we could not even make eye contact without being punished.

I would spend my entire "treatment" never really dealing with my depression or the symptoms resulting from the abuses from parents, teachers, peers, or previous psychiatric interactions. Instead I was immediately targeted for my "sexual identity" as the problem and the only "thing" that needed resolution. Each and every day was reinforcement that I WAS THE PROBLEM. The silence around the issues of abuses

forced me to believe that I deserved it. The idea being that only if I changed, became more feminine, more beautiful, more "acceptably heterosexual", that then there would be no reasons for anyone to treat me poorly, and then I would no longer need to be depressed and could go on to lead a "happy normal life." I was defeated from the beginning.

I had been sentenced to an adolescence spent surrounded by white walls and lab coats. Quite a punishment for a 14 year old who was really showing the typical signs of growing up gay in a heterosexual society.

It was not until 2 1/2 years into my treatment that my parents (specifically my mother) became aware of the intent of the institution and my doctors. When my mother said she thought I might be gay, the doctor responded, "Oh no, don't worry about that. We'll take care of that." She specifically told them not to treat me for that. She believed that her wishes would be respected and followed. I was never aware of this conversation taking place, but once you are behind those closed doors, nobody knows what is really going on. You become a prisoner of that system. I can tell you my treatment never did change.

Every hospital came with the highest of recommendations, but conditions were grossly inadequate for an adolescent. In the first institution I was on a unit of approximately 30 people, and only 4 other patients were under 18. The rest of the patients were much older, ranging from the age of my parents to older than my grandparents. Some patients had already been there for years. There is no hierarchy of sani-

Testimonies-Part III

ty. Meaning, everyone is treated the same, no matter how sane or insane you are, or people think you are. I believed this was not only my future, but my only future.

In the end my parents would be convinced that the hospital saved my life; after all I am alive aren't I? While I believe it was necessary to remove me from my home, taking away my freedom, dignity, and any ounce of self-respect was not the answer. I was dying there, they killed my spirit, and no progress was being made. I was ready to live and die there, until, three years into my treatment, an intern looked me in the eyes and said, "What are you doing here? You are so sane." Up to that point the thought never crossed my mind that I could be sane, they could be wrong, and I could be free. I will never forget that moment, that spark that this woman alone created in me, so that I could finally believe in myself.

I was finally released 5 days after my 18th birthday, when they were unable to legally keep me, and conveniently as my insurance had run out and would no longer cover my "treatment". In total, my treatment cost over one million dollars. One month after my million dollar insurance policy ran out, my father received a bill for fifty thousand dollars.

Is it not totally absurd, attempting to prove that which is not provable? The charge of insanity. No matter how hard you try, you cannot convince them of your sanity. I am afraid I will have to wear this mark on my forehead for the rest of my life. This scar follows me like a shadow, watching my every move, every thought. Is it possible for anyone to understand what it is like to be at the mercy of people who at any moment can exercise their authority, their "expert" opinions, their "god complex" over you? That with one swift mark of a pen, they can write the orders that will change your life forever?

We need to create a safe space for us to continue breaking the silence that has allowed this issue to be ignored for far too long and has prevented this issue from receiving the attention it urgently requires; and that clearly identifies homophobic psychiatric abuse as a violation of the most basic human rights. This includes: personal dignity, bodily integrity, and individual autonomy.

I was left traumatized by homophobic counseling and "treatments". Damaged, silenced, and discarded; with emotional scars that will take a lifetime to dissolve. Being labeled and treated as mentally ill simply because of who I am has had long-term disabling effects that had prevented me from speaking out about my experiences. While some have remained incarcerated in the mental health system into adulthood, and others are lost to suicide or other forms of self-directed violence, there are the ones who like me have been silenced by shame and the overwhelming fear of being further stigmatized or discriminated against as a former mental health patient. When you have had your sanity challenged, you always have something to prove. I have often felt so overwhelmed by the tremendous difficulty of surviving and attempting to build a life in the aftermath of extreme trauma.

It is now eleven years later; I realize that I was not supposed to survive. I realize that my "treatment" was designed to leave me with only two options: either change or do not exist. Some might say change would have been easy; I mean "act straight," get discharged, and then go on with your life. But it would have been at that moment of "acting" that I would have surely lost my self. My identity would have disappeared, and then they really would have had someone to "treat". At the time I chose neither, and today, as

an artist approaching over 3500 paintings, I have chosen to exist.

Ambition is the last refuge of the failure. - Oscar Wilde

Serkan Altan - Turkey

First, it is worth clearing up some misconceptions about male-to-male sex in Turkey. It would not be an overstatement to say that the overwhelming majority of men in Turkey have participated, or still do participate, in male-to-male sex. These men assume "male" sexual persona, therefore they do not consider themselves to be homosexual or bisexual. Such a suggestion would be an insult.

Although homosexuality is not illegal in Turkey, the central government has said, "it is OK to arrest anybody who is suspected of homosexuality because they are the cancer of our society and it is against our culture and public morality."

Aslan Yuzgun, the writer of *Homosexuality In Turkey* says "without a doubt, homosexuals are the worst treated minority in Turkey." The worst thing to be in Turkey is to be a man who is openly homosexual. Not only is it despised, it is seen as an affront to Turkish culture and an insult to Turkish manhood.

The police use terror and violence against homosexuals by permission of the central government. It is impossible for us to achieve any legal redress. No one - including the government, the police, the media - cares about how homosexuals are treated. Turkey has been a huge prison for all of us, mostly for homosexuals.

Any boy aged 8 years or older who displays any hint of effeminacy is very likely to be raped. Then the torture starts, especially in school. We

homosexuals learn in school, along with other things, that we are going to be raped, beaten, and tortured both by the public and the police.

When I was 11 years old, I moved to Istanbul, the most modern city in Turkey.

When I turned 12, I started to go to a private school.

I soon realized I was an outcast. They started to call me names like "queer," "boy," "faggot," which I was not familiar with because I looked and acted like a girl. Things got worse when Rock Hudson had AIDS. Then my nickname became "AIDS". Still I had no idea what it meant to be a homosexual.

Everywhere I went, I was followed, taunted, and insulted. There were many kids who would try to beat me up. I didn't fight back, instead I kept my distance from them. Even though I sat quietly in the corner, my hair was pulled, my head was kicked, my private parts were pinched. Some threw balls and objects at me. Some pushed me and tried to make me fall.

There was almost no day for me to live my childhood with joy.

As the years passed by, I accepted the abuse. I knew they were going to hit and insult me, but I took it.

When I was 16, the head of the class forced me to have sex with him. He was known as one of the strongest guys in the school. Then he told every detail to everybody. While he became a hero, I was emotionally and physically abused more. I was called "a man with no dignity," and "disgusting queer." Some spit on my food, and I was left alone in one corner.

Every time I tried to pick up something from the floor, I felt pencils, fingers trying to penetrate me.

Things got worse and worse.

The school bathrooms were a place for the boys to gather and smoke and I was scared to go there. I had

Testimonies-Part III

heard that other homosexuals had tied up their penises so that they did not have to go to the bathroom, so I tried to do the same. The walls and the doors of the bathroom were full with my name and telephone number. At night, I would try to wash it off and my hands would hurt.

Meanwhile, I saw the pictures of gays who were arrested because of their homosexuality on the cover of the nationwide daily newspapers. The headlines were, "The End of a Queer, Homosexual Hunt," I still remember the pictures. They were dropped on the floor, beaten by metal covered truncheons and their heads were forcefully shaved. I still remember one particular picture of a transsexual whose breast implants were beaten out, covered all over with blood because of the torture.

I knew what would happen to me if I admitted my homosexuality. I put books on my head so I could walk better, I tied my wrists up with wood pieces so I would not look like a sissy. I cried day and night, I prayed day and night so that they would stop abusing me.

There were so many incidents that caused me a lot of pain. I started to cut my arm with a bread knife in the shower, then used salt. I screamed, I yelled, I hit my head from one wall to another. I tried to kill myself three times. There was nobody I could talk to.

In the school, many teachers including the president of the school knew exactly what was going on. The president even invited me to her room and asked me if I was mentally ill. She implied I was homosexual. I was kicked, beaten, slapped in the face and insulted by her many times.

I prayed. I was the only one who openly prayed five times a day like Muslims do. While I was praying, I was kicked and washed by cold water in the

winter time. I was told, "You are a faggot. God will not forgive you, you are wasting your time."

They took my money from my wallet and said, "You are a faggot, you can find the money from someone." They were trying to say that I could make money by selling my body. They even came to my house when I was alone and sexually harassed, then robbed me.

Just like me, gays in Turkey are raped often by the police and the society. The police arrest gays, beat them up with metal covered truncheons and torture them. The Turkish government approves of the torture and doesn't allow us to speak out. Gays are in fear all the time.

When I was 18, I came to the United States as a student. I started to realize what happened to me and what is happening to the others was and is not supposed to happen.

So I came to the point when I said, "The hell with culture, the hell with tradition."

I became an activist. The anti-terror law in Turkey says, "anyone who speaks against the country in or out of the country can be arrested." Knowing that most writers, journalists, and human rights activists are imprisoned in Turkey, I decided to apply for political asylum in the U.S. based on my homosexuality. Last year I was granted political asylum.

While seeking asylum, I researched and found a lot of information about the persecution of gay people in Turkey.

In 1989, during a police raid on the houses of homosexuals, a 17 year-old gay boy committed suicide by jumping from a sixth floor balcony in order not to be tortured by the police chief who had tortured him before.

A Turkish gay leader, Ibrahim Eren, gave a press conference in 1990

and he said that the same police chief had beaten transsexuals. The police chief then stomped on their chests until their breast implants were forced violently and bloodily through the skin.

Recently, a gay festival designed to draw attention to gay and AIDS issues was banned by the central government because, "it is against Turkish culture and public morality."

Just like I have, gays in Turkey experience cruel, inhuman attacks from the government. We can't do anything. Gays who report police torture are silenced or tortured more and more. The Turkish government meanwhile does a great job of denying and cover-

ing up all this torture.

We have to tell the Turkish government that it is not OK to attack, torture, and kill anyone just because they are gay.

Mariela Muñoz, Argentina (Original Text)

Nací en 1943 en la provincia de Tucumán, Argentina. Me bautizaron Leonardo. Tuve una infancia difícil porque ya era muy femenina. En la escuela llamaba la atención pero me querían y respetaban. Desde los 11 años limpié la casa, cociné y cuidé a mis hermanos. En la escuela secundaria

Judges' Remarks

ya se notaba mucho que yo era mujer y mi papá me llevó a ver médicos. Pregunté cómo se hacía la operación de cambio de sexo y me dijeron que era imposible. A los 16 años comencé a ganarme la vida como tarotista.

Así compré la casa para educar a los diecisiete niños que adopté y crié . Las madres biológicas los abandonaban o me los daban para que los criara. Cuando tuve que elegir entre mis hijos y un hombre, elegí a mis niños. Cuando fueron mayores de edad, en 1981 me fui a Chile para operarme, porque en Argentina la operación de cambio de sexo está prohibida por la ley. Allí la operación es legal, y saqué documento chileno con nombre de mujer. En Chile me casé con un argentino. Volvimos al país y adoptamos en 1990 a Maira.

Yo conocía a la madre biológica, que había quedado embarazada y no quería hijos. Le pedí que no abortara. Ella a cambio pidió que yo criase al bebé cuando naciera. Otra muchacha embarazada que no quería tener hijos ese mismo año me

permitted to adopt his twins. He took them in a hospital where the mother registered with my own name. My marriage ended soon after, but I continued to raise the boys.

The mother of the girl Maira began to extort me. First she asked for money. Then a plot of land and a house. She threatened to denounce me. When I bought a car for the boys, she asked for it in exchange for the girl. When I refused, she reported me to the police. Shortly after there was a police procedure in my place of work, on May 17, 1993. They arrested me and took me to the Comisaría de la Ciudad de Berazategui in the Province of Buenos Aires. At 2.30 of the morning following the police presented in my house and took Maira, and the two twins, Luciano and Leonardo.

At me they subjected to a long interrogation, about my sex, my clothing, they laughed, they despised me, they undressed me. The police of both sexes forced me to show my geni-

Judges' Remarks

tales como si fuera una rareza de zoológico. Me acusaron de sustracción de menores y falsificación de documentos. El jefe de policía se apiadó y me envió a una comisaría femenina. Estuve 10 días detenida. La policía ahora me trata bien, pero mi vida, que siempre fue íntima, pasó a ser discusión pública. La prensa publicaba grandes titulares llamándome la mamá travesti, denunciando el tráfico internacional de niños, y dando detalles falsos y morbosos. Pero el público argentino no se dejó engañar y recibí gran solidaridad y afecto de todos. Pasé a ser el símbolo de la madre en Argentina. Pero el juez seguía impidiéndome ver a mis hijos.

Los juzgados de minoridad y familia de Argentina están ocupados en su totalidad por miembros del Opus Dei que es la organización laica que responde a la iglesia católica. La iglesia católica ha acordado con el gobierno argentino que se le reserve influencia en las áreas de educación y justicia de familia. Yo todavía no sabía esto y me esperaba en que me devolvieran a mis tres hijos. Los otros 17 que ya había criado venían a acompañarme y salían en las radios y la televisión explicando que me querían, que había sido una buena madre, y que todos ellos eran hombres y mujeres de bien.

Me sometí a 5 pericias médicas y psiquiátricas y varios de mis hijos se ofrecieron también para que quedara probado que yo de ningún modo había influido en ellos para mal. Todas las pericias, oficiales y extra oficiales, indicaban que yo era apta para la crianza y que mi maternidad era preferible a la de las madres biológicas y recomendaban al juez que no cortara el vínculo entre los niños y yo porque podía provocar daños psicológicos permanentes. El juez ni siquiera atendió a que los chicos se consideraban hermanos, y los separó.

En tanto, yo era la comidilla de

televisión, radio y diarios. Me preguntaban todo. Qué siento, qué me saqué, qué me puse, qué sentí, si tengo orgasmos o no, si mi pareja sabía que yo era transexual, si mis hijos lo sabían, cómo era mi vagina. Aguanté todo. Se probó que las acusaciones contra mi no eran ciertas, pero el juez igualmente decidió que para la protección de los niños debían ser entregados a familias sustitutas hasta convencer a las madres biológicas de que los recibiesen. Pedí un régimen de visitas. Podía verlos una hora por semana. Los chicos me veían y querían quedarse conmigo. Quiero dormir en mi camita, quiero volver a la quinta; mamá, quiero mi autito, no dejes que me lleven; y entonces el juez ordenó que no me dejasen verlos nunca más.

Dijo que yo era una amenaza para el equilibrio emocional de los chicos. En Navidad fui al juzgado a llevarles juguetes y el juez prohibió que los chicos tuvieran nada mío. Me amenazó, diciéndome que si me atrevía a pasar por las veredas de las casas donde estuvieran mis hijos me iban a encerrar en una cárcel de hombres. Desde entonces no volví a ver los chicos. Los vecinos me cuentan que no están bien. Se los han dado a las madres biológicas que no los quieren. La madre de los mellizos fue obligada por el juez y la familia a recibirlos, pero ella quiere continuar su vida de mujer joven y libre y se dedica a sus cosas sin atenderlos. Solamente obtuve negativas del juez. Su actitud conmigo fue siempre despótica y despreciativa. Para peor, una de mis hijas de 29 años murió súbitamente.

Me hice cargo de mi nieta de cinco días a pedido de su padre. Fue un consuelo por un tiempo pero al fin mi yerno la reclamó y me quedé totalmente sola. Tengo el cariño de mis hijos crecidos, y mis nietos, pero ellos tienen sus propias casas y sus familias.

La quinta de mis hijitos está silenciosa. Nadie juega con sus juguetes, nadie me espera cuando llego del trabajo, nadie me llama diciendo mamá, mamá, lle-gaste.

Tengo sin embargo todo preparado. Pago a dos caseros para que mantengan la casa en orden cuando yo trabajo porque no puedo perder la esperanza de que algún día me los devuelvan y en mi quinta vuelva a haber risas y niños que me digan mamá, como fue desde que comencé a adoptar chicos a los 20 años. La asesora de menores actual solicitó al juez nuevas pericias psicológicas para mí y los chicos, pero el juez se negó a hacerlo y ordenó que la causa, continuase. Recusé al juez, y el caso ahora está en la Cámara de Apelaciones de Quilmes, un departamento de la Provincia de Buenos Aires. Si la resolución es contraria tendré que seguir hacia la Corte Suprema de la Provincia de Buenos Aires y si esta corte también se niega, entonces deberé ir a la Corte Suprema de la Nación Argentina. Solamente entonces podré acudir a las cortes internacionales, pero habrán pasado muchos años. ¡Quién sabe si en ese momento mis hijos se acordarán de mí!

En 1995 pedí que me dieran documentos con mi sexo femenino y con mi nombre de mujer. El juez se negó hasta a estudiar mi demanda. He sufrido más por lo que sufrían mis chicos que por lo que me hacían a mí. Los traían al tribunal en patrulleros. Cuando ellos me llamaban les tapaban la boca. Ahora que ya no los veo desde hace más de un año, creo que solamente me queda la opinión internacional y quiero que sepan que me quitaron a mis hijos porque soy transexual y por ninguna otra razón. Y que ellos y yo somos desdichados porque un juez dice que necesariamente los hijos tienen que depender de las madres biológicas aunque ellas no los

quieran. Y que nosotros, las personas de las minorías sexuales, no podemos tener familia, ni hijos, ni derechos.

El amor no tiene sexo, edad ni tiempo. La Iglesia y la ley dicen que los niños tienen el derecho a la vida y a ser felices, pero los hacen desdichados porque yo soy transexual. Pedimos que este tribunal emita una fuerte declaración sosteniendo que todas las personas de las minorías sexuales tienen derecho a formar familia y a ser felices y que todos los hijos de personas de las minorías sexuales tienen derecho a ser felices con sus padres y sus madres por afecto - que es mucho más importante que la biología.

Mariela Muñoz, Argentina (English Translation)

I was born in 1943 in the province of Tucumán, Argentina. I was baptized as Leonardo and I had a difficult childhood as I was very feminine. In school I used to draw attention to myself, but was liked and respected nonetheless. Since I was 11 years old, I cleaned the house, cooked, and took care of my siblings. In high school it was very noticeable already that I was a woman, and my father took me to the doctor. I asked how sex-change surgery was done, and I was told it was impossible. By the age of 16 I started earning a living as a tarot card reader.

Through this work, I bought a home to raise the seventeen children which I adopted and raised. The biological mothers had abandoned them or had given them to me so that I could raise them. When I had to choose between my children and a man, I chose my children. When they became adults, in 1981 I went to Chile to undergo surgery, since sex-change surgery is forbidden by law in Argentina. In Chile the surgery is legal,

Judges' Remarks

and I obtained a Chilean ID with a woman's name. In Chile I married an Argentinean man and we went back to Argentina together and adopted Maira in 1990.

I met the biological mother, who was pregnant and did not want children. I asked her not to have an abortion. She in turn asked me to take care of her baby after birth. Another pregnant woman who did not want children allowed me that year to adopt her twin babies. She gave birth to them in a hospital where she was admitted under my name. My marriage ended soon thereafter but I continued raising the children.

Maira's mother started to blackmail me. First she demanded money. Then a lot and a house. She threatened to abuse me. When I bought a car for the kids, she demanded it in exchange for the girl. When I refused, she reported me to the police. Soon thereafter, on May 17, 1993, there was a big police raid in my workplace. I was arrested and taken to the Police Precinct of Berazategui, in the Province of Buenos Aires. At 2:30 AM the next morning, the police came to my house and took away Maira and the two twins, Luciano and Leonardo.

I was submitted to a long interrogation, regarding my gender and my clothing. They mocked me, derided me, and took off my clothes. Police officers of both genders forced me to show them my genitals, as if I were an exotic animal in a zoo. I was accused of abduction of minors and document forgery. The chief of police took pity on me and sent me to the women's prison. I was in detention for 10 days. By then the police treated me better; but my life, which had always been private, had become the subject of public discussion. The press exposed it in big headlines, calling me the transvestite mother, denouncing the international trafficking

of minors, and reporting false and morbid details. The Argentinean public was not fooled, however, and I received affection and empathy from everyone. I became the symbol of Argentinean motherhood. Yet the judge continued to deny me the right to see my children.

The benches of the family and custody tribunals are filled in Argentina in their entirety with member of Opus Dei—the secular organization connected to the Catholic Church. The Catholic Church had arranged with the Argentinean government to exercise influence in the areas of education and family justice. I was not aware then of this arrangement, and was hopeful that I would get back my three children. The other seventeen children that I had raised used to come with me, and be interviewed on the radio and television stations, explaining that they loved me, that I had been a good mother and they turned out to be good and honest men and women.

I underwent five medical and psychiatric examinations, and some of my children did too, in order to establish that under no circumstances had I been a negative influence on them. All the examinations, official and extra-official alike, indicated that I was suitable to raise children and that my motherhood was preferred over that of the biological mothers, and that the judge should not cut the ties between the children and I, since that could cause permanent psychological damage. The judge did not even consider that the children viewed themselves as siblings, and separated them.

In the meanwhile I was the subject of gossip on the TV, the radio, and in the newspapers. I was asked everything. What did I feel, what did I cut off, what did I put on, do I or don't I have orgasms, did my spouse know I was transsexual, did my children know, and how was my vagina. I withstood it

all. It was proven that the accusations made against me were false, but the judge decided all the same that for the protection of the children, they should be placed in foster families until the biological mothers could be convinced to take them back. I asked for visitation rights. I was allowed to see them one hour a week. The children used to see me and wanted to stay with me. "I want to sleep in my bed; I want to go back to the house; I want my car toy, mom; don't let them take me away." So the judge ordered that I should not be permitted to see them ever again.

The judge said that I was a threat to the emotional balance of the children. For Christmas, I went to the tribunal to bring toys to my children, and the judge did not allow the children to have anything of mine. He threatened me, telling me that if I even dare walk on the sidewalk by the houses where my children were being kept I was going to be locked up in a men's jail. I have not seen my children since. The neighbors tell me that they are not OK. They have been placed with their biological mothers, who do not want them. The mother of the twins was forced by the judge and her family to take them back, even though she wants to go on with her lifestyle as a young and carefree woman and she dedicated little time to them. I only obtained negative rulings from the judge. The judge's attitude toward me was always despotic and scornful. On top of it, one of my daughters, aged 29, passed away suddenly.

I took care of my granddaughter, who was only five days old, at the request of her father. It was a solace for some time, but finally my son-in-law wanted her back and I remained totally by myself. I still have the love of my grown-up children, and all of my grandchildren, but they all

now have their own homes and families. The house of my little children is quiet. No children play with their toys. No one waits for me when I come back from work. No one says, "mom, mom, you're back!"

I have, nonetheless, everything ready. I have hired two persons to keep the house in good shape when I am at work, because I can not lose hope that some day I will get my children back and my house will be full with laughter and with kids calling me mother, as they have done from the day I started adopting children when I was 20 years old.

The current warden of minors requested of the judge an order for new psychological tests both for me and the children. The judge, however, denied this request and ordered the case to proceed. I refused the judge, due to his prejudice, and the refusal is now pending before the Appellate Chamber of Quilmes, a department of the province on Buenos Aires. If the decision is adverse, I will have to appeal to the Supreme Court of the province of Buenos Aires, and if that court also rules against me, I will then have to go before the Supreme Court of Argentina. Only then will I be able to appeal to the international courts, yet by then many years will have passed. Who knows if by then my children will still remember me.

In 1995, I requested identification documents with the female gender and with my woman's name. The judge refused to consider my petition. I have suffered more for my children than for myself. They were brought to court in police cars. When they called my name, their mouths were gagged. Now that I have not seen them for more than a year, I want to tell the world that my children were taken away from me only because I am a transsexual,

Judges' Remarks

and for no other reason. And that they and I are miserable because there is a judge who claims that the children must depend on their biological mothers, even if those mothers do not want them. And that we, the sexual minorities, can have no families, no children, and no rights.

Love knows no gender, age, or time. The church and the law state that the children have a right to life and to be happy, yet my children are made miserable because I am a transsexual. We request that this tribunal declare that all individuals belonging to a sexual minority have a right to create a family and to be happy, and that all children of sexual minorities have a right to be happy with their affective parents, who are more important than the biological ones.

Rory Kennedy in place of Kerry Kennedy-Cuomo, former Executive Director of the Robert F. Kennedy Human Rights Center

I am here on behalf of my sister Kerry Kennedy-Cuomo who is very sorry that she is unable to attend. As Executive Director of the Robert F. Kennedy memorial and the Center for Human Rights, Kerry has advocated for the rights of sexual minorities. I am here because I also believe that the rights of lesbians, gay men, bisexuals and transgendered people are human rights and must be supported and respected in every community. I have worked with the Center for Human Rights and traveled throughout the world on human rights delegations. I have seen first hand that there is much to be done—not only internationally but in the United States as well.

I have recently completed a

video documentary about needle exchange as an effective method of AIDS prevention, and have witnessed the extent to which people living with HIV/AIDS have been discriminated against in this country. We can no longer afford to sit passively by as people around the world are violated. As a documentary film maker, I am committed to ensuring that the voices of the disenfranchised are heard. These courageous speakers are among the first in their countries to speak out about sexual discrimination.

It is truly heartening, when we refuse to be overwhelmed by the enormity of the task of fighting discrimination, bigotry, and homophobia. These testimonies give us the strength to persevere.

They make clear that all of us in the international community who are concerned with human rights have so much more work to do to fight the persecution of lesbians, gay men, bisexuals, and transgendered people. All of us, especially members of the human rights community, have our roles to play, beyond listening to these testimonies—as exemplars, ground breakers, guiding lights for everyone involved in social justice.

Right now we pay tribute to a group of women and men who are helping to stop the suffering. But, in order to do justice to the bravery and strength of the individual testifiers, we must all carry their messages to our friends, families and communities to ensure that all people are able to live with dignity and respect.

My father, Robert Kennedy once said, "each time a man stands up for an ideal, stands out against injustice or acts to improve the lot of others, he sends forth a tiny ripple of hope and, crossing each other from a million different centers of energy and daring, these ripples make a wave that can wipe out the mightiest walls of oppression and resistance."

Each of you is indeed a ripple of hope and I am glad to be with you.

Marta Suplicy, Brazil
Federal Deputy, Member of the
Brazilian Human Rights Commission

First of all, I would like to thank the organizers of the International Tribunal on Human Rights Violations Against Sexual Minorities for the invitation to be here with you today. I feel very honored to be part of this Tribunal. An event such as this one is a fundamental instrument to fight prejudice, to impose a discussion about homosexuality and also to build consciousness among less informed people.

We live at a time in which human rights have become a worldwide concern and are such an important issue in many International Conferences. At the United Nations Fourth World Conference on Women, both at Beijing and Huairou, one of the key issues in the Beijing Declaration was the inclusion of freedom of sexual orientation as well as the consideration of crimes against women as human rights crimes. We succeeded in including the latter but due to the resistance of Muslims and Catholics to admit any kind of sexual expression but heterosexual, we are here to continue our struggle.

We have just listened to the most horrid stories; we have heard not only how prejudice against homosexuality can interfere in valuable work for the community, as well as how homophobic behavior leads people to have attitudes that hurt the most sacred principles of the Declaration of Rights, as was done against Wilfredo Valencia-Palacios; we have heard how prejudice can be used to imprison, torture, and jeopardize the life of a young woman, as was done with Daphne Scholinski; and in the case of Serkan Altan we have heard again how homophobic behaviour can violate all the rights of citizenship.

The assumption that only one kind of sexual orientation exists is not acceptable anymore, but we are brought up to believe

exactly that. We are educated in the belief that heterosexuality is the correct and only way to live one's sexuality. This approach only reinforces the kind of behaviour we have just heard about.

To try to classify or fit sexuality in any pre-determined mold will never apprehend all the ways human beings express themselves sexually. It will also lead to very strict gender roles with stereotyped behavior for man and woman. In this kind of vision, differences shall have no space, and gays and lesbians will have to lead clandestine lives.

Regarding sexuality, Brazil is a very peculiar country. Some years ago a transvestite, Roberta Close, was considered a major feminine sex-symbol. During carnival it is widely acceptable for males to dress up as women. They can either parade or just dance in the streets. One of the most successful TV interviewers is a declared homosexual.

As for lesbians, they were completely ignored by the press until the Seventeenth International Conference of Gays and Lesbians, held in Rio de Janeiro last June. This doesn't mean that they are accepted. As is the case with the majority of homosexuals in Brazil, they also have to live clandestine lives, as their jobs and family life could be impaired if their sexual orientation became public. As mothers they have a hard time to maintain the custody of their children, having to deal with jealous ex-husbands and prejudiced judges.

The lack of visibility of the lesbian community probably has to do with the same discrimination that affects women in general and which is also reproduced in the homosexual milieu. Within the homosexual movement, lesbians do not get as much media, and do not have the same power in the coordination of the movement.

Lesbians live a daily contradiction, because while it is socially acceptable to see an exchange of affection between women, the same isn't true regarding their homosexuality. What we see is a potential for prejudice

Judges' Remarks

and discrimination.

In some parts of the country we see overt homophobia. In the city of Salvador, State of Bahia, the newspaper called A Tarde published the following headline: "Keep Salvador Clean! Kill a Gay Every Day." Our weekly magazine, the equivalent to Time/Veja, recently published research that shows that 47% of the people interviewed would change their vote if they discovered that their candidate was homosexual; 45% would change their doctor or dentist if he or she were a lesbian or gay; and 36% would not hire a homosexual for an administrative position even if he or she were the best qualified person for the job.

Between 1992 and 1994 even with less than reliable statistics we had 180 assassinations of homosexuals. None of them were solved. In our society, only a black person can have an idea of what it is to be an overt homosexual in Brazil, because they are the ones who also suffer from such deep discrimination throughout their lives.

During the last presidential campaign, in 1994, an important discussion was triggered when the Workers Party, whose candidate was winning at the polls, vindicated marriage for homosexuals. The media went against it, there were discussions on all TV shows and, finally, pressured by the church and afraid to face voters that would be against it, this item was taken off the candidate's platform. Never mind. It was a lesson to learn that even with the cancellation of the proposal, discussing the issue gave much more space for both gays and lesbians to talk about their lives. The two inter-participative shows got surprising answers from the public approving adoption of children by gay couples.

This year I proposed a constitutional amendment to be included in the article which prohibits discrimination based on age, sex, and religion to include also sexual orientation. It has not been voted upon yet but from the discussions I am having with the deputies, I don't see any major problem with its approval. They realize it is everyone's

right. It is a great change, because according to the 1988 Constitution it is impossible to include sexual orientation.

As the result of several meetings with homosexual groups, I presented a project at the International Conference for Gays and Lesbians for the legalization of the union of persons of the same sex. Several gay and lesbian lawyers asked to review the project and they made several suggestions. Next week it will be presented at the Brazilian Congress. The Catholic and Protestant churches are already organizing their lobbies with their deputies to argue against it. At the same time, homosexual groups are organizing to pressure their Congresspeople. Even though our parliament is very conservative, there is a chance because the Brazilian Constitution assures the right for liberty and equality without discrimination and the inviolability of intimacy and privacy.

It is about time that the hypocritical attitude which permeates the law and society give way to reality. It is a time for solidarity, a time to build up a world where a diversity of opinions, races, and sexual orientations can live together in peace. It is also a time when violations against any human right should not be tolerated.

Regarding the case of Mariela Muñoz, we should urge governments to enact laws which will permit and facilitate the transsexual operation. The pain, both physical and psychological, which transsexuals face, is still very misunderstood by the general population. In Brazil, thanks to a transvestite, and later transsexual, R. Close who was for years a fantasy figure for the Brazilian male population and press, the public got to know about this kind of operation and came to understand that transsexuals are people who are imprisoned in the wrong body and suffer for that.

Some months ago, a law which permits the transsexual operation was approved in committee but still has to go to a vote. Up to now, Brazilian transsexuals also had to go abroad to be able to have their true identity. However, we still have to fight for the

right to change names. Can you imagine the kind of complications and awkward situations an individual who looks like a woman, dresses like a woman, and sometimes, as in the case of Mariela Muñoz is called mother by her adopted children having to show an identity card with a male name?

Laws have to follow reality and the evolution of medicine which today permits this operation to be relatively successful. We can not tolerate prejudice as it impedes those like Mariela from providing shelter to children and finding happiness.

The BALAY case among other aspects is about prejudice in the workplace. This prejudice because of one's sexual orientation is sometimes in the form of denial of employment, lack of promotion, sexual harassment, and even firing as in the case of Elizabeth Lim. It is very difficult to understand how a human rights NGO can see only part of humanity.

The United Nations High Commission on Refugees should investigate discrimination in all forms of employment. The Philippine National Labor Relations Commission should act in a timely manner to ensure that Ms. Lim and Ms. Castronuevo receive reinstatement and adequate compensation, and should fully investigate all acts of discrimination based on sexual orientation in employment.

The Balay Rehabilitation Center should act immediately to reinstate Ms. Lim and Ms. Castronuevo and to implement policies prohibiting discrimination based on sexual orientation in all aspects of the organization's work, including employment practices.

The case of Marian Mutascu and Ciprian Cucu from Romania that ends with Marian's suicide, permits us to see how far prejudice, unrealistic laws, and lack of plain common sense can only jeopardize the life of two human beings, as well as end the life of one of them.

As constitutions and penal codes should promote gender equality the same laws should apply to both heterosexuals

and homosexuals. It is not acceptable that a law should discriminate and impose different penalties on heterosexual and homosexual sexual crimes—should they be rape or sexual relations with minors. Homosexuals can not be singled out as a special category. Additionally, the age of consent for heterosexual and homosexual relations should be equalized.

Recently the Romanian Senate passed a new draft of its penal code which penalizes "propaganda, association, or any act of proselytism" for homosexuals with 1-5 years imprisonment. The draft should be eliminated. It is not only biased but demonstrates total ignorance as to how people become homosexuals. In truth, as a psychologist, I admit this is a very complex question, but sexologists and psychologists alike agree that no one becomes a homosexual because of propaganda, association, or proselytism.

We suggest that the Council of Europe should review Romania's membership status in light of its refusal to decriminalize homosexuality. The 1994 decision in the United Nations Human Rights Committee to admit the Toonen case, should set an example for other countries which still have this kind of discrimination.

The case of the Gays and Lesbians of Zimbabwe (GALZ) is another situation where human rights—the right to organize, to write freely, to talk, to protest—are not being respected in their most sacred aspects. When a president makes a speech as virulent as Robert Mugabe's at the opening of a book fair whose theme is "Human Rights and Justice," saying that "We do not believe that lesbians and gays have any rights at all," we can question his sanity.

Such pronouncement go beyond prejudice, and coming from a head of state not only legitimates but encourages precisely the sorts of rights violations to which lesbians, gays, and bisexuals are subject to around the world. It also violates Zimbabwe's Declaration of Rights,

Judges' Remarks

which guarantees "freedom to hold opinions and to receive and impart ideas and information without interference."

When will the day come that a President who pronounces this kind of statement will then retract it or be impeached by the people?

Recommendations:

From all the cases presented and all the many similar others that we know of which violate basic human rights regarding sexuality, we express deep concern that some of the least talked about issues in human rights are the rights of sexual minorities.

Taboo? Prejudice? Fear? Ignorance? Lack of Interest? All of these combined have transformed the lives of gays, lesbians, bisexuals, and transgendered persons into a real hell in some countries, and those individuals have been forgotten in most international human rights conferences. They are not treated as citizens but as dangerous specimens.

We urge governments to encourage unbiased information on TV, non-

sexist and anti-homophobic sex education in schools. Unlike the example of President Robert Mugabe, heads of state should show respect for all sexual minorities. Parliaments should be sensitive to the plight of transsexuals by formulating laws that will permit them to be who they are.

Laws that permit gays and lesbians to have official recognition of their relationships should be created. It is not possible for anyone to remain silent knowing that people who can only be happy with same sex partners have to be clandestine about it. The possibility of having a legal arrangement with a partner will have a great impact on self esteem as well as provide a new resource for more enduring unions. Homosexuals should have a right to inheritance, social security, and medical benefits from their legal partners.

The United Nations made a change in the world when it took a stand on women's rights two decades ago. The same courage and vision should be shown by the leaders of

left to right:

Deputy Marta Suplicy (Tribunal Judge), Gara LaMarche (Tribunal Judge), Julie Dorf (Executive Director of IGLHRC), Jim Hornel (Tribunal Co-Chair), and Nomtuse Mbere (Tribunal Judge)

Publications of the International Gay and Lesbian Human Rights Commission

- *Unspoken Rules: Sexual Orientation and Women's Human Rights.* Edited by Rachel Rosenbloom. Foreword by Charlotte Bunch. A special report prepared for the United Nations Fourth World Conference on Women. Contains 31 country reports from around the world documenting human rights violations against lesbians. Available in English edition (1995). \$15.00.
- *Epidemic of Hate: Violation of the Human Rights of Gay Men, Lesbians, and Transvestites in Brazil.* By Luiz Mott. English and Portuguese editions forthcoming (Spring 1996). \$12.00.
- *No Human Being is Disposable: Social Cleansing, Human Rights and Sexual Orientation in Colombia.* By Juan Pablo Ordoñez. Foreword by Noam Chomsky. Available in English edition (1995). \$12.00.
- *The Rights of Lesbians and Gay Men in the Russian Federation.* By Masha Gessen. Foreword by Larisa Bogoraz. Available in special bilingual English-Russian edition (1994). \$12.00.
- *Asylum Based on Sexual Orientation: A Resource Guide.* Contains articles on various issues relating to political asylum for sexual minorities and people with AIDS, as well as contact lists of attorneys and organizations. Forthcoming (1996).
- *Emergency Response Network Action Alert.* A bi-monthly publication which goes out to over 4000 individuals and organizations worldwide. Contains current information about specific cases of human rights violations against sexual minorities and people with HIV/AIDS as well as addresses and information to mobilize protest letters. Published in Spanish, French and English. Distributed free of charge, but contributions appreciated.

Order Form

Shipping and handling: \$3.00 per book (US, Canada, and Mexico)
\$5.00 per book (other countries).

Please indicate the title and quantity of each publication below:

Publications Title	Qty	Price	S & H	Total

Total Amount Enclosed (in US Dollars) _____

Please include me in the Emergency Response Network:

Mail Version
 E-mail Version

 English

 Spanish

 French