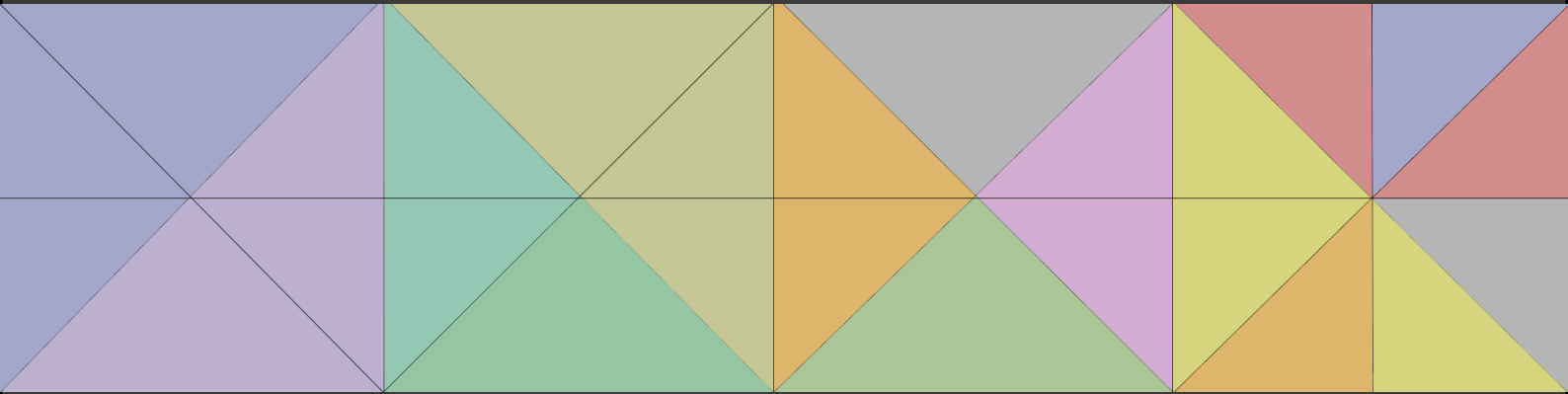


# 2013 IN REVIEW:

The rights of LGBT people globally



Kaleidoscope Trust

# From the Executive Director



Welcome to the third annual review of global LGBT human rights from the Kaleidoscope Trust. Kaleidoscope's mission is to listen to and amplify the voices of persecuted lesbian, gay, bisexual and transgender people around the world, and to help bring their plight to the attention of political leaders, the media and the public.

This report covers both the lows and the highs in the struggle to uphold the basic human rights of LGBT people during 2013. This year has been marked by a series of serious challenges to the dignity, rights and freedoms of LGBT people around the world. In Russia, Nigeria and Uganda, for example, draconian new laws have been passed, or are on the brink of passing, that will act to further criminalise homosexual activity, LGBT activism and so-called 'gay propaganda'. Adverse court rulings in Singapore and India have ensured that homosexuality remains, for the time being, criminalised.

There remains reasons to be hopeful for 2014 however. Each of these setbacks have been accompanied by a renewed energy amongst the individuals and organisations working to uphold the rights of LGBT people. Support for the rights of LGBT people is spreading, and as the responses to events in Russia and India show, beyond the usual suspects. The rights of LGBT people are now a mainstream human rights concern.

We at the Kaleidoscope Trust have been active on the ground in several of these countries. We're working with local activists to support their struggles and we continue to make the case for an end to discrimination at the highest levels of government.

I hope the facts and figures in this report will help explain why, in the face of such setbacks, the campaign to uphold our rights at an international level has never been so important.

Lance Price  
Executive Director

*Freedom from discrimination on the basis of sexual orientation or gender identity is a fundamental human right.*

*Kaleidoscope Trust Mission Statement*

In many ways 2013 was a terrible year for the rights of LGBT people. The effective re-criminalisation of homosexuality in India, and the passage of dangerous legislation in both Uganda and Nigeria have been dispiriting blows to LGBT activists and communities throughout the world. But even where there have been setbacks, there are silver linings. The passing of regressive ‘propaganda’ laws in Russia set off a wave of international outrage, mobilisation and activism – the cause of LGBT rights in the international sphere has perhaps never had so much mainstream, vocal support. Meanwhile the Supreme Court decision in India was greeted by outrage and disbelief not just amongst activists but among high profile political and celebrity allies in India and beyond. If nothing else, the challenges of this past year show how the campaign for international LGBT rights has never been more important.

## The legislative battle for LGBT rights

**Russia’s** introduction of a law prohibiting the ‘propaganda of non-traditional sexual relations’ to minors was a terrible setback for the Russian LGBT community and prompted an international outcry. Passed by the Duma in July, the law is worded in such a way that it can be interpreted to ban any positive discussion of LGBT rights or people in the public sphere, and as such represents a major assault on the freedom of expression of LGBT people. Similar laws had been passed in several Russian cities and regions since 2006. The federal law now supersedes and nationalises them. The law has been read as part of a wider attack by the Russian government on the public sphere and on civil society, which has included the arrest and imprisonment of members of Pussy Riot and Greenpeace and ongoing prosecutions of civil society organisations under the ‘Foreign Agent’ laws.

Although there have only been a few recorded prosecutions under the law, activists report that it has had a chilling effect on LGBT activism and has been used to prevent and shut down public demonstrations. Like any anti-LGBT law, it has also acted to legitimise discrimination and

violence against LGBT people. There has been a reported rise in violence against LGBT people, activists and organisations. Disturbingly there has been a trend toward premeditated violence against LGBT people and organisations. A series of attacks on LGBT teenagers occurred throughout 2013, where far right extremists used internet forums to lure young gay men to then attack, torture and film them. In November a private meeting of LGBT activists was infiltrated and attacked by masked men wielding air guns and baseball bats. The attack left one man blind in one eye.



The Russian law prompted international outrage and condemnation – perhaps beyond anything seen in the international sphere before. Politicians, activists and celebrities from around the world lined up to condemn the law. Although this perhaps cannot be disentangled from wider geopolitical struggles between Russia and the west (particularly over Syria), the breadth and depth of international outrage shows the extent to which support for LGBT rights has become a mainstream human rights concern in the international realm. The Russian city of Sochi will be hosting the Winter Olympics in February

2014 and will be a key focus for domestic and international activists hoping to challenge the Russian law.

An attempt by lawmakers in **Moldova** to pass an 'anti-propaganda' law similar to those of Russia was short-lived. In July the Contravention Code was passed in secret. The law acted to forbid the "distribution of public information [...] aimed at the propagation of prostitution, paedophilia, pornography or of any other relations than those related to marriage or family". In October however, the parliament narrowly voted to overturn parts of the law that could make it illegal to distribute information about homosexuality.

**Nigeria** came several steps closer to passing a law that will severely curtail the rights of LGBT people, particularly in relation to their freedom of expression and association. The Same Sex Marriage (Prohibition) Bill had passed the Nigerian Senate in 2011. In May this year the House of Representatives passed a modified version of the bill, which was procedurally agreed by the Senate in December. The bill now awaits presidential assent before becoming law.

The bill's notional purpose is to ban same-sex marriages, a practice virtually unheard of in a country where homosexuality remains illegal, in some regions with punishment of stoning. The bill however contains disturbing clauses that will outlaw LGBT organisations, or indeed organisations that work with LGBT people, raising serious concerns about the viability of human rights and health advocacy in the country.

In December, **Brazil** failed to pass a law prohibiting discrimination on the grounds of sexual orientation and gender identity.

The year closed with the passage of **Uganda's** now notorious 'Kill the Gays' bill. Although the bill that was passed by the Ugandan parliament removed the death penalty, under the bill life imprisonment will apply in cases of 'aggravated homosexuality'. This includes cases where one of the participants in any homosexual act is, amongst other things, a 'serial offender', HIV-positive or disabled. The bill also includes the offence of 'promotion of homosexuality' which contains several provisions which will make the work of human rights defenders and health professionals engaging LGBT people effectively illegal. The bill now awaits presidential assent before becoming law.

There have, however, been some bright legal spots in 2013. In December the **Dutch** Senate passed a new law that will allow trans people to change their official identity papers to their preferred gender. It removes the earlier requirement of medical intervention, including irreversible sterilisation. In the **United States** the long fight to pass legislation to protect against employment discrimination on the basis of sexual orientation and gender identity received a boost, after ENDA (the Employment Non-Discrimination Act) was passed in the Senate. Although the bill faces stiff opposition in the House of Representatives, this is a rare victory for a bill that has been introduced (in some form) in almost every Congress since 1994.

*Let me say this loud and clear: lesbian, gay, bisexual and transgender people are entitled to the same rights as everyone else. They, too, are born free and equal.*

*Ban Ki Moon,  
UN Secretary General*

## The rights of LGBT people in the courts

In October a legal challenge to **Singapore's** colonial era sodomy laws failed. Singapore High Court Judge Quentin Low dismissed a challenge to Section 377A of the Penal Code which outlaws any act of 'gross indecency' between men. Judge Loh found that, in spite of evidence presented to the contrary, that homosexuality was not innate and could not be used to challenge the legality of section 377A. It was the second time that Loh had ruled against legal challenges to the anti-homosexuality laws. Both cases will now be heard together in the Court of Appeal.

In May, the Supreme Court in **Belize** heard arguments to repeal Section 53 of the country's Penal Code. Section 53 outlaws "carnal intercourse against the order of nature with any person." The case, lead by Belizean activist Caleb Orozco prompted a vicious backlash in parts of the country, mainly amongst the religious right, with the support of their American counterparts. Orozco has been the recipient of many death threats.

In December the Supreme Court in **India** ruled to effectively re-criminalise activities "against the order of nature." In a ruling that stunned Indian and international human rights activists, the Supreme Court ruled to overturn the 2009 High Court decision that found that Section 377 was incompatible with the Indian constitution. The ruling acts to criminalise one of the world's largest LGBT communities, by some reckoning 17% of the world's LGBT people live in India. The ruling is also noteworthy for the fact that India's colonial era prohibition of homosexuality acted as the model for dozens of other such laws across the British Empire. To have sealed its demise with a Supreme Court ruling would have been an important victory, not just for India, but for activists in many other countries that still enforce laws that were made in its image.



Despite the disappointment of the ruling, there is still much to hope for in India. The long fight to repeal Section 377 has built a robust and vibrant LGBT movement in the country and has led to a public discussion of the rights of LGBT people that is changing hearts and minds. The shock ruling has been greeted by outrage and disbelief not just amongst LGBT activists but also amongst mainstream, high profile political and celebrity allies. The president of the ruling Congress party Sonia Gandhi has criticised the ruling. The Indian Finance Minister has decried it as taking India "back to 1860." Former Indian Prime Minister Mr. H.D. Deve Gowda has come out to support the repeal of Section 377. Both the current government and the Naz Foundation, the original petitioner in the case, have filed a petition with the Supreme Court to reverse the decision.

2013 also saw a series of judicial and administrative victories for trans and intersex people, affording them more autonomy over their gender identity and expression. A decision made by the Appeal Court in **Sweden** in late 2012 came into effect in July. The ruling overturned the provision that forced trans people be sterilised

if they wished to legally change their gender. In March a **South Korean** court ruled that trans and intersex individuals could legally change their legal gender without undergoing medical intervention. A similar decision was made by the Taiwanese Ministry of Health and Welfare in late 2012.

## Victories and setbacks in the fight for equal marriage

One of the clearest areas where there have been substantial, if not universal, gains for LGBT communities has been the recognition of partnership rights and the expansion of access to marriage. Despite vocal opposition and large-scale public demonstrations opposing the move, in May **France** passed legislation allowing same-sex marriage and held its first official marriages later that month. In the same month, the **New Zealand** parliament passed legislation equalising marriage.

In a moving scene, supporters of the bill attending parliament greeted the its passage with applause and sang the traditional Maori love song Pokarekare Ana. In July legislation allowing same sex marriage in **England and Wales**, with the Scottish Parliament expected follow suit early next year. **Uruguay**

legalised same-sex marriages in a law that took effect in August

While equal marriage has been achieved legislatively in some parts of the world, in others it has been the role of the courts to ensure equal access to marriage. In **Brazil** a ruling by the National Council of Justice opened the way to the national marriage equality. Although more than a dozen Brazilian states allowed marriage between same sex partners, the ruling effectively nationalises this practice. In **Mexico** a ruling by

the Supreme Court in late 2012 has had a similar effect, equalising access to marriage nationwide. In **Colombia** a Constitutional Court ruling from 2011 came into effect in July and saw the country's first same-sex marriages celebrated.

Meanwhile 2013 has seen a series of victories

for equal marriage advocates in the **United States**. In July the Supreme Court ruled that Section 3 of the Defence of Marriage Act – which banned the federal government from recognising same sex marriages – was unconstitutional. The same day the Court released a ruling that reinstated equal marriage in California. Legislation and judicial rulings brought the number of states that grant same-sex marriage to eighteen. In December Utah's ban on

same-sex marriage was ruled unconstitutional prompting a flurry of marriages in the state.

It has not all been plain sailing however, with setbacks for equal marriage advocates in Zimbabwe, Croatia and Australia. In March **Zimbabwean** voters overwhelmingly supported a new constitution that contained provisions that outlaw same-sex marriage. In December voters in **Croatia** overwhelming supported a constitutional amendment defining marriage as being only between a man and a woman.



Although the change in the constitution effectively makes it impossible to introduce marriage equality in the short to medium term, the pro-LGBT government responded by investigating ways to introduce civil partnerships for same-sex couples which will afford most, if not all, of the legal benefits of marriage. Meanwhile a short-lived attempt to

introduce equal marriage laws in the **Australian Capital Territory** foundered after it was found to be incompatible with Australian federal laws that explicitly ban same sex marriage. The 27 couples that married during the law's four-day reign have had their marriages annulled.

## Prides

**Lesotho** held its first ever Pride parade in May without incident. Uganda celebrated its second Pride celebrations, once again without incident. In **Ukraine**, Kyiv held its first ever pride, after earlier attempts had been called off after threats of violence. Despite criminalisation, **Singapore's** Pink Dot festival goes from strength to strength, this attracting over 20,000 participants. **Montenegro** held its first ever Pride march, against a background of massive police protection from violent opponents. In **Serbia** officials once again banned Pride in Belgrade citing security concerns. The last minute ruling however appeared to be in vain, as it prompted a spontaneous protest by hundreds of LGBT people and their allies.

## International

After a hopeful 2012, the fight to uphold the rights of LGBT people in international forums was disappointing. After holding its first ever plenary session devoted to LGBT rights in 2012, there was little public progress at the **UN Human Rights Council**. The UN HRC however, did launch a ground-breaking campaign, *UN Free and Equal*, supporting the rights of LGBT people.

Meanwhile in November, the **Commonwealth** held its biannual Heads of Government Meeting in Sri Lanka. Of the 53 member states, 42 now have laws that act to criminalise people on the basis of their sexual orientation and gender identity. Sadly the issue of LGBT rights were barely touched on during the proceedings.

## Reasons to hope

In **Jamaica** the Information Minister announced plans for the government to review the country's anti-sodomy laws.

Following a campaign supported by the Kaleidoscope Trust, the Prime Minister of **Barbados** announced his support for the "elimination of all forms of discrimination, including discrimination against persons of differing sexuality."

Meanwhile **Malawi's** 2012 moratorium on imposing anti-LGBT laws continues to hold. In November the Malawian High Court announced its intention to review the constitutionality of the laws.

*States must repeal discriminatory laws and ban discriminatory practices. Punish violence and hatred, not love.*

*Navi Pillay,  
UN High Commissioner for Human Rights*

#### About us:

The Kaleidoscope Trust is a UK based charity working to uphold the human rights of lesbian, gay, bisexual and trans people internationally. Our mission is to advance the human rights of LGBT people internationally by listening to, amplifying and communicating their voices to a wider audience, and by standing with them to persuade public and political opinion of the need for an end to all discrimination based on sexual orientation or gender identity.

To help support the campaign please visit:

[www.kaleidoscopetrust.com](http://www.kaleidoscopetrust.com)