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- [programs](#)
- [publications](#)
- [reading room](#)
- [press](#)
- [support us](#)
- [contact us](#)
- [home](#)



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DAY 3 HIGHLIGHTS: Perspectives from Supreme Court Justices and National Governments

March 14, 2009 – Yesterday, distinguished guest speakers and international dignitaries convened for the third day of the *Global Arc of Justice Conference*. Audiences enjoyed a unique and rare opportunity to hear from members of three nation's supreme courts about LGBT rights. **Justice Bala Ram K.C. of the Supreme Court of Nepal** spoke about the Court's recent decision that guaranteed equal treatment and protection under the constitution for the nation's LGBT community. In addition, **Justice Eugenio Raúl Zaffaroni of the Supreme Court of Argentina** and **Justice Michael Donald Kirby of the High Court of Australia** each spoke on recent developments in LGBT rights in their respective countries.

Justice Bala Ram K.C. said of the Nepali Supreme Court decision, "The Supreme Court is very conscious about enforcing the rights of the people and must give remedy to those people whose rights have been violated by the State. It is clear that protecting LGBT people from discrimination is consistent with the Constitution. Nepal is a signatory to various human rights treaties and the Supreme Court will continue to perform its constitutional duty."

The evening's plenary panel, ***National Leaders: What National Governments Are Doing to Advance LGBT Rights***, explored the proactive role that some nations are taking in fighting discrimination against LGBT people both within their borders and internationally. The panelists discussed the "Brazil Without Homophobia" program, which includes a national education campaign and a national LGBT rights conference; a similar program in Argentina as well as a discussion of Argentina's efforts to promote LGBT rights throughout South America; and the Netherlands' efforts through its foreign service to actively protect the human rights of LGBT people around the world. These presentations were followed by a discussion by former U.S. Ambassador Michael Guest about whether similar efforts can be expected from the Obama Administration and his work with the newly formed Council for Global Equality.

"Most of the history of our movements has been focused on overcoming state discrimination and violence," said Williams Institute Executive Director Brad Sears. "These countries are showing us that the power of state can be used to fight homophobia. They allow us to envision the possibility for not only what the U.S. government should stop doing, but what it could do: launching a national public education campaign against homophobia like Argentina, hosting conferences to advance LGBT rights like Brazil, or using its foreign policy to protect LGBT people around the world like the Netherlands," added Sears.

DAY FOUR HIGHLIGHTS: California Marriage Plenary

Earlier today, the California Marriage plenary panel explored the debate over extending marriage to same-sex couples in California. Panelists discussed the historic California Supreme Court decision that extended marriage to same-sex couples in May 2008; the overturning of that decision in November 2008 by a ballot initiative, Proposition 8; the protests that followed; and the challenge to Proposition 8 currently pending before the California Supreme Court. Last week the California Supreme Court heard oral arguments in the case to overturn Proposition 8 and the lead attorney arguing for the married same-sex couples, Shannon Minter, participated in the panel. The panel also discussed the role that race and ethnicity played in the campaigns in favor and against Proposition 8, the vote on November 4th, and the protests afterwards – as well as current efforts to strength coalitions between LGBT people and people of color communities in California.

Below please find an Op-Ed authored by Williams Institute Executive Director Brad Sears, published in the Los Angeles Daily Journal on March 13, 2009.

Daily Journal CORPORATION

March 13, 2009

AN UNLIKELY LEADER

FORUM COLUMN

By Brad Sears

When comparisons about gay rights are made between the United States and other countries, they are most often drawn between the U.S. and Europe. While many countries in Europe have leapt ahead in protecting lesbian, gay, bisexual and transgender rights, a region of the world much closer to home is now taking the lead: Latin America.

Latin America's emergence as a global leader in LGBT rights was apparent last December, when Argentina led 66 nations in affirming the extension of international human rights protections to the LGBT community in a statement to the United Nations General Assembly. Twelve of those 66 countries were from Latin America. The U.S. declined to sign the statement.

Latin America's role at the U.N. Assembly was not surprising. In June 2008, the 34 members of the Organization of American States unanimously approved a similar declaration.

Latin America's international leadership on LGBT issues is built on a number of advances in individual countries. By the time the U.S. Supreme Court declared the remaining U.S. state sodomy laws unconstitutional in 2003, all but two Spanish-speaking countries in Latin America had already done so, some decades earlier. The two outliers of the region, Nicaragua and Panama, have since repealed their sodomy laws.

Unlike the U.S., Costa Rica, Mexico, Nicaragua, Uruguay and Venezuela all have national laws prohibiting employment discrimination on the basis of sexual orientation. The new constitutions of Ecuador and Bolivia explicitly prohibit discrimination on the basis of sexual orientation and gender identity. If the U.S. Congress takes up Employment Non-Discrimination Act again this year, it will be joining Brazil and Chile in considering anti-discrimination legislation.

Uruguay, Ecuador and Colombia also provide national recognition to same-sex couples, as do states in Mexico, Argentina and Brazil. While a number of states in the U.S. also recognize same-sex couples, the U.S. has no federal law protecting gay couples.

Of course, things are not perfect for LGBT people in Latin America. Transgender individuals, in particular, continue to face high levels of discrimination and there remain insufficient protections for LGBT parents. As is the case in the United States and Europe, legal protections also do not always match the level of social acceptance. Especially outside of larger cities, LGBT people continue to suffer from acts of hate and violence.

This week, leading advocates, scholars and public officials are exploring LGBT rights in Latin America during a four-day international conference hosted by UCLA's Williams Institute. The Global Arc of Justice

conference includes free public events in West Hollywood and at UCLA that bring together high-profile Latin Americans fighting on the frontlines for LGBT equality.

Last fall, just over half of California Latino voters supported Proposition 8 and opposed marriage equality. This week's conference brings home the reality that the struggle for LGBT equality is not an agenda item unique to the Anglo-white community. Rather, it is a very real part of the greater Latino family in the Western Hemisphere. Having a greater understanding of this reality will make a difference to LGBT people in our communities, and might make a difference if we are called on to vote on LGBT rights again.

Brad Sears is the executive director of the Williams Institute and an adjunct professor at UCLA School of Law, where he teaches courses on disability law and sexual orientation law.

This article appears on Page 6

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