



## This document has been provided by the International Center for Not-for-Profit Law (ICNL).

ICNL is the leading source for information on the legal environment for civil society and public participation. Since 1992, ICNL has served as a resource to civil society leaders, government officials, and the donor community in over 90 countries.

Visit ICNL's **Online Library** at  
<http://www.icnl.org/knowledge/library/index.php>  
for further resources and research from countries all over the world.

### Disclaimers

**Content.** The information provided herein is for general informational and educational purposes only. It is not intended and should not be construed to constitute legal advice. The information contained herein may not be applicable in all situations and may not, after the date of its presentation, even reflect the most current authority. Nothing contained herein should be relied or acted upon without the benefit of legal advice based upon the particular facts and circumstances presented, and nothing herein should be construed otherwise.

**Translations.** Translations by ICNL of any materials into other languages are intended solely as a convenience. Translation accuracy is not guaranteed nor implied. If any questions arise related to the accuracy of a translation, please refer to the original language official version of the document. Any discrepancies or differences created in the translation are not binding and have no legal effect for compliance or enforcement purposes.

**Warranty and Limitation of Liability.** Although ICNL uses reasonable efforts to include accurate and up-to-date information herein, ICNL makes no warranties or representations of any kind as to its accuracy, currency or completeness. You agree that access to and use of this document and the content thereof is at your own risk. ICNL disclaims all warranties of any kind, express or implied. Neither ICNL nor any party involved in creating, producing or delivering this document shall be liable for any damages whatsoever arising out of access to, use of or inability to use this document, or any errors or omissions in the content thereof.

[Home](#) | [World Watch](#) | [Issues](#) | [Asylum](#) | [Access to Treatment](#) | [Felipa Awards](#)  
[Publications](#) | [ERN Action Alerts](#) | [Press Releases](#) | [About IGLHRC](#) | [Join Us](#)

Search for  in



# World Watch

[World Watch](#) ▶ [Central America](#) ▶ [Panama](#)

## Freedom Of Association Versus The Minister's Whim:

Support The Legal Registration Of Panama's First Lesbian And Gay Organization

**Action Alert:** March 2001 - [English](#) - [español](#)

### ACTION

On January 23, 2001, Asociacion Hombres y Mujeres Nuevos de Panama (AHMNP), a lesbian and gay advocacy group, applied for a second time to the Ministry of Government and Justice to receive legal registration. A similar request had been denied in January 2000, on the grounds that the organization's goals offended "public morals."

Minister Winston Spadafora is considering the application NOW. AHMNP asks for IMMEDIATE international solidarity in support of their request, in an effort to reverse the denial. A sample letter can be found below. Please write TODAY to:

Ms. Mireya Moscoso  
 Presidential Residence  
 Zona 1  
 Panama  
 Phone: (507) 227-9750  
 Fax: (507) 227-0076  
 E-mail: [ofasin@presidencia.gob.pa](mailto:ofasin@presidencia.gob.pa)

Mr. Winston Spadafora  
 Minister of Government and Justice  
 Apartado 1628  
 Zona 1  
 Panama  
 Phone: (507)212-0565  
 Fax: (507) 212-2126  
 E-mail: [maw@orbi.net](mailto:maw@orbi.net) o [mediotec@sinfo.net](mailto:mediotec@sinfo.net)

And please send a copy to AHMNP:

Asociacion Hombres y Mujeres Nuevos de Panama  
Apartado 87-0002  
Panama 7  
Rep. de Panama  
Phone (507) 217-0519  
E-mail: [ahmnp@yahoo.com](mailto:ahmnp@yahoo.com)

## BACKGROUND

Asociación Hombres y Mujeres Nuevas de Panama (New Men and Women Association of Panama, or AHMNP) was created in April 1998. As the first lesbian and gay organization ever founded in Panama, it had to work under conditions of extreme difficulty to confront social prejudice, and to educate both the general public and gay and lesbian communities about the need for the organization's existence. It has worked tirelessly toward these ends, organizing workshops and seminars, distributing informative materials, and speaking public as gay and lesbian people in various fora.

In February 1999, AHMNP submitted a request for legal recognition to the (then) Minister of Government and Justice, Ms. Mariela Sagel. The request was accompanied by every legal document required for such submissions. The aims of the organization as specified in its constitution were: 1) to conduct activities aimed at raising awareness among those sectors of the population facing discrimination due to their sexual orientation; 2) to help those populations defend their rights, and assume their responsibilities, so as to develop their full professional, cultural, and socioeconomic potentials; 3) to identify educational, legal, labor-related, and social problems suffered by populations suffering discrimination due to their sexual orientation, and suggest solutions.

In January 2000 recognition was denied by Minister Winston Spadafora on the grounds that AHMNP was an association contrary to "moral and good habits." The Minister cited, in support of his decision, Article 39 of the Panamanian Constitution, which forbids the creation of "companies, associations or foundations that are contrary to moral or legal order." He also cited Articles 64 and 69 of the Civil Code. Those Articles merely indicate that "private non-profit associations" can be legally registered if the executive authority of Panama approves of them (64) and that those associations must be managed according to statutes previously approved by the executive branch (69). In citing these wholly instrumental Articles which articulate nothing but the executive's authority, the Minister virtually acknowledged that his denial was a pure assertion of arbitrary power.

IGLHRC is gravely concerned by the denial of legal registration to AHMNP. Legal registration is the only means by which gay and lesbian organizations, like other segments of civil society, can fulfill basic, simple tasks: paying salaries, owning properties, possessing legal personalities. Beyond that, though, legal registration is the State's recognition of the fundamental freedom of association. Groups denied it are stripped of their rightful places and faces, forced to don carnival disguises in the public array of society as a whole. They lose not only their powers but their proper status as endowed and equal selves, their full belonging. The State should infringe upon the right of association only for the most pressing of reasons. It should be submissive to that right, not superior to it. The trivial invidiousness the government of Panama displays is petty in its legalism but massive in its effects. It

implies that the State controls the whole of public life, and arrogates the sole right to allot membership in civil society.

Gays and lesbians exist. So do their rights, as clearly and unequivocally as the rights of any other human beings. Gays and lesbians need and demand to organize in their own interest and defense. Their existence, like their needs and rights, will not conveniently vanish because the law elects to close its eyes to them. Justice must be blind to prejudice, influence, and fear. It must not be blind to the lives and reality of the human beings it serves.

AHMNP has made very clear through its statutes that its work is aimed at public education, community awareness, and the attainment of full citizenship for lesbians and gays in Panama. To read such goals as contrary to "moral and good habits" is a bizarre and dangerous interpretation. The very Article 39 of the Panamanian Constitution invoked by Minister Spadafora F. in the denial clearly specifies the kind of association unworthy of legal registration--"associations inspired by pretended racial superiority, or that promote or justify racial discrimination." Nothing could be more remote from the aspirations of AHMNP. The Panamanian government should desist from proclaiming its supercilious concern with "good morals": instead it should pronounce itself clearly in favour of organizations which actively fight against discrimination.

Article 17 of the Panamanian Constitution states that public authorities hold their offices to --among other functions--"ensure the effectiveness of individual and social rights and obligations." The right to freedom of association for "ideological ... social, cultural... "ideological ... social, cultural ... or other purposes", is recognized by the International Covenant on Civil and Political Rights (Article 22) and by the American Convention on Human Rights (Article 16). Both covenants permit, in the enjoyment of this right, "only such restrictions established by law as may be necessary in a democratic society, in the interest of national security, public safety or public order, or to protect public health or morals or the rights and freedom of others". Associations working against discrimination enhance rather than threaten the latter interests. They contribute to a debate by which the moral standards of any society can only grow; they promote core democratic values such as respect for diversity and dialogue. Moreover, the Minister's decision, reliant as it is on the assertion of an arbitrary power, stands utterly opposed to the needs and procedures of a democratic society.

Please write to the Panamanian authorities supporting the reconsideration of the denial of legal registration to AHMNP.

#### SAMPLE LETTER

Minister of Security and Justice Dr. Winston Spadafora Franco

Dear Sir,

We write to request that you reverse the denial of legal registration to the Asociación Hombres y Mujeres Nuevos de Panama (AHMNP), which you issued in January 2000, and give a positive answer to their new request, submitted on January 23, 2001.

Legal registration is a basic recognition of gay and lesbian

organizations, as for other segments of civil society: it allows them to own property, to pay salaries, and to take part in legal disputes. It also gives such communities (and their constituencies) a place and face in society as a whole: it gives their membership the power to enjoy their full status as citizens, their full belonging in their communities. To deny legal registration to a gay and lesbian organization-- besides seriously damaging its capacity to continue its work-- is a none-too-subtle way of conveying the message that gays and lesbians do not belong in society at all.

AHMNP has made very clear through its statutes that its work is aimed at public education, community awareness, and the attainment of full citizenship for lesbians and gays in Panama. To read such goals as contrary to "moral and good habits" is a bizarre and dangerous interpretation. The same Article 39 of the Panamanian Constitution invoked by you in the denial clearly specifies the kind of association unworthy of legal registration--"associations inspired by pretended racial superiority, or that promote or justify racial discrimination." Nothing could be more remote from the aspirations of AHMNP. The Panamanian government should desist from proclaiming its supercilious concern with "good morals": instead it should pronounce itself clearly in favour of organizations which actively fight against discrimination.

Article 17 of the Panamanian Constitution states that public authorities hold their offices in order to --among other functions-- "ensure the effectiveness of individual and social rights and obligations." The right to freedom of association for "ideological ... social, cultural... "ideological ... social, cultural ... or other purposes" is recognized by the International Covenant on Civil and Political Rights (Article 22) and by the American Convention on Human Rights (Article 16). Both covenants permit, in the enjoyment of this right, "only such restrictions established by law as may be necessary in a democratic society, in the interest of national security, public safety or public order, or to protect public health or morals or the rights and freedom of others". Associations working against discrimination enhance rather than threaten the latter interests. They contribute to a debate by which the moral standards of any society can only grow; they promote core democratic values such as respect for diversity and dialogue

In two previous cases that took place in Latin America (Argentina, 1992; Costa Rica, 1995), following an initial denial, governments finally granted legal recognition to lesbian and gay organizations, understanding that they fulfill socially useful goals. Such measures had no negative consequences: rather, they promoted the organizations' and their members' full integration into civil society. In other countries (such as Brazil, Peru, Ecuador) there are no obstacles to these organizations' legal recognition, and the work they do has earned them the respect of the national community, as well as international praise.

We trust the Panamanian government will revert its past, unjust decision, and grant AHMNP the legal status it deserves, as a step toward recognizing its gay and lesbian constituencies' full citizenship

and membership in Panamanian society.

Respectfully,

cc. President Ms. Mireya Moscoso

© 1996, 1997, 1998, 1999, 2000, 2001 IGLHRC. Site maintained by [webweaver@iglhc.org](mailto:webweaver@iglhc.org). For more information contact [iglhc@iglhc.org](mailto:iglhc@iglhc.org).