

Press Release

For Immediate Release

LOYOLA'S INTERNATIONAL HUMAN RIGHTS CLINIC FILING LANDMARK SUIT ON DIRECT DEMOCRACY AS FUNDAMENTAL HUMAN RIGHT

LOS ANGELES, Dec. 10, 2015 – The International Human Rights Clinic (IHRC) at Loyola Law School, Los Angeles has filed a case before a United Nations human rights body regarding the way in which referenda are regulated in Italy. The case, known as a communication, has potential implications for citizens of other countries with barriers to direct democracy.

“With this communication, one of the few ever being brought before an international adjudicative body on this subject, we are trying to change the way in which states conceptualize and regulate popular initiatives, both in Italy and around the world,” said Professor Cesare P.R. Romano, director of the IHRC. “The implications for the way citizens may participate in direct democracy are significant.”

The case accuses Italy of violation of the right to participate in the conduct of public affairs, specifically Articles 25(a) and (b) of the Covenant on Civil and Political Rights (ICCPR). The ICCPR is the main global international human rights treaty. It was ratified by 169 States, including the United States (1992) and Italy (1978), and entered into force in 1996.

The IHRC argues that the laws and procedures regulating the holding of referenda in Italy are unduly restrictive, arbitrary and overall unreasonable, providing mere lip-service to the constitutionally sanctioned right to hold referenda, and resulting in a violation of Articles 25(a) and 25(b), in conjunction with Articles 2.1, 2.2, 2.3, of the ICCPR.

“The right to participate in the conduct of public affairs, codified in the ICCPR, is rarely discussed and litigated outside of the right to elect and be elected. It is rarely, if ever, invoked in the case of direct democracy –the right of citizens to participate in the conduct of public affairs through referenda and popular initiatives,” said Romano. Direct democracy is practiced in a majority of states around the world. As many as 177 states, or approximately 83 percent of all states of the world, allow some forms of direct democracy. They vary in the involvement they allow for citizens: Some states allow citizens to launch full-scale initiatives that result in a popular vote; others allow people to submit proposals to the legislature for consideration; and some only allow people to vote directly on laws proffered by government entities.

The case was filed on behalf of two Italian politicians, Mario Staderini and Michele de Lucia, who were the secretary and the treasurer of the Italian Radicals, the oldest Italian political party. In 2013, the Italian Radicals launched a campaign to collect 500,000 signatures, as required by the Italian Constitution, to put on the ballot six referenda, but failed to reach the quorum due to actions and inaction of authorities at all levels of government in Italy.

Italy allows for some forms of direct democracy, specifically referenda. The right to put referenda on the ballot is enshrined in the Constitution of 1948. However, as the communication alleged, the IHRC argues that the laws and procedures regulating the holding of referenda in Italy provide mere lip-service to the constitutionally sanctioned right to hold referenda, and resulting in a violation of Articles 25(a) and 25(b), in conjunction with Articles 2.1, 2.2, 2.3, of the ICCPR.

“In the world, there is wide variation worldwide among states on how to regulate citizen-initiated referenda. Some nations tend to favor involvement of the public in law-making, even against the wish of the ruling parties, while others tend to restrict it. No one system is perfect, but so long as a system has sufficiently reasonable standards to make referenda feasible, direct democracy can happen successfully,” said Romano. “When states have overly complex laws that make it difficult for citizens to propose legislation or amendments to existing laws, the result is that citizens and political groups do not even attempt to utilize the process, knowing it will be futile. The more equitable the rules and practices regarding initiatives and referenda, the more people have faith in the system and are actually willing to spend their time utilizing it, and thus the more successful the system turns out to be.”

For more information or to arrange an interview, please contact Brian Costello, assistant director of marketing and communications, at 213-736-1444 (o), 310-902-9560 (c) or brian.costello@lls.edu,

About Loyola’s International Human Rights Clinic

The International Human Rights Clinic empowers victims of human rights violations and the organizations representing them while providing students at Loyola with the opportunity to make a global impact from their Los Angeles home base. The IHRC also seeks to maximize the use of all available global and regional legal and political institutions through litigation, advocacy and capacity-building. Learn more at www.lls.edu/intlclinic.

About Loyola Law School, Los Angeles

Located on an award-winning Frank Gehry-designed campus in downtown Los Angeles, Loyola Law School is home to prominent faculty and dedicated students. Its cutting-edge programs include a focus on cybersecurity, which is available as a focused area of study. The Law School strives to instill in students the knowledge they need to excel on their chosen paths. It dedicates itself to preparing students for the rigors of practice with an extensive portfolio of practical-training opportunities, a 17,000-strong alumni network and a focus on social justice. Learn more at www.lls.edu.

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