

Discrimination and Violence against Individuals Based on their Sexual Orientation and Gender Identity

Summary

On 1 June 2015, the UN High Commissioner for Human Rights issued a report on human rights violations against individuals based on their sexual orientation and gender identity. The report – only the second ever official UN report on the subject – was requested by the Human Rights Council in a resolution adopted in September 2014. The first report, also prepared by the High Commissioner at the Council's request, was released in December 2011.

The new report draws on recent findings of UN human rights bodies, regional organizations and non-governmental organizations, as well as information submitted by Governments. It details some of important recent advances in the protection of the rights of lesbian, gay, bisexual, transgender (LGBT) and intersex people – including the introduction of new anti-discrimination and hate crime laws, legal recognition of same sex relationships, protection of intersex children, and changes that make it easier for transgender people to have their gender identity legally recognized. Even so, the report notes, LGBT and intersex people in all regions face “continuing, pervasive, violent abuse, harassment and discrimination.”

Key findings

- Hate-motivated violence against LGBT people is widespread, brutal, and often perpetrated with impunity. LGBT and intersex people are also victims of torture and ill treatment, including in custody and in clinics and hospitals.
- In many countries, the law is used to punish individuals on the basis of their sexual orientation and gender identity, and to restrict rights to freedom of expression, association and assembly: 76 countries criminalize consensual same sex relationships; in seven the death penalty may be applied.
- “Everyday discrimination”, fuelled by entrenched discriminatory attitudes and facilitated by lack of effective anti-discrimination laws, affects LGBT and intersex people everywhere – including in education, healthcare, employment, housing, and within families.
- States are legally bound by international human rights law to respect, protect and fulfil the human rights of all persons within their jurisdiction – including those who are LGBT and intersex.

Key recommendations

- Repeal laws used to punish people based on their sexual orientation and gender identity and expression – including laws that criminalize consensual, same-sex relationships, and so-called “anti-propaganda” laws.

- Enact effective anti-discrimination laws that protect LGBT and intersex persons from discrimination, and work to end negative stereotypes, including through public education campaigns.
- Investigate alleged homophobic and transphobic hate crimes, torture and related abuses. Enact hate crime laws that impose tougher penalties on criminals who target victims because of their sexual orientation or gender identity. Make it illegal to incite hatred and violence against LGBT people.
- Ban forced and involuntary treatment and medical procedures on LGBT and intersex people.
- Provide legal recognition to same-sex couples and protect the rights of their children.
- Make sure everyone has access to legal identity documents that reflect their self-identified gender, without abusive requirements such as sterilization, forced treatment or divorce.
- Make sure that no one fleeing persecution because they are LGBT or intersex is returned to a territory where his or her life or freedom would be threatened.
- Consult LGBT and intersex people and civil society when making laws and policies that impact their rights.

Tide of Progress

The report highlights many examples of positive initiatives taken by national, provincial and local governments – including measures to combat hate crime, address bullying of children, and ensure fair treatment of LGBT and intersex people in the workplace and in access to housing, healthcare and public services.

Since 2011, when the High Commissioner was last asked to report on this subject to the UN Human Rights Council:

- 3 countries have decriminalized consensual same-sex relationships;
- 14 have adopted or strengthened anti-discrimination or hate crime laws, extending protection for LGBT and intersex people;
- 12 have introduced either marriage or civil unions for same-sex couples offering equivalent benefits and entitlements;
- 10 have changed gender recognition laws to make it easier for transgender people to obtain legal identification documents that reflect their gender identity;
- 1 country has introduced legal protection for the physical integrity of intersex children; and
- In dozens of countries, medical staff, teachers, police, judges and prison guards are now receiving gender and sexuality sensitivity training and guidance, and anti-bullying programmes have been launched in schools.