

## The United Nations speaks out

**T**he United Nations is committed to fighting all forms of discrimination. Over the years, particular attention has been paid to tackling racial and sex discrimination, as well as discrimination based on a person's health status, disability, or religious affiliation. More recently, the United Nations has become increasingly concerned with the prevalence of discrimination on grounds of sexual orientation and gender identity.

**Lesbians, gays, bisexuals and transgender (LGBT) persons are vulnerable to a range of human rights violations**, including homophobic violence, killings, rape, arbitrary detention and widespread discrimination in the workplace and in access to basic services like housing and healthcare. **In more than 70 countries, laws make it a crime to be homosexual, exposing millions to the risk of arrest, imprisonment and, in some cases, execution.** The UN Secretary-General, the High Commissioner for Human Rights and heads of various UN agencies have all spoken out—calling for the worldwide decriminalization of homosexuality and further measures to protect people from violence and discrimination on the basis of their sexual orientation or gender identity.

The UN human rights treaty bodies, whose role it is to monitor compliance by States parties with their obligations under international human rights treaties, have consistently held that **States have an obligation under existing treaty provisions to protect people from violence and discrimination on the basis of their sexual orientation.** Similarly, the special rapporteurs, independent experts and working groups appointed by the UN Human Rights Council to report on human rights challenges, have issued dozens of reports, statements and appeals highlighting the vulnerability of LGBT persons to human rights violations and calling on States to repeal or reform discriminatory laws and policies.

## Senior UN officials

**"Laws criminalizing homosexuality pose a serious threat to the fundamental rights of lesbian, gay, bisexual and transgender individuals, exposing them to the risk of arrest, detention and, in some cases, torture and execution. Commonly, criminal sanctions are accompanied by a raft of other discriminatory measures that affect access to a wide range of rights—civil, political, economic, social and cultural. We also know that criminalization perpetuates stigma and contributes to a climate of homophobia, intolerance and violence."**

*- UN High Commissioner for Human Rights, Navi Pillay, 1 February 2011*

**"I urge all governments to take steps to eliminate stigma and discrimination faced by men who have sex with men, lesbians and transgender populations. They must also create social and legal environments that ensure respect for human rights and enable universal access to HIV prevention, treatment, care and support."**

*- UNAIDS Executive Director Michel Sidibé, 17 May 2010*

**"One of the founding principles of the United Nations is our faith in the dignity and worth of every person, without distinction on the basis of race, colour, sex, language, religion, property, birth or other status. Discrimination in all its forms continues to undermine this principle ... It rears its head ... in tackling HIV/AIDS, where stigmatizing men who have sex with men and refusing to provide harm reduction services for drug users sets back prevention and treatment work."**

*- United Nations Development Programme Administrator Helen Clark, 10 December 2009*

**"The World Health Organization removed homosexuality from the International Classification of Diseases on May 17th, 1990. This was an important step forward. Yet over two decades later, stigma and discrimination against homosexuals still exists, and can result in restricted access to health services and missed targets for health programmes...."**

*- World Health Organization Director-General Margaret Chan, 8 April 2011*

## UN independent experts on human rights

(Special rapporteurs and other experts mandated by the UN Human Rights Council)

**"The existence of laws criminalizing homosexual behaviour between consenting adults in private and the application of criminal penalties against persons accused of such behaviour violate the rights to privacy and freedom from discrimination set forth in the International Covenant on Civil and Political Rights."**

*- Opinion adopted by the UN Working Group on Arbitrary Detention, 2 February 2007*

**"The Special Rapporteur is deeply concerned about the continuing denigration campaigns and the violent threats against defenders of lesbian, gay, bisexual and transgender rights."**

*- Report of the UN Special Rapporteur on the situation of human rights defenders, 30 December 2009*

**"Gender-based violence ... is particularly acute when combined with discrimination on the basis of sexual orientation or change of gender identity. Violence against sexual minorities is on the increase and it is important that we take up the challenge of what may be called the last frontier of human rights."**

*- Presentator of the report of the UN Special Rapporteur on violence against women, 10 April 2002*

**"Regional and national particularities ... or historical, cultural or religious practices, though significant in many aspects, do not absolve governments from their duty to promote and protect all human rights and fundamental freedoms and to ensure that such protection is universally applied and respected."**

*- Joint statement by UN human rights mandate-holders (on human rights defenders; contemporary forms of racism, racial discrimination, xenophobia and related intolerance; violence against women; and the right of everyone to the highest attainable standard of physical and mental health), 23 February 2007*

**"There exists no hierarchy of discrimination grounds."**

*- Report of the UN Special Rapporteur on freedom of religion and belief, 7 February 2008*

## UN Secretary-General

**"As men and women of conscience, we reject discrimination in general, and in particular discrimination based on sexual orientation and gender identity. When individuals are attacked, abused or imprisoned because of their sexual orientation, we must speak out ... Today, many nations have modern constitutions that guarantee essential rights and liberties. And yet, homosexuality is considered a crime in more than 70 countries. This is not right. Yes, we recognize that social attitudes run deep. Yes, social change often comes only with time. But let there be no confusion: where there is tension between cultural attitudes and universal human rights, rights must carry the day. Personal disapproval, even society's disapproval, is no excuse to arrest, detain, imprison, harass or torture anyone, ever."**

*- UN Secretary-General BAN Ki-moon, 10 December 2010*



# “All human beings are born free and equal in dignity and rights”.

– Universal Declaration of Human Rights (Article 1)

“Among detainees, certain groups are subject to double discrimination and vulnerability, including ... gay, lesbian and transgender persons.”

– *Report of the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, 9 February 2010*

“International human rights law ... requires States to ensure non-discrimination and equality (de jure and de facto) on the basis of gender, sexual orientation and gender identity.”

– *Report of the UN Special Rapporteur on the promotion and protection of human rights while countering terrorism, 3 August 2009*

“A right-to-health approach requires that States decriminalize same-sex consensual conduct, as well as repeal laws that discriminate in respect of sexual orientation and gender identity, in order to meet core obligations of the right to health and create an environment enabling full enjoyment of the right”

– *Report of the Special Rapporteur on the right of everyone to enjoyment of the highest attainable standard of physical and mental health, 27 April 2010*

## Legal guidance to States issued by UN human rights treaty bodies

“States parties (to the International Covenant on Economic, Social and Cultural Rights) should ensure that a person’s sexual orientation is not a barrier to realizing Covenant rights ... In addition, **gender identity is recognized as among the prohibited grounds of discrimination.**”

– *UN Committee on Economic, Social and Cultural Rights, General Comment No. 20 of 2009*

“The Covenant (on Economic, Social and Cultural Rights) **prohibits any discrimination** in access to and maintenance of employment on the grounds of ... sexual orientation.”

– *UN Committee on Economic, Social and Cultural Rights, General Comment No. 18 of 2005*

“The Covenant proscribes any discrimination in access to health care and underlying determinants of health, as well as to means and entitlements for their procurement, on the grounds of ... sexual orientation.”

– *UN Committee on Economic, Social and Cultural Rights, General Comment No. 14 of 2000*

“The prohibition against discrimination under article 26 (of the International Covenant on Civil and Political Rights) comprises also discrimination based on sexual orientation”

– *UN Human Rights Committee decision in the case of X v. Colombia (2007)*

“States parties have the obligation to ensure that all human beings below 18 enjoy all the rights set forth in the Convention without discrimination, including with regard to “race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status”. **These grounds also cover adolescents’ sexual orientation and health status.**”

– *UN Committee on the Rights of the Child, General Comment No. 4 of 2003*

“States parties (to the Convention against Torture) must ensure that, insofar as the obligations arising under the Convention are concerned, their laws are in practice **applied to all persons, regardless of ... sexual orientation (or) transgender identity.**”

– *UN Committee against Torture, General Comment No. 2 of 2008*

“The discrimination of women based on sex and gender is inextricably linked with other factors that affect women, such as race, ethnicity, religion or belief, health, status, age, class, caste, and sexual orientation and gender identity.”

– *UN Committee the Elimination of Discrimination against Women, General Recommendation No. 28 of 2010*

## Guidance issued by UN agencies

“**Criminal law prohibiting sexual acts ... between consenting adults in private should be reviewed, with the aim of repeal.**”

– *International Guidelines on HIV/AIDS and Human Rights, OHCHR and UNAIDS (2006)*

“Worldwide, men who have sex with men and transgender people suffer high levels of social exclusion and challenges to equality. **Their ability to realize their full health potential is limited in a number of settings by laws that criminalize same-sex relationships and sexual/gender diversity.**”

– *Report on Prevention and Treatment of HIV and Other Sexually Transmitted Infections among Men Who Have Sex with Men and Transgender Populations, World Health Organization (2008)*

“Governments should ensure that parliamentarians, police, judges and justice ministry officials are provided evidence-based information on the epidemiology of HIV and sensitized about the **harmful public health and human rights impacts of punitive laws, policies and practices relating to men who have sex with men and transgender people.**”

– *Legal Environments, Human Rights and HIV Responses among Men Who Have Sex with Men and Transgender People in Asia and the Pacific: An Agenda for Action, UNDP (2010)*



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# Tackling discrimination on grounds of sexual orientation and gender identity



United Nations