



Committee: Human Rights Committee (GA2)

Issue: Protection against persecution and prejudice based on sexual orientation and gender identity

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Introduction to the Issue

For many years, an ongoing bias towards the LGBTQ+ community has been present. People suffer severe violations of human rights and other types of persecution in many parts of the world due to their actual or presumed sexual orientation and/or gender identity. In several countries, there is greater recognition that, under Article 1A(2) of the 1951 Convention relating to the Status of Refugees and/or its 1967 Protocol, individuals fleeing persecution for reasons of their sexual orientation and/or gender identity may qualify as refugees. LGBTQ+ people are commonly reported as being the targets of murders, sexual and gender-based harassment, physical assaults, torture, arbitrary imprisonment, charges of unethical or deviant conduct, violation of freedom of assembly, speech and intelligence, and discrimination in all regions of the world in work, health and education. Similarly, for consensual same-sex affairs, many countries maintain strict criminal laws, a number of which stipulate incarceration, corporal punishment and/or the death penalty. Sex, age, nationality, ethnicity/race, social or economic status are intersecting variables that which lead to and compound the consequences of violence and discrimination. LGBTQ+ people are also extremely disadvantaged in culture and segregated from their cultures and families due to these various levels of prejudice.

Involved Countries & Organizations

Armenia: Activists have confirmed that lesbian, homosexual, bisexual, transgender, and intersex (LBGTI) persons face abuse, harassment, and bigotry. The government has not discussed LBGTI hate speech or bigotry. Gender identity and sexual orientation are not included in anti-discrimination or hate speech legislation as covered purposes, restricting legal redress to certain LBGTI people. There have been many cases where violence was surveilled in the country and these members of the community are targeted and threatened. In June 2016, a poll was released by the LGBT rights organisation, PINK



Armenia, finding that 90% of the population is hostile to LGBTI people and advocates limitations on their rights. A study detailing 46 incidents of abuse and bigotry against LGBTI people in 2015 was published by PINK Armenia in July 2016. However, the country is currently taking no action.

Bangladesh: In 2016, Bangladesh saw a spate of brutal attacks against atheist journalists, intellectuals, campaigners for gay rights, immigrants, and representatives of religious minorities. In April, influential gay activists Xulhaz Mannan, publisher of Roopbaan, the first lesbian, gay, bisexual, transgender, and intersex (LGBTI) publication in Bangladesh, and Mahbub Rabby Tonoy, the group's general secretary, were killed.

China: There is no law in China prohibiting persons from discrimination on the grounds of sexual orientation or gender identity, and no official acknowledgment of same-sex relationships. LGBT citizens may have had more traction advancing court proceedings in 2016 because their advocacy is not considered harmful to the administration. In June, China voted against a UN resolution establishing an advisory position devoted to tackling sexual orientation and gender identity related abuse and discrimination.

India: The colonial-era clause, which was confirmed by the Indian Supreme Court in 2013, criminalizes adult same-sex marriages. In June, a host of well-known LGBT practitioners filed a petition with the Supreme Court alleging that the right to life and personal liberty is infringed by section 377 of the penal code, but the Supreme Court deferred the petition to the Chief Justice.

Iran: Under Iranian law, certain nonviolent offences are punished by execution, such as "insulting the Prophet," apostasy, same-sex marriages, adultery, and drug-related offenses. The committee acknowledged claims that in order to "cure" them, lesbian, homosexual, bisexual, transgender, and intersex (LGBTI) children were subject to electric shocks.

Netherlands: NGOs confirmed intimidation and violence against LGBT asylum seekers at asylum facilities at the beginning of 2016, and the Dutch Independent Oversight Agency, the Dutch Human Rights Security Council, found in February that LGBT asylum seekers face discrimination in large facilities.



Other helpful links:

<https://www.hrw.org/news/2017/06/23/human-rights-watch-country-profiles-sexual-orientation-and-gender-identity>

Detailed Analysis of the Issue

A thorough consideration of whether, under the 1951 Convention, an LGBTI claimant is a refugee ought to start with the presumption that applicants are free to live in society as who they are and do not need to disguise that. Sexual orientation and/or gender identity are basic facets of human identity that are either inherent or permanent, or that a person should not be expected to give up or hide, as affirmed by the stance accepted in a number of jurisdictions. Societal rejection or expression of different sexual roles is typically more than mere disapproval of sexual activities. A reaction to non-compliance with anticipated ethnic, gender and/or social expectations and values is also underscored. Hetero-normative expectations are generally focused on the social norms about who men and women are and how they are expected to act.

Persecution

For example, certain cultures continue to perceive homosexuality, bisexuality, and/or transgender behavior or people as representing a disorder, mental illness, or spiritual deficiency in different ways, and may hence use different interventions to attempt and modify or alter the sexual orientation and/or gender identity of another. Efforts by force or violence to alter the sexual orientation or gender identity of a person may constitute torture or cruel or degrading treatment, which may include other significant breaches of human rights, including the rights to freedom and protection of persons. Forced institutionalization, forced sex reassignment surgery, forced electroshock treatment and forced substance injection or hormone manipulation provide cases at the far end and which cross the mark of persecution on their heads. Medical and scientific-non-consensual under the Universal Covenant on Civil and Political Rights, experimentation is often specifically defined as a type of coercion or cruel or degrading treatment. Detention on the mere basis of sexual orientation and/or gender identity, whether in psychiatric or medical facilities, is regarded to be in violation of the international ban against the unconstitutional deprivation of liberty and may ordinarily constitute persecution. In addition, as the United Nations Special Rapporteur on Torture and Other Cruel, Inhuman or Abusive Abuse or Punishment has pointed



out, there is generally a strict hierarchy of detention centres, and multiple oppression is faced by those at the bottom of this hierarchy, such as LGBTQ+ detainees.

Concealment of identity and sexual orientation

LGBTQ+ people sometimes keep hidden facets of their lives and even large portions of them. In their country of birth, many may not have lived openly as LGBTQ+ and others would not have had any romantic relationships. To escape the serious repercussions of discovery, many conceal their sexual orientation and/or gender identity, including the possibility of draconian criminal sentences, unfair house searches, bigotry, social rejection, or family isolation. It is not a legitimate excuse to refuse asylum status because a claimant might be able to escape discrimination by concealing or being "discreet" about his or her sexual orientation or gender identity, or has done so previously. A person should not be granted asylum status on the grounds of a condition that they alter or hide their name, beliefs or attributes in order to escape discrimination, as evidenced by various rulings in several jurisdictions. LGBTQ+ persons are as entitled to freedom of speech and association as others.

Convention grounds

The five grounds of the Convention, including race, faith, ethnicity, membership of a certain social group and political opinion, are not mutually exclusive and may overlap with each other. In a given case, more than one foundation of the Convention might be appropriate. In the sense of "membership of a particular social group," refugee claims based on sexual orientation and/or gender identity are most often recognised. However, depending on the national, religious and cultural background of the argument, other grounds may also be important. For instance, if, for instance, their activism is viewed as going against existing political or religious beliefs and/or traditions, LGBTQ+ activists and human rights defenders (or presumed activists/defenders) may have one or both arguments based on political opinion or religion.



List of Important Events

Date (Day/Month/Year)	Event
March 2010	<p>Recommendation CM/Rec(2010)5 on steps to address discrimination on grounds of sexual orientation or gender identity was adopted by the Council of Europe. Emphasizing the universality of human rights and the value of non-discrimination, the recommendation called on Member States to take positive action to protect LGBTI rights.</p>
June 2011	<p>This resolution noted the acts of abuse and persecution against LGBTI citizens around the world and demanded a briefing from the Office of the High Commissioner for Human Rights of the United Nations.</p>
June 6, 2013	<p>Six resolutions covering human rights, sexual orientation, and gender identity were accepted by the General Assembly of the Organization of American States. See, for example, Organization of American States (OAS), Assembly General Res. From AG/RES. 2807, Civil Rights, Sexual Orientation and Gender Identity (XLIII-O/13).</p>
June 26, 2015	<p>The U.S. Supreme Court, on June 26, 2015 struck down all state limitations on same-sex marriage, permitted it in all fifty states, and allowed states to recognize out-of-state same-sex marriage licenses in the Obergefell v. Hodges decision.</p>



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Past Attempts to Solve the Issue

There weren't many attempts by member states to resolve the issue that didn't work out. There have actually been many advances instead. The legalization of same sex marriage to come first, the prejudice against different sexual orientations is being reduced immensely. Because of the major religion in some member states, the issue is that they are not able to accept these sexual orientations in the community so there aren't many solutions to tackle that. However, though it states that an individual should be able to live their lives as they wish, with prejudice in the Universal Declaration of Human Rights, this is still not valid. The Protection against violence and discrimination based on sexual orientation and gender identity - A/HRC/RES/32/2 was also adopted 30 June 2016 though the stereotypical bias towards these groups are present.

Related Documents

- [Protection against violence and discrimination based on sexual orientation and gender identity \(adopted 30 June 2016\) - A/HRC/RES/32/2](#)
- [Human Rights Council resolution - Human rights, sexual orientation and gender identity \(adopted 17 June 2011\) - A/HRC/RES/17/19](#)
- [Human Rights Council resolution - Human rights, sexual orientation and gender identity \(adopted 26 September 2014\) - A/HRC/RES/27/32](#)
- [General Assembly resolution - Extrajudicial, summary or arbitrary executions - A/RES/69/182](#)
- [General Assembly resolution - Extrajudicial, summary or arbitrary executions - A/RES/67/168](#)



Possible Solutions

One variable that makes one less prejudiced is schooling. People who are more educated express fewer biases and bigotry in general. This is true for students who enroll in classes that are related to sexism and bigotry, such as a lesson on gender and racial diversity and is also true more generally—education removes bias, regardless of the particular courses you take. The results of education on eliminating discrimination are possibly due in large part to the new social standards that people are exposed to in school. Social norms determine what is acceptable and unacceptable, and we can easily shift prejudices and discrimination by modifying the related norms around them. It was observed that interpretations of what the other community members felt had an important impact on the views of the people themselves. The students were more inclined to display ingroup favoritism when they assumed that the standard of their ingroup was to do so, and this trend was enhanced for students who had strong social affiliation with the ingroup. One of the reasons why people may maintain assumptions and biases is that they perceive the members of outgroups as distinct from them. We may become anxious that our encounters with people from various ethnic groups would be uncomfortable, and these anxieties may cause us to avoid engaging with people from those groups. Other than this, collaborating with organizations such as the Know Us Project (The Know Us Initiative uses mental health providers to help LGBT people by promoting participation in the type of intergroup interaction that eliminates discrimination. In the KUP workshops, learners learn to assess when they are able to behave in this manner, how to recognise people to talk with and how to minimize the listener's anxiety in a personal discussion about LGBT problems, and use vocabulary and body language that can make a conversation more productive. They also learn to resolve negative emotions they can encounter before and after their intergroup interaction and learn to deal with those feelings through self-care, stress control and clinical support, if appropriate.¹) would be beneficial.

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¹ "Reducing Sexual Prejudice: The Role of Coming Out."
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