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# Research Report: Strengthening the rights of LGBTI people

## INTRODUCTION

Lesbian, gay, bisexual, transgender and intersex (LGBTI) people of all ages and in all regions of the world suffer from violations of their human rights. They are physically attacked, kidnapped, raped and murdered. In more than a third of the world's countries, people may be arrested and jailed for engaging in private, consensual, same-sex relationships. Transgender people are often denied identity papers that reflect their preferred gender, without which they cannot work, travel, open a bank account or access services. Intersex children may be subjected to violence based on their appearance, including harmful practices such as medically unnecessary surgical and other interventions without their informed consent, and as adults are also vulnerable to violence and discrimination.

LGBTI children and adolescents face bullying and discrimination in school. Young people may also be thrown out of their homes by their parents, forced into psychiatric institutions or forced to marry based on their actual or perceived sexual orientation or gender identity. States often fail to adequately protect LGBTI people from discriminatory treatment in the private sphere, including in the workplace, housing, education and healthcare.

While lesbian, gay, bisexual and transgender people exist everywhere, in all countries, among all ethnic groups, at all socioeconomic levels and in all communities, many of the criminal laws used today to punish lesbian, gay, bisexual and transgender people are Western in origin. In most cases, they were imposed on the countries concerned in the 19th Century by the colonial powers of the day.

## SCOPE OF THE PROBLEM

Criminalizing private sexual relationships between consenting adults, whether the relationships are same-sex or different-sex, is a violation of the right to privacy. Laws criminalizing consensual same-sex relationships are also discriminatory, and where enforced, violate rights to freedom from arbitrary arrest and detention. More than 70 countries have laws in effect that criminalize private, consensual same-sex relationships, and in at least five countries conviction may carry the death penalty. Criminalizing transgender people on the basis of such laws or other laws that specifically ban "cross-dressing" also violates fundamental rights to non-discrimination, freedom of expression and freedom from arbitrary arrest and detention. In addition to violating basic rights, these discriminatory laws lead to and exacerbate hostile attitudes towards gay, lesbian, bisexual and transgender people, feeding violence and discrimination. They also hamper efforts to halt the spread of HIV by deterring people from coming forward for testing and treatment for fear of stigma, discrimination and abuse.

In addition, discriminatory treatment can take place in a range of everyday settings, including workplaces, schools, family homes and hospitals. Without national laws prohibiting discrimination by third parties on grounds of sexual orientation and gender identity, such discriminatory treatment continues unchecked, leaving little recourse to those affected. In this context, lack of legal recognition of same-sex relationships or of a person's gender identity can also have a discriminatory impact on many LGBT individuals.

Attempts to change someone's sexual orientation or gender identity often involve human rights violations and can cause severe trauma. Examples include forced psychiatric therapies intended to "cure" (sic) individuals of their same-sex attraction or transgender identity, as well as the so-called "corrective" rape of lesbians perpetrated with the declared aim of "turning them straight."

Laws banning dissemination of information on same-sex sexuality under the guise of restricting the spread of so-called LGBT "propaganda" are discriminatory curbs on free speech and consequently restrictions on the exercise of rights to freedom of association and assembly

## PREVIOUS UN-DOCUMENTS ON THE SUBJECT

The United Nations General Assembly, in a series of resolutions, has called on States to ensure the protection of the right to life of all persons under their jurisdiction and to investigate promptly and thoroughly all killings including those motivated by the victim's sexual orientation and gender identity (for example, A/RES/67/168 and A/RES/69/182).

In June 2011, the UHCR became the first UN intergovernmental body to adopt a wide-ranging resolution (A/HRC/RES/17/19) on human rights, sexual orientation and gender identity and commissioned a study on the scope and extent of these violations and the measures needed to address them. In 2015 the OHCHR published a report on the the „Discrimination and violence against individuals based on their sexual orientation and gender identity“.

In resolution A/HRC/RES/32/2 (2016) the UNHCR most recently dealt with the subject of the protection against violence and discrimination based on sexual orientation and gender identity.

## KEY TERMS

### *LGBTI*

LGBTI stands for lesbian, gay, bisexual, transgender and intersex. Furthermore, there are other variations such as LGBTQ, LGBTIQ or LGBTQIA as well as LGBTQIA+, including the terms „queer“, „asexual“ and the plus sign to encompass different spectrums of sexuality and gender.

### *Sexual orientation:*

Sexual orientation refers to a person's physical, romantic and/or emotional attraction towards other people. Sexual orientation is not related to gender identity.

### *Gender identity:*

Gender identity reflects a deeply felt and experienced sense of one's own gender. A person's gender identity is often aligned with the sex assigned to them at birth. Transgender people have a gender identity that is different from the sex that they were assigned at birth.

### *Transgender:*

Transgender (sometimes shortened to “trans”) is an umbrella term used to describe a wide range of identities —including transsexual people, cross-dressers (sometimes referred to as “transvestites”), people who identify as third gender or other non-binary terms, and others whose appearance and characteristics are perceived as gender atypical. Some transgender people seek surgery or take hormones to bring their body into alignment with their gender identity; others do not.

### *Intersex:*

An intersex person is born with sexual anatomy, reproductive organs, hormone and/or chromosome patterns that do not fit the typical definition of male or female. This may be apparent at birth or become so later in life. An intersex person may identify as male, female, both, neither or something else. Intersex people can have any sexual orientation and gender identity.

### *Homophobia, Biphobia, Transphobia*

Homophobia is an irrational fear of, hatred or aversion towards lesbian and gay people; biphobia is an irrational fear of, hatred or aversion towards bisexual people; transphobia denotes an irrational fear, hatred or aversion towards transgender people.

## USEFUL LINKS:

- General information: <https://www.unfe.org/learn-more/>
- Summary of the treatment of LGBTI people in different countries: [http://internap.hrw.org/features/features/lgbt\\_laws/index-june15.html#type-of-laws](http://internap.hrw.org/features/features/lgbt_laws/index-june15.html#type-of-laws)
- Country profiles on the treatment of LGBTI people: <https://www.hrw.org/video-photos/interactive/2019/09/23/sexual-orientation-gender-identity-country-profiles>