



The United Nations and the global struggle for LGBT equality

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On March 31st 1994, a historic decision was made at the United Nations (UN) regarding lesbian, gay, bisexual and transgender (LGBT)ⁱ human rights. The UN Human Rights Committee ruled that an Australian law criminalizing all sexual relations between consenting adult men violated the human rights of Tasmanian activist Nicholas Toonen, and subjected him to the threat of arbitrary arrest and detention.ⁱⁱⁱⁱ For the first time in history, the UN made clear that the human right to live free from discrimination applies to everyone, regardless of sexual orientation.

Almost 20 years later, “homosexual acts” are illegal in 76 countries, and punishable with the death penalty in five^{iv}. Moreover, in all regions of the world systematic homophobic and transphobic violence has been recorded, including murders and rapes, driven by a desire to punish those seen as defying gender norms^v. For example in South Africa, which was the fifth country in the world to legalize same-sex marriage, and yet “corrective rape” is a documented form of sexual assault in which women perceived as lesbians are raped to “be cured” from their sexual orientation^{vi}. Additionally, in a survey of 57 countries, approximately 1,123 murders of trans people were reported between 2008 and 2012^{vii}.

Are the United Nations sufficiently engaged in protecting the human rights of LGBT people? Radical progress was made during the past 20 years, but the road ahead is still long. Potential levers of change for greater equality include marshaling allies to openly and effectively protect LGBT human rights, collecting usable data on abuses against LGBT people, fully supporting LGBT employees within the UN, and

associating with local civil society organizations struggling for sexual orientation and gender identity rights.

A Concert of Nations: The Geopolitics of LGBT Rights

When thinking about progress at the UN, it is essential to consider its role as an intergovernmental organization – a political entity formed by 193 countries. For instance, resolutions that are introduced at the General Assembly (UNGA) are voted on by all Member States and require a majority to pass. The short history of LGBT issues in the UN General Assembly demonstrates that States have the authority to effectively support LGBT rights or to rally against any reference to LGBT rights in UNGA declarations.

In late 2008, for example, France and the Netherlands co-sponsored the UN Declaration on Sexual Orientation and Gender Identity, which pushed for the specific protection of LGBT people at the UNGA for the first time in history. The declaration stated that “human rights [must] be applied to all human beings, regardless of their sexual orientation or gender identity”^{viii}. Only sixty-six Member States, mostly in Europe and Latin America, supported the declaration, and it was not adopted. An opposing statement followed the declaration, arguing for the right of countries to “decide on morality, public order and the general welfare in society”^{ix}. Nearly sixty countries voted for the opposing statement, led by the Organization of the Islamic Conference and with the backing of the Holy See’s observer mission^x. Some countries refused to support either document, including the United States^{xi}, Russia and China^{xii}. Recognition of LGBT rights at the UN has historically proven deeply divisive.

The politics of LGBT rights also manifest themselves in indirect ways. In 2012, for example, a resolution called on States to protect people from unlawful executions on the basis of their gender identity, among other grounds. While protection on the basis of sexual orientation had been included for the past 12 years, the introduction of gender identity sparked controversy and the resolution had to be put up for a vote: The reference was ultimately kept, with 86 countries in favor, 44 opposed, 31 abstaining and 32 absent^{xiii}. Indeed, the success of LGBT protections greatly depends on the willingness of Member States to promote and engage with principles of equality.

Homophobic States, Homophobic People

State-sponsored declarations at the General Assembly are only one of the various ways in which LGBT issues are discussed or advanced at the UN. A growing number of UN bodies, such as the High Commissioner for Refugees (UNHCR), the Children's Fund (UNICEF), or the UN Development Programme (UNDP) are including LGBT perspectives to their agendas. Prior to 2008, for example, UNAIDS had already publically opposed the criminalization of same-sex relationships, for it increased stigma and discrimination, ultimately fuelling the AIDS epidemic.^{xiv}

Non-governmental organizations, for example ARC International or the International Gay and Lesbian Human Rights Commission (IGLHRC), work every day to push sexual and gender minorities' issues into the agendas of UN bodies. In partnerships with human rights activists, they carry out research on the situation of LGBT people around the world to advocate for safety and equality. Often, their main challenge comes down to overcoming preconceptions among UN representatives and

urging them to integrate sexual orientation and gender identities into the scope their work. As the Executive Director of IGLHRC puts it, “perhaps our greatest disappointment is with UN experts who aren’t committed to a truly universal human rights framework. At IGHRC, we make great progress alongside our allies within the UN system, but we also see how much education there is to be done -- even with some UN experts themselves”.^{xv}

The recognition of LGBT rights is a delicate matter even for LGBT employees within the UN. Remarkably, there is currently no unified policy when it comes to recognition of same-sex couples, as there is for opposite-sex couples. Recognition for same-sex couples depends on the staff member’s country of nationality^{xvi}. More importantly, LGBT staff that work in countries where their sexual conduct is criminalized often lack adequate support. “I don’t think the UN has fully grasped what inclusiveness means”, says HyungHak Nam, president of UN-GLOBE, the organization’s LGBT employee group. “Inclusiveness is ensuring conditions of service that are equivalent for all staff in a world where there is great homophobia. It is not simply saying, well, there’s nothing we can do, if a country won’t grant same-sex visas, for example. It is asking instead, well, what can we do, what can we come up with to remedy this for our own LGBTI staff?”^{xvii}

A Global Shift Forward

While LGBT advocacy at the UN faces a number of challenges, there is evidence that the institution is making progress. In 2011, South Africa put forward a declaration along with Brazil and 39 co-sponsors from all parts of the world, requesting the High

Commissioner for Human Rights to prepare a study on violence and discrimination on the basis of sexual orientation and gender identity. The resolution –passed with 23 Member States in favor, 19 against, and 3 abstaining – expressed grave concern at acts of violence and discrimination, in all regions of the world, committed against individuals because of their sexual orientation and gender identity^{xviii}. The agreed study was released later in 2011 and highlighted, among other things, that “LGBT people are often targets of organized abuse from religious extremists, paramilitary groups, neo-Nazis, extreme nationalists and others, as well as family and community violence, with lesbians and transgender women at particular risk”^{xix}. The report was first in its kind to officially document discriminatory laws and practices and acts of violence specifically against LGBT people.

In June 2013, the UN launched its first LGBT public education campaign, “Free & Equal”, designed to raise awareness of homophobic violence and discrimination. The campaign is an ongoing effort to address the issue of sexual orientations and gender identities from within the United Nations. It followed the blatant evidence of LGBT human rights abuses globally and it obeyed to the full commitment of the UN Office of the High Commissioner for Human Rights (OHCHR) to combat all forms of discrimination. Finally, it grew with the firm support of LGBT rights by UN Secretary-General Ban Ki-moon, and UN Human rights chief Navi Pillay. When denouncing discrimination against LGBT people, Secretary-General Ban Ki-moon has remarked: “We need public education to change the popular attitudes. Some will oppose the change. [...] Such arguments have been used to try to justify slavery, child marriage,

rape in marriage, and female genital mutilation. I respect culture, tradition and religion – but they can never justify the denial of basic rights”^{xx}.

The Road ahead

To advance the rights of LGBT people, UN bodies ought to openly support and actively engage in LGBT rights. In addition to the Secretary General’s public advocacy, encouragement from other high-level officials would give the UN a stronger and more unified voice. Furthermore, agencies and staff need to recognize the intersectionality of sexual orientation and gender identities with other disciplines. This means more actively integrating these perspectives into their overall daily work. The “Guidance Note on Refugee Claims Relating to Sexual Orientation and Gender Identity” published in 2008 by UNHCR offers a valuable example on this.

Such horizontal approaches significantly contribute to the prevention of abuses against LGBT people. “For us at *Juventud Con Voz*^{xxi} it was critical to provide the space for groups who have been traditionally marginalized such as indigenous peoples, afro-descendants or LGTB youth groups,” says Pablo Gago, who leads a project within UNDP aimed at facilitating access to information on inclusive policy making and democratic governance for the Latin American and Caribbean youth. “Rising social awareness about the positive role of youth in national development implies a full recognition of diversity and rights,”^{xxii}

A second lever for change lies in the collection of usable data on human rights violations against LGBT individuals. Thorough data collection would shed more light on

the intersectionality of sexual orientation and gender identity. In the past, one entry-point for studies on LGBT data has been the work to end the HIV epidemic. A 2012 report by UNDP, for example, discussed access to health services of transgender people in the Asia-Pacific Region^{xxiii}. However, further research is needed in order to build a stronger case that links LGBT discrimination and other pillars of the UN, including human rights, income growth, peace building, social and political freedoms, gender equality, and public health.

Having inclusive diversity strategies in place within the UN and accompanying LGBT employees would also open roads for equality. Through the efforts of LGBT staff and allies, for example, UN-GLOBE reported that 17 heads of UN agencies, funds, programmes and senior leaders released public statements celebrating the 2013 International Day Against Homophobia on May 17th. In order to thrive fully at work, UN employees need to know that they have their organization's support, especially in countries where same-sex relationships or gender non-conformity is criminalized.

Finally, one of the most valuable levers for change is supporting civil society organizations engaged in protecting LGBT people. The UNDP - USAID joint project "Being LGBT in Asia"^{xxiv}, for example, emphasizes partnerships with grassroots organizations and community leaders. Oppressed populations often lack the resources for organizing, civil advocacy, or public outreach. Through funding and training, the UN can contribute to bring about change at a local level that would eventually have nation-wide impact. If minorities gain voice and leverage in their communities, it is more likely

that they will hold politicians accountable for State-led homophobia, and encourage effective policies towards global LGBT equality.

The identities of LGBT people have gradually become more political, as nonconforming sexual orientations and gender identities gain momentum in the public debate. These communities, in various forms and identities all over the world, are claiming for the right to participate fully in society, and live free from discrimination. It is important that the UN hears these voices and engages in the struggle for global equality, which is nothing more than the continuous reminder that all human beings are born free and equal in dignity and rights.

ⁱ A fact sheet by the Office of the High Commissioner for Human Rights (OHCHR) provides useful definitions for terms such as LGBT, sexual orientation and gender identity. The document is available at https://unfe-uploads-production.s3.amazonaws.com/unfe-7-UN_Fact_Sheets_v6_-_FAQ.pdf. Retrieved 2013-12-26

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ⁱⁱⁱ OHCHR, “How gay rights debate began at the UN”, video available at <http://www.youtube.com/watch?v=qd9dGN6dBwA#t=99>. Retrieved 2013-12-26

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^{vi} Clare Carter, “The Brutality of ‘Corrective Rape’”, *The New York Times*, July 27th 2013, available at <http://www.nytimes.com/interactive/2013/07/26/opinion/26corrective-rape.html>. Retrieved 2014-01-09

^{vii} Transgender Europe, *Trans Murder Monitoring Project Press Release*, March 12th 2013, available at <http://www.transrespect-transphobia.org/en/tvt-project/tmm-results/march-2013.htm>. Retrieved 2014-01-09

^{viii} ILGA, “UN Gen. Assembly Statement Affirms Rights for all”, December 19th 2008, available at <http://ilga.org/ilga/en/article/1211>. Retrieved 2014-01-09

^{ix} United Nations General Assembly, *ibid*

^x Lucy Morgan, *ibid*

^{xi} The United States of America signed the declaration in 2009.

^{xii} Neil MacFarquhar, “An unprecedented push in the UN for gay rights”, *The new York Times*, November 19th 2008, available at: http://www.nytimes.com/2008/12/19/world/americas/19iht-gays.1.18817833.html?_r=0. Retrieved 2014-01-09

^{xiii} Julie Bolcer, “UN Draft Resolution Against Extrajudicial Executions Includes Gender identity”, *The Advocate*, November 23rd 2012, available at <http://www.advocate.com/news/world-news/2012/11/23/un-draft-resolution-against-extrajudicial-executions-includes-gender>. Retrieved 2014-01-09

^{xiv} ArmMed Media, “Arrest of gay men in India fuels AIDS epidemic”, *Armenian Medical Network*, January 11th 2006, available at http://www.health.am/aids/more/arrest_of_gay_men_in_india_fuels_aids_epidemic/. Retrieved 2014-02-21

^{xv} Author’s interview with Jessica Stern, Executive Director of IGLHRC, on 2014-01-23.

^{xvi} Kelli Rogers, “One step forward, two steps back? The gaps between LGBTI policy and practice in foreign aid”, *Devex*, February 11th 2014, available at <https://www.devex.com/news/one-step-forward-two-steps-back-the-gaps-between-lgbti-policy-and-practice-in-foreign-aid-82832>. Retrieved 2014-03-16

^{xvii} Author’s interview with HyungHak Nam, President of UN-GLOBE on 2014-01-13

^{xviii} International Gay and Lesbian Human Rights Commission, “Historic Decision at the United Nations”, Press Release, June 17th 2011, available at <http://iglhrc.org/content/historic-decision-united-nations>. Retrieved 2014-01-09

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^{xx} Video message by United Nations Secretary-General Ban Ki-moon at the International Conference on Human Rights, Sexual Orientation and Gender Identity, April 15th 2013, available at <http://www.youtube.com/watch?v=7uaHZWCgGss>. Retrieved 2014-01-09

^{xxi} <http://www.juventudconvoz.org/>

^{xxii} Author’s interview with Pablo Gago, Policy Specialist at the Regional Bureau for Latin America of the United Nations Development Programme (RBLAC-UNPD) on 2014-01-13

^{xxiii} UNDP, “Lost in Transition: Transgender People, Rights and HIV Vulnerability in the Asia-Pacific Region”, May 17th 2012, available at <http://www.undp.org/content/undp/en/home/librarypage/hiv-aids/lost-in-transition--transgender-people--rights-and-hiv-vulnerabi/>. Retrieved 2014-01-09

^{xxiv} “Being LGBT in Asia” Facebook page, available at <https://www.facebook.com/lgbtinasia>. Retrieved 2014-03-16