



THESSISMUN



20TH EDITION

Human Rights Council (HRC)

Topic Area A

Tackling discrimination based on sexual orientation and gender identity.



THESSISMUN



United Nations Human Rights Council

Study Guide

Topic Area A:

“Tackling discrimination based on sexual orientation and gender identity.”



Table of Contents

Welcoming Letter	2
Introduction to the Committee	3
Introduction to the Topic Area	3
Definitions	4
Analysis of the Topic	5
a. Discriminatory and Abusive Behaviours against LGBTQIA+ Community	5
b. The Right to Private and Family Life	7
c. Freedom of Expression and Reputation	9
d. Conversion Therapy and other similar practices	11
Legal Framework	12
Recent Developments	14
Conclusions	15
Points to be addressed	16
Bibliography	17



Welcoming Letter

Dear Delegates,

It is our utmost pleasure to welcome you to the Human Rights Council of ThessISMUN 2023! We are more than excited to meet you in person, and we promise to give our best effort for a wonderful and memorable experience. Our Committee this year will provide the opportunity to discuss very important and impactful matters, such as the right to bodily autonomy and integrity as well as the importance of combating discrimination against the LGBTQIA+ community.

We are very optimistic that all of you will work productively, cooperatively and efficiently during the sessions. In order to ensure your best possible performance, we highly encourage you to study the Rules of Procedure of our Committee very carefully, in order to familiarize yourself with the session procedure, as well as the respective Study Guides, as they contain the subtopics that we wish you to address during the debate. Please take into consideration that standing polite and respectful towards the procedure and mainly towards your fellow delegates will allow all of us to create together a healthy and pleasant committee-environment and, of course, to have fun and enjoy ourselves properly.

Within the present Study Guide you will find essential guidelines concerning the topic area of the Committee. However, we suggest that you conduct further research upon the agenda and definitely your country's policy on the matters under discussion. We, your Chairs, will stand with you during every step of the process, and we are eager to see you achieve your goals in this conference, and consequently, the Committee's goal, which is the creation of two exemplary final documents, that provide efficient solutions to all crucial issues regarding the topics on the agenda. Therefore, please note that we remain at your disposal for any queries that may occur during your preparation.

Best Regards,

The Board of the UN Human Rights Council

Eleni Chrysafi, President

Eleni Radovits, Vice President

Nikolaos Tripolitis, Vice President

Topic Area A | United Nations Human Rights Council

©2023 by University of Macedonia, Thessaloniki, Greece, for Thessaloniki International Student Model United Nations. All Rights Reserved. www.thessismun.org



Introduction to the Committee

The Human Rights Council is an intergovernmental body within the United Nations, responsible for strengthening the promotion and protection of human rights around the globe and for addressing situations of human rights violations. It was established by the UN General Assembly on the 15th of March of 2006 by resolution 60/251 and it consists of 47 Member States. One year after its establishment, the Council adopted the “Institutions-building package” which outlines certain functions and mechanisms that the organization uses. More specifically, the mechanisms that the Council has enforced are: the Universal Periodic Review which is a tool used for assessing human rights situations amongst Member States, the Advisory Committee which serves as a research group that provides the Council with expertise regarding human rights violations and finally the Complaint Procedure that gives individuals and organizations the opportunity to report human rights violations back to the Council. Lastly, the Council also cooperates with the UN Special Procedures, who are a team of independent human rights experts that have the responsibilities of monitoring and providing advice on human rights issues from both a thematic or country-specific perspective¹.

Introduction to the Topic Area

Non-discrimination is one of the most important human rights principles. As a matter of fact, it is mentioned in the Charter of the United Nations, the Universal Declaration of Human Rights and plenty other human rights treaties. Actually, this principle is a part of almost every legal framework of any international treaty. But data proves that even with all the recent developments the multifaceted discrimination based on Sexual Orientation and Gender Identity, still exists.

In this case, discrimination is often translated as the widespread terms of homophobia and transphobia, terms related to the dislike, hatred or fear of homosexual and transgender people. Many national, regional and international organisations and pressure groups are pushing

¹ “Welcome to the Human Rights Council,” OHCHR, accessed January 22, 2023, <https://www.ohchr.org/en/hr-bodies/hrc/about-council>.



governments of UN Member States to take actions and tackle these acts of violence and protect the private and social life of the LGBTQIA+ community.

Currently, more than 60 Member States criminalise same-sex intimacy and expression of diverse gender identities under laws covering acts against nature, while a small part of them actually applies the procedure of the death penalty, raising concerns about the relationship between LGBTQIA+ community and the right to life. Moreover, the community experiences discrimination in a range of other contexts such as employment, housing, marriage, and parenting. Therefore, the UN Human Rights Council, as the main UN organ to promote discussions over human rights, is responsible to open the agenda over this matter.

Definitions

Discrimination: the term refers to the unfair or unfavourable treatment of an individual based on the social group or class that this individual belongs to². There are several grounds for discrimination with the most common being: sex, gender identity, sexual orientation, race, religion or disability. Discrimination usually stems from the law or an established practice which makes it an institutionalised phenomenon. This essentially means that discrimination is not always a behaviour perpetrated by one group of people against another, but it is rather embedded in the different structures of our society, such as healthcare or education³. Discrimination can also be institutionalised via the absence of a legal framework that can ensure the protection of minority rights.

Equality: the term refers to the state where all members of society have the same rights, responsibilities, status and opportunities. All humans have the right to be treated equally before the law, meaning that they need to be able to enjoy their human rights without distinction or discrimination⁴.

² “What Is Discrimination?,” Startsidan, accessed January 22, 2023, <https://www.do.se/choose-language/english/what-is-discrimination>.

³ “What Is Discrimination?,” Startsidan, accessed January 22, 2023, <https://www.do.se/choose-language/english/what-is-discrimination>.

⁴ “No One Is Above the Law ,” Rule of Law Education Centre, accessed January 22, 2023, <https://www.ruleoflaw.org.au/principles/equality-before-the-law/>.



Sexual Orientation: the term describes the pattern of romantic and sexual attraction that one can have, or lack thereof, towards others. Sexual orientation constitutes a spectrum which means that people can identify with different forms of attraction over time and therefore being sexually fluid⁵.

Gender Identity: the term refers to an individual's perception of their own self and gender. One's gender identity can differ from their biological sex and the cultural norms that go with it. Gender identity is expressed through different means and behaviours such as but not limited to, clothing, body language or other perceived characteristics⁶.

LGBTQIA+ community: the acronym refers to "lesbian, gay, bisexual, transgender, queer or questioning, intersex, asexual and more". It is an umbrella term that denotes individuals that identify with the aforementioned sexualities or gender identities. It is used to promote a sense of inclusion, alliance and belonging amongst the members of the community⁷.

Queer: queer is an umbrella term that includes sexualities and gender identities that don't coincide with the heterosexual norm. The term is inclusive to an intersection of identities which is why it is also called "questioning"⁸.

Analysis of the Topic

a. Discriminatory and Abusive Behaviours against LGBTQIA+ Community

The principles of equality and non-discrimination are safeguarded by the Universal Declaration of Human Rights. However, during the last decades we have witnessed countless of

⁵ "Types of Sexuality and Their Definitions," Medical News Today (MediLexicon International), accessed January 22, 2023, <https://www.medicalnewstoday.com/articles/types-of-sexuality#definition>.

⁶ Laurel Wamsley, "A Guide to Gender Identity Terms," NPR (NPR, June 2, 2021), accessed February 4, 2023, <https://www.npr.org/2021/06/02/996319297/gender-identity-pronouns-expression-guide-lgbtq>.

⁷ "LGBTQ," European Institute for Gender Equality, accessed January 22, 2023, <https://eige.europa.eu/thesaurus/terms/1493>.

⁸ "Confused about the Definition of 'Queer'? Here's What Experts Say," Cosmopolitan, December 8, 2022, accessed February 4, 2023 <https://www.cosmopolitan.com/sex-love/a25243218/queer-meaning-definition/>.



discriminatory incidents against people belonging to LGBTQIA+ community. According to a survey conducted by the European Union Agency for Fundamental Rights (FRA), one in five trans and intersex people were physically or sexually attacked during 2019, while one in five LGBTQIA+ people felt discriminated against in their workplace⁹. On top of that, gender and sexual minorities are often found to be the centre of profoundly discriminatory policies enforced by various Member States. For example, in early 2019 Poland's municipalities started to declare themselves as "LGBT-free zones", while 2 years before that, in 2017, the Romanian government passed a law that banned gender identity studies from academic institutions. Moreover, in March 2021 the Polish parliament voted to withdraw from the Istanbul Convention arguing that it clashed with the values of a traditional family structure, and spread "controversial ideas regarding gender"¹⁰. Similar anti-LGBTQIA+ laws are established in Africa and Asia where most states prohibit same-sex relations or non heteronormative forms of gender expression¹¹. The COVID-19 pandemic has only exacerbated the situation since it managed to highlight the systemic inequality when it comes to the standard of care and access to social services that LGBTQIA+ people receive¹². For example in the United States of America, sexual or gender minorities deal with disturbing rates of healthcare discrimination as they are often denied health insurance coverage based on prejudicial values of insurance companies protected under the freedom of speech, access to hospitals or are harassed by doctors and physicians¹³.

Taking the above into consideration, it can be safely concluded that Member States have not managed to keep a consistent practice in terms of the protection of the principles of equality and non-discrimination. Despite the fact that several States have started to take legal action

⁹ "Fear and Discrimination High among LGBTI, EU Rights Survey Finds," euronews, May 17, 2020, accessed February 4, 2023, <https://www.euronews.com/2020/05/17/high-levels-of-discrimination-against-lgbti-people-in-eu-survey-finds>.

¹⁰ "Press Corner," European Commission - European Commission, accessed January 22, 2023, https://ec.europa.eu/commission/presscorner/detail/en/ip_21_3668.

¹¹ "#OUTLAWED: 'The Love That Dare Not Speak Its Name,'" Maps of anti-LGBT Laws Country by Country | Human Rights Watch, accessed January 22, 2023, http://internap.hrw.org/features/features/lgbt_laws/.

¹² "Inequalities and Multiple Discrimination in Access to and Quality of Healthcare," European Union Agency for Fundamental Rights, June 18, 2021, accessed February 4, 2023, <https://fra.europa.eu/en/publication/2013/inequalities-and-multiple-discrimination-access-and-quality-healthcar>.

¹³ Julia Cusick Vice President et al., "Discrimination Prevents LGBTQ People from Accessing Health Care," Center for American Progress, August 23, 2022, accessed February 4, 2023, <https://www.americanprogress.org/article/discrimination-prevents-lgbtq-people-accessing-health-care/>.



against the violations of the rights of the LGBTQIA+ community, most measures in place are based on an individual-rights model of enforcement¹⁴. This essentially means that human rights violations are regarded as individual cases as opposed to a systematic issue. For example, victims of discrimination or any kind of violation have the right to complain and argue their case in court, but each case is investigated as an isolated incident which makes the judicial system only a reactive approach to the tackling of the issue. However, discrimination is usually institutionalised and reinforced by wider social and economic inequalities. This presents a challenge in the implementation of solutions, as targeting the root cause requires the establishment of a collective mechanism that can protect victims of discrimination and enforce changes on the basic structures of our society¹⁵.

b. The Right to Private and Family Life

Private life, as protected by Article 17 of the International Covenant of Civil and Political Rights, has a broad concept and that is the reason why it is incapable of exhaustive definition¹⁶. It may “*embrace multiple aspects of the person’s physical and social integrity*”¹⁷ It is noticeable that private life also includes the right to personal development and autonomy, which is the right for each individual to approach others in order to establish social relationships. It covers the physical and psychological integrity of a person, including his or her sexual life¹⁸. The majority of complaints brought by LGBTQIA+ individuals before the courts have concerned complaints in relation to their private or family life or both. Issues that may arise regarding a violation of an individual’s right to private life and privacy have been broadly and extensively analysed from the Human Rights Council through specific cases. The United Nations have published several guidelines and recommendations for national

¹⁴ Ilke Adam, “EU’s Fight against Racism Isn’t Working,” POLITICO (POLITICO, March 22, 2021), accessed February 4, 2023, <https://www.politico.eu/article/eus-fight-against-racism-isnt-working/>.

¹⁵ *Ibid.*

¹⁶ “European Court of Human Rights.” Accessed January 22, 2023. https://www.echr.coe.int/Documents/Guide_Art_8_ENG.pdf.

¹⁷ *Ibid.*

¹⁸ X and Y v. the Netherlands (European Court of Human Rights 1985) § 22



governments covering “*discrimination and violence against individuals based on their sexual orientation and gender identity*”¹⁹.

The community has equal access to every aspect of daily life, as their participation rights are inseparably linked to other human rights such as the rights to peaceful assembly and association, freedom of opinion and expression and the rights to education and to information and all of them are connected to the right to private life²⁰. Issues have been raised in the past regarding the ability of the LGBTQIA+ members to join the military. The United Nations and the Human Rights Council have constantly and firmly criticised the proposed bans on qualified homosexual or transgender people serving in the armed forces²¹. Regulation of sexual behaviour that takes place in private is an interference with privacy and personal autonomy, an important principle that includes a sense of self-determination²². One of the most well-known cases of the Human Rights Council, *Toonen v. Australia*²³, has been named as the leading path to the evolution of the rights of the LGBTQIA+ community through the realisation of the discrimination that its members are forced to live, the barriers that block them from enjoying the exercise of their rights and simultaneously the importance of them to be guaranteed.

This case concerned a challenge to Tasmanian laws which criminalized sexual relations between consenting males. Toonen, author and activist for the promotion of the rights of homosexuals in Tasmania, is one of Australia’s six constitutive states who challenged two provisions of the Tasmanian Criminal Code (namely Sections 122(a) and (c) and 123), which criminalise various forms of sexual contacts between men, including all forms of sexual contacts between consenting adult homosexual men in private. The Human Rights Council found that the relevant provisions of Tasmania’s Criminal Code violated Toonen’s rights to

¹⁹ United Nations Human Rights Council, *The law of inclusion*, A/HRC/47/27 (3 June 2021), available from [G2112316.pdf \(un.org\)](https://www.unhcr.org/refugees/pdf/G2112316.pdf).

²⁰ Nowak, Manfred. *U.N. Covenant on Civil and Political Rights: CCPR Commentary*. (Kehl Germany: N.P. Engel, 2005) p. 340-341.

²¹ United Nations Human Rights Council, *Report of the Human Rights Council on its twenty-seventh session*, A/HRC/27/2 (27 of July 2017), available from <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/014/74/PDF/G1901474.pdf?OpenElement>.

²² Nowak, *UN Covenant on Civil and Political Rights: CCPR Commentary*, 391–2.

²³ *Toonen v. Australia*, United Nations Human Rights Council, 1991, (488/92)



private life, adopting the decision that prohibitions on homosexual relationships were not necessary to protect public health or morals²⁴.

Furthermore, transgenderism is recognised internationally as a medical condition which warrants treatment to assist the persons concerned²⁵ and all the contractive States should provide or permit treatment, including irreversible gender reassignment surgery. On the other hand, a refusal by the domestic courts or the public authorities offends the individuals by violating their right to private life²⁶. Regarding the status of the transgender individuals, it accurately established the obligations of the States to permit birth certificates to be issued for these persons²⁷. The same applies to their legal right to marry²⁸.

On the matter of marriage, whether or not “family life” exists is a question depending upon the real existence in practice and the ties between the members of the examining relationship²⁹. It is widely accepted that the notion of “*family*” is not confined solely to marriage-based relationships and includes other de facto “*family ties*” and unions that have not been recognized as a legal form of marriage. A crucial criterion during the examination of a relationship is the cohabitation as it helps to confirm the sincerity of marriage. However, it should be noted that engagement does not in itself create family life. For these reasons, same-sex couples living in a stable relationship fall within the notion of family life, as well as private life, in the same way as a heterosexual couple³⁰. This equally applies to the rights of the transgender persons, who also enjoy the right to be protected - if they wish to get married- as well as the same-sex couples wishing to marry or are already married. If the opposite happens, namely if the State prohibits a homosexual couple to marry, then by denying this capacity, it violates their rights to marry and therefore, their right to private and family life. The right to marry is expressed as an

²⁴ S Joseph, ‘Gay Rights Under the ICCPR—Commentary on Toonen v Australia’ (1994) 13 University of Tasmania Law Review 392 at 397.

²⁵ United Nations Human Rights Committee, LNP v Argentina, 2007(1610/07)

²⁶ United Nations Human Rights Council, General Comment 28, available from [General Comments | OHCHR](#)

²⁷ United Nations Human Rights Committee, Joslin I v New Zealand, 2002 (902/99)

²⁸ *Ibid.*

²⁹ Joseph Castan and Melissa Castan, “The International Covenant on Civil and Political Rights (3rd Edition) : Cases, Materials, and Commentary,” 2013, 689-690. <https://doi.org/10.1093/law/9780199641949.001.0001>

³⁰ *Ibid.*



absolute right, as it is the right to divorce that stems from the inalienable right of marriage. In other words, prohibitions on the right to divorce would deprive one of a right to remarry³¹.

Another burning issue in active debate of the last decade is the consideration of whether or not homosexuals should and could adopt. A restriction considering the capability of each citizen to fulfil their desire to have a child violates their privacy and family life, whereas it is a clear distinction from the rest of the society - hereon the heterosexuals. Some countries have legalised the adoption by members of the community, but, an important number of States have not recognized the right to foster or adopt a child or their partner's child yet³².

c. Freedom of Expression and Reputation

Freedom of expression is the cornerstone of democracy, which allows individuals and groups to enjoy other fundamental human rights and freedoms. Freedom of expression, established in a plethora of Conventions worldwide³³ constitutes one of the essential foundations of a democratic society and one of the basic conditions for its progress and each individual's self fulfilment.³⁴ In particular, Article 19 of the International Covenant on Civil and Political Rights³⁵ provides that *"everyone shall have the right to hold opinions without interference and that everyone shall have the right to freedom of expression"*.

According to the Human Rights Committee, the obligation to respect freedoms of opinion and expression is binding on every State party as a whole³⁶. All branches of the State (executive,

³¹ United Nations Human Rights Committee, *Joslin I v New Zealand*, 2002 (902/99)

³² Elizabeth Short, Damian W. Riggs, and Amaryll Perlesz, *Lesbian, Gay, Bisexual and Transgender (LGBT) Parented Families: A Literature Review Prepared for the Australian Psychological Society* (Melbourne: Australian Psychological Society, 2007).

³³ Universal Declaration of Human Rights, New York, 10 December 1948, Res 217A (III) article 19, available from [udhr.pdf \(un.org\)](https://www.un.org/udhr/pdf/un.pdf), International Covenant on Civil and Political Rights, New York City, 16 December 1966, Article 21, available from [International Covenant on Civil and Political Rights | OHCHR](https://www.un.org/udhr/pdf/un.pdf) and International Covenant on Economic, Social and Cultural Rights, New York City, 16 December 1966, Article 15, available from [International Covenant on Economic, Social and Cultural Rights | OHCHR](https://www.un.org/udhr/pdf/un.pdf)

³⁴ Joseph Castan and Melissa Castan, "The International Covenant on Civil and Political Rights (3rd Edition) : Cases, Materials, and Commentary," 2013, 624. <https://doi.org/10.1093/law/9780199641949.001.0001>

³⁵ International Covenant on Civil and Political Rights (hereinafter ICCPR) (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171, art. 19.

³⁶ Joseph Castan and Melissa Castan, "The International Covenant on Civil and Political Rights (3rd Edition) : Cases, Materials, and Commentary," 2013, 625. <https://doi.org/10.1093/law/9780199641949.001.0001>



legislative and judicial) and other public or governmental authorities, at whatever level - national, regional or local- are in a position to engage the responsibility of the State party. An attack on a person's reputation must attain a certain level of seriousness and in a manner causing prejudice to personal enjoyment of the right to respect for private life. The importance of pluralism, tolerance and broadmindedness has been often emphasised, as well as the genuine recognition and diversity to be the cornerstones of the modern human rights law society. Therefore, in order to achieve social cohesion, people and groups must interact harmoniously regardless of their identity. Statements that spread, incite, promote or justify violence, hatred, or intolerance against a person or group of persons ("hate speech") threaten social unity and constitute a violation of the rights of others, leading to hate-crimes.

A specific matter that has caused concern is the phenomenon of hate-speech especially when it is manifested through the Internet. It aims to discriminate against a person or a group of persons, to attenuate their rights and thus to lessen their right to express and live peacefully in the way they want³⁷.

Another burning matter is the silence imposed on applicants of a case as regards their sexual orientation. Bans from police authorities, unfair treatment during legal processes and other forms of restrictions of individuals belonging to the LGBTQIA+ community or their relatives, is also a reprehensible act that violates the rights of these individuals and is being treated as hate-speech³⁸.

d. Conversion Therapy and other similar practices

In 2020, the UN Independent Expert on sexual orientation and gender identity, Victor Madrigal-Borloz, called on member States to "*work together to institute a global ban on practices of conversion therapy*"³⁹. Conversion therapy, sometimes known as "*reparative*

³⁷ Joseph Castan and Melissa Castan, "The International Covenant on Civil and Political Rights (3rd Edition) : Cases, Materials, and Commentary," 2013, 626. <https://doi.org/10.1093/law/9780199641949.001.0001>

³⁸ Joseph Castan and Melissa Castan, "The International Covenant on Civil and Political Rights (3rd Edition) : Cases, Materials, and Commentary," 2013, 627. <https://doi.org/10.1093/law/9780199641949.001.0001>

³⁹ "Conversion Therapy' Can Amount to Torture and Should Be Banned Says UN Expert," OHCHR, July 13, 2020, accessed February 4, 2023, <https://www.ohchr.org/en/stories/2020/07/conversion-therapy-can-amount-torture-and-should-be-banned-says-un-expert>.



therapy”, is any emotional or physical therapy with a purpose to “repair” a person’s attraction to the same sex, or their gender expression. Conversion therapy’s practical methods can be divided in three categories:

1. The typical psychotherapy, as known as the talk therapy, in which the therapist is trying to find where the “problem” stems from, by analysing abnormal upbringings, experiences, and traumas
2. Medical practices with the use of pharmaceutical approaches, mainly with hormone medications, and surgeries as they “cure” the biological dysfunction,
3. And lastly, faith-based methods that include prayers and confessions and in extreme situations people have undergone exorcisms.

After years of executions of these practices, there is no scientific evidence that these methods can change someone’s sexual orientation or gender identity⁴⁰. On the other hand, conversion therapies as they are acts of physical, psychological and verbal abuse, can lead to depression, anxiety, drug use, damaged self-esteem, post-traumatic stress disorders and in extreme cases, suicide. A big number of medical and mental health organisations have issued public statements rejecting the use of conversion therapy because of this⁴¹.

Globally, around 16 countries have introduced a full or partial ban against licensed mental health experts practising conversion therapy, including Brazil, Norway, Argentina, Canada and Germany. In May 2022, Greece’s parliament banned conversion therapy for minors, following a national strategy that runs until 2025 on reforms promoting gender equality. The bill also bans advertising such practices as health experts have condemned as harmful⁴². Some other countries, including Ireland, Denmark and Israel, are currently introducing measures to ban conversion therapy or launching consultations⁴³.

⁴⁰ Dinesh Bhugra et al., “WPA Position Statement on Gender Identity and Same-Sex Orientation, Attraction and Behaviours,” *World psychiatry : official journal of the World Psychiatric Association (WPA)* (U.S. National Library of Medicine, October 2016), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5032493/>.

⁴¹ “UKCP Statement: Conversion Therapy,” UKCP - UK Council for Psychotherapists, accessed February 4, 2023, <https://www.psychotherapy.org.uk/news/ukcp-statement-conversion-therapy/>.

⁴² Person, “Greece Bans LGBTQ Conversion Therapy,” Reuters (Thomson Reuters, May 11, 2022), Accessed February 4, 2023, <https://www.reuters.com/world/europe/greece-bans-lgbtq-conversion-therapy-2022-05-11/>.

⁴³ “What Is Conversion Therapy and When Will It Be Banned?,” BBC News (BBC, May 11, 2022), Accessed February 4, 2023 <https://www.bbc.com/news/explainers-56496423>.



Legal Framework

The Universal Declaration of Human Rights (1948): The Universal Declaration of Human Rights (UDHR) is a Resolution adopted by the United Nations General Assembly that enshrines the rights and freedoms of all human beings⁴⁴. Some distinguishable articles are Articles 1–2, which establish the basic concepts of dignity, liberty, and equality, Articles 3–5 which establish other individual rights, such as the right to life and the prohibition of slavery and torture, Article 16 which protects the right to marriage and family life in general and Articles 18–21 which contain notions as freedom of thought, opinion, expression and conscience. The general methods for exercising these rights, the regions in which they cannot be used, the individual's responsibility to society, and the proscription against using rights in conflict with UN goals are all included and described in Articles 28–30⁴⁵. Many experts in international law believe that the Declaration forms part of customary international law and is a powerful tool in the diplomatic world as it can pressure governments, especially those that violate its articles⁴⁶. Even though the Declaration has received praise from a number of notable activists, jurists, and political leaders, changing once and for all the human rights law, it has been a target of criticism especially from some Muslim-majority countries.

International Covenant on Civil and Political Rights (ICCPR)⁴⁷: The International Covenant on Civil and Political Rights (ICCPR) is a multilateral treaty that aims to respect the civil and political rights of individuals, including the right to life, freedom of religion, freedom of speech and rights to due process and a fair trial.^[3] It was adopted by United Nations General Assembly Resolution 2200A (XXI) on 16 December 1966 and entered into force 23 March 1976. The ICCPR is considered an essential document in history and along with the

⁴⁴ “Universal Declaration of Human Rights.” United Nations. United Nations. Accessed January 22, 2023. <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

⁴⁵ Hurst Hannum, “The UDHR in National and International Law,” *Health and Human Rights* 3, no. 2 (1998): p. 145, <https://doi.org/10.2307/4065305>.

⁴⁶ B. G. Ramcharan, *Human Rights: Thirty Years after the Universal Declaration* (The Hague: Martinus Nijhoff, 1979).

⁴⁷ International Covenant on Civil and Political Rights (hereinafter ICCPR) (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171, art. 19.



International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Universal Declaration of Human Rights (UDHR) has formed the international law and the international human rights law. The protection of the LGBTQ community is indirectly achieved through a variety of articles which are included in the ICCPR due to the right to equality that is a prerogative to each and every member of the society. Article 1 manages to establish the right to self-determination, while Articles 6 – 27 guarantee physical integrity, liberty and security of the person, as well as individual liberty, in the form of the freedoms of movement, thought, conscience and religion, speech, association and assembly, family rights, the right to a nationality, and the right to privacy including the right to family life. Affirmative, Articles 26-27 describe the minority rights and equality before the law. Many of these rights include specific actions which must be undertaken. It should be mentioned that the Covenant has also established the operation of the Human Rights Committee.

Resolution A/HRC/RES/32/2 (adopted by the Human Rights Council on the 30th June 2016): The Resolution guarantees that all human beings are born free and equal, condemning all acts of violence, simultaneously condemning those based on sexual orientation and gender identity. It also establishes an Independent Expert, in order to cooperate with the member-States, raise awareness against the homophobic activities and support all the stakeholders, including United Nations agencies, programmes and funds, national human rights institutions or the private donors.

Resolution A/HRC/RES/50/10 (adopted by the Human Rights Council on the 7th July 2022): As the previous Resolution mentions, the Resolutions of the 12th of July 2019 and the 7th of July 2022 respectively, extend the work and mandate of the Independent Expert. Victor Madrigal-Borloz was appointed as UN Independent Expert on sexual orientation and gender identity in late 2017. His initial three-year term started on 1 January 2018. He is the second Independent Expert to serve in this capacity. The Independent Expert is responsible to explore ways to protect persons who suffer from violence and discrimination on the basis of their sexual orientation or gender identity, through means such as, Assessing implementation of human rights standards, Identifying best practices and gaps, Raising awareness of these issues, Engaging in dialogue and consulting with States or Facilitating and supporting the provision



of advisory services, technical assistance, capacity-building and international cooperation to combat violence and discrimination.

Recent Developments

In the second half of 2022 there was a powerful movement to decriminalise same-sex intimacy in the Caribbean countries, a region very unfriendly to the LGBT community policies, such as St Kitts and Nevis, Barbados, and Antigua and Barbuda. There has been progress also on marriage equality, with countries such as Cuba and Slovenia joining and being part of a team of 33 governments that now legalised same-sex unions. This number is three times bigger compared to a decade earlier. Greece was one of the impactful countries that introduced a ban on so-called conversion therapy for minors while France, Israel and New Zealand also took steps to make the practice of aiming to change a person's sexual orientation or gender identity illegal.

But pockets of friction are growing over specific issues and one of them is the rights of transgender people. Last year, US policy makers proposed more than 300 bills classed as anti-LGBTQIA+ by the Human Rights Campaign, while more than 40% of them targeted the transgender community. The UK also saw its score on the ILGA-Europe Rainbow Index fall more than any other country, due to its decision to exclude transgender people from a ban on conversion therapy, a decision that the government has reversed later, in an attempt to win over activists.

Meanwhile some governments actively sought to roll back LGBTQ rights, such as Indonesia's (a country that does not recognize same-sex marriage) decision to ban sex outside of marriage, effectively criminalizing it for same-sex couples. In Russia and Ghana resurfaced the so-called question of LGBTQIA+ "propaganda" and in Hungary the LGBT rights and the groups who work to protect them are under constant pressure⁴⁸.

⁴⁸ Bloomberg News, "Where Change Is Coming for LGBTQ Rights around the World - BNN Bloomberg," BNN, January 17, 2023, accessed February 4, 2023, <https://www.bnnbloomberg.ca/where-change-is-coming-for-lgbtq-rights-around-the-world-1.1870964>.



The UN Committee on the Rights of the Child and other human rights experts have stressed that withholding sexuality education from children, including LGBT children, jeopardises their right to seek and receive information. This can leave young people equipped to protect themselves whenever they do become sexually active. Also, the highly active presence of the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, Victor Madrigal-Borloz, around the world is clearly efficient. Even from the first days of this year, he visited Cambodia in order to carry out dialogue and seek understanding in relation to the human rights of lesbian, gay, bisexual, trans and gender-diverse people. He also gathered elements to analyse root causes of discrimination, including the impact of social prejudice with the purpose to provide advice to the State and other relevant stakeholders⁴⁹.

Conclusions

The implementation of the non-discrimination principle for the LGBT community is crucial for the future progress of the international protection of human rights as a whole. In any place of the world, the discrimination and violence that persons face on grounds of sexual orientation and gender identity is also fundamentally linked with other forms of discriminatory repression: such as the HIV status, disabilities, races, skin colour, occupations, sex, gender and many others. Investigating, understanding and then addressing the root causes of these types of discrimination and oppression is at the core of any response.⁵⁰ Still, in 2023, there are queer people⁵¹ around the world that cannot publicly show their love to their significant other, can't marry or make a family with them, can't find a job. Instead there are incidents of brutality and violence against them. Last year, only in the USA, 32 transgender people were murdered, with the majority of them being black transgender women.⁵² In Europe, Slovakia, Hungary and

⁴⁹ "Cambodia: Un Expert to Assess LGBT Rights," OHCHR, January 9, 2023, accessed February 4, 2023 <https://www.ohchr.org/en/press-releases/2023/01/cambodia-un-expert-assess-lgbt-rights>.

⁵⁰ Charisse Jones, "For LGBTQ Employees of Color, Sexual Orientation Is the Biggest Source of Discrimination in the Workplace," USA Today (Gannett Satellite Information Network, June 10, 2021), accessed February 4, 2023 <https://eu.usatoday.com/story/money/2021/06/09/discrimination-workplace-sexual-orientation-lgbtq-poc/7521993002/>.

⁵¹ "Queer," Encyclopædia Britannica (Encyclopædia Britannica, inc.), accessed January 22, 2023, <https://www.britannica.com/topic/queer-sexual-politics>.

⁵² "An Epidemic of Violence 2022," HRC Digital Reports, accessed January 22, 2023, <https://reports.hrc.org/an-epidemic-of-violence-2022>.



Poland still show hostility against LGBT people.⁵³ This shows that there is not a global response, not even in the most supportive regions, to those that support such violent actions. It is obvious that inside the International Community there are conflicting forces, as the world is divided with countries that support the promotion of LGBT rights, while others seek for conservative politics.

Points to be addressed

- How could the Council prevent any acts of discriminatory and abusive behaviours against LGBTQIA+ Community?
- How can the Council help with the international abolition practices like conversion therapy and others?
- How can the Human Rights Council further ensure the protection of basic human rights of the LGBTQIA+ community, like the right to marry and the right to found a family?
- What is the role of the mass media in promoting the right of freedom of expression and reputation?
- How can the international community help investigate the root causes of discriminatory behaviours?
- How can the Council promote discussions on the LGBTQIA+ agenda in the International Community?
- How could the Human Rights Council protect LGBTQIA+ members from daily discrimination?
- How could the Human Rights Council enable the adoption of children by same-sex couples?
- Should laws that prohibit discrimination based on sexual orientation protect the transgender people?
- How could the Independent Expert take a more active role considering the battle against the discrimination based on sexual orientation?

⁵³ "Texts Adopted - Growing Hate Crimes against LGBTIQ People across Europe in Light of the Recent Homophobic Murder in Slovakia - Thursday, 20 October 2022," [europarl.europa.eu](https://www.europarl.europa.eu/doceo/document/TA-9-2022-0372_EN.html), accessed January 22, 2023, https://www.europarl.europa.eu/doceo/document/TA-9-2022-0372_EN.html.



Bibliography

- “Welcome to the Human Rights Council.” OHCHR. Accessed January 22, 2023. <https://www.ohchr.org/en/hr-bodies/hrc/about-council>.
- “What Is Discrimination?” Startsidan. Accessed January 22, 2023. <https://www.do.se/choose-language/english/what-is-discrimination>.
- Aspen. “11 Terms You Should Know to Better Understand Structural Racism.” The Aspen Institute, February 10, 2021. <https://www.aspeninstitute.org/blog-posts/structural-racism-definition/>.
- “No One Is above the Law.” Rule of Law Education Centre. Accessed January 22, 2023. <https://www.ruleoflaw.org.au/principles/equality-before-the-law/>.
- “Types of Sexuality and Their Definitions.” Medical News Today. MediLexicon International. Accessed January 22, 2023. <https://www.medicalnewstoday.com/articles/types-of-sexuality#definition>.
- Wamsley, Laurel. “A Guide to Gender Identity Terms.” NPR. NPR, June 2, 2021. <https://www.npr.org/2021/06/02/996319297/gender-identity-pronouns-expression-guide-lgbtq>.
- “LGBTQ.” European Institute for Gender Equality. Accessed January 22, 2023. <https://eige.europa.eu/thesaurus/terms/1493>.
- “Fear and Discrimination High among LGBTI, EU Rights Survey Finds.” euronews, May 17, 2020. <https://www.euronews.com/2020/05/17/high-levels-of-discrimination-against-lgbti-people-in-eu-survey-finds>.
- “Press Corner.” European Commission - European Commission. Accessed January 22, 2023. https://ec.europa.eu/commission/presscorner/detail/en/ip_21_3668.
- “#OUTLAWED: ‘The Love That Dare Not Speak Its Name.’” Maps of anti-LGBT Laws Country by Country | Human Rights Watch. Accessed January 22, 2023. http://internap.hrw.org/features/features/lgbt_laws/.
- “Inequalities and Multiple Discrimination in Access to and Quality of Healthcare.” European Union Agency for Fundamental Rights, June 18, 2021. <https://fra.europa.eu/en/publication/2013/inequalities-and-multiple-discrimination-access-and-quality-healthcare>.



- President, Julia Cusick Vice, Julia Cusick, Vice President, Madia Coleman Associate Director, Madia Coleman, Associate Director, Madeline Shepherd Director, et al. “Discrimination Prevents LGBTQ People from Accessing Health Care.” Center for American Progress, August 23, 2022. <https://www.americanprogress.org/article/discrimination-prevents-lgbtq-people-accessing-health-care/>.
- Adam, Ilke. “EU's Fight against Racism Isn't Working.” POLITICO. POLITICO, March 22, 2021. <https://www.politico.eu/article/eus-fight-against-racism-isnt-working/>.
- “‘Conversion Therapy’ Can Amount to Torture and Should Be Banned Says UN Expert.” OHCHR, July 13, 2020. <https://www.ohchr.org/en/stories/2020/07/conversion-therapy-can-amount-torture-and-should-be-banned-says-un-expert>.
- Bhugra, Dinesh, Kristen Eckstrand, Petros Levounis, Anindya Kar, and Kenneth R Javate. “WPA Position Statement on Gender Identity and Same-Sex Orientation, Attraction and Behaviours.” World psychiatry : official journal of the World Psychiatric Association (WPA). U.S. National Library of Medicine, October 2016. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5032493/>.
- “What Is Conversion Therapy and When Will It Be Banned?” BBC News. BBC, May 11, 2022. <https://www.bbc.com/news/explainers-56496423>.
- News, Bloomberg. “Where Change Is Coming for LGBTQ Rights around the World - BNN Bloomberg.” BNN, January 17, 2023. <https://www.bnnbloomberg.ca/where-change-is-coming-for-lgbtq-rights-around-the-world-1.1870964>.
- “Cambodia: Un Expert to Assess LGBT Rights.” OHCHR, January 9, 2023. <https://www.ohchr.org/en/press-releases/2023/01/cambodia-un-expert-assess-lgbt-rights>.
- Jones, Charisse. “For LGBTQ Employees of Color, Sexual Orientation Is the Biggest Source of Discrimination in the Workplace.” USA Today. Gannett Satellite Information Network, June 10, 2021. <https://eu.usatoday.com/story/money/2021/06/09/discrimination-workplace-sexual-orientation-lgbtq-poc/7521993002/>.



- “Queer.” Encyclopædia Britannica. Encyclopædia Britannica, inc. Accessed January 22, 2023. <https://www.britannica.com/topic/queer-sexual-politics>.
- “An Epidemic of Violence 2022.” HRC Digital Reports. Accessed January 22, 2023. <https://reports.hrc.org/an-epidemic-of-violence-2022>.
- “Texts Adopted - Growing Hate Crimes against LGBTIQ People across Europe in Light of the Recent Homophobic Murder in Slovakia - Thursday, 20 October 2022.” europarl.europa.eu. Accessed January 22, 2023. https://www.europarl.europa.eu/doceo/document/TA-9-2022-0372_EN.html.
- Thomson Reuters Foundation. "Humanitarian - Thomson Reuters Foundation News". from the original on 10 November 2008. Retrieved 18 February 2016.
- Sicilianos, Alexander Linos. *The European Convention on Human Rights*. Athens: Nomiki Vivliothiki, 2016.
- European Court of Human Rights.” Accessed January 22, 2023. https://www.echr.coe.int/Documents/Guide_Art_8_ENG.pdf.
- Universal Declaration of Human Rights.” United Nations. United Nations. Accessed January 22, 2023. <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.
- Sexual Orientation Issues - European Court of Human Rights.” Accessed January 22, 2023. https://www.echr.coe.int/Documents/FS_Sexual_Orientation_ENG.pd
- “Guide on the Case-Law - Rights of LGBTI Persons.” Accessed January 22, 2023. https://echr.coe.int/Documents/Guide_LGBTI_rights_ENG.pdf.
- Hurst Hannum, The universal declaration of human rights in National and International Law, p. 145
- “Confused about the Definition of ‘Queer’? Here's What Experts Say.” Cosmopolitan, December 8, 2022. <https://www.cosmopolitan.com/sex-love/a25243218/queer-meaning-definition/>.
- 47th session of the United Nations Human Rights Council, 2021, A/HRC/47/27
- 44th session of the United Nations Human Rights Council, 2020, A/HRC/44/53
- 35th session of the United Nations Human Rights Council, 2017, A/HRC/35/36
- K Gormley, ‘One Hundred Years of Privacy’ [1992] Wisconsin Law Review 1335 at 1397



- M Nowak, UN Covenant on Civil and Political Rights: CCPR Commentary (2nd edn, NP Engel, 2005), 378, 391-92
- United Nations Human Rights Council, 27th of July 2017, July 27, 2017. <https://twitter.com/UNHumanRights/Status/890569746835492864>.
- Toonen v. Australia, United Nations Human Rights Council, 1991, (488/92)
- S Joseph, 'Gay Rights Under the ICCPR—Commentary on Toonen v Australia' (1994) 13 University of Tasmania Law Review 392 at 397
- United Nations Human Rights Committee, LNP v Argentina, 2007(1610/07)
- United Nations Human Rights Council, General Comment 28
- United Nations Human Rights Committee, Joslin 1 v New Zealand, 2002 (902/99)
- Joseph and Melissa Castan, The International Covenant on Civil and Political Rights Cases, Materials, and Commentary, Oxford University Press, Third Edition, 2013, p.625, 627, 689-690,
- Person. "Greece Bans LGBTQ Conversion Therapy." Reuters. Thomson Reuters, May 11, 2022. <https://www.reuters.com/world/europe/greece-bans-lgbtq-conversion-therapy-2022-05-11/>.
- "UKCP Statement: Conversion Therapy." UKCP - UK Council for Psychotherapists. Accessed February 4, 2023. <https://www.psychotherapy.org.uk/news/ukcp-statement-conversion-therapy/>.



THESSISMUN