<doc>

<title>Human Rights</title>

<byline>

<first>Dominic</first>

<last>McGoldrick</last>

<affl>Professor of International Human Rights Law</affl>

<affl2>University of Nottingham, United Kingdom</affl2><AU: Please confirm that the spelling and presentation of your name and your affiliation are correct.> YES

</byline>

<intro><p>The struggle for recognition of LGBTQ rights from a transnational perspective.</p></intro>

<p>In theory, LGBTQI persons have human rights simply because they are humans; they are born free and equal in dignity and rights (OHCHR 2012). Yet, reports from all regions of the world evidence violence, repression, exclusion, and stigmatization against individuals because of their sexual orientation, commonly grounded in discrimination (Lee and Ostergard 2017). Indeed, in 2013 the United Nations (UN) secretary-general Ban Ki-moon stated that discrimination on grounds of sexual orientation and gender identity was “one of the great, neglected human rights challenges of our time” (United Nations Secretary-General 2013). The explanation for this apparent [divergence between theory and practice] <AU: Are you referring here to the existence of discrimination based on orientation? Please clarify what the paradox is.> lies in the huge variance among states or regions on the broad question of whether homosexuality should be accepted or rejected by society (Pew Research Center 2013). Strong public opposition is particularly linked to tradition, culture, religiosity, and relative poverty. Claims of LGBTQI rights have confronted long-accepted assertions of freedom of religion and the autonomy of religious organizations (Johnson and Vanderbeck 2014). [A large number of States from different regions do not accept that LGBTQI persons have the particular aspects of the human rights they claim.] In addition, many states reject any suggestion of a prohibition on sexual orientation/gender identity discrimination. Thus, for LGBTQI persons, their claim to recognition and acceptance of their identity is at issue because of fundamental divisions on whether sexual orientation discrimination is prohibited as a matter of human rights law at all. There have been legal and policy successes for advocates of LGBTQI rights (Gallo et al. 2014; Johnson 2013), but as with any human rights movement, there are setbacks stemming from political and social obstacles (Altman and Symons 2016). Many of these obstacles arise from the fact that different states take diametrically opposite positions on the question of whether the rights LGBTQI persons are claiming are “existing” or “new” rights (Roseman and Miller 2011).</p>

<h1>International Mechanisms</h1>

<p>Although there is a long history of the persecution of LGBTQI+ persons and homophobic/transphobic legislation, the history of engagement by the UN) is very short (McGill 2014). Since 2003 the UN General Assembly has repeatedly called attention to the killings of persons because of their sexual orientation or gender identity through its [resolutions](http://www.ohchr.org/EN/Issues/Discrimination/Pages/LGBTUNResolutions.aspx) on extrajudicial, summary, or arbitrary executions. In June 2011 the Human Rights Council, by a vote of 23 to 19, with three abstentions, adopted R[esolution 17/19](http://www.ohchr.org/EN/Issues/Discrimination/Pages/LGBTUNResolutions.aspx), the first UN resolution on sexual orientation and gender identity. It expressed “grave concern” at violence and discrimination against individuals based on their sexual orientation and gender identity. Surprisingly, it was not until 2011 that the first official UN report on sexual orientation and gender identity discrimination was prepared by the Office of the High Commissioner for Human Rights (OHCHR)—<i>Discriminatory Laws and Practices and Acts of Violence against Individuals based on their Sexual Orientation and Gender Identity</i> (UN Doc A/HRC/19/41, 17 November 2011). The report’s findings formed the basis of a [panel discussion](http://www.ohchr.org/EN/Issues/Discrimination/Pages/PanelSexualOrientation.aspx)  at a meeting of the Human Rights Council in March 2012. This was the first time a UN intergovernmental body had held a formal debate on the subject. An updated report was presented in 2015 with a view to sharing good practices and ways to overcome violence and discrimination, in application of existing international human rights law and standards (UN Doc A/HRC/29/23, 4 May 2015).</p>

<h1>UN Special Rapporteur</h1>

<p>A major political and institutional development was the creation by the Human Rights Council of an independent UN special expert on protection against violence and discrimination based on sexual orientation and gender identity (Resolution 32/2, 30 June 2016). Member states on the council were deeply split over the appointment, and for the first time ever, there was a series of votes in the General Assembly in an attempt to reverse it, on the grounds that sexual orientation and gender identity had no clear basis in international human rights law. The first independent expert, Vitit Muntarbhorn (Thailand), was appointed in September 2016, and he was succeeded by [Victor Madrigal-Borloz](http://www.ohchr.org/EN/Issues/SexualOrientationGender/Pages/VictorMadrigalBorloz.aspx) (Costa Rica) in January 2018. The expert’s mandate includes implementing international instruments, with identification of good practices and gaps; promoting awareness of the violence and discrimination issue, and linking with root causes; engaging, consulting, and cooperating with states and other stakeholders; identifying multiple, intersecting, and aggravated forms of violence and discrimination; and supporting international cooperation and related services to assist national efforts.</p>

<h1>Advocacy</h1>

<p>Advocacy for the human rights of LGBTQI persons has aligned itself with nondiscrimination campaigns and social movements based on more established grounds such as race, gender, and minority STATUS.<AU: What does “minority” mean here, i.e., listed alongside (parallel to) race and gender?> Historically, that advocacy proceeded by focusing on the interpretation and application of existing substantive rights obligations binding on state parties to human rights treaties, rather than arguing for the recognition of new human rights and new human rights instruments.<AU: This seems to essentially repeat the preceding sentence.> The implicit assumption was that identification of sexual orientation and gender identity issues in a human rights discourse within existing mechanisms and institutions was a necessary, if not sufficient, condition for having a positive impact on the lives of those concerned.</p>

<h1>For LGBTQI Human Rights</h1>

<p>The central issue of the debate in normative terms has been whether discrimination on grounds of sexual orientation or gender identity should be considered on a par with established grounds such as racial or gender discrimination. Those who support this view submit that human rights apply to everyone, and therefore everyone has the right to private life and family life. Provisions in international human rights instruments that prohibit discrimination tend to follow the pattern of an open list and contain a reference<AU: *contain* a reference okay? OK> to “sex” and to “other status”; sexual orientation has then been interpreted as falling into either or both of these categories. This is seen as an application of the “living instrument” approach to the interpretation of human rights treaties and consistent with their object and purpose (<i>Toonen v. Australia</i> [1994]). The final step is to argue that discrimination on grounds of sexual orientation can be justified only by particularly serious or weighty reasons. International human rights institutions, particularly the European Court of Human Rights (<i>Dudgeon v. UK</i> [1981];Johnson 2013), UN human rights treaty bodies (<i>Toonen v. Australia</i> [1994]), and the Inter-American Court of Human Rights (<i>Atala Riffo and Daughters v. Chile</i> [2012]; Advisory Opinion OC-24 [2018]) have largely duplicated each other’s jurisprudence to reach these results. In 2006 s a distinguished group of international human rights experts adopted the <i>Yogyakarta Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity</i> (O’Flaherty and Fisher 2008). This is not a UN instrument, but its intended effect was to apply existing international human rights law standards to address the situation of LGBTQI people and issues of intersexuality. The OHCHR, UN Special Procedures, UN human rights treaty bodies, and the Council of Europe Commissioner for Human Rights have all referenced the <i>Yogyakarta Principles</i>.</p>

<h1>Against LGBTQI Human Rights</h1>

<p>States that oppose the recognition of LGBTQI rights as human rights, such as Pakistan, Saudi Arabia, Nigeria, Uganda, and Botswana, have tended to simply reverse the arguments relating to interpretation and application. They have not been able to deny that human rights apply to everyone, but they stress that very few national, regional, or international provisions prohibiting discrimination expressly refer to “sexual orientation.” They have criminalized same-sex relationships, which they view as not protected by the rights to private or family life. They reject the view that sexual orientation falls under “sex” or “other status,” regarding such an interpretation as going beyond the permissible limits of a purposive living instrument approach to the interpretation of human rights treaties and inconsistent with their object and purpose. Even if such an interpretation of “other status” was justifiable, these states reject the view that such differential treatment can be justified only by particularly serious or weighty reasons.< I HAVE DELETED QUOTATION MARKS AU: Please indicate where this phrase comes from (i.e., why it’s in quote marks), either here or, better, where first it occurs, in the previous paragraph.> At best, a lower standard of reasonable and objective reasons is considered applicable. Or, conversely, these states argue that they do have particularly serious or weighty reasons” or “reasonable and objective reasons,” which reflect their traditions, cultures, and/or religions. Finally, they argue that the fact that some international human rights institutions have copied each other’s jurisprudence to reach the contrary result does not make that result justifiable.</p>

<h1>Culture and Tradition</h1>

<p>Some African political and religious leaders have argued that gay rights and homosexual identities are against African traditions, as well as their cultural and religious value systems. They also argue that African states have a sovereign right to reject what is seen as an imperialist or postcolonial imposition of a particular human rights agenda by mainly Western states, which have sought to influence national sentiment via aid and trade conditionality (Baisley 2015). They resent the hypocrisy that although the United Kingdom presents itself as a global leader in LGBTQI rights, it was under British colonial rule that homosexual acts were first criminalized in many of its colonial territories around the world (Richards 2013). Many of those colonial laws remain in force, for example in Bangladesh, Brunei, India, Malaysia, Myanmar, Pakistan, Singapore, and Sri Lanka (Lennox and Waites 2013). The argument of some African states and leaders is that acceptance of homosexuality is a cultural import from the West (a claim that has also been used to oppose the equality of women). This argument disregards the fact that culture and tradition are neither static nor monolithic. Nonheteronormative sexual orientations and gender identities have existed in all world regions, including Africa. Some Asian countries, such as Malaysia and the Maldives have made similar claims. They have marginalized LGBTQI communities by promoting a narrow conception of “Asian values” that emphasizes homogenous societies where the only acceptable norm is heterosexuality. Yet even in regions that are broadly negative on LGBTI rights, there are strong pockets of resistance, especially in Nepal, South Africa, Japan, and Taiwan. These arguments based on culture and tradition are not confined to Africa and Asia’ they are also invoked in Central and Eastern Europe and parts of the Russian Federation (Trappolin et al. 2012). It is notable that both sides of the culture argument have utilized the same paragraph of the 1993 Vienna Declaration and Programme of Action of the World Conference on Human Rights (UN Doc. A/CONF.157/23, para 5, 25 June 1993) to support their understanding of human rights law. One side emphasizes the “various historical, cultural, and religious backgrounds” that must be borne in mind, while the other points to the “duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms.”</p>

<h1>NGOs</h1>

<p>Awareness of LGBTQI rights as human rights can promote rights activism at the local and national levels. There are an enormous number of very active LGBTQI nongovernmental organizations (NGOs) nationally, regionally, and internationally. NGOs have played their part in advocating gay rights, although sustained efforts had to be made to persuade national and international human rights NGOs to take on sexual orientation issues as part of their agendas. A contemporary difficulty is that some feminist organizations have concerns that support for trans organizations can undermine the uniqueness of women’s rights. OutrightAction International (formerly known as International Gay and Lesbian Human Rights Commission), based in the United States, is a leading international organization dedicated to human rights advocacy on behalf of people who experience discrimination or abuse on the basis of their actual or perceived sexual orientation, gender identity, or expression (Thoreson 2014). Particularly important in strategic terms was recognition OF LGBTQI by Amnesty International and Human Rights Watch as the so-called ‘gatekeepers’ of the NGO movement, [that is, the powerful NGO’s that police the boundaries of political expression for a given issue area, ](Mertus 2007; LINDE 2017).<AU: The recognition *of* AI and HRW as the so-called gatekeepers, or recognition *by* AI and HRW (of some other organization)? Please clarify. I HAVE CHANGED AND ADDED A RECENT ARTICLE DIRECTLY ON POINT> Transgender and intersex NGOs have relatively shorter histories. In the United States, the National Center for Transgender Equality was founded only in 2003.</p>

<p>It is critical for campaigners against sexual orientation discrimination that they are supported by vibrant NGOs and civil society actors and the civil space they occupy. Financial and human resources are almost always limited. The use of modern communication methods—particularly videos, films, images on the internet, and contacts via social media—allows NGOs and civil society actors to become established more easily and to communicate more effectively and efficiently. Although cohesive national advocacy is growing in strength, in many states that oppose LGBTQI rights as human rights, NGOs face restrictions and repression. As of 2017, in about twenty-five states there were barriers to the formation, establishment, or registration of LGBTQI-related NGOs. Most are in Africa and Asia. These laws limit civil society participation and [NGO’S] ability to bring their issues [into the wider public domain]<AU: Are “these laws” the “barriers to the formation . . .”? Also, who is the “they” in “*their* ability to bring *their* issues”? The NGOs that weren’t permitted to form? Please clarify. HAVE CHANGED> to public attention and be included at the policy and political levels.</p>

<p>International NGOs **(**INGOs) have taken a more significant role in addressing problems regarding acceptance and accreditation<AU: of what, specifically?> in international forums. The International Lesbian, Gay, Bisexual, Trans and Intersex Association is an international organization, with headquarters in Geneva, which brings together more than 1,228 LGBTQI groups from 132 countries. [LGBTQI NGOs and LGBTQI] INGOs continue to fight battles to be accredited in international organizations<AU: Please clarify what this means HAVE CHANGED TEXT.> and then to get LGBT issues onto their agendas.</p>

<h1>Marches and Propaganda</h1>

<p>Pride marches both celebrate LGBTQI culture and serve as political demonstrations for more extensive legal rights. Marches have been held onall continents and some have attracted millions of participants. State and public support for and opposition to pride marches are another contemporary indicator of attitudes to sexual orientation discrimination. Denial of permission to hold AND Restrictions on [I REINSERTED ‘Denial of permission’ BECAUSE IT IS IMPORTANT] marches or assemblies promoting gay rights have been held to violate Articles 11 (freedom of assembly) and 14 of the European Convention on Human Rights (<i>Alekseyev v. Russia</i> [2010]) and Article 21 of the International Covenant on Civil and Political Rights (freedom of assembly) (<i>Alekseev<AU: Alekseyev? THIS IS CORRECT – IT IS A DIFFERENT INDIVIDUAL> v. Russian Federation</i>, UN Doc, CCPR/C/109/D/1873/2009). A recent trend has seen states considering or passing legislation banning “homosexual propaganda,” particularly in relation to minors. In 2012 the UN Human Rights Committee held that the Russian Federation had not shown that a restriction on the right to freedom of expression in relation to “propaganda of homosexuality”—as opposed to propaganda of heterosexuality or sexuality generally—among minors was based on reasonable and objective criteria (<i>Fedotova v. Russian Federation</i>). In 2017 the European Court of Human Rights held that a ban on promoting nontraditional sexual relationships violated freedom of expression and the prohibition on discrimination (<i>Bayev v. Russian Federation</i>). The legislative provisions in question embodied a predisposed bias on the part of the heterosexual majority against the homosexual minority, and the government had not offered convincing and weighty reasons justifying the difference in treatment.</p>

<h1>Key Indicators of LGBTQI Rights</h1>

<h2>Decriminalization</h2>

<p>There is a clear historic trend towards the decriminalization of same-sex sexual activity. As of May 2017, seventy-two states had criminalized consenting same-sex sexual activity between adults in private. In eight of those states the death penalty is “allowed,” or there is evidence that it occurs. In forty-five of the seventy-two states (twenty-four in Africa, thirteen in Asia, six in the Americas, and two in Oceania), the law is applied to women as well as men. From a practical perspective, achieving moratoriums, not enforcing criminal laws, restricting the scope of applicable offenses, and educating the public are all elements of the process toward decriminalization. In 124 states there are no legal penalties for such [same-sex sexual] activities.<AU: Which activities? Please clarify. HAVE CLARIFIED></p>

<h2>Family Life and Personal Status</h2>

<p>In considering the question of whether same-sex couples can establish a “family” for the purposes of the right to “family life,” [European and Inter-American Human Rights Bodies] <AU: Which, specifically?> have not ruled out extending the right to marry to two persons of the same sex, but have left the question to regulation by the national laws of the contracting states (<i>Schalk and Kopf v. Austria</i> [2010]; Advisory Opinion OC-24 [2018]). Thus, the trend toward legalizing same-sex marriage at the national level is an indicator of incremental support for nondiscrimination on grounds of sexual orientation. The number of countries that have legalized same-sex marriage is relatively small. As of May 2017, twenty-two states recognized or provided for same-sex marriage. Such change has come either on the basis of national court rulings or legislation (sometimes following referendums). Same-sex marriage was approved by a referendum in Ireland in 2015, and [by a voluntary nationwide postal survey] in Australia in 2017.<AU: Australia did not hold a legal referendum (in which voting would be compulsory), but rather a voluntary postal survey to gauge support before legislation, correct?> Conversely, some states have introduced or reinforced restrictions on marriage. In Hungary in January 2013, a new constitution defined marriage as a union between a man and a woman. In 2018 Bermuda was the first jurisdiction in the world to reverse a law allowing same-sex marriage [but its supreme court subsequenlty held that the parts of the law that banned same-sex marriages was unconstitutional].<AU: Recently overturned by Supreme Court; please update.> Same-sex marriage is performed and recognized in England, Wales, and Scotland in 2018, but not in Northern Ireland. In <i>United States v. Windsor</i> in 2013 the US Supreme Court held by 5 votes to 4 that Section 3 of the federal Defense of Marriage Act (1996), which defined marriage as the union of a man and a woman, violated the Fifth Amendment’s due process clause insofar as certain tax laws discriminated against persons of the same sex who were legally married under the laws of their state. In another historic ruling of the Supreme Court, in <i>Obergefell v Hodges</i> (2015) a 5 to 4 majority held that the Fourteenth Amendment required states to license a marriage between two people of the same sex and to recognize a same-sex marriage licensed and performed out of state. However, the Court was bitterly divided, and neither the majority nor the minority made any reference to international human rights standards or jurisprudence.</p>

<p>As for recognition of status, same-sex couples are offered some rights of marriage via civil partnerships, registered partnerships, or civil unions in twenty-eight states. Twenty-six states or parts thereof, mostly in Europe and the Americas, have joint adoption laws. The only African state that recognizes these rights is South Africa; the only state in Asia is Israel. Twenty-seven states allow for same-sex second parent adoption (Carroll and Mendos 2017). The trend for all these indicators is [towards greater recognition of LGBTQI rights].</p><AU: Toward greater recognition of rights? Please reword for clarity.>

<h1>Immigration</h1>

<p>States that recognize full marital rights or civil partnerships for same-sex partners also usually extend to them the same immigration rights conferred on heterosexual spouses. However, an increasing number of states have decoupled the issues; they view the recognition of same-sex couples’ immigration rights as a logical requisite of application of nondiscrimination and equal protection principles, even while they have been unwilling to accept full legal recognition of same-sex unions or civil partnerships (Wilets 2011). Recognition is normally on the same basis as [heterosexual spouses.] <AU: Not clear what you mean, as all immigration involves a “foreign” person; perhaps “on the same basis as heterosexual spouses”?> and thus may afford only limited temporary or provisional residence and on a dependency basis.</p>

<p>In many parts of the world there has been increased understanding and recognition of individuals changing gender, but even progressive states have been slow to deal with the legal and practical effects ([Lease](https://www.tandfonline.com/author/Lease%2C%2BBryce) and Gevisser 2017). The relative newness of the issue means that it is a very much an evolving area of human rights concern. Trans immigration, as distinct from trans asylum (as in <i>Avendano-Hernandez v. Lynch</i>, 2015), is a good example. Some states such as Australia allow passports that acknowledge categories other than male and female, but most do not. Only a small number of states (Argentina and Denmark) allow individuals to change their gender category [on their passports]<AU: On their passports?> relatively easily; others require new birth certificates as evidence of gender surgery. Many states do not allow it at all. A host of practical immigration issues have also been raised, including body scanners that misfire when gender-nonconforming people go through them, pat-downs or strip searches as part of border security policies, immigration to a country that allows same-sex marriage or partnership ,<AU: immigration to a country that allows same-sex marriage or partnership? Please clarify.> and immigration for the purpose of seeking gender-reassignment surgery or other medical interventions. It has also been acknowledged that trans and intersex persons held in immigration detention may be at particular risk of abuse and mistreatment from other detainees (Frankel 2016). In the United States a significant number of transgender immigrants are unable to obtain legal permission to migrate and [thus] arrive as undocumented immigrants, [which can leave them in same perpetual state of uncertainty as other undocumented migrants].<AU: Amend “migrate and arrive” to “enter,” or do you mean something more general? Also, please make clear how their situation is different from that of other undocumented immigrants to the US.> (National Center for Transgender Equality 2018).</p>

<h1>Persecution on Grounds of Sexual Orientation</h1>

<p>LGBTQI asylum seekers and refugees face distinct vulnerabilities (UNHCR 2015).<AU: Add to bib HAVE DONE.> In addition to severe discrimination and violence in their countries of origin, they are frequently subject to continued harm while in forced displacement. In the country of asylum, these harms may include: violence and harassment by members of the asylum seeker and refugee community; insensitive and inappropriate questioning at various stages of the refugee status determination (RSD) procedure; intolerance, harassment, and violence by state and nonstate agents in countries of first asylum, undermining the possibility of local integration as a durable solution; discrimination and safety threats in accommodation, health care, and employment by state and nonstate agents; and subjection to sexual and gender-based violence (SGBV) or survival sex in forced displacement. Some protective jurisprudence on persecution on grounds of sexual orientation has been developed in a refugee context. In 2008 (updated in 2012), the UN High Commissioner for Refugees (UNHCR) published its <i>Guidelines on Claims to Refugee Status based on Sexual Orientation and/or Gender Identity</i> within the context of Article 1A(2) of the 1951 Convention and its 1967 Protocol relating to the Status of Refugees (HCR/GIP/12/01, 23 October 2012). In 2011 the UNHCR estimated that at least forty-two states had granted asylum to individuals with a well-founded fear of persecution owing to sexual orientation or gender identity. Some national courts have held that individuals could not be deported to a state where they would have to hide their sexual indentities or where there was, in general, a serious risk of persecution on grounds of sexual orientation without that persecution affecting any particular percentage of the population (Frank 2012).</p><AU: Add to bib DONE.>

<h1>Health Care</h1>

<p>Nondiscrimination, in the context of the right to sexual and reproductive health, encompasses the right of all persons to be fully respected for their sexual orientation, gender identity, and intersex status. UN human rights treaty bodies have stressed that human rights law 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 (Committee on Economic, Social and Cultural Rights, General Comment No. 22 [2016] on the right to sexual and reproductive health). Approaching sexual orientation issues from the standpoint of public health can be a good strategic move because states may appreciate the long-term impact of the health issues on the rest of the population. Although states may be reluctant to reform laws criminalizing homosexuality, they may be willing, for example, to include men who have sex with men in national HIV plans and consultation processes to strengthen the effectiveness of national HIV responses. It is also important to emphasize the historical importance of the HIV/AIDS issue. Its rise as a global health issue gave greater visibility to LGBTQ+ struggles for recognition. However, sexual orientation issues can also arise within the health agenda, broadly understood. Emerging issues include so-called bathroom bills—legislation that defines access, exclusively or inclusively, to [public toilets](https://en.wikipedia.org/wiki/Public_toilet) (restrooms) by [transgender](https://en.wikipedia.org/wiki/Transgender) individuals— and the regulations by world sporting bodies on athletes’ testosterone limits to comply with the female classification in sporting competitions.</p>

<h1>Future of LGBTQI Rights</h1>

<p>The struggle to achieve recognition for LGBTQI human rights parallels the efforts to develop other existing rights or to gain recognition for “new rights.” What appears to distinguish sexual orientation claims from other rights claims has been the widespread political and legal opposition with which they have been met, but a closer analysis reveals that state practice is mixed and in a state of flux, even in the African and Southeast Asian regions. In India in 2009 the high court in <i>Koushal</i> held that Section 377 of the Indian penal code (on “carnal intercourse against the order of nature”), insofar as it criminalized consensual sexual acts of adults in private, violated Articles 21, 14, and 15 of the constitution. However, in 2013 this was reversed by the Supreme Court in a judgment that was dismissive of alleged discrimination toward sexual minorities and hostile to the “so-called rights of LGBT persons.” In 2016 the Supreme Court decided to refer the issue to a five-judge Constitution Bench for reconsideration. In 2017, in <i>Puttaswamy and Another v. Union of India and Another</i>, the Supreme Court recognized a “right to privacy” in the constitution and held that “discrimination against an individual on the basis of sexual orientation is deeply offensive to the dignity and self-worth of the individual” (quoted in Madani 2017). In China, attitudes toward nonnormative sexual orientations and gender identities have moved from taboo to tolerance. There are over 190 LGBT groups and organizations with an online presence in China, but none appears to have NGO status. In December 2014 a district court determined that the conversion therapy to which a thirty-year-old man had been subjected was illegal and that compensation should be paid; China had removed homosexuality from its list of mental disorders in 2001. In 2018, in China’s first transgender employment discrimination case, an appeals court ruled that gender identity and expression were protected under antidiscrimination laws, and therefore laborers should not be treated differently in the course of employ because of their gender identity and expression.</p>

<p>Levels of dialogue, public education, training, and information on LGBTQI issues are increasing. Time and visibility, aided by the greater tolerance of younger persons and the ubiquitousness of the internet and social media, may bring greater understanding and acceptance, as they have with other grounds of nondiscrimination and identity such as race, sex, and, more recently, disability. However, history suggests that progress will be neither quick nor linear (Ayoub 2016; Picq and Thiel 2015). Indeed, it is not even inevitable.</p>

<bh1>Bibliography</bh1>

<bibcit>Altman, Dennis, and Jonathon Symons. <i>Queer Wars</i>. Cambridge, UK: Polity Press, 2016.</bibcit>

<bibcit>Ayoub, Phillip M. <i>When States Come Out: Europe’s Sexual Minorities and the Politics of Visibility</i>. Cambridge, UK: Cambridge University Press, 2016.</bibcit>

<bibcit>Baisley, Elizabeth. “Framing the Ghanaian LGBT Rights Debate: Competing Decolonisation and Human Rights Frames.” <i>Canadian Journal of African Studies</i> 49, no. 2 (2015): 383–402.</bibcit>

<bibcit>Carroll, Aengus, and Lucas Ramón Mendos, <i>State-Sponsored Homophobia 2017: A World Survey of Sexual Orientation Laws: Criminalisation, Protection and Recognition</i>. Geneva: International Lesbian and Gay Association, 2017.</bibcit>

Frank, David John. “Making Sense of LGBT Asylum Claims: Change and Variation in Institutional Contexts” New York University Journal of International Law and Politics 44, (2012) 485-95

# <bibcit>Frankel, Adam. “‘Do You See How Much I’m Suffering Here?’: Abuse against Transgender Women in US Immigration Detention.” Human Rights Watch, 23 March 2016. https://www.hrw.org/report/2016/03/23/do-you-see-how-much-im-suffering-here/abuse-against-transgender-women-us.</bibcit>

<bibcit>Gallo, Danielo, Luca Paladini, and Pietro Pustorino, eds. <i>Same-Sex Couples before National, Supranational and International Jurisdictions</i>. Berlin: Springer, 2014.</bibcit>

<bibcit>Johnson, Paul. <i>Homosexuality and the European Court of Human Rights</i>. Abingdon, UK: Routledge, 2013.</bibcit>

<bibcit>Johnson, Paul, and Robert Vanderbeck. <i>Law, Religion and Homosexuality</i>. Abingdon, UK: Routledge, 2014.</bibcit>

<bibcit>Lease, Bryce, and Mark Gevisser. “LGBTQI Rights in South Africa.” <i>Safundi: The Journal of South African and American Studies</i> 18 (2017): 156–160.</bibcit>

<bibcit>Lee, Chelsea, and Robert L. Ostergard. “Measuring Discrimination against LGBTQ People: A Cross-National Analysis.” <i>Human Rights Quarterly</i> 39, no. 1 (2017): 37–72.</bibcit>

<bibcit>Lennox, Corrine, and Matthew Waites, eds. <i>Human Rights, Sexual Orientation and Gender Identity in the Commonwealth: Struggles for Decriminalisation and Change</i>. London: Institute of Commonwealth Studies, 2013.</bibcit>

**<bibcit> Linde, Robyn, “Gatekeeper Persuasion and Issue Adoption: Amnesty International and the Transnational LGBTQ network” Journal of Human Rights 17 (2017) 245-64** .</bibcit>

# .

“

<bibcit>Madani, Doha. “India Declares Freedom of Sexual Orientation a Fundamental Right.” Huffington Post, 24 August 2017. https://www.huffingtonpost.com/entry/india-declares-freedom-of-sexual-orientation-a-fundamental-right\_us\_599f574ee4b05710aa5b4194.</bibcit>

<bibcit>McGill, Jena. “SOGI . . . So What? Sexual Orientation, Gender Identity and

Human Rights Discourse at the United Nations.” <i>Canadian Journal of Human Rights</i> 3, no. 1 (2014): 1–38.</bibcit>

<bibcit>Mertus, Julie. “The Rejection of Human Rights Framings: The Case of LGBT Advocacy in the US.” <i>Human Rights Quarterly</i> 29, no. 4 (2007): 1036–1064.</bibcit>

<bibcit>National Center for Transgender Equality. “Immigration.” Accessed 1 June 2018. https://transequality.org/issues/immigration.</bibcit>

<bibcit>Office of the High Commissioner for Human Rights (OHCHR). <i>Born Free and Equal: Sexual Orientation and Gender Identity in International Human Rights Law</i>. Geneva: United Nations, 2012.</bibcit>

<bibcit>O’Flaherty, Michael, and John Fisher. “Sexual Orientation, Gender Identity and International Human Rights Law: Contextualising the Yogyakarta Principles.” <i>Human Rights Law Review</i> 8, no. 2 (2008): 207–248.</bibcit>

<bibcit>Pew Research Center. “The Global Divide on Homosexuality.” 4 June 2013. http://www.pewglobal.org/2013/06/04/the-global-divide-on-homosexuality/.</bibcit>

<bibcit>Picq, Manuela Lavinas, and Markus Thiel, eds. <i>Sexualities in World Politics: How LGBTQ Claims Shape International Relations</i>. London: Routledge, 2015.</bibcit>

<bibcit>Richards, David A. J. <i>The Rise of Gay Rights and the Fall of the British Empire</i>. Cambridge, UK: Cambridge University Press, 2013.</bibcit>

<bibcit>Roseman, Mindy, and Alice M. Miller. “Normalizing Sex and Its Discontents: Establishing Sexual Rights in International Law.” <i>Harvard Journal of Law and Gender</i> 34, no. 2 (2011): 313–375.</bibcit>

<bibcit>Thoreson, Ryan R. <i>Transnational LGBT Activism</i>. Minneapolis: University of Minnesota Press, 2014.</bibcit>

<bibcit>Trappolin, Luca, Alessandro Gasparini, and Robert Wintemute, eds. <i>Confronting Homophobia in Europe: Social and Legal Perspectives</i>. Oxford: Hart, 2012.</bibcit>

<bibcit>United Nations Secretary-General. “Secretary-General’s Video Message to the Oslo Conference on Human Rights, Sexual Orientation and Gender Identity.” 15 April 2013. https://www.un.org/sg/en/content/sg/statement/2013-04-15/secretary-generals-video-message-oslo-conference-human-rights-sexual.</bibcit>

[UN High Commissioner for Refugees,](http://www.refworld.org/publisher/UNHCR.html) Protecting Persons With Diverse Sexual Orientations And Gender Identities (UN, Geneva, 2015) http://www.refworld.org/docid/566140454.html [accessed 14 June 2018]

<bibcit>Wilets, James D. “From Divergence to Convergence? A Comparative and International Law Analysis of LGBTI Rights in the Context of Race and Post-colonialism.” <i>Duke Journal of Comparative and International Law</i> 21, no. 3 (2011): 631–686.</bibcit>

</doc>