



Equal and Indivisible: Crafting Inclusive Shadow Reports for CEDAW

A handbook for writing shadow/alternative reports for CEDAW incorporating human rights issues related to sexual orientation, gender identity and gender expression





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IGLHRC's Grace Poore speaks at Manila Pride 2008. In the background, a banner promoting the Yogyakarta Principles marks the 16 Days of Activism Against Gender Violence, with artwork from LGBT groups in Asia.

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Dilemmas of Definition

In this publication we purposively define sex and gender as conceptually distinct, with the former being tied to biology and the latter related to social ascription. We adopt this definition for strategic reasons.

Social science researchers and early second-wave feminist theorists first began to differentiate between the concepts of sex and gender in the late 1960s and early 1970s, challenging the widespread perception that biology was women's destiny—a perception that constricted the options available to women in all aspects of life. Challenging biological determinism involved asserting that the narrow range of characteristics typically associated with women, such as passivity, weakness, docility, and domesticity, were not determined by biological sex but were rather socially constructed phenomena, reflective of gender. Scholars acknowledged that gender should be understood as constructing a system of unequal power relations between women and men. By positing that sex and gender were conceptually distinct, scholars were able to argue not only that gender was malleable but also that inequalities associated with gender roles and gender stereotyping could legitimately be challenged.¹

More recently, many feminist and queer theorists have moved away from this binary conception of sex and gender. They argue that like gender, sex is socially constructed, and therefore that the sex/gender distinction itself is not as discrete as its adherents maintain. Indeed, the existence of chromosomal or genital variations means that a significant population does not fit neatly into pre-existing biological definitions of men and women. It follows that biology is insufficient grounds for categorizing people on a dichotomous sexual model. Furthermore, the very act of categorization has normative rather than merely descriptive implications. Scholars have also criticized many accounts of gender for positing a unitary conception of womanhood—abstracting a universal set of characteristics and experiences that do not address the way in which cultural claims, race, ethnicity, nationality, class and a host of other factors intersect to modify what gender means in particular circumstances.²

Interesting tensions exist between feminist and queer theorists, who are often academically trained and university-based, and feminist activists who try to forge social change from outside the academy, often working at the grassroots level. Both activists and theorists have responded to the critique of gender as a unitary conception by recognizing the importance of intersectionality—that women experience marginalization based on multiple, often overlapping factors including but not limited to those characteristics mentioned earlier. We share this understanding of intersectionality and try to integrate it within all of our work.

We also recognize the importance of theoretical work challenging the sex/gender binary. However, we believe that it is sometimes necessary for activists pursuing social change to take a more pragmatic approach to such definitions. In our work with CEDAW, we therefore recommend that the Committee differentiate between sex and gender along the lines of the distinction made by early second-wave feminists. If the CEDAW Committee makes this distinction, then its members will also be making a tacit commitment to rejecting an understanding of women's inequality that is grounded in biological determinism. This approach will enable Committee members to identify gendered experiences that are not rooted in biology, and hence to recognize that discrimination also occurs on the basis of gender identity and expression.

In other words, effective advocacy requires identifying the most viable ways to reach common ground and build a foundation for creating meaningful social change. In the case of CEDAW, we believe that we will be most likely to reach such a common ground and help precipitate change that benefits *all* women by recommending that the Committee distinguishes between sex and gender. This is the strategy we adopt in this handbook.

In making this recommendation we also acknowledge that strategies change over time. For instance, when the CEDAW Convention was adopted in 1979, it was inconceivable that advocates would use it strategically as they do today—as a mechanism to redress discrimination on the basis of sexual orientation and gender identity. This is a strategic approach that has developed gradually during the last 30 years. Over the next quarter of a century, as the CEDAW Committee's understanding of issues related to sexual orientation and gender identity grows, it is very likely that activists will adopt a different strategy, potentially incorporating definitions of sex and gender that are more fluid than those we recommend here. Readers should therefore consider this handbook to be the product of a particular historical moment—one that demands a particular strategic approach to working with CEDAW on discrimination related to sexual orientation and gender identity.



CEDAW: A Historical Overview

In 2008, the world celebrated the 60th anniversary of the signing of the Universal Declaration of Human Rights with the slogan “All human rights for all.” Unfortunately, millions of people all over the world still experience discrimination and violence daily. The continuous affirmation of the principles of equality and non-discrimination that form the core content of human rights standards must be an integral part of the agenda of all who engage in the struggle for human rights and human dignity.



In the 21st century, the human rights arena has become a site of contestation and confrontation as much as it has become an arena for expanding the notions of what it means to be a human being with dignity and rights. As our understanding of identity as multi-layered becomes ever more complex, so do the rights claims associated with these identities. As our understanding of human rights grows, so do the communities who come forward to uphold, protect, and promote their rights. The framing of human rights within the context of intersectionality has enabled us to acknowledge a diverse range of individuals and groups who confront specific forms of discrimination and oppression due to their identities and multiple social roles. Women are key among them.



The United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) is an international human rights treaty that defines the highest existing standards for the protection and promotion of women’s human rights. Adopted by the UN General Assembly in 1979 and entering into force in 1981, it remains the human rights treaty with the second largest number of ratifications. Sadly, CEDAW is also the treaty with the largest number of substantive reservations entered by states on the rights it establishes. Closer scrutiny reveals the fact that most of the reservations focus on the Articles of the Convention that define the equal rights and status of women in decision-making within the so-called private sphere of life, within the home and the family.

Top: Flags outside the United Nations.
Bottom: A banner panel highlighting the Yogyakarta Principles.

In the thirty years since CEDAW’s adoption, the Committee that monitors the implementation of the Convention (the CEDAW Committee) has articulated twenty-six General Recommendations (now General Comments), interpreting the Convention and developing its meaning. The Committee has also issued Concluding Comments (now Concluding Observations) to States Parties that came before it for review regarding new areas of concern. These articulations—part of the Committee’s basic work—have often responded to new and emerging concerns in the arena of women’s rights, especially those defined and debated at the various World Conferences of the 1990s, such as the World Conference on Human Rights (Vienna, 1993), the World Conference on Population and Development (Cairo, 1994), the World Conference on Women (Beijing, 1995) and the World Conference against Racism, Xenophobia and all forms of Racial Intolerance (Durban, 2000).

These advances embrace the conceptual as well as the practical. At the level of the conceptual, commitments to the principles of universality, equality and respect for diversity were expressed in an ever more complex framework of intersectionality, while issues of reproductive rights and rights related to sexuality were brought firmly onto mainstream human rights agendas at the level of both state and non-state actors. At the practical level, the range of communities of women seeking protection from the human rights framework expanded radically to include the far-reaching concerns of women from marginalized groups and groups that experienced discrimination on the basis of their identity. Along with migrant women, trafficked women, indigenous women, and women with disabilities, lesbian, bisexual and transgender groups have also articulated their claims for equality and for protection under international human rights law.



Challenging Heteronormativity

As the universe of human rights continues to expand, new and complex language and meanings enter the discourse on rights and dignity, generating both dialogue and controversy. The last ten years have seen language such as “the feminization of poverty and migration”³ enter the mainstream human rights vocabulary, while many conceptual human rights frameworks, such as those on torture, have been expanded to include certain forms of violence against women.⁴ The recognition of different family forms⁵ has given visibility to the existence of female-headed households around the world, while the affirmation of women’s right to mobility and freedom of movement⁶ has been strengthened by work to highlight and strengthen women’s human rights in the context of migration and trafficking.

One of the greatest challenges in the human rights arena in recent times has been the demands for visibility and recognition by groups advocating for sexual orientation and gender identity as bases for discrimination and violence, specifically when sexual or gender identity or expression are outside cultural and religious norms. Some extremely negative responses to the inclusion of sexual orientation and gender identity into mainstream human rights discourse are rationalized by archaic customs and traditional practices that perpetuate discrimination and violence against women. At the root of many murders of heterosexual, lesbian, and bisexual women, and transgender women is the conflation of women’s honor with the honor of their families and communities. Perceptions of what is ‘normal’ make the transformation of attitudes towards the rainbow nation of people who face discrimination and violence because of their sexual orientation and gender identity and expression difficult and complicated.

Heteronormativity is the concept that gives value and affirmation to one particular, idealized form of human relationship. Heteronormativity valorizes heterosexuality, but particularly a gender conforming understanding of heterosexuality, which allocates more power to male leadership in public and private life, rewarding females primarily for reproduction and submissiveness. This concept enables us to understand imbalanced power relations in labor, politics, media, and the family, for example, between those who lead lives according to normative frameworks established in each society and culture, and those who challenge these normative frameworks in diverse ways. It is the links between heteronormativity and patriarchy, a pervasive social structure consolidating male power, that create stereotypes of masculinity and femininity and that privilege the male over the female. However, the scholarship on and interrogation of heterosexuality—those efforts to analyze its many forms and how they affect different populations, such as single women, single men, older women, widows, and youth—lags far behind other scholarship and activism on sexual orientation and gender identity.

As women’s rights activists, we know very well the extent of discrimination and violence suffered by women who dare to remain unmarried, who do not bear children, who bear children outside of marriage, who seek, obtain and assist in abortions, who take responsibility for families and households in the absence of male family members, who wear their hair short, and who otherwise violate gender norms. Each of these cases involves women who challenge the heteronormative framework that teaches us from a very early age that women should marry men, be faithful, be good housewives, never refuse sex with their husbands, bear children, care for the household, and express a particular model of femininity, with no consideration of the physical, emotional and psychological cost for women.

We also understand the moral and cultural codes as well as the laws and policies in many of our societies that criminalize non-procreative sexual behavior and silence expressions of sexual desire and pleasure. Embedded in all modern societies, regardless of geographic or economic location, is the persistent reaffirmation of gendered stereotypes and the heteronormative frameworks that privilege procreation within marriage as the only ‘normal’ and socially sanctioned form of sexual behavior. Within the heteronormative order, non-conforming social and sexual behaviors are labeled deviant and threatening to morality, public health, and public order. This framework creates categories of permissible and impermissible behaviors and desires, enabling the policing and control of all non-heteronormative individuals and groups on the basis of their being perceived as dangerous to society.

Sexual orientation is perhaps more easily understood as the expression of sexual attraction and desire between two human beings, irrespective of their sex or gender identity. Sexual orientation need not be fixed, but it can be stable and felt inwardly so deeply that changing it would violate the self. The conceptualization of gender identity requires a different framework, allowing different kinds of fluidity in definition. The range of transgender identities include those who are physically in the process of transforming their biological gender through processes of hormonal and surgical intervention to those who embrace the expression and behavior of another gender without the use of surgery or hormones.



Sunila Abeysekera, Executive Director of IWRAP Asia Pacific (3rd from Right) with IGLHRC’s Grace Poore (2nd from Left) at the IWRAP office.



Thai Youth
Pride.

There are communities of transgender and intersex persons who reject the binary discourse of male/female and masculine/feminine and insist on identifying themselves as a ‘third’ gender. Current academic discourse on gender also points to the fluidity between masculine and feminine in traditional cultures, citing examples from indigenous communities throughout the world that recognized the male and female to exist within one physical biological body. The Indian concept of the ‘ardh nari’ (the half woman half man divinity) is yet another subject of exploration.

Non-heteronormative people are present in all countries. They live in environments of discrimination and violence because of social stigma and the laws and policies that institutionalize discrimination against people on the basis of their sexual orientation and gender identity. These individuals face various forms of discrimination and violence at all levels—within the family, community, state and non-state institutions. For example, their access to education, health, and employment is curtailed by discrimination, which makes them more vulnerable to poverty and violence, significantly limiting their capacity to enjoy the other rights and freedoms guaranteed to all. Although there has been criticism of laws discriminating against non-heteronormative people within the international human rights system, not enough has been done to remove them.⁷ Laws, policies, and practices that contribute to stigma and prejudice against non-heteronormative persons persist and impede the enjoyment of human rights and freedoms.

Moving Forward

This publication by IGLHRC is timely because it supports groups working on human rights and women’s rights addressing issues of sexual orientation and gender identity in their alternative or ‘shadow’ reports for the CEDAW Committee. It also includes a glossary that attempts to set out existing definitions of behaviors and practices encompassing the wide range of human beings who are daily subjected to discrimination, exclusion, violence, and the flagrant violation of their human rights.

In creating a resource for groups engaged with the process of reporting to the CEDAW Committee, IGLHRC reaches out to all women’s groups and human right groups that work with CEDAW, drawing their attention to the ways in which the principles of equality, including substantive equality, and non-discrimination established by the Committee can be used to highlight the discrimination and violence faced by lesbian, bisexual and transgender persons.

Expanding our outreach to groups working on the human rights of those who are oppressed and discriminated against on the basis of their sexual orientation and gender identity requires us to acknowledge the limitations of language to capture the fluidity of sexual and gender expression. As Ali Miller points out:

Political, NGO and scholarly debate is further complicated by the fact that the vocabularies they use in discussions of sex and gender have their origins in different cultural models, characterized as modern, Western, pre-modern, Eastern, Southern, traditional, medical, moral, etc. Each historical period and place tends to have specific, often local ways of identifying the rules that apply to gender and sexuality, and of distinguishing sexually conforming from non-conforming persons. Same-sex as well as different sex behavior arises everywhere; but the practical and social organization of a person’s public identity and life (what some modern naming systems call sexual orientation) around either hetero or homosexual behavior is a specific development of the last century. It happens that, after centuries of diverse understandings of what constitutes the sexual being, in the West it is now the gender of the sexual partner that defines sexual identity.⁸

Many languages do not have specific terms to describe homosexuality, and transgender is not limited to changing one’s identity from male to female or female to male. Imposing definitions or terminology from one language or community on others can lead to miscommunication and misunderstanding as well as silencing of people who experience their gender and sexual orientation differently.

On the other hand, even when there is language, it may be derogatory. It may link non-normative sexual practices and identities with being a deviant, a bad citizen, a religious or cultural transgressor, a danger to society. These are primarily attempts to erase the existence of non-heteronormative persons and deny them rights. In this context, to assert that people who exist outside the heteronormative framework are also bearers of rights is to incur resistance.



The History of CEDAW's Work on Sexual Orientation and Gender Identity

The CEDAW Committee has already begun to address concerns relating to sexual orientation and gender identity. Prior to 2001 it adopted several Concluding Comments specifically referring to sexual orientation. In 1994, the Committee welcomed the fact that the government of the Netherlands had expressed concerns about issues pertaining to sexual preference in their state report.⁹ Also in 1994, the Committee welcomed the fact that the government of New Zealand had passed a Human Rights Act that made sexual orientation a prohibited ground of discrimination.¹⁰ In 1997, the Committee commended the government of Canada for enacting a Human Rights Act that extended protection to citizens against discrimination on the grounds of sexual orientation.¹¹ In 1998, the Committee asked the government of Mexico to clarify whether homosexuality was criminalized in their next report.¹² In 1999, the Committee expressed concern that lesbianism is classified as a sexual offence in the penal code of Kyrgyzstan, inviting the State Party to consider re-conceptualizing lesbianism as a sexual orientation issue and abolishing penalties for its practice.¹³ In 2001, the Committee commended the government of Sweden for passing legislation providing resident permits to individuals who have a well-founded fear of persecution on the basis of sexual orientation or gender, particularly in cases that involve discrimination against women.¹⁴

In July 2008, as part of the CEDAW Committee's deliberations on the issue, NGOs were invited to a dialogue about the Committee's General Recommendations on Article 2, which is central to the CEDAW Convention because it deals with equality. IGLHRC and other NGOs recommended that the Committee strongly consider including sexual orientation and gender identity as grounds for non-discrimination in Article 2 to ensure explicit protection on these grounds. Subsequently, in October 2008, International Women's Rights Watch (IWRAP) Asia Pacific organized a briefing for members of the CEDAW Committee with the participation of lesbian groups from Ecuador, Mongolia, Kyrgyzstan and Uruguay in order to challenge the myth that issues of sexual rights are only a concern for northern women and to make visible the wide range of civil and political violations as well as economic, social and cultural discrimination faced by women whose sexual practices and identity are not heteronormative. Since then the Committee asked the government of Ecuador to investigate discrimination against "sexual minority women" and take remedial action, and raised concerns about discrimination and harassment of women in Kyrgyzstan because of their sexuality.¹⁵

The CEDAW Committee, as well as the other human rights treaty bodies that monitor the implementation of the International Covenant on Civil and Political Rights (ICCPR)—particularly the Human Rights Committee—have already recognized sexual orientation as a prohibited basis for discrimination. However, other treaty bodies have looked at the issue in a more comprehensive way than the CEDAW Committee and have given serious consideration to sexual rights abuses in their reviews of states, recommending that states take action to address these rights violations. This emphasizes the need for collaboration with other treaty bodies.

Groups working on women's human rights continue to develop their connections to lesbians, bisexuals, transgender people, and other women living outside the heteronormative framework, and to raise issues related to the discrimination and marginalization of such women within the mainstream human rights framework, within the UN system, and elsewhere.

I hope that the path-breaking work of IGLHRC in strengthening the links between groups working on CEDAW and the CEDAW Committee in relation to issues of sexuality-related rights will lead to a sustained campaign for the recognition of sexual orientation and gender identity as a basis for discrimination in all human rights treaties and in the general body of international human rights law. Without this recognition, there can be no equality for lesbians and gender non-conforming women.



IGLHRC's Rosa Posa leads a workshop session designed to help activists from Latin America and the Caribbean address religious fundamentalism.

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INTRODUCTION



*Equal and Indivisible*⁶ is intended to help non-governmental organizations (NGOs) and activists prepare **inclusive** shadow or alternative reports for the Committee on the Elimination of Discrimination Against Women (CEDAW). An inclusive report not only recognizes that women experience multiple, intersecting forms of discrimination based on characteristics like race, class, age, ethnicity, physical ability and national origin, but it also incorporates an analysis of the discrimination that women face on the basis of their sexual orientation, gender identity and/or gender expression.



Waria marching in Indonesia for transgender rights.

Lesbian, bisexual, transgender (LBT) and other women whose sexual orientation or gender identity or expression does not correspond with dominant norms are routinely subject to some of the most heinous of human rights abuses. They are regularly arrested, forced into psychiatric “treatment” or marriage, denied basic job protections, housing, education, healthcare, and parental rights, brutally attacked, tortured, raped and even murdered just because of how they express their sexuality and gender identity. These abuses are not systematically addressed by United Nations treaty bodies such as CEDAW.

Equal and Indivisible is a tool to help activists challenge the status quo. It draws attention to the fact that **all** women are equally entitled to and deserving of human rights protections, while it encourages human rights activists to be inclusive in their reporting practices. Throughout *Equal and Indivisible* we emphasize that sexual rights include freedom from violence and discrimination for both women who do and women who do not conform to dominant sexual and gender norms.

This handbook offers activists suggestions on language, frameworks, and issues to highlight to the CEDAW Committee. It shows activists how to look at issues related to sexual orientation, gender identity and gender expression through the lens of the CEDAW Convention and emphasizes the value of using the CEDAW monitoring and review process to address such discrimination within the international human rights system. This handbook should be regarded as complementary to the guide by International Women’s Rights Action Watch (IWRAP) Asia Pacific on the process and guidelines for writing CEDAW shadow/alternative reports.¹⁷

A Note About Language

While a glossary of key terms related to gender and sexuality is provided at the end of *Equal and Indivisible*, it is nonetheless worth highlighting some of the terminology used in this handbook. It is important to note that many of these terms may be unfamiliar to members of the CEDAW Committee and consequently, it is worth defining these terms when making submissions.

Discrimination experienced on the basis of sexual orientation is a central concern of this handbook. We address discrimination encountered by **lesbians**—women who experience physical, romantic, emotional and/or spiritual attraction to other women, and by **bisexual women**—those whose physical, romantic, emotional and/or spiritual attractions are directed toward both men and women.

Many of the assumptions underlying this handbook rest on understanding a distinction between sex and gender—a distinction that has not yet been fully clarified in the CEDAW Committee’s work. Typically **sex** refers to the way in which people are classified as male or female based on a variety of biological characteristics and **gender** refers to the classification of a set of roles and behaviors as either masculine/male or feminine/female. These socially ascribed roles and behaviors impose a strict set of rules about how each man or woman should behave in all areas of life.

Without an acknowledgment of this distinction, it may be difficult to understand how women experience discrimination based on gender identity or gender expression. In this handbook, the term **gender identity** refers to a person’s deeply felt sense of identification with a specific gender. A person’s gender identity may or may not correspond with the sex assigned at birth. A person may have a male or a female gender identity, or something other than, or in between male and female. Since gender identity is internal, one’s gender identity is not necessarily visible to others. **Gender expression** refers to the conscious or sub-conscious external manifestation of one’s gendered self, which may be expressed through “masculine,” “feminine” or gender variant/androgynous dress, appearance, mannerisms, speech patterns, and behavior. Those whose anatomy and physiology (including hormones and chromosomes) do not correspond to the norms of either the male or female sex may find their gender expression rejected by those who cannot accept that there can be more than two genders.



Heterosexual, lesbian, and bisexual women may all encounter discrimination on the basis of gender expression. For instance, in many jobs and workplace settings a woman in the United States experiences discrimination in the form of dismissal from employment for refusing to wear make-up or remove visible facial hair or for failing to conform to other historic trappings of femininity.

Transgender people—those whose gender identity, expression or behavior differs from that typically associated with their assigned sex at birth—encounter discrimination related to gender identity and gender expression.¹⁸ Transgender people may be heterosexual, lesbian, gay or bisexual. Transmen, also known as FTM or female-to-male, are people assigned female sex at birth but who identify as male/masculine and may or may not go through a physical transition process to become male. Transwomen, also known as MTF or male-to-female, are people assigned male sex at birth but who identify as female/feminine and may or may not go through a physical transition process to become female. When a male-to-female transgender person is fired from her workplace after starting a physical transition process, then the discrimination experienced is along the same continuum as the discrimination experienced by heterosexual, lesbian and bisexual women when they do not conform to gender norms.

What is the CEDAW Convention?

The Convention on the Elimination of All Forms of Discrimination against Women, or CEDAW Convention, is an international human rights treaty that offers unique opportunities for challenging discrimination against women on the basis of sexual orientation, gender identity, or gender expression. The CEDAW Convention was adopted by the United Nations (UN) General Assembly on December 18, 1979. Those states ratifying the Convention agreed to take measures countering the discrimination of women in their country. As of June 2009, 186 UN member states are parties to the Convention, with 98 signatories.¹⁹



Argentinian transgender activist Andrés Ignacio Rivera Duarte, with his partner.

When states ratify the CEDAW Convention, they commit to writing a report every four years about their country's progress toward implementing its provisions. The CEDAW Committee, which is comprised of 23 specialists on women's issues drawn from every continent, meets twice a year to review these reports. To provide additional sources of information for Committee members, non-governmental organizations may submit "shadow reports" offering their own evaluation of their country's compliance with the CEDAW Convention. In circumstances when no official government report is available, NGOs can still submit "alternative reports" detailing the situation of women in their country.

Although the original drafters of the CEDAW Convention did not think of sex, gender, and sexuality in contemporary terms, even at the outset the treaty was very clearly intended to protect the rights of **all** women. Like many other UN treaties, the CEDAW Convention is an evolving document that can accommodate change over time. Thus, despite the fact that those who originally drafted the CEDAW Convention would have found today's advocacy to promote rights related to sexual orientation and gender identity simply unimaginable, it is entirely appropriate to apply the Convention's standards to these claims because the rights they implicate are not new; applying the CEDAW Convention to sexual orientation and gender identity and expression represents a method of addressing long term rights violations and of clarifying the meanings and implications of violence and discrimination.

Why Use CEDAW to Advance LBT Women's Rights?

LBT women experience human rights abuses **both** because they are women and because of their sexual orientation and/or gender identity. However, states' official submissions to the CEDAW Committee almost never address discrimination on the basis of sexual orientation or gender identity. Shadow/alternative reports, which are often the sole source of information on this issue, are therefore critical for ensuring that the CEDAW Committee engages with human rights abuses against LBT women in a context where their sexualities and gender identities are often silenced or overlooked. The reasons for this silence include a mixture of homophobia, transphobia, and discrimination against women. Indeed, in countries where same-sex conduct or any kind of non-normative sexuality is criminalized, many LBT women lead double lives. When they experience discrimination or violence, they are less likely to report it or seek redress. They often live in constant fear of state penalties, family rejection or community recrimination. They remain silenced even when there is no law that explicitly criminalizes lesbianism. The same is true in countries where gender non-conforming expressions are outlawed. Shadow/alternative reports are a key mechanism for making otherwise hidden violations of women's rights visible.



Submitting shadow/alternative reports to the CEDAW Committee about discrimination faced by sexual or gender non-conforming women is also important because it helps the Committee to better fulfill its mandate to protect the rights of all women. The submission of shadow/alternative reports by local activists has periodically prompted the CEDAW Committee to ask governments pointed questions about discrimination against LBT and other same-sex practicing women in their countries. It has also resulted in specific references to discrimination on the basis of sexual orientation in CEDAW's Concluding Observations, which constitute the Committee's final recommendations to particular states about how to further equality for all women. Such responses highlight the importance of eradicating discrimination on the basis of sexual orientation and gender identity and therefore help advance the development of both norms and practices related to international human rights.

Who May Submit Reports to CEDAW on Discrimination Against LBT Women?

Any group or coalition of activists and NGOs working on women's rights or on human rights related to sexual orientation, gender identity or gender expression can submit reports on discrimination against women in a specific country to the CEDAW Committee. They can be submitted in the following ways:

- Local LBT rights activists and NGOs can prepare a unified report for CEDAW in cooperation with a national women's rights NGO or a coalition of national organizations. This process involves compiling information and issues from various sources into a single report, which is the Committee's preferred format.
- LBT activists may also prepare and submit an independent report. It is preferable for members of the LBT movement to come together and present one unified report rather than several individual ones.

From a strategic perspective it often makes sense to integrate discrimination faced by women on the basis of sexual orientation, gender identity, or gender expression into the main NGO shadow/alternative report drafted by a national women's rights organization. This reduces the perception that discrimination on the basis of sexual orientation, gender identity or gender expression is a "marginal" issue, reaffirming its connection to gender-based discrimination against women and to the main themes of CEDAW. However it *also* makes sense to write a separate report on human rights abuses against LBT people, thereby preventing the issue from being lost, isolated or easily ignored by CEDAW Committee members. Likewise, a unified and more detailed, in-depth report by many members of the LBT movement working together, as opposed to several repetitive or scattered reports by different LBT groups can highlight the strength of their arguments.

Writing Shadow/Alternative Reports: Presentation and Process²⁰

Shadow/alternative reports focused exclusively on LBT rights should have a maximum length of 5-6 pages. CEDAW Committee members have very limited time to review materials on each country, and therefore the shorter a report is, the higher the chances are that they will carefully review the entire report rather than just the one-page Executive Summary.²¹

It is useful for the report to provide some background on the overall status of women's rights and particularly LBT rights in the country under review, as CEDAW Committee members may have limited access to this knowledge. It is also helpful to describe any public commitments to women's rights that have already been made by the government, and to address the extent to which these have been fulfilled, commenting specifically on the government's official report to CEDAW. NGOs should also look to see if other Human Rights Committees have discussed LBT issues in their country. If so, they should reference this in their report to the CEDAW Committee. Finally, it is helpful to provide the CEDAW Committee with a list of suggested questions to ask the government and a set of recommendations related to eliminating discrimination based on sexual orientation and gender identity.

Shadow/alternative reports should do more than merely list violations of the rights of LBT people; they must provide the context for the CEDAW Committee to understand *why* a law, policy or practice violates a right protected by CEDAW and what the impact of this violation is on women because of their gender and also because of their sexual orientation and/or gender identity.

Shadow/alternative reports are not translated by the United Nations and therefore Committee members will receive them in the language in which they are submitted. If possible, reports should be written in English since all Committee members understand this language. If it is not possible to write the entire report in English, at the very least, an Executive Summary should be submitted in English. Reports



may be brought to the CEDAW session itself by NGO representatives, and NGOs not attending a session should send 40 copies to the Division for the Advancement of Women at least a week prior to the beginning of the session. Reports may also be submitted to IWRAP Asia Pacific, following the instructions provided by the United Nations Division for the Advancement of Women (see the text box below):

The Process of Engagement

The best way to ensure that the concerns and recommendations formulated in a shadow/alternative report are addressed by the CEDAW Committee is to lobby individual CEDAW Committee members ahead of the meeting. Ideally, a representative of the organization submitting the shadow/alternative report should also attend the CEDAW meeting during which their country is under review. In some cases, IGLHRC can provide financial assistance for representatives of local NGOs to attend CEDAW meetings and lobby Committee members in person.²³ The physical presence of local activists at the CEDAW session and their direct participation in an international lobbying process may help legitimize their activities to their governments and to the CEDAW Committee. Aside from providing direct assistance to local organizations in the report writing process, IGLHRC also lobbies on behalf of local groups at CEDAW meetings in situations when activists cannot travel to New York or Geneva.

A group of Chinese activists.



RECOMMENDATIONS

LBT advocates should submit an independent shadow/alternative report to the CEDAW Committee and work with national women's rights NGOs to ensure that discrimination on the basis of sexual orientation, gender identity and gender expression are addressed in their reports, too.

Shadow/alternative reports focused on LBT rights should be no more than 5-6 pages long and begin with a one-page Executive Summary.

Shadow/alternative reports should provide general background on women's and LBT rights in the country under review, address the official state report, and provide a list of recommendations for the CEDAW Committee.

Shadow/alternative reports should do more than list violations of LBT rights: they must explain why a law, policy, or practice is a violation of CEDAW and what impact the violation has.

Shadow/alternative reports should be written in English, a language all CEDAW Committee members understand.

The United Nations Division for the Advancement of Women specifies that:

NGOs wishing to have their reports sent electronically to experts must email them to IWRAP Asia Pacific at least 3 weeks before the session. Those wishing to have hard copies of their shadow/alternative reports distributed to experts in advance of a session must email their reports to IWRAP Asia Pacific at least 7 weeks before the opening day of the session concerned so that IWRAP Asia Pacific can print and mail them to Committee experts. Please contact IWRAP Asia Pacific for more details.

IWRAP Asia Pacific's contact details are as follows:

Wisma Dicklin, 80-B, Jalan Bangsar,
59200 Kuala Lumpur, Malaysia
Tel: (603) 2282 2255, **Fax:** (603) 2283 2552.
Website: <http://www.iwraw-ap.org>
Email: iwraw-ap@iwraw-ap.org; iwraw_ap@yahoo.com²²



IWRAW Asia Pacific also offers assistance with the preparation of shadow/alternative reports and, as noted above, helps to distribute them to CEDAW Committee members. Additionally, its “From Global to Local” project facilitates local activists’ direct participation in the CEDAW review of their government’s report. The program’s activities include trainings on the CEDAW Convention, reporting, review and follow-up processes, observation of the review process itself, and the opportunity to personally lobby Committee members.²⁴

As mentioned above, the CEDAW Convention is a particularly useful tool for addressing discrimination against women based on their sexual orientation and gender identity because it is an evolving document and part of an evolving human rights treaty system. This section of *Equal and Indivisible* describes the articles of the CEDAW Convention that are especially relevant for activists working on sexual orientation and gender identity. It also describes key [General Recommendations](#)—advice provided by the CEDAW Committee to states about how to apply the CEDAW Convention in specific circumstances.

RESPECTING, PROTECTING AND FULFILLING RIGHTS

Respecting Rights means that state authorities may not commit human rights abuses but should instead uphold the rights of all members of society.

Protecting Rights means that states must take effective steps to end human rights abuses by preventing and punishing rights violations by individuals and groups.

Fulfilling Rights means that states are obliged to create an infrastructure enabling everyone in their society to exercise their rights.

1. The CEDAW Convention reinforces the interdependence, interrelation and indivisibility of all human rights (civil, political, economic, social and cultural), framing them in terms of non-discrimination and equality. *Article 1, Article 3.*

Article 1 of the CEDAW Convention defines discrimination against women as “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.” Article 3 states that States Parties “shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures... to ensure the full development and advancement of women...” This expansive definition and application allows the CEDAW Committee to highlight the interrelation of rights and identify patterns of discrimination against LBT women that occur in various, often intersecting contexts, ranging from housing and education to law enforcement.

2. The CEDAW Convention addresses formal (*de jure*) and substantive (*de facto*) equality and defines discrimination in terms of both purpose and effect (direct and indirect discrimination). *Articles 1 – 5.*

Many governments claim that special laws protecting women from gender-based (or sexual orientation-based) discrimination are unnecessary, arguing that such discrimination (*de facto*) does not occur in their country. Conversely, governments sometimes claim that discrimination does not exist in their country because such discrimination is illegal by law (*de jure*).

Lesbian activists from Nepal.



Differentiating between—and addressing—both *de jure* and *de facto* equality is crucial for the CEDAW Committee, which also adopts a substantive definition of equality. This means that legal “sameness” with men, when considered in terms of formal law and policy, (often seen as *de jure* equality) is insufficient; equality of the impact or outcome of those laws and policies is essential. When laws, policies or programs that appear gender-neutral on paper create distinctions, exclusions or restrictions based on sex or gender in effect, then the result is indirect discrimination against women, which is impermissible under CEDAW. The achievement of substantive equality requires women’s particular experiences, concerns and needs to be taken into account in law and policy. The Committee has had to clarify this understanding of equality in its formal responses to many governments.²⁵



As a consequence, the CEDAW Committee regularly calls on states to introduce *de jure* anti-discrimination provisions, and to take measures to eliminate *de facto* discrimination. The CEDAW Committee is concerned with *de facto* equality when reviewing the effect or application of laws. Since LBT women are often denied both *de facto* and *de jure* equality, Articles 1-5 of the Convention are important for activists working on sexual orientation and gender identity.

The emphasis on substantive equality—combined with the fact that the CEDAW Committee increasingly understands its role as involving the use of an intersectional analysis to address all the ways that women face exclusion—means that there is a growing possibility that the Committee will be receptive to interpreting the CEDAW Convention as a mechanism for protecting women against discrimination based on sexual orientation or gender identity.

3. The CEDAW Convention calls on states to modify and abolish social attitudes and cultural patterns and practices that are based on stereotyped roles for men and women. Articles 1, 2 (f), 5 (a).

Article 2 addresses the obligation for states to respect, protect and fulfill rights, while Article 5 addresses cultural stereotypes. Together these constitute a powerful set of claims.

Calling on states to abolish social attitudes and cultural practices based on stereotyped roles for men and women is groundbreaking in the realm of international human rights law. It means that the principles of non-discrimination and equality always must be promoted, and cannot be trumped by religious and cultural claims. In addition to non-discrimination on the basis of sex and sexual orientation, abolishing social attitudes and cultural practices based on stereotyped roles for men and women could also require non-discrimination on the basis of gender identity and expression, as normative gender roles are deeply rooted in those stereotypes.

The obligations outlined in Article 2 and its sub-paragraphs are perceived as fundamental for achieving the elimination of all forms of discrimination against women. The CEDAW Committee has noted that Article 2 is “central to the objects and purpose of the Convention” and that “neither traditional religious or cultural practice nor incompatible domestic laws and policies can justify violations of the Convention.”²⁶

4. The CEDAW Convention holds states accountable for addressing and eliminating discrimination perpetrated by both state and non-state actors—in “public” and “private” areas of life. Articles 1, 2, 3, 7, 13, 16.

In order to ensure that all women—including those whose sexual orientation, gender identity or gender expression differs from dominant norms—are free from discrimination, states need to take responsibility for preventing, investigating and punishing discrimination by public and private actors. This reflects states’ commitment to respect and protect the rights of all. Through its decisions, the Committee has already clearly articulated specific state accountability for discrimination by private actors, such as when they address states on their obligations to regulate private employers and recognize standards of due diligence. The cases *A.S. v. Hungary*²⁷ and *A.T. v. Hungary*²⁸ decisions by the Committee under the Optional Protocol regarding women enduring domestic violence and forced sterilization, respectively, are both examples of the CEDAW Committee’s approach in this regard. By continuing to report under these new standards and by incorporating these comments into their responses, states show they have accepted them as correct interpretations of CEDAW.



An Indonesian activist.



5. **The CEDAW Convention covers the needs of specific groups of women who may face multiple forms of discrimination. *Article 14.* CEDAW has incorporated the Beijing Platform for Action paragraph 46, recognizing that women face multiple barriers to full equality and advancement²⁹ in its work and has also further developed this norm. *Articles 3, 5(a), General Recommendations No. 19, No. 24.***

Article 14 of the Convention recognizes that discrimination is intersectional and the result of multiple overlapping factors—in this case with specific reference to rural women. CEDAW’s intersectional approach to discrimination is also apparent from Articles 3 and 5a, as well as from



Indonesian LBT activists calling for an end to lesbophobia.

Article 4, which describes the need for “enabling conditions” and “temporary special measures” to counterbalance the interaction of different forms of discrimination that often prevent women from accessing a *de jure* right. Intersectionality is also described in paragraph 46 of the Beijing Platform for Action and has been recognized by UN Treaty Bodies, Special Procedures and the Secretary-General.³⁰ These prior agreements therefore make it critically necessary that the CEDAW Committee recognize the full implications of a political and legal commitment to intersectionality, and adopt an analysis that addresses how sexual and gender difference can be used to marginalize women. With this approach they can address the needs of vulnerable groups of women such as lesbian and bisexual women as well as transgender individuals, all of whom encounter multiple forms of discrimination within the CEDAW framework.

6. **By issuing General Recommendations the CEDAW Committee adapts and clarifies the provisions and meaning of the Convention as international human rights law develops over time. *Article 21, General Recommendation No. 25.***

Two of the most significant General Recommendations that have been issued by the CEDAW Committee are No. 19 on Violence against Women and No. 24 on Women and Health. Both of these have been very useful in creating room for applying the CEDAW Convention specifically to discrimination on the basis of sexual orientation and gender identity. General Recommendation No. 25 on temporary special measures is also critical for accelerating equality for all women, including LBT women, because it places the onus on the state to put in place temporary special measures, in the form of social and economic services, infrastructural arrangements or affirmative action policies, which may enable women to access available opportunities.

7. **The CEDAW Convention frames gender-based violence as a form of discrimination against women. *General Recommendation No. 19.***

General Recommendation No. 19 concerns violence against *all* women. By definition, therefore, it applies to women who encounter violence because of their sexual orientation or gender identity. In other words, violence against LBT women is a form of discrimination prohibited by CEDAW. Since some of the worst forms of discrimination and violence against women—especially those targeting LBT women—are committed in the private realm of the family, it is crucial that the CEDAW Committee address such discrimination. According to General Recommendation 19, the entirety of the Convention should be used to address violence against women.

Examples linking specific CEDAW principles with the experience of LBT women can be found later in this publication, in the section entitled “Sexual Rights: Opportunity and Controversy.”



CHALLENGES IN USING THE CEDAW CONVENTION TO ADDRESS DISCRIMINATION

The effort to use the CEDAW Convention to explicitly recognize and protect the rights of women who confront discrimination on the basis of sexual orientation or gender identity has encountered various challenges in the past three decades. This section describes some of the central challenges the LBT women's rights movement and the international women's rights movement as a whole continue to face. It also explores some of the theoretical premises for explicitly eliminating discrimination on the basis of gender identity and sexual orientation and links them to the effort to end discrimination against all women.

While the CEDAW Committee has not yet fully embraced work to protect the rights of LBT and other non-conforming women, CEDAW, like all the treaty bodies, makes law by doing. NGOs and human rights activists help facilitate CEDAW's work on sexual orientation and gender identity by writing shadow/alternative reports on these issues. We hope that this discussion and some of the arguments put forward can be incorporated into local strategies to produce more effective shadow/alternative reports on discrimination against LBT and other non-conforming women.

Advocating for a General Recommendation

Conservative forces at the United Nations have tried to argue against the application of the CEDAW Convention and the Committee's General Recommendations to discrimination related to sexual orientation and gender identity. To create a consistent approach to violations affecting non-conforming women, many LBT rights advocates support the adoption of a General Recommendation on discrimination on the basis of sexual orientation and gender identity. Shadow/alternative reports that address such discrimination can both help demonstrate the need for a General Recommendation and serve as a useful reference for the Committee in their job of preparing a General Recommendation on this issue.

Referencing the Yogyakarta Principles

It is useful for those writing shadow/alternative reports to refer to the Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity. These principles, created by an international group of human rights experts, comprise of specific rights that are already enunciated in international law and can be applied to sexual orientation and gender identity.³¹ The Yogyakarta Principles show that LBT rights advocates are not calling for 'new' rights, but merely for the application of existing international human rights law if basic principles of universality and non-discrimination are taken seriously.³²

Using Summary Records

As noted earlier in this handbook, official submissions by state governments to the CEDAW Committee almost never address discrimination on the basis of sexual orientation or gender identity, and therefore shadow/alternative reports are often the sole source of information on this issue for Committee members. This increases the imperative for LBT rights-focused NGOs to present reports of their own to CEDAW. Yet despite this imperative, it should be noted that specific policy recommendations related to eliminating discrimination against women on grounds of sexual orientation and gender identity have rarely been included in the CEDAW Committee's Concluding Observations.³³ This may be because Concluding Observations are consensus documents that must be agreed upon by all Committee members, and issues addressed within them are first raised in dialogue with government representatives of the state under review. Since such observations are often pegged to 'priority' issues, the failure of NGOs to highlight these needs has also worked against issues related to sexual orientation and gender identity in the past.

But Concluding Observations are not the only way for activists writing shadow reports to use CEDAW to hold states accountable: another possible approach involves using Summary Records. These records are transcripts of the dialogue between representatives of the state under review and the CEDAW Committee. Supportive Committee members who have learned from shadow/alternative reports about discrimination on the basis of sexual orientation, gender identity and gender expression in the country under review may raise pertinent questions to state representatives during their dialogue. The state's responses become official statements that activists can cite when trying to lobby for change.

For instance, when Singapore was under review during the 39th CEDAW session, IGLHRC lobbied the Committee about discrimination against lesbian women, and one Committee member proceeded to question the Singaporean government delegation on the issue. A Singaporean government representative



responded, “With respect to the criminalization of lesbianism...Singapore did not wish homosexuality to enter mainstream society,” however “homosexuals were not discriminated against; they had the same right to employment, education or housing as everyone else.”³⁴ Advocates for LBT women’s rights in Singapore have subsequently been able to use this official statement when lobbying their government on behalf of women who have experienced discrimination in employment, education or housing because of their sexual orientation. Although the issue of discrimination against lesbian women was not reflected in the Committee’s Concluding Observations, the fact that it was discussed with the government must be considered an important step in putting rights related to sexual orientation and gender identity on the Committee’s agenda.³⁵

Differentiating Sex and Gender [final formulation of this and other points depends on CEDAW General Recommendation on Article 2, yet to be adopted]

As written, the CEDAW Convention can be interpreted in such a way that it applies to discrimination confronted by women on the basis of their sexual orientation or gender identity. However, a persistent challenge stems from the fact that Article 1 of the CEDAW Convention defines discrimination against women as “any distinction, exclusion or restriction made on the basis of **sex**.” Article 5 of the Convention goes on to recognize and call for the elimination of practices based on “the idea of the inferiority or superiority of either of the sexes or stereotyped roles for men and women.” Article 5 therefore clearly references gender stereotypes, but does not define the concept of gender.³⁶ This is highly relevant because the CEDAW Committee to this day has not reached a consensus on acknowledging sex and gender as conceptually distinct. Consequently, the CEDAW Committee generally uses the term gender interchangeably with the term sex, which makes it harder to appreciate the differences between discrimination based on gender and discrimination based on sex.³⁷



Hijra activists Gauri and Laxmi are part of the transgender rights movement in India.

By explicitly acknowledging the difference between sex and gender, the CEDAW Committee could facilitate a more profound debate on socially constructed norms and their effects on all women. This would include addressing the fact that traditional gender norms also prescribe heterosexuality as the only available or acceptable sexual orientation, and locate sexual experience solely within the parameters of heterosexual partnering and marriage. Recognizing society’s heterosexism and its detrimental effects on all women would provide openings for unbiased discussions about gender identity and sexual orientation.

Transgender Discrimination and CEDAW

Transgender people worldwide experience some of the worst forms of discrimination and violence based on gender identity and/or expression. However, the CEDAW Committee has not explicitly addressed discrimination against women on the basis of their gender identity.

In recent years, several other UN Treaty Bodies and Special Procedures have come to recognize the principle of non-discrimination on grounds of gender identity.³⁸ Notably, the Special Rapporteur on violence against women, its causes and consequences has spoken out on this issue. In a 2002 oral statement Ms. Radhika Coomaraswamy told the UN Commission on Human Rights:

Gender-based violence is also related to the social construct of what it means to be either male or female. When a person deviates from what is considered “normal” behaviour they are targeted for violence. This is particularly acute when combined with discrimination on the basis of sexual orientation or change of gender identity. Violence against sexual minorities is on the increase and it is important that we take up the challenge of what may be called the last frontier of human rights.³⁹

Additionally, in 2008, the Committee Against Torture, in its Concluding Observations on Costa Rica stated its concern about:

...cases of abuse of immigrants and citizens, especially on the grounds of their sexual orientation and/or transsexual identity. The Committee consider[ed] that, in particular, the rules on public morals can grant the police and judges discretionary power which, combined with prejudices and discriminatory attitudes, can lead to abuse against this group (Arts. 2, 11 and 16).⁴⁰

MORALITY LAWS INCLUDE:

INDECENCY: Serious Indecency, Outrages on Decency, Gross Indecency, Indecent Acts against nature⁴⁴

UNNATURAL ACTS: Unnatural Crime, Unnatural Sex, Unnatural Offence (usually defined as “carnal intercourse against the order of nature with any person”)⁴⁵

IMMORALITY: Offences against morality, Lewd acts, Acts of sexual nature... contrary to good morals⁴⁶

HOMOSEXUALITY⁴⁷

IMPUDENT ACTS/CRIMES AGAINST NATURE: “Impudent acts against nature with an individual of the same sex”⁴⁸

CEDAW ADVOCACY RECOMMENDATIONS

Write shadow/alternative reports to inform CEDAW Committee members about discrimination against women on the basis of sexual orientation, gender identity or gender expression in your country.

Advocate for a General Recommendation about discrimination on the basis of sexual orientation and gender identity.

Use summary records to help keep states accountable.

The CEDAW Committee’s conflation of sex and gender creates a dilemma when it comes to protecting the rights of transwomen and transmen, whose gender identity and expression are not synonymous with their biological sex. Transgender individuals experience many types of discrimination, from violence by representatives of the state—police intimidation, harassment, blackmail and kidnapping—to violence by non-state actors, such as eviction by landlords and neighbors, and physical and mental cruelty from family members. In addition, transgender individuals are denied healthcare, education, jobs and housing, and regularly humiliated by the medical establishment, all because they do not conform to traditional gender norms. This may be compounded by discrimination based on their actual or perceived non-heterosexuality and other factors such as race, class, economic status, ethnicity, caste, disability, health and citizenship.

Given the marginalized status of transgender people, it is crucial that discrimination against members of this community is brought to the attention of the CEDAW Committee in shadow/alternative reports by local LBT rights activists and NGOs.

Laws Criminalizing Same-Sex Sexual Relations

So-called “sodomy laws” prohibit and penalize male same-sex relations and are often thought to be the only laws criminalizing same-sex sexual behavior. However, about half of the 80+ countries with these laws also criminalize lesbianism.⁴¹ Moreover, laws penalizing men who have sex with men are part of a larger group of criminal and administrative “morality laws”⁴² that also inhibit women’s sexual experiences outside the realm of heterosexual marriage and procreation. For instance, laws governing “morality” often also criminalize non-procreative sexual practices between men and women, such as anal or oral sex, and penal codes in several countries also explicitly criminalize masturbation. In some countries, laws also criminalize “imitating the appearance of the opposite sex.”⁴³ Collectively, these laws make all non-heteronormative manifestations of gender expression or sexual behavior both criminal and “deviant.”

All these laws create an environment of fear and misinformation where, for instance, enforcement officers do not distinguish how the law applies to gay men from how the law applies to lesbians. In many countries, police harass, arrest, and intimidate women in same-sex romantic relationships. Family members who oppose lesbian relationships often rely on police officers to help break up couples, or to harass lesbian relatives who choose not to be romantically involved with men. In many countries, women’s sexuality is already so heavily regulated by cultural and social norms that even when the law does not criminalize lesbianism, the mere presence of sodomy laws is sufficient to impute illegality to lesbians.⁴⁹

Sometimes a law criminalizing male-male sexual relations is rewritten into gender-neutral language, so that it also criminalizes sexual relations between women. For example, in Botswana in 1998, gender-neutral language was adopted in the name of implementing “gender equality.” Instead of eliminating discrimination against women, this change only served to create *de jure* equal repression of women and men.⁵⁰ Similarly, the Penal Code of Sri Lanka was amended in 1995 to make its sodomy statute⁵¹ gender-neutral (“any male person” became “any person”), thereby effectively criminalizing homosexual activity between women.⁵²



RECOMMENDATIONS FOR SHADOW/ALTERNATIVE REPORTS

Clearly define and differentiate between the terms sex and gender in your shadow/alternative report.

Clarify the meanings of the terms gender identity and gender expression in your shadow/alternative report. See the glossary at the end of this handbook for an example.

Define other key terms that might be useful for the CEDAW Committee.

Use the glossary at the end of this publication for additional definitions of important terms.

Reference the Yogyakarta Principles.

RECOMMENDATIONS FOR REPORTING ON TRANSGENDER DISCRIMINATION

Highlight the fact that women experience discrimination because of their gender identity in your shadow/alternative report.

Refer to the fact that the UN Special Rapporteur on violence against women, its causes and consequences has recognized that discrimination against transgender individuals needs to be addressed in the framework of gender-based discrimination.

Reiterate that de facto discrimination against all women can only be eliminated when the principles of non-discrimination and equality are guaranteed without distinction on the basis of sex, gender identity, gender expression, or sexual orientation, among other factors.

RECOMMENDATIONS FOR REPORTING ON LAWS CRIMINALIZING SAME-SEX RELATIONS

Draw attention to laws related to sexual acts, morality codes and dress codes that discriminate against LBT women in all shadow/alternative reports.

In cases where laws do not explicitly criminalize sex between women, describe the ways that the existence of morality or so-called “sodomy laws” affect women.

Highlight laws that criminalize gender expression or transgressing traditional gender norms (for example, dress codes for women, laws that penalize “cross-dressing,” or particular, vaguely defined regulations about public scandal, sex work and vagrancy that are frequently used to arrest transgender people).



SEXUAL RIGHTS

The Health, Empowerment, Rights and Accountability (HERA) network has defined sexual rights to include the right of all persons to:

Experience a pleasurable sexuality;

Live their sexuality free from violence, discrimination and coercion, within a framework of relationships based on equality, respect and justice;

Choose their sexual partners without discrimination;

Full respect for the physical integrity of the body;

Choose to be sexually active or not, including the right to have sex that is consensual and to enter into marriage with the full and free consent of both people;

Be free and autonomous in expressing their sexual orientation, and express sexuality independent of reproduction;

Insist on and practice safe sex for the prevention of unwanted pregnancy and sexually transmitted diseases, including HIV/AIDS; and Sexual health, which requires access to the full range of sexuality and sexual health information, education and confidential services of the highest possible quality.⁵⁹

Similarly, the International Planned Parenthood Federation lists 7 principles of sexual rights:

Principle 1. Sexuality is an integral part of the personhood of every human being, for this reason a favorable environment in which everyone may enjoy all sexual rights as part of the process of development must be created.

Principle 2. The rights and protections guaranteed to people under age eighteen differ from those of adults, and must take into account the evolving capacities of the individual child to exercise rights on his or her own behalf.

Principle 3. Non-discrimination underlines all human rights protection and promotion.

Principle 4. Sexuality, and pleasure deriving from it, is a central aspect of being human, whether or not a person chooses to reproduce.

Principle 5. Ensuring sexual rights for all includes a commitment to freedom and protection from harm.

Principle 6. Sexual rights may be subject only to those limitations determined by law for the purpose of securing due recognition and respect for the rights and freedoms of others and the general welfare in a democratic society.

Principle 7. The obligations to respect, protect and fulfill apply to all sexual rights and freedoms.⁶⁰



In past years, the CEDAW Committee has already demonstrated that it will call for the abolition of laws that specifically penalize lesbianism, as it did in its Concluding Observations on Kyrgyzstan in 1999.⁵³ The Committee has also questioned Trinidad and Tobago on a law allegedly criminalizing lesbianism,⁵⁴ and requested information from Mexico on the legality of homosexuality.⁵⁵ This indicates that there is a CEDAW precedent for addressing sexual orientation

The issues forming the sexual rights framework have had a long history, deriving from overlapping developments in the women's human rights movement, the reproductive rights movement and the sexual orientation and human rights movement.⁵⁶ Activists from these movements have maintained that individuals possess the rights to bodily integrity and sexual autonomy and also have the right to enjoy sexuality free from violence, discrimination and coercion. The evolution of sexual rights as part of human rights discourse was the product of two UN World Conferences: the 1994 International Conference on Population and Development in Cairo, and the Fourth World Conference on Women, held in Beijing, China in 1995.⁵⁷ One important implication of a focus on sexual rights is that it gives "greater clarity to the meaning of human rights as indivisible, interrelated and integral, since women's sexual rights are intimately connected to the realization of their economic rights, as well as their right to information, right to dignity, right to privacy, and to the highest standard of sexual health, and to physical, mental and moral integrity while realizing sexual choice."⁵⁸



IGLHRC's Ging Cristobal infiltrates a homophobic protest in the Philippines.

The sexual rights framework offers a distinct advantage over 'identity-based' (e.g. LBT) rights lobbying for securing anti-discrimination provisions on the basis of sexual orientation and gender identity. Identity-based organizing has been valuable for breaking the silence and revealing something that governments often prefer to deny: that lesbian, gay, bisexual and transgender people exist within communities worldwide. This has been especially valuable in contexts like contemporary Africa, where the notion that 'homosexuality is un-African' is widespread. Identity-based politics has opened space for LBT people to organize and assert their existence and claims as bearers of rights.

However, there are also problems associated with identity-based organizing, an approach which is often criticized for using a set of uniform identity categories (the categories of lesbian, bisexual or transgender) as an organizing framework, although no such uniformity exists. Under these circumstances, those who resist social norms about sexuality but who do not fit the LBT paradigm—such as a woman who has sex with another woman but does not identify as lesbian or bisexual, or women with non-conforming gender expressions—are left out of this organizing framework. By focusing on one set of commonalities, identity-based organizing also ignores the universal character of human rights violations, which affect people from many different communities and backgrounds. Therefore those exclusively involved in identity-based organizing, or who exclusively use identity-based language, may limit their potential to build alliances with others who experience identical human rights violations but who do not identify as lesbian, bisexual or transgender.

Advocating for sexual rights allows activists to move beyond fixed identity categories. At the very core of sexual rights is every woman's right to make autonomous decisions about her body and sexuality: sexual rights mean **all** women—not just LBT women—gain control over their sexuality, including the right to live with a non-heterosexual sexual orientation. Since the regulation of female sexuality and the protection of heteronormativity have been at the core of many practices that constitute violence against women, securing women's sexual rights is an absolutely essential part of the process of eliminating violence and discrimination against women who do not conform to dominant sexual and gender norms.

Adopting a sexual rights framework also enables advocacy work to be more broadly focused. Since the achievement of substantive equality requires that all women have access to a wide range of resources and since material conditions and injustices such as poverty currently impede the ability of women—and especially non-conforming women—to enjoy many basic rights, lobbying on behalf of sexual rights requires advocacy aimed at removing these barriers. As the IPPF Statement on sexual rights acknowledges, "this may require that particular attention be paid to marginalized and under-served groups."⁶¹ It should be noted that adopting a sexual rights framework does not imply the de-prioritization of issues related to sexual orientation or gender identity; quite the contrary. The sexual rights paradigm is a mechanism for creating broad alliances and a framework to call for more inclusive and robust ways of challenging discrimination—including discrimination on the basis of sexual orientation and gender identity—while recognizing intersecting rights violations.



FRAMING SEXUAL RIGHTS FOR NON-CONFORMING WOMEN IN TERMS OF CEDAW

Not surprisingly, the idea of securing women's right to sexual autonomy seems incredibly threatening to many governments and religious authorities. Those human rights defenders advocating for sexual rights, like those advocating specifically for LBT rights, have often confronted considerable hostility and even physical danger—including death.⁶² Moreover, campaigning for the recognition of sexual rights and non-discrimination on the grounds of sexual orientation and gender identity often compromises the ability of activists to campaign on other human rights issues. This makes it all the more important for less marginalized activists and organizations to offer strong and consistent arguments for recognizing sexual rights—for all women—in their shadow/alternative reports to CEDAW.

There are several areas of discrimination against women that the Committee tends to view with particular concern. Therefore, citing examples of discrimination on the basis of sexual orientation or gender identity in these areas is a useful approach to garner the Committee's support.⁶³ In this section of the guide we present a list of key areas of concern for the CEDAW Committee, refer to the Convention articles that address each concern, and provide a list of questions to help evaluate whether human rights violations on the basis of sexual orientation, gender identity or gender expression are occurring. For each area of concern, we also provide examples of discrimination against women on grounds of their actual or perceived sexual orientation and gender identity and, when available, the UN documents that reference such discrimination.⁶⁴

The categories and examples provided in this section of the guide are non-exhaustive. If you or your organization have documented cases or patterns of other types of discrimination, then these should also be included in shadow/alternative reports.



A banner panel highlighting human rights embodied in the Yogyakarta Principles.



1. Violence against Women (General Recommendation No. 19)

A. Sexual Violence, and Other Forms of Physical Abuse & Murder

QUESTIONS TO CONSIDER:

Are you aware of cases where women in your country have experienced sexual violence, or threats of sexual violence because of their sexual orientation, gender identity or expression? Such violence might include, for instance, rape to “correct” a woman’s sexual orientation, honor killings, and violence by strangers, acquaintances or family members.

Are you aware of cases where transgender people in your country have experienced sexual violence, or threats of sexual violence because of their gender identity or expression? Such violence might include murder, rape or physical assault.

What are the conditions (laws, policies, and practices) that make these abuses more likely? What are the barriers to gender and sexually non-conforming women reporting abuses or getting remedies? What are specific changes that must be made to enable sexual and gender non-conforming women to access these remedies?

EXAMPLES

United States

On the evening of May 11, 2003, African-American lesbian Sakia Gunn (15) went out with a close friend—both ‘dressed like boys,’ according to Gunn’s mother. The friends, who called themselves ‘aggressives’ because they embraced a masculine gender presentation, spent the evening on Christopher Street in New York’s Greenwich Village with two other friends, then took the Path Train back to Newark, New Jersey. At about 3 A.M. while waiting at a bus stop, they were approached by two African-American men in a white car who made suggestive comments. When Gunn stated that they were lesbians and weren’t interested, the men attacked. She tried to fight back, but just as she broke free, one man lunged at her, stabbing her once deeply in the chest. Both men then fled. Gunn’s friends flagged down a passing car and took her to a nearby hospital, bleeding profusely. Said her friend Valencia Bailey (15), ‘She died in my arms in Emergency.’⁶⁵

*Gender Public Advocacy Coalition.
50 under 30: Masculinity and the War on America’s Youth, 2006*

Thailand

In February 2001 a young Burmese lesbian living and working in a factory in Mae Sod, Thailand, went shopping with a male friend. Returning home that night, they were joined by several other men who worked at the same factory. Blocking her way, one of the men told her that she was beautiful, and said that it was a waste for her to be a lesbian. He urged his friends to take her to the paddy field and change her sexuality to be ‘normal.’ He grabbed her and told his friends to “cure this abnormal lesbian so she can enter womanhood.” All six men raped her. The next day, the whole factory knew about the rape, but no one came to her defence. In tears, she asked why the community allowed these rapists to go unpunished, and blamed only her.⁶⁶

*Amnesty International
Human Rights and Sexual Orientation and Gender Identity, 2004*

Lebanon

Many lesbians are subjected to physical and mental violence by parents, siblings or other family members and their movements are restricted....Because of the taboo nature of both female sexuality and of domestic violence coupled with the illegality of the women’s sexuality, cases of domestic violence go unreported.⁶⁷

*Helem
CEDAW Shadow Report on Lebanon, 2005*



Kyrgyzstan

“[My father] told me he will beat me every day until I commit suicide.” -Transgender man in Bishkek
Domestic violence is common throughout Kyrgyzstan. LGBT people appear particularly vulnerable to family violence when their sexual orientation or gender expression is revealed. Family members often condemn and ostracize LGBT people for having “brought shame” on the family and use physical violence against them. Violations of the physical integrity of LGBT people harm their health and well-being.

As noted above, WSW and transgender men reported that relatives, more often than others, react negatively to information about their gender identity or sexual orientation and were more likely to use violence against them. Sixteen percent of MSM reported suffering physical violence in the home.⁶⁸

*Sexual Health and Rights Project and Soros Foundation–Kyrgyzstan.
Access to Health Care for LGBT People in Kyrgyzstan, 2007*

Portugal

In Portugal, on February 22, 2006, a group of boys attacked and killed a homeless, Brazilian transgender woman in the city of Oporto, leaving her body to be found in a water-filled pit. The boys, who confessed to the crime, were found to have previously harassed and intimidated the victim. Although Portuguese criminal law defines some forms of bias as aggravating circumstances in the commission of homicide and assault, this does not explicitly extend to gender identity and was not invoked in the course of the prosecution of this case.⁶⁹

*Human Rights First,
Hate Crimes, 2007 Survey*

UN DOCUMENTATION CONTAINING RELEVANT REFERENCES

U.N. Economic and Social Council, Commission on Human Rights, 58th Session, *Cultural practices in the family that are violent towards women*, UN Doc. E/CN.4/2002/83 (31 January 2002).

U.N. Economic and Social Council, Commission on Human Rights, 61st Session, *Intersections of Violence Against Women and HIV/AIDS: Report of the Special Rapporteur on violence against women, its causes and consequences, Yakin Ertürk* UN Doc. E/CN.4/2005/72 (2005). Scroll down to 2005 61st Session CHR.

World Health Organization. “Sexual Health – A new focus for WHO.” In *Progress in Reproductive Health Research*, No. 67. 2004.

U.N. General Assembly, Human Rights Council, 4th Session, *Implementation of General Assembly Resolution 60/251 of 15 March 2006 Entitled “Human Rights Council”: Report of the Special Rapporteur on violence against women, its causes and consequences, Yakin Ertürk – Addendum: Communications to and from Governments*, UN Doc. A/HRC/4/34/Add.1 (19 March 2007). Scroll down to 2007 4th Session HRC. See the section on South Africa.

U.N. Economic and Social Council, Commission on Human Rights, 55th Session, *Violence against women in the family: Report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy*, UN Doc. E/CN.4/1999/68 (10 March 1999). Scroll down to 1999 55th Session CHR. See the section entitled “Family and Violence: Definitions.”

U.N. General Assembly, 56th Session, *Question of torture and other cruel, inhuman or degrading treatment or punishment*, Note by the Secretary-General, paras. 17-25, UN Doc. A/56/156 (3 July 2001). See section II (C), on “Issues of Special Concern: Torture and discrimination against sexual minorities.”

U.N. General Assembly, Human Rights Council, 4th Session. *Impunity for attacks targeting people for being gay, lesbian, transgender or transsexual*, In *Civil and Political Rights, Including the Questions of Disappearances and Summary Executions – Report of the Special Rapporteur on extra judicial, summary or arbitrary executions, Philip Alston: Addendum – Mission to Guatemala*, paras. 32-34, UN Doc. A/HRC/4/20/Add.2. (19 February 2007). See the section entitled “Impunity for attacks targeting people for being gay, lesbian, transgender, or transsexual.”



B. Related to Violence in Law Enforcement and Detention

QUESTIONS TO CONSIDER:

Are you aware of cases where women in your country have experienced violence at the hands of the police—this could include verbal, physical or sexual abuse, including rape? Do you know of situations where lesbian, bisexual and transgender women have been detained by law authorities and become the victims of assault and rape by fellow inmates and prison guards?

What are the conditions (laws, policies, and practices) that make these abuses more likely? What are the barriers to gender and sexually non-conforming women reporting abuses or getting remedies? What are specific changes that must be made to enable sexual and gender non-conforming women to access these remedies?

EXAMPLES

United States

One particular area of concern is that lesbian and transgender women face significantly heightened risk of sexual violence from male officers upon arrest and in custodial detention.... In October 2003 in Los Angeles, a Native American transgender woman was arrested by two officers on the charge of prostitution, although she told the officers she was only taking a walk. She was handcuffed, hit in the face, insulted with words like “you fucking whore, you fucking faggot,” and raped. The paramedics she contacted after the sexual assault refused to believe her story.

Sexual assaults are also common within the context of invasive and painful bodily searches, especially against transgender women.... For example, in 2001 in Montgomery, Alabama, a lesbian identified, white, transgender woman was forced to strip naked, dance, and show her penis during a police arrest. She was then subjected to an invasive search of her body cavities, which according to the victim was particularly painful. She was not allowed to see a doctor and was only allowed to shower in the presence of a male guard.⁷⁰

*Global Rights,
Lesbian, Gay, Bisexual, Transgender and Intersex Human Rights in the United States:
A Shadow Report, 2006*

Turkey

Hülya, a transvestite person who worked as a sex worker in Istanbul, was kidnapped by two plainclothes police officers, raped repeatedly, stabbed, assaulted and left naked for dead with serious injuries to her face and rest of her body. When Hülya tried to file a complaint with the police, she was repeatedly denied a sperm test, and was denied treatment for her injuries. No charges were brought against anybody. Police violence against transgender people in Turkey is regular and unabated. Many transgender people work as sex workers, often reflecting the impossibility of getting other types of jobs. They recounted repeated stories of abuse.⁷¹

*Human Rights Watch,
We Need a Law for Liberation: Gender, Sexuality, and Human Rights in a Changing Turkey, 2008*



UN DOCUMENTATION CONTAINING RELEVANT REFERENCES

U.N. General Assembly, 56th Session, *Question of torture and other cruel, inhuman or degrading treatment or punishment*, Note by the Secretary-General, paras. 17-25, UN Doc. A/56/15 (3 July 2001). See section II (C) on “Issues of Special Concern: Torture and discrimination against sexual minorities.”

U.N. Economic and Social Council, 56th Session, *Information Reviewed by the Special Rapporteur with Respect to Various Countries: Brazil*. In *Civil and Political Rights Including Questions of Torture and Detention: Report of the Special Rapporteur, Sir Nigel Rodley*, paras. 134-57, UN Doc. E/CN.4/2000/ (2 February 2000).

2. Recognition of a Person’s Identity (Articles 1, 2, 3, 15)

QUESTIONS TO CONSIDER:

Can transgender/intersex individuals change their legal gender on all documents (birth certificate, passport, social security or personal tax number, school certificates etc.)? Does your country require medical treatment (such as sterilization, gender reassignment surgery or hormone treatment) as a prerequisite for a legal gender change? Does your country impose other requirements on a legal gender change, such as childlessness, being unmarried, under or above a certain age etc.? Are there excessive bureaucratic burdens (high costs, long waiting times, excessive paperwork etc.) involved in obtaining a legal gender change? Is the legal process closely intertwined with a medical trajectory—in other words is the state playing doctor?

What are the conditions (laws, policies, and practices) that make abuses related to recognizing a person’s identity more likely? What are the barriers to reporting such abuses or getting remedies? What are specific changes that must be made to enable transgender and intersex individuals’ access to remedies?

EXAMPLES

Japan

Transgender persons who are diagnosed with Gender Identity Disorder but do not meet the conditions set forth by the law cannot have their gender identity reflected on the family registry. Since most important official documents including the residency certificate and public insurance card are issued based on the family registry, transgender persons often face difficulties accessing health care with their insurance card on which their legal gender and actual gender seemingly do not match.⁷²

*Gay Japan News & IGLHRC
Japan: Discrimination Against Lesbians, Bisexual Women, and Transgender Persons, 2009*

Poland

Currently, the procedure for changing sex is based on the jurisdiction of the Supreme Court. It is very long and costly. Moreover, there may be substantial differences in its course depending on the health care institution. The procedure includes obtaining basic medical blood and urine tests, electroencephalogram (EEG), tomography of the skull, karyotype, psychiatric, psychological and sexology opinions, hormone treatment, a declaratory judgment stating that a person is of the opposite sex to that declared in the birth certificate, change of name and personal documents and sex reassignment surgery. There is still a prevailing belief that hormone therapy should last two years in order to test the formation of the new sex, however, in practice the declaratory judgment may be obtained after three months of therapy.⁷³

*European Union Fundamental Right Agencies,
Homophobia – Legal Survey, Compiled Passages on Transgender Issues, 2008*



Tunisia

[A] December 22, 1993 decision by the Appeal Court of Tunis, which dismissed a transsexual’s request to change his civil status. The person had undergone surgery and changed his sex. The Court’s decision was grounded in the argument that a “transsexual change is a ‘voluntary’ and ‘artificial’ operation, and thereby cannot justify civil status change.” The fact that Tunisia does not recognize legal change of sex and name status of post-operative transsexual individuals interferes with the person’s right to privacy, and his or her ability to exercise other rights, including citizenship rights, as a consequence of the serious risk of stigmatization and discrimination transsexual individuals may reasonably face if they are forced to disclose their condition to exercise their rights.⁷⁴

*Global Rights,
Violations of the Rights of Lesbian, Gay, Bisexual and Transgender Persons in Tunisia 2008*

3. Forced marriage & Discrimination on Grounds of Marital Status (Articles 1, 2 [f], 5 [a], 11 [2] [a], 16)

QUESTIONS TO CONSIDER:

Are you aware of cases where LBT women in your country have been forced to marry or endure disapproval by the community for not getting married? Are single women, including LBT women, marginalized and subject to degrading treatment or abuse?

What are the conditions (laws, policies, and practices) that make these abuses more likely? What are the barriers to gender and sexually non-conforming women reporting abuses or getting remedies? What are specific changes that must be made to enable sexual and gender non-conforming women to access these remedies?

EXAMPLES

India

Another form of family violence against women is the pressure placed on women to marry against their wishes. The vast majority of Indian women do not have a choice with respect to whether or not, when and whom to marry (Article 16, parts a and b)... In a society where women are often socialized into the eventuality of heterosexual marriage, most lesbian and bisexual women cannot even imagine the possibility of two women loving each other and living together. In the case of lesbian women who have no choice but to marry, the sexual relationship with their husbands is often nothing short of marital rape.

The tremendous pressures of living in a society which either chooses to ignore or condemns same-sex desire, combined with the lack of choice in relation to marriage has led many young women to take their own lives. There is as yet insufficient documentation of lesbian suicides. What is clear from the information available is that a majority of the reported cases have involved young women who were facing pressure to marry from their families. The denial of the right to life to these women constitutes a national emergency that remains largely ignored and unaddressed by both State and non-State actors in the country.

Members of an Indian activist group, Lesbians And Bisexuals In Action (LABIA).



Sahayatrika, a lesbian women’s collective in Kerala has documented twenty-four cases of lesbian couple suicides in Kerala during the period between 1996 and 2004. Sahayatrika found that a majority of the cases of suicides were of women from marginalized communities (Dalit, Adivasi, OBC and Muslim women) and/or women working in low-income occupations, such as factory work, tailoring, or daily wage agricultural labour. This challenges the myth that it is only urban, elite, ‘westernized’ women who are lesbian or bisexual.⁷⁵

*National Alliance of Women,
India Shadow Report, 2006*



Kyrgyzstan

Many women in Kyrgyzstan face the threat of forced or early marriage. A group of women interviewed by Human Rights Watch made clear: “Parents who ‘suspect’ try to marry girls off early.” Nurbek told Human Rights Watch, “A couple of days ago, I found out that they are looking for someone that they can marry me to, so that I would forget about [being transgender]...and everything would be okay....It is very possible that they will try to do it secretly. You know, in our country, a girl’s agreement is not needed.”⁷⁶

Human Rights Watch,

These Everyday Humiliations: Violence against Lesbians, Bisexual Women and Transgender Men in Kyrgyzstan, 2008

UN DOCUMENTATION CONTAINING RELEVANT REFERENCES

U.N. Economic and Social Council, 53rd Session, *Further Promotion and Encouragement of Human Rights and Fundamental Freedoms, Including the Question of the Programme and Methods of Work of the Commission Alternative Approaches and Ways and Means Within the United Nations System for Improving the Effective Enjoyment of Human Rights and Fundamental Freedoms: Report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy*, UN Doc. E/CN.4/1997/47 (12 February 1997). See section entitled: “Violence in the Community.”

U.N. Economic and Social Council, Human Rights Commission, 56th Session, *Integration of the Human Rights of Women and the Gender Perspective: Violence Against Women. Report of the Special Rapporteur on violence against women, its causes and consequences. Addendum: Economic and social policy and its impact on violence against women*, UN Doc. E/CN.4/2000/68/Add.5 (24 February 2000).

4. Discrimination and Violence Against LBT Human Rights Defenders (Article 8)

QUESTIONS TO CONSIDER:

Are you aware of cases where activists who defend sexual rights experience threats to their safety? Are human rights defenders who work on behalf of lesbian, bisexual or transgender women in your country the subject of harassment, attacks, torture or abuse? Do agents of the state, such as police officers, participate in these violations?

What are the conditions (laws, policies, and practices) that make these abuses more likely? What are the barriers to gender and sexually non-conforming women reporting abuses or getting remedies? What are specific changes that must be made to enable sexual and gender non-conforming women to access these remedies?

EXAMPLES

Zambia

The retention of codes that criminalize sexual relationships between same-sex consenting adults has a devastating impact on same-sex practicing people in Zambia. Gays, lesbians, and bisexuals in Zambia live in constant fear of arbitrary detention, discrimination in education, employment, housing, and access to services, and extortion.... Zambians who have fought against discrimination related to sexual orientation or gender identity have been systematically silenced. On 23 September 1998 in a statement to parliament, published in the Times of Zambia, Zambian Vice President Christon Tempo vowed that, “If anybody promotes gay rights after this statement, the law will take its course. We need to protect public morality. Human rights do not operate in a vacuum.” It was a clear instruction for arrests by the police of anybody who identified or supported gays and lesbians. As a result an NGO calling itself Zambia Against People with Abnormal Sexual Acts [ZAPASA] was formed to fight against homosexuals.⁷⁷

Global Rights & IGLHRC

Zambia: Shadow Report on the Status of Lesbian, Gay, Bisexual and Transgender Individuals, 2007



Honduras

The transgender community in Honduras is rallying for support from the international human rights world, after three gruesome murders, five assaults and one police attack of transgendered women since November. The most recent victim was Cynthia Nicole, a leading advocate for Honduran transgender rights. Nicole was shot three times in the chest and once in the head on 9 January 2009. Despite three witnesses being present and identifying the car the perpetrators were riding in, the police have yet to charge someone with Nicole's murder.

The police have been accused of giving very low priority to cases involving transgendered victims, and there is even at least one documented instance of police brutality against a transgender woman who wishes to remain anonymous. On 20 December 2008, police assaulted the woman and threatened her with death if she reported what happened to her. The woman reported the assault to Amnesty International. Violence against the transgender community has been ongoing for years in Honduras. Activists have called on domestic authorities, the Inter-American Commission on Human Rights, and UN special rapporteurs for help, after receiving no response from the Honduran government.⁷⁸

*Impunity Watch,
Honduran Police Ignore Violent Attacks on Transgender Community, 2009*

UN DOCUMENTATION CONTAINING RELEVANT REFERENCES

U.N. Economic and Social Council, Commission on Human Rights, 62nd Session, *Promotion and Protection of Human Rights: Human Rights Defenders. Report submitted by the Special Representative of the Secretary-General on human rights defenders, Hina Jilani*, UN Doc. E/CN.4/2006/95. (23 January 2006). Scroll down to 'Annual report of the Special Representative of the Secretary-General on the situation of human rights defenders (Ms Hina Jilani).' See the section entitled: "Implementation of the Declaration since its creation in 2000: Interpretation of the Declaration."

U.N. General Assembly, Human Rights Council, 4th Session. *Implementation of General Assembly Resolution 60/251 of 15 March 2006 Entitled "Human Rights Council." Report submitted by the Special Representative of the Secretary-General on human rights defenders, Hina Jilani*, UN Doc. A/HRC/4/37 (24 January 2007). Scroll down to 'Report of the Special Representative of the Secretary-General on the situation of human rights defenders (Ms. Hina Jilani).' See the section entitled: "Defenders at Particular Risk: Defending the rights of lesbian, gay, bisexual, transgender and intersex persons."

U.N. Human Rights Council, 4th Session, *Addendum to the Report Submitted by the Special Representative of the Secretary-General on the Situation of Human Rights Defenders, Mission to Brazil*, A/HRC/4/37/Add.2 (19 December 2006). Scroll down to Mission to Brazil. See the section entitled: "Mission to Brazil: Attacks against the physical integrity of human rights defenders."



A homophobic protest in the Philippines.



Coalition of African Lesbians protesting outside Cameroon High Commission in South Africa.



5. Right to Education (Article 10)

QUESTIONS TO CONSIDER:

Are you aware of cases where young women or girls who identify as or who are perceived to be lesbian, bisexual or transgender experience harassment, violence and threats at school? Have young women or girls in your country been expelled from school because of their sexual orientation, gender identity or gender expression? Do textbooks contain negative stereotypes of sexual or gender non-conforming women, or promote homophobia or transphobia?

What are the conditions (laws, policies, and practices) that make these abuses more likely? What are the barriers to gender and sexually non-conforming women reporting abuses or getting remedies? What are specific changes that must be made to enable sexual and gender non-conforming women to access these remedies?

EXAMPLES

USA, South Africa

Lesbian girls are more frequently subjected to sexual harassment and threatened with sexual violence than their heterosexual peers. They also report that the harassment they experience takes different forms from the abuse faced by gay and bisexual boys. “Gay men get more physical threats; female students are more likely to get sexually harassed and be threatened with sexual violence. We’ll hear things like, ‘I can make you straight’ or ‘Why don’t you get some of your girlfriends and we can have a party,’” a young lesbian in Texas, USA, told Human Rights Watch. In a related phenomenon, girls who complain of sexual harassment may find that their sexual orientation is questioned. Surveys carried out by an NGO in South Africa found that 14 per cent of gay men and lesbian women in Gauteng province and 19 per cent in KwaZulu-Natal province reported sexual violence at school, because of their sexual orientation.⁷⁹

*Amnesty International,
Safe Schools: Every Girl’s Right, 2008*

Cameroon

On 13 March 2006, 12 young women were expelled from the Eyenguè Nkongo college of Deido Plage in Douala and were arrested by the police after the grandmother of one of them complained that a young woman was “misguiding her daughter” into lesbian sexual acts. Subsequently, four young women—three of whom were amongst those who had previously been expelled from Eyenguè Nkongo College—were then arrested and detained at the New Bell prison in Douala. They appeared before the court and were found guilty of engaging in same-sex sexual relations. They were released on 7 June 2006 after the court sentenced them to a three-year suspended prison term and a fine.... The court ordered that they would be imprisoned for six months if they were found engaging in same-sex sexual relations. The young women were not allowed back into the school and it is not clear whether they were able to continue their education at any other schools.⁸⁰

*Amnesty International,
Cameroon: Persecution based on actual or imputed sexual orientation, 2009*

“Lesbians
are Normal.”





Poland

Sexuality education is another issue.... Textbooks present Catholic point[s] of view on sexuality and encourage [a] traditional model of the family.... For girls, getting married and motherhood are priorities.... Men are more stable emotionally, they have to take care of women and supervise them as women are not capable of making their own decisions. Textbooks recommend for women to give up professional goals and concentrate on the family. Sexual drive is demonized and sexual activity should only take place within marriage. Sexual satisfaction is presented as degenerate.... Good sex is meant to aim [only] at reproduction. Homosexuality is viewed negatively, same-sex marriages are considered degenerate too. Of all books recommended by the Ministry of Education only one shows homosexuality in a neutral, non-ideological way.⁸¹

Federation for Women and Family Planning, CEDAW Shadow Report, Republic of Poland 2006

United Kingdom

The young trans person, who is forming their identity in school, faces bullying and harassment. Some 64% of young trans men and 44% of young trans women will experience harassment or bullying at school, not just from their fellow pupils but also from school staff including teachers. These are higher rates than shown in many studies on young lesbians and gay men at school. The research also counters the commonly held belief that there is less tolerance of 'sissy' boys than tomboys, finding that females who become trans men later in life faced the most harassment and bullying at school.

The research shows a major difference in final educational achievement levels in the trans population compared to the UK average. Many trans people leave school after completing Level 2, but 34% obtain a degree or higher degree (later in life), compared to the UK national average of only 27%.⁸²

Whittle, S., Turner, L. and Al-Alami, M.

Engendered Penalties: Transgender and Transsexual People's Experiences of Inequality and Discrimination, 2007

UN DOCUMENTATION CONTAINING RELEVANT REFERENCES

U.N. Convention on the Rights of the Child, 28th Session, *Report on the twenty-eighth session*, UN Doc. CRC/C/111 (28 November 2001). Scroll down to Report on the twenty-eighth session.

U.N. General Assembly, 61st Session, *Report of the independent expert for the United Nations study on violence against children*, UN Doc. A/61/299 (29 August 2006). Scroll down to Third Committee, Item 63 (a): Promotion and protection of the rights of children.

U.N. Economic and Social Council, Commission on Human Rights, 62nd Session, *Girls' right to education: Report submitted by the Special Rapporteur on the right to education, Mr. V. Muñoz Villalobos*, UN Doc. E/CN.4/2006/45 (8 February 2006).



Lesbian feminists protesting in South Africa.



A demonstration outside the South African Consulate in New York to protest the murders of lesbians in South Africa.



6. Right to Health (Article 12, 11(f), General Recommendations No. 19, No. 24)

A. Discrimination and the Right to Health

QUESTIONS TO CONSIDER:

Are you aware of cases where LBT women in your country have experienced discrimination in access to health care? Have lesbian, bisexual or transgender women and adolescents received sub-standard medical care—including HIV/AIDS care or mental health care—because of stigma related to their sexual orientation, gender identity or gender expression? Have LBT women in your country experienced breaches in the right to confidentiality in a health care setting? Are transgender people excluded from coverage for their healthcare needs, including transgender-specific needs such as hormone treatment or surgery?

What are the conditions (laws, policies, and practices) that make these abuses more likely? What are the barriers to gender and sexually non-conforming women reporting abuses or getting remedies? What are specific changes that must be made to enable sexual and gender non-conforming women to access these remedies?

EXAMPLES

United Kingdom

There is a lack of information on lesbian and bisexual women's health needs. Lesbian patients have reported hostility, judgement and poor treatment when they disclose their sexual orientation to their doctor. Sexual health services for lesbians are inadequate. The majority of transgender people identify as women, but find it hard to access appropriate, sympathetic and expert health care. There is a shortage of specialist psychiatrists working on gender reassignment.⁸³

*United Kingdom Women's National Commission.
Submission to the United Nations' Committee on CEDAW, 2008*

Philippines

The neglect, even determined suppression of women's sexual and reproductive health rights becomes even more deplorable when seen alongside other health issues that women have to endure in the general context of government's deprioritization of its people's health needs. ... The heterosexist bias manifested in the invisibility of lesbian rights and health in government programs predictably trickles down the public health bureaucracy. There is still no antidiscriminatory legislation protecting lesbians, who at one time were pejoratively called an "anomaly of nature" by the government film and television classification body. Judgmental attitudes of health care providers are thus also experienced by lesbians ("*lesbians are not women*"). While lesbians are mentioned in the government's "10 Elements of the Reproductive Health Package" (1998), no implementing measures have ever been operationalized. Monitoring and assessing lesbian health conditions and needs remains difficult because of low levels of awareness and the proliferation of misconceptions attached to lesbian identities. In turn, this impairs access to and availability of appropriate health care services.⁸⁴

*Women's Legal Bureau, Inc.
Philippine NGOs Shadow Report to the 36th Session of CEDAW, 2006*



UN DOCUMENTATION CONTAINING RELEVANT REFERENCES

U.N. Economic and Social Council, Committee on Economic, Cultural, and Social Rights, 22nd Session, *Substantive Issues Arising in the Implementation of the International Covenant on Economic, Social and Cultural Rights. General Comment No. 14 (2000): The right to the highest attainable standard of health*, UN Doc. E/C.12/2000/4 (11 August 2000).

U.N. Committee on the Rights of the Child. *CRC General Comment 3: HIV/AIDS and the Rights of the Child*, UN Doc. CRC/GC/2003/3 (17 March 2003).

U.N. Convention on the Rights of the Child, 33rd Session, *General Comment No. 4: Adolescent health and development in the context of the Convention on the Rights of the Child*, UN Doc. CRC/GC/2003/4 (1 July 2003).

U.N. Convention on the Rights of the Child, 31st Session, *Concluding observations of the Committee on the Rights of the Child: United Kingdom of Great Britain and Northern Ireland*, UN Doc. CRC/C/15/Add.188 (9 October 2002).

U.N. General Assembly, 56th Session, *Question of torture and other cruel, inhuman or degrading treatment or punishment*, UN Doc. A/56/156 (3 July 2001).

U.N. Economic and Social Council, Commission on Human Rights, 60th Session, *The right of everyone to the enjoyment of the highest attainable standard of physical and mental health: Report of the Special Rapporteur, Paul Hunt*, UN Doc. E/CN.4/2004/49 (16 February 2004).

B. Medical “Treatment” of Homosexuality and State-Prescribed Medical Treatment

QUESTIONS TO CONSIDER:

Are you aware of cases where women in your country have been forced into medical or psychiatric treatment because of their sexual orientation, gender identity or gender expression? Have lesbian, bisexual or transgender women been prescribed medications or subject to aversion therapy or electric shock treatment in an attempt to “cure” them? Are women required to undergo medical procedures to change their gender on identity documents, such as passports and birth certificates?

What are the conditions (laws, policies, and practices) that make these abuses more likely? What are the barriers to gender and sexually non-conforming women reporting abuses or getting remedies? What are specific changes that must be made to enable sexual and gender non-conforming women to access these remedies?

EXAMPLE

India

While the ‘private’ realm of the family is where many of the violations manifest themselves, public institutions also have their role to play in the oppression of lesbian and bisexual women. These institutions, be it the police or mental health professionals, are informed by the same levels of ignorance and bigotry afflicting the family and the rest of society. As is the case with other forms of violations that women face, the public and private collude to strengthen their patriarchal control over women. Families send women to mental health professionals to be cured of their homosexuality. The treatment can include strong medication and aversion therapy, which involves the administering of electric shocks.⁸⁵

*National Alliance of Women,
India Shadow Report, 2006*



Netherlands

The Dutch Civil Code (Article 28 of Book 1) provides for the possibility to have one's gender formally changed on one's birth certificate. The provision in question stipulates that this can only be done by a court order and only after a person has transformed into a member of the other sex as far as psychologically and medically possible. In order to obtain this court order, a statement by medical experts must show that this person can no longer reproduce. Many transgender persons have not had gender reassignment surgery, either because they have not met the requirements involved or because they have moral objections to an imposed sterilisation. As a result, they cannot have their gender changed in their official documents.⁸⁶

*Dutch section of the International Commission of Jurists (NJCM),
Commentary on the Fourth Periodic Report of the Netherlands on the International Covenant on
Civil and Political Rights (ICCPR), 2008*

UN DOCUMENTATION CONTAINING RELEVANT REFERENCES

U.N. General Assembly, 56th Session, *Question of torture and other cruel, inhuman or degrading treatment or punishment*, UN Doc. A/56/156. (3 July 2001).

C. Discrimination & HIV/AIDS

QUESTIONS TO CONSIDER:

Are you aware of cases where women in your country receive inadequate or non-existent access to HIV/AIDS care or prevention services? Do laws in your country criminalize same-sex relations and impede access to these services for lesbian, bisexual or transgender women?

What are the conditions (laws and policies) that make these abuses more likely? What are the barriers to gender and sexually non-conforming women reporting abuses or getting remedies? What are specific changes that must be made to enable sexual and gender non-conforming women to access these remedies?

EXAMPLES

Grenada

Condoms are not available in the prison, and therefore protection from the transmission of HIV and other sexually transmitted infections (STIs) during sexual intercourse, regardless of its consensual or non-consensual nature, is also inadequate. Medical personnel report the occasional treatment of STIs by the prison infirmary.... The discriminatory culture and legal sanctioning of discrimination against LGBT individuals in Grenada stymies the state party's efforts to provide effective education, prevention, treatment and care programs to those who are especially vulnerable to HIV and AIDS.⁸⁷

*Grenada Caribbean HIV/AIDS Partnership, Hope Pals Foundation, and the Grenada Human Rights Desk,
Sexuality, Gender, HIV Vulnerability & Human Rights in Grenada: A Shadow Report to the United Nations
Human Rights Committee, 2007*



Vietnam

Typically, health care providers are not trained to provide culturally competent care and support for Lesbian Gay Bisexual Queers and Transgender (LGBTQ) youth, and as such many young people are reluctant to seek health care. This is particularly true in the case of sexual health services. Even when health care services are utilized, young people often do not return for the appropriate follow-up care. In one national survey conducted in 2005, only 2.7% women and 3.8% men aged 15-24 took HIV tests, and even fewer received their test results, 1.2% and 2% respectively.⁸⁸

*Global Youth Coalition on HIV/AIDS,
2008 UNGASS National Youth Shadow Report: Vietnam*

UN DOCUMENTATION CONTAINING RELEVANT REFERENCES

Office of the U.N. High Commissioner for Human Rights, and the Joint U.N. Programme on HIV/AIDS, *International Guidelines on HIV/AIDS and Human Rights: 2006 Consolidated Version* (2006).

7. Discrimination in Employment and Housing (Article 11, Article 13, Article 16 [1] [h])

QUESTIONS TO CONSIDER:

Are you aware of cases where women in your country are denied employment, dismissed from their jobs or harassed in the workplace because of their sexual orientation, gender identity or gender expression? Are they denied housing, or evicted from rental housing because they are lesbian, bisexual or transgender?

What are the conditions (laws, policies, and practices) that make these abuses more likely? What are the barriers to gender and sexually non-conforming women reporting abuses or getting remedies? What are specific changes that must be made to enable sexual and gender non-conforming women to access these remedies?

EXAMPLES

Nepal

Former Corporal Bhakti Shah, a trainer in the Nepal army with outstanding performance and who surpassed her male peers in all categories, was put into 60 days solitary confinement and subsequently discharged from the army. Her partner, a recently joined trainee, was sentenced to 45 days house arrest and subsequently discharged as well. Grounds for dismissal and punishment was lesbianism and code violation—corporal socializing with a cadet in living quarters. Although Bhakti's roommates were always present when the girlfriend visited, and the two were never caught in sexual activity, the army has imposed a double penalty—confinement and discharge. After postponing the hearing multiple times, the army decided in July 2008 that the 60 days confinement was unnecessary. However, Bhakti has not been reinstated and has already served the time. The army now says they were not punished for lesbianism but for breaking the army code of conduct. It is widely known that male officers frequented the rooms of junior female cadets but have not been penalized.⁸⁹

*International Gay and Lesbian Human Rights Commission,
United Nations: CEDAW Debates Equality, 2008*



Honduras

Lesbians often endure a double dose of workplace discrimination, as they may face prejudice based on their gender, their sexual orientation or both.... Interviews with Honduran lesbians showed various levels of workplace discrimination. The women interviewed described being passed over for promotion, denied employment due to masculine style of dress, harassed by co-workers both in and outside the workplace, and stalked by male coworkers. In order to avoid these discriminatory actions, which were usually tolerated and supported by the management staff, the women were forced to hide their lesbian relationships. Doing so over long periods of time had negative effects on their mental and physical health.

In the workplace, transgender individuals, transvestites and other “effeminate” gay men are often marginalized into menial, stereotypical jobs such as hairdressing, floristry, and seamstressing, as well as the sex trade.... Thus...transgender women (or *travestís*) are also subjected to human rights violations based on their gender, which is compounded by the discrimination they already face due to their sexual orientation.⁹⁰

*Global Rights, and the University of Virginia International Human Rights Law Clinic.
Shadow Report on the status of lesbian, gay, bisexual, and transgender (LGBT)
individuals in Honduras, 2006*

Spain

Occupation and employment status in [the patients at the First Gender Identity Disorder Unit in Spain] are indicators of the social exclusion most of these patients suffer, only 34.6% hold a full time job of which at least a third had had the job for less than a year, and 53.6% were unemployed. Most occupations were blue collar or non-qualified workers. More than half (55.9%) declared having been discriminated [against on]...the job or when looking for a job because of their sexual status and 17.2% declared having to get involved in dangerous or illegal activities to survive. The most common and evident discrimination was being denied access to a job due to discrepancies between personal appearance and the information on their identification card regarding their biological gender. A third declared being afraid...[of] discrimination when looking for certain jobs that are traditionally assigned either to men or to women.⁹¹

Esteve, I et al.

*Social Inequalities: Demographic Characteristics of Patients Treated at the
First Gender Identity Disorder Unit in Spain, 2001*

Scotland

53% (31/59) of the [Transgender Experiences in Scotland] survey respondents who have been known to be transgender by some of their work colleagues stated that they have experienced **transphobic discrimination or harassment at work**. 15% (11/71) of the survey respondents indicated that their **employer failed to protect their privacy** relating to their transgender background or identity and as a result was responsible for causing them to suffer transphobic workplace discrimination and harassment. 8% (6/71) of the survey respondents stated that they had been **[fired]** at least once due to their transgender background or identity. In addition, 13% (9/71) stated that they had **quit their job** at least once due to fear of possible future discrimination or harassment.⁹²

*Scottish Transgender Alliance,
Transgender Experiences in Scotland, 2008*

UN DOCUMENTATION CONTAINING RELEVANT REFERENCES

U.N. Economic and Social Council, Committee on Economic, Social and Cultural Rights, 35th Session. *General Comment No. 18: The Right to Work (Art. 6 of the Covenant)*, UN Doc. E/C.12/GC/18 (6 February 2006).

U.N. Economic and Social Council, Commission on Human Rights, 61st Session. *Economic, Social and Cultural Rights. Women and adequate housing: Study by the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Miloon Kothari*, UN Doc. E/CN.4/2005/43 (25 February 2005). Scroll down to 2005 61st Session CHR.

U.N. Economic and Social Council, Commission on Human Rights, 62nd Session, *Economic, Social and Cultural Rights. Women and adequate housing: Report by the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination*, UN Doc. E/CN.4/2006/118 (27 February 2006). Scroll down to 2006 62nd Session CHR.

CONCLUSION: WAYS FORWARD



The sexual rights framework offers an opportunity to present CEDAW with strong arguments that many of the rights necessary to eliminate discrimination against LBT women are, in fact, rights that benefit all women, regardless of their sexual orientation or gender identity. The Committee has already made very strong statements affirming many aspects of sexual rights, such as the rights of widows, single or unmarried women, the right to be free of violence—including rape in marriage, and access to reproductive/sexual health and technologies. In order to help Committee members understand the direct relationship between discrimination against heterosexual and LBT women, it is therefore worthwhile to frame issues related to sexual orientation and gender identity broadly in terms of sexual rights violations.

While *Equal and Invisible* was written for activists trying to influence the CEDAW Committee, it can also be used as the basis for trainings for mainstream women's NGOs, government officials, national human rights institutions, and national media about issues related to discrimination on the basis of sexual orientation and gender identity. In addition, the guide may be used to develop materials highlighting the challenges confronting LBT women for International Women's Day, the [Sixteen Days of Activism Against Gender Violence](#), and the [United Nations Secretary General's Campaign to End Violence Against Women](#). We hope that the information in this handbook will give activists new tools as they strive to convince governments and civil society that laws, policies and practices outlawing discrimination on the basis of sexual orientation and gender identity are vital in order for *all* women to be able to realize their rights.

RECOMMENDATIONS

- Bring to the attention of the CEDAW Committee laws, customs and practices that violate the sexual rights of all women and highlight how they affect lesbian women, bisexual women and transgender individuals.

E.g. Laws criminalizing all consensual sexual acts between adults outside of heterosexual marriage disproportionately affect women and constitute discrimination against all women. They lead to social customs and practices such as child marriages and forced marriages (and by extension to marital rape and situations tantamount to sexual slavery). Such laws are also discriminatory because they prevent lesbian and bisexual women from exercising the right to claim and express their sexual orientation.

- Emphasize that sexual rights are not 'new' rights, but firmly established in international human rights law. Also emphasize that they are basic human rights necessary for women to enjoy all other rights, including the rights to bodily integrity, health and family.
- Refer to the Yogyakarta Principles, which affirm that sexual orientation and gender identity are integral to every person's dignity and humanity and must not be the basis for discrimination or abuse.
- Include relevant references to comments by the Special Rapporteur on Violence Against Women.

E.g. In a 2003 report on religious extremism and harmful traditional practices, Radhika Coomaraswamy, the Special Rapporteur on Violence Against Women, noted that, "in recognizing women's sexual and reproductive autonomy rather than protecting women's sexual purity, one can tackle the roots of gender-based violence. The articulation of sexual rights constitutes the final frontier for the women's movement."⁹³

- Frame and articulate key advocacy and lobbying messages within a sexual rights framework, linking discrimination affecting LBT women with discrimination against all women.

E.g., "The rights of lesbian, gay, bisexual, and transgender children—including sexual rights, both to autonomy and to protection from abuse—are at risk in all regions."⁹⁴



Compilation of sexual orientation and gender identity references from the CEDAW Committee in Concluding Observations to States Parties:

COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

I. CONCLUDING OBSERVATIONS

Concluding Observations: Germany, CEDAW/C/DEU/CO/6, February 12, 2009

5. The Committee commends the State Party for the adoption of the General Equal Treatment Act of 18 August 2006 aimed at preventing and eliminating discrimination, as well as of harassment and sexual harassment.[fn]

fn: The purpose of this Act is to prevent or to stop discrimination on the grounds of race or ethnic origin, gender, religion or belief, disability, age or sexual orientation. See section 1 of this Act, online resources of the Federal Anti-Discrimination Agency, www.antidiskriminierungsstelle.de.

61. The Committee notes with satisfaction the cooperation of the State Party with civil society organizations, particularly women's organizations, which is mostly achieved through Government cooperation with such organizations on specific programmes and projects. The Committee regrets, however, that the call for dialogue by non-governmental organizations of intersexual and transsexual people has not been favourably entertained by the State Party.

62. The Committee requests the State Party to enter into dialogue with non-governmental organizations of intersexual and transsexual people in order to better understand their claims and to take effective action to protect their human rights.

Concluding Observations: Guatemala, CEDAW/C/GUA/CO/7, February 10, 2009

19. Notwithstanding various measures taken by the State Party to eliminate gender stereotypes, the Committee is concerned at the pervasiveness of patriarchal attitudes and deep rooted stereotypes regarding the roles and responsibilities of women and men in the family, in the workplace, in political life and society, which constitute serious obstacles to women's enjoyment of their human rights. The Committee is also concerned that certain groups of women, in addition to being affected by gender stereotypes, face multiple forms of discrimination on grounds such as their ethnicity or their sexuality.

20. The Committee urges the State Party to increase its efforts to design and implement comprehensive awareness-raising programmes to foster a better understanding of, and support for, equality between women and men at all levels of society. Such efforts should aim at modifying stereotypical attitudes and cultural norms about the responsibilities and roles of women and men in the family, the workplace, political life and society, as required under articles 2 (f) and 5 (a) of the Convention. The Committee also urges the State Party to adopt an overall strategy to eliminate gender stereotypes relating to women in general, and in particular discrimination against women based on their ethnicity or sexuality. This strategy could include awareness-raising programmes in school curricula, the training of teachers and the sensitization of the media and the public at large, including actions specifically targeting men and boys.

Concluding Observations: Ecuador, CEDAW/C/ECU/CO/7, November 7, 2008

28. While noting the prohibition of discrimination against sexual minorities referred to in Article 11, paragraph 2 of the new Constitution, the Committee is concerned with reports of discrimination against women on this ground.



29. The Committee recommends that the State Party ensure investigation of such cases and undertake remedial action in line with its Constitution.

Concluding Observations: Kyrgyzstan, CEDAW/C/KGZ/CO/3, November 14, 2008

43. The Committee is concerned about reports of discrimination and harassment against women because of their sexuality as well as about acts of harassment against women in prostitution by police officials.

Concluding Observations: Sweden, A/56/38, July 31, 2001

334. The Committee commends the Government for passing legislation that provides residence permits to individuals who have a well-founded fear of persecution on the basis of sexual orientation or gender, particularly in cases that involve discrimination against women.

Concluding Observations: Kyrgyzstan, A/54/38, August 20, 1999

127. The Committee is concerned that lesbianism is classified as a sexual offence in the Penal Code.

128. The Committee recommends that lesbianism be reconceptualized as a sexual orientation and that penalties for its practice be abolished.

Concluding Observations: Ireland, A/54/38, July 1, 1999

(a) Introduction by the State Party

162. The representative explained that the 1998 Employment Equality Act outlawed discrimination on nine grounds, including gender, marital status, family status, sexual orientation and membership in the “traveler” community.

Concluding Observations: Mexico, A/53/38, May 14, 1998

420. The Committee requests information in the next report on whether homosexuality is penalized in the criminal code.

Concluding Observations: Canada, A/52/38/Rev.1, August 12, 1997

310. A recent amendment to the Canadian Human Rights Act granted protection against discrimination on the basis of sexual orientation.

Concluding Observations: New Zealand, A/49/38, April 12, 1994

612. The Government had passed a new Human Rights Act in 1993, extending the grounds of prohibited discrimination. Its grounds would now cover gender issues, including pregnancy, childbirth, sexual harassment, marital and family status, sexual orientation, disability, age, race, religion, employment status and political opinion. The Act would come into force in 1994.

Concluding Observations: Netherlands, A/49/38, April 12, 1994

253. Members were favourably impressed by the fact that, one year before presenting each subsequent report to the Committee, the Government would have to report to Parliament, and they commended the concern that was shown about the issue of sexual preference.



GLOSSARY OF KEY TERMS

The terminology defined in this glossary is a non-exhaustive list of language used in relation to gender and sexuality. The meanings attached to these terms here is not universal, but is generally accepted. The International Gay and Lesbian Human Rights Commission (IGLHRC) uses the words lesbian, bisexual and transgender (LBT), recognizing that while the language used to describe sexual orientation and gender identity varies across cultures, these terms are commonly used in international human rights discourse.

Bisexual refers to a person who is attracted to both sexes.

“Corrective” Rape is a term used to describe cases in which a person is raped to “cure” or “correct” a perceived or actual non-conforming sexual orientation.

Gay is a synonym for homosexual. It is sometimes used to describe only males whose primary emotional and physical attraction is to other males.

Gender is a socially constructed concept, or social classification, of certain sets of behaviors, character traits and roles as “feminine” or “masculine.” Though the specifics of what may constitute feminine/female and masculine/male behaviors can vary across cultures, they uniformly impose a set of restrictions and rules on how each man or woman should behave in all areas of life.

Gender Expression refers to the external manifestation of one’s gender, usually expressed through “masculine,” “feminine” or gender variant dress, appearance, mannerisms, speech patterns, and behavior. Gender expression is not necessarily an indication of sexual orientation or gender identity.

Gender Identity refers to a person’s deeply felt sense of identification with a specific gender, in relation to the social construction of masculinity and femininity. A person’s gender identity may be male, female, or something other than or in between male and female. A person’s gender identity may or may not correspond with the sex assigned at birth. Since gender identity is internal, one’s gender is not necessarily visible to others. Gender identity is different from sexual orientation.

Gender Non-conforming or Gender Variant describes individuals who do not conform to prescribed social “norms” regarding “gender appropriate” conduct and presentation, whether or not they identify with the gender associated with their sex assigned at birth.

Heterosexism refers to the belief that heterosexuality is the only “normal” and legitimate expression of sexual desire, intimacy and family life. It is institutionalized in societies around the world through laws, practices and cultural traditions, and enforces a gender dichotomy that degrades femininity and fosters homophobia. As a result, non-heterosexual relations as well as heterosexual non-procreative sexual practices are stigmatized and often criminalized.⁹⁵ The term heteronormativity is similarly used to refer to the idea of heterosexuality as the norm. The closely related term heteropatriarchy refers to the intersection of heterosexuality and patriarchy as oppressive forces that reinforce each other.

Homophobia refers to an irrational fear or hatred of homosexuality and people who are (or are perceived to be) homosexual. Similarly, biphobia refers to an irrational fear or hatred of bisexuality and transphobia refers to an irrational fear or hatred of transgender people. All of these phobias manifest themselves in harassment, prejudicial and negative treatment, violence and other forms of discrimination.

Homosexual refers to a person whose primary emotional and physical attraction is to people of the same sex.



“Honor” Crimes or “Honor” Killings refer to a form of violence against women, most often premeditated murder, which is committed by a woman’s male relatives and justified in the name of restoring family “honor.” In many societies around the world,⁹⁶ family honor is defined in terms of women’s behavior, i.e. women’s adherence to traditional gender norms, particularly dictates on sexual behavior or gender expression. Women can become targets of “honor” crimes inter alia for being victims of rape, requesting a divorce, or being rumored to engage in premarital sex or adultery. “Honor” crimes are often left unpunished by police or other law enforcement agencies.

Intersex refers to when a person’s biological anatomy varies from the standards usually used to classify bodies as male or female. Intersex variations describe a large variety of conditions where a body varies from the male or female standard in areas such as chromosomes, hormonal makeup and genitalia. Intersex variations may be noticeable at birth or develop later in life. They are sometimes referred to as Disorders of Sex Development, but there is significant controversy associated with this term and many intersex advocates, especially those outside the U.S., reject such terminology.

Lesbian refers to a female whose primary emotional and physical attraction is to other females.

LBT is an abbreviation for Lesbian, Bisexual and Transgender. This umbrella term is meant to include lesbians, bisexual women, transwomen (male-to-female transgender persons) and transmen (female-to-male transgender persons). LBT women are sexually marginalized in their societies on the basis of their sexual orientation, gender identity and/or gender expression. LGBTI includes Gay men and Intersex people.

Sex is the classification of bodies as male or female. At birth, infants are assigned a sex based on the socially constructed understanding of a certain combination of biological characteristics as representative of either male or female. These characteristics include: chromosomes, hormones, internal reproductive organs, and genitals.

Sexual Orientation describes an individual’s physical, romantic, emotional and/or spiritual attraction to another person, including lesbian, gay, bisexual and heterosexual orientations.

Transgender is an umbrella term for people whose gender identity, expression or behavior is different from that typically associated with their assigned sex at birth, including but not limited to transsexuals, travestis, transvestites, transgenderists, cross-dressers, and gender non-conforming people. Transgender people may be heterosexual, lesbian, gay or bisexual. Transgender as it is used in the US has limited resonance in many other countries. The term does not convey the multiple and diverse expressions of gender identity or the intersecting expressions of sexual desire, intimacy and gender nonconformity. For example, Metis in Nepal like Zanas in Pakistan and Travesti in Argentina are effeminate men who have not surgically altered their bodies or transitioned to being women. Hijra in India may or may not be castrated and have sex with straight men but not gay men. In many cultures, the terms third gender or other gender are frequently preferred over transgender

Transgender Man refers to a person who identifies as male or masculine, but was assigned the female sex at birth and may or may not have been raised as a girl. Also known as Transman or FTM female-to-male).

Transgender Woman refers to a person who identifies as female or feminine, but was assigned the male sex at birth and may or may not have been raised as a boy. Also known as Transwoman or MTF (male-to-female).

Transsexual refers to a person whose gender identity is different from their assigned sex at birth. Often transsexual people alter or wish to alter their bodies through hormones or surgery in order to make it match their gender identity.



- ¹ See, e.g., Gayle Rubin, “The Traffic in Women: Notes on the ‘Political Economy’ of Sex” in *Toward an Anthropology of Women*, (ed.) R. Reiter (New York: Monthly Review Press, 1975); Catherine MacKinnon, *Feminism Unmodified* (Boston: Harvard University Press, 1988); Kate Millet, *Sexual Politics* (London: Granada 1969).
- ² See, e.g., Anne Fausto-Sterling, *Sexing the Body: Gender Politics and the Construction of Sexuality* (New York: Basic Books, 2000); Judith Butler, *Gender Trouble* (London: Routledge, 1999); Kimberlé Crenshaw, “Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color,” *Stanford Law Review* 43: 6 (1991); Uma Narayan and Sandra Harding, (eds.) *Decentering the Center: Philosophy for a Multicultural, Postcolonial, and Feminist World* (Bloomington: Indiana University Press, 2000).
- ³ See, e.g., International Organization on Migration, *Gender Mainstreaming in IOM* (1995) 3, 14. Available at, http://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/published_docs/brochures_and_info_sheets/048_98%20gender%20mainstreaming%20in%20iom.pdf.
- ⁴ See generally, The World Organization Against Torture, *Gender-inclusive and Gender-sensitive Interpretation of Article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (2001). Available at, <http://www.omct.org/pdf/vaw/Gendersexarticle1CAT.pdf>.
- ⁵ Beijing Declaration and Platform for Action, Fourth World Conference on Women, 15 September 1995, UN Doc. A/CONF.177/20 (1995) and A/CONF.177/20/Add.1 (1995). para. 29. Available at, <http://www.unhcr.org/refworld/docid/3dde04324.html>.
- ⁶ See e.g., Council of Europe, Parliamentary Assembly, Recommendation 1545 (2002) (“2. Trafficking is a human rights issue as it entails the violation of women’s dignity and integrity, their freedom of movement and, in some cases, their right to life. As far as the individual is concerned, it affects the very foundations of human rights: the equal dignity of all human beings. Trafficking should be considered a crime against humanity.”).
- ⁷ For example, the first ever statement on sexual orientation and gender identity read in the United Nations General Assembly in December 2008, signed by 66 countries, condemned, “human rights violations based on sexual orientation or gender identity wherever they occur, in particular the use of the death penalty on this ground, extrajudicial, summary or arbitrary executions, the practice of torture and other cruel, inhuman and degrading treatment or punishment, arbitrary arrest or detention and deprivation of economic, social and cultural rights, including the right to health.” The statement, however, is nonbinding. ILGA, *UN Gen. Assembly Statement Affirms Rights for all*, December 19, 2008. Available at, http://www.ilga.org/news_results.asp?FileID=1211.
- ⁸ Alice Miller, *Sexuality and Human Rights: A Discussion Paper*, International Council on Human Rights Policy, (July 2009) 17-18.
- ⁹ Committee on the Elimination of Discrimination against Women (CEDAW Committee), *Concluding Observations: Netherlands*, para. 253, UN Doc. A/49/38, April 12, 1994.
- ¹⁰ CEDAW Committee, *Concluding Observations: New Zealand*, para. 612, UN Doc. A/49/38 (1994).
- ¹¹ CEDAW Committee, *Concluding Observations: Canada*, para. 310, UN Doc. A/52/38/Rev.1 (1997).
- ¹² CEDAW Committee, *Concluding Observations: Mexico*, para. 420, UN Doc. A/53/38 (1998).
- ¹³ CEDAW Committee, *Concluding Observations: Kyrgyzstan*, para. 127-28, UN Doc. A/54/38 (1999).
- ¹⁴ CEDAW Committee, *Concluding Observations: Sweden*, para. 334, UN Doc. A/56/38 (2001).
- ¹⁵ See the appendix to this handbook.
- ¹⁶ *Equal and Indivisible* is a publication of the International Gay and Lesbian Human Rights Commission (IGLHRC). IGLHRC’s mission is advancing human rights for everyone, everywhere to end discrimination based on sexual orientation, gender identity, or gender expression.
- ¹⁷ See, International Women’s Rights Action Watch (IWRAP) Asia Pacific, *Participation in the CEDAW Shadow Reporting Process: Process and Guidelines for Writing a Shadow/ Alternative Report* (October 2007). Available at, http://www.iwraw-ap.org/resources/pdf/Shadow_Report_Guidelines_Oct_2007.pdf [hereinafter IWRAP-AP CEDAW Guidelines].
- ¹⁸ Transgender as it is used in the US has limited resonance in many other countries. See the glossary at the end of this text for further information.
- ¹⁹ UN General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women, 18 December 1979, United Nations, Treaty Series, vol. 1249, p. 13. *State Party Ratification, Accession, Succession, Reservations, Understandings, and Declarations*, Available at, <http://treaties.un.org/doc/Publication/MTDSG/Volume%20I/Chapter%20IV/IV-8.en.pdf> (accessed on June 11, 2009).
- ²⁰ IGLHRC strongly recommends referring to the IWRAP-AP CEDAW Guidelines for detailed guidelines and process for shadow/alternative reporting under CEDAW. IWRAP-AP CEDAW Guidelines *supra* n. 16.
- ²¹ Guidelines for writing an Executive Summary can be found in the IWRAP-AP CEDAW Guidelines. IWRAP-AP CEDAW Guidelines *supra* n. 16 at 8.



- ²² For more information, *see*, United Nations Division for the Advancement of Women, *NGO Information Note*. Available at, http://www.un.org/womenwatch/daw/cedaw/NGO_Information_note_CEDAW.pdf (accessed on June 12, 2009).
- ²³ For more information, contact Adrian Coman (acoman@iglhrc.org) or Grace Poore (gpoore@iglhrc.org) at IGLHRC.
- ²⁴ For more information on the “From Global to Local” project, contact IWRAW Asia Pacific at iwraw-ap.org or iwraw_ap@yahoo.com.
- ²⁵ *See e.g.*, CEDAW Committee, *CEDAW General Recommendation No. 25: Article 4, Paragraph 1, of the Convention (Temporary Special Measures)*, para. 4, (2004). CEDAW Committee, *Concluding observations: Canada*, para. 44, UN Doc. CEDAW/C/CAN/CO/7 (2008).
- ²⁶ U.N. General Assembly, 53rd Session. *Report of the Committee on the Elimination of Discrimination Against Women, Eighteenth and nineteenth sessions*, UN Doc. A/53/38/Rev.1, Chapter I.A.17 (1998). Available at, <http://www.un.org/womenwatch/daw/cedaw/reports/18report.pdf>.
- ²⁷ CEDAW Committee, *Communication No. 4/2004 (A.S. V. Hungary)*, U.N. Doc. CEDAW/C/36/D/4/2004, (2004).
- ²⁸ CEDAW Committee, *Communication No. 2/2003 (A.T. v. Hungary)*, UN. Doc. CEDAW/C/32/D/2/2003 (2005).
- ²⁹ “The Platform for Action recognizes that women face barriers to full equality and advancement because of such factors as their race, age, language, ethnicity, culture, religion or disability, because they are indigenous women or because of **other status**. Many women encounter specific obstacles related to their **family status**, particularly as single parents; and to their socio-economic status, including their living conditions in rural, isolated or impoverished areas. Additional barriers also exist for refugee women, other displaced women, including internally displaced women as well as for immigrant women and migrant women, including women migrant workers. Many women are also particularly affected by environmental disasters, serious and infectious diseases and **various forms of violence against women** (emphasis added).” United Nations Fourth World Conference on Women. *Report of the Fourth World Conference on Women*. UN Doc. A/CONF.177/20 (October 17 1995). Available at, <http://www.un.org/documents/ga/conf177/aconf177-20en.htm>.
- ³⁰ U.N. General Assembly, 61st Session. *In-depth study on all forms of violence against women: Report from the Secretary General*, UN Doc. A/61/Add.1 (July 6 2006). Available at, <http://www.un.org/womenwatch/daw/vaw/v-sg-study.htm>.
- ³¹ Michael O’Flarety and Gwyneth Williams, *Jurisprudential Annotations to the Yogyakarta Principles*, The Yogyakarta Principles (November 2007). Available at, <http://www.yogyakartaprinciples.org/yogyakartaprinciples-jurisprudential-annotations.pdf>.
- ³² *Id.* The Yogyakarta Principles (March 2007). Available at, <http://www.yogyakartaprinciples.org>.
- ³³ The 42nd and 43rd Sessions of the CEDAW Committee were an exception to recent trends, and resulted in explicit references being made to discrimination against sexual minority women in Ecuador and Kyrgyzstan in the Concluding Comments. For an overview of relevant references made in Concluding Comments, see Appendix 2.
- ³⁴ CEDAW Committee, 39th session, *Summary record of the 803rd meeting - consideration of reports submitted by States parties under article 18 of the Convention: Third periodic report of Singapore*. UN Doc. CEDAW/C/SR.803 (A) (2007).
- ³⁵ CEDAW Committee, 39th Session, Summary Record and Concluding Comments (2007). Available at, <http://www.un.org/womenwatch/daw/cedaw/39sess.htm>. See particularly the records of this Session for Brazil, Honduras, New Zealand, the Republic of Korea and Singapore, in which the Committee discussed the issue of non-discrimination in relation to sexual orientation, raising questions about the right of homosexuals to have their union legally recognized, the right to be free from violence, and the right to non-discrimination in the workplace, in health services and general society.
- ³⁶ At the time the Convention was written, the term gender as a concept, though used in social science research, was not yet applied in legal discourse. Social science researchers distinguished between sex, as way of differentiating between men and women based on biological factors, and gender, as a way of differentiating between men and women based on social ascription. Researchers argued that conflating sex and gender effectively reduces gender differences, and therefore gendered experiences, to biology. This reinforces the biological determinism that is often evoked to entrench gender inequalities. See the Foreword to this handbook for more information about the history of the sex/gender distinction.



³⁷ The term gender as a social concept has become a target of backlash within and outside of the United Nations since the 1995 Beijing World Conference on Women. Religious fundamentalist NGO and government representatives have promoted the idea that the definition of gender includes sexual orientation. They therefore claim that including references to “gender equality,” for instance, in international treaties would force signatories to “promote homosexuality.” For an overview of this controversy in the UN context. See, Cynthia Rothschild, *Written Out: How Sexuality is Used to Attack Women’s Organizing*, IGLHRC and the Center for Women’s Global Leadership, 97-106 (2000). Available at, <http://www.iglhrc.org/cgi-bin/iowa/article/publications/reportsandpublications/8.html>.

³⁸ These include: Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the question of torture and other cruel, inhuman or degrading treatment or punishment; Special Rapporteur on adequate housing as a component of the right to an adequate standard of living; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Representative of the Secretary General on human rights defenders.

³⁹ Radhika Coomaraswamy, UN Special Rapporteur on violence against women, its causes and consequences, *Oral Statement at the 58th Session of the Commission on Human Rights*, April 10, 2002.

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⁴² Sodomy and morality laws in effect today in African, Asian and Central American/Caribbean countries are often the relics of British colonialism. Human Rights Watch, *This Alien Legacy: The Origins of “Sodomy” Laws in British Colonialism* (December 2008). Available at, <http://www.hrw.org/sites/default/files/reports/lgbt1208web.pdf>.

⁴³ Kuwait’s Penal Code was amended in December 2007 with this provision. Human Rights Watch, Kuwait: Halt Dress-Code Crackdown, March 30, 2008. Available at, <http://www.hrw.org/en/news/2008/03/30/kuwait-halt-dress-code-crackdown>.

⁴⁴ e.g. Penal Codes of Saint Lucia, Malaysia, Niger. *Supra* n. 40.

⁴⁵ e.g. Penal Codes of Bhutan, Botswana, India, Papua New Guinea. *Id.*

⁴⁶ e.g. Penal Codes of Lybia, Burkina Faso. *Id.*

⁴⁷ e.g. Penal Codes of Yemen, Somalia, Cameroon. *Id.*

⁴⁸ e.g. Penal Codes of Mauritania, Togo, Comoros. *Id.*

⁴⁹ In India, for example, “families...use Section 377 of the Indian Penal Code (which criminalizes all forms of “carnal intercourse against the order of nature”) to threaten daughters if they do not give up their same-sex relationships. While Section 377 is rarely used in court against women, the very presence of such a law is used as a mechanism by families to blackmail and threaten their lesbian kin.” National Alliance of Women. *CEDAW Shadow Report India*. (November 2006). Available at, <http://www.nawoindia.org/Second-NGO-Shadow-Report-on-CEDAW.asp>.

⁵⁰ Scott Long, “Before the Law: Criminalizing Sexual Conduct in Colonial and Post-Colonial Southern African Societies,” *More than a Name: State-Sponsored Homophobia and its Consequences in Southern Africa*. Human Rights Watch, International Gay and Lesbian Human Rights Commission, 256-299 (2003). Available at, <http://www.hrw.org/reports/2003/safrica/safrighrc0303.pdf>.

⁵¹ Article 365 (a) of the Sri Lankan Penal Code. *Supra* n. 40.

⁵² Yasmin Tambiah, “Man-Made Laws and Feminine Feelings: A ‘Lesbian’ Encounter with the Law in Sri Lanka,” *Lines Magazine*, (May 2003).

⁵³ CEDAW Committee, 20th Session, *Concluding Observations of the Committee on the Elimination of Discrimination Against Women: Kyrgyzstan*, UN Doc. A/54/38 (1999).

⁵⁴ CEDAW Committee, 26th Session, *Summary record: Trinidad and Tobago*, UN Doc. CEDAW/C/SR.536 (2002).

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⁵⁷ L. Amede Obiora, *Feminism, Globalization, and Culture: After Beijing* 4 *Indiana Journal of Global Legal Studies* 255, 360-61 (1997).

⁵⁸ Susana T. Fried and Ilana Landsberg-Lewis, “Sexual Rights: From Concept to Strategy” in K. Askin and D. Koenig (eds.) *Women’s Human Rights Reference Guide* (New York: Transnational Press, 2000), 114-15.



- ⁵⁹ HERA, “Action Sheet on Sexual Rights” in *HERA Action Sheets* (2001). Available at, <http://www.iwhc.org/docUploads/HERAActionSheets.PDF?documentID=52>.
- ⁶⁰ International Planned Parenthood Federation, *Sexual Rights: An IPPF declaration* (2008). Available at, <http://www.ippf.org/en/Resources/Statements/Sexual+rights+an+IPPF+declaration.htm>
- ⁶¹ Principle 3. International Planned Parenthood Federation, *Sexual Rights: An IPPF declaration* (2008). Available at, <http://www.ippf.org/en/Resources/Statements/Sexual+rights+an+IPPF+declaration.htm>.
- ⁶² Cynthia Rothschild. *Written Out: How Sexuality is Used to Attack Women’s Organizing*, IGLHRC and the Center for Women’s Global Leadership, 97-106. Available at, <http://www.iglhrc.org/cgi-bin/iowa/article/publications/reportsandpublications/8.html>. This work provides an analysis of the political climate and recent experiences of sexuality-baiting directed at women because of their political work, who they are, or how they are perceived.
- ⁶³ We recommend referencing not only the original CEDAW Convention text, but also the General Recommendations put forth by the Committee. In particular, General Recommendations No. 19 and No. 24 are useful with regard to discrimination against sexual minority women.
- ⁶⁴ Note that some of these examples are not drawn from shadow/alternative reports. The fact that the case examples cited in this section come from a limited number of countries does not necessarily mean that discrimination on the basis of sexual orientation, gender identity or gender expression is more prevalent in these countries than elsewhere. Rather it can be taken as an indicator of the widespread underreporting of cases and patterns of discrimination and violence against LBT women.
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“I hope that the path-breaking work of IGLHRC in strengthening the links between groups working on CEDAW and the CEDAW Committee in relation to issues of sexuality-related rights will lead to a sustained campaign for the recognition of sexual orientation and gender identity as a basis for discrimination in all human rights treaties and in the general body of international human rights law. Without this recognition, there can be no equality for women with minority or unpopular sexual orientations, sexual and gender identities, and gender expressions.”

— Sunila Abeysekera
Executive Director

International Women’s Rights Action Watch (IWRAP) Asia Pacific

Lesbian, bisexual, transgender and other women whose sexual orientation or gender identity or expression does not correspond with dominant norms are routinely subject to some of the most heinous of human rights abuses. They are regularly arrested, forced into psychiatric “treatment” or marriage, denied basic job protections, housing, education, healthcare, and parental rights, brutally attacked, tortured, raped and even murdered just because of how they express their sexuality and gender identity.

IGLHRC has written *Equal and Indivisible* to help activists challenge the status quo. It is intended to help non-governmental organizations and activists prepare inclusive shadow or alternative reports for the Committee on the Elimination of Discrimination Against Women. It draws attention to the fact that **all** women are equally entitled to and deserving of human rights protections.

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