



OUR COMMON STRUGGLE FOR RIGHTS AND EQUALITY

ORGANISING, FIGHTING AND WINNING
LGBTI WORKERS' RIGHTS

A RESOURCE FOR IUF AFFILIATES IN THE AFRICA REGION





IUF-UITA-IUL

2017

www.iuf.org

Design and layout : m+m studios, Cape Town

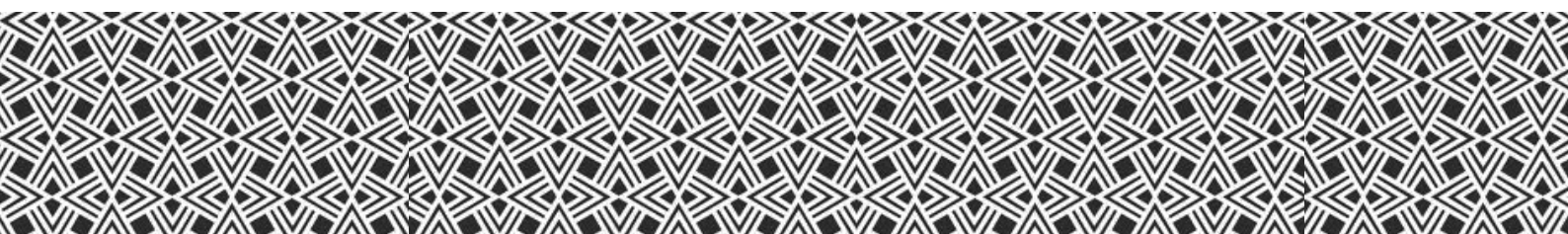


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THE AFRICAN CHARTER'S GOALS SEEK TO ELIMINATE ALL FORMS OF DISCRIMINATION AND TO ENSURE EQUALITY AMONG ALL HUMAN BEINGS IN LINE WITH THE UN INSTRUMENTS ON HUMAN AND PEOPLE'S RIGHTS.



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INTRODUCTION

The United Nations Declaration on Human Rights states that the “foundation of freedom, justice and peace in the world” is anchored on the “recognition of the inherent dignity and of the equal inalienable rights to all members of the human family”. It asserts that we are all born free in that we have our own ideas and thoughts irrespective of gender, sex, religion, political opinion, race, social origin, etc. We are all equal and should be treated the same whatever our differences. The declaration finds support in the Yogyakarta principles which hold that being born free as human beings, equal in dignity and rights we are ALL entitled to enjoyment of all human rights, rights which are “universal, interdependent, indivisible and interrelated”.

In Africa the principles and rights contained in the international instruments are confirmed by the African Charter on Human and Peoples’ Rights adopted in 1984 by the OAU which is now the African Union. It is said to be an instrument that seeks to promote and protect human and people’s rights. Its Article 2 confers on every individual “the enjoyment of the rights and freedoms recognised and guaranteed” in the regional instrument “without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status”. The African charter’s goals seek to eliminate all forms of discrimination and to ensure equality among all human beings in line with the UN instruments on human and people’s rights. Its principle of non-discrimination, even though it does not mention sexual orientation, we may argue it is included in the word ‘sex. The description in the Yogyakarta principles that “sexual orientation and gender identity are integral to every person’s dignity and humanity and must not be the basis for discrimination and abuse falls” within the purview of Article 2 read with Article 3 of the African Charter.

The increase of practices that undermine the principle that “people of all sexual orientation and gender identity can live with equal dignity and respect to which all persons are entitled” challenges every trade unionist to embark on action to promote the equal rights that belong to all, within the workplace and beyond.

This is the responsibility IUF shall not shirk as it plays its leading role in organizing its constituency together with progressive forces to fight discrimination in all its forms and together win RIGHTS FOR ALL.

This booklet aims to get all those who deplore the discrimination, persecution, torture and killing of the LGBTI members of our society to join forces worldwide to fight against this growing societal scourge that in other circumstances finds support and sustenance in domestic laws of countries.



GLOSSARY

From <https://www.unfe.org/definitions/>

People use a wide variety of words to describe themselves and their identities, and it's important to respect the terms, names and pronouns people use to refer to themselves.

LGBT/LGBTI

LGBT stands for “lesbian, gay, bisexual and transgender”; “LGBTI” for “lesbian, gay, bisexual, transgender and intersex”. While these terms have increasing resonance, different cultures use different terms to describe people who have same-sex relationships or who exhibit non-binary gender identities (such as hijra, meti, lala, skesana, motsoalle, mithli, kuchu, kawein, travesty, muxé, fa’afafine, fakaleiti, hamjensgara and two-spirit).

Transgender / Trans

Transgender (sometimes shortened to “trans”) is an umbrella term used to describe a wide range of identities whose appearance and characteristics are perceived as gender atypical—including transsexual people, cross-dressers (sometimes referred to as “transvestites”), and people who identify as third gender. Transwomen identify as women but were classified as males when they were born, transmen identify as men but were classified female when they were born, while other trans people don't identify with the gender-binary at all. Some transgender people seek surgery or take hormones to bring their body into alignment with their gender identity; others do not.

Intersex / Sex Characteristics

Intersex people are born with physical or biological sex characteristics, such as sexual anatomy, reproductive organs, hormonal patterns and/or chromosomal patterns, which do not fit the typical definitions of male or female. These characteristics may be apparent at birth or emerge later in life, often at puberty. Intersex people can have any sexual orientation and gender identity.

Sexual Orientation

Sexual orientation refers to a person's physical, romantic and/or emotional attraction towards other people. Everyone has a sexual orientation, which is part of their identity. Gay men and lesbians are attracted to individuals of the same sex as themselves. Heterosexual people are attracted to individuals of a different sex from themselves. Bisexual (sometimes shortened to “bi”) people may be attracted to individuals of the same or different sex. Sexual orientation is not related to gender identity and sex characteristics.

Gender Identity

Gender identity reflects a deeply felt and experienced sense of one's own gender. Everyone has a gender identity, which is part of their overall identity. A person's gender identity is typically aligned with the sex assigned to them at birth. Transgender (sometimes shortened to "trans") is an umbrella term used to describe people with a wide range of identities – including transsexual people, cross-dressers (sometimes referred to as "transvestites"), people who identify as third gender, and others whose appearance and characteristics are seen as gender atypical and whose sense of their own gender is different to the sex that they were assigned at birth. Trans women identify as women but were classified as males when they were born. Trans men identify as men but were classified female when they were born. Cisgender is a term used to describe people whose sense of their own gender is aligned with the sex that they were assigned at birth. Gender identity is distinct from sexual orientation and sex characteristics.



Gender Expression

Gender expression is the way in which we express our gender through actions and appearance. Gender expression can be any combination of masculine, feminine and androgynous. For a lot of people, their gender expression goes along with the ideas that our societies deem to be appropriate for their gender. For other people it does not. People whose gender expression does not fit into society's norms and expectations, such as men perceived as 'feminine' and women perceived as 'masculine' often face harsh sanctions, including physical, sexual and psychological violence and bullying. A person's gender expression is not always linked to the person's biological sex, gender identity or sexual orientation.

Homophobia

Homophobia is an irrational fear of, hatred or aversion towards lesbian, gay or bisexual people.

Transphobia

Transphobia is an irrational fear, hatred or aversion towards transgender people.

Biphobia

Biphobia is an irrational fear, hatred or aversion towards bisexual people.





RESOLUTION OF THE IUF EXECUTIVE COMMITTEE

Executive Committee of the IUF felt an urgent need to respond to the increasing discrimination and persecution of LGBTI workers in the workplace and beyond. As a global champion of workers' rights the full range of human rights, the Executive Committee deliberated intensely on how to further intensify organizing, fighting and winning EQUALITY FOR ALL with special focus on LGBTI workers worldwide. The following resolution was adopted in 2015.

2/

Executive Committee

Geneva, April 23-24, 2015

ORGANIZE FIGHT WIN: IUF & LGBT EQUALITY



Whereas, the Labor Movement has a long history of organizing for social and economic justice for all workers in the spirit of “an injury to one is an injury to all”;

Whereas, workers and their families who are Lesbian, Gay, Bi-Sexual and Transgender (LGBT) face discrimination, physical and mental abuse, and death for their sexual orientation and gender identity/gender expression;

Whereas, labor unions across the globe are engaging in the struggle for LGBT workers' rights to live with safety, dignity, respect and social and economic equality and justice;

Whereas, embracing diversity and encouraging more inclusive unions across the world will grow worker power;

Whereas, in over 80 countries these are laws that criminalize LGBT people (where it is illegal to love who you love), and in 10 countries where homosexuality is punishable by death, including the south-east Asian nation of Brunei; where those engaging in same- sex conduct can be stoned to death (another reason the TPP should not be approved as a country like Brunei is included). Laws and realities for transgender workers are significantly worse.

Therefore, be it resolved that the IUF shall add its voice, collective power and resources to the movement for full LGBT equality for all workers and their families; and be it further;

Resolved, the IUF will support LGBT workers across the globe and educate their members on the importance of LGBT equality in our collective struggle for justice in the workplace and in our communities and be it further;

Resolved, the IUF will provide opportunities for LGBT workers and their allies to meet at IUF meetings to discuss how to organize – fight – win on LGBT/union issues. And be it;

Resolved, finally that the IUF commits to speak out against injustice against LGBT workers across the globe.



BRIEF CONTEXTUAL ANALYSIS OF HOMOSEXUALITY AND THE LEGAL ENVIRONMENT IN THE AFRICAN REGION

The above EC Resolution was given practical meaning when the IUF Africa region in a workshop assessed the legal environment of homosexuality. Resolution 275 (provided below) of the African Commission on Human and Peoples' Rights which deplored the escalating human rights violations committed against people of different sexual orientation urged states and non-state actors to end these violations.

3/

**The African Commission on Human and Peoples' Rights (the African Commission),
Resolution 275 on Protection against Violence and other Human Rights Violations
against Persons on the basis of their real or imputed
Sexual Orientation or Gender Identity 55th
Ordinary Session held in Luanda, Angola, April 28 - May 12, 2014**

Recalling that Article 2 of the African Charter on Human and Peoples' Rights (the African Charter) prohibits discrimination of the individual on the basis of distinctions of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or any status;

Further recalling that Article 3 of the African Charter entitles every individual to equal protection of the law;

Noting that Articles 4 and 5 of the African Charter entitle every individual to respect of their life and the integrity of their person, and prohibit torture and other cruel, inhuman and degrading treatment or punishment;

Alarmed that acts of violence, discrimination and other human rights violations continue to be committed on individuals in many parts of Africa because of their actual or imputed sexual orientation or gender identity;

Noting that such violence includes 'corrective' rape, physical assaults, torture, murder, arbitrary arrests, detentions, extra-judicial killings and executions, forced disappearances, extortion and blackmail;

Further alarmed at the incidence of violence and human rights violations and abuses by State and non-State actors targeting human rights defenders and civil society organisations working on issues of sexual orientation or gender identity in Africa;

Deeply disturbed by the failure of law enforcement agencies to diligently investigate and prosecute perpetrators of violence and other human rights violations targeting persons on the basis of their imputed or real sexual orientation or gender identity;

1. **Condemns** the increasing incidence of violence and other human rights violations, including murder, rape, assault, arbitrary imprisonment and other forms of persecution of persons on the basis of their imputed or real sexual orientation or gender identity;
 2. **Specifically condemns** the situation of systematic attacks by State and non-state actors against persons on the basis of their imputed or real sexual orientation or gender identity;
 3. **Calls on** State Parties to ensure that human rights defenders work in an enabling environment that is free of stigma, reprisals or criminal prosecution as a result of their human rights protection activities, including the rights of sexual minorities; and
 4. **Strongly urges** States to end all acts of violence and abuse, whether committed by State or non-state actors, including by enacting and effectively applying appropriate laws prohibiting and punishing all forms of violence including those targeting persons on the basis of their imputed or real sexual orientation or gender identities, ensuring proper investigation and diligent prosecution of perpetrators, and establishing judicial procedures responsive to the needs of victims.
-



DOES THIS CHARTER FIND SUPPORT IN LEGISLATIVE WORK IN THE REGION?

We are indebted to the sterling work of The Law Library of Congress, Global Legal Research Center in 2014 on the analysis of the law and homosexuality in the region of Africa. It summarizes the treatment of homosexuality in criminal laws of forty-nine African nations. Their analysis observed provisions on criminal penalties for acts involving adults of the same-sex except in the case of South Africa which allow same-sex marriages. Their observations are noted below:

4.1

Countries where homosexuality is accepted and sexual acts between people of the same gender are allowed

| COUNTRIES | HOMOSEXUALITY ALLOWED | COMMENTS |
|---|---|---|
| South Africa | The Constitution and statutes conferred rights to all including the LGBTI persons as discrimination on a number of grounds including a persons' social orientation is barred. | Advocacy and same-sex marriages are allowed. |
| | | |
| COUNTRIES | HOMOSEXUALITY APPEARS TO BE LEGAL | COMMENTS |
| Cape Verde, Djibouti, Gabon, Guinea Bissau, Niger and Sao Tome e Principe | The penal codes have no provision prohibiting homosexuality and advocacy seems not be outlawed. | The LGBTI rights are not impaired save that same-sex marriages are not permitted. In Sao Tome e Principe the study could not establish if same-sex marriages are allowed. |
| | | |
| COUNTRIES | NO LAW AGAINST HOMOSEXUAL RELATIONS | COMMENTS |
| Burkina Faso, Cote d'Ivoire, Mali, Rwanda, Madagascar | No legal provisions prohibiting homosexuality or advocacy for the LGBTI rights. | The undefined term in the study of homosexual relations may be interpreted to mean homosexuality is not criminalised and advocacy for the LGBTI rights is not restricted. However same-sex marriages are not allowed. |

4.2

Countries where homosexuality and same-sex sexual acts are criminalised

| COUNTRIES | HOMOSEXUALITY PROHIBITED | COMMENTS |
|-----------------------------|---|--|
| Nigeria | The finding shows that homosexuality is outlawed by interpreting the inclusion of the description of persons from engaging in what it calls "gross indecency" in procuring or attempting to procure another male for the commission of gross indecency in public or private. Same-sex sexual act are punishable with a prison term and in the states which adopted Sharia law it is reported that they have imposed the death penalty for homosexual behaviour. | The finding point that LGBTI rights are impaired and advocacy for those rights is prohibited. Same-sex and civil union marriages are also prohibited. |
| | | |
| COUNTRIES | HOMOSEXUALITY ACTS PUNISHED | COMMENTS |
| Egypt, Eritrea and Ethiopia | Homosexuality is illegal. | It appears from the study that homosexuality found to be illegal refers not only to acts but actually to the fact that one is a homosexual. However, the findings seems to suggest advocacy for the LGBTI rights is permitted as no provision on advocacy could be found. Same-sex marriages are not allowed. A bit confusing which will necessitate a further investigation of the legal environment. |

4.3

Countries where homosexual acts or same-sex sexual acts are criminalised

| COUNTRIES | HOMOSEXUAL ACT AND/OR SAME-SEX ACT CRIMINALISED | COMMENTS |
|---|---|---|
| Algeria, Benin, Botswana, Cameroon, Central African republic, Comoros, Gambia, Ghana, Guinee, Kenya, Lesotho, Liberia, Libya, Malawi, Mauritania, Mauritius, Morocco, Seychelles, Senegal, Sierra Leone, Somalia, South Sudan, Sudan, Tanzania, Togo, Tunisia, Uganda, Zambia and Zimbabwe. | <p>Any person found guilty of a homosexual act is punished with a term of imprisonment and in some countries and a fine. In some countries is punishable with death.</p> <p>It is noted that the findings as regards the Central African Republic state that “Public expression of love” between persons of the same-sex is punishable by six months to two years of imprisonment” is understood to refer to same- sex sexual act and not necessary for being a homosexual.</p> | <p>The findings seem to refer to same-sex sexual acts (what in some statutes such acts are defined as sodomy) as homosexual acts. It appears not to mean that homosexuality as a sexual orientation is prohibited or criminalised. The Kenyan and Botswana cases has interpreted eloquently that in the statutes of those countries only acts and not sexual orientation is criminalised. In all these countries advocacy for the rights of the LGBTI community seemed to be allowed as the findings could not show any legal provision to that effect. Clearly in all these countries same-sex marriage is prohibited.</p> |
| COUNTRIES | APPEARS SOME HOMOSEXUAL ACTS ARE CRIMINALISED | COMMENTS |
| Namibia, Sierra Leone and Swaziland. | In Namibia and Swaziland no primary sources on penalties other than indications that sodomy is a common law criminal offense. In Sierra Leone sources indicate that sodomy is a criminal offense and penalties are derived from an 1861 English law. | The findings did not establish whether advocacy for the rights of the LGBTI persons are not permitted. No information on same-sex marriage was found. |
| COUNTRIES | THE LAW IS SILENT BUT CERTAIN MEASURES ARE APPLICABLE | COMMENTS |
| Angola, Democratic Republic of Congo and Mozambique | <p>No criminalisation of homosexuality in their penal codes and measures such as confinement in an insane asylum, confinement in a workhouse or agricultural colony, probation, pledge of good conduct, and/ or disqualification from the practice of a profession are applicable.</p> <p>In the DRC homosexual acts are not explicitly illegal but penalties for violation of morality might be interpreted to include the said acts.</p> | <p>It is apparent from the findings that homosexuality as an orientation is not outlawed but certain acts are punishable. Advocacy for the LGBTI rights is seemingly not legally discouraged.</p> <p>Same-sex marriages are not recognised.</p> |
| COUNTRIES | NO INFORMATION | COMMENTS |
| Chad and Congo (Brazzaville) | No criminal provisions could be found in Chad and no information on Congo about the position on homosexuality. In both countries no barring of advocacy on LBGTI rights could be gleaned. | It appears LGBTI rights are not legally impaired but same-sex marriages not recognised. |



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The IUF African region, in an LGBTI workshop, observed that even though the African Charter on Human and Peoples' Rights enjoys universal ratification by the African Union's (AU) member states, promulgation of laws to protect and promote LGBTI rights is shocking as the above analysis has shown. The charter contains important articles that promote equality of every human being and prohibit discrimination on a number of grounds including sex and other status.

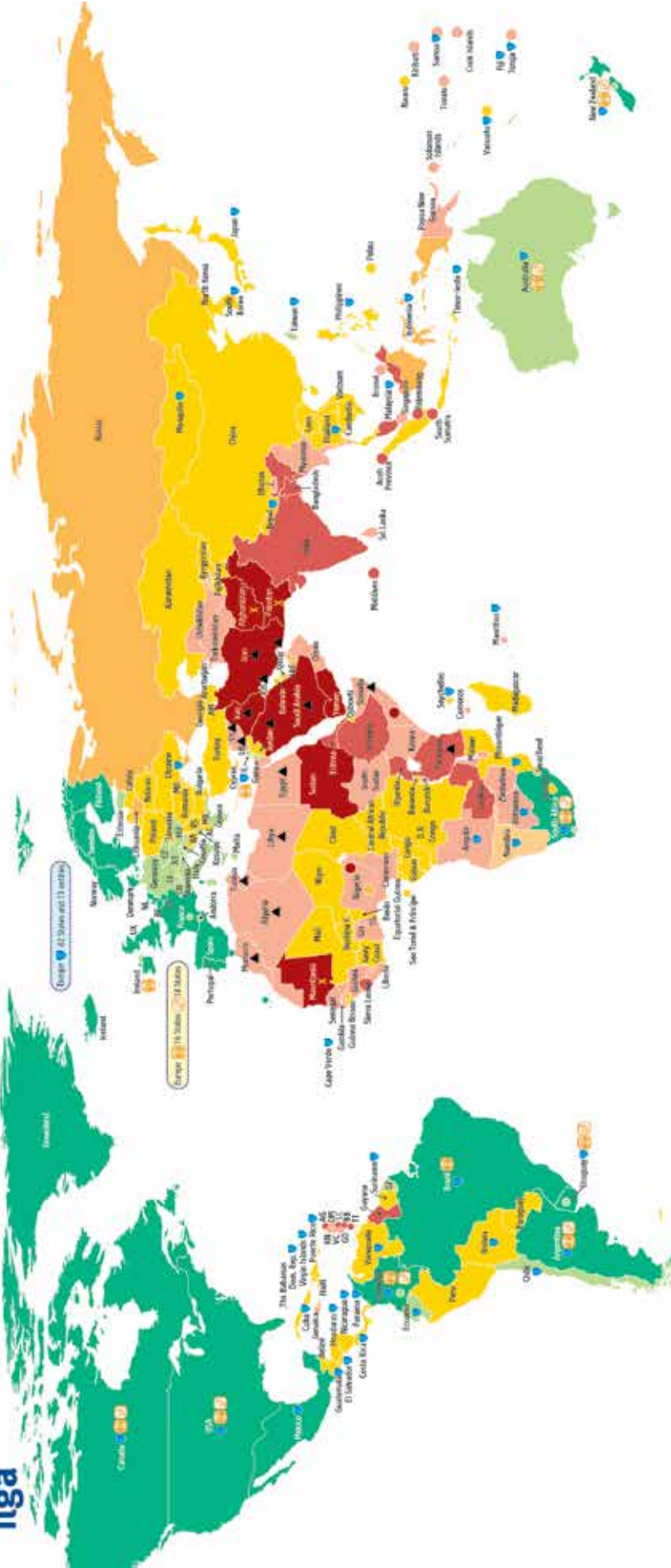
It is disappointing to note the lack of legislative will in ensuring elimination of human rights abuses of the LGBTI community. Consequently, one may hold a view that they put to shame the AU aspiration of "an inclusive continent where no child, woman or man will be left behind or excluded, on the basis of gender, political affiliation, religion, ethnic affiliation, age or other factors". We might add that other factors include sexual orientation. Our short journey through the jurisprudence of the region has obtained a dim view of the legal provisions that goes against the declared aspirations of the AU of having a continent with a universal culture of good governance, democratic values, gender equality, respect for human rights, justice and the rule of law. On the face of it thus far little legislative work seems to match the aspirations. The 10th IUF African Regional congress had to consider the issue of the rights of LGBTI workers in line with the EC resolution and declared a commitment to organise, fight and win rights for LGBTI workers and their families.



SEXUAL ORIENTATION LAWS IN THE WORLD - OVERVIEW

ILGA, THE INTERNATIONAL LESBIAN, GAY, BISEXUAL, TRANS AND INTERSEX ASSOCIATION

MAY 2017
ILG A . O R G



CRIMINALISATION

- 72 STATES**
- Implemented in 8 States (or parts of)
 - not implemented in 5 States
 - Religious-based laws alongside the civil code: 19 States
 - 14 Y - life (prison)
 - Up to 14 Y
 - 'Promotion' laws
 - No penalising law
- In green, yellow and orange countries, same-sex sexual acts were decriminalised or never penalised: 123 States

PROTECTION

- 65 STATES**
- Many States run concurrent protections
- 9 States
 - 22 States
 - 63 States
 - 43 States
 - 39 States
 - 3 States
- Constitution
 - Employment
 - Various
 - Hate crime
 - Incitement to hate
 - Ban on 'conversion therapy'

RECOGNITION

- 47 STATES**
- A small number of States provide for marriage and partnership concurrently
- Marriage: 22 States
 - Joint adoption: 26 States
 - Partnership: 28 States
 - 2nd parent adoption: 27 States
- Separate detailed maps for these three categories are produced alongside this Overview map.

The data represented in these maps are based on State-Sponsored Homophobia: A World Survey of Sexual Orientation Legislation, an ILGA, Foundation and Recognition, an ILGA, report by Angus Carroll and Lucía Carral and Lucía Carral. The report and these maps are available in the 16 official UN languages: English, Chinese, Arabic, French, Russian and Spanish on ILGA.org. This version of the world map (May 2017) was coordinated by Angus Carroll and Lucía Carral. ILGA, and designed by Edoardo Basso (edobasso@gmail.com).



RESOLUTION OF THE 10TH IUF AFRICAN REGIONAL CONFERENCE



Rights and decent work for all - our common struggle!

10th IUF African Regional Conference

Dar es Salaam, Tanzania, November 22-23, 2016

IUF Africa: commitment to work on equality rights in the Africa region

Conclusions adopted by the 10th Africa Regional Conference:

In line with the resolution adopted at the IUF Executive Committee, April 23-24, 2015 mandating the IUF to organise, fight and win on lesbian, gay, bi-sexual and transgender (LGBT) workers (attached):

The 10th Africa Regional Conference, Dar es Salaam, November 22-23, 2016 agreed to:

- 1) **Mandate** the Regional Secretariat to develop a training programme for all Regional staff, the Regional Committee and leadership of affiliated unions in the region to assist them to implement the IUF resolution on organising, fighting and winning rights for lesbian, gay, bi-sexual and transgender (LGBT) workers and their families;
- 2) **Popularise** this IUF Executive Committee resolution;
- 3) **Popularise** the African Commission on Human and Peoples' Rights Resolution 275 (2014) on Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity (attached);
- 4) Popularise the **Yogyakarta Principles** on the application of human rights law in relation to sexual orientation and gender identity;
- 5) **Identify** potential allies to work with at regional and national level on LGBT rights;
- 6) **Examine** how IUF company work in the region

...EVEN THOUGH THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS ENJOYS UNIVERSAL RATIFICATION BY THE AFRICAN UNION'S (AU) MEMBER STATES, PROMULGATION OF LAWS TO PROTECT AND PROMOTE LGBTI RIGHTS IS SHOCKING...





THE YOGYAKARTA PRINCIPLES

The Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity

6.1 The preamble of the 29 principles

We, the International Panel of Experts in International Human Rights Law and on Sexual Orientation and Gender Identity:

Preamble

RECALLING that all human beings are born free and equal in dignity and rights, and that everyone is entitled to the enjoyment of human rights without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status;

DISTURBED that violence, harassment, discrimination, exclusion, stigmatisation and prejudice are directed against persons in all regions of the world because of their sexual orientation or gender identity, that these experiences are compounded by discrimination on grounds including gender, race, age, religion, disability, health and economic status, and that such violence, harassment, discrimination, exclusion, stigmatisation and prejudice undermine the integrity and dignity of those subjected to these abuses, may weaken their sense of self-worth and belonging to their community, and lead many to conceal or suppress their identity and to live lives of fear and invisibility;

AWARE that historically people have experienced these human rights violations because they are or are perceived to be lesbian, gay or bisexual, because of their consensual sexual conduct with persons of the same gender or because they are or are perceived to be transsexual, transgender or intersex or belong to social groups identified in particular societies by sexual orientation or gender identity;

UNDERSTANDING 'sexual orientation' to refer to each person's capacity for profound emotional, affectional and sexual attraction to, and intimate and sexual relations with, individuals of a different gender or the same gender or more than one gender;

UNDERSTANDING ‘gender identity’ to refer to each person’s deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body (which may involve, if freely chosen, modification of bodily appearance or function by medical, surgical or other means) and other expressions of gender, including dress, speech and mannerisms;

OBSERVING that international human rights law affirms that all persons, regardless of sexual orientation or gender identity, are entitled to the full enjoyment of all human rights, that the application of existing human rights entitlements should take account of the specific situations and experiences of people of diverse sexual orientations and gender identities, and that in all actions concerning children the best interests of the child shall be a primary consideration and a child who is capable of forming personal views has the right to express those views freely, such views being given due weight in accordance with the age and maturity of the child;

NOTING that international human rights law imposes an absolute prohibition of discrimination in regard to the full enjoyment of all human rights, civil, cultural, economic, political and social, that respect for sexual rights, sexual orientation and gender identity is integral to the realisation of equality between men and women and that States must take measures to seek to eliminate prejudices and customs based on the idea of the inferiority or the superiority of one sex or on stereotyped roles for men and women, and noting further that the international community has recognised the right of persons to decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free from coercion, discrimination, and violence;

RECOGNISING that there is significant value in articulating in a systematic manner international human rights law as applicable to the lives and experiences of persons of diverse sexual orientations and gender identities;

ACKNOWLEDGING that this articulation must rely on the current state of international human rights law and will require revision on a regular basis in order to take account of developments in that law and its application to the particular lives and experiences of persons of diverse sexual orientations and gender identities over time and in diverse regions and countries;

The above declaration is followed by a set of principles.



6.2. THE 29 YOGYAKARTA PRINCIPLES

PRINCIPLE 1

THE RIGHT TO THE UNIVERSAL ENJOYMENT OF HUMAN RIGHTS

ELABORATION

All human beings are born free and equal in dignity and rights. Human beings of all sexual orientations and gender identities are entitled to the full enjoyment of all human rights.

OBLIGATIONS OF STATES

States shall:

Embody the principles of the universality, interrelatedness, interdependence and indivisibility of all human rights in their national constitutions or other appropriate legislation and ensure the practical realisation of the universal enjoyment of all human rights;

Amend any legislation, including criminal law, to ensure its consistency with the universal enjoyment of all human rights;

Undertake programmes of education and awareness to promote and enhance the full enjoyment of all human rights by all persons, irrespective of sexual orientation or gender identity;

Integrate within State policy and decision-making a pluralistic approach that recognises and affirms the interrelatedness and indivisibility of all aspects of human identity including sexual orientation and gender identity.

PRINCIPLE 2

THE RIGHTS TO EQUALITY AND NON-DISCRIMINATION

ELABORATION

Everyone is entitled to enjoy all human rights without discrimination on the basis of sexual orientation or gender identity. Everyone is entitled to equality before the law and the equal protection of the law without any such discrimination whether or not the enjoyment of another human right is also affected. The law shall prohibit any such discrimination and guarantee to all persons equal and effective protection against any such discrimination.

Discrimination on the basis of sexual orientation or gender identity includes any distinction, exclusion, restriction or preference based on sexual orientation or gender identity which has the purpose or effect of nullifying or impairing equality before the law or the equal protection of the law, or the recognition, enjoyment or exercise, on an equal basis, of all human rights and fundamental freedoms. Discrimination based on sexual orientation or gender identity may be, and commonly is, compounded by discrimination on other grounds including gender, race, age, religion, disability, health and economic status.

OBLIGATIONS OF STATES

States shall:

Embody the principles of equality and non-discrimination on the basis of sexual orientation and gender identity in their national constitutions or other appropriate legislation, if not yet incorporated therein, including by means of amendment and interpretation, and ensure the effective realisation of these principles;

Repeal criminal and other legal provisions that prohibit or are, in effect, employed to prohibit consensual sexual activity among people of the same-sex who are over the age of consent, and ensure that an equal age of consent applies to both same-sex and different sex sexual activity;

Adopt appropriate legislative and other measures to prohibit and eliminate discrimination in the public and private spheres on the basis of sexual orientation and gender identity;

Take appropriate measures to secure adequate advancement of persons of diverse sexual orientations and gender identities as may be necessary to ensure such groups or individual's equal enjoyment or exercise of human rights. Such measures shall not be deemed to be discriminatory;

In all their responses to discrimination on the basis of sexual orientation or gender identity, take account of the manner in which such discrimination may intersect with other forms of discrimination;

Take all appropriate action, including programmes of education and training, with a view to achieving the elimination of prejudicial or discriminatory attitudes or behaviours which are related to the idea of the inferiority or the superiority of any sexual orientation or gender identity or gender expression.

PRINCIPLE 3

THE RIGHT TO RECOGNITION BEFORE THE LAW

ELABORATION

Everyone has the right to recognition everywhere as a person before the law.

Persons of diverse sexual orientations and gender identities shall enjoy legal capacity in all aspects of life. Each person's self-defined sexual orientation and gender identity is integral to their personality and is one of the most basic aspects of self-determination, dignity and freedom. No one shall be forced to undergo medical procedures, including sex reassignment surgery, sterilization or hormonal therapy, as a requirement for legal recognition of their gender identity. No status, such as marriage or parenthood, may be invoked as such to prevent the legal recognition of a person's gender identity. No one shall be subjected to pressure to conceal, suppress or deny their sexual orientation or gender identity.

OBLIGATIONS OF STATES

States shall:

Ensure that all persons are accorded legal capacity in civil matters, without discrimination on the basis of sexual orientation or gender identity, and the opportunity to exercise that capacity, including equal rights to conclude contracts, and to administer, own, acquire (including through inheritance), manage, enjoy and dispose of property;

Take all necessary legislative, administrative and other measures to fully respect and legally recognise each person's self-defined gender identity;

Take all necessary legislative, administrative and other measures to ensure that procedures exist whereby all State-issued identity papers which indicate a person's gender/sex — including birth certificates, passports, electoral records and other documents — reflect the person's profound self-defined gender identity;

Ensure that such procedures are efficient, fair and non-discriminatory, and respect the dignity and privacy of the person concerned;

Ensure that changes to identity documents will be recognised in all contexts where the identification or disaggregation of persons by gender is required by law or policy;

Undertake targeted programmes to provide social support for all persons experiencing gender transitioning or reassignment.

PRINCIPLE 4

THE RIGHT TO LIFE

ELABORATION

Everyone has the right to life. No one shall be arbitrarily deprived of life, including by reference to considerations of sexual orientation or gender identity. The death penalty shall not be imposed on any person on the basis of consensual sexual activity among persons who are over the age of consent or on the basis of sexual orientation or gender identity.

OBLIGATIONS OF STATES

States shall:

Repeal all forms of crime that have the purpose or effect of prohibiting consensual sexual activity among persons of the same-sex who are over the age of consent and, until such provisions are repealed, never impose the death penalty on any person convicted under them;

Remit sentences of death and release all those currently awaiting execution for crimes relating to consensual sexual activity among persons who are over the age of consent;

Cease any State-sponsored or State-condoned attacks on the lives of persons based on sexual orientation or gender identity, and ensure that all such attacks, whether by government officials or by any individual or group, are vigorously investigated, and that, where appropriate evidence is found, those responsible are prosecuted, tried and duly punished.

PRINCIPLE 5

THE RIGHT TO SECURITY OF THE PERSON

ELABORATION

Everyone, regardless of sexual orientation or gender identity, has the right to security of the person and to protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual or group.

OBLIGATIONS OF STATES

States shall:

Take all necessary policing and other measures to prevent and provide protection from all forms of violence and harassment related to sexual orientation and gender identity;

Take all necessary legislative measures to impose appropriate criminal penalties for violence, threats of violence, incitement to violence and related harassment, based on the sexual orientation or gender identity of any person or group of persons, in all spheres of life, including the family;

Take all necessary legislative, administrative and other measures to ensure that the sexual orientation or gender identity of the victim may not be advanced to justify, excuse or mitigate such violence;

Ensure that perpetration of such violence is vigorously investigated, and that, where appropriate evidence is found, those responsible are prosecuted, tried and duly punished, and that victims are provided with appropriate remedies and redress, including compensation;

Undertake campaigns of awareness-raising, directed to the general public as well as to actual and potential perpetrators of violence, in order to combat the prejudices that underlie violence related to sexual orientation and gender identity.

PRINCIPLE 6

THE RIGHT TO PRIVACY

ELABORATION

Everyone, regardless of sexual orientation or gender identity, is entitled to the enjoyment of privacy without arbitrary or unlawful interference, including with regard to their family, home or correspondence as well as to protection from unlawful attacks on their honour and reputation. The right to privacy ordinarily includes the choice to disclose or not to disclose information relating to one's sexual orientation or gender identity, as well as decisions and choices regarding both one's own body and consensual sexual and other relations with others.

OBLIGATIONS OF STATES

States shall:

Take all necessary legislative, administrative and other measures to ensure the right of each person, regardless of sexual orientation or gender identity, to enjoy the private sphere, intimate decisions, and human relations, including consensual sexual activity among persons who are over the age of consent, without arbitrary interference;

Repeal all laws that criminalise consensual sexual activity among persons of the same-sex who are over the age of consent, and ensure that an equal age of consent applies to both same-sex and different-sex sexual activity;

Ensure that criminal and other legal provisions of general application are not applied to de facto criminalise consensual sexual activity among persons of the same-sex who are over the age of consent;

Repeal any law that prohibits or criminalises the expression of gender identity, including through dress, speech or mannerisms, or that denies to individuals the opportunity to change their bodies as a means of expressing their gender identity;

Release all those held on remand or on the basis of a criminal conviction, if their detention is related to consensual sexual activity among persons who are over the age of consent, or is related to gender identity;

Ensure the right of all persons ordinarily to choose when, to whom and how to disclose information pertaining to their sexual orientation or gender identity, and protect all persons from arbitrary or unwanted disclosure, or threat of disclosure of such information by others.

PRINCIPLE 7

THE RIGHT TO FREEDOM FROM ARBITRARY DEPRIVATION OF LIBERTY


ELABORATION

No one shall be subjected to arbitrary arrest or detention. Arrest or detention on the basis of sexual orientation or gender identity, whether pursuant to a court order or otherwise, is arbitrary. All persons under arrest, regardless of their sexual orientation or gender identity, are entitled, on the basis of equality, to be informed of the reasons for arrest and the nature of any charges against them, to be brought promptly before a judicial officer and to bring court proceedings to determine the lawfulness of detention, whether or not charged with any offence.

OBLIGATIONS OF STATES

States shall:

Take all necessary legislative, administrative and other measures to ensure that sexual orientation or gender identity may under no circumstances be the basis for arrest or detention, including the elimination of vaguely worded criminal law provisions that invite discriminatory application or otherwise provide scope for arrests based on prejudice;



Take all necessary legislative, administrative and other measures to ensure that all persons under arrest, regardless of their sexual orientation or gender identity, are entitled, on the basis of equality, to be informed of the reasons for arrest and the nature of any charges against them, and whether charged or not, to be brought promptly before a judicial officer and to bring court proceedings to determine the lawfulness of detention;

Undertake programmes of training and awareness-raising to educate police and other law enforcement personnel regarding the arbitrariness of arrest and detention based on a person's sexual orientation or gender identity;

Maintain accurate and up to date records of all arrests and detentions, indicating the date, location and reason for detention, and ensure independent oversight of all places of detention by bodies that are adequately mandated and equipped to identify arrests and detentions that may be motivated by the sexual orientation or gender identity of a person.

PRINCIPLE 8

THE RIGHT TO A FAIR TRIAL

ELABORATION

Everyone is entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law, in the determination of their rights and obligations in a suit at law and of any criminal charge against them, without prejudice or discrimination on the basis of sexual orientation or gender identity.

OBLIGATIONS OF STATES

States shall:

Take all necessary legislative, administrative and other measures to prohibit and eliminate prejudicial treatment on the basis of sexual orientation or gender identity at every stage of the judicial process, in civil and criminal proceedings and all other judicial and administrative proceedings which determine rights and obligations, and to ensure that no one's credibility or character as a party, witness, advocate or decision-maker is impugned by reason of their sexual orientation or gender identity;

Take all necessary and reasonable steps to protect persons from criminal prosecutions or civil proceedings that are motivated wholly or in part by prejudice regarding sexual orientation or gender identity;

Undertake programmes of training and awareness-raising for judges, court personnel, prosecutors, lawyers and others regarding international human rights standards and principles of equality and non-discrimination, including in relation to sexual orientation and gender identity.

PRINCIPLE 9

THE RIGHT TO TREATMENT WITH HUMANITY WHILE IN DETENTION

ELABORATION

Everyone deprived of liberty shall be treated with humanity and with respect for the inherent dignity of the human person. Sexual orientation and gender identity are integral to each person's dignity.

OBLIGATIONS OF STATES

States shall:

Ensure that placement in detention avoids further marginalising persons on the basis of sexual orientation or gender identity or subjecting them to risk of violence, ill-treatment or physical, mental or sexual abuse;

Provide adequate access to medical care and counselling appropriate to the needs of those in custody, recognising any particular needs of persons on the basis of their sexual orientation or gender identity, including with regard to reproductive health, access to HIV/AIDS information and therapy and access to hormonal or other therapy as well as to gender-reassignment treatments where desired;

Ensure, to the extent possible, that all prisoners participate in decisions regarding the place of detention appropriate to their sexual orientation and gender identity;

Put protective measures in place for all prisoners vulnerable to violence or abuse on the basis of their sexual orientation, gender identity or gender expression and ensure, so far as is reasonably practicable, that such protective measures involve no greater restriction of their rights than is experienced by the general prison population;

Ensure that conjugal visits, where permitted, are granted on an equal basis to all prisoners and detainees, regardless of the gender of their partner;

Provide for the independent monitoring of detention facilities by the State as well as by non-governmental organisations including organisations working in the spheres of sexual orientation and gender identity;

Undertake programmes of training and awareness-raising for prison personnel and all other officials in the public and private sector who are engaged in detention facilities, regarding international human rights standards and principles of equality and nondiscrimination, including in relation to sexual orientation and gender identity.

PRINCIPLE 10

THE RIGHT TO FREEDOM FROM TORTURE AND CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

ELABORATION

Everyone has the right to be free from torture and from cruel, inhuman or degrading treatment or punishment, including for reasons relating to sexual orientation or gender identity.

OBLIGATIONS OF STATES

States shall:

Take all necessary legislative, administrative and other measures to prevent and provide protection from torture and cruel, inhuman or degrading treatment or punishment, perpetrated for reasons relating to the sexual orientation or gender identity of the victim, as well as the incitement of such acts;

Take all reasonable steps to identify victims of torture and cruel, inhuman or degrading treatment or punishment, perpetrated for reasons relating to sexual orientation or gender identity, and offer appropriate remedies including redress and reparation and, where appropriate, medical and psychological support;

Undertake programmes of training and awareness-raising for police, prison personnel and all other officials in the public and private sector who are in a position to perpetrate or to prevent such acts.

PRINCIPLE 11

THE RIGHT TO PROTECTION FROM ALL FORMS OF EXPLOITATION, SALE AND TRAFFICKING OF HUMAN BEINGS

ELABORATION

Everyone is entitled to protection from trafficking, sale and all forms of exploitation, including but not limited to sexual exploitation, on the grounds of actual or perceived sexual orientation or gender identity. Measures designed to prevent trafficking shall address the factors that increase vulnerability, including various forms of inequality and discrimination on the grounds of actual or perceived sexual orientation or gender identity, or the expression of these or other identities. Such measures must not be inconsistent with the human rights of persons at risk of being trafficked.

OBLIGATIONS OF STATES

States shall:

Take all necessary legislative, administrative and other measures of a preventive and protective nature regarding the trafficking, sale and all forms of exploitation of human beings, including but not limited to sexual exploitation, on the grounds of actual or perceived sexual orientation or gender identity;

Ensure that any such legislation or measures do not criminalise the behaviour of, stigmatise, or in any other way, exacerbate the disadvantage of those vulnerable to such practices;

Establish legal, educational and social measures, services and programmes to address factors that increase vulnerability to trafficking, sale and all forms of exploitation, including but not limited to sexual exploitation, on the grounds of actual or perceived sexual orientation or gender identity, including such factors as social exclusion, discrimination, rejection by families or cultural communities, lack of financial independence, homelessness, discriminatory social attitudes leading to low self-esteem, and lack of protection from discrimination in access to housing, accommodation, employment and social services.

PRINCIPLE 12

THE RIGHT TO WORK

ELABORATION

Everyone has the right to decent and productive work, to just and favourable conditions of work and to protection against unemployment, without discrimination on the basis of sexual orientation or gender identity.

OBLIGATIONS OF STATES

States shall:

Take all necessary legislative, administrative and other measures to eliminate and prohibit discrimination on the basis of sexual orientation and gender identity in public and private employment, including in relation to vocational training, recruitment, promotion, dismissal, conditions of employment and remuneration;

Eliminate any discrimination on the basis of sexual orientation or gender identity to ensure equal employment and advancement opportunities in all areas of public service, including all levels of government service and employment in public functions, including serving in the police and military, and provide appropriate training and awareness-raising programmes to counter discriminatory attitudes.

PRINCIPLE 13

THE RIGHT TO SOCIAL SECURITY AND TO OTHER SOCIAL PROTECTION MEASURES

ELABORATION

Everyone has the right to social security and other social protection measures, without discrimination on the basis of sexual orientation or gender identity.

OBLIGATIONS OF STATES

States shall:

Take all necessary legislative, administrative and other measures to ensure equal access, without discrimination on the basis of sexual orientation or gender identity, to social security and other social protection measures, including employment benefits, parental leave, unemployment benefits, health insurance or care or benefits (including for body modifications related to gender identity), other social insurance, family benefits, funeral benefits, pensions and benefits with regard to the loss of support for spouses or partners as the result of illness or death;

Ensure that children are not subject to any form of discriminatory treatment within the social security system or in the provision of social or welfare benefits on the basis of their sexual orientation or gender identity, or that of any member of their family;

Take all necessary legislative, administrative and other measures to ensure access to poverty reduction strategies and programmes, without discrimination on the basis of sexual orientation or gender identity.

PRINCIPLE 14

THE RIGHT TO AN ADEQUATE STANDARD OF LIVING

ELABORATION

Everyone has the right to an adequate standard of living, including adequate food, safe drinking water, adequate sanitation and clothing, and to the continuous improvement of living conditions, without discrimination on the basis of sexual orientation or gender identity.

OBLIGATIONS OF STATES

States shall:

Take all necessary legislative, administrative and other measures to ensure equal access, without discrimination on the basis of sexual orientation or gender identity, to adequate food, safe drinking water, adequate sanitation and clothing.

PRINCIPLE 15

THE RIGHT TO ADEQUATE HOUSING

ELABORATION

Everyone has the right to adequate housing, including protection from eviction, without discrimination on the basis of sexual orientation or gender identity.

OBLIGATIONS OF STATES

States shall:

Take all necessary legislative, administrative and other measures to ensure security of tenure and access to affordable, habitable, accessible, culturally appropriate and safe housing, including shelters and other emergency accommodation, without discrimination on the basis of sexual orientation, gender identity or marital or family status;

Take all necessary legislative, administrative and other measures to prohibit the execution of evictions that are not in conformity with their international human rights obligations, and ensure that adequate and effective legal or other appropriate remedies are available to any person claiming that a right to protection against forced evictions has been violated or is under threat of violation, including the right to resettlement, which includes the right to alternative land of better or equal quality and to adequate housing, without discrimination on the basis of sexual orientation, gender identity or marital or family status;

Ensure equal rights to land and home ownership and inheritance without discrimination on the basis of sexual orientation or gender identity;

Establish social programmes, including support programmes, to address factors relating to sexual orientation and gender identity that increase vulnerability to homelessness, especially for children and young people, including social exclusion, domestic and other forms of violence, discrimination, lack of financial independence, and rejection by families or cultural communities, as well as to promote schemes of neighbourhood support and security;

Provide training and awareness-raising programmes to ensure that all relevant agencies are aware of and sensitive to the needs of those facing homelessness or social disadvantage as a result of sexual orientation or gender identity.

PRINCIPLE 16

THE RIGHT TO EDUCATION

ELABORATION

Everyone has the right to education, without discrimination on the basis of, and taking into account, their sexual orientation and gender identity.

OBLIGATIONS OF STATES

States shall:

Take all necessary legislative, administrative and other measures to ensure equal access to education, and equal treatment of students, staff and teachers within the education system, without discrimination on the basis of sexual orientation or gender identity;

Ensure that education is directed to the development of each student's personality, talents, and mental and physical abilities to their fullest potential, and responds to the needs of students of all sexual orientations and gender identities;

Ensure that education is directed to the development of respect for human rights, and of respect for each child's parents and family members, cultural identity, language and values, in a spirit of understanding, peace, tolerance and equality, taking into account and respecting diverse sexual orientations and gender identities;

Ensure that education methods, curricula and resources serve to enhance understanding of and respect for, inter alia, diverse sexual orientations and gender identities, including the particular needs of students, their parents and family members related to these grounds;

Ensure that laws and policies provide adequate protection for students, staff and teachers of different sexual orientations and gender identities against all forms of social exclusion and violence within the school environment, including bullying and harassment;

Ensure that students subjected to such exclusion or violence are not marginalised or segregated for reasons of protection, and that their best interests are identified and respected in a participatory manner;

Take all necessary legislative, administrative and other measures to ensure that discipline in educational institutions is administered in a manner consistent with human dignity, without discrimination or penalty on the basis of a student's sexual orientation or gender identity, or the expression thereof;

Ensure that everyone has access to opportunities and resources for lifelong learning without discrimination on the basis of sexual orientation or gender identity, including adults who have already suffered such forms of discrimination in the educational system.

PRINCIPLE 17

THE RIGHT TO THE HIGHEST ATTAINABLE STANDARD OF HEALTH

ELABORATION

Everyone has the right to the highest attainable standard of physical and mental health, without discrimination on the basis of sexual orientation or gender identity. Sexual and reproductive health is a fundamental aspect of this right.

OBLIGATIONS OF STATES

States shall:

Take all necessary legislative, administrative and other measures to ensure enjoyment of the right to the highest attainable standard of health, without discrimination on the basis of sexual orientation or gender identity;

Take all necessary legislative, administrative and other measures to ensure that all persons have access to healthcare facilities, goods and services, including in relation to sexual and reproductive health, and to their own medical records, without discrimination on the basis of sexual orientation or gender identity;

Ensure that healthcare facilities, goods and services are designed to improve the health status of, and respond to the needs of, all persons without discrimination on the basis of, and taking into account, sexual orientation and gender identity, and that medical records in this respect are treated with confidentiality;

Develop and implement programmes to address discrimination, prejudice and other social factors which undermine the health of persons because of their sexual orientation or gender identity;

Ensure that all persons are informed and empowered to make their own decisions regarding medical treatment and care, on the basis of genuinely informed consent, without discrimination on the basis of sexual orientation or gender identity;

Ensure that all sexual and reproductive health, education, prevention, care and treatment programmes and services respect the diversity of sexual orientations and gender identities, and are equally available to all without discrimination;

Facilitate access by those seeking body modifications related to gender reassignment to competent, non-discriminatory treatment, care and support;

Ensure that all health service providers treat clients and their partners without discrimination on the basis of sexual orientation or gender identity, including with regard to recognition as next of kin;

Adopt the policies, and programmes of education and training, necessary to enable persons working in the healthcare sector to deliver the highest attainable standard of healthcare to all persons, with full respect for each person's sexual orientation and gender identity.

PRINCIPLE 18

PROTECTION FROM MEDICAL ABUSES

ELABORATION

No person may be forced to undergo any form of medical or psychological treatment, procedure, testing, or be confined to a medical facility, based on sexual orientation or gender identity. Notwithstanding any classifications to the contrary, a person's sexual orientation and gender identity are not, in and of themselves, medical conditions and are not to be treated, cured or suppressed.

OBLIGATIONS OF STATES

States shall:

Take all necessary legislative, administrative and other measures to ensure full protection against harmful medical practices based on sexual orientation or gender identity, including on the basis of stereotypes, whether derived from culture or otherwise, regarding conduct, physical appearance or perceived gender norms;

Take all necessary legislative, administrative and other measures to ensure that no child's body is irreversibly altered by medical procedures in an attempt to impose a gender identity without the full, free and informed consent of the child in accordance with the age and maturity of the child and guided by the principle that in all actions concerning children, the best interests of the child shall be a primary consideration;

Establish child protection mechanisms whereby no child is at risk of, or subjected to, medical abuse;

Ensure protection of persons of diverse sexual orientations and gender identities against unethical or involuntary medical procedures or research, including in relation to vaccines, treatments or microbicides for HI V/AIDS or other diseases;

Review and amend any health funding provisions or programmes, including those of a development-assistance nature, which may promote, facilitate or in any other way render possible such abuses;

Ensure that any medical or psychological treatment or counselling does not, explicitly or implicitly, treat sexual orientation and gender identity as medical conditions to be treated, cured or suppressed.

PRINCIPLE 19

THE RIGHT TO FREEDOM OF OPINION AND EXPRESSION

ELABORATION

Everyone has the right to freedom of opinion and expression, regardless of sexual orientation or gender identity. This includes the expression of identity or personhood through speech, deportment, dress, bodily characteristics, choice of name, or any other means, as well as the freedom to seek, receive and impart information and ideas of all kinds, including with regard to human rights, sexual orientation and gender identity, through any medium and regardless of frontiers.

OBLIGATIONS OF STATES

States shall:

Take all necessary legislative, administrative and other measures to ensure full enjoyment of freedom of opinion and expression, while respecting the rights and freedoms of others, without discrimination on the basis of sexual orientation or gender identity, including the receipt and imparting of information and ideas concerning sexual orientation and gender identity, as well as related advocacy for legal rights, publication of materials, broadcasting, organisation of or participation in conferences, and dissemination of and access to safer sex information;

Ensure that the outputs and the organisation of media that is State-regulated is pluralistic and non-discriminatory in respect of issues of sexual orientation and gender identity and that the personnel recruitment and promotion policies of such organisations are non-discriminatory on the basis of sexual orientation or gender identity;

Take all necessary legislative, administrative and other measures to ensure the full enjoyment of the right to express identity or personhood, including through speech, deportment, dress, bodily characteristics, choice of name or any other means;

Ensure that notions of public order, public morality, public health and public security are not employed to restrict, in a discriminatory manner, any exercise of freedom of opinion and expression that affirms diverse sexual orientations or gender identities;

Ensure that the exercise of freedom of opinion and expression does not violate the rights and freedoms of persons of diverse sexual orientations and gender identities;

Ensure that all persons, regardless of sexual orientation or gender identity, enjoy equal access to information and ideas, as well as to participation in public debate.

PRINCIPLE 20

THE RIGHT TO FREEDOM OF PEACEFUL ASSEMBLY AND ASSOCIATION

ELABORATION

Everyone has the right to freedom of peaceful assembly and association, including for the purposes of peaceful demonstrations, regardless of sexual orientation or gender identity. Persons may form and have recognised, without discrimination, associations based on sexual orientation or gender identity, and associations that distribute information to or about, facilitate communication among, or advocate for the rights of, persons of diverse sexual orientations and gender identities.

OBLIGATIONS OF STATES

States shall:

Take all necessary legislative, administrative and other measures to ensure the rights to peacefully organise, associate, assemble and advocate around issues of sexual orientation and gender identity, and to obtain legal recognition for such associations and groups, without discrimination on the basis of sexual orientation or gender identity;

Ensure in particular that notions of public order, public morality, public health and public security are not employed to restrict any exercise of the rights to peaceful assembly and association solely on the basis that it affirms diverse sexual orientations or gender identities;

Under no circumstances impede the exercise of the rights to peaceful assembly and association on grounds relating to sexual orientation or gender identity, and ensure that adequate police and other physical protection against violence or harassment is afforded to persons exercising these rights;

Provide training and awareness-raising programmes to law enforcement authorities and other relevant officials to enable them to provide such protection;

Ensure that information disclosure rules for voluntary associations and groups do not, in practice, have discriminatory effects for such associations and groups addressing issues of sexual orientation or gender identity, or for their members.

PRINCIPLE 21

THE RIGHT TO FREEDOM OF THOUGHT, CONSCIENCE AND RELIGION

ELABORATION

Everyone has the right to freedom of thought, conscience and religion, regardless of sexual orientation or gender identity. These rights may not be invoked by the State to justify laws, policies or practices which deny equal protection of the law, or discriminate, on the basis of sexual orientation or gender identity.

OBLIGATIONS OF STATES

States shall:

Take all necessary legislative, administrative and other measures to ensure the right of persons, regardless of sexual orientation or gender identity, to hold and practice religious and non-religious beliefs, alone or in association with others, to be free from interference with their beliefs and to be free from coercion or the imposition of beliefs;

Ensure that the expression, practice and promotion of different opinions, convictions and beliefs with regard to issues of sexual orientation or gender identity is not undertaken in a manner incompatible with human rights.

PRINCIPLE 22

THE RIGHT TO FREEDOM OF MOVEMENT

ELABORATION

Everyone lawfully within a State has the right to freedom of movement and residence within the borders of the State, regardless of sexual orientation or gender identity. Sexual orientation and gender identity may never be invoked to limit or impede a person's entry, egress or return to or from any State, including that person's own State.

OBLIGATIONS OF STATES

States shall:

Take all necessary legislative, administrative and other measures to ensure that the right to freedom of movement and residence is guaranteed regardless of sexual orientation or gender identity.

PRINCIPLE 23

THE RIGHT TO SEEK ASYLUM

ELABORATION

Everyone has the right to seek and enjoy in other countries asylum from persecution, including persecution related to sexual orientation or gender identity. A State may not remove, expel or extradite a person to any State where that person may face a well-founded fear of torture, persecution, or any other form of cruel, inhuman or degrading treatment or punishment, on the basis of sexual orientation or gender identity.

OBLIGATIONS OF STATES

States shall:

Review, amend and enact legislation to ensure that a well-founded fear of persecution on the basis of sexual orientation or gender identity is accepted as a ground for the recognition of refugee status and asylum;

Ensure that no policy or practice discriminates against asylum seekers on the basis of sexual orientation or gender identity;

Ensure that no person is removed, expelled or extradited to any State where that person may face a well-founded fear of torture, persecution, or any other form of cruel, inhuman or degrading treatment or punishment, on the basis of that person’s sexual orientation or gender identity.

PRINCIPLE 24

THE RIGHT TO FOUND A FAMILY

ELABORATION

Everyone has the right to found a family, regardless of sexual orientation or gender identity. Families exist in diverse forms. No family may be subjected to discrimination on the basis of the sexual orientation or gender identity of any of its members.

OBLIGATIONS OF STATES

States shall:

Take all necessary legislative, administrative and other measures to ensure the right to found a family, including through access to adoption or assisted procreation (including donor insemination), without discrimination on the basis of sexual orientation or gender identity;

Ensure that laws and policies recognise the diversity of family forms, including those not defined by descent or marriage, and take all necessary legislative, administrative and other measures to ensure that no family may be subjected to discrimination on the basis of the sexual orientation or gender identity of any of its members, including with regard to family-related social welfare and other public benefits, employment, and immigration;

Take all necessary legislative, administrative and other measures to ensure that in all actions or decisions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration, and that the sexual orientation or gender identity of the child or of any family member or other person may not be considered incompatible with such best interests;

In all actions or decisions concerning children, ensure that a child who is capable of forming personal views can exercise the right to express those views freely, and that such views are given due weight in accordance with the age and maturity of the child;

Take all necessary legislative, administrative and other measures to ensure that in States that recognise same-sex marriages or registered partnerships, any entitlement, privilege, obligation or benefit available to different-sex married or registered partners is equally available to same-sex married or registered partners;

Take all necessary legislative, administrative and other measures to ensure that any obligation, entitlement, privilege, obligation or benefit available to different-sex unmarried partners is equally available to same-sex unmarried partners;

Ensure that marriages and other legally-recognised partnerships may be entered into only with the free and full consent of the intending spouses or partners.

PRINCIPLE 25

THE RIGHT TO PARTICIPATE IN PUBLIC LIFE

ELABORATION

Every citizen has the right to take part in the conduct of public affairs, including the right to stand for elected office, to participate in the formulation of policies affecting their welfare, and to have equal access to all levels of public service and employment in public functions, including serving in the police and military, without discrimination on the basis of sexual orientation or gender identity.

OBLIGATIONS OF STATES

States shall:

Review, amend and enact legislation to ensure the full enjoyment of the right to participate in public and political life and affairs, embracing all levels of government service and employment in public functions, including serving in the police and military, without discrimination on the basis of, and with full respect for, each person's sexual orientation and gender identity;

Take all appropriate measures to eliminate stereotypes and prejudices regarding sexual orientation and gender identity that prevent or restrict participation in public life;

Ensure the right of each person to participate in the formulation of policies affecting their welfare, without discrimination on the basis of, and with full respect for, their sexual orientation and gender identity.

PRINCIPLE 26

THE RIGHT TO PARTICIPATE IN CULTURAL LIFE

ELABORATION

Everyone has the right to participate freely in cultural life, regardless of sexual orientation or gender identity, and to express, through cultural participation, the diversity of sexual orientation and gender identity.

OBLIGATIONS OF STATES

States shall:

Take all necessary legislative, administrative and other measures to ensure opportunities for the participation in cultural life of all persons, regardless of, and with full respect for, their sexual orientations and gender identities;

Foster dialogue between, and mutual respect among, proponents of the various cultural groups present within the State, including among groups that hold different views on matters of sexual orientation and gender identity, consistently with respect for the human rights referred to in these Principles.

PRINCIPLE 27

THE RIGHT TO PROMOTE HUMAN RIGHTS

ELABORATION

Everyone has the right, individually and in association with others, to promote the protection and realisation of human rights at the national and international levels, without discrimination on the basis of sexual orientation or gender identity. This includes activities directed towards the promotion and protection of the rights of persons of diverse sexual orientations and gender identities, as well as the right to develop and discuss new human rights norms and to advocate their acceptance.

OBLIGATIONS OF STATES

States shall:

Take all necessary legislative, administrative and other measures to ensure a favourable environment for activities directed towards the promotion, protection and realisation of human rights, including rights relevant to sexual orientation and gender identity;

Take all appropriate measures to combat actions or campaigns targeting human rights defenders working on issues of sexual orientation and gender identity, as well as those targeting human rights defenders of diverse sexual orientations and gender identities;

Ensure that human rights defenders, regardless of their sexual orientation or gender identity, and regardless of the human rights issues they advocate, enjoy non-discriminatory access to, participation in, and communication with, national and international human rights organisations and bodies;

Ensure the protection of human rights defenders, working on issues of sexual orientation and gender identity, against any violence, threat, retaliation, de facto or de jure discrimination, pressure, or any other arbitrary action perpetrated by the State, or by non-State actors, in response to their human rights activities. The same protection should be ensured, to human rights defenders working on any issue, against any such treatment based on their sexual orientation or gender identity;

Support the recognition and accreditation of organisations that promote and protect the human rights of persons of diverse sexual orientations and gender identities at the national and international levels.

PRINCIPLE 28

THE RIGHT TO EFFECTIVE REMEDIES AND REDRESS

ELABORATION

Every victim of a human rights violation, including of a violation based on sexual orientation or gender identity, has the right to effective, adequate and appropriate remedies. Measures taken for the purpose of providing reparation to, or securing adequate advancement of, persons of diverse sexual orientations and gender identities are integral to the right to effective remedies and redress.

OBLIGATIONS OF STATES

States shall:

Establish the necessary legal procedures, including through the revision of legislation and policies, to ensure that victims of human rights violations on the basis of sexual orientation or gender identity have access to full redress through restitution, compensation, rehabilitation, satisfaction, guarantee of non-repetition, and/or any other means as appropriate;

Ensure that remedies are enforced and implemented in a timely manner;

Ensure that effective institutions and standards for the provision of remedies and redress are established, and that all personnel are trained in issues of human rights violations based on sexual orientation and gender identity;

Ensure that all persons have access to all necessary information about the processes for seeking remedies and redress;

Ensure that financial aid is provided to those who are unable to afford the cost of securing redress, and that any other obstacles to securing such redress, financial or otherwise, are removed;

Ensure training and awareness-raising programmes, including measures aimed at teachers and students at all levels of public education, at professional bodies, and at potential violators of human rights, to promote respect for and adherence to international human rights standards in accordance with these Principles, as well as to counter discriminatory attitudes based on sexual orientation or gender identity.

PRINCIPLE 29

ACCOUNTABILITY

ELABORATION

Everyone whose human rights, including rights addressed in these Principles, are violated is entitled to have those directly or indirectly responsible for the violation, whether they are government officials or not, held accountable for their actions in a manner that is proportionate to the seriousness of the violation. There should be no impunity for perpetrators of human rights violations related to sexual orientation or gender identity.

OBLIGATIONS OF STATES

States shall:

Establish appropriate, accessible and effective criminal, civil, administrative and other procedures, as well as monitoring mechanisms, to ensure the accountability of perpetrators for human rights violations related to sexual orientation or gender identity;

Ensure that all allegations of crimes perpetrated on the basis of the actual or perceived sexual orientation or gender identity of the victim, including such crimes described in these Principles, are investigated promptly and thoroughly, and that, where appropriate evidence is found, those responsible are prosecuted, tried and duly punished;

Establish independent and effective institutions and procedures to monitor the formulation and enforcement of laws and policies to ensure the elimination of discrimination on the basis of sexual orientation or gender identity;

Remove any obstacles preventing persons responsible for human rights violations based on sexual orientation or gender identity from being held accountable.



ADDITIONAL RECOMMENDATIONS

All members of society and of the international community have responsibilities regarding the realisation of human rights. We therefore recommend that:

- **The United Nations High Commissioner for Human Rights** endorse these Principles, promote their implementation worldwide, and integrate them into the work of the Office of the High Commissioner for Human Rights, including at the field-level;
- **The United Nations Human Rights Council** endorse these Principles and give substantive consideration to human rights violations based on sexual orientation or gender identity, with a view to promoting State compliance with these Principles;
- **The United Nations Human Rights Special Procedures** pay due attention to human rights violations based on sexual orientation or gender identity, and integrate these Principles into the implementation of their respective mandates;
- **The United Nations Economic and Social Council** recognise and accredit non-governmental organisations whose aim is to promote and protect the human rights of persons of diverse sexual orientations and gender identities, in accordance with its Resolution 1996/31;
- **The United Nations Human Rights Treaty Bodies** vigorously integrate these Principles into the implementation of their respective mandates, including their case law and the examination of State reports, and, where appropriate, adopt General Comments or other interpretive texts on the application of human rights law to persons of diverse sexual orientations and gender identities;



- **The World Health Organization and UNAIDS** develop guidelines on the provision of appropriate health services and care, responding to the health needs of persons related to their sexual orientation or gender identity, with full respect for their human rights and dignity;
- **The UN High Commissioner for Refugees** integrate these Principles in efforts to protect persons who experience, or have a well-founded fear of, persecution on the basis of sexual orientation or gender identity, and ensure that no person is discriminated against on the basis of sexual orientation or gender identity in relation to the receipt of humanitarian assistance or other services, or the determination of refugee status;
- **Regional and sub-regional inter-governmental organisations** with a commitment to human rights, as well as regional human rights treaty bodies, ensure that the promotion of these Principles is integral to the implementation of the mandates of their various human rights mechanisms, procedures and other arrangements and initiatives;
- **Regional human rights courts** vigorously integrate those Principles that are relevant to the human rights treaties they interpret into their developing case law on sexual orientation and gender identity;
- **Non-governmental organisations** working on human rights at the national, regional and international levels promote respect for these Principles within the framework of their specific mandates;
- **Humanitarian organisations** incorporate these Principles into any humanitarian or relief operations, and refrain from discriminating against persons on the basis of sexual orientation or gender identity in the provision of aid and other services;
- **National human rights institutions** promote respect for these Principles by State and non-State actors, and integrate into their work the promotion and protection of the human rights of persons of diverse sexual orientations or gender identities;
- **Professional organisations**, including those in the medical, criminal or civil justice, and educational sectors, review their practices and guidelines to ensure that they vigorously promote the implementation of these Principles;
- **Commercial organisations** acknowledge and act upon the important role they have in both ensuring respect for these Principles with regard to their own workforces and in promoting these Principles nationally and internationally;
- The **mass media** avoid the use of stereotypes in relation to sexual orientation and gender identity, and promote tolerance and the acceptance of diversity of human sexual orientation and gender identity, and raise awareness around these issues;
- **Governmental and private funders** provide financial assistance, to non-governmental and other organisations, for the promotion and protection of the human rights of persons of diverse sexual orientations and gender identities.



REPORT FOR THE FIRST IUF LGBTI CONFERENCE, AUGUST 27, 2017



Summary record of IUF LGBTI Conference

The first ever IUF international LGBTI Workers Conference took place on August 27, 2017 with over 70 participants.

Participants agreed on the need for the IUF to incorporate into its structures and activities its commitment to justice and equality for all LGBTI workers.

The Conference welcomed and fully supported the proposed rule changes setting up an LGBTI Workers and Allies Committee and representation of the Committee on the IUF Executive Committee and Administrative Committee.

Conference further agrees that:

- Progress on the formation of the LGBTI Workers and Allies Committee will be presented to the AC as soon as possible.
- The working group of the LGBTI Workers and Allies Committee will draw up a work plan for the period through the last quarter of 2019.
- The work plan shall include work within specific companies to ensure rights for LGBTI workers; education and awareness-raising of LGBTI rights as human rights and an issue for unions to address through concrete action; support for specific regions/countries to increase union capacity on fighting for LGBTI workers' rights.
- The Conference constituted a working group from the IUF LGBTI Worker Conference participants consisting of at least 7 LGBTI and Allies workers. The Working Group is mandated to develop a proposed LGBTI committee structure and rules to be recommended to the AC and EC for adoption.



SOME AFRICAN NETWORKS OR NGOS

Uganda: Sexual Minorities Uganda (SMUG), www.sexualminoritiesuganda.com

Zimbabwe: An association of LGBTI People in Zimbabwe (GALZ) (no website)

INTERNATIONAL NETWORKS

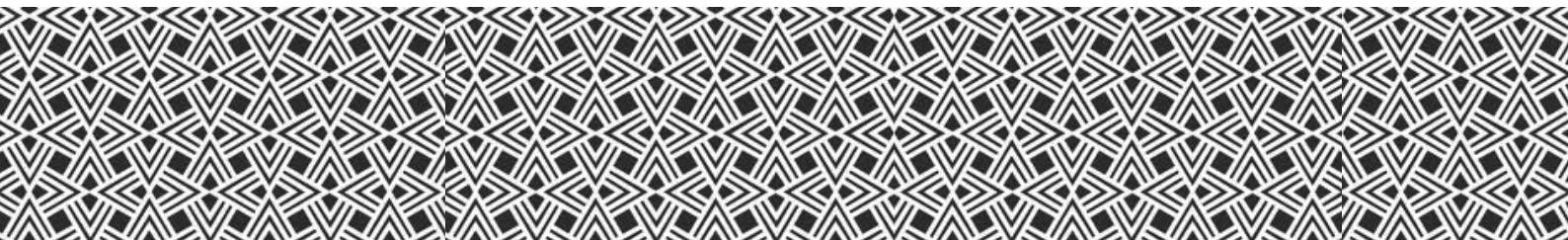
Intersex Network, www.oiiinternational.com (has one affiliate in South Africa)

ILGA, International Lesbian and Gay Association: A global membership organization bringing together, www.ilga.org

Outright action international, www.outrightinternational.org/region/africa

Contact point at the IUF Geneva Secretariat: Burcu Ayan, IUF-UITA-IUL, Rampe du Pont-Rouge 8, 1213 Petit Lancy (Geneva) Switzerland, burcu.ayan@iuf.org

Contact point in the IUF African region: Mopholosi Morokong, mopholosi@yahoo.co.uk





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THE INCREASE OF PRACTICES THAT UNDERMINE THE PRINCIPLE THAT "PEOPLE OF ALL SEXUAL ORIENTATION AND GENDER IDENTITY CAN LIVE WITH EQUAL DIGNITY AND RESPECT TO WHICH ALL PERSONS ARE ENTITLED" CHALLENGES EVERY TRADE UNIONIST TO EMBARK ON ACTION TO PROMOTE THE EQUAL RIGHTS THAT BELONG TO ALL, WITHIN THE WORKPLACE AND BEYOND.

THIS IS THE RESPONSIBILITY IUF SHALL NOT SHIRK AS IT PLAYS ITS LEADING ROLE IN ORGANIZING ITS CONSTITUENCY TOGETHER WITH PROGRESSIVE FORCES TO FIGHT DISCRIMINATION IN ALL ITS FORMS AND TOGETHER WIN RIGHTS FOR ALL.

THIS BOOKLET AIMS TO GET ALL THOSE WHO DEPLORE THE DISCRIMINATION, PERSECUTION, TORTURE AND KILLING OF THE LGBTI MEMBERS OF OUR SOCIETY TO JOIN FORCES WORLDWIDE TO FIGHT AGAINST THIS GROWING SOCIETAL SCOURGE THAT IN OTHER CIRCUMSTANCES FINDS SUPPORT AND SUSTENANCE IN DOMESTIC LAWS OF COUNTRIES.

