



Library Note

Treatment of LGBTI Citizens Worldwide

This Library Note has been prepared in advance of the debate in the House of Lords on 17 September 2015:

[...] that this House takes note of the treatment of LGBTI citizens worldwide.

On [15 April 2013](#), the Secretary-General of the United Nations, Ban Ki-Moon denounced all forms of violence against individuals based on sexual orientation or gender identity. He spoke of the need to speak out against human rights abuses inflicted against LGBTI citizens, and committed to a global campaign addressing the issue. He stated that:

Governments have a legal duty to protect everyone. But far too many still refuse to acknowledge the injustice of homophobic violence and discrimination. We need to document this problem and share information with States on a regular basis for discussion and action. We must institutionalize our efforts to address discrimination based on sexual orientation and gender identity. We need public education to change popular attitudes. Some will oppose change. They may invoke culture, tradition or religion to defend the status quo. Such arguments have been used to try to justify slavery, child marriage, rape in marriage and female genital mutilation. I respect culture, tradition and religion—but they can never justify the denial of basic rights.

The United Nations, Human Rights Watch (HRW) and the International Lesbian, Gay, Bisexual, Trans and Intersex Association have recently published findings suggesting that:

- At least 75 UN States criminalise LGBTI citizens in some form (with around six implementing the death penalty as a potential punishment for same-sex sexual activity); and
- The UN and HRW regularly receives reports of killings, kidnappings, sexual assault, and violence or other abusive behaviour committed against LGBTI citizens throughout all regions of the world.

This Library Note looks at the protections operated by the United Nations in respect of LGBTI citizens' human rights, and highlights findings as to the global extent of violence and discrimination against LGBTI individuals. It also contains information from other organisations, such as the International Lesbian, Gay, Bisexual, Trans and Intersex Association, and—where relevant—briefly highlights the LGBTI rights and protections in the United Kingdom.

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I. Definitions

The term LGBTI¹, as used throughout this Note, stands for “lesbian, gay, bisexual, transgender and intersex”. Further definitions as to the application of these terms are set out in the United Nations Free and Equal factsheet, *LGBT Rights: Frequently Asked Questions*.² In brief, the factsheet provides the following definitions:

- ‘Lesbian’ and ‘gay’ includes those people who are attracted (both physically, emotionally or romantically) to people of the same sex as themselves.
- ‘Bisexual’ includes people who may be attracted to individuals of the same or different sex to themselves.
- Transgender can apply to people whose sense of their own gender (their gender identity) is inconsistent to that assigned to them at birth. The factsheet goes on to state that it is “an umbrella term used to describe 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 perceived as gender atypical. 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. Some transgender people seek surgery or take hormones to bring their body into alignment with their gender identity; others do not”.³
- Intersex refers to people who are born with sexual anatomy, reproductive organs or chromosome patterns that do not fit the “typical definition” of male or female. Intersex people may consider themselves male, female or neither. The term is not (in itself) linked to a person’s sexual orientation or gender identity; “intersex people experience the same range of sexual orientations and gender identities as non-intersex people”.⁴

2. Global Overview and Public Opinion

A brief summary of the global extent of LGBTI discrimination, and a map displaying national laws impacting upon LGBTI citizens, are included overleaf. In addition, in June 2013, the Pew Research Center published the results of a public survey in 39 countries on whether homosexuality should be accepted or rejected by society.⁵ It found:

[B]road acceptance of homosexuality in North America, the European Union, and much of Latin America, but equally widespread rejection in predominantly Muslim nations and in Africa, as well as in parts of Asia and in Russia. Opinion about the acceptability of homosexuality is divided in Israel, Poland and Bolivia.⁶

The countries whose public stated that homosexuality should be rejected included: Russia, Turkey, Egypt, Tunisia, South Korea, China, Malaysia, Pakistan, South Africa, Ghana and Nigeria.

¹ Where the term LGBT (“lesbian, gay, bisexual and transgender”) is used or referenced in this Library Note, it is assumed to also include intersex people.

² United Nations Free and Equal, [LGBT Rights: Frequently Asked Questions](#), 2013.

³ *ibid*, p 1.

⁴ *ibid*.

⁵ Pew Research Center, [‘The Global Divide on Homosexuality’](#), 4 June 2013.

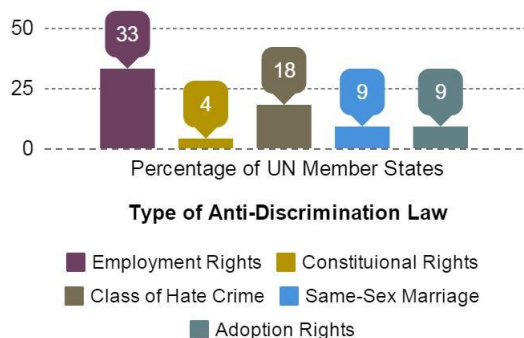
⁶ *ibid*.

ILGA Global Overview of Legislation (as at May 2015):

Same-sex sexual acts are "not legal" in 75 out of 193 (39%) UN Member States.

Six UN States "Implement" the Death Penalty for Same-Sex Acts.

LGBT Anti-Discrimination Legislation Across UN Member States



LGBT Discrimination: Global Laws and Violence

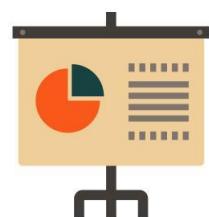
Information referenced by the UN (May 2015):



Between 2008 and 2014, the Trans Murder Monitoring project listed 1,612 murders of transgender people, across 62 countries. This equates to a murder every two days.



The Inter-American Commission on Human Rights reported 594 hate-related killings of LGBT persons in the 25 States part of the Organization of American States between January 2013 and March 2014.



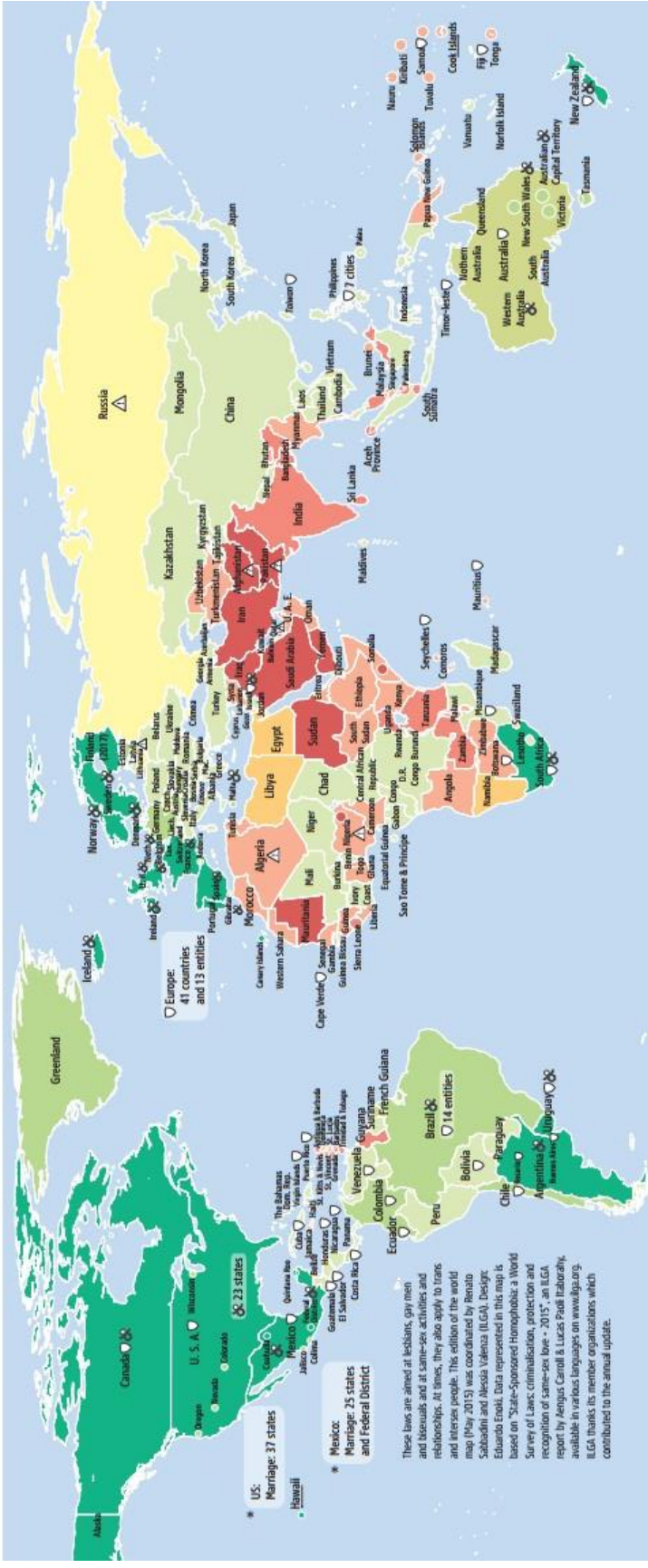
A 2013 Europe-wide study of 93,000 LGBT people found that around a quarter had experienced violence or threatening behaviour in the last 5 years.

Sources: International Lesbian, Gay, Bisexual, Trans and Intersex Association, [State-Sponsored Homophobia](#), May 2015, and United Nations Human Rights Council, [Report on the Discrimination and Violence Against Individuals Based on Their Sexual Orientation and Gender Identity](#), 4 May 2015.

MAY 2015
WWW.ILGA.ORG

THE LESBIAN, GAY AND BISEXUAL MAP OF WORLD LAWS

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



PERSECUTION
DEATH PENALTY = NOT IMPLEMENTED
6 countries and parts of Nigeria and Somalia
IMPRISONMENT
75 countries and 5 entities
"Anti-propaganda law" restricting freedom of expression and association

Death penalty
? = NOT IMPLEMENTED
Italy: persecution by organised non-state agents
Imprisonment from 14 years to a life-long sentence
Imprisonment up to 14 years

Imprisonment, no precise indication of the length /banishment
Anti-Propaganda law without other legislation persecuting on the basis of sexual orientation

RECOGNITION
RECOGNITION OF SAME-SEX UNIONS
34 countries and 65 entities
JOINT ADOPTION
17 countries and 28 entities
• See ILGA's SSAs for names of States. When the majority of entities of one country has equality marriage, the whole country is attributed to the dark green color (Marriage).

Marriage
Equal (almost equal) substitute to marriage
Clearly inferior substitute to marriage
Joint adoption

PROTECTION
ANTI-DISCRIMINATION LAWS
69 countries and 85 entities
Countries which introduced laws prohibiting discrimination on the grounds of sexual orientation

NO SPECIFIC LEGISLATION
No specific legislation

These laws are aimed at lesbians, gay men and transsexuals and at same-sex activities and relationships. At times, they also apply to trans and intersex people. This edition of the world map (May 2015) was coordinated by Renée Sabatini and Melissa Valencia (ILGA). Design: Eduardo Eche. Data represented in this map is based on "State-Sponsored Homophobia: A World Survey of Laws: Criminalisation, Protection and Recognition of Same-Sex Love - 2015", an ILGA report by Aengus Carroll & Lucias Fíoth Ísiorádh, available in various languages on www.ilga.org. ILGA thanks its member organizations which contributed to the annual update.

Source: International Lesbian, Gay, Bisexual, Trans and Intersex Association, 'Lesbian and Gay Rights Maps', accessed 8 September 2015.

3. UN Work on LGBTI Rights

3.1 Protection of LGBTI Rights

In 2011, the United Nations Human Rights Council adopted its first resolution specifically focusing on “human rights, sexual orientation and gender identity”.⁷ The resolution was adopted on a vote of 23 to 19 Member States. Those voting against the resolution were: Angola, Bahrain, Bangladesh, Cameroon, Djibouti, Gabon, Ghana, Jordan, Malaysia, Maldives, Mauritania, Nigeria, Pakistan, Qatar, Republic of Moldova, Russian Federation, Saudi Arabia, Senegal, and Uganda. Three countries abstained in the vote; Burkina Faso, China and Zambia.

The resolution expressed “grave” concern at the level of global discrimination and acts of violence perpetrated against individuals based on their sexual orientation or gender identity. It emphasised the equal application of human rights to all individuals, including those rights contained in the UN’s Universal Declaration of Human Rights, and also in the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and “other relevant core human rights instruments”.⁸ Although acknowledging the significance of national and regional differences, particularly those linked to differing historical, cultural and religious backgrounds, the resolution stated that, whilst these must be “borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms”.⁹ The resolution called for a UN Human Rights Council report to be published on LGBTI rights, and for the issue to be further discussed and focused on over the following years.¹⁰ In brief, the Universal Declaration of Human Rights includes the following statements on human rights which may be particularly relevant to the treatment of LGBTI citizens:

- All human beings are born free and equal in dignity and rights (article 1).
- Everyone is entitled to all the rights and freedoms set forth in the Declaration, 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. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty (article 2).
- Everyone has the right to life, liberty and security of person (article 3).
- No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment (article 5).
- Everyone has the right to recognition everywhere as a person before the law (article 6). All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination (article 7).
- No one shall be subjected to arbitrary arrest, detention or exile (article 9)

⁷ United Nations Human Rights Council, [‘Resolution on Human Rights, Sexual Orientation and Gender Identity’](#), 14 July 2011.

⁸ *ibid*, p 1.

⁹ *ibid*, p 1.

¹⁰ Links to the following reports and discussion can be found on the United Nations OHCHR website, [‘Combating Discrimination Based on Sexual Orientation and Gender Identity’](#), accessed 4 September 2015.

- No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks (article 12).
- Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance (article 18).¹¹

A further resolution on LGBTI rights was adopted by the United Nations Human Rights Council on 2 October 2014.¹² This largely re-emphasised the previous resolution, and called for an updated report to be published on LGBTI rights which should contain recommendations for ways and good practices to overcome global violence and discrimination. The resolution was adopted on a vote of 25 to 14 UN Member States. Those voting against the resolution were: Algeria, Botswana, Côte d'Ivoire, Ethiopia, Gabon, Indonesia, Kenya, Kuwait, Maldives, Morocco, Pakistan, Russian Federation, Saudi Arabia, and the United Arab Emirates. Seven countries abstained in the vote, these were: Burkina Faso, China, the Republic of the Congo, India, Kazakhstan, Namibia, and Sierra Leone.

Published on 4 May 2015, the most recent UN Human Rights Council (UNHRC) report on the 'discrimination and violence against individuals based on their sexual orientation and gender identity' set out some recent international developments, highlighted the applicable UN international standards and obligations, and made a number of recommendations for tackling the issue.¹³ The report's statements, findings and recommendations relating to homophobic or transphobic violence, and to current discriminatory laws and practices, are set out in part 4 and part 5 of this Library Note.

The UN reported a number of positive developments in the protection of LGBTI citizens and their rights since the previous report, including evidence that:

- Since 2011, "14 States have adopted or strengthened anti-discrimination and hate crime laws, extending protection on grounds of sexual orientation and/or gender identity and, in two cases, also introducing legal protections for intersex persons. Three States have abolished criminal sanctions for homosexuality; 12 have introduced marriage or civil unions for same-sex couples nationally; and 10 have introduced reforms that, to varying degrees, make it easier for transgender persons to obtain legal recognition of their gender identity".¹⁴
- There has been an increase in training and anti-discrimination programmes launched in many countries aimed at tackling the discrimination or bullying of LGBTI citizens.
- LGBTI people have been featured more positively in global media and television, and the defenders of LGBTI rights have been more vocal and have received greater attention.

¹¹ United Nations, '[Universal Declaration of Human Rights](#)', accessed 4 September 2015.

¹² United Nations Human Rights Council, '[Resolution on Human Rights, Sexual Orientation and Gender Identity](#)', 2 October 2014.

¹³ United Nations Human Rights Council, '[Report on the Discrimination and Violence Against Individuals Based on Their Sexual Orientation and Gender Identity](#)', 4 May 2015.

¹⁴ *ibid*, p 3.

- Regional organisations have done more to address LGBTI rights. For example, in 2014, the African Commission on Human and Peoples’ Rights passed a resolution condemning violence or other human rights violations based on sexual orientation, and, in 2013, the European Union published new guidelines¹⁵ promoting and protecting LGBTI rights.¹⁶

However, despite some of these positive developments, the UNHRC report stated that:

[T]hey are overshadowed by continuing, serious and widespread human rights violations perpetrated, too often with impunity, against individuals based on their sexual orientation and gender identity. Since 2011, hundreds of people have been killed and thousands more injured in brutal, violent attacks [...] Other documented violations include torture, arbitrary detention, denial of rights to assembly and expression, and discrimination in health care, education, employment and housing. These and related abuses warrant a concerted response from Governments, legislatures, regional organizations, national human rights institutions and civil society, as well as from United Nations bodies—the Human Rights Council included.

The report said that States have a well-established obligation to protect all individuals from human rights violations within their jurisdiction, including LGBTI citizens.¹⁷ In particular, this includes the need to:

- **Protect individuals from violence**—This includes obligations to investigate and prevent violence against LGBTI citizens, to publically condemn such violence, and to ensure LGBTI refugees are not returned to places where their life or freedom could be at risk. UNHRC also specifically stated that the application of the death penalty on the basis of sexual orientation violated States’ human rights obligations.¹⁸
- **Prevent torture and ill-treatment**—States have an obligation to protect all citizens from torture, cruel or degrading treatment in custodial, medical or other settings. The United Nations specifically condemned medical practices such as “conversion therapy” (treatments aimed at changing an individual’s sexual orientation), forced genital and anal examinations, involuntary sterilisation and unnecessary surgery or treatments (such as those carried out on intersex children).¹⁹
- **Decriminalise homosexuality** and repeal other laws that punish on the basis of sexual orientation and gender identity.²⁰
- **Protect individuals from discrimination on ground of sexual orientation and gender identity**—States should ensure equal application and protection for LGBTI citizens under State laws, and should enact anti-discrimination legislation that specifically includes protection for LGBTI people. States should also address discrimination or bullying amongst young people, and ensure young LGBTI people have fair access to health information and other

¹⁵ Council of the European Union, [Guidelines to Promote and Protect the Enjoyment of All Human Rights by LGBTI Persons](#), 24 June 2013.

¹⁶ *ibid*, pp 3–4.

¹⁷ United Nations Human Rights Council, [Report on the Discrimination and Violence Against Individuals Based on Their Sexual Orientation and Gender Identity](#), 4 May 2015, p 5.

¹⁸ *ibid*, p 5.

¹⁹ *ibid*, pp 5–6.

²⁰ *ibid*, p 6.

services. States must, without abuse or prejudice, legally recognise transgender citizens' preferred gender.²¹

- **Protect rights to freedom of expression, association and assembly and to take part in the conduct of public affairs**—States should ensure legislation domestic legislation does not discriminate against the rights of LGBTI people in relation to freedom of expression, thought and assembly. LGBTI citizens should be empowered and involved in the economic, social and political life of their country.²²

In addition, in July 2013 the United Nations launched the [Free and Equal website](#), the home of a global education campaign for LGBTI equality. The website brings together information on global events and speeches on LGBTI equality, engages people through social media, and includes a range of fact sheets on the treatment of LGBTI citizens globally.²³

3.2 ILGA Reaction to the UN's Work

The work of the United Nations, between 2014 and 2015, in relation to the human rights of LGBTI citizens, was analysed by the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) in their May 2015 report, *State-Sponsored Homophobia*.²⁴ The organisation welcomed the United Nations' 2014 resolution on LGBTI rights, and stated that the changes in the "vote count" had showed slight signs of improvement following the 2011 resolution.²⁵ For example, the ILGA noted that the vote showed a wider margin of success, and that there were new States who voted 'yes' (Philippines and Vietnam) and less who voted 'no' (many of these abstained or were absent during the vote). However, the organisation did state that "this incremental pace of change is felt as painfully slow to those whose human rights are being violated on a daily basis".²⁶

Beyond this, the ILGA highlighted the additional work done by the UN related to LGBTI rights, including:

- A statement made by the Committee on the Rights of the Child that non-consensual intersex surgery being carried out in Switzerland was a harmful practice and amounted to violence to children.
- The work done by the Special Rapporteur on Freedom of Religion or Belief to highlight the issue of violence against LGBTI citizens in the name of religion.

Therefore, overall, the organisation spoke positively of the UN's involvement, stating:

Significant wins like this are happening frequently in the UN human rights system. Naturally, in all these situations the real news is when these recommendations lead to actual change at country levels. There is evidence that what happens at the UN can help bring about change on the ground. Of course more can and should be done to make that connection.²⁷

²¹ *ibid*, pp 6–7.

²² *ibid*, p 7.

²³ United Nations Free and Equal, '[Factsheets](#)', accessed 4 September 2015,

²⁴ International Lesbian, Gay, Bisexual, Trans and Intersex Association, *State-Sponsored Homophobia*, May 2015.

²⁵ *ibid*, p 12.

²⁶ *ibid*, pp 12–13.

²⁷ *ibid*, p 15.

Regarding future developments, the organisation believed that there needed to be increased attention paid to economic, social and cultural rights—including the right to water and adequate healthcare.²⁸ The organisation also believed there would be further debate over the “definition and protection of the family” and over children’s sexual orientation or gender identity.²⁹ The ILGA feared that these discussions could intensify the scrutiny and criticism of LGBTI citizens coming from extreme religious or far-right voices. As such, it emphasised the importance of organisations like itself, and other LGBTI advocates, engaging with the UN as much as possible.

4. Global Violence Against LGBTI Citizens

4.1 Extent of Violence

In its May 2015 report, the UNHRC spoke of the ongoing violence and threatening behaviour experienced by the LGBTI community.³⁰ It stated:

United Nations human rights mechanisms continue to receive reports of homophobic and transphobic violence committed in all regions. Such violence may be physical (including murder, beatings, kidnapping and sexual assault) or psychological (including threats, coercion and the arbitrary deprivation of liberty, including forced psychiatric incarceration). These attacks constitute a form of gender-based violence, driven by a desire to punish individuals whose appearance or behaviour appears to challenge gender stereotypes.

In addition to “street” violence and other spontaneous attacks in public settings, those perceived as LGBT remain targets of organized abuse, including by religious extremists, paramilitary groups and extreme nationalists. LGBT and gender non-conforming youth are at risk of family and community violence. Lesbians and transgender women are at particular risk because of gender inequality and power relations within families and wider society.

Violence motivated by homophobia and transphobia is often particularly brutal, and in some instances characterized by levels of cruelty exceeding that of other hate crimes. Violent acts include deep knife cuts, anal rape and genital mutilation, as well as stoning and dismemberment.³¹

The organisation criticised States for their failure to adequately protect LGBTI citizens, and listed a number of areas of concern in relation to how the offences are dealt with. For example, the UNHRC reported that cases of violence were often mishandled by the police, and were not properly recorded or investigated.³² The organisation reported that, in many countries, LGBTI citizens were reluctant to report their experiences for fear or extortion or other reprisals, and due to the possible prejudice that they could face. As a result, the UNHRC suggested that the

²⁸ *ibid*, p 16.

²⁹ *ibid*, p 16.

³⁰ United Nations Human Rights Council, [Report on the Discrimination and Violence Against Individuals Based on Their Sexual Orientation and Gender Identity](#), 4 May 2015.

³¹ *ibid*, pp 7–8.

³² *ibid*, p 8.

extent of violence against LGBTI citizens is often vastly underreported. Despite this, the report listed cases and concerns connected with:

- **Hate-motivated killings and “honour killings”**—including the murders of transsexual women in Uruguay, anti-LGBTI killings and violence in the United States (the organisation quoted estimates of 18 hate violence homicides and 2,001 other cases of anti-LGBTI violence in 2013), and targeting by terrorist groups such as the so-called Islamic State (also sometimes referred to as Daesh or ISIS/ISIL).³³
- **Sexual violence and other threatening behaviour**—including the rape and torture of men assumed to be gay by State and non-State forces in Syria, the kidnapping, rape and humiliation of gay men or women (with their treatment often being shared on social media), and the use of hateful homophobic or transphobic language by political and community leaders (for example, in Belarus, the Gambia and Honduras). In addition, the organisation highlighted findings that, of the 93,000 LGBTI citizens surveyed in the EU in 2013, a quarter reported that they had been threatened or attacked in the last five years. A further survey, conducted by Stonewall in 2012, found that one in six LGBTI citizens in the UK had experienced a hate crime or similar incident in the last three years.³⁴
- **Torture and other ill-treatment**—this includes cases of LGBTI individuals being arrested for their sexual orientation or gender identity, LGBTI prisoners being raped whilst in detention, and invasive medical procedures (such as anal examinations on gay men, “conversion therapy”, sterilization and forced gender reassignment). Specific examples, include a transgender woman being raped more than 80 times whilst in detention in Guatemala, the arrest and beating of 44 members of an LGBTI organisation in Zimbabwe, and allegations surrounding the solitary confinement and ill-treatment of 16 LGBTI individuals in United States immigration facilities.³⁵

Despite these concerns, the UNHRC did also highlight some positive global developments aimed at ending violence against LGBTI citizens.³⁶ For example, it reported that a number of States had recently introduced or strengthened anti-hate crime laws in their countries (such as Chile, Greece, Portugal and Serbia). The UNHRC argued that such laws “can play an important role in facilitating the prosecution and punishment of perpetrators of hate-motivated violence and in establishing homophobia and transphobia as aggravating factors for the purposes of sentencing”.³⁷ It also listed examples of States developing new initiatives, including: establishing specialised hate crime prosecution units (Brazil, Honduras, Mexico, Spain); improving police training and guidelines (Canada, Denmark, France, Montenegro, Philippines, Spain, United Kingdom); introducing national hotlines to report incidents (Brazil, Netherlands); and establishing policies and protocols to protect the dignity and safety of LGBTI prisoners (Brazil, Canada, Ecuador, Nepal).³⁸

³³ *ibid.*, pp 8–9.

³⁴ *ibid.*, pp 9–10.

³⁵ *ibid.*, pp 10–11.

³⁶ *ibid.*, p 11.

³⁷ *ibid.*

³⁸ *ibid.*

In its May 2015 report, the ILGA reported that laws specifically aimed at protecting LGBTI citizens had already been implemented in a number of countries.³⁹ For example, it estimated that hate crimes based on sexual orientation were considered an aggravating factor in 35 countries (mostly in Europe), and that incitement to hatred based on sexual orientation was prohibited in 31 countries (again, mostly in European States, but also in South Africa, Bolivia, Colombia, Ecuador, Uruguay, Canada and parts of Australia and Mexico).⁴⁰ However, despite it being considered an aggravating factor in cases in the UK, recent reports have suggested that there has been a rise in the number of homophobic crimes being reported in the country.⁴¹

In-depth country-focused reports on some of the violence perpetrated against LGBTI citizens around the world can be found on the International Gay and Lesbian Human Rights Commission website⁴² and on the Human Rights Watch (HRW) website.⁴³ For example, recent HRW reports have focused on the situations in [Kazakhstan](#), in [Russia](#) and in [Jamaica](#). The reports often refer to a constant fear of violence, and state that abuses suffered by LGBTI citizens are mostly ignored or accepted by public officials due to homophobia or transphobia. In its report on Jamaica, the organisation stated that:

High levels of violent crime, public mistrust of police, low levels of crime reporting, low prosecution rates, and a perception that the criminal justice system is skewed against the poor are widespread in Jamaican society. However, LGBT Jamaicans—especially those who are poor and unable to live in safer, more affluent areas—are particularly vulnerable to violence. Many live in constant fear. They are taunted; threatened; fired from their jobs, thrown out of their homes; beaten, stoned, raped, and even killed.

Between 2009 and 2012, J-FLAG, a Jamaican LGBT rights organization, recorded 231 incidents of attacks against LGBT people, including home invasions, physical assaults, and mob attacks.⁴⁴

Following field work in the country, HRW found that over half of respondents had experienced violence based on their sexual orientation or gender identity. Many of these reported inaction by the police upon reporting the crime, and 26 out of 71 said “they did not report crimes due to fear of retaliation from the perpetrators or because reporting a homophobic or transphobic hate crime would ‘out’ them to broader society”.⁴⁵

4.2 UN Recommendations

In its report, the UNHRC published a number of recommendations intended to protect LGBTI individuals from violence connected to their sexual orientation or gender identity.⁴⁶ This

³⁹ International Lesbian, Gay, Bisexual, Trans and Intersex Association, [State-Sponsored Homophobia](#), May 2015, p 10.

⁴⁰ *ibid.*, pp 37–41.

⁴¹ *Guardian*, ‘[Rise in Number of Violent Homophobic Crimes Being Reported to Police](#)’, 26 November 2014.

⁴² International Gay and Lesbian Human Rights Commission, ‘[Our Publications](#)’, accessed 7 September 2015.

⁴³ Human Rights Watch, ‘[LGBT Rights](#)’, accessed 6 September 2015.

⁴⁴ Human Rights Watch, [Not Safe at Home: Violence and Discrimination Against LGBT People In Jamaica](#), 21 October 2014.

⁴⁵ *ibid.*

⁴⁶ United Nations Human Rights Council, [Report on the Discrimination and Violence Against Individuals Based on Their Sexual Orientation and Gender Identity](#), 4 May 2015, p 20.

included recommendations that States should:

- Enact hate crime laws specifying homophobia or transphobia as aggravating factors in sentencing.
- Conduct prompt and thorough investigations of incidents of violence against LGBTI citizens, holding perpetrators to account and providing redress to victims.
- Collect and publish data on the incidence of such offences.
- Provide better training for police and law enforcement on the protection of LGBTI individuals (including detainees), including gender-sensitive approaches to addressing violations.
- Ban invasive medical treatments, such as “conversion therapies”, involuntary treatment (including medically unnecessary procedures on intersex children) and forced sterilizations.
- Protect LGBTI refugees from return to territories where their life or freedom could be threatened, whilst recognizing persecution on the ground of sexual orientation or gender identity as a legitimate case of asylum and ensuring LGBTI individuals are not subjected to intrusive or inappropriate questioning or treatment.

5. Global LGBTI Discrimination

5.1 Types and Extent of Discriminatory Laws and Practices

As noted in the UNHRC’s May 2015 report, discrimination against LGBTI individuals comes in many forms, including laws that directly discriminate against LGBTI citizens (such as laws that criminalise homosexuality) and discriminatory practices that impact upon a person’s equality (such as those restricting access to public services).⁴⁷ The UNHRC stated that:

The impact of such multiple forms of discrimination may be felt at an individual level and a societal one, as LGBT persons, deprived of access to such basic rights as employment, health, education and housing find themselves in poverty, cut off from economic opportunity. Studies undertaken in several countries suggest that rates of poverty, homelessness and food insecurity are higher among LGBT individuals than in the wider community.⁴⁸

Laws Criminalising Homosexuality

UNHRC has stated that countries that maintain laws directly discriminating against LGBTI citizens are in breach of international human rights law.⁴⁹ Regarding the form many of these laws can take, UNHRC explained that:

Sometimes inherited as colonial-era legislation, these laws typically prohibit certain types of sexual activity or any intimacy between persons of the same sex. Cross-dressing or “imitating the opposite sex” is also sometimes penalized. Wording often refers to vague and undefined concepts, such as “crimes against the order of nature” or “morality”,

⁴⁷ *ibid.*

⁴⁸ *ibid.*, p 12.

⁴⁹ *ibid.*

“debauchery”, “indecent acts” or “grave scandal”. Penalties include lashings, life imprisonment and the death penalty.⁵⁰

According to the ILGA, there are at least 75 countries where same-sex sexual acts are illegal, including in Libya, Nigeria, India, Iran, Kuwait, Malaysia, Myanmar (often referred to as Burma), Pakistan, Qatar, Saudi Arabia, Singapore, Syria, and the United Arab Emirates. It is also illegal in many of the islands in the Caribbean and Oceania (such as Trinidad and Tobago and Papua New Guinea).⁵¹ In addition, the organisation set out the extent of the application of the death penalty for same-sex sexual acts, claiming that:

Eight States officially legislate for it, but only five (Mauritania, Sudan, Iran, Saudi Arabia and Yemen) actually implement it. But a sixth State, Iraq, although not in the civil code clearly has judges and militias throughout the country that issue the death sentence for same-sex sexual behaviours. Further, some provinces in Nigeria and Somalia officially implement the death penalty. We are also aware that in the Daesh (ISIS/ISIL)-held areas the death penalty is implemented (although a non-State actor, we list it here). Brunei Darussalam is due to activate the death penalty for same sex sexual acts in 2016, but it seems likely that, like Pakistan, Afghanistan and Qatar, although it is on the statute, it will not be implemented.⁵²

UNHRC described the use of the death penalty in this context as a “grave violation of human rights, including the right to life, privacy and non-discrimination”.⁵³

According to the Royal Commonwealth Society, currently 42 of the 53 Commonwealth countries have legislation which criminalises LGBTI people in some way.⁵⁴ The organisation blamed the legacy of laws created by the old British Empire and “independence-era laws which criminalise or discriminate against LGBT citizens”. It goes on to state that:

[T]his harsh legal situation is exacerbated by wider discriminatory social attitudes and in some cases violence. This situation has strained relations between Commonwealth countries who disagree on the issue and has produced a discussion which is increasingly polarised between those in favour of improving LGBT rights and those who are more reluctant.⁵⁵

The Royal Commonwealth Society calls on Commonwealth countries to work together to resolve the issue, believing that the Commonwealth’s basis of equal membership and the opportunities for government-to-government discussion could provide the impetus to open up internal debate aimed at resolving the issue.

“Anti-propaganda” Laws

Following their introduction in Russia in 2013 and the recent Winter Olympics held in Sochi, the issue of LGBTI “anti-propaganda” laws has received a lot of media attention in the UK and

⁵⁰ *ibid*, p 13.

⁵¹ International Lesbian, Gay, Bisexual, Trans and Intersex Association, [State-Sponsored Homophobia](#), May 2015, p 28.

⁵² *ibid*, p 10.

⁵³ United Nations Human Rights Council, [Report on the Discrimination and Violence Against Individuals Based on Their Sexual Orientation and Gender Identity](#), 4 May 2015, p 13.

⁵⁴ Royal Commonwealth Society, [‘LGBT Rights’](#), accessed 7 September 2015.

⁵⁵ *ibid*.

around the world.⁵⁶ UNHRC stated that these laws are usually published under the guise of “protecting minors” from information on so-called “non-traditional sexual relations”.⁵⁷ It claimed that such laws are often vaguely worded and arbitrarily restrict freedoms. UNHRC believed that they also contribute to ongoing persecution against the LGBTI community. Translating the Russian law, The Council for Global Equality stated that the concept of “propaganda” under the law is defined as:

[D]istribution of information that is aimed at the formation among minors of non-traditional sexual attitudes, attractiveness of non-traditional sexual relations, misperceptions of the social equivalence of traditional and non-traditional sexual relations, or enforcing information about non-traditional sexual relations that evokes interest to such relations.⁵⁸

Despite the increased attention the laws have received, ILGA claimed that they are currently only operating in four UN States, namely: Algeria, Lithuania, Nigeria and Russia.⁵⁹ However, it also expressed concern over discussions which may lead to them being implemented in eleven other countries.

Recognition of Same-sex Relationships and Right to Family

The ILGA reported that:

- Seventeen UN States now allow same-sex marriage (including South Africa, France, Iceland, Netherlands, Norway, Portugal, Spain, Argentina, Canada, New Zealand, and the United States).⁶⁰
- Twelve States recognise most of the rights attached to marriage (such as through a civil partnership), but do not actually allow marriage itself (including Germany, Hungary, Malta, Switzerland, Brazil, Chile, Colombia, and some parts of Mexico and Australia).⁶¹
- Five States have some level of recognition of same-sex relationships in law (Israel, Andorra, Czech Republic, Slovenia, and Costa Rica).⁶²
- Seventeen States allow joint-adoption by same-sex couples (including South Africa, Israel, Belgium, Denmark, France, Ireland, Malta, Netherlands, Spain, Argentina, Brazil, Canada, and some parts of the United States and Australia).⁶³

Same-sex marriage is legal in the United Kingdom, excluding Northern Ireland,⁶⁴ and same-sex adoption is legal across the whole of the United Kingdom.⁶⁵ Same-sex marriage became legal across the whole of the United States following a Supreme Court judgment on 26 June 2015.⁶⁶

⁵⁶ The Council for Global Equality, ‘[The Facts on LGBT Rights in Russia](#)’, accessed 7 September 2015.

⁵⁷ United Nations Human Rights Council, [Report on the Discrimination and Violence Against Individuals Based on Their Sexual Orientation and Gender Identity](#), 4 May 2015, p 13.

⁵⁸ The Council for Global Equality, ‘[The Facts on LGBT Rights in Russia](#)’, accessed 7 September 2015.

⁵⁹ International Lesbian, Gay, Bisexual, Trans and Intersex Association, [State-Sponsored Homophobia](#), May 2015, p 10.

⁶⁰ *ibid*, pp 41–2.

⁶¹ *ibid*, pp 42–3.

⁶² *ibid*, pp 43–4.

⁶³ *ibid*, pp 44–5.

⁶⁴ BBC News, ‘[Gay Marriage Law Comes into Effect in Scotland](#)’, 16 December 2014.

⁶⁵ Pink Parents, ‘[Same Sex Adoption in the UK](#)’, accessed 7 September 2015.

⁶⁶ House of Lords Library, [US Supreme Court Ruling on Same-Sex Marriage](#), 7 July 2015, LIF 2015/0016.

The importance of same-sex marriage has been set out by organisations such as the Equality Network, who see it as an important component of accepting equal rights for all, arguing that: “civil partnership was invented specifically to deny same-sex couples access to marriage, and is seen by many same-sex couples as a second-class status”.⁶⁷ However, some people have argued that it infringes upon certain religious beliefs and impacts upon the “uniqueness” of marriage.⁶⁸ In its May 2015 report, UNHRC stated that States were not required to recognise same-sex marriage under international law.⁶⁹ However, the organisation did call upon States to ensure same-sex relationships were legally recognised in some form (such as through civil partnerships), believing that such measures were needed to ensure equal and fair treatment.

Asylum and Migration

UNHCR estimated that 42 States have granted asylum to individuals based on their fear of persecution as an LGBTI citizen.⁷⁰ However, the organisation stated that practices such as invasive screening or questioning at borders was still a problem, and argued that many asylum cases of this kind were not treated with the sensitivity that was required. UNHRC highlighted a European Court of Justice judgment, of 2 December 2014, ordering States to cease intrusive border tests or questioning designed to reveal an applicants’ sexuality.⁷¹

On 23 October 2014, the Home Office published a report accepting the recommendations of the Independent Chief Inspector of Borders and Immigration regarding the treatment of asylum claims based on sexual orientation.⁷² This included recommendations to:

- Improve training so that stereotyping and stereotypical expectations of LGBTI activity and lifestyle do not appear in interview questions⁷³.
- Ensure caseworkers do not ask sexually explicit questions and respond professionally when answers contain sexually explicit information.
- Ensure a consistent approach to the handling of explicit material submitted to support an asylum claim.
- Properly record asylum claims made on the basis of sexual orientation.

Responding to an oral question on 20 July 2015, the Home Office Minister of State, Lord Bates, confirmed that improved guidance had already been issued, and that the recommended staff training was in progress.⁷⁴

Other Discrimination and Policies Impacting Upon Freedom or Access to Services

UNHRC reported a number of examples of State practices or policies negatively impacting upon the rights of LGBTI citizens in relation to their freedom or access to public services.⁷⁵ For

⁶⁷ The Equality Network, [Why is Same-Sex Marriage Important?](#), 2013.

⁶⁸ BBC News, ‘[Q&A Gay Marriage](#)’, 4 June 2013.

⁶⁹ United Nations Human Rights Council, [Report on the Discrimination and Violence Against Individuals Based on Their Sexual Orientation and Gender Identity](#), 4 May 2015, p 18.

⁷⁰ *ibid*, p 17.

⁷¹ European Court of Justice, Cases (I48/13), (I49/13) and (I50/13) v *Staatssecretaris van Veiligheid en Justitie* [2 December 2014] [ECLI:EU:C:2014:2406](#).

⁷² Home Office, [Home Office Response to the Independent Chief Inspector’s Report: “An Investigation into the Home Office’s Handling of Asylum Claims Made on the Grounds of Sexual Orientation”](#), 23 October 2014.

⁷³ *ibid*, p 3.

⁷⁴ HL *Hansard*, 20 July 2015, [cols 891–3](#).

⁷⁵ United Nations Human Rights Council, [Report on the Discrimination and Violence Against Individuals Based on Their Sexual Orientation and Gender Identity](#), 4 May 2015, pp 14–18.

example, the organisation noted that transgender people were often unable to obtain legal recognition for their preferred gender, and argued that this created “multiple challenges, including in employment and housing, applying for bank credit or state benefits, or when travelling abroad”.⁷⁶ Further to this, UNHCR’s report specified particular areas of concern regarding access to state services, such as:

Health care—UNHCR claimed that laws or policies discriminating against LGBTI individuals also prejudiced access to health services and may lead to denial of care or the absence of services that respond to LGBTI citizens’ needs. The organisation stated that:

The negative health impact of laws criminalizing homosexuality has been widely acknowledged, including by the World Health Organization (WHO), the United Nations Development Programme (UNDP), the Joint United Nations Programme on HIV/AIDS (UNAIDS), the treaty bodies and the special procedures of the Human Rights Council. The Global Commission on HIV and the Law found, for instance, that in Caribbean countries with laws that criminalize homosexuality, almost one in four men who have sex with men is HIV positive; the equivalent figure in Caribbean countries with no such laws is one in 15.⁷⁷

The report also highlighted problems experienced by intersex and transgender persons, such as unnecessary surgery or treatment and the lack of knowledge or sensitivity to treat people in an appropriate manner.

Education—UNHCR stated that many young people identified as LGBTI were subject to abuse, violence and harassment. It claimed that this often forced them to drop out of school, and led to higher levels of depression or suicide.⁷⁸ Regarding the extent of this issue, the organisation stated that:

High levels of bullying have been recorded in all regions. A European Union study found that 80 percent of school-age children surveyed heard negative comments or saw negative conduct directed at schoolmates perceived as lesbian, gay, bisexual or transgender. A survey conducted by the United Nations Educational, Scientific and Cultural Organization (UNESCO) of students in Thailand found that more than half of LGBT respondents had been bullied in the previous month, and more than 30 percent had experienced physical abuse. These findings mirror those of studies conducted in other countries.⁷⁹

It also criticised States who sought to limit information to young people on sexual orientation or gender identity, arguing that this lead to further discrimination and went against the principle that comprehensive sexuality education was a part of the right to education.⁸⁰

⁷⁶ *ibid.*, p 18.

⁷⁷ *ibid.*, p 14.

⁷⁸ *ibid.*, p 15.

⁷⁹ *ibid.*

⁸⁰ *ibid.*

Employment and Housing—UNHCR highlighted issues whereby LGBTI people were discriminated against in their search for housing or permanent employment.⁸¹ This included examples of harassment, unfair dismissal, and people being directly denied jobs or housing. The organisation highlighted a survey in the United States suggesting that around 40 percent of homeless young people (based on a survey of 354 individuals) identified themselves as LGBTI.⁸² Many reported family rejection as a cause of their homelessness. In addition, UNHCR claimed that most States do not provide adequate protection for employment-related discrimination on the ground of sexual orientation or gender identity.⁸³ Indeed, the ILGA identified laws prohibiting employment discrimination on these grounds in only 62 countries (33 percent of UN States).⁸⁴

5.2 UN Recommendations

Although acknowledging that there had been some recent improvements in the treatment of LGBTI citizens globally (including more States legally recognising same-sex relationships in some form and policies being implemented to tackle discrimination), UNHCR made a number of recommendations as to how all States should tackle the issue of discrimination.⁸⁵ These include:

- The removal of laws specifically criminalising same-sex conduct or discriminating against LGBTI citizens (including “anti-propaganda” laws), an immediate moratorium upon arrests, and the expunging of criminal records for such offences.
- Strengthening anti-discrimination legislation with specific reference to LGBTI citizens.
- Training health workers in the better treatment of LGBTI individuals.
- Establishing national standards and policies to protect against bullying and discrimination in the education system (including setting up national helplines).
- Ensure housing policies do not discriminate against LGBTI citizens, and the establishment of focused homeless shelters.
- Legal recognition and related benefits for same-sex couples and their children.
- Properly recognising the preferred gender of individuals in identity documents and other official documentation.
- Supporting public campaigns to counter homophobia or transphobia.

6. Further Resources

- United Nations, [Free and Equal](#) website
- [Kaleidoscope Trust](#) website (international organisation looking at global LGBTI rights)
- [International Gay and Lesbian Human Rights Commission](#) website
- [Stonewall](#) website (UK-based LGBTI right charity)

⁸¹ *ibid*, pp 15–16.

⁸² *ibid*, p 17.

⁸³ *ibid*, p 16.

⁸⁴ International Lesbian, Gay, Bisexual, Trans and Intersex Association, [State-Sponsored Homophobia](#), May 2015, pp 33–6.

⁸⁵ United Nations Human Rights Council, [Report on the Discrimination and Violence Against Individuals Based on Their Sexual Orientation and Gender Identity](#), 4 May 2015, pp 19–21.