



# UN Human Rights Council: Universal LGBTQ+ Rights

Chair: RJ Schechner '20  
Rapporteur: Ella Griffiths '20



Dear Delegates,

My name is RJ Schechner, I am a junior this year at Concord Academy, and I will have the pleasure of serving as your chair for the Human Rights Council at CAMUN 2019. Ella Griffiths, the rapporteur for this committee, is also a junior, and both of us have been involved in Model UN since our freshman year. We are really looking forward to meeting all of you, and seeing what you create over the course of our committee sessions.

The committee's goals are to produce resolutions that offer comprehensive solutions to the issues presented below that can be applied on a global scale. We also hope that delegates will ignore personal biases and seek out solutions that realistically match the interests of your country.

This background guide and our committee discussions will use the terms defined below, so it will be important to understand these before the start of the conference. It is also important to realize that these terms do not encompass everybody who is included in the LGBTQ community, and that there can be multiple definitions and interpretations of these terms.

After reading through this background guide, please focus on the "Questions to Consider" section towards the end to guide your research on the specifics of your countries' positions. If you have questions, do not hesitate to reach out using the address below. I am happy to help with whatever confusion you may have, whether it's about the topic, your country's position, or CAMUN in general.

Also, I highly encourage you to write a position paper as part of your research, as they help raise the level of discussion and debate! Also, submission of a position paper is required if you want to be eligible to win an award. You can email them to me at the address below.

Sincerely,

RJ Schechner '20, Chair

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## Introduction

For many years, LGBTQ people had no universal legal protection, and it was not until the early 1990's that the United Nations began discussing LGBTQ issues.<sup>1</sup> Violence and discrimination based on sexual orientation or gender identity continues to occur in every nation despite the UN establishing legal obligations of States to protect the LGBTQ community in the 2010's.<sup>2</sup> More than one-third of countries in the world criminalize consensual same-sex relationships or transgender people, which puts millions of people at risk of being arrested, imprisoned, blackmailed, or even executed. Additionally, many countries force transgender individuals to undergo medical treatment, sterilization or meet other onerous preconditions before they can obtain legal recognition of their gender identity.<sup>3</sup> The combination of the lack of legal protections and an unfriendly environment has led to global discrimination of LGBTQ individuals.

## Terms

1. *Sex assigned at birth*: Sex (male, female, intersex) assigned to an infant at birth based on visible sex organs, including genitalia and other physical characteristics.<sup>4</sup>
2. *Intersex*: Born with both male and female or ambiguous physical characteristics that appear neither typically male nor female.<sup>5</sup>
3. *Gender expression*: Gender expression is the way in which someone expresses their gender through actions and appearance.<sup>6</sup>
4. *Gender identity*: Deeply held sense of being a girl/woman, boy/man, some of both, or neither; might or might not align with sex assigned at birth.<sup>7</sup>
5. *Cisgender*: Having a gender identity that aligns with sex assigned at birth.

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<sup>1</sup> Special Rapporteur on extrajudicial, summary or arbitrary executions: E/CN.4/1999/39, at para. 76; E/CN.4/1999/39, at para. 76; E/CN.4/2000/3, at para. 54; E/CN.4/2001/9 at para. 48; E/CN.4/2002/74, at para. 62; A/57/138, at para. 38; E/CN.4/2003/3, at para. 66; A/59/319, at para. 60; A/HRC/4/20 and Add.1; A/HRC/4/29/Add.2; A/HRC/11/2/Add.7; A/HRC/14/24/ Add.2; and A/HRC/17/28/Add.1.

<sup>2</sup> Human Rights Council resolution - Human rights, sexual orientation and gender identity (adopted 17 June 2011) - A/HRC/RES/17/1 A/HRC/RES/17/1 A/HRC/RES/17/1:

[http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/RES/17/1](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/17/1) • Report of the United Nations High Commissioner for Human Rights

<sup>3</sup> "UN Free & Equal | About," *UN Free & Equal*, accessed December 23, 2018, <https://www.unfe.org/about/>.

<sup>4</sup> Lex Pride, "LGBTQ Inclusive Practices," October 25, 2018.

<sup>5</sup> *Ibid.*

<sup>6</sup> "UN Free & Equal | Definitions," UN Free & Equal (blog), accessed December 23, 2018, <https://www.unfe.org/definitions/>.

<sup>7</sup> Lex Pride.

6. *Transgender*: Having a gender identity that does not align with sex assigned at birth; encompasses trans male, trans female, and terms below.
7. *Nonbinary*: Having a gender identity that is neither girl/woman or boy/man, or is some fixed or shifting combination of both. Also called genderqueer.
8. *Genderfluid*: Having a gender identity that can change throughout time.
9. *Agender*: Not identifying with any gender.
10. *Sexual orientation*: Inherent emotional, romantic, or sexual attraction to other people. Sexual orientation is not related to gender identity.<sup>8</sup>
11. *Lesbian*: A woman who is emotionally, romantically, or sexually attracted to other women.
12. *Gay*: Emotionally, romantically, or sexually attracted to people of the same gender.
13. *Bisexual*: Emotionally, romantically, or sexually attracted to two genders (usually male and female) to varying degrees.
14. *Pansexual*: Emotionally, romantically, or sexually attracted to people of any sex or gender, including cis, trans, and nonbinary.
15. *Asexual*: Not sexually attracted to anyone (of any gender)
16. *Aromantic*: Not romantically attracted to anyone (of any gender)
17. *Queer*: Having any type of LGBTQIA+ identity. Used to reclaim the term from pejorative use to self-identify with the LGBTQIA+ community.<sup>9</sup>
18. *LGBTQ*: Umbrella term that can be used to refer to anyone who is non-heterosexual or non-cisgender.

## Past Legislation

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<sup>8</sup>"UN Free & Equal | Definitions."

<sup>9</sup>Lex Pride.

Concepts of sexual orientation and gender identity are generally not well-developed in existing international human rights laws.<sup>10</sup> The application of international human rights law is based on Article 1 of the *Universal Declaration Human Rights*, which states that “all human beings are born free and equal in dignity and rights.”<sup>11</sup> Non-discrimination clauses in international documents require that laws be applicable to everyone without discrimination, and that nations ensure that their laws, policies and programs are also not discriminatory nor create adverse consequences that may be discriminatory. For example, under Article 2 of the *International Covenant on Civil and Political Rights* (ICCPR), each nation to the Covenant undertakes the responsibility to ensure all individuals within its territory are granted rights recognized in ICCPR, without discrimination.<sup>12</sup> Thus every individual should be protected from torture, inhuman treatment and arbitrary detention, and everyone’s rights of freedom of expression, association and assembly should be guaranteed.<sup>13</sup> It follows then that the LGBTQ community is included under these protections. The Committee on Economic, Social and Cultural Rights (CESCR) has confirmed that discrimination based on Sexual orientation or gender identity is prohibited under the *International Covenant on Economic, Social, and Cultural Rights* (ICESR).<sup>14</sup>

However, the original writing of the ICESR and the ICCPR do not specifically mention discrimination based on sexual orientation or gender identity and it was not until later that these documents were updated to include the LGBTQ community. Still, protections based on sexuality and gender identity have often been denied in countries that don’t support LGBTQ rights – many countries have argued that treaties and documents they signed such as the ICESR and ICCPR did not specifically include the LGBTQ community. In addition, LGBTQ rights have been seen as contradictory to many religious, cultural, and traditional values, making it difficult to pass legislation to ensure that international human rights pertaining to the LGBTQ community are not violated.<sup>15</sup> In 2008, a Dutch/French-initiated, European Union-backed statement supporting LGBTQ rights was presented to the United Nations General Assembly.<sup>16</sup> Sixty-six countries condemned violations based on sexual orientation and gender identity. The statement reaffirmed “the principle of non-discrimination, which requires that human rights apply equally to every human being regardless of sexual orientation or gender identity,” and that the UN should be “deeply concerned by violations

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<sup>10</sup> OHCHR, *International Human Rights Law and Sexual Orientation & Gender Identity*, p. 2.

<sup>11</sup> UN General Assembly, *Universal Declaration of Human Rights* (A/RES/217 A (III)), 1948.

<sup>12</sup> “OHCHR | *International Covenant on Civil and Political Rights*,” accessed December 25, 2018, <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

<sup>13</sup> UN HRC, *Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity: Report of the United Nations High Commissioner for Human Rights*, 2011, p. 4.

<sup>14</sup> UN CESCR, *General Comment No. 20*, 2009, p. 9.

<sup>15</sup> UN HRC, *Human Rights Council panel on ending violence and discrimination against individuals based on their sexual orientation and gender identity: Summary of discussion*, 2012, pp. 5-6.

<sup>16</sup> Umar Abubakar Dubagari, “Same Sex Marriage, Human Rights and Death Penalty: Common and Islamic Law Perspectives,” *Journal of Philosophy*, 2016, 9.

of human rights and fundamental freedoms based on sexual orientation or gender identity."<sup>17</sup> The statement goes on to say that "violence, harassment, discrimination, exclusion, stigmatization and prejudice are directed against persons in all countries in the world because of sexual orientation or gender identity."<sup>18</sup> The statement condemned killings, torture, arbitrary arrest, and "deprivation of economic, social and cultural rights, including the right to health."<sup>19</sup> The participating countries urged all nations to support LGBTQ rights and to end all criminal penalties against people because of their sexual orientation or gender identity. Today, the statement has not been officially adopted by the UN General Assembly and is still open for signatures.

In December 2008, a group of nations presented an opposition statement to the GA. These nations feared that if the pro-LGBTQ resolution were passed, it would cause "the social normalization, and possibly the legitimization, of many deplorable acts including pedophilia."<sup>20</sup> The statement went on to say "we note, with concern, the attempts to create 'new rights' or 'new standards,' by misinterpreting the Universal Declaration and international treaties to include such notions that were never articulated nor agreed by the general membership."<sup>21</sup> Fifty-seven UN member nations initially co-sponsored the opposing statement. Today, fifty-four countries are still sponsors to the opposition statement, after Fiji, Sierra Leone and Rwanda changed their position to support LGBTQ rights.<sup>22</sup>

In 2011, the Human Rights Council passed Resolution 17/19, which spoke of the universality and interrelatedness of human rights and expressed concern at violence and discrimination against LGBTQ people.<sup>23</sup> This resolution also led to a study conducted by the UN High Commissioner for Human Rights about LGBTQ discrimination. On December 15th, 2011, the UN Human Rights Council passed its first report about hate crimes, criminalization and discrimination in employment, health care and education based on sexual orientation.<sup>24</sup>

In 2014, the UN announced that it would give equal benefits to its employees who have entered into same-sex unions in jurisdictions where they are legal.<sup>25</sup> However, not all UN agencies and programs are following the resolution. Additionally, the resolution only technically applies to Secretariat staff and

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<sup>17</sup> Human Rights Watch "UN: General Assembly Statement Affirms Rights for All," Human Rights Watch, December 18, 2008, <https://www.hrw.org/news/2008/12/18/un-general-assembly-statement-affirms-rights-all>.

<sup>18</sup> *Ibid.*

<sup>19</sup> *Ibid.*

<sup>20</sup> "U.N. Divided over Gay Rights Declaration," *Reuters*, December 18, 2008, <https://www.reuters.com/article/us-un-homosexuality-idUSTRE4BH7EW20081218>.

<sup>21</sup> *Ibid.*

<sup>22</sup> "'General Assembly: 70th and 71st plenary meeting, morning session, 02:32:00". United Nations. 18 December 2008. accessed January 4, 2019, <https://www.un.org/webcast/ga2008.html>.

<sup>23</sup> UN HRC, Human rights, sexual orientation and gender identity (A/HRC/RES/17/19), 2011, p. 1.

<sup>24</sup> "UN HRC, Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity: Report of the United Nations High Commissioner for Human Rights," 2011.

<sup>25</sup> "UN LGBT Staff Still Fighting for Equal Benefits," *UN Tribune* (blog), September 1, 2015, <http://untribune.com/un-lgbt-staff-still-fighting-for-equal-benefits/>.

the UN's pension fund. The fund still only recognizes spouses of same-sex partners if they come from one of the 20 countries worldwide that recognize same-sex unions, leaving many LGB workers unable to participate in the pension fund.<sup>26</sup>

In 2016, the UN Human Rights Council passed a resolution designating an independent expert to outline the causes of discrimination based on gender identity and sexual orientation, and help governments enact policy to better protect the LGBTQ community.<sup>27</sup> Since then, the Office of the United Nations High Commissioner for Human Rights (OHCHR) has published the *Born Free And Equal Report*, which highlights five steps to combat violence against and discrimination of LGBTQ people. These steps include protections for LGBTQ people against violence, prevention of mistreatment in detention facilities, repealing laws that criminalize same-sex relations between consenting adults, prohibiting discrimination of any kind, and safeguarding civil rights and freedoms of LGBTQ people.<sup>28</sup>

Additionally, the UN created the *Free and Equal Campaign*, a public education program working to raise awareness of violence and discrimination against LGBTQ people. The campaign has informative videos, sheets, reports and resources on how to get involved in LGBTQ activism.<sup>29</sup>

## **Discrimination of LGBTQ People**

The exclusion of LGBTQ people from the design, implementation and monitoring of laws and policies perpetuates the LGBTQ community's social and economic marginalization.<sup>30</sup> Currently, 72 Member States have laws that criminalize same sex relations between consenting adults.<sup>31</sup> These punishments can be found in the form of fines, prison time or even the death penalty. Many of these laws use vague wording, such as debauchery, in order to bring ambiguity to the application of the law.<sup>32</sup> There is also very little recognition of personal and familial relationships such as marriage, adoption, and parental rights if they involve LGBTQ people.<sup>33</sup> LGBTQ people are regularly discriminated against in the context of the workplace, housing, healthcare, identification, and asylum-seeking. Many countries have laws allowing companies to fire employees based on real or perceived sexual orientation

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<sup>26</sup> *Ibid.*

<sup>27</sup> Session 32 Resolution 32/2. *Resolution adopted by the Human Rights Council on 30 June 2016—32/2: Protection against violence and discrimination based on sexual orientation and gender identity.*

<sup>28</sup> "OHCHR | Booklet Born Free and Equal," accessed January 5, 2019, <https://www.ohchr.org/en/issues/discrimination/pages/bornfreeequalbooklet.aspx>.

<sup>29</sup> "UN Free & Equal," UN Free & Equal, accessed January 5, 2019, <https://www.unfe.org/>.

<sup>30</sup> "Ending Violence and Discrimination against Lesbian, Gay, Bisexual, Transgender and Intersex People," accessed January 7, 2019.

<sup>31</sup> "This Is the State of LGBT Rights around the World in 2018," World Economic Forum, accessed January 7, 2019, <https://www.weforum.org/agenda/2018/06/lgbti-rights-around-the-world-in-2018/>.

<sup>32</sup> OHCHR, *Criminalization*, p.1.

<sup>33</sup> "Legal Recognition of LGBT Families.Pdf," accessed January 7, 2019, [http://www.nclrights.org/wp-content/uploads/2013/07/Legal\\_Recognition\\_of\\_LGBT\\_Families.pdf](http://www.nclrights.org/wp-content/uploads/2013/07/Legal_Recognition_of_LGBT_Families.pdf).

or gender identity, as well as denying them the ability to hold certain jobs.<sup>34</sup> There have been hate crimes perpetrated against members of the LGBTQ community, including murders and sexual assaults. Many countries, companies and people use stereotypes of the LGBTQ community to discriminate against individuals regardless of their actual sexual orientation or gender identity. This causes stereotypes to be perpetuated and people are falsely accused for trying to act in a certain way rather than being themselves.<sup>35</sup>

A majority of people around the world would like their country to do more to support and protect transgender people (60%), with those in Spain (70%) and Argentina (67%) most likely to agree.<sup>36</sup> The suicide attempt rate among the transgender community ranges from 32% to 50% across countries.<sup>37</sup> However, there is very little data gathered on the transgender community and these numbers are projected to be higher. Major risk factors that influence suicidal behavior among transgender people are gender-based victimization, discrimination, bullying, and violence; being rejected by the family, friends, and community; harassment by intimate partners, family members, police and public; or discrimination and ill treatment by the health-care system.<sup>38</sup> Violence against the transgender community occurs across multiple social and institutional contexts; transgender people are verbally harassed, physically and sexually abused, and blackmailed. Additionally, transgender people are subject to verbal and physical abuse from friends and family members, refusal of services, and derogatory labeling at health-care systems. The lack of legal protections of transgender people leads to higher unemployment rates as compared to their cisgender counterparts.<sup>39</sup>

Transgender people are denied legal documentation with their preferred gender. This leads to individuals being unable to work, travel, or access financial and public services due to lack of legal documentation. In order to obtain gender-confirming paperwork, many countries require transgender people to undergo medical surgeries.<sup>40</sup> This has created pressure from families and non-governmental organizations for transgender and intersex individuals to undergo gender reassignment surgery. The average cost of this surgery can range from \$13,000-\$50,000, which most people can not afford, or they have to save up for years.<sup>41</sup> Additionally, many surgeons are not experienced with these complex

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<sup>34</sup> “Ending Violence and Discrimination against Lesbian, Gay, Bisexual, Transgender and Intersex People.”

<sup>35</sup> *Ibid.*

<sup>36</sup> “Global Attitudes Toward Transgender People,” Ipsos, accessed January 6, 2019, <https://www.ipsos.com/en-us/news-polls/global-attitudes-toward-transgender-people>.

<sup>37</sup> *Ibid.*

<sup>38</sup> H. G. Virupaksha, Daliboyina Muralidhar, and Jayashree Ramakrishna, “Suicide and Suicidal Behavior among Transgender Persons,” *Indian Journal of Psychological Medicine* 38, no. 6 (2016): 505–9, <https://doi.org/10.4103/0253-7176.194908>.

<sup>39</sup> Human Rights Campaign, “Understanding the Transgender Community,” Human Rights Campaign, accessed January 6, 2019, <http://www.hrc.org/resources/understanding-the-transgender-community/>.

<sup>40</sup> OHCHR, *LGBT Rights: Frequently Asked Questions*, 2013, p. 1. <https://www.unfe.org/wp-content/uploads/2017/05/LGBT-Rights-FAQs.pdf>

<sup>41</sup> “How Much Does Sex Reassignment Surgery Cost? - CostHelper.Com,” CostHelper, accessed January 6, 2019, <https://health.costhelper.com/sex-reassignment-surgery.html>.

procedures, leading many people to have issues recovering afterwards.<sup>42</sup> So, countries that require medical surgeries before legal recognition of one's gender identity creates stigma against people who cannot or do not want to medically transition.

Once again, the committee's goals are to produce resolutions that offer comprehensive solutions to the issues presented below that can be applied on a global scale. We also hope that delegates will ignore personal biases and seek out solutions that realistically match the interests of your country.

### Questions to Consider

1. Should it be allowed for progressive countries to push legislation and ideas on conservative countries where their stance is against LGBTQ people?
2. How can the council respect cultural and religious norms of countries while creating legislation?
3. Is denying LGBTQ people rights going against *International Covenant on Economic, Social, and Cultural Rights* and the *International Covenant on Civil and Political Rights*?
4. What new legislation or amendments to old legislation can be created to provide or take away protections of LGBTQ people?
5. How can the committee create legislation to protect LGBTQ UN workers?
6. What precautions can be taken to lower the suicide rate in the transgender community?

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<sup>42</sup> *Ibid.*

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