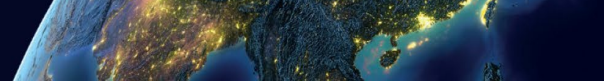


## **Volume 2: Chapter 14**

### **Source 14.2**

#### **United Nations Recommendations on LGBTQ Rights**

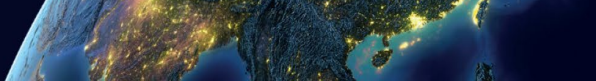
*The issue of rights for LGBTQ people first came before the United Nations in 1994. That year, Nicholas Toonen, a man from Tasmania, Australia, complained to the UN Human Rights Committee that laws criminalizing consensual sex between adults violated his right to privacy and to equality before the law under the terms of the International Covenant on Civil and Political Rights. (As of 2024, 174 UN members had ratified this treaty.) The Human Rights Committee agreed with Toonen, and Australian laws were subsequently changed. Since that time, UN member states have initiated numerous discussions, statements, reports, and resolutions to advance and protect the rights of all people regardless of their sexual orientation or gender identity. The number of UN member states endorsing LGBTQ rights has steadily grown, though several dozen states continue to criminalize same-sex relationships and gender diverse identities. In 2012 the UN High Commissioner for Human Rights published *Born Free and Equal: Sexual Orientation, Gender Identity and Sex Characteristics in International Human Rights Law*. This document made five principal recommendations setting out “the core obligations that States have towards LGBTI persons.” *Born Free and Equal* served as a foundational statement for the UN *Free and Equal* Campaign, a global public education project announced in 2013 to explain and advocate for LGBTQ rights. The Commissioner published a second edition of *Born Free and Equal* in 2019. The excerpt presented here is a summary of the second edition’s recommendations. The “I” after LGBTQ refers to “intersex,” meaning “people who are born with physical sex characteristics that do not fit the normative definitions for male or female bodies.” (*Born Free and Equal*, 2<sup>nd</sup> ed., 5).*



## SUMMARY OF RECOMMENDATIONS

### Five Steps

- 1. Protect LGBTI people from violence.** Include sexual orientation, gender identity, and sex characteristics as protected grounds in laws on hate crime and incitement to violence. Ensure violent acts are properly recorded and investigated, perpetrators prosecuted and victims provided with redress. Recognize that persecution on account of one's sexual orientation, gender identity, or sex characteristics may be a valid basis for an asylum claim.
- 2. Prevent the torture and ill treatment of LGBTI persons,** including degrading physical examinations, so-called "conversion" therapy, forced or coerced sterilization of transgender persons, and medically unnecessary procedures performed on intersex children and adults without their consent. Prohibit and investigate all such acts, punish perpetrators and provide redress to victims. Ensure places of deprivation of liberty are regularly monitored by independent bodies. Provide appropriate training to healthcare providers and law enforcement officers.
- 3. Repeal laws that criminalize LGBT persons,** including laws criminalizing consensual same-sex relations and expression of gender identity, and other laws used to harass, arbitrarily detain, prosecute and discriminate against persons on the basis of their actual or perceived gender identity or expression or sexual orientation. Ensure that individuals are not arrested or detained on the basis of their sexual orientation or gender identity or expression.
- 4. Prohibit and address discrimination on the basis of sexual orientation, gender identity and sex characteristics** by enacting relevant comprehensive legislation and policies. Legally recognize same-sex couples and their children, without discrimination, and ensure that transgender persons can obtain legal recognition of their gender identity through a simple administrative process without abusive requirements. Ensure nondiscriminatory access to basic services, education, employment, housing and health care. Reform outdated medical



classifications that brand LGBTI people as ill or disordered. Combat stigma and discrimination, including through training, education and awareness-raising activities for public officials and the general public. Consult LGBTI people on legislation and policies that affect their rights.

#### **5. Safeguard freedom of expression, peaceful assembly and association for LGBTI**

**people.** Any limitations on these rights must be compatible with international human rights law, including on non-discrimination. Protect individuals who exercise their rights to freedom of expression, and freedom of peaceful assembly and association, including human rights defenders, from acts of violence and discrimination by public officials and private parties and prosecute such acts when they occur.

*Source: Born Free and Equal: Sexual Orientation: Gender Identity and Sex Characteristics in International Human Rights Law, 2<sup>nd</sup> ed. (Geneva: Office of the United Nations High Commissioner for Human Rights, 2019)*

- Why do you think that member states of the UN High Commission for Human Rights believed it was important to develop and publish these recommendations on legal rights for LGBTI people?
- What reasons might some member states have given for opposing some or all of these recommendations?
- Do you agree, or not, that UN member states should be bound by international law to protect and advocate for the legal rights of LGBTI people?