

Why use the UN?

- International standard-setting
- Shining a spotlight on human rights violations
- Holding governments accountable
- Bringing international support to national initiatives
- Building support of high-level spokespeople and opinion leaders
- Broadening the base of government support
- International LGBT movement-building, coalition development and capacity enhancement
- Engaging field presences and in-country support

Some of the available tools:

Universal Periodic Review

A mechanism of the Human Rights Council to scrutinize the human rights record of every UN Member State on a repeating 4-year cycle. States under review must indicate which recommendations they accept.

Some examples include:

- Nauru, Palau, Mauritius, Seychelles, Sao Tomé & Príncipe pledged to decriminalize same-sex conduct
- Belize committed to implement sensitivity training for law enforcement officials on grounds including sexual orientation and gender identity
- Cape Verde agreed to consider policy measures to promote non-discrimination against LGBT persons
- Canada, Chile, Czech Republic, Finland, Germany agreed to apply the *Yogyakarta Principles* to guide future development of government policy.

(For SOGI-related info on the UPR of each State, see: www.arc-international.net/global-advocacy/universal-periodic-review)

UN Special Rapporteurs

- Urgent appeals to governments on actual and pending human rights violations
- Documenting and reporting on human rights violations
- Country visits
- Public education, press conferences, supporting work of human rights defenders

Some examples include: joint appeals by Special Rapporteurs to Government of Uganda on *Anti-Homosexuality Bill*, on arrests in Cameroon, on banning of Pride parades in Eastern Europe, attention to targeted killings of individuals because of their sexual orientation or gender identity including in Colombia and Honduras, highlighting need for systemic government response to “curative” rape of lesbians in South Africa, challenging denial of gender recognition and adequate health care to transgender persons.

Human Rights Council & General Assembly

- UN joint statements on sexual orientation and gender identity: supported by 32 States in 2005, 54 States in 2006, 67 States in 2008, 85 States in 2011;
- First-ever UN resolution on sexual orientation and gender identity, led by South Africa and adopted in June 2011 by a vote of 23-19 with support of States from all regions;
- Mandated first-ever UN report on *Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity* (OHCHR, December 2011), and first-ever UN panel discussion on ending human rights violations based on sexual orientation and gender identity (March 2012);
- Increased leadership and support by States from all regions:

“Mr. President, we must not look the other way: whether the concept of ‘sexual orientation’ is defined or not, we must deal with the urgency of these matters and recognize that these women and men, these human beings, continue to be the target of murder in many of our societies ... To refuse to recognize this reality for legal or ideological or cultural reasons would have the consequence of continuing to hide our heads in the sand and of failing to alert States to these very real situations, which break families. ... Indeed, Rwanda had this bitter experience 16 years ago.” (Rwanda, UN General Assembly, December 2010)

Treaty Bodies

Expert Committees which monitor State compliance with their international human rights obligations under international treaties, deliver Concluding Observations on reforms needed by States to fulfill their obligations, and issue General Comments on the interpretation of international human rights law under the relevant treaty. Some also have complaint mechanisms, allowing individual cases to be heard. *Some examples include:*

- *Toonen v. Australia*, UN Human Rights Committee (1994): “It is undisputed that adult consensual sexual activity in private is covered by the concept of ‘privacy’ ... The continued existence of the challenged provisions therefore continuously and directly interferes with the author's privacy.”
- *X v. Colombia*, UN Human Rights Committee (2007): “the State party has put forward no argument that might demonstrate that a distinction between same-sex partners and unmarried heterosexual partners is reasonable and objective. The Committee finds that the State party has violated article 26 of the Covenant by denying the author’s right to his life partner’s pension on the basis of his sexual orientation.”
- Committee on Economic, Social and Cultural Rights, General Comment 20: “Sexual orientation and gender identity: States parties should ensure that a person’s sexual orientation is not a barrier to realizing Covenant rights, for example, in accessing survivor’s pension rights. In addition, gender identity is recognized as among the prohibited grounds of discrimination; persons who are transgender, transsexual or intersex often face serious human rights violations, such as harassment in schools or in the workplace.”

Use of international developments in regional/national jurisprudence and advocacy campaigns

- In the *Naz Foundation* case, the Delhi High Court referred to the UN Human Rights Committee decision in *Toonen*, the *Yogyakarta Principles*, and the UN joint statements on sexual orientation and gender identity, in support of its decriminalization decision
- In *Mukasa & Oyo v. Attorney General*, the High Court of Uganda referred to both the UN Convention on the Elimination of all forms of Discrimination against Women and the UDHR in finding that the police had violated the rights of the applicants
- In *Atala v. Chile*, the Inter-American Court of Human Rights relied extensively upon international precedents to find that a lesbian mother’s rights were violated by denying her custody because of her sexual orientation.

UN agencies

- The High Commissioner for Human Rights has appointed a staffperson on SOGI issues, issued a landmark report on human rights violations based on sexual orientation and gender identity and regularly intervenes to address LGBT-related human rights violations around the world;
- UNAIDS addresses education, prevention, care and treatment policies and programmes for communities impacted by HIV/AIDS, including with world leaders in each region;
- The UN High Commissioner for Refugees has issued a Guidance Note to strengthen appropriate handling of refugee claims relating to sexual orientation and gender identity.



UN Secretary General Ban Ki-moon, Geneva, 7 March 2012:

“To those who are lesbian, gay, bisexual or transgender, let me say: You are not alone. Your struggle for an end to violence and discrimination is a shared struggle. Any attack on you is an attack on the universal values the United Nations and I have sworn to defend and uphold. A historic shift is under way. ... The time has come.”