

Human Rights, Sexual Orientation, and Gender Identity

Student's Name

Czech Republic

3rd SCH

Today, around the world, LGBT rights are an important and contentious issue. While many nations are making important advances in guaranteeing equal rights to all citizens regardless of sexual orientation or gender identity, many issues still persist. For the most vulnerable LGBT populations in the world, one of the most pressing problems is criminalization. For example, in seventy-seven countries around the world, same-sex relationships remain criminalized. In seventy nations, the primary form of punishment is prison time; in fourteen of these nations, the maximum sentence is life in prison. Meanwhile, in seven other countries, engaging in same-sex relations is punishable by death. These nations include Iran, Mauritania, Saudi Arabia, Sudan, Yemen, and parts of Nigeria and Somalia.

Neither the United Nations Charter, the Universal Declaration of Human Rights, nor the UN Millennium Development Goals address sexual orientation or gender identity directly or explicitly. However, several articles of the Universal Declaration of Human Rights can be applied to LGBT rights. The Universal Declaration of Human Rights opens with Article 1, which states, "All human beings are born free and equal in dignity and rights." Additionally, Article 12 of the Universal Declaration of Human Rights states, "No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence. [...] Everyone has the right to the protection of the law against such interference or attacks."

The General Assembly has never successfully passed a resolution that directly addressed either gender identity or sexual orientation.

In 1994, in the case *Toonen v. Australia*, the UN Human Rights Committee found that a law in the Australian state of Tasmania that criminalized consensual same-sex relations violated Article 17 of the International Covenant on Civil and Political Rights, which protects individuals from “arbitrary or unlawful interference” with their privacy and states that “everyone has the right to the protection of the law against such interference or attacks.” (It should be noted that Article 17 of the International Covenant on Civil and Political Rights echoes Article 12 of the Universal Declaration of Human Rights word-for-word.) Additionally, several resolutions in the Human Rights Council have addressed LGBT rights. On June 17, 2011, the Human Rights Council passed a resolution that requested for the United Nations High Commissioner for Human Rights to conduct a study documenting “discriminatory laws and practices and acts of violence against individuals based on their sexual orientation or gender identity.” The resolution also called for the meeting of a panel to discuss the results of the report in “a constructive, informed[,] and transparent dialogue.” On September 26, 2014, the Human Rights Council passed another resolution that asked member nations to “take note with appreciation the report of the United Nations High Commissioner for Human Rights.” The resolution also requested that the United Nations High Commissioner for Human Rights update the report to include recommendations of ways to stop violence and discrimination based on sexual orientation and gender identity. Additionally, on June 30, 2016, the Human Rights Council adopted A/HRC/RES/32/2, which affirmed the innate human rights of members of the LGBT community, condemned anti-LGBT discrimination and violence, and called for an Independent Expert to give an annual report on the treatment of the LGBT community across UN member states.

The region with the greatest number of laws criminalizing same-sex relationships is Africa, followed by the Middle East. Of the seven countries that offer the death penalty for sex-

same relationships, four - Mauritania, Nigeria, Somalia, and Sudan - are found in Africa while the remaining three - Iran, Saudi Arabia, and Yemen - are found in the Middle East. Several Asian countries also criminalize homosexuality, as does one South American nation, Guyana. Africa and the Middle East are both known for being fairly religious regions; the Middle East contains primarily Muslim countries, while African nations are generally either Muslim or Christian. Since certain members of both these religions interpret their respective religious texts as condemning homosexuality as a “sin,” it is unsurprising that many of these nations criminalize same-sex relations.

Arguably, every nation on Earth has LGBT citizens within its population, and the Czech Republic is no exception. Though there are no specific circumstances that necessarily make sexual orientation and gender identity *more* important to the Czech Republic than other nations, it should be noted that it is considered one of the most pro-LGBT nations in Central Europe. Thus, the Czech Republic obviously does have a vested interest in affirming and protecting the rights of the LGBT community.

In the eyes of the Czech Republic, the ideal next step is a resolution that encourages the decriminalization of same-sex relationships. This resolution would recommend the decriminalization of same-sex relationships, especially in nations that still use the death penalty. It would acknowledge that this criminalization directly counters the Human Rights Committee’s ruling in *Toonen v. Australia*, which stated that criminalization of same-sex relationships violates the International Covenant on Civil and Political Rights. It would also emphasize the right that all human beings have to privacy, regardless of their gender identity or sexual orientation. The Czech Republic would not necessarily support a resolution that granted members of the LGBT community any new rights since there are certain rights it has not granted its own LGBT citizens,

such as the right to marriage or the right of same-sex couples to adopt a child together, but it would approve of a resolution that asks all nations to respect the current rights that LGBT people, like all people, have under the Universal Declaration of Human Rights.

According to the World Heritage Encyclopedia, the Czech Republic is “considered one of the most liberal Central European countries with regard to lesbian, gay, bisexual, transgender (LGBT) rights.” Same-sex relationships were decriminalized in 1962. (For context, they were not decriminalized in the United States until 2003.) Though the Czech Republic does not currently have marriage equality, it has recognized registered partnerships between two people of the same gender since 2006. The Czech Republic also has two major anti-discrimination laws: a 1999 that prohibits discrimination in the military and a more comprehensive 2009 law, which bans discrimination in the areas of education, employment, housing, and access to services. The Czech Republic’s pro-LGBT outlook can be traced to two factors: the liberal political outlook brought about by the Velvet Revolution in 1989 and its fairly relaxed attitude regarding religion. Thus, the Czech Republic would be willing to support a resolution that affirmed the rights of members of the LGBT community to be protected from persecution by their governments, as it has shown willingness to protect its own LGBT citizens.

Time and time again, the UN has asserted the innate value of *all* human beings, regardless of race, sex, religion, and more. It has long since been time for the UN to add sexual orientation and gender identity to the list by addressing LGBT rights in a more concrete way. By encouraging all member nations to decriminalize same-sex relationships, the UN would be taking a positive and necessary step in protecting the rights of some of the most vulnerable LGBT populations in the world.

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