

## **The Yogyakarta Principles**

### A RUSSIAN EXPERIENCE

“Does it hurt?” I asked the woman. We were hiding behind a car in front of the Tverskaya police station in Moscow. From the other side of the street a group of skinheads and other anti-gay nationalists were throwing eggs at us. Most of the eggs hit the wall of the police station but one landed between the woman’s neck and shoulders. The yolk left a blurry, yellow mess.

They yelled: “Moscow is not Sodom. No to pederasts. We hate you lesbians, leave our country. Russia should stay clean and pure.” The police left us there, unprotected. The woman was about 20 years old and the Gay Pride in May 2007 was her first demonstration as a lesbian activist. “Eggs don’t hurt. But words do,” she said. “They seep inside your head and nestle there. But I refuse to give in. This is also my country. And I want to live here as a free citizen. I want to be allowed to express my sexual orientation. I want to say out loud that I love my girlfriend without being afraid they will kill me for that.”

*For detailed descriptions, analysis and recommendations see : HRW and ILGA-Europe’s report “We have the upper hand” (freedom of assembly in Russia and the human rights of lesbian, gay, bisexual and transgender people), June 2007*

### ABUSES WORLDWIDE

Human rights violations based on sexual orientation and gender identity take place worldwide. Some are embodied in national law. Over 80 countries impose criminal penalties on consensual sexual conduct between people of the same sex, laws similar to those that existed in the US before Lawrence v Texas in 2003. It is significant that in this decision, the US Supreme Court acknowledged the importance of international legal precedents, including the UN Human Rights Committee’s decision in the 1994 case of Toonen v Australia, which held that such laws violate the right to privacy, and that sexual orientation should be a status protected against discrimination. One such example I call to your attention is that of Egypt, where a massive crackdown on men who have sex with men took place between 2001-2004, in which hundreds or thousands of men were arrested and tortured. These arrests have resumed in recent months, targeting men living with HIV/AIDS: under the law used to criminalize homosexual conduct, police have arrested at least twenty-four men since October 2007. We urge the United States to act upon the confluence between its own domestic protections and international law, and to advocate forcefully for an end to such arrests and criminal penalties in all countries worldwide.

In other countries, the issue is one of impunity and lack of protection. In May, 2008 Human Rights Watch published a detailed report on abuses based on sexual orientation and gender identity in Turkey, documenting a long and continuing history of violence and harassment. Gay men and transgender people face beatings, robberies, police harassment and the threat of murder. Lesbian and bisexual women and girls confront

physical and psychological violence within their families. HRW found that, in most cases, the response by authorities is inadequate if not nonexistent. Despite reforms prompted by possible EU accession, Turkey has no specific legal protections against discrimination based on sexual orientation and gender identity. Absence of reference to such issues in its domestic violence laws leave many women unprotected.

Moreover, in recent years Turkish authorities have repeatedly harassed human rights defenders and civil society groups working on issues of gender and sexuality. Most recently police raided the offices of Lambda Istanbul, an NGO that has advocated for LGBT people's rights for over 10 years. A Turkish court decided earlier this month to disband Lambda Istanbul, thus supporting bias against LGBT people and violating Principle 20 of the Yogyakarta Principles (the right to freedom of peaceful assembly and association).

*For more information on the Turkey report, see [www.hrw.org/lgbt](http://www.hrw.org/lgbt)*

## IN YOGYAKARTA

In November 2006 a group of experts on international human rights law convened in the Indonesian city of Yogyakarta. From all over the world they brought their expertise. They came from Pakistan to Kenya. From Botswana to Thailand. From Europe to Nepal. From the United States to China. Many of them work within the UN-system, like the UN special rapporteurs on human rights and counter-terrorism, on torture, on the right to adequate housing, on the right to the highest attainable standard of health, on extrajudicial and arbitrary executions, and on international solidarity. Members of the UN Human Rights Committee and the UN Committee on the rights of the child took part in the deliberations. Some of the attendees were judges or came from the academic world like professors in human rights law. And some were distinguished members from human rights NGOs.

These experts codified all existing human rights, based on international treaties and jurisprudence, and translated how these rights co-exist with the prohibition on discrimination on grounds of sexual orientation and gender identity. Nothing was invented. Everything that was written down in their document was grounded in existing human rights law or jurisprudence. We must bear in mind that the Yogyakarta Principles are not a wish list. Not a summary of dreams. No, they are existing legal rights. To make it concrete: *Principle 10* addresses the right to freedom from torture and cruel, inhuman or degrading treatment or punishment. It is undisputed that all human beings have the right not to be tortured. So it is evident that this right also applies to homosexual men and lesbian women.

## THE PRINCIPLES

“The Yogyakarta Principles” reflect the standard of existing human rights as of November 2006. The Principles are a living document. When international human rights law and jurisprudence will evolve, so will the Yogyakarta Principles.

The Yogyakarta Principles do not include the right to same sex marriage or the right to adoption. Although civil marriage has been opened for same sex couples in the Netherlands, Belgium, Spain, Canada, South Africa, Norway and the states of Massachusetts and California, the experts who codified the Yogyakarta Principles do not consider same sex marriage as a human right that has already been accepted by international human rights law.

The document contains 29 Principles on the application of international human rights law in relation to sexual orientation and gender identity. When one reads the principles, one will discover they tell a story. They portray human suffering in legal terms. They were developed in response to well-documented patterns of abuse worldwide. These abuses, including rape, extrajudicial executions, torture, medical abuses, repression of free speech and assembly and discrimination in work, health, education, housing, access to justice and immigration, affect millions of people targeted for their actual or perceived sexual orientation. The example of the Moscow pride in 2007 could be accompanied by thousands of stories from countries all over the world, where LGBT- people are being maltreated by their governments and fellow citizens. Every single day.

#### WHY NEEDED?

Why are they needed? The answer is obvious. Unfortunately many States endorse human rights, but make an exception for people with a different sexual orientation or gender identity. These States treat human rights like a menu in a restaurant. They pick and choose what they like best. They say that when signing human rights treaties they had never envisioned that their international obligations would also relate to LGBT-people. These States forget that Human Rights are universal and indivisible. And that all human beings are entitled to the full enjoyment of all human rights. This ground rule has been laid out in *Principle 1*.

#### MAGNA CHARTA

The Yogyakarta Principles are ground breaking. For the first time a comprehensive set of legal standards related to sexual orientation and gender identity has been adopted by so many international legal experts and has been published. The Principles underline the fact that no one should face violence or discrimination because of whom they love, how they look or who they are.

The Principles are a landmark advance in the struggle to ensure basic human rights for all. They look forward, laying out a program of action for States to ensure equality and eliminate abuse. But they emphasize that all actors have responsibilities to promote and protect human rights. Additional recommendations are therefore addressed to the UN Human Rights system, to national human rights institutions, to the media, NGOs and others.

Indeed, the Yogyakarta Principles are a Magna Charta for LGBT-people all over the world.

*For more detailed information on the Yogyakarta Principles, see :  
[www.yogyakartaprinciples.org](http://www.yogyakartaprinciples.org)*

### LAUNCH AT THE UN IN New York

Human Rights Watch and several other international human rights NGOs like Arc International, ILGA, the International Gay and Lesbian Human Rights Committee, the International Service for Human Rights organized the launch of the Yogyakarta Principles at the United Nations Headquarters in New York. On November 7, 2007 this event took place. It was co-sponsored by three Latin American countries, Argentina, Brazil and Uruguay. The governments of these catholic countries show the world that fundamental human rights apply to everyone, regardless of sexual identity. The launch was attended by many people with standing room only. 21 Countries were represented. Through their co-sponsorship of the launch of the Yogyakarta Principles Argentina, Brazil and Uruguay showed the world community at the UN that supporting human rights in relation to sexual orientation or gender identity is not something only done by Western European countries. They emphasized the universality of human rights.

### SUPPORT FOR THE YOGYAKARTA PRINCIPLES

UNAIDS endorses the Yogyakarta Principles. The Dutch and Belgian parliaments voted in favor of resolutions endorsing them. Their governments use them as guide line for their foreign relations policies. For instance Dutch embassies in countries where LGBT people are being discriminated are urged to support local LGBT-groups, while the Dutch government tries to persuade the governments of those countries to grant equal rights to LGBT-people. The Dutch embassies are instructed to report on LGBT-issues, using the Yogyakarta Principles as a tool.

The European Parliament endorses the Yogyakarta Principles.

The MERCOSUR-countries Brazil, Argentina and Uruguay support them.

All liberal political parties in the world, member of Liberal International, support the Yogyakarta Principles. (Resolution approved on May 17, 2008). The National Democratic Institute for International Affairs (NDI) with Madeleine Albright as chairman of the board of directors, is member of LI. NDI is associated with the American Democratic Party.

### REQUEST :

It would be helpful if (members of ) Congress and/or the Democratic and Republican parties would formally express support for the Yogyakarta Principles and would use them as a tool in policy-making.

Every year the State Department issues its Human Rights Report. It also gives an oversight of LGBT-issues in many countries in the world. In terms of improvement of the quality of the submissions by American embassies it would be great if the standard instruction to the Embassies on reporting about LGBT-issues would contain reference to

the yogyakarta Principles and would ask the Embassies to use the Principles as a tool in their reporting.

Washington DC/New York, June 23, 2008 Boris O. Dittrich, Advocacy director LGBT-program Human Rights Watch