

# Full development of the human personality and respect for human rights

## **A Guide to Monitor the Right to Education and Strategy Development for Sexual Diversity**

Peter Dankmeijer

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26 October 2012

Note: this version is a draft and needs to be reviewed for grammatical, spelling and reference errors. Part of this guide has been dictated with a dictation program and not all the dictations may be correctly transcribed. A corrected version will be available in the end of November 2012.

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## 1. Introduction

Welcome to the guide to monitor the Right to Education for sexual diversity and strategic planning. We hope this guide will help you to analyze to what extent the Right to Education and the goals of education for all are implemented in your country. This guide has three goals: it wants

1. to help you raise knowledge and visibility of sexual diversity in schools,
2. to support local action to make school safer and it wants
3. to support multilateral action to raise these issues in a useful way in NGOs and in governments.

The guide will provide you with tools and instruments for both monitoring and strategic planning of improvement of the implementation of the Right to Education in your country. The guide is both addressed to the government officials and to human rights advocates in civil society organizations. We have written this guide with the perspective that governments and civil society organizations have a common goal: to adequately implement the Right to Education full all citizens, and that a continuous exchange of views and suggestions are the best way the enhance the (implementation of ) the Right to Education.

### Credit to the Dutch Ministry of Education

This guide was produced by the GALE Foundation, the Global Alliance for LGBT Education. GALE is a global platform of more than 600 trainers educators worldwide. The foundation supports the platform in exchanging experiences and raising the quality of the work. The GALE foundation is based in the Netherlands. The Ministry of Education of the Netherlands supports the GALE Foundation to promote the proper implementation the Right to Education for sexual diversity and made it possible to develop this guide. The Dutch government also supports GALE to advice governments and organizations who want to work on this issue. The Dutch government has resolved to play a leading international role in securing full implementation of human rights for LGBT people. Focal points of this policy are to support an international coalition of friendly nations, to support local action and to help initiate international declarations which legitimize the implementation of human rights for LGBT people. Abolishing criminalization of same-sex behavior, promoting education, and supporting LGBT organizations in conservative countries and religions are points of attention. The GALE Right to Education project is part of the policy to support civil society organizations and to cooperate with UNESCO Member States to enhance education policies.

### Follow-up of the UNESCO consultation

This guide is also a follow-up of the recent UNESCO consultation on homophobic bullying in educational institutions. This consultation took place from summer 2011 until March 2012. In December 2011 an international expert meeting was convened by UNESCO in Rio de Janeiro, and on

16 may 2012, a UNESCO report on homophobic bullying in educational institutions was published<sup>1</sup>. GALE, which is a formal cooperating partner of UNESCO, assisted the consultation process by pointing the way to research, good practices and NGO partners, and by providing input in the publication. UNESCO is following up the consultation by a worldwide promotion of more attention to homophobic bullying in schools through her regional offices.

This GALE guide offers political, research, analysis and advocacy tools, which we hope, will encourage and assist you to enhance your strategic planning and adds an extra dimension to the UNESCO strategy.

## **Content of this guide**

The guide has seven chapters.

After this introduction, there will be a short second chapter on why you would want to monitor the Right to Education for sexual diversity. For many governments, it will not be obvious why there is a need for specific attention for LGBT issues in the framework of education, or why this needs to be monitored. Many LGBT civil society organizations already have some attention for education, but many focus on developing concrete resources or offering concrete services. For them, it may be useful to review their current strategy in order to enable more impact and wider dissemination of effective interventions in cooperation with educational institutions and the Ministry of Education.

The third chapter is devoted to the analysis of existing monitoring instruments of the Right to Education and how they may be relevant for sexual diversity. A general conclusion is that the current regular instruments are quite difficult to translate or implement in relation to sexual diversity.

Based on this analysis, GALE developed a new instrument. Chapter 4 describes this instrument and outlines how it can be implemented. It also shows how the instrument will help GALE to monitor the Right to Education on a global level.

Chapter 5 discusses the more strategic question how to proceed in different country contexts. In the UNESCO consultation on homophobic bullying in Rio de Janeiro, experts explored needs and possibilities on three levels of development: states that deny human rights to LGBT people, ambiguous states and supportive states. Even this very superficial division clarifies that each situation requires specific priorities and a tailored mix of strategies. In chapter 5 we analyze the general differences between the situations in denying, ambiguous and supportive states and make suggestions for data collection, reporting and strategy in different contexts.

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<sup>1</sup> UNESCO (2012). *Educational Sector Responses to Homophobic Bullying*. Good Policy and Practice in HIV and Health Education, Booklet 8. Paris: UNESCO

([http://www.lgbt-education.info/doc/unesco/UNESCO\\_Homophobic\\_bullying\\_2012.pdf](http://www.lgbt-education.info/doc/unesco/UNESCO_Homophobic_bullying_2012.pdf))

GALE offers to support governments and civil society organizations by offering open models and facilitating workshops and expert meetings for strategic planning. Chapter 6 offers inspiration and broad outlines for possible workshops in the contexts described in Chapter 5.

Discussing sexual diversity in educational institutions should be an integrated aspect of human rights education and sexual education. However, still many most students, and many teachers and authorities perceive sexual diversity to be a controversial topic and may be ashamed of, or against discussing it. In addition there are strong international and local lobbies of conservative coalitions promoting the precedence of traditional values over human rights and who condemn same-sex behavior as unnatural and sinful. Another barricade to proper implementation of the Right to Education is that the content of education and the safety of schools is to a large extent a responsibility of the school itself, or of the State and international jurisdiction or advocacy opportunities from non-educational organizations is limited. This means that even if homophobic bullying in schools is so severe that LGBT students are dropping out and are committing suicide, such arguments may not be taken serious politically.

For all these reasons, it is especially important to use the effective arguments and language in order to be heard by the education sector and its authorities. Chapter 7 analyzes these forces, the related language and offers suggestions for effective advocacy and diplomatic language and arguments.

This is a first version of this chapter, which needs to be reviewed.

### Use of the guide

The guide can both be used as a reference and as a toolkit to work practically on policy development and advocacy. Since the work in this area is new and largely unexplored, we have labeled the guide 1.0. This means we expect the guide to be updated continuously and improved over time. To improve this guide, we need the feedback of the users. The GALE Foundation will be grateful if you provide us which your feedback or invite us to help you plan workshops, strategies and to monitor your situation and publish the results of our web site.

GALE is looking forward to recruit and train GALE ambassadors who are willing to initiate and monitoring and strategic planning processes in their countries.

## 2. Why you want to monitor<sup>2</sup>

Why would you want to monitor the Right to Education in your country? Many governments will fail to see the need to give attention to a series of small sexual minorities like LGBT people, especially considering that in primary and secondary education, LGBT young people are often not yet aware of their feelings and are not supposed to engage in sexual relationships yet. Or, in other cases, considering same-sex relationships completely off-limits and forbidden. Why then, have specific attention to such a ‘controversial’ topic, especially in schools?

A considerable body of research evidence<sup>3</sup> exists to demonstrate the nature and consequences of homophobic bullying. The vast majority of studies have focused upon more affluent countries with little evidence available from middle or low income countries, or from places where sexual and gender diversity is less visible. However, this does not mean that homophobic bullying does not exist in these contexts. Furthermore, considerable socioeconomic and cultural diversity exists among those countries where research has been conducted, increasing the potential relevance of findings across social and cultural settings.

Despite increasing visibility and acceptance of LGBTI people in many countries, social, legal and institutional discrimination persists, with children and young people particularly vulnerable. Even in societies where sexual diversity is generally accepted, schools, in particular, are still identified as among the most homophobic social spaces.

Homophobic language is commonplace in many schools and in many countries the term ‘gay’ is used by students (in both primary and secondary school settings) as an insult. For example, a UK study reported that 95% of secondary school teachers and three-quarters of primary school teachers had heard the phrases ‘that’s so gay’ or ‘you’re so gay’ used in this way. The same study also reported that 90% of secondary teachers and more than 40% of primary school teachers described homophobic bullying, name-calling or harassment in their schools, irrespective of their sexual orientation, and secondary school teachers identified homophobic bullying as the second most frequent form of bullying (after abuse relating to weight).

Studies conducted in the US, Canada, Europe, Australia and New Zealand consistently demonstrate higher rates of harassment, exclusion and assault experienced in schools by LGBT young people (or

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<sup>2</sup> **Note for critical readers:** This chapter can be stronger.

<sup>3</sup> UNESCO (2011). *Review of Homophobic Bullying on Educational Institutions*. Prepared for the International Consultation on Homophobic Bullying In Educational Institutions, Rio de Janeiro, Brazil, 6-9 December 2011. Paris: UNESCO

([http://www.lgbt-education.info/doc/unesco/UNESCO\\_2011\\_Review\\_of\\_Homophobic\\_Bullying\\_in\\_Educational\\_Institutions.pdf](http://www.lgbt-education.info/doc/unesco/UNESCO_2011_Review_of_Homophobic_Bullying_in_Educational_Institutions.pdf))

those perceived to be), compared to their heterosexual peers. LGBT young people are subjected to verbal, physical and sexual harassment as well as rejection and isolation from peers together with indifference from teachers and school management.

In a US study, 57% of respondents reported that homophobic comments were made by school staff. In another study, a third of LGBT respondents reported harassment via text messaging or the internet. For some, experience of bullying is exacerbated by rejection from family members.

The first US National School Climate Survey (NSCS) of the experiences of LGBT school students was launched in 1999 by GLSEN and followed up on a biannual basis. Findings reveal that the vast majority reported verbal harassment (e.g. name-calling or threats) at school because of their sexual orientation and 63.7% because of their 'gender expression'. Almost half experienced physical abuse during the past year because of their sexual orientation and more than a quarter because of their gender expression. Nearly one in five reported physical assaults (e.g. being punched, kicked or injured with a weapon) because of their sexual orientation, and more than one in ten because of their gender expression. More than half of a sample of transgender young people reported being physically attacked, 74% reported sexual harassment at school and 90% said they felt unsafe at school because of their gender. These findings are reflected in similar studies in other countries, including Australia and the United Kingdom.

In Asia, a study among men who have sex with men in India and Bangladesh (who described themselves as *kothis* and *pantis* depending upon whether their sexual role was receptive or insertive)<sup>51</sup> revealed that 50% experienced harassment at the hands of either fellow students or teachers in school or college. Because of this, several had prematurely ended their education which impacted upon their subsequent employability. Those who did reach higher levels of education reported greater levels of harassment than existed at primary levels.

Evidence from South Africa suggests high levels of discrimination (verbal abuse, physical abuse, sexual abuse, and negative jokes) experienced by lesbians and gays in schools in KwaZulu Natal, with jokes identified as the most common manifestation of homophobia reported by both lesbian/bisexual women (63%) and gay/bisexual men (76%). The primary source of victimisation reported was learners themselves (65%), followed by educators (22%) and principals (9%).

In this chapter, we will not go much deeper into the extensive evidence that has been gathered all over the world on the subject of homophobic and gendered bullying, and the resulting lower academic performance, drop out, stress, high levels of teen suicide, and increased risks of STD/HIV infection among LGBT students. These were very well documented in the UNESCO publication on homophobic bullying in educational institutions. Also, we are working to provide an overview of

research and educational policies and interventions on the world map on the GALE web site. But we do want to touch upon some important discriminatory mechanisms.

One prejudice about dealing with LGBT issues is that it is not appropriate to discuss same-sex sexuality in schools. It may be useful to note that discrimination of sexual orientation and gender identity *in schools* has very little to do with sexuality specifically. It has much more to do with stereotyped images and prejudices about gender and relationships and with process of social exclusion and bullying that are endemic in adolescence and in school institutions. Though bullying is endemic among youth, social exclusion and bullying should not be seen as a natural part of adolescence, nor that bullying is inevitable in schools. Young people may be insecure in adolescence, but it is an integral part of upbringing by parents and schools to guide young people through this turbulence process and teach them citizenship competences to make their own choices, to respect others and to engage in meaningful friendships and partnerships. Schools should provide a safe and inspirational learning environment where students do not only learn to read, write and calculate, but also learned these citizenship competences. The bullying, discrimination and social exclusion of LGBT students and of any students who do not conform to stereotypical male or female images is not only a serious violation of human rights of students involved, but also a signal of a wider lack of safety in the school. Also, because of the clear link between bullying of gender non-conforming students and the view that girls are less in status than boys, homophobic and safety in schools is a signal of more general gender inequality.

Bullying and discrimination of sexual orientation and gender identity in schools does hurt LGBT students. The fact that not many come out in secondary schools is not a 'normal' phenomenon but an effect of the heteronormative and unsafe environment which forces them not to express their feelings. Already in primary schools, many children are punished when they innocently show same-sex oriented friendly behavior, like playing house with a same-sex classmate or when they 'fall in love' with someone adults do not agree with. All these punishments are micro-violations of the general human right principle of self-determination.

Some states may say that attention to LGBT issues is a luxury and does not take into account the real development needs of poor countries. This reasoning presents human rights on the same plane as development needs, which skews the argument. Human rights indicators differ from traditional development indicators, in that the former aim to measure the extent to which States fulfill their human rights obligations, while the latter evaluate basic human needs against development goals. Human rights indicators therefore measure a state's failure to respect, promote and fulfill human rights ( also known as the tripartite typology of human rights which requires that states do not interfere with their enjoyment, prevent third-party violations, and take steps to ensure that they are realized ) , which is very different than evaluating development achievements. Right-based as they are, human rights indicators place marginalized groups and non-discrimination at the core, aiming to create a culture of

accountability by allowing such marginalized groups to question the action of governments.

Development indicators on the other hand may tend to regard these groups as aid recipients, rather than rights holders per se.

Any discrimination in the realization of human rights directly results in a violation of human rights. To measure discrimination in education, the data on which the indicators rely should be disaggregated by marginalized groups as much as possible. Categories by which the data should be disaggregated include not only age, gender, rural/urban and income but also race, language, religion, origin, status, disability, sexual orientation, color, etc. Regardless of its average result, when an indicator shows that one of these categories faces a disadvantage in education, human rights are considered to be violated. ( Angela Melchiorre and Peter Hyll-Larsen ( 2009) . Human rights indicators to assist the Committee of the Rights of the Child ( as well as other Treaty Bodies, reporting State Parties and civil society) in measuring national implementation and adherence to international human rights standards. Submission to the Celebration of the 20<sup>th</sup> Anniversary of the Adoption of the Convention on the Rights of the Child, 8-9 October 2009, Geneva, Right to Education Project, [www.right-to-education.org](http://www.right-to-education.org))

Advocacy and strategic planning to promote the full implementation of the Right to Education needs hard facts, but at the same time needs to touch people's hearts and enable them to see how sexual diversity is not controversial, and how adequate integration of attention for sexual diversity in educational policies and interventions can add to the Education For All Millennium Goals and add to safer and higher-quality schools.

### **3. The Right to Education and the way it is monitored**

In this chapter, we will explain the Right to Education and the way it is monitored by UNESCO and by relevant treaty bodies. The first part of the chapter is devoted to the Right to Education itself and relevant treaties and recommendations.

In practice the Right to Education is elaborated in two millennium goals: MDG2 "universal access to primary education" and MDG3 "gender equality and empowerment of women". These millennium goals are elaborated in the Education For All (EFA) strategy. The second part of the chapter is devoted to a description of the EFA strategy and how this is monitored.

The third part of the chapter goes into other related treaties and Human Rights mechanisms, like the Covenant on Economic, Social and Cultural Rights, the Rights of the Child and CEDAW.

All this information is quite general, and mainly to give you a context of the field and international priorities. However, in most of the mentioned conventions, recommendations and monitoring mechanisms, there is hardly any attention to sexual orientation and gender identity. Therefore we end this chapter with a description of the chapter on education in the Yogyakarta Principles. This provides a link between general educational rights and the general EFA framework.

#### **The general Right to Education**

Article 26 of the Universal Declaration of Human Rights states:

“Everyone has the Right to Education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace. Parents have a prior right to choose the kind of education that shall be given to their children.”

This means access to school and tolerance education are central to the Right to Education.

#### **Monitoring by UNESCO**

UNESCO has two mechanisms to monitor the Right to Education and its implementation. First, it monitors the signing, ratification and legal implementation of international conventions and recommendations through laws, guidelines and policy measures. In part, these conventions and recommendations are specific to UNESCO. But there are also conventions with comparable articles that are monitored by the Committee on Economic, Social and Cultural Rights, the Committee on the Rights of the Child and the Committee on the Elimination of Discrimination Against Women.

The second UNESCO monitoring mechanism relates to the implementation of the Millennium Goals, which is more about how the objectives are put into practice. UNESCO framed this monitoring in the Education For All strategy.

### ***Monitoring of conventions and recommendations by UNESCO***

The Right to Education has been backed up and elaborated in a series of conventions and recommendations. There are two relevant educational conventions that are monitored by UNESCO:

**The convention against discrimination in education** (1960). The objective of this convention is not only the elimination of discrimination in education, but also adoption of measures aimed at promoting quality of opportunity and treatment in this field. It states that in the face of disparities in access to education, not only national level action for ensuring educational access in law is necessary but also in fact.

This Convention does not allow any form of assistance granted by the public authorities to educational institutions, any restrictions or preference based solely on the ground that pupils belong to a particular group (article 3). It also states that education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms; it shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace (article 5). The full text of this Convention is in Annex 4.2 of this guide.

**The convention on technical and vocational education** (1989,

[http://www.unesco.org/education/information/nfsunesco/pdf/TECVOC\\_E.PDF](http://www.unesco.org/education/information/nfsunesco/pdf/TECVOC_E.PDF)). This convention recognizes that technical and vocational education meets the global aim of development. The contracting states agree that the state shall guarantee that no individual who has attained the educational level for admission shall be discriminated against.

Since the adoption of the Universal Declaration of Human Rights, UNESCO has adopted 31 recommendations. By 2005, this number of recommendations was too high for UNESCO to monitor properly. In October 2007, the decision was made to prioritize 11 recommendations that were actually monitored (7 of which relate to education). Since then, the other recommendations are no longer subject of the monitoring procedure.

None of these recommendations mention sexual orientation or gender identity yet. In the following description, we give some comments on how they should be relevant.

The seven priority recommendations are:

1. **The recommendation against the discrimination in education** (1960). This recommendation is identical to the convention against discrimination in education. The objective of the recommendation is not only the elimination of discrimination in education, but also adoption of measures aimed at promoting quality of opportunity and treatment in this field. The standard

text from the UDHR that "education should be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms" should provide a strong basis for advocacy of inclusion of sexual orientation and gender identity.

2. **The recommendation concerning the status of teachers** (1966, [http://www.unesco.org/education/pdf/TEACHE\\_E](http://www.unesco.org/education/pdf/TEACHE_E)). This recommendation contains detailed provisions regarding the preparation of teaching profession, for further education for teachers, their employment and career advancement. The guiding principles for this recommendation reiterate the need for tolerance education and "a deep understanding of human rights" and the need for teachers to be adequately trained to deliver this type of education (articles 3-5). This is relevant when teachers feel unable to teach about sexual diversity because they consider it too controversial. LGBT teachers should be protected against arbitrary action affecting their professional standing or career (article 46). The recommendation also recognizes the threats that are sometimes made by parents or students to teachers and offers a guidelines on how to handle this. "Every possible effort should be made to promote close co-operation between teachers and parents in the interests of pupils, but teachers should be protected against unfair or unwarranted interference by parents in matters which are essentially the teacher's professional responsibility (article 67).
  - (1) Parents having a complaint against a school or a teacher should be given the opportunity of discussing it in the first instance with the school principal and the teacher concerned. Any complaint subsequently addressed to higher authority should be put in writing and a copy should be supplied to the teacher.
  - (2) Investigations of complaints should be so conducted that the teachers are given a fair opportunity to defend themselves and that no publicity is given to the proceedings (article 68). While teachers should exercise the utmost care to avoid accidents to pupils, employers of teachers should safeguard them against the risk of having damages assessed against them in the event of injury to pupils occurring at school or in school activities away from the school premises or grounds (article 69)." These articles should be relevant in cases where LGBT teachers are harassed and falsely accused by prejudiced parents or students.
3. **The recommendation concerning education for international understanding, cooperation and peace, and education relating to human rights and fundamental freedoms** (1974, [http://portal.unesco.org/en/ev.php-URL\\_ID=13088&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=13088&URL_DO=DO_TOPIC&URL_SECTION=201.html)). The main objective of this recommendation is to provide a normative framework for promoting human rights education. It lays down guiding principles and provides a global approach. It states that by "combining learning, training, information and action, international (human rights) education should further the appropriate intellectual and emotional development of the individual. It should develop a sense of social responsibility and of solidarity with less privileged groups and

should lead to observance of the principles of equality in everyday conduct. It should also help to develop qualities, aptitudes and abilities which enable the individual to acquire a critical understanding of problems at the national and the international level; to understand and explain facts, opinions and ideas; to work in a group; to accept and participate in free discussions; to observe the elementary rules of procedure applicable to any discussion; and to base value judgments and decisions on a rational analysis of relevant facts and factors."

These guiding principles should also rule specific education about sexual diversity or education that includes references to sexual diversity (III. Guiding Principles, 5). The recommendation makes it clear it pertains to all forms of education (section VI) and to teacher preparation (section VII) and that school resources should be "free from elements liable to give rise to misunderstanding, mistrust, racist reactions, contempt or hatred with regard to other groups or peoples. Materials should provide a broad background of knowledge, which will help learners to evaluate information and ideas disseminated through the mass media that seem to run counter to the aims of this recommendation." (VIII, 39)

It also underlines the responsibility of member states for to application of human rights and for national policy and planning in this regard.

4. **The recommendation on the development of adult education** (1976,

[http://portal.unesco.org/en/ev.php-URL\\_ID=13096&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=13096&URL_DO=DO_TOPIC&URL_SECTION=201.html)). This recommendation was adopted to promote access of adults to education as an integral part of long life learning. It aims among other things, to help adults "develop a critical understanding of major contemporary problems and social changes and the ability to play an active part in the progress of society with a view to achieving social justice (II, b), to create an understanding of and respect for the diversity of customs and cultures, on both the national and the international planes (d), and to develop the aptitude for acquiring, either individually, in groups or in the context of organized study in educational establishments specially set up, for this purpose, new knowledge, qualifications, attitudes or forms of behavior conducive to the full maturity of the personality (f)". Member states are called upon to take measures with a view to "promoting participation in adult education and community development programs by members of the most under-privileged groups, whether rural or urban, settled or nomadic, and in particular illiterates, young people who have been unable to acquire an adequate standard of general education or a qualification, migrant workers and refugees, unemployed workers, members of ethnic minorities, persons suffering from a physical or mental handicap, persons experiencing difficulties of social adjustment and those serving prison sentences". In this context, Member States should associate themselves in the search for educational strategies designed to foster more equitable relations among social groups (4.d). This should be relevant for LGBT people who have dropped out of school because of stigma. The recommendation advises to include in the content of adult education "the emancipation of men and women from

the preconceived models imposed on them by society in every field in which they carry responsibility" (14.b).

5. **The recommendation on the recognition of studies and qualifications in higher education** (1993, [http://portal.unesco.org/en/ev.php-URL\\_ID=13142&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=13142&URL_DO=DO_TOPIC&URL_SECTION=201.html)). This recommendation was elaborated as a universal standard setting instruments for recognition off degrees and diplomas. In a wider sense, it recognizes the principle that knowledge is universal and it expresses the right of wider access to educational resources worldwide. This recommendation does seem less relevant to sexual diversity, except possibly when there would be a case of a government excluding a course on LGBT issues from formal certification.
6. **The recommendation concerning the status of higher education teaching personnel** (1997, [http://portal.unesco.org/en/ev.php-URL\\_ID=13144&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=13144&URL_DO=DO_TOPIC&URL_SECTION=201.html)). This recommendation contains provisions relating to the duties and responsibilities of institutions and to the rights and freedoms of teaching personnel. Higher education teaching personnel have the obligation to respect the rights of other members and to base work on an honest search for truth. This recommendation states that “higher-education teaching personnel should have access to libraries which have up-to-date collections reflecting diverse sides of an issue, and whose holdings are not subject to censorship or other forms of intellectual interference. They should also have access, without censorship, to international computer systems, satellite programs and databases required for their teaching, scholarship or research” (IV. 11). It therefore forbids censorship of resources relating to sexual diversity. Higher-education teaching personnel should be free to publish the results of research and scholarship in books, journals and databases of their own choice and under their own names (IV.12). Higher education institutions should ensure that students are treated fairly and justly, and without discrimination (B. f) and adopt policies and procedures to ensure the equitable treatment of women and minorities and to eliminate sexual and racial harassment (B. g). All higher-education teaching personnel should have the right to fulfill their functions without discrimination of any kind and without fear of repression by the state or any other source (VI. 27). Higher-education teaching personnel should not be forced to instruct against their own best knowledge and conscience or be forced to use curricula and methods contrary to national and international human rights standards (VI. 28).
7. **The revised recommendation concerning technical and vocational education** (2001, <http://unesdoc.unesco.org/images/0012/001260/126050e.pdf>). This revised recommendation sets international standards. It underlines the need for partnership with industry, the private sector and the world of work and stresses how technical and vocational education should provide access to employment. Although this recommendation is mainly technical, it could be invoked

in some cases advocating for LGBT learners who are discriminated when entering technical and vocational education or making the step to a work environment.

The UNESCO member states have an obligation to make the text of conventions and recommendations known to the bodies, target groups and other entities interested in the related matters.

UNESCO Member States are also obliged to submit regular reports to UNECO on the implementation of these conventions and recommendations. However, in practice the UNESCO member states have a low response rate in submitting such reports. There are also a number of conventions that have been signed but not ratified. Since 2007, UNESCO is more active in urging member states to become party to the Convention against Discrimination in Education.

### ***Monitoring Education for All***

The Right to Education has been made part of the Millennium Goals. The Dakar Framework for Action on Education for All (EFA) was adopted by 164 governments in Senegal in 2000 and sets six broad goals and a number of specific targets to meet by 2015.

None of these goals mention sexual orientation or gender identity. In the following description, we offer some pointers on how they could be relevant, although often the international policy focus may be different.

1. Expanding and improving comprehensive early childhood care and education, especially for the most vulnerable and disadvantaged children. The international policy focus is on improving child health. There is still very little attention for diversity in early childhood education, but there is some ( see for example the work of the Bernard van Leer Foundation) and sexual diversity can well be integrated in such diversity programs.
2. Ensuring that by 2015 all children, particularly girls, children in difficult circumstances and those belonging to ethnic minorities, have access to, and complete, free and compulsory primary education of good quality. The policy focus is on tackling the dropout crisis in primary schools. This objective is relevant because dropout is partly due to social exclusion and bullying. Children with gender non-conforming behavior or children of lesbian and gay parents may be victims of this.
3. Ensuring that the learning needs of all young people and adults are met through equitable access to appropriate learning and life-skills programs. The policy focus is on overcoming the marginalization of low-skill workers in developed countries. It is clear that this objective is relevant for LGBT students whose learning needs are seldom met in curricula. Apart from needs to know about their human rights, there is a clear lack of adequate and specific safe sex information for gay and bisexual boys, not to mention the lack of more comprehensive sexual education for LGB and T students. Censorship of resources on sexual diversity is

certainly a problem in many countries and schools, partly through censorship laws forbidding positive attention to sexual diversity and also because of too strict internet filters used by schools.

4. Achieving a 50% improvement in levels of adult literacy by 2015, especially for women, and equitable access to basic and continuing education for all adults. The policy focus is on working for a breakthrough in adult literacy. This objective is relevant for LGBT populations that are kept out of, or dropped out of school because they are gay, lesbian or transgender. Many of these remain illiterate and have to resort to prostitution to survive.
5. Eliminating gender disparities in primary and secondary education by 2005, and achieving gender equality in education by 2015, with a focus on ensuring girls' full and equal access to and achievement in basic education of good quality. The policy focus is on managing school and work transitions for adolescent girls. This is relevant for lesbian girls and transgender women, see also the argument under objective 4.
6. Improving all aspects of the quality of education and ensuring excellence of all so that recognized and measurable learning outcomes are achieved by all, especially in literacy, numeracy and essential life skills. The policy focus is on bridging learning gaps in poor countries. The note about essential life skills is very relevant, especially in managing an LGBT identity and coping with stigma, and in a wider sense, essential safe sex skills. Essential life skills for all students should encompass human right skills like tolerance and respect for diversity.

The monitoring of these goals is done by reporting on the series of quantitative indicators: ( source: Global Monitoring Report 2011, page 262/ pdf 276)

- ☐ enrollment in education
- ☐ dropout rate before finalizing the study
- ☐ out of school level
- ☐ school life expectancy ( number of years spent in primary, secondary and tertiary education)
- ☐ pupil - teacher ratio
- ☐ number of teaching staff
- ☐ literacy skills
- ☐ vocational skills
- ☐ health of pre-school students
- ☐ nutrition of pre-school students
- ☐ education spending, including the percentage of GNP
- ☐ sexual violence ( especially in conflict areas)

There are two standard instruments to assess the level of Education for All: the EDI (EFA Development Index) and the GEI (Gender-specific EFAQ Index). The EFA Development Index is an average calculated on levels of universal primary education (measured through enrollment), literacy at age 15, gender parity, and quality of education (measured by school survival to grade five). Gender parity has its own index, the GEI. This is indicated as the ratio of female to male enrolment ratio or literacy rate. (For more details on how this is calculated, see the Annex Abbreviations under EDI and GEI.)

### ***The UNESCO monitoring process***

UNESCO member states agreed to have a reporting obligation to UNESCO. They have to deliver a national report conforming to the guidelines of the UNESCO Secretariat. In accordance with the consensus that emerged in 2006 in the United Nations in favor of harmonized guidelines to report on conventions, national reports are composed often expend the core documents which contains information on the fundamental provisions common to all international human rights instruments, and a treaty specific target is reports concerning the instruments whose implementation the treaty body is responsible for monitoring.

1. This means that the first step of the monitoring process is the drafting of national reports.
2. A second, but not formal step, is that the UNESCO of regional bureaus prepare regional analysis reports.
3. The third step is that is that Secretariat prepares and submits a consolidated report to the UNESCO Committee on Conventions and Recommendations (CR). This committee is an extension of the UNESCO Executive Board. The consolidated report is called the Global Monitoring Report on Education For All or GMR.
4. The fourth step is that the Global Monitoring Report is discussed in consultation with NGOs. This is done during the Collective Consultation of NGOs on Education For All (CCNGO EFA). The NGOs invited to these consultations are UNESCO associated partners (global organizations with formal cooperation status).
5. The fifth step is that recommendations are made to Member States by the UNESCO Committee on Conventions and Recommendations (CR). The recommendations by the CR are meant to raise awareness among member states about the implementation of conventions and recommendations and to invite them to implement measures for the implementation of conventions. The CR should also remind member states they are required to fulfill the legal obligations under the Constitution of UNESCO to follow-up conventions and recommendations.

In 2011 it became clear that the implementation of the Right to Education (through the Education for All strategy) was not going forward as hoped. Wars and economic crisis create major setbacks which cannot be challenged by the education sector alone. To make any progress towards the millennium goals, a more powerful mechanism needed to be added to promote that states invest more money in

education and focus it more on human rights and peace promotion rather than use education as a form of control over the population towards the political aims of the ruling order (especially in war conflict areas). It was decided to also hold an annual Global EFA Meeting (GEM), which is a preparatory meeting with a wide audience and a small EFA High-Level Forum of world leaders, which should mobilize high-level political support for Education for All goals and mobilize support beyond the education community, especially financially.

### **Monitoring by ECOSOC, CRC and CEDAW**

There are also other conventions and recommendations related to other treaty bodies that are relevant to the Right to Education.

#### **ECOSOC**

Article 13 and 14 of the International Covenant on Economic, Social and Cultural Rights deal with education. In this Covenant, states agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups.

This article is elaborated in General comment number 13 on article 13 (the Right to Education) of the International Covenant on Economic, Social and Cultural Rights is discussed by ECOSOC (CESCR) in collaboration with UNESCO. The collaboration between UNESCO and ECOSOC is done in a small Joint Expert Group.

The monitoring by ECOSOC is done every five years, when each State party to the International Covenant on Economic, Social and Cultural Rights is obliged to submit a report to the committee.

#### **Committee on the Rights of the Child**

UNESCO also collaborates with the Committee on the Rights of the Child, notably with respect to the monitoring of the Right to Education as provided for in articles 2 and 28-30 in the Convention on the Rights of the Child.

States who signed this Convention agree that the education of the child should be directed to (among other things) the development of the child's personality, talents and mental and physical abilities to their fullest potential and the preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin (article 29).

As far as we know, sexual orientation or gender identity discrimination never came up in the recommendation of the Committee on the Rights of the Child<sup>4</sup>.

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<sup>4</sup> It should be checked whether sexual orientation or gender identity discrimination never came up in the recommendation of the Committee on the Rights of the Child.

## **CEDAW**

In the Convention on the Elimination of Discrimination Against Women, article 10 contains provisions that are similar to the Convention and the Recommendation against Discrimination in Education and the Convention on the Elimination of all Forms of Racial Discrimination. Apart from stressing equal treatment of men and women, the CEDAW Convention calls for the elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programs and the adaptation of teaching methods. This implies that stereotyped images of lesbian women, gay men and transgenders or transvestites should be corrected.

Countries are obliged to submit a report to CEDAW every four years.

Between 1994 and 2001, the CEDAW Committee explicitly referenced sexual orientation in several concluding observations relating to the criminalization of consensual sexual relations among women, anti-discrimination legislative protections, and asylum. Between 2001 and 2008 CEDAW was silent on this issue and fell behind other treaty bodies in recognizing that non-heteronormative sexual orientation and gender identity were grounds for discrimination and violence. From 2008 on, the CEDAW Committee addressed discrimination against sexual minorities a few times and asked for investigations by state authorities. But inclusion of sexual orientation and gender identity by CEDAW has been constantly challenged on the basis of legitimacy (source: Grace Poore, website IGHLCRC <http://www.ighlrc.org/cgi-bin/iowa/article/takeaction/partners/872.html>).

## ***The monitoring process of ECOSOC, CRC and CEDAW***

All three of the relevant committees hold pré-sessional working group meetings before the scheduled review of a country report, although procedures differ among committees. During these meetings, a preliminary review of the report is carried out by some members of the committee, who also use supplementary information, including inputs from NGOs. A list of issues and questions is then compiled and sent to the government of the country concerned in advance of the session. This list forms the basis for the discussion of country report at the formal review. A rapporteur is appointed by the committee for each country report and is responsible for drafting the list of issues and questions, and, after the report has been examined, for writing the committee's concluding observations or comments.

During the formal review, the committee examines the report in the presence of the government representative/s and observers. The government representative usually starts by making a statement to update the written report. Questions are then posed by the members of the committee that are frequently based on issues identified during the pré-sessional meeting and the list of issues and questions. One or two days time is allowed for the government representative to refer back to her/his capital for further clarification, following which s/he will usually reply question by question. The aim is to ensure that the review in the form of a constructive dialogue with the government representatives, rather than an adversarial exchange.

National NGOs from countries being examined may participate in a special session for NGOs during the sessions of CEDAW and ECOSOC (CESCR). They may attend as observers and may meet informally with committee members between sessions. In addition they may send relevant information in writing to members of the committees.

Once the formal review has taken place, the committee prepares its concluding observations (in the case of the CESCR and CRC) or comments (in the case of CEDAW) on the progress that has been made by the government in implementing its treaty obligations made by the government. In addition to including the main discussion points, they will highlight major problem areas and make recommendations for further and improved implementation. Concluding observations and comments are available on the website of OHCHR.

After the concluding observations or comments have been published, NGOs can work with other NGOs in their respective countries to draw attention to those areas that have been highlighted during the review for further attention. They can also inform the media and can work with the appropriate government department towards implementation. The committee is, as already stated, concerned with progressive realization in the implementation of the treaty, rather than instant answers.

### **The Universal Periodic Review**

In March 2006 the UN General Assembly created the Human Rights Council (HRC) to replace the Commission on Human Rights. It is an intergovernmental body within the UN system made up of 47 States responsible for strengthening the promotion and protection of human rights around the globe. Its main purpose is to address situations of human rights violations and make recommendations concerning them. On 18 June 2007, the Council adopted its Institution building package, providing elements to guide it in its future work.

Among the elements is the Universal Periodic Review (UPR) mechanism, which will assess the human rights situations in all 192 UN Member States. It is a State-driven process by which a review of the human rights records of all 192 UN Member States is undertaken once every four years. It provides an opportunity for each State to declare what actions they have taken to improve the human rights situations in their countries and to fulfill their human rights obligations. As one of the main features of the Council, the UPR is designed to ensure equal treatment for every country when their human rights situations are assessed. Other features include an Advisory Committee, which serves as the Council's think tank providing it with expertise and advice on thematic human rights issues and a revised Complaints Procedure that allows individuals and organizations to bring complaints about human rights violations to the attention of the Council. In addition the HRC also works closely with the UN Special Procedures established by the Commission on Human Rights, such as the appointment of Special Rapporteurs, including the Special Rapporteur on the Right to Education.

The work of the HRC does not only focus on gross violations of civil and political rights but also includes aspects of economic, social and cultural rights. It can therefore be a mechanism that can be used to promote EFA goals that connect to human rights. Further information on the HRC can be found on the website of the OHCHR.

### **The Yogyakarta Principles**

In 2008, an international group of experts met in Yogyakarta, Indonesia, and reviewed the international jurisprudence of human rights and explored to which extent they relevant and valid for LGBT people. The results were written down in a document called the Yogyakarta Principles. In a sense, this document can be seen as a state of affairs this thing to what extent human rights are internationally endorsed as also pertaining to sexual orientation or gender identity. This does not mean that in practice the human rights are also fully implemented for LGBT individuals. Yogyakarta Principle 16 deals with education. It has eight paragraphs. The full and formal text of article 16 can be found in Annex 4.6. A simplified summary is:

States should ensure:

1. equal access and equal treatment
2. the needs of students of all sexual orientations and gender identities are met
3. there is support for the development of LGBT students
4. there is education about respect for diverse sexual orientations and gender identities
5. students, staff and teachers are protected against social exclusion and violence
6. there is care against marginalization or segregation of victims of exclusion
7. that discipline is administered without discrimination
8. that everyone has access to lifelong learning

## 4. How to monitor sexual diversity

When we consider the way the Right to Education and especially Education For All strategy is monitored, we can conclude this type of monitoring relies to a large extent on quantitative research of a kind that can only be delivered by states or large national actors. Although the inclusion of questions relating to sexual orientation and gender identity in large scale educational research relating to Education For All would be a good recommendation, this has never been done before, not even in the most progressive countries. This means the political and social climate concerning sexual diversity makes it nearly impossible to collect reliable statistical information on educational discrimination of LGBT students. This means we need to develop another way to monitor the Right to Education in relation to sexual diversity.

This chapter offers the GALE proposal for this. In this chapter we first look at attempts to monitor the Right to Education in a more qualitative way. The former UN Special Rapporteur on the Right to Education developed a model. The International Federation of University Women (IFUW) developed a manual to monitor the Right to Education for women using this model. We describe this model and then turn to the proposed GALE framework and the way this can be monitored.

### The A4 Framework by Katarina Tomaševski

Katarina Tomaševski, the former UN Special Rapporteur on the Right to Education, developed a so-called A 4 framework to monitor the Right to Education<sup>5</sup>:

**Acceptable** — which means providing quality education and quality teaching that is relevant and pluralistic. In the case of LGBT students, this would mean adequate attention to their specific life skills and human rights education which creates tolerance and respect for diversity.

**Available** — which includes safe buildings; school in the village; sufficient numbers of teachers; free textbooks and uniforms; sanitation facilities; and appropriate transport. In the case of LGBT students and staff this would mean a safe school environment, adequate anti-bullying strategies, no separation of LGBT students, supportive staff, employment protection and arrangements for adequate showers and toilets for transgenders.

**Accessible** — which means no child labor; no gender discrimination; no disability discrimination; affirmative action to include the most marginalized in school; and schools within reachable distance. In the case of LGBT students and staff this means no discrimination of sexual orientation and gender identity and support for LGBT, same-sex attracted and gender non-conforming students who need extra attention. In practice this would not only mean adequate anti-bullying strategies and prevention

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<sup>5</sup> IFUW (2011). The Multi-faceted Right to Education: Guide to Implementation and Monitoring. IFUW: Switzerland

of violence and harassment but also prevention of ostracizing, marginalization and taking social distance of sexually and gender diverse students.

**Adaptable**— which includes meeting the specific needs of the children in the local context; meeting the changing needs of society; and contributing to gender equality. In the case of LGBT students, this would mean adequate attention to their specific learning needs and the way human rights education is tailored to the local culture and the needs of society, without succumbing to 'traditional values' which only take away self-determination and human rights from for LGBT, same-sex attracted and gender non-conforming students.

This model was subsequently picked up by ECOSOC in its General Comment on the normative basis for the Article 13 of the ICESCR (see UN doc E/C.12/1999/10). Because the prohibition of discrimination is absolute in international human rights law, the 4 A's should be evaluated with a specific focus on marginalized groups and those most vulnerable to discrimination. States must ensure that education is available to the same extent for the whole of the population, removing physical, economic, administrative, and socio-economical barriers to make sure that marginalized groups can attend school. Their education should be of good quality and be acceptable in terms of language, participation and religion, while adapted to those categories that are particularly marginalized, such as ethnic minorities and disabled people.

According to IFUW, the 4 A framework has 3 advantages as a starting point to establish Right to Education indicators. First, indicators based on the 4 A framework are closely linked to international human rights law, since this framework appears to be the best way to classify state obligations relating to the Right to Education. This facilitates the creation of a comprehensive and accurate set of Right to Education indicators and helps to establish a clear general structure for these indicators. Second, the 4 A framework has proven to be effective in bridging disciplinary gaps, which is especially important considering that indicators stem from the development field. As a result, it has been possible to integrate development concerns into the 4 A's, which in turn allowed to take advantage of existing education indicators. Third, the 4 A framework emphasizes both the quantitative and qualitative aspects of the Right to Education, by measuring not only the Right to Education but also rights in education and rights through education. In view of this, and in slight contrast to the Right to Education indicators of the OHCHR, the 4A framework indicators rely not only on quantitative but also on qualitative data.

### **Development of a GALE framework**

For the development of a framework which could work to monitor the Right to Education in the face of sexual diversity, GALE has drawn primary on article 16 of the Yogyakarta Principles and in a secondary sense on the 4 A model.

### ***The need for a scoring mechanism***

One of the prime concerns of GALE to develop a framework, is to create awareness and visibility of the extent to which the Right to Education is implemented for LGBT people. To do this, GALE is inspired by the [ILGA State-Sponsored Homophobia Maps](#). These maps identify which states persecute, recognize or protect human rights for LGBT persons. These maps make the extent of persecution very visible.

However, the Right to Education cannot be monitored in exactly the same way as ILGA monitors criminalization, same-sex relationship arrangements, or anti-discrimination laws. States either have such laws, or not. The Right to Education however, is, as IFUW notes, "multifaceted". There are multiple Conventions, laws, directives and guidelines on a range of public and school authority levels that influence the school practice, and it is very common that the actual school practice itself can be very different from the legal limits and guidelines. The consequence is that the Right to Education cannot be monitored in a simple factual way. It needs a more sophisticated assessment. At the same time, we wanted to make it visible to what extent the Right to Education is implemented for LGBT people.

The need for a scoring mechanism

To solve this dilemma, we chose to develop a framework that is based on the Yogyakarta Principles and which is directed towards the guiding principles in all major Conventions and recommendations. We constructed a list of questions that ask for criteria and principles that are based on the general human rights framework and monitoring mechanisms, and which can be used to rate the quality of state and school policies.

### ***Are generic measures enough?***

Although from the outside, education systems seem quite conservative, it is surprising that when looking at educational directives and guidelines, the general framework for education relating to human rights, tolerance, and diversity is actually often quite progressive. For example, countries like the Philippines and Namibia have laws and educational directives that stress tolerance and respect for diversity are core issues in education. Nevertheless, this does not mean there is any attention for sexual diversity. Sexual orientation and gender identity simply escapes the attention of both authorities and teachers. Or it even may be a purposeful neglect.

In the more progressive countries, the question whether a generic formulation of directives and policies is adequate to prevent homophobic bullying and to integrate sexual diversity into curriculum, is often a heated debate. LGBT advocacy organizations usually demand specific measures and strategies because they believe that visibility is the key to tolerance. Educational organizations often defend more generic policies, because they believe a real change will only come about by changing basic competences for tolerance and respect, and they think that the integration of homosexuality in education will be more acceptable when it is not treated as an extraordinary subject. There is no research on the efficacy of either of these strategies.

For the purpose of monitoring, we propose that scoring a country or a criterion positively should not solely depend on the availability of generic human rights, anti-bullying or diversity policies. Somewhere, in the law, the directives or the guidelines, or in supporting documents, it should be made clear that generic policies include sexual orientation and gender identity, and how this inclusion should be secured.

### ***The need to take social realities into account***

At the same time, we need to look to adequate implementation in educational institutions themselves. From experience we know, that in a lot of countries, the law and guidelines to safeguard the quality of diversity education may be quite well formulated, but that the school reality can be far removed from the situation promoted by directives and guidelines. This raises the question how to rate a country, or how to score a specific criterion, when guidelines and social reality differ.

In this monitor, we propose to do the formal scoring based on the efforts of the government. The monitor ultimately is a monitor of government policy. In some countries, the influence on the content of education and specific policies by schools may be quite limited. However, all governments have a final responsibility for the safety and well-being of their citizens. This means that a government should aim for educational directives and guidelines that are effective. The highest quality of monitoring would therefore consist also of surveying the social safety in schools and the experienced quality of curricula. In contexts where the government is not finally responsible for school safety and the content of curricula, research results that find that policy is not adequate to change realities, can generate suggestions for improvement of government policy.

### ***How to assess the efforts of in lieu education***

In a lot of countries, the government does not take action on sexual diversity in the education sector because they do not want to interfere with the autonomy of local authorities, the schools, or with the content of education. In many cases, LGBT NGOs then start to offer educational sessions, resources and training themselves. In some cases sex education organizations and interested teachers also take initiatives. In short, the LGBT movement and allies may act in lieu of the state or the school sector. Should we see this as a stop-gap to repair a human rights violation or neglecting human rights? Or should we consider third party initiatives as supportive for the implementation of the Right to Education? GALE tends to see third party initiatives as both spring boards to government and education sector policy and as expert support for implementation in and by schools. Because of this, we would not score third party initiatives *in lieu of government/education sector responses* as supportive, although it may have an advocacy and role modeling function to stimulate government/education sector responses. Only when third party initiatives *are supported by and part of government/education sector responses*, we should consider them as part of an adequate public implementation of the Right to Education.

To assess the way governments and education sectors implement adequate attention to sexual diversity, and to develop strategies for advocacy and improvement, the 4 A framework becomes useful. It supports developing a checklist and ideas enrich the questionnaire.

### **Framework for monitoring sexual diversity discrimination in education**

The basic GALE framework for monitoring the Right to Education consists of 15 questions<sup>6</sup>, which are subdivided in 3 sections: the position of students, the quality of the curriculum and the position of school staff.

Does the state secure that:

- A. The position of LGBT students in schools
  - 1. LGBT students have full access to educational institutions?
  - 2. LGBT students have freedom of self-expression in school?
  - 3. LGBT students are protected against bullying and harassment?
  - 4. LGBT students have an equal or lower level of drop-out?
  - 5. LGBT students have an equal level of academic performance?
- B. The availability of supportive curricula
  - 6. offering public information about sexual diversity is supported?
  - 7. there is supportive and relevant attention for LGBT students in school resources?
  - 8. there are specific resources for LGBT students?
  - 9. there are LGBT student support services available?
  - 10. LGBT students have informal peer-learning opportunities?
- C. The position of school staff
  - 11. teachers and other staff are supportive for human rights for LGBT students and staff?
  - 12. school staff has adequate competences to teach about sexual diversity?
  - 13. school staff has adequate competences to support LGBT students?
  - 14. the school environment is supportive for sexual diversity?
  - 15. there is employment protection for LGBT staff?

To be able to score this assessment, we use a 4 point scale for primary answers.

- 0. No, this is forbidden or denied
- 1. There is no clear policy on this, but it is discouraged
- 2. There is no policy on this

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<sup>6</sup> I developed this 15-point instrument by taking article 16 of the Yogyakarta Principles as a start and adding a few items that I felt were missing when I refuted the conventions and recommendations. Still, a 15-point instrument is quite elaborate and I wonder whether we should not collapse some of the items to make it shorter and easier to handle. A shorter version could be shortened to 8 points and framed in the 4 A model.

3. It is encouraged, but there is no clear policy on this
4. Yes, there is evidence to support this
5. No data available

To calculate a general indicator, we add the number of each given answer and divide this through the number of answers excluding 5 (no data) to get a percentage. On the GALE World Map we score states with the highest percentage on score 0 as states who deny the Right to Education to LGBT persons, states who score highest on 1 and 2 as ambiguous and score states that score highest on 3 and 4 as supportive.

In addition, we propose a format to enable a more rich qualitative description of the sexual diversity situation in the education sector. This could be a descriptive summary based on the A4 framework with some guiding open questions:<sup>7</sup>

### **Acceptable**

Is there adequate attention to LGBT specific life skills?

Is there human rights education which creates tolerance and respect for diversity?

### **Available**

Are schools safe for LGBT students and staff?

Are there adequate anti-bullying strategies?

Are there adequate anti-sexual harassment strategies?

Are LGBT students separated 'for their protection'?

Is the staff supportive for LGBT students?

Is there employment protection for LGBT staff?

Are there arrangements for adequate showers, toilets and registration for transgenders?

### **Accessible**

Are there anti-discrimination guidelines related to sexual orientation and gender identity?

Are these adequately implemented?

Provide schools adequate support for LGBT, same-sex attracted and gender non-conforming students who need extra attention?

Provide schools prevention measures against ostracizing, marginalization and social distance of sexually and gender diverse students?

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<sup>7</sup> **Note for critical readers:** I am doubtful whether adding this A 4 additional monitoring is useful. The IFUW guide is very positive about it, but I currently don't see how it can be used in concrete monitoring and advocacy. One option is to regroup the criteria in the A 4 model.

## **Adaptable**

Is there adequate attention to LGBT specific learning needs, for example sexuality education?

Is there specific attention to sexual orientation and gender identity in human rights education?

Is such education and coaching tailored to the local culture and the needs of society, without succumbing to 'traditional values' which only take away self-determination and human rights from for LGBT, same-sex attracted and gender non-conforming students?

## **Documentation needed**

### ***1. International treaties***

International treaties provide a basis for which to proceed towards a strategic plan, or to advocate for measures to implement the treaty or convention. Conventions are important, because when they are signed, they have legal force, and states can be held by it through national and international courts. For people who want to use this monitor, it is not necessary to research which conventions have been signed or ratified by the government. This has already been done by GALE and this information can be found on the GALE world map.

### ***2. Signatures to international recommendations and resolutions***

International recommendations and resolutions have no legal binding force like conventions; they can still be powerful guiding principles for states. Calling upon signed recommendations and resolutions is useful in advocacy and to support strategic measures. GALE also monitors relevant educational recommendations and resolutions on her world map.

### ***3. National laws***

National laws are the most powerful instruments to guide the quality of education. The most concrete laws that have a direct influence on the daily life of students and teaching staff are laws that prohibit discrimination. The most common of such laws are dealing with employment protection of staff and protection against discrimination and sexual harassment of students.

In addition, there are usually laws that determine the quality or content of education to some extent. In some countries which centralized education systems, the whole curriculum or elaborate guidelines may be part of such a law. But in most countries such laws only outline general core quality criteria and leave it to other authorities, or to schools themselves to actually shape the content of education. In such cases it is important to document the exact route from criterion to specific implementation of the inclusion of sexual diversity in the curriculum.

### ***4. Jurisprudence/Case law***

Laws are changing and can be implemented in more or less progressive ways. To make the law work properly, it is necessary that citizens who feel disadvantaged bring their case to court, and that the court makes adequate judgments to protect the rights of citizens. In this way, the case law or jurisprudence clarifies the law and sometimes broadens or limits it. Concerning LGBT students and staff in education, LGBT teachers who are fired or teachers who are not allowed to teach about sexual diversity could take their case to court for their own protection, but also to make clear that their claims

are within the law. Parents and students can start a court case against a school or school authorities asking damages because of bullying and lack of support by the institutions. It is even possible, in some cases, to start a court case against a government when it initiates or supports offensive and incorrect curricula. The most famous example is the case of the human rights organization Interights against the state of Croatia (see Annex 4.10), complaining against a curriculum that gave incorrect information about sexuality and called homosexuals sick and perverse.

### **5. Policy guidelines**

Policy guidelines are issued by the government and by educational authorities as a support for schools in order to guide the quality of education. Such guidelines can have a variable impact. This means if not only important to document the guideline itself, but also clarify to what extent it has impact on the implementation in schools. Examples of good guidelines are the brochure of the Dutch school inspectorate to create awareness about sexual diversity in schools (2003, [http://www.edudivers.nl/doc/peters\\_publicaties/Everybody%20is%20Different%20%282003%29.DOC](http://www.edudivers.nl/doc/peters_publicaties/Everybody%20is%20Different%20%282003%29.DOC)) and the joint guideline by the Irish government and the Irish NGO Belong Too (2012, [http://www.belongto.org/attachments/233\\_Implementing\\_Equality\\_for\\_Lesbians\\_Gays\\_and\\_Bisexuals.pdf](http://www.belongto.org/attachments/233_Implementing_Equality_for_Lesbians_Gays_and_Bisexuals.pdf)). An example of a bad guideline is the introduction of section 28 in the British guidelines for local educational authorities, which introduced a censorship, forbidding that same-sex relations were presented as “a pretended family relationship” (1988, [http://en.wikipedia.org/wiki/Section\\_28](http://en.wikipedia.org/wiki/Section_28)).

### **6. Survey results**

Carrying out quantitative research is the most powerful way to show that social reality is not conforming to human rights. A great challenge this to off the right questions. Research into LGBT issues in education is often done by grass roots organizations that may lack research experience. The use of tested reliable survey question batteries is essential to obtain reliable research results. GALE devoted a chapter in the GALE Toolkit Working with Schools ([http://www.lgbt-education.info/doc/gale\\_products/GALE%20Toolkit%20Schools%201.0\\_EN%20%282011%29.pdf](http://www.lgbt-education.info/doc/gale_products/GALE%20Toolkit%20Schools%201.0_EN%20%282011%29.pdf)) to this issue and will go on the developing reliable standard questionnaires that can be used in different contexts. It may be helpful to contact your regional UNESCO bureau to discuss if questions relating to sexual diversity can be integrated in already planned large scale UNESCO research on sexuality. In countries where same-sex relations are forbidden or socially taboo, it is advisable to work with questionnaires focusing on school safety or on sexuality in general and integrating questions about sexual diversity. There are ways in which this can be done in a non-confrontational way. When schools or young people cannot be reached, it is possible to ask the LGBT constituency of a grass roots organization about their experiences. The easiest way to do this is to us and them to fill in a short anonymous questionnaire in the beginning of meetings and sessions you already do. GALE works on a guide on how to do educational research on sexual diversity and examples of such questionnaires.

### **7. Incidents of human rights violations**

A powerful way to show do seriousness of the denial of human rights to LGBT students and staff is to document human rights violations. Human rights violations are specific events that prove which human

rights are violated and how. Human rights violations should be documented by collection of the following specific information to be able to use it in litigation or to report it in the UPR:

1. Who was the victim?
2. Who was the perpetrator, and was the perpetrator representing an authority?
3. Where and when did the violation take place?
4. What is the evidence? (photographs, affidavit, media report)
5. Which law or human right was violated?
6. Where the authorities (police) approached for support and if not why?
7. How did the authorities respond? Why did they not act in the best interest of the victim, did they break the law or the guidelines of their public task?

In a public report, the identity of the actors involved may be withheld for protection.

Documenting human rights violations in education requires that you are known to the victims as someone who may be able to help. Having a Telephone or Internet Help-line and staff that is able to help the victim to document what has happened are essential.

### **8. Media coverage**

In some cases, the media will cover human rights violations. For example, they may interview a teacher who is fired or a student that this continually and takes his/her school to court. Media are also interested in examples of lies and prejudices in curricula. Advocacy organizations can use media material as additional proof for human rights violations or to illustrate social attitudes. Advocacy organizations can also feed information to the media to strengthen their advocacy strategy. However, it should be kept in mind that high level media coverage may result in an antagonistic reaction of the education sector. Advocacy strategies that work for the political arena may not be as effective to change education systems or schools.

### **9. Testimonials**

Testimonials are an interesting way to illustrate the experiences of students, staff or authorities.

Especially in contexts where large scale research is not possible and the media are not supportive, testimonials are a good way of making issues visible.

Testimonials can be elicited through qualitative research, but also in the context of an empowerment session or in the context of informal peer education.

LGBT people can be interviewed and their educational experiences can be analyzed and reported to show how human rights are denied to them in their schools. An example is the storytelling research on lesbian women by Saskia Wieringa in Africa<sup>8</sup> and several books and researches about the experiences of students and staff (for example available in the Journal of LGBT Youth<sup>9</sup>).

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<sup>8</sup> Wieringa (2005), Tommy Boys, Lesbian Men, and Ancestral Wives: Female Same-Sex Practices in Africa (<http://www.amazon.com/Tommy-Boys-Lesbian-Ancestral-Wives/dp/1770090932>)

<sup>9</sup> Journal of LGBT Youth (<http://www.tandfonline.com/loi/wjly20>).

In empowerment sessions of LGBT grass roots organizations, experiences in education can be discussed in a thematic session. A reporter can, anonymously, make a report with a view to advocacy. An example of this is the documentation of the life stories of LGBT elderly people through a so-called “reminiscence project”<sup>10</sup>. It would be interesting to develop such story sharing and documentation projects specifically for experiences with education.

In Western European countries and French speaking Canada, there are voluntary LGBT informal educators who offer panel sessions about discrimination in schools. Such voluntary education groups can ask their peer-educators to document the comments made by students in sessions to show the type of social attitudes they encounter. An example of this strategy is the documentary of the volunteer education group of the COC Amsterdam<sup>11</sup>.

## **Practical monitoring**

In this paragraph we offer some concrete suggestions of how to collect the information necessary to monitor the progress of each criterion.

### **1. Does the state secure that LGBT students have full access to educational institutions?**

In principle, all states will aim to offer education for all citizens. For LGBT students this right may be denied when they are open about their sexual orientation, gender identity or when they behave in a way that does not conform to traditional gender norms. There are examples of gay students who are refused access to a school or to an internship because they wear a pride symbol, an earring, or behave effeminate. There are multiple examples of transgender students who are not allowed access to school because they want to wear the clothes of their desired sex. The documentation of such human rights violation is best possible by offering examples (testimonials, media coverage).

### **2. Does the state secure that LGBT students have freedom of self-expression in school?**

The freedom of self-expression includes the right to come out and to express your gender identity or same-sex attraction. This is commonly strongly discouraged in school environments and in some cases explicitly forbidden. The negative school environment which discourages coming out can best be documented by quantitative research and illustrated by testimonials or quotes by students.

For transgender students, the right to choose your own name and the way you want to be addressed is important. This freedom of self-expression is also reflected in the way gender is expressed in the school administration. It is discriminatory when a female to male student keeps being addressed in official letters as “Ms.”.

### **3. Does the state secure that LGBT students are protected against bullying and harassment?**

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<sup>10</sup> See for example the LGBT archive storytelling project in Scotland:

<http://www.ourstorystotland.org.uk/archiving/osos.htm>

<sup>11</sup> "Help. een homo in de klas!" (Help! A homo in class!) <http://player.omroep.nl/?afID=11822193>

Most states have national guidelines which prompt the school to establish clear procedures and strategies against bullying, sexual harassment and sometimes oblige schools to document and report incidents. When these guidelines are generic and do not mention LGBT specific bullying and harassment, schools will commonly not take these measures to be relevant for LGBT students or staff. To monitor this protection, the guidelines either need to mention sexual diversity specifically, or additional information given by the government needs to specify the relevance of this guideline to LGBT students and staff. This question also refers to a criterion that is often covered by guidelines but seldom adequately implemented in schools. Therefore, in monitoring this criterion, it is important to also document the experiences of bullying and harassment by LGBT students themselves and the intention to bully and harass LGBT and gender nonconforming students by other students (through research).

#### **4. Does the state secure that LGBT students have an equal or lower level of drop-out?**

This criterion can only reliably be monitored by including questions about same-sex attraction, gender identity and coming out in national research on education which focuses on dropout. If this is not possible, LGBT people can be surveyed and asked about their past experiences in schools. LGBT people that drop out of school can mostly be found in the poor sections of society. They may be forced to earn their income with prostitution or other street activities. Including such respondents in LGBT research is important to show the real level of dropout. This is an especially important consideration when the LGBT cross roots/advocacy organization consists mainly of a middle-class constituency.

#### **5. Does the state secure that LGBT students have an equal level of academic performance?**

This criterion can also only reliably be monitored by including questions about same-sex attraction, gender identity and coming out in national research on education which focuses on academic performance. If this is not possible, LGBT people can be surveyed and asked about their past experiences in schools, but as with dropout, LGBT samples will usually not be representative and the results therefore not equally reliable.

#### **6. Does the state secure that offering public information about sexual diversity is supported?**

This criterion can easily be shown to be violated when the government has adopted a censorship law, for example the so-called "anti-LGBT propaganda" laws in Eastern Europe. It can also be shown to be supported when the government funds awareness campaigns or educational resources made by either LGBT organizations or educational organizations. In more ambiguous contexts, evidence for this criterion needs to be supported by public statements of authorities or schools. Examples are negative statements by education officials and refusal by schools of offers for informal education based on prejudiced arguments.

#### **7. Does the state secure that there is supportive and relevant attention for LGBT students in school resources?**

This criterion can of course be the best checked by looking at the national guidelines for curricula or to the curricula themselves. However in practice, there are seldom specific guidelines for attention to sexual diversity curricula, and a desktop research of the available educational resources is time-consuming and expensive. A check for social practice may be easier to do: ask students to what extent they experienced any attention in school for sexual diversity, or ask teachers if and what they explain about sexual diversity. Principals and other school administrators often do not know exactly what happens in class, so it's not very useful to research them.

A denial or reversal of this criterion can be shown if you have examples of school texts or curricula did our clearly discriminating, for example by presenting prejudices rather than facts.

#### **8. Does the state secure that there are specific resources for LGBT students?**

Specific resources for LGBT students can be web sites, books with information for LGBT youth or materials used in awareness campaigns and promotional material of LGBT grass roots organizations, especially when they target youth. If these materials are blocked by Internet filters, by keeping them out of the school library, or by forbidding altogether, documenting such measures will show that this human right is violated. When such materials are funded or promoted by the government, these are clear signs of support. To show that the government is ambiguous, reviewing publications of the government about human rights, diversity, and the needs of specific groups of students may show to what extent or not the authorities are encouraging, discouraging or silent on the needs of LGBT students.

#### **9. Does the state secure that there are LGBT student support services available?**

In most countries, LGBT and gender nonconforming students may run into problems, either because they are forced to keep silent and becoming stressed about his, or because of negative responses. In richer countries, schools maintaining a support system for students with social or psychological problems. To monitor this criterion, it could be checked whether such support systems have any attention for LGBT issues and if the quality of these services is adequate. To assess the quality of the government guidance, it needs to be shown what the government can do to secure the quality of this kind of services. A minimum service would be that referral to grass roots organizations is possible.

#### **10. Does the state secure that LGBT students have informal peer-learning opportunities?**

One of the most important ways of learning is the social interaction between youth. This so-called learning together is especially important to learn social and relationship skills. Research has shown that LGBT students miss out on this type of informal peer learning opportunities, because they feel estranged from their heterosexual peers or are ostracized. This lack of learning together can be corrected by offering LGBT young people spaces where they can meet and interact with other LGBT

students. Empowerment groups outside of school are one example. Gay/straight alliances in school<sup>12</sup> are even better examples.

The state or the educational system can either support or try to block this type of learning together activities. Documentation of concrete examples of blocking such activities constitutes a human rights violation.

**11. Does the state secure that teachers and other staff are supportive for human rights for LGBT students and staff?**

Most states have guidelines for minimum standards of professional behavior of teachers and other staff. These guidelines should include respect for diversity, tolerance, and having the interests of all students at heart. These guidelines can be examined, or teachers and students can be surveyed to show to what extent they embrace diversity including sexual orientation and gender identity.

**12. Does the state secure that school staff has adequate competences to teach about sexual diversity?**

In many cases the state has guidelines for minimum standards of the teaching profession. These should be in line with international guidelines on vocational education and teacher training. These guidelines can be examined, or teachers and students can be surveyed to show to what extent they cover diversity including with dealing with shyness to teach about sexuality, competence to deal with controversy in class and in dealing with questions about sexual orientation and gender identity.

**13. Does the state secure that school staff has adequate competences to support LGBT students?**

This criterion is similar to number nine, with the difference that it is not applying to external support services but to teaching staff itself. The monitoring should focus on teachers and teacher training institutions and the quality criteria set for them.

**14. Does the state secure that the school environment is supportive for sexual diversity?**

A safe school environment is essential for personal safety and for a good learning environment. It may be that the government has guidelines for this, but usually this is a responsibility of the school itself, while the government takes responsibility to set minimum standards. So, like monitoring the criterion for the curriculum, here we should look both at the generic guideline, accompanying statements, with the way it is implemented in schools and the practice as experienced by both LGBT and straight students.

**15. Does the state secure that there is employment protection for LGBT staff?**

LGBT teachers and other LGBT staff may be important role models for LGBT students and may also be the first ones that LGBT students will approach if they need help. Some parents may not be happy

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<sup>12</sup> USA Gay/straight alliances: <http://www.gsanetwork.org/>

with such support or they may have more general of the actions against LGBT teachers teaching. LGBT teachers may be vulnerable for unfounded complaints by parents or by other school staff. In countries where same-sex relations are criminalized, it is impossible for LGBT teachers to be open. In countries with an intolerant social climate, there may be unfounded prejudices expressed by parents, colleagues or school authorities that threaten the position of LGBT teachers. Employment protection can be arranged by law. Violations of employment protection can otherwise the best documented by documenting specific cases of dismissal.

To plan a mapping process, a sheet like this could be used:

	<b>Treaties</b>	<b>Recomm</b>	<b>Laws</b>	<b>Jurisprud</b>	<b>Guideline</b>	<b>Statistics</b>	<b>Incidents</b>	<b>Media</b>	<b>Testimoni</b>
<b>The position of LGBT students</b>									
<b>The curriculum</b>									
<b>The position of LGBT staff</b>									

## 5. Strategies in denying, ambiguous and supportive states

In the UNESCO consultation on homophobic bullying in Rio de Janeiro, three subgroups explored needs and possibilities on three levels of development: "egg" stage states, "chick" stage states and "chicken" stage states. "Egg-stage" states have no attention or censorship, "chick-stage" states are ambiguous in their attention and "chicken-stage" states attempt to mainstream attention to sexual diversity in their regular systems. In this guide, we will label these situations "denying" states, "ambiguous" states and "supportive" states.

Of course, each stage requires a specific priorities and a tailored mix of strategies. In this paragraph we offer a tentative typology and analysis of the 3 levels, with suggestions for data collection, reporting and strategy. It should be kept in mind that the division in 3 levels is a gross generalization.

### Denying states

In "denying" stage states, attention to sexual diversity is forbidden and/or socially taboo. The environment is not safe enough to discuss sexual diversity openly and LGBT organizations have to take safety precautions to protect their members and human rights activists. This is certainly true when focusing on education. In "denying" states, human rights promotion focusing on sexual diversity may be interpreted as propaganda for sinful or immoral lifestyles, a threat to 'national' or 'religious' morality and recruiting children to such causes. Most "denying" states are bound to have a bad human rights reputation in more general way as well. It may be that even the concept of human rights is (partly) rejected, preferring local 'traditional' hurtful and discriminatory practices above self-determination.

**Limitations:** The obvious limitation of work in "denying" stage countries is that attention for sexual diversity is either totally forbidden or strictly taboo, and that there are legal and severe social risks involved in attempting educational work. Changing attitudes through education is difficult because they may be an almost complete negative norm, which makes a dialogue on diversity very challenging. Some of the "denial" stage countries are very poor and there are often financial challenges because local authorities and donors will not fund projects and beneficiaries will not be able to pay fees. Peer education will be difficult because coming-out is dangerous. LGBT organizations may be small and with limited expertise, certainly on formal education but often also on more basic competences like storytelling, bookkeeping, cooperation or project management. It may be difficult to recruit volunteers because people have to put in long hours of low paid work to survive.

**Opportunities:** The level of limited returns is not reached by a long shot, so any change is profit. The prejudice of the public is often so gross and unsupported by evidence, that the cognitive aspect of education is relatively easy. The LGBT people involved are often enigmatic and creative in finding out the loopholes within the restrictions, and inventing tailored solutions and strategies. In many poor countries, informal learning and storytelling are just as important, or more important than the formal school system. This kind of learning can take place 'under the radar' of the monitoring by authorities and can also be used by LGBT minorities.

**Needs and goals:** In the "denial" stage it is important to build a base for initiatives. The first need among activists is often to know more about themselves: who are we? Why do we feel this way? Why can we not express our feelings? Why is this social pressure to deny our feelings and sexuality? How do we relate the answers to these questions to local and international definitions of sexual diversity? The most useful initial goal at this stage is to find answers to such questions, to become empowered to express feelings and to adopt social identities, and to think about how to create space for this in society. This awareness is always first an internal goal in LGBT circles and may later on become a (still diffuse) external goal for public education.

**Strategies:** LGBT organizations usually start with self-help groups or services, where members or visitors can share stories in a safe space. These safe spaces lead to empowerment. The shared stories shared here can be documented (anonymously) and shared more widely, even in public environments which still provide protection from persecution, like websites, dissemination of a summary in the shape of a comic book or in informal education in limited and invited audiences. LGBT activists who leave this stage and are interested in education and creating awareness, could be gathered in a new group which develops further activities. Such a group could initiate more systematic story collection, simple quantitative research to check and show the discriminatory patterns in stories are real problems among the population and dissemination of such information to potential allies.

**Methods:** Experiences from pilot projects show that story collection in "denying" states needs to be done carefully. Respondents need to be approached personally and the interviewers need to get acquainted first and built a relationship of trust with the respondents. It needs to be clear what will happen with the collected materials, for example that they are anonymous or that the identity of the respondent is protected and that the respondent has the right to edit the interview report. The interviewers need to be trained in building this trust, interview techniques and in the framework used to collect the stories, so they know which questions to ask and how to report and make sense of the stories.

The reports can best be tailored to specific audiences.



For example, in Indonesia, a collection of stories by Waria (transgenders) was reworked into a short comic framing the stories into the Yogyakarta Principles (<http://www.pelangiperempuan.or.id/program/penerbitan-buku/yogyakarta-principles-comic/>) (2011).

This comic was meant for dissemination among young people who may be open to such information, and who like comics better than a book or brochure.

In Bolivia (2005) stories of transvestites lives were presented to youth in the shape of a street performance (Las memorías de Katherine).



Las memorías de Katherine

**Monitoring and advocacy:** The monitoring of the Right to Education at this stage could be done by exploring the educational experiences of LGBT people and to communicate about this within the LGBT movement (to empower activists) en outside the movement (to create a first awareness). To use personal stories for human rights advocacy (and not only for informal education), the group could try to collect more detailed stories of human rights violations (teacher fired, student bullied out of school) and by doing small scale quantitative research to support other less detailed stories with evidence.

Small scale quantitative research among LGBT would be the easiest to do. This requires asking them to reflect on their past school experiences. GALE is developing a model survey for this. In "denying" stage environments it may be hard to do quantitative research in schools or among young people. Still, this could be done when the survey is relatively neutral and questions about sexual diversity are sandwiched in a wider range of questions about school safety and citizenship. Doing such research in cooperation with UNESCO (which has a strategy to combat homophobic bullying) is another option. The reporting of such documentation can best be done with an eye on existing policies in the state. Most states will - at least superficially - promote Education For All, social inclusion and safer schools.

Contrasting such policy statements and guidelines with human rights violations in school practice will highlight the need to consider change. In "denying" states, this may mean to focus on basic needs, for example the right of school not to be beaten by class mates or condemning 'boot camps' for effeminate boys ([http://www.lgbt-education.info/en/news/local\\_news/news?id=501](http://www.lgbt-education.info/en/news/local_news/news?id=501), Malaysia, 2011).

### **Ambiguous states**

In "chick" stage states, the situation is ambiguous. On one hand, there are usually no formal prohibitions to offer information about sexual diversity. Indeed, often LGBT organizations do offer information in various ways, like through visibility campaigns to create awareness (posters, leaflets, video clips) or by developing specific curricula and resources for schools on sexual diversity and offering informal education by volunteers or even some teacher training. On the other hand, the state does not take the lead in this and support for LGBT-led interventions is either completely lacking or ambiguous. The result of this is that the education sector regards sexual diversity as a private interest of some marginal advocacy groups, which is not of mainstream interest. Efforts of LGBT organizations remain limited in quality (because of limited educational expertise) and scope (because the lack of political backing and funding).

**Limitations:** LGBT organizations tend to turn their internal empowerment and awareness processes into concepts for public education. In practice, they may create informal (peer) education or media campaigns in which they more or less directly replicate their internal coming-out process and demands. This type of education is sender or teacher centered: the experiences of LGBT people and their wishes or demands are presented in the education programs. Access to regular schools with this type of education is limited because more effective programs are receiver or learner centered. In extension, advocacy that is only focused on specific demands and does not take the potential for real innovation into account, may be counterproductive.

In the "ambiguous" stage, cooperation between the LGBT movement and the education sector and acquiring funding may be not impossible but still challenging.

Because the "ambiguous" stage is characterized by ambiguity about goals, acceptable content of education and different views on the roles and willingness of stakeholders, there may be varying views on who is the enemy, who are allies, and who can be trusted in cooperation.

**Opportunities:** The ambiguity of the "ambiguous" stage also offers lot of opportunities. Inevitably, there will be at least some, and usually a growing number of allied experts in the government and in the education sector. There is some willingness and space, and the challenge is to find the allies and the appropriate spaces.

In education, LGBT issues are always framed in wider educational concerns like school safety, citizenship and acquiring transversal personal competences like tolerance. In the "ambiguous" stage, people in education start to see the link between specific LGBT concerns and these framing themes.

The LGBT movement has more volunteers and sometimes staff to find these allies, and to cooperate with them on research and to pilot interventions. Cooperation between mainstream and LGBT organizations also facilitates acquiring funding and dissemination of success stories.

**Needs and goals:** For LGBT organizations, this stage provides a challenge to make a shift from a sender centered perspective to a learner centered perspective. Or they say it more crudely: to shift from seeing students, teachers, principals, the education sector and the government as the enemy towards seeing all of these actor as key stakeholders and potential partners.

For governments, this stage provides internal and external challenges. Internally there may be officials and politicians who support or resist attention about sexual diversity. Both internal education and leadership to overcome resistance to innovation are necessary. Externally, the government may have to deal with LGBT advocacy organizations that may be expert and diplomatic but can also lack knowledge about how the education system works and be crude and insensitive in their demands. It requires skilled government officials to facilitate constructive participation.

A major goal is to explore what students and teachers want and need. They may have negative images of LGBT people and feel resistance to change and diversity, but they also have needs and ideals that potentially connect to the ideals of the LGBT movement. The ambiguity of the "ambiguous" stage can be cleared by exploring common needs, forging alliances, try out interventions and create a basis for continued (mainstreaming) cooperation in the next stage.

**Strategies:** The "ambiguous" stage represents the transition between taboo and matter of course visibility. The core of the strategy could therefore be to search how the taboo can be broken down and forge partnerships between the LGBT movement and mainstream staff in the education sector. The cooperation could be focused at exploring adequate and effective ways of visibility.

In most cases, LGBT organizations will first embark on developing their own educational interventions because their access to teachers and the education system is still too limited. Government may fund such efforts. However, many organizations will find out that these 'early' interventions suffer from inadequate dissemination and may also not have the all the desired effects of students, teachers and schools.

The answer to such challenges is to explore better what students, teachers and schools need. Effective strategies imply minimally co-ownership of educationalists, so cooperation with teachers and educational experts will pave the way for good practices that schools are eager to share. These best practices will also function as examples of how attention for sexual diversity can be implemented in schools without creating controversy, which paves the way to mainstreaming.

**Methods:** In this stage we see of a lot of development of curricula, video, resources and sometimes teacher training or student participation clubs, games or events. The quality depends on the individual developers. LGBT organizations and governments can try to raise the quality of the tools by promoting and facilitating cooperation between experts and LGBT people with life experience with discrimination.

Towards the end of the "ambiguous" stage, proper needs assessments, focused pilot projects and evaluation research could be done.

**Monitoring and advocacy:** The monitoring of the Right to Education at this stage could be done by assessing more systematically at what levels the Right to Education is still not properly implemented and what measures, and by whom, are needed to improve the situation.

### **Supportive states**

In "supportive" stage states the state has decided that combating homophobia and transphobia is an relevant policy issue and is developing a more or less coherent program to mainstream attention for sexual diversity in the education sector. The way they do this, depends on the strength of the government leadership, the internal resistance in the Ministry of Education and the education sector itself, and the cooperation with experts on LGBT issues and the LGBT movement. In this stage, differences in roles become very important. The LGBT movement, which has been very active in both advocacy and in development and implementation of education itself, has to reposition their concrete (informal) education work and the type of advocacy to make it possible that the education sector and the Ministry of Education can take ownership. Usually, LGBT experts who are both part of the LGBT movement and of the education sector, come forward and start to advise on strategy and content of education. The government and especially officers from the Ministry of Education and from national education institutions start to formulate ideas and strategies. The interplay between the LGBT activists, LGBT experts, government officials and top-level education officials is usually a mix of cooperation, uneasiness, irritation and sometimes competition.

**Limitations:** One limitation concerns the content of education. The shift to mainstreaming means that attention to sexual diversity is being integrated in regular education. This implies it needs to fit in existing (sometimes less adequate) contexts and that the 'special' attention becomes a matter of course, which may be considered insufficient by activists. Another challenge is the process of mainstreaming. Who will take the lead in this? Of course all stakeholders want the power to steer this process. This may lead to competition. Also, this may be the first time regular (straight) educationalists and (LGBT) activists are starting to work together. Experience with these processes shows that interests (goals), ideology or theoretical frameworks and working cultures may create uneasiness or even irritation.

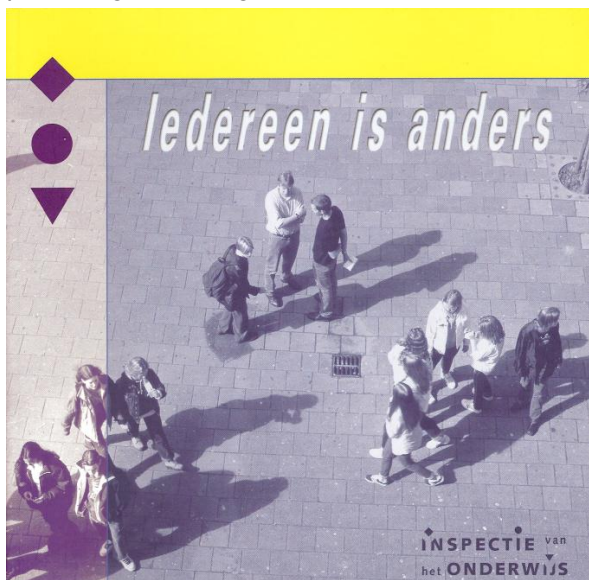
**Opportunities:** It is obvious that the opportunities for mainstreaming in this stage present enormous advantages, both for structural dissemination and for raising the quality of education about sexual diversity. Officials are approachable and initiatives on all levels become legitimate.

**Needs and goals:** Good and sustained cooperation between all stakeholders is important to support the mainstream process. The main goals should be to promote government leadership, to define the optimal roles of all stakeholders and to support cooperation in accordance to these roles.

The focus of this leadership and cooperation is to find ways of how sexual diversity can become integrated as a 'matter of course' in education policy, guidelines, school books, teacher training, daily teaching and school management and in student guidance and student participation activities.

**Strategies:** It is essential that the government and the Ministry of Education take the lead, that the LGBT movement and experts are positioned in an adequate consulting position and that the educational sector itself becomes involved in co-development. One essence of innovation is that the professionals who are responsible to implement the new interventions should be co-responsible for the development. They need to feel that they own the innovation, otherwise it will not be sustained. A second important criterion for innovation is that professionals are supported in the process of change, starting with early adopters and sharing successes, then involving late adopters and finally enlisting laggards. Thus the essence of mainstreaming strategies is to create ownership and facilitate long-term change processes.

**Methods:** Examples of mainstreaming strategies are the formation of advisory committees for a government lead strategy, field consultations, networking conferences, the formation of a national LGBT-straight alliance of LGBT organizations and educational organizations. Leadership by the Minister of Education and top-ranking educational officials is very important. Such leadership is shown by public statements and field visits, strategy development, funding and international cooperation in promoting human rights in education.



**LGBT Guideline by Dutch Inspectorate**

Examples of mainstreaming activities are a the Guidelines of the Dutch School Inspectorate on integration of sexual diversity in school policy ("Iedereen is anders", "Everybody is different", 2003)<sup>13</sup>, and a the Irish guidelines for the youth sector<sup>14</sup> ( 2011).

**Monitoring and advocacy:** The monitoring of the Right to Education at this stage could again be done by assessing systematically at what levels the Right to Education is still not properly implemented how proper implementation can be anchored in the quality systems of the education sector.

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<sup>13</sup> [http://www.edudivers.nl/doc/peters\\_publicaties/Everybody%20is%20Different%20%282003%29.DOC](http://www.edudivers.nl/doc/peters_publicaties/Everybody%20is%20Different%20%282003%29.DOC)

<sup>14</sup> [http://www.belongto.org/attachments/233\\_Homophobic\\_Bullying\\_Guidelines\\_for\\_the\\_Youth\\_Work\\_Sector.pdf](http://www.belongto.org/attachments/233_Homophobic_Bullying_Guidelines_for_the_Youth_Work_Sector.pdf)

## 6. Workshop your way to progress

In this chapter we suggest that organizing a kick-off workshop could be a good way of starting your educational strategy. First we explain why it would be good to start with a workshop, and moreover, to plan a continued series of workshops to help you guide your educational strategy. Then we explore how such workshops can help to get you on your way or progress in "denying", "ambiguous" and "supportive" states. At the end of the chapter we outline how GALE and GALE members can support this process.

This is an overview of possible workshop formats:

	Goal	Participants	Main methods	Follow-up
<b>Denial</b>	Create a basis group, strategize and create awareness	Activists	Building safe network, brainstorm, strategy development	Story collection, small scale research among LGBT
<b>Ambiguity</b>	Create visibility in the education sector and built expertise	Activists, peer-educators, teachers, government officials	Identifying existing successes, analyzing gaps and opportunities, strategy development	Large scale research, awareness campaign, moving from single (activist) actor interventions to cooperation and professionalization
<b>Support and mainstreaming</b>	Create mainstream cooperation and integrate structurally	Government officials, education officials, experts	Identifying opportunities for mainstreaming, creating a base for GO-NGO cooperation	High level expert meeting(s) in and by government, involvement of Ministry of Education, government led action plan

### Denial workshop

**Goals:** goals for "denial" stage states could be to create a base of activist LGBT people, teachers and if possible other people with educational expertise and to explore what is needed and feasible to raise awareness of challenges to the full implementation of the Right to Education.

**Participants:** at this stage it is probably an LGBT organization or a couple of activist individuals taking initiative, within a rather conservative and maybe dangerous environment. It seems best to approach interested LGBT individuals. Because the main goal is to create a base for further action, two types of people may be most interesting to recruit: activists who may be interested in pushing forward and managing a sexual diversity education group or platform, and people who do at least have some experience in education because they are a (ex) teacher, researcher, or because they are, or were until recently, a student. A combination of activism and some expertise. The experience of GALE shows that the best way to recruit such people is by approaching people personally and confidentially.

**Method:** the main methods used in such a workshop would need to be playful, inspiring, encouraging social safety and cohesion, encouraging to share stories and take into account that sharing such stories may involve learning to cope with negative experiences and trauma.

**Output:** the output of such a workshop could be a short report outlining the experiences of the participants and a statement about the needs of LGBT students and educational staff. The experiences can be anonymous and the publication of the document can be done through the internet, mails and text or twitter messages (one statement version).

**Follow-up:** the workshop could be followed up by the members of the new group collecting stories of discrimination and, if there are any, good practices dealing with sexual diversity in education. In addition, small scale qualitative or quantitative research could be done, especially among LGBT. The collected stories can be reworked in a comic or small exhibition, and some well-willing schools may be interested to invite peer educators to tell their stories and engage in a dialogue aimed at social inclusion in school.

### **Workshops in ambiguous contexts**

**Goals:** goals for ambiguous states could be to create more clarity and focus in passive or changeable situation. Because in the ambiguous stage often the only initiatives are taken by LGBT organizations and by some enthusiastic teachers (but often without mutual contact), it may also be useful to make links between activists, volunteer peer-educators and professionals from the education sector itself. A cooperation between LGBT activists and educationalists (a national LGBT-straight alliance) can better inform a more focused strategy.

**Participants:** the participants at this stage could best be a mix of LGBT activists and teachers. This provides a good combination of ground floor educational expertise and a driver towards change. Gay and lesbian teachers - maybe from LGBT trade union groups - could be good allies.

**Method:** a good method is to start with sharing experiences and focus first on success stories. Then, a shift could be made to reflection on what could still be enhanced. To ground this better, research questions could be formulated and an analysis could be made to assess which interventions are needed, and in which strategy this should be framed.

A joint meeting with a variety of stakeholders is most useful but may be difficult when the participants do not (yet) feel safe to express their concerns and wishes in a public meeting. To deal with this, it may also be useful to have a series of workshops for different types of stakeholders (activists, teachers, school managers, LGBT and straight students) and later on a joint meeting, which allows stakeholder to form opinions in a safe space before sharing them.

**Output:** the output of workshops or a series of workshops in ambiguous contexts could be a draft strategy document. The document could provide suggestions for cooperation and pilot projects.

**Follow-up:** The workshop could be followed up by large scale research to assess the extent of problems, awareness campaigns to engage cooperation from different actors, and pilot projects to develop tailored interventions and experimenting with implementation. Such development projects

could be planned to shift from being developed solely by activists to cooperation with people from the education sector and professionalization of both LGBT and educational stakeholders.

### **Mainstreaming workshop**

**Goals:** the main goals of a mainstreaming workshop in states that are already supportive to some extent could be to create mainstream cooperation and to explore how to integrate sexual diversity structurally in the education sector.

**Participants:** the participants should be a combination of government officials, education officials, experts and activists.

**Method:** in a meeting like this you could identify opportunities for mainstreaming and create a base for GO-NGO cooperation. The meeting could be presented as a high level expert meeting. It could also be made more informal in the shape of a "Diner Pensant", during which there are short discussions between every course.

**Output:** the output of a "mainstreaming" workshop or expert meeting could be a draft strategy document or a short declaration of intentions which need to be worked out at a lower level.

**Follow-up:** High level expert meeting(s) in and by government, involvement of Ministry of Education, government led action plan

### **Involve GALE**

GALE has developed draft model programs for each of these workshops. Trainers of GALE can help you facilitate a national or local workshop which assists you in starting or making a next step in your education strategy. Of course, the concrete program of each workshop needs to be tailored to the specific time frame, needs of the participants and starting situation. Do not hesitate to contact us if you need help: [info@lgbt-education.info](mailto:info@lgbt-education.info).

## 7. Effective communication<sup>15</sup>

Discussing sexual diversity in educational institutions can be a very sensitive topic. Still many people perceive sexual diversity to be a controversial topic and may be ashamed of discussing it. In addition there are strong international and local lobbies of conservative forces, who promote the precedence of traditional values over human rights and who condemn same-sex behavior as unnatural and sinful.

In this chapter we analyze these forces, the related language and we offer suggestions for effective advocacy and diplomatic language and arguments.

The chapter starts with a discussion of how differing jargons are used by education lists, advocacy organizations, feminist organizations, human rights organizations and health organizations, and how the mixed-use all different jargons may lead to misunderstanding and competition.

We then go on to explain the key concepts and jargon used by the educational sector. We believe that by knowing educational language and priorities, work with educational sectors can be done more effectively.

We discuss the concept of “subsidiarity” to explain how and why the influence of international and national authorities over schools is often limited, in which consequences this has for monitoring, quality assurance and advocacy.

We also discuss the concept and international battle over traditional values, and how this impacts on human rights policy and specifically on LGBT rights in education.

We end this chapter with some recommendations for strategy and diplomatic language that can be used.

We consider this guide, but especially this chapter as an attempt to create a basis for international discussion and strategy development towards inclusion of sexual diversity in education policy. Since little work has been done on this in education, we invite all stakeholders concerned to comment on this.

### Different jargons

Educational language is different from other jargons. It has different concepts and language and these may compete with language and strategies of advocacy organizations and professional organizations.

### Human rights jargon

Advocacy organizations, like LGBT organizations, feminists organizations and more general human rights organizations are used to human rights jargon. In this jargon, concepts like rights, human rights violations, discrimination, litigation and countless human rights abbreviations are common. In human

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<sup>15</sup> I am not yet happy with this chapter. There are some elements in it that I would like to discuss, but the content and quality is still shifty I think. It should be a much more insightful guide to what type of jargon to use and what to avoid incorporation and in advocacy.

rights concepts, the full development of the personality and self determination are central. This stress on personal rights was initiated as a reaction on World War II. In that war, there were so many atrocities that world leaders decided that never again governments should degrade themselves to committing such degradation and mass murder to their citizens. As a response, the Universal Declaration of Human Rights focuses on the obligation of the governments to secure the rights of individuals even when the government does not like the citizens. Human rights treaties and recommendations also agree on procedures through which citizens can claim their individual rights in his face of collective decisions taken by the government. We are then talking about victims and persecutors. In a sense, human rights jargon and strategies imply a continuous tension and struggle between governments and their citizens.

This perspective is different from the perspective common in education. Educationalists consider their prime responsibility to be teaching competences to students. Teachers are seen as experts either because they have more knowledge than students or because they are more able to guide a learning process. Teachers and parents are seen as deserving of respect because of their status and students are not primarily seen as self determining citizens but as consumers of education. Even if students are more involved or active in the process of education, this is usually more because it seems teachers or curriculum developers to be more effective, then as an appreciation of their self-determination as citizens.

These perspectives may clash when human rights organizations focus on the rights and self-determination of (specific) students and staff. Educationalists may interpret this as a threat to their authority and to their profession. Litigation, courts cases and detailed directives from governments are often seen by the education sector as a threat to a professional autonomy of both teachers and schools. Specific attention to a range of target groups ('victims') which is often demanded by human rights organizations, does not always resonate with the educational sector, because educationalist prefer to identify only specific learner groups that have clear learning problems.

### ***Postmodern/constructionist jargon***

In some post-modernist sexual diversity organizations, 'queer' and constructionist jargon may be used. It is quite common that LGBT organizations and allies in some universities use this type of the language when approaching schools, for example in teacher training resources. For example there are number of academic teacher training courses where secondary school teachers are informed about discrimination in the context of a constructionist "queer" analysis. After the not-so-good versions of such courses, teachers may know a lot about the views of Judith Butler, but very little about how to handle concrete homophobic bullying in their class. The point here is not that constructionist analysis cannot be applied to education, but that the scientific analysis often is not elaborated towards concrete operational directives for teachers or schools, and that it is not explained how the language of this analysis relates to educational models.

### ***Feminist jargon***

Strong feminist language may have a similar effect. For example, in the report of Vernor Muñoz, the Special Rapporteur on Education, the situation in education concerning sexual education was analyzed in strong feminist terms, which is quite uncommon in United Nations diplomatic language. He placed sex education squarely in the context of *patriarchy and control of sexuality*. The result was a strong rejection of the report and a refusal to even debate it (see Annex 4.5).

### ***Health jargon***

AIDS Service Organizations and Family Planning Associations are used to health jargon. Health jargon is primarily focused on identifying health problems and changing *behavior* to solve these problems. This is why AIDS Service Organizations usually insist on referring to "men who have sex with men" (MSM) rather than LGBT - many men who have unsafe sex don't identify with one of these identities. The director of GALE has challenged both of these acronyms by suggesting - with a wink - a new acronym which is more suited to the education sector: DESPOGI (Disadvantaged because of their Expression of Sexual Preference Or Gendered Identity)<sup>16</sup>.

The argumentation to implement health promotion programs also focuses on health. AIDS and STDs mediated by unsafe sex, is of course one of the prime arguments and content of programs. But also mental health problems like suicide, depression and stress are claiming to space to be dealt with in classrooms. LGBT advocacy organizations often all lend these arguments, especially bullying because suicide is clearly related to bullying and stigma – and thus human rights. Many LGBT advocacy organizations are more ambiguous in their support for sexual health programs, because of the risk that homosexuality will get connected to immoral sexual behavior and the focus of many sexual health programs purely on behavior rather than the social context of sexual and relational development.

### ***Planned behavior***

Mainstream health organizations often use the Health Belief Model or the similar Model of Planned Behavior<sup>17</sup> to frame their views. Much of the health jargon is related to this model. A core issue in the Health Belief Model is that in order to be effective, one should formulate very concrete objectives in terms of behavior. In the discussion between the health sector and the educational sector this can create misunderstandings because the educational sector is not used to formulate objectives very specifically and almost never in terms of behavior. Educational and goals are usually formulated in terms of knowledge and competences. Another difference between health goals and educational goals is that in health promotion, professionals use a clear distinction between necessary knowledge as a precondition, attitudes and social norms that create willingness to display behavior and the ultimately

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<sup>16</sup> Dankmeijer, P. (2012), "LGBT, to be or not to be? Education about Sexual Preferences and Gender Identities Worldwide", in: Meiners, Erica and Quinn, Therese (eds) *Sexualities in Education: A Reader*. New York: Peter Lang. (chapter 23)

([http://www.edudivers.nl/over\\_ons/medewerkers/peter\\_dankmeijer/publicaties\\_peter\\_dankmeijer/lgbt-to-be-or-not-to-be](http://www.edudivers.nl/over_ons/medewerkers/peter_dankmeijer/publicaties_peter_dankmeijer/lgbt-to-be-or-not-to-be))

<sup>17</sup> [http://en.wikipedia.org/wiki/Theory\\_of\\_planned\\_behavior](http://en.wikipedia.org/wiki/Theory_of_planned_behavior)

planned behavior itself. The ultimate effect of health promotion is measured in behavior change and in the actual prevention of health problems. Involving the student's personal attitudes and stimulating them to perform specific behavior may come, in the eyes of educationalists, very close to brainwashing.

### ***Safer sex and homophobic stigma***

When health organizations focus on sexual diversity in education, it is usually to promote safer sex. Research shows that LGBT young people need specific safer sex information and that homophobic stigma is a major barricade for self-determination and safer sex behavior of LGBT young people. Discussing the specific needs of LGBT young people is almost impossible in schools because same-sex relationships and anal sex are extremely difficult to discuss in a relevant way for LGBT young people in the average classroom. For health organizations, discussing homophobic *stigma* (note that the health sector prefers to use the word "stigma" rather than "homophobia", "discrimination" or "human rights violation") is slightly easier and necessary because it is a challenge for safer sex. In the better sexual health programs, the sharp edge of just promoting safe sex behavior is modified by a broader view on the social context of sex and relationships; such programs are usually called "comprehensive sexuality education" programs. The UNESCO Technical Guidelines on Sexuality Education<sup>18</sup> are a good example of such a comprehensive approach.

Still, such programs are difficult to implement in regular schools because teachers are not trained to speak so openly and specifically about sexuality and to respond to emotionally highly charged questions by students. This is even more difficult for more controversial topics like homosexuality, transgenderism, prostitution and sexual abuse. Although there is a growing acceptance that sexuality education is a necessary topic for the regular education sector, within the education sector there are still differences of opinion whether sexuality, or some aspects of sexuality should be discussed in private or in school.

### **Educational language**

Educational organizations use educational jargon. We already mentioned the focus on generalized goals and formulating objectives as knowledge or competences. We could say that educational jargon focuses on three areas: learning needs, teacher competences, curriculum characteristics and pedagogy.

#### ***Learning needs***

Assessing learning needs is not like a general needs assessment. The needs of education are not primarily defined in terms of what the learners want, but in terms of what society and especially employers want. A key objective of the education sector is to find out which competences are best suited to help students get a job and do it properly. One of the biggest discussions in the education sector is whether students need to learn generic or specific professional competences. Specific

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<sup>18</sup> <http://www.lgbt-education.info/en/articles/references/article?id=197>

knowledge is quickly defunct in rapidly developing societies, which is an argument for generic competences: they help students to be flexible on the labor market. But employers often ask to teach specific knowledge and competences, which would save them in-house training expenses. Basic competences like reading, writing, and mathematics are the essential generic competences. A good fourth are basic social skills.

It is no wonder that from this perspective, sexuality education is less important than skills that are more directly related to employability. But sexuality and relationship skills and human rights competences do fit in the category of generic or so-called "transversal" competences. Transversal competences are core competences that underlie more specific context dependent skills. Especially transversal competences like respect, tolerance and empathy (in education usually summarized as "citizenship competences") are valued higher than sexuality and relationships skills. This is why the European Long Life Learning Program<sup>19</sup> (and fund) stresses that transversal competences like respect and being able to deal with diversity are a cornerstone of the Lisbon strategy (which aims to facilitate employability of Europeans)<sup>20</sup>.

### **Teacher competences**

Teacher competences focus on the ability of teachers to transmit knowledge and to train students in competences. Contrary to many other professions, the teacher profession is not validated. There is no evidence or consensus as to what type of teacher behavior or skills is most effective. This positions the teacher in a continuous debate about whether the teacher behavior is appropriate and effective. Without universally accepted professional guidelines, the teacher has to forge his or her own path. Many teachers take pride in this and label this personal struggle as a personality trait: you are born as a teacher or you're not. Policy makers have tried to develop and implement specific guidelines on the teacher profession in the last century, and have more or less failed. In many countries, governments have now shifted towards promoting personal autonomy of teachers and encourage teachers to develop their own standards. But it remains unclear whether this will raise the quality of education.

In relation to sexual diversity, the autonomy of the teacher profession and the focus on personality as a cornerstone of teacher competency, clarifies why LGBT teachers often pride themselves in being role models for LGBT students, while other professions don't as much. It relates to their self perception that their (LGBT) personality is the key to effective teaching. On the other hand, the same mechanism is exactly the reason why conservative parties are against employing LGBT teachers, especially when they claim the right of self expression in the classroom.

Educational institutions and teachers also sometimes talk about *special needs*. Most commonly, the term special-needs refers to how schools deal with disabled students. These may be students that are physically or mentally challenged, but the main attention of education goes out to students who

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<sup>19</sup> [http://ec.europa.eu/education/lifelong-learning-programme/doc78\\_en.htm](http://ec.europa.eu/education/lifelong-learning-programme/doc78_en.htm)

<sup>20</sup> [http://en.wikipedia.org/wiki/Lisbon\\_Strategy](http://en.wikipedia.org/wiki/Lisbon_Strategy)

somehow experience a block against learning. Examples are students who are dyslectic, and extremely high and low performing students.

When we take the general formulation of international treaties and recommendations literally, a positive reading would lead to the conclusion that specific needs of LGBT students may be relevant. In the interpretation of educationalists however, this would mainly be so when LGBT students have the mentioned learning needs, in other words, the sexual diversity aspect would not be relevant to them. This understanding should be taken into account when discussing special needs of LGBT students with the education sector.

### ***Curriculum and pedagogy***

Curriculum characteristics and pedagogy are the keys to the actual teaching process. This is for teachers and educational institutions where they are the real experts. A curriculum is not the same as simply providing information. The time that teaching was perceived as being the same as reading out a text, and learning was the same as learning by heart, is long past in developed countries. There is a growing body of expertise on how to develop systematic strategies that involves learners, adapts information to their specific needs even when the group is mixed in levels and interest, and results in the acquisition of competences that have been learned with one situation in mind but can be transferred to use in other similar situations. It should be noted that such didactic and pedagogic expertise is far from being even be distributed around the world. There are still many schools and teachers that offer education in a quite medieval manner.

In curriculum development, different sectors might also clash due to misunderstandings. For example, less experienced LGBT grass roots organizations tend to copy their advocacy demands directly in education resources. There are a lot of examples of teaching materials that consist mainly on presenting LGBT people as victims of human rights violations and quoting laws which forbid discrimination, and educational videos that look more like promotional commercials for gay prides than serving learners needs. Apart from the lack of dissemination of such materials, they often lack the quality to be taken seriously by teachers.

Another example are the sometimes quite massive resources offered by health organizations. For example, the "It's all ONE curriculum"<sup>21</sup> for sexuality, gender, HIV and human rights by the Population Council has 468 pages and weighs over a kilo. Driven by the need to discuss and train a range of specific behaviors, such programs are sometimes much too elaborate to be implemented in regular school schedules or are too specific in their didactics. It is commonly known that teachers cut and paste the parts that they find interesting out of these programs to tailor them into a program of their own.

But let us also focus on the international jargon of educational policy as represented in Conventions, Recommendations and in UNESCO publications. In international policy, the main concern is to make

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<sup>21</sup> [http://www.popcouncil.org/publications/books/2010\\_ItsAllOne.asp](http://www.popcouncil.org/publications/books/2010_ItsAllOne.asp)

sure that everyone actually gets an education. This is why *access to* education, prevention of *dropout* and educational *survival* (not real survival but number of completed educational years) are key indicators. Internationally, the *quality of education* is defined by basic levels of literacy.

The international policy of *inclusive schools* has its roots in making sure that students with special needs could go to a regular school rather than being put away in separate institutions. In the last decade it has become clear that a real inclusion of such students that's not only require some specific attention to such students, but also a more general supportive and welcoming school climate. In such a school climate, transversal competences like respect, tolerance and knowing how to deal with diversity are essential. To more recent publications and conferences of UNESCO about inclusive education stress that such an inclusive climate is important for all students because the beneficiaries of such inclusive schools are not only handicapped students. The definition of inclusive schools is slowly being broadened to schools without discrimination.

## Subsidiarity

One big misunderstanding advocacy organizations sometimes have is about the relation between international organizations, the governments and educational institutions. Often advocacy organizations presuppose that international agreements and authorities have a determining or at least strong influence over what happens in schools. In practice this is usually not the case. Especially on the international level, the influence of authorities over the school sector is limited. When an international body or the government of a federation has no say about certain affairs and it is agreed that such affairs can only be handled on the national level, this is called subsidiarity<sup>22</sup>. A main reason to agree that there should be no central guidelines for education on an international level is that most countries feel that education is culturally very sensitive.

This means that advocacy for more LGBT inclusive education on the international level has to carefully consider which parts of education are subsidiary and for which parts there is a space to negotiate international agreement which serves the quality of education in a universal and undisputed way.

Currently, the United Nations has engaged in a discussion about the reformulation of the Right to Education. One important element in this discussion is the question whether sexual education or more specifically AIDS prevention should be mentioned as a core element in "the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms". However, this is very controversial. The proposal of the Special Rapporteur on Education to include sexual education in the Right to Education was rejected in the strongest terms and without discussion (see Annex 4.5).

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<sup>22</sup> Subsidiarity, a general definition: <http://en.wikipedia.org/wiki/Subsidiarity>; subsidiarity in Europe: [http://europa.eu/legislation\\_summaries/glossary/subsidiarity\\_en.htm](http://europa.eu/legislation_summaries/glossary/subsidiarity_en.htm) and

## Traditional values

Both locally and internationally, traditionalists try to secure that schools safeguard conservative values and limit knowledge of liberal values and human rights.

On a very basic and uninformed level, opponents of human rights for LGBT people hold and human rights were never meant for people with sick or immoral behavior. As one 15 year old Muslim student said: “Of course all people should have human rights and be respected. But gays are not humans”<sup>23</sup>. This student was probably referring to hearsay statements by conservative imams, who regularly state that “gay men (*liwat*<sup>24</sup>) are less than dogs”. The view that LGBT people are sick, immoral and unnatural is supported by several religions. It may prompt some authorities, school staff and students to conclude that LGBT people are not humans and are not entitled to human rights.

Conservative religious authorities and groups often define “heterosexuality” as the only natural state for relationships, and marriage as the only socially permissible relationship. This point of view leads to a denial of the human right to form a family for other partnerships than heterosexual marriage. In addition, to support this definition of a natural marriage, most conservative authorities extend their definition of ‘natural’ to gender. In this conservative view, there are only two sexes which are created for the purpose of procreation. Sex is defined as natural and given by God rather than as a set of social expectations. The Catholic Church has developed an elaborate argumentation against the definition of gender as a social construction, and the concept “gender” itself.

Traditionally, LGBT groups have countered the arguments that homosexuality is unnatural with testimonials and research which shows that same-sex attraction is innate. One problem with this argument is that research shows that same-sex attraction is partly genetically defined, but also for large part unexplained. Any research that in the long term might offer the opportunity to change same-sex attraction, like specific areas of the brain or hormone levels is perceived by LGBT organizations as a threat. In some way LGBT organizations may become part of the religious discourse about the need that being ‘natural’ is the norm to be treated human or equal.

Internationally, the group of churches and conservative states that adhere to such viewpoints have formed a coalition and are increasingly working together. Their main strategy seems to focus on the promotion of traditional values. Russia has filed a proposal to strengthen human rights through traditional values by stressing that traditional values are for the common good. A coalition of NGOs analyzed the strategy and issued a declaration which explains why the proposal actually threatens to undermine human rights (Annex 4.14).

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<sup>23</sup> Dankmeijer, Peter (2012). *What do we do with the sissies? Homophobia, gender, stereotypes and emancipation strategies among young and LGBT people in the Netherlands*. Amsterdam: GALE

<sup>24</sup> Quranic Arabic for “men engaging in passive anal sex”, “liwat” is related to Lut (the Biblical Lot)

## Recommendations for effective communication

Recommended for effective communication with educational authorities:

1. Focus on educational results first and use human rights or health arguments as secondary
2. Talk about quality education, raising academic performance, preventing bullying and dropout
3. Take subsidiarity into account and focus on the responsibility of the state to secure quality education
4. Limit the impact of the traditional values lobby by avoiding terms and concepts that they labeled as "controversial" and use widely accepted arguments for justice and equal treatment to support the arguments

Recommended for effective communication with educational staff:

1. Make your interventions fun and inspirational for the majority (so mainly heterosexual) students. For example, integrate a questionnaire in an educational intervention or attach an award for the best idea or a funny quiz to it.
2. Make your interventions useful, non-confrontational and easy to use for teachers. For example, offer teachers a report about their school or class<sup>25</sup>.
3. Involve teachers by asking them what they need to teach about some of the more difficult issues, like religious, cultural or tribal controversy, sexuality and sexual diversity. Show in your report how you used their comments and how you intend to support them with the recommendations.

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<sup>25</sup> This is easy to do with a predefined Excel format or with Paltrix.

## Annexes

### 1. Abbreviations

CCNGO EFA: Collective Consultation of (UNESCO associated) NGOs on Education For All

CEDAW: Committee on the Elimination of Discrimination Against Women.

CERD: Convention to Eliminate All Forms of Racial Discrimination.

CESCR: Committee on Economic, Social and Cultural Rights (also ECOSOC).

CR: UNESCO Committee on Conventions and Recommendations, entrusted by UNESCO Executive Board with considering all questions relating to the implementation of UNESCO's standard setting instruments: recommendations and international conventions.

CRC: Committee for the Rights of the Child.

ECOSOC: Committee on Economic, Social and Cultural Rights (CESCR).

EDI: Education For All Development Index. The EDI value for a given country is the arithmetic mean of indicators measuring each of its components:  $EDI = 1/4$  (primary ANER),  $+ 1/4$  (adult literacy rate),  $+ 1/4$  (GEI-GPI),  $+ 1/4$  (survival rate to grade 5), The EDI falls between 0 and 1, with 1 representing full achievement of Education for All across the four goals.

EFA: Education For All, Millennium Goal. EFA has 6 sub goals: provision of early childhood care and education, universal primary education, meeting youth and adult learning needs, improving levels of adult literacy, achieving gender parity and equality in education and raising the quality of education.

EFA-SC: Education for All Steering Committee. The EFA-SC consists of 18 members. The membership of the EFA-SC has one Member State representative from each UNESCO regional electoral group, designated by their respective regions on a biennial rotational basis (six members); one representative from the E9 initiative on a rotational basis (one member); one representative from each EFA convening agency, the GPE and OECD as permanent members (seven members); two representatives from civil society, designated through the CCNGO/EFA on biennial rotational basis (two members); one representative from the private sector, on biennial rotational basis (one member); one representative from Education International as a permanent member, representing teachers (one member). The EFA-SC will discuss the political and strategic orientation and activities of the EFA movement, and make suggestions to facilitate urgent actions to meet the six EFA goals, in particular mobilizing stronger political and financial commitment at the country, regional and global levels.

GEI: Gender-specific EFA Index. See GPI.

GPI: The Gender Parity Index of Education for All goals is measured by looking at the primary and secondary gross enrolment ratio. Owing to the lack of cross-country comparable measures of gender disparities in learning outcomes, which are an aspect of gender equality, the GEI uses the GPI of the adult literacy rate as a proxy indicator. The GPI, when expressed as the ratio of female to male enrolment ratio or literacy rate, can exceed unity when more girls/women than boys/men are enrolled or literate. For the purposes of the GEI, the standard F/M formula is inverted to M/F in cases where the

GPI is higher than 1. This solves mathematically the problem of including the GEI in the EDI (where all components have a theoretical limit of 1, or 100%) while maintaining the GEI's ability to show gender disparity.

GEM: Global Education For All Meeting. The main purpose of the GEM is to critically assess progress towards EFA based on the EFA Global Monitoring Report and regional and national reports, and to agree on tangible actions for follow-up. The outcomes of the GEM will guide the agenda of the HLF. The GEM is expected to draw participants representing UNESCO's Member States, EFA convening agencies, bilateral agencies, United Nations and regional organizations, civil society organizations (CSOs), the private sector, research institutes and foundations.

HLF: Education For All High-Level Forum. To mobilize high-level political support for EFA beyond the education community, an EFA High-Level Forum (HLF) will be held annually. It will correspond to the original vision of this event as stated in the Dakar Framework for Action, i.e. "a high-level, small and flexible group" which will serve as "a lever for political commitment and technical and financial resource mobilization". A few world leaders and champions of education will be invited to the Forum. Convened by the Director-General of UNESCO in conjunction with a major Heads of State or Government meeting such as the United Nations General Assembly, the HLF will thus contribute to raising the profile of education on the international development agenda.

GMR: Global Monitoring Report on Education for All. Annual report drafted by UNESCO which evaluates the progress towards the Education For All goals. The global report is based on local reports drafted by the regional UNESCO bureaus.

GPE: Global Partnership for Education.

MDG2: Millennium Goal 2: achieve universal primary education.

MDG3: Millennium Goal 3: promote gender quality and empower women

TVET: Technical and Vocational Education and Training

UDHR: Universal Declaration of Human Rights

## 2. Suggested further reading

Dankmeijer, Peter (editor) (2011). *GALE Toolkit Working with Schools 1.0. Tools for school consultants, principals, teachers, students and parents to integrate adequate attention of lesbian, gay, bisexual and transgender topics in curricula and school policies*. Amsterdam: GALE The Global Alliance for LGBT Education. Downloaded from [www.lgbt-education.info](http://www.lgbt-education.info).

Sears, James (ed) (2005). *Youth , education and sexualities: an international encyclopedia* Westport: Greenwood Press

UNESCO (2012). *Educational Sector Responses to Homophobic Bullying*. Good Policy and Practice in HIV and Health Education, Booklet 8. Paris: UNESCO

## 4. Right to Education texts

### *4.1 Universal Declaration of Human Rights, Article 26, Right to Education*

“Everyone has the Right to Education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

Parents have a prior right to choose the kind of education that shall be given to their children.”

#### ***4.2. Convention against Discrimination in Education***

Adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization on 14 December 1960

Entry into force: 22 May 1962, in accordance with article 14

The General Conference of the United Nations Educational, Scientific and Cultural Organization , meeting in Paris from 14 November to 15 December 1960, at its eleventh session,

- Recalling that the Universal Declaration of Human Rights asserts the principle of non-discrimination and proclaims that every person has the Right to Education,
- Considering that discrimination in education is a violation of rights enunciated in that Declaration,
- Considering that, under the terms of its Constitution, the United Nations Educational, Scientific and Cultural Organization has the purpose of instituting collaboration among the nations with a view to furthering for all universal respect for human rights and equality of educational opportunity,
- Recognizing that, consequently, the United Nations Educational, Scientific and Cultural Organization, while respecting the diversity of national educational systems, has the duty not only to proscribe any form of discrimination in education but also to promote equality of opportunity and treatment for all in education,
- Having before it proposals concerning the different aspects of discrimination in education, constituting item 17.1.4 of the agenda of the session,
- Having decided at its tenth session that this question should be made the subject of an international convention as well as of recommendations to Member States,

Adopts this Convention on the fourteenth day of December 1960.

#### **Article 1**

1. For the purpose of this Convention, the term "discrimination" includes any distinction, exclusion, limitation or preference which, being based on race, colour, sex, language, religion, political or other opinion, national or social origin, economic condition or birth, has the purpose or effect of nullifying or impairing equality of treatment in education and in particular:

- ( a ) Of depriving any person or group of persons of access to education of any type or at any level;
- ( b ) Of limiting any person or group of persons to education of an inferior standard;
- ( c ) Subject to the provisions of article 2 of this Convention, of establishing or maintaining separate educational systems or institutions for persons or groups of persons; or
- ( d ) Of inflicting on any person or group of persons conditions which are incompatible with the dignity of man.

2. For the purposes of this Convention, the term "education" refers to all types and levels of education, and includes access to education, the standard and quality of education, and the conditions under which it is given.

## **Article 2**

When permitted in a State, the following situations shall not be deemed to constitute discrimination, within the meaning of article 1 of this Convention:

- ( a ) The establishment or maintenance of separate educational systems or institutions for pupils of the two sexes, if these systems or institutions offer equivalent access to education, provide a teaching staff with qualifications of the same standard as well as school premises and equipment of the same quality, and afford the opportunity to take the same or equivalent courses of study;
- ( b ) The establishment or maintenance, for religious or linguistic reasons, of separate educational systems or institutions offering an education which is in keeping with the wishes of the pupil's parents or legal guardians, if participation in such systems or attendance at such institutions is optional and if the education provided conforms to such standards as may be laid down or approved by the competent authorities, in particular for education of the same level;
- ( c ) The establishment or maintenance of private educational institutions, if the object of the institutions is not to secure the exclusion of any group but to provide educational facilities in addition to those provided by the public authorities, if the institutions are conducted in accordance with that object, and if the education provided conforms with such standards as may be laid down or approved by the competent authorities, in particular for education of the same level.

## **Article 3**

In order to eliminate and prevent discrimination within the meaning of this Convention, the States Parties thereto undertake:

- ( a ) To abrogate any statutory provisions and any administrative instructions and to discontinue any administrative practices which involve discrimination in education;
- ( b ) To ensure, by legislation where necessary, that there is no discrimination in the admission of pupils to educational institutions;
- ( c ) Not to allow any differences of treatment by the public authorities between nationals, except on the basis of merit or need, in the matter of school fees and the grant of scholarships or other forms of assistance to pupils and necessary permits and facilities for the pursuit of studies in foreign countries;
- ( d ) Not to allow, in any form of assistance granted by the public authorities to educational institutions, any restrictions or preference based solely on the ground that pupils belong to a particular group;
- ( e ) To give foreign nationals resident within their territory the same access to education as that given to their own nationals.

## **Article 4**

The States Parties to this Convention undertake furthermore to formulate, develop and apply a national policy which, by methods appropriate to the circumstances and to national usage, will tend to promote equality of opportunity and of treatment in the matter of education and in particular:

- ( a ) To make primary education free and compulsory; make secondary education in its different forms generally available and accessible to all; make higher education equally accessible to all on the basis of individual capacity; assure compliance by all with the obligation to attend school prescribed by law;
- ( b ) To ensure that the standards of education are equivalent in all public education institutions of the same level, and that the conditions relating to the quality of education provided are also equivalent;
- ( c ) To encourage and intensify by appropriate methods the education of persons who have not received any primary education or who have not completed the entire primary education course and the continuation of their education on the basis of individual capacity;
- ( d ) To provide training for the teaching profession without discrimination.

## **Article 5**

1. The States Parties to this Convention agree that:

- ( a ) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms; it shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace;
- ( b ) It is essential to respect the liberty of parents and, where applicable, of legal guardians, firstly to choose for their children institutions other than those maintained by the public authorities but conforming to such minimum educational standards as may be laid down or approved by the competent authorities and, secondly, to ensure in a manner consistent with the procedures followed in the State for the application of its legislation, the religious and moral education of the children in conformity with their own convictions; and no person or group of persons should be compelled to receive religious instruction inconsistent with his or their conviction;
- ( c ) It is essential to recognize the right of members of national minorities to carry on their own educational activities, including the maintenance of schools and, depending on the educational policy of each State, the use or the teaching of their own language, provided however:
  - (i) That this right is not exercised in a manner which prevents the members of these minorities from understanding the culture and language of the community as a whole and from participating in its activities, or which prejudices national sovereignty;
  - (ii) That the standard of education is not lower than the general standard laid down or approved by the competent authorities; and
  - (iii) That attendance at such schools is optional.

2. The States Parties to this Convention undertake to take all necessary measures to ensure the application of the principles enunciated in paragraph 1 of this article.

#### **Article 6**

In the application of this Convention, the States Parties to it undertake to pay the greatest attention to any recommendations hereafter adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization defining the measures to be taken against the different forms of discrimination in education and for the purpose of ensuring equality of opportunity and treatment in education.

#### **Article 7**

The States Parties to this Convention shall in their periodic reports submitted to the General Conference of the United Nations Educational, Scientific and Cultural Organization on dates and in a manner to be determined by it, give information on the legislative and administrative provisions which they have adopted and other action which they have taken for the application of this Convention, including that taken for the formulation and the development of the national policy defined in article 4 as well as the results achieved and the obstacles encountered in the application of that policy.

#### **Article 8**

Any dispute which may arise between any two or more States Parties to this Convention concerning the interpretation or application of this Convention which is not settled by negotiations shall at the request of the parties to the dispute be referred, failing other means of settling the dispute, to the International Court of Justice for decision.

#### **Article 9**

Reservations to this Convention shall not be permitted.

#### **Article 10**

This Convention shall not have the effect of diminishing the rights which individuals or groups may enjoy by virtue of agreements concluded between two or more States, where such rights are not contrary to the letter or spirit of this Convention.

#### **Article 11**

This Convention is drawn up in English, French, Russian and Spanish, the four texts being equally authoritative.

#### **Article 12**

1. This Convention shall be subject to ratification or acceptance by States Members of the United Nations Educational, Scientific and Cultural Organization in accordance with their respective constitutional procedures.

2. The instruments of ratification or acceptance shall be deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

### **Article 13**

1. This Convention shall be open to accession by all States not Members of the United Nations Educational, Scientific and Cultural Organization which are invited to do so by the Executive Board of the Organization.

2. Accession shall be effected by the deposit of an instrument of accession with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

### **Article 14**

This Convention shall enter into force three months after the date of the deposit of the third instrument of ratification, acceptance or accession, but only with respect to those States which have deposited their respective instruments on or before that date. It shall enter into force with respect to any other State three months after the deposit of its instrument of ratification, acceptance or accession.

### **Article 15**

The States Parties to this Convention recognize that the Convention is applicable not only to their metropolitan territory but also to all non-self-governing, trust, colonial and other territories for the international relations of which they are responsible; they undertake to consult, if necessary, the governments or other competent authorities of these territories on or before ratification, acceptance or accession with a view to securing the application of the Convention to those territories, and to notify the Director-General of the United Nations Educational, Scientific and Cultural Organization of the territories to which it is accordingly applied, the notification to take effect three months after the date of its receipt.

### **Article 16**

1. Each State Party to this Convention may denounce the Convention on its own behalf or on behalf of any territory for whose international relations it is responsible.
2. The denunciation shall be notified by an instrument in writing, deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization.
3. The denunciation shall take effect twelve months after the receipt of the instrument of denunciation.

### **Article 17**

The Director-General of the United Nations Educational, Scientific and Cultural Organization shall inform the States Members of the Organization, the States not members of the Organization which are referred to in article 13, as well as the United Nations, of the deposit of all the instruments of

ratification, acceptance and accession provided for in articles 12 and 13, and of notifications and denunciations provided for in articles 15 and 16 respectively.

#### **Article 18**

1. This Convention may be revised by the General Conference of the United Nations Educational, Scientific and Cultural Organization. Any such revision shall, however, bind only the States which shall become Parties to the revising convention.

2. If the General Conference should adopt a new convention revising this Convention in whole or in part, then, unless the new convention otherwise provides, this Convention shall cease to be open to ratification, acceptance or accession as from the date on which the new revising convention enters into force.

#### **Article 19**

In conformity with Article 102 of the Charter of the United Nations, this Convention shall be registered with the Secretariat of the United Nations at the request of the Director-General of the United Nations Educational, Scientific and Cultural Organization.

Done in Paris, this fifteenth day of December 1960, in two authentic copies bearing the signatures of the President of the eleventh session of the General Conference and of the Director-General of the United Nations Educational, Scientific and Cultural Organization, which shall be deposited in the archives of the United Nations Educational, Scientific and Cultural Organization, and certified true copies of which shall be delivered to all the States referred to in articles 12 and 13 as well as to the United Nations.

The foregoing is the authentic text of the Convention duly adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization during its eleventh session, which was held in Paris and declared closed the fifteenth day of December 1960.

In faith whereof we have appended our signatures this fifteenth day of December 1960.

### ***4.3 International Covenant on Economic, Social and Cultural Rights (ICESCR) Articles 13 and 14***

This Covenant is the most wide ranging and comprehensive article on the Right to Education in international human rights law. Education is seen both as a human right in itself and as "an indispensable means of realizing other human rights."

#### **Article 13**

1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:

- (a) Primary education shall be compulsory and available free to all;
- (b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;
- (c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;
- (d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;
- (e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.

3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.

4. No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

**Article 14**

Each State Party to the present Covenant which, at the time of becoming a Party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.

<http://www2.ohchr.org/english/law/cescr.htm>

#### ***4.4 Convention on the Rights of the Child (CRC), Articles 28 to 32***

This Covenant affirms all appropriate measures to ensure that the child is protected against all forms of discrimination with a view to achieving this right progressively and on the basis of equal opportunity.

##### **Article 28**

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:
  - (a) Make primary education compulsory and available free to all;
  - (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
  - (c) Make higher education accessible to all on the basis of capacity by every appropriate means;
  - (d) Make educational and vocational information and guidance available and accessible to all children;
  - (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.
2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.
3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

##### **Article 29**

1. States Parties agree that the education of the child shall be directed to:
  - (a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;
  - (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;
  - (c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;
  - (d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;
  - (e) The development of respect for the natural environment.
2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

**Article 30**

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

**Article 31**

1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.
2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

<http://www2.ohchr.org/english/law/crc.htm>

#### ***4.5 Summary of the 2010 Report of the Special Rapporteur on Education Vernor Muñoz***

Including some notes on the discussion in the Human Right Council and the conclusion.

##### **From the report**

The present report is submitted pursuant to Human Rights Council resolution 8/4, which renewed the mandate of the Special Rapporteur on the Right to Education and asked him to present a report to the General Assembly. In his report, the Special Rapporteur will focus on the human right to comprehensive sexual education, an issue that has been a source of interest and concern since the beginning of his mandate.

The Special Rapporteur introduces the topic of the right to sexual education, placing it in the context of patriarchy and control of sexuality. He explains the interdependence of sexuality, health and education and the relationship of this right to other rights from a gender and diversity perspective. The Special Rapporteur also introduces the right to sexual education in the context of international human rights law and analyses international and regional standards. He then addresses the situation of the right to sexual education, taking State responsibility into account and analysing regional and national trends, differing perspectives and the key role of the family and the community. The Special Rapporteur concludes his report by reiterating the necessity and the relevance of the right to comprehensive sexual education and presenting specific recommendations for States and the international community.

11. Enjoyment of the highest attainable standard of physical and mental health obviously includes sexual health. The Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Mr. Paul Hunt, has defined sexual health as “a state of physical, emotional, mental and social well-being related to sexuality, not merely the absence of disease, dysfunction or infirmity; sexual health requires a positive and respectful approach to sexuality and sexual relationships, as well as the possibility of having pleasurable and safe sexual experiences, free of coercion, discrimination and violence”.

12. In order to achieve this state of well-being, we must be able to look after our health, deal positively, responsibly and respectfully with our sexuality and must therefore be aware of our needs and rights. This is possible only if we receive comprehensive sexual education from the outset of our schooling and throughout the educational process. To this end, school should foster pupils’ critical thinking about the various expressions of human sexuality and interpersonal relations, without reducing the topic to a biological approach (reproduction).

21. In order for sexual education to be comprehensive and to meet its goals, it must have a solid gender perspective. Many studies have shown that young people who believe in gender equality have

better sexual lives. Conversely, when this is not the case, their intimate relations are generally marked by inequality. Sexual education should therefore focus on gender norms, roles and relationships.

23. In order to be comprehensive, sexual education must pay special attention to diversity, since everyone has the right to deal with his or her own sexuality without being discriminated against on grounds of sexual orientation or gender identity. Sexual education is a basic tool for ending discrimination against persons of diverse sexual orientations. A very important contribution to thinking in this area was made by the 2006 Yogyakarta Principles on the application of international human rights law in relation to sexual orientation and gender identity. The Special Rapporteur fully endorses the precepts of Principle 16, referring specifically to the Right to Education.

63. Sexual education must be free of prejudices and stereotypes that could be used to justify discrimination and violence against any group; it must therefore include a gender perspective that encourages people to think critically about the world around them. Both the hidden curriculum and the omitted curriculum currently play a central role in perpetuating among children the inequalities associated with patriarchal models and drastically reduce children's potential for full development.<sup>60</sup> Sexual education should encourage a rethinking of the stereotypical roles assigned to men and women so that real equality can be achieved.

67. The importance of the sexual diversity approach, which is linked to the gender perspective, should be emphasized. Regrettably, few sexual education programmes and curricula include this approach. The aforementioned Yogyakarta Principles are a fundamental tool for inclusion of the diversity perspective in the public policies that have to be taken into account in education.

## **Recommendations**

(a) Eliminate legislative and constitutional barriers to ensuring their people's enjoyment of the right to comprehensive sexual education by adopting and strengthening legislation aimed at guaranteeing that right without any form of discrimination;

(b) Encourage the design and implementation of comprehensive, sustainable public policies aimed specifically at ensuring their people's enjoyment of the human right to comprehensive sexual education. These policies should focus on rights, gender and respect for diversity; provide for coordination among agencies and with civil society; and provide the resources necessary to their implementation;

(c) Ensure the inclusion of comprehensive sexual education from primary school onwards, taking into account secondary school enrolment rates, the age of first intercourse and other variables in a context

of respect and adaptability based on the age of students and the capacities associated with their levels of emotional and cognitive development;

(d) In establishing the curriculum and the educational content of sexual education, provide for the inclusion and expansion of a holistic perspective that does not focus exclusively on biology and ensure that, inter alia, the gender dimension, human rights, new patterns of male behaviour, diversity and disability are included;

(e) Provide high-quality, specialized teacher training in an institutional environment that supports teachers and increases their confidence through a curriculum framework of medium- and long-term projects;

(and more..)

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N10/462/13/PDF/N1046213.pdf?OpenElement>

### **Comments on the report**

KISHORE SINGH, Special Rapporteur on the Right to Education, began his first appearance before the Committee, since he took up his mandate, by presenting the last report of his predecessor, VERNOR MUÑOZ, which addressed the issue of sex and reproductive health education. The obligation to ensure such education was related to the right to the highest attainable standard of physical and mental health, according to the report. It directly contributed to the advancement of women. The Committee on the Rights of the Child had urged States to integrate sexual education into school curricula. The Committee on Economic, Social and Cultural Rights, in its general comment No. 14, had interpreted the right to health as including access to education and information on sexual and reproductive health, while the Committee on the Elimination of Discrimination against Women had called on States to make sex education compulsory and systematic in schools, as a means to address high abortion, adolescent pregnancies and maternal mortality rates.

The importance of sex and reproductive health education had been stressed in public health studies, he said. Such education was important to prevent HIV/AIDS and other sexually transmitted diseases, especially for particularly vulnerable persons, such as women and girls exposed to gender-based violence. “Sex education is a sensitive matter for all societies,” but in his final report, Mr. Muñoz had noted a “worrying lack of sustainable and comprehensive strategies” to ensure the adequate inclusion of sex education in educational and health policies. Without access to accurate information, many people were exposed to abuse or risky practices with potential consequences to their physical and physiological well-being. The long list of recommendations made by the former Special Rapporteur and his call for reflection on the issue provided a point of reference for discussions.

Looking forward to his own term in the mandate, Mr. Singh said that no one questioned that education was a human right, or that education played a central role in human development. “Yet we are confronted with major challenges,” he said. It had been estimated that more than 70 million children, most of them girls, were out of school today, and for those who did go to school, the quality of education was a serious concern across regions. Why such a gap between commitments and reality, and what steps could be taken to ensure more sustainable progress? Those were questions that the mandate had been called upon to address since it was established in 1998.

Setting out his aspirations for his term in the mandate, Mr. Singh stated that equality and non-discrimination were core principles that called for special attention; to that end, he would seek to develop a clearer understanding on how human rights instruments could help eliminate discrimination and ensure equal opportunity. He would also focus on norms for quality education, in public and private schools, notably in improving conditions for teachers, and explore “innovative forms of financing education”. He looked forward to tackling several other issues, including violence against teachers and students; the freedom of individuals, entities and communities to set up and run their own educational institutions; and education in the context of emergencies.

### Question and Answer Session

The discussion session began with a statement by the delegation of Malawi, on behalf of the African Group, that rejected the last report filed by Vernor Muñoz, the previous Special Rapporteur for the Right to Education, saying that it not only reflected an attempt to introduce controversial notions, but also indicated that he had flouted the Code of Conduct for Special Procedures Mandate-Holders. In accordance with the decision of the African Union Assembly, the group strongly rejected any attempt to undermine the international human rights system by seeking to impose concepts or notions pertaining to social matters, including private individual conduct, which fell outside the internationally agreed human rights legal framework.

Stating that “it is common knowledge that there is no universal agreement on the notions of sexual orientation, sexuality or sexual education and gender identity under existing internationally agreed human rights instruments,” the Group expressed its concern about the “expanded interpretation by the mandate holder of his mandate”. The mandate of the special procedure did not include the right to declare a new human right, as the Special Rapporteur’s report attempted to do, according to the Group. Even if the mandate-holder thought it would be beneficial to expand his mandate, he should have made a request to the Human Rights Council.

Further, the Group expressed its dismay at the approach adopted by the previous Special Rapporteur to selectively quote general comments and country specific recommendations by treaty bodies to

justify his personal point of view, and his failure to seek to establish the veracity of the information reflected in his report. Noting their hope that the report of the previous Special Rapporteur would have focused on the core issues that created his mandate in the first place, the African Group said it was disturbed that Mr. Muñoz had propagated for the controversial “Yogyakarta Principles,” knowing he personally advocated for such principles in his private statements, and that he had not exercised his functions in strict observance of his mandate with regard to his report.

The representative of Trinidad and Tobago, on behalf of the Caribbean Community (CARICOM), noted with deep concern that the former Special Rapporteur had chosen to ignore the specific mandate given to him by Member States and to selectively focus his entire deliberations on a so-called “human right to comprehensive sexual education”. According to CARICOM’s understanding, a right to sexual education, a right to comprehensive sexual education or a right to sexuality education does not exist in any internationally agreed human rights instrument, nor indeed under international law. “We therefore wish to put on record our strong disapproval of this attempt by the Special Rapporteur to create a new right within the universally established Right to Education, far exceeding his mandate,” she said.

Noting that CARICOM recognized the need for sexual education, the group took umbrage at the license taken by the former Special Rapporteur in indulging his personal interests at the expense of Member States. CARICOM was also gravely concerned by the former Special Rapporteur’s attempts to undermine the following universally accepted rights: the right of parents to determine the quality of education and to provide appropriate direction and guidance to the child in the exercise of his rights under the Convention on the Rights of the Child; the right of Member States to educate their citizens in a manner consistent with their own cultures; and the right of everyone to freedom of thought, conscience and religion. Noting that the former Special Rapporteur had deprived the Member States of important information necessary for accelerating the achievement of agreed upon goals, CARICOM stated that it would appreciate it if a new report was produced that was consistent with the mandate set by the Human Rights Council.

The representative of Mauritania, on behalf of the African Group, said the former Special Rapporteur had overstepped his mandate and introduced erroneous perceptions that would be to the detriment of children. Education had to take into account the cultural and religious realities of each State. His counterpart from Morocco, on behalf of the Organization of the Islamic Conference (OIC), said OIC member States also could not accept the report, which fell beyond the scope of any special procedure and contained “controversial notions that do not enjoy universal recognition”.

The representative of the Russian Federation said the “unacceptable” report had promoted “confrontational, disputatious concepts” including an alleged right to sex education. The representative of the United States said there was no internationally recognized human right to sex

education. The representative of South Africa, where HIV/AIDS and sex education were taught, said health was an issue that fell outside Mr. Muñoz's mandate. The representative of Canada, the European Union and Costa Rica, among several others, spoke in defence of the independence of mandate-holders, as well as the importance of sex education.

Mr. SINGH agreed that open discussion was needed, with regard to issues such as the respect for human rights, sex education and empowerment of women. He noted that the comments of the delegates would be communicated to the author of the report, so that he could better clarify anything in that respect. Responding to the queries and questions that directly addressed him, such as the priorities of his work plan, he said that the centrality of education in the Millennium Development Goals was key and that education for all was the core of his mandate. Of vital importance was how to give a higher profile to the Right to Education and how to give new dynamism and new strength to accelerate progress towards that goal.

<http://www.un.org/News/Press/docs/2010/gashc3987.doc.htm>

#### 4.6 Yogyakarta Principles, Article 16 Right to Education

The following text is from the Yogyakarta Principles. These “principles” were drafted by a group of international experts. They give an overview of existing legal principles, recommendations and guidelines concerning sexual orientation and gender identity. The principles are an overview but have no legal binding force in themselves. Governments and authorities are asked to adhere to the Yogyakarta Principles. As such, it is a pressure instrument.

The participants of the international meeting included a former high commissioner for human rights, independent UN experts, members of human right organizations and NGOs, judges, academicians and human right activists.

Article 16, which refers to education, has 8 subparagraphs. They refer to:

1. equal access and equal treatment
2. the needs of students of all sexual orientations and gender identities
3. support for the development of **LGBT** students
4. education about respect for diverse sexual orientations and gender identities
5. protection for students, staff and teachers against social exclusion and violence
6. care against marginalization or segregation of victims of exclusion
7. ensuring that discipline is administered without discrimination
8. ensuring that everyone has access to lifelong learning

*Excerpts from the original text:*

##### **No Exceptions**

*Human rights are universal, without exception. Nevertheless, men, women and persons whose sexual orientation does not reflect the dominating (heterosexual) standards frequently are victims of rape, torment, assassination, violence and other degrading treatment, particularly on the basis of their sexual orientation or gender identity.* “The Yogyakarta Principles underline that human rights should not have any exceptions”, said researcher Maria Onufer Corrêa from Brazil, co-president of the congress.

##### **Right to Education**

The Yogyakarta Principles cover a broad spectrum of human rights and are a response to extrajudicial executions, rejection of the rights to meet and free expression of opinion and discrimination at work, at training and in education, in health care and jurisdiction and at immigration.

Article 16, which refers to education, has 8 subparagraphs. The full Yogyakarta Principles can be found on <http://yogyakartaprinciples.org/>.

This is the text of article 16:

*Everyone has the Right to Education, without discrimination on the basis of, and taking into account,*

*their sexual orientation and gender identity.*

*States shall:*

*A. Take all necessary legislative, administrative and other measures to ensure equal access to education, and equal treatment of students, staff and teachers within the education system, without discrimination on the basis of sexual orientation or gender identity;*

*B. Ensure that education is directed to the development of each student's personality, talents, and mental and physical abilities to their fullest potential, and responds to the needs of students of all sexual orientations and gender identities;*

*C. Ensure that education is directed to the development of respect for human rights, and of respect for each child's parents and family members, cultural identity, language and values, in a spirit of understanding, peace, tolerance and equality, taking into account and respecting diverse sexual orientations and gender identities;*

*D. Ensure that education methods, curricula and resources serve to enhance understanding of and respect for, inter alia, diverse sexual orientations and gender identities, including the particular needs of students, their parents and family members related to these grounds;*

*E. Ensure that laws and policies provide adequate protection for students, staff and teachers of different sexual orientations and gender identities against all forms of social exclusion and violence within the school environment, including bullying and harassment;*

*F. Ensure that students subjected to such exclusion or violence are not marginalised or segregated for reasons of protection, and that their best interests are identified and respected in a participatory manner;*

*G. Take all necessary legislative, administrative and other measures to ensure that discipline in educational institutions is administered in a manner consistent with human dignity, without discrimination or penalty on the basis of a student's sexual orientation or gender identity, or the expression thereof;*

*H. Ensure that everyone has access to opportunities and resources for lifelong learning without discrimination on the basis of sexual orientation or gender identity, including adults who have already suffered such forms of discrimination in the educational system.*

#### ***4.7 Convention on the Elimination of All Forms of Racial Discrimination***

The following text is from the Convention on the Elimination of All Forms of Racial Discrimination.

The States Parties to this Convention,

Considering that the Charter of the United Nations is based on the principles of the dignity and equality inherent in all human beings, and that all Member States have pledged themselves to take joint and separate action, in co-operation with the Organization, for the achievement of one of the purposes of the United Nations which is to promote and encourage universal respect for and observance of human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion,

Considering that the Universal Declaration of Human Rights proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out therein, without distinction of any kind, in particular as to race, colour or national origin,

Considering that all human beings are equal before the law and are entitled to equal protection of the law against any discrimination and against any incitement to discrimination,

...

Have agreed as follows:

##### **Article 1**

1. In this Convention, the term "racial discrimination" shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.
2. This Convention shall not apply to distinctions, exclusions, restrictions or preferences made by a State Party to this Convention between citizens and non-citizens.
3. Nothing in this Convention may be interpreted as affecting in any way the legal provisions of States Parties concerning nationality, citizenship or naturalization, provided that such provisions do not discriminate against any particular nationality.
4. Special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved.

##### **Article 2**

1. States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, to this end:

- (a) Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation;
  - (b) Each State Party undertakes not to sponsor, defend or support racial discrimination by any persons or organizations;
  - (c) Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists;
  - (d) Each State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization;
  - (e) Each State Party undertakes to encourage, where appropriate, integrationist multiracial organizations and movements and other means of eliminating barriers between races, and to discourage anything which tends to strengthen racial division.
2. States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved.

### **Article 3**

States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction.

### **Article 4**

States Parties condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination and, to this end, with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of this Convention, inter alia:

- (a) Shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof;
- (b) Shall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law;

(c) Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.

**Sources:**

Formal document: <http://www2.ohchr.org/english/law/cerd.htm>

Wikipedia:

[http://en.wikipedia.org/wiki/Convention\\_on\\_the\\_Elimination\\_of\\_All\\_Forms\\_of\\_Racial\\_Discrimination](http://en.wikipedia.org/wiki/Convention_on_the_Elimination_of_All_Forms_of_Racial_Discrimination)

#### ***4.8 Convention on the Elimination of All Forms of Discrimination against Women, 1979***

##### **Article 1**

For the purposes of the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

##### **Article 2**

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

- (a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;
- (b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;
- (c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;
- (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;
- (e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;
- (f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;
- (g) To repeal all national penal provisions which constitute discrimination against women.

##### **Article 3**

States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

##### **Article 10**

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

- (a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training;
- (b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;
- (c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;
- (d) The same opportunities to benefit from scholarships and other study grants;
- (e) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;
- (f) The reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely;
- (g) The same Opportunities to participate actively in sports and physical education;
- (h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

<http://www2.ohchr.org/english/law/cedaw.htm>

### **CEDAW and lesbian/bisexual women**

Between 1994 and 2001, CEDAW explicitly referenced sexual orientation in several concluding observations relating to the criminalization of consensual sexual relations among women, anti-discrimination legislative protections, and asylum. But after 2001, CEDAW was silent on this issue and fell behind other treaty bodies in recognizing that non-heteronormative sexual orientation and gender identity were grounds for discrimination and violence. During this silence, other UN treaty bodies and Special Rapporteurs, including the Special Rapporteurs on Violence Against Women talked about sexual orientation in relation to the right to work, the right to highest attainable standard of health, adolescent health and development, anti-discrimination legislative protections, repeal of criminalization of consensual same-sex sexual relations, anti-hate crime protections, being targeted for threats and violence, torture, murder, and rape.

Almost seven years after not responding to human rights abuses against LBT persons, CEDAW lifted the veil of silence at its 42nd session in October/November 2008. In concluding comments on Ecuador, the Committee addressed discrimination against sexual minorities and asked for an investigation by state authorities. In concluding comments on Kyrgyzstan, the Committee expressed concerns about harassment and discrimination against women because of their sexuality, and urged the State to take appropriate measures to ensure that the CEDAW Convention applied to all women without discrimination and to offer protections from harassment and violence by public and private

individuals. In January 2009, in concluding comments on Guatemala the Committee listed sexuality as one of the reasons women faced multiple forms of discrimination, and urged the State to take steps to address this problem.

While this step forward by the Committee is celebrated, inclusion of sexual orientation and gender identity by CEDAW is constantly challenged on the basis of legitimacy, with questions such as: Does the Convention apply to LBT individuals since CEDAW only covers discrimination against women? If all gay people face discrimination, is the discrimination faced by LBT persons greater than or different from the discrimination faced by gay men and if not, is CEDAW the place to bring up LBT concerns? Wouldn't it be more appropriate for LBT issues be taken up by other human rights committees instead of CEDAW?

Grace Poore, IGHLC

<http://www.ighlrc.org/cgi-bin/iowa/article/takeaction/partners/872.html>

#### ***4.9 Quotes from the UNESCO Technical Guidelines on Sexuality Education (2009)***

The following text is from the UNESCO Technical Guidelines on Sexuality Education. These guidelines are called “technical” because they are based on research but they are not agreed on politically. The guidelines are professional suggestions and have no binding force.

The International Technical Guidance on Sexuality Education has been developed by UNESCO together with UNAIDS Cosponsors, particularly UNFPA, WHO and UNICEF as well as the UNAIDS Secretariat, as well as with a number of independent experts and those working in countries across the world to strengthen sexuality education. Based on a rigorous review of evidence on sexuality education programmes, the International Technical Guidance on Sexuality Education is aimed at education and health sector decision-makers and professionals.

#### **Volume I**

Diversity is a fundamental characteristic of sexuality. The rules that govern sexual behaviour differ widely across and within cultures. Certain behaviours are seen as acceptable and desirable while others are considered unacceptable. This does not mean that these behaviours do not occur, or that they should be excluded from discussion within the context of sexuality education.

The International Technical Guidance is predicated on the view that children and young people have a specific need for the information and skills provided through sexuality education that makes a difference to their life chances. The threat to life and their well-being exists in a range of contexts, whether it is in the form of abusive relationships, health risks associated with early unintended pregnancy, exposure to STIs including HIV or stigma and discrimination because of their sexual orientation.

Addressing sensitive issues. (...) Furthermore, some students, now or in the future, will be sexually active with members of their own sex. These are sensitive and challenging issues for those with responsibility for designing and delivering sexuality education, and the needs of those most vulnerable must be taken into particular consideration.

Common concerns about the provision of sexuality education: Sexuality education is against our culture or religion. The International Technical Guidance stresses the need for cultural relevance and local adaptations, through engaging and building support among the custodians of culture in a given community. Key stakeholders, including religious leaders, must be involved in the development of what form sexuality education takes. However, the guidance also stresses the need to change social norms and harmful practices that are not in line with human rights and increase vulnerability and risk, especially for girls and young women.

Key stakeholders: Sexuality education attracts both opposition and support. Should opposition occur, it is by no means insurmountable. Ministries of education play a critical role in building consensus on

the need for sexuality education through consultation and advocacy with key stakeholders, including, for example: Lesbian, gay, bisexual and transgender groups.

In August 2008, health and education ministers from across Latin America and the Caribbean came together in Mexico City to sign a historic declaration affirming a mandate for national school-based sexuality and HIV education throughout the region. The declaration advocates for strengthening comprehensive sexuality education and for making it a core area of instruction in both primary and secondary schools in the region. Main features of the Ministerial Declaration include an understanding that comprehensive sexuality education entails human rights, ethical, biological, emotional, social, cultural and gender aspects; respects diversity of sexual orientations and identities.

The sensitive and sometimes controversial nature of sexuality education makes it important that supportive and inclusive laws and policies are in place, demonstrating that the provision of sexuality education is a matter of institutional policy rather than the personal choice of individuals. Implementing sexuality education within a clear set of relevant school-wide policies or guidelines concerning, for example, sexual and reproductive health, gender equality (including sexual harassment), sexual and gender-based violence, and bullying (including stigma and discrimination on the grounds of sexual orientation and gender identity) has a number of advantages.

A policy framework will:

- Provide an institutional basis for the implementation of sexuality education programmes;
- Anticipate and address sensitivities concerning the implementation of sexuality education programmes;
- Set standards on confidentiality;
- Set standards of appropriate behaviour; and
- Protect and support teachers responsible for delivery of sexuality education and, if appropriate, protect or increase their status within the school and community.

However, in the absence of pre-existing guidance, a policy on sexuality education will clarify and strengthen the school's commitment to: (...) Action in the case of infringement of policy, for example, in the case of breach of confidentiality, stigma and discrimination, sexual harassment or bullying (Par 3.4, p. 11). Safety in the classroom environment should be reinforced by anti-homophobic and anti-gender discrimination policies that are consistent with the curriculum. (Par. 3.4, p. 11).

The sexuality education programmes studied had one big gap in common: none of them appeared to address the behaviours that cause significant HIV infection among adolescents in large parts of the world (i.e. Europe, Latin America and the Caribbean and Asia). Those behaviours are unsafe injecting drug use, unsafe sexual activity in the context of sex work and unprotected (mainly anal) sexual intercourse between men. (Par. 4.10, p. 17)

Volume I: The rationale for sexuality education

<http://unesdoc.unesco.org/images/0018/001832/183281e.pdf>

Volume II: Topics and learning objectives

[http://data.unaids.org/pub/ExternalDocument/2009/20091210\\_international\\_guidance\\_sexuality\\_education\\_vol\\_2\\_en.pdf](http://data.unaids.org/pub/ExternalDocument/2009/20091210_international_guidance_sexuality_education_vol_2_en.pdf)

Overview of all LGBT references in the Guidelines: <http://www.lgbt-education.info/en/articles/references/article?id=197>

#### **4.10 Resolution of the European Council of Ministers (2009) based on Interights vs. Croatia (2007)**

In 2007, the Croatian human rights organization filed a complaint against the Croatian government for implementing a discriminatory sex education curriculum at the European Committee of Social Rights. The Committee partly agreed with the complaint. In 2009, the Council of European Ministers agreed on a resolution in this case. The Croatian government decided to withdraw the discriminatory curriculum. This was the first time in history that successful legal action was taken against a curriculum on the international level. The case shows that the content of the curricula may be a national prerogative, but when curricula contain plain lies, this prerogative can be challenged. The following text is taken from the resolution.

##### **Resolution CM/ResChS(2009)7 - Collective complaint No. 45/2007 by the International Centre for the Legal Protection of Human Rights (INTERIGHTS) against Croatia *(Adopted by the Committee of Ministers on 21 October 2009 at the 1068th meeting of the Ministers' Deputies)***

The Committee of Ministers, taking into consideration the complaint lodged on 12 October 2007 by Interights against Croatia; having regard to the report by the European Committee of Social Rights, which found the situation in Croatia as regards to constitute a violation of Article 11§2 in the light of the non-discrimination clause of the Charter, considers that sexual and reproductive health education must be provided to school children without discrimination on any ground. Children must not be subject to discrimination in accessing such education, which should also not be used as a tool for reinforcing demeaning stereotypes and perpetuating forms of prejudice which contribute to the social exclusion of historically marginalised groups and others that face embedded discrimination and other forms of social disadvantage which has the effect of denying their human dignity.

With respect to the national school curricula, the Committee does not consider that it is its role to assess in fine detail their contents. The Committee considers that the authorities must enjoy a wide margin of discretion in determining the cultural appropriateness of the educational material used in the ordinary Croatian school curriculum. The Committee does not consider that it has been established that the overall content of the ordinary curriculum in general is sufficiently deficient so as to fall short of the substantive requirements imposed by Article 11§2.

However, the Committee does find that certain specific elements of the educational material used in the ordinary curriculum are manifestly biased, discriminatory and demeaning, notably in how persons of non-heterosexual orientation are described and depicted. The conclusion in this respect is based on an examination of specific material contained in the evidence provided by the complainant organisation, in particular the extracts from the mandatory biology course textbook used at secondary school level in which it is stated that:

‘Many individuals are prone to sexual relations with persons of the same sex (homosexuals – men, and lesbians – women). It is believed that parents are to blame because they impede

their children's correct sexual development with their irregularities in family relations. Nowadays it has become evident that homosexual relations are the main culprit for increased spreading of sexually transmitted diseases (e.g. 'AIDS') or 'The disease [AIDS] has spread amongst promiscuous groups of people who often change their sexual partners. Such people are homosexuals because of sexual contacts with numerous partners, drug addicts because of shared use of infected drug injection equipment and prostitutes'."

These statements stigmatise homosexuals and are based upon negative and degrading stereotypes about the sexual behaviour of all homosexuals. Although the government maintains that all curricula are taught in compliance with domestic law as well as international standards, it does not dispute the existence of the above-mentioned statements. The Committee holds that such statements serve to attack human dignity and have no place in sexual and reproductive health education: as such, their inclusion in standard educational materials constitutes a violation of Article 11§2 in the light of the non-discrimination clause of the Preamble to the Charter.

In effect, by officially approving or allowing the use of the textbooks that contain these anti-homosexual statements, the Croatian authorities have failed in their positive obligation to ensure the effective exercise of the right to protection of health by means of non-discriminatory sexual and reproductive health education which does not perpetuate or reinforce social exclusion and the denial of human dignity. As the European Court of Human Rights has stated in the field of the Right to Education, the public authorities have a duty which

"is broad in its extent as it applies not only to the content of education and the manner of its provision but also to the performance of all the 'functions' assumed by the state [...]. In addition to a primarily negative undertaking, it implies some positive obligation on the part of the state (see Case of Folgerø and others v. Norway, judgment of 29 June 2007, § 84).

In the context of the right to protection of health through the provision of sexual and reproductive health education as set out in Article 11§2, this positive obligation extends to ensuring that educational materials do not reinforce demeaning stereotypes and perpetuate forms of prejudice which contribute to the social exclusion, embedded discrimination and denial of human dignity often experienced by historically marginalised groups such as persons of non-heterosexual orientation."

#### *Appendix to Resolution CM/ResChS(2009)7*

Information provided by the Permanent Representative of Croatia during consideration by the Committee of Ministers of the report transmitted by the European Committee of Social Rights concerning Collective complaint No. 45/2007:

We are pleased to inform the Committee of Ministers of the following: The Croatian authorities fully share the Committee's view that statements such as the ones identified in the disputed textbook attack

human dignity and have no place in sexual and reproductive health education. Furthermore, our National Textbook Standard (stipulating various standards and criteria to which a textbook must adhere for being authorised for use) sets out, among other things, clear criteria for eradicating any form of discrimination by promoting gender equality, equality of individuals and social groups and right to diversity. Alongside with legislative reforms, education and training in promoting tolerance, awareness and respect represent one of the most powerful tools in combating all forms of phobia and discrimination and in creating a safe environment. Bearing this in mind, we are pleased to inform the Deputies that the Croatian Ministry of Education has withdrawn the textbook in question (Biology 3: Processes of Life, authors Regula and Slijepčević, published by Školska knjiga) from the list of standard educational material, and from the school year 2009/2010 this textbook is no longer used in the ordinary curriculum.

#### 4.11 UNESCO: Education Sector Responses to Homophobic Bullying

The following text is a summary from the UNESCO publication "Education Sector Responses to Homophobic Bullying". This publication describes the need to fight homophobia in schools. The publication offers suggestions but these have no binding force.

##### Introduction

Homophobic bullying is a global problem. A violation of learners' and teachers' rights, it impedes our collective ability to achieve a quality Education for All. Yet until now, little attention has been paid to addressing its causes and effects. This is in part due to context-specific sensitivities and a lack of recognition and understanding of the problem. This volume of good policies and practices enables teachers, administrators, policy-makers and other education stakeholders to develop concrete actions to make education safer for all.

This volume reflects growing recognition that homophobic bullying in educational institutions is a global problem that affects all learners. It draws on evidence and experience that was presented at the first UN international consultation on homophobic bullying in educational institutions convened by UNESCO in Brazil in December 2011. The consultation brought together representatives from education ministries, UN agencies, NGOs and academia from more than 25 countries around the world. Participants issued a joint statement that called upon governments to provide universal access to a high quality education by eliminating the unacceptable and devastating prevalence of homophobic bullying in educational institutions around the world. This was reinforced by a statement from the UN Secretary-General on Ending Violence and Discrimination Based on Sexual Orientation and Gender Identity, in response to a report prepared by the UN High Commissioner on Human Rights.<sup>9,10</sup> The Secretary-General described homophobic bullying as a *"moral outrage, a grave violation of human rights"* and urged countries to *"take the necessary measures to protect people – all people – from violence and discrimination, including on grounds of sexual orientation and gender identity"*.

##### Context and rationale

Bullying can include teasing, taunting, use of hurtful nicknames, psychological manipulation, physical violence or social exclusion. A bully can operate alone or within a group of peers. Bullying may be direct, such as one child demanding money or possessions from another, or indirect, such as a group of learners spreading rumours about another. Cyber bullying is harassment through e-mail, cell phones, text messages and defamatory websites.

Bullying on the basis of perceived sexual orientation or gender identity is a specific type of bullying and is defined as homophobic bullying. Homophobic bullying does not only affect learners who are gay, lesbian, bisexual, transgender or intersex. In a study in Canada many more learners reported being victims of homophobic bullying than who actually identified as LGBT.

Estimates of the extent of homophobic bullying range from 34% to 90%, depending on the country and the type of bullying. Calling names is often quoted as being prevalent in 40-80% of the schools. In the US, about 28% of gays and lesbians dropped out of school because of homophobic bullying.

The report offers 4 reasons why schools should to address homophobic bullying:

1. The Right to Education: everybody has a right to quality education
2. The education for all millennium goal: LGBT learners should have access to schools and drop-out and lower achievement should be prevented
3. Discrimination and inclusion: discrimination is unacceptable and should be prevented. This means: inclusive school policies, environments, curricula and teacher training
4. Safe schools: schools should be safe sanctuaries and homophobic bullying undermines this principle

### **Taking action**

Tackling homophobic bullying in educational institutions is a difficult issue and what can be done will depend on the country context – including its laws and culture - so the range of options presented reflects this. However, it is important to recognise that even in the most challenging contexts it will be possible to do something.

Effective policies are based on good evidence. In many countries, the absence of a policy framework to tackle homophobic bullying reflects a lack of evidence about the extent of the problem. In such contexts, collection of data using credible research methods is an important first step. In other contexts, lack of a clear policy may reflect lack of political commitment. Addressing sexual diversity and gender identity in schools is often a sensitive topic and there may be strong resistance from politicians, religious leaders and others. Consequently education ministries may be reluctant to tackle the issue of homophobic bullying. Evidence again plays an important role, but action is also required by educators, parents, teachers unions and others with a stake in the education system to mobilize political commitment.

### ***National action***

1. Identify possible allies and use evidence to raise awareness about nature, scale and impact of homophobic bullying
2. Work with education authorities, community and religious leaders and the media to secure support and disseminate clear messages
3. Identify or develop specific national and local policies that could provide a framework for work on homophobic bullying, including policies on confidentiality, discipline, safety, student

welfare, citizenship, comprehensive sexuality education, rights of learners living with HIV, anti-bullying or anti-violence

4. Where generic anti-bullying policies do not exist, identify international and regional policy frameworks that could be used as a starting point for developing policy
5. Review materials and messages in key subjects in teacher training and school curricula and remove any elements that reinforce prejudice and stereotypes
6. Identify where sexual diversity and gender identity and the issue of homophobic bullying can be integrated into the teacher training and school curriculum.
7. Base the curriculum on a human rights-based approach
8. Provide pre and in-service training on skills to address bullying in general, and if the context permits it, homophobic bullying
9. Collect evidence about effective interventions, including school-wide interventions and specific interventions both with those who are subjected to bullying and those who perpetrate it
10. Identify potential partners that could support implementation of interventions, including pilot projects in schools, such as civil society organizations including teachers unions

### ***School action***

1. Collect evidence about the extent of the problem and impact of homophobic bullying. For example, staff and learners can keep a record of all incidents of homophobic bullying or teasing, staff can monitor student absence and parents can be sensitized to recognize the signs of bullying
2. Raise awareness of education authorities, school principals, teachers, parents and communities about the problem and promote support for an inclusive antibullying policy
3. In context constrained environments develop a generic anti-bullying policy based on rights, including the Right to Education for All

4. Identify strengths and opportunities that exist in the school to tackle bullying and consult staff, learners and parents about the values they wish to promote and to establish clear rules and responsibilities
5. Take a strong stand on the unacceptability of homophobic bullying and language by learners and staff. In countries where homosexuality is illegal or a sensitive issue, the emphasis should be placed on the unacceptability of gender-based bullying and language
6. Provide training for staff to ensure they are aware of homophobic bullying, know how to act and step in when bullying occurs. In countries where homosexuality is illegal or a sensitive issue, the training should be on violence prevention and gender-based bullying and language
7. Establish confidential mechanisms for reporting and responding to incidents of bullying, and provide support for learners who are bullied as well as for bullies and bystanders
8. Identify unsafe areas and consider how the school can be made safer outside the classroom
9. Establish school counseling or mentoring services
10. Use the expertise of NGOs. Establish referral mechanisms to these groups, and develop joint activities for implementation in the educational institution

The full publication: [http://www.lgbt-education.info/doc/unesco/UNESCO\\_Homophobic\\_bullying\\_2012.pdf](http://www.lgbt-education.info/doc/unesco/UNESCO_Homophobic_bullying_2012.pdf)

#### ***4.12 Council of Europe: Education Recommendations***

The following text is from the Council of Europe report , "Discrimination on grounds of sexual orientation and gender identity in Europe" 2011

##### **Chapter Education**

According to studies carried out across member states and supported by some government research, LGBT students suffer from bullying from both peers and teachers. Some national human rights structures and NGOs have found that the management and staff of schools do too little to address bullying. In some other member states, such as in Ireland, a joint campaign of NGOs and the equality body have been set up, resulting in posters to all secondary schools with the message "Homophobic bullying is not acceptable in our schools". However, even when anti-bullying policies are in place, they may provide inadequate protection or be insufficiently implemented. Teachers who are gay, lesbian, bisexual or transgender can also suffer discrimination and harassment from their colleagues, students or their employer as such. In Romania the Ministries of Education and Health jointly introduced psychological testing for teachers in 2003 and forbade gay and lesbian persons to teach. In some member states, discussions have taken place regarding the equal treatment laws in these countries and the extent to which schools based on religion or belief may or may not be able to lawfully refuse to employ a gay or lesbian teacher (Netherlands) or limit educational awareness-raising activities on LGBT issues (Lithuania). Cases against discrimination in education on grounds of sexual orientation or gender identity have been brought to national courts or equality bodies in Bulgaria, Croatia, Romania, Russia, Turkey, Greece, Italy and Sweden. The negative consequences of bullying may be enormous. NGOs and studies in several member states point to the negative impact that bullying has on the school performance and well-being of LGBT students generally. Lesbian, gay, bisexual or transgender adolescents may not seek support from their families and/or community because they have not yet "come out" with their sexual orientation or gender identity, or because they had previously been rejected for doing so. Several studies show that a homophobic or transphobic environment at school may lead to higher drop-out rates of LGBT young persons from secondary school. These young people are also more likely to contemplate self-harm and engage in high-risk behaviour. Stress and social isolation are most acute for young people who become aware of their homosexuality during their years at school. Homophobia and bullying in school may damage the academic work of LGBT pupils and destroy their self-image and confidence. Studies moreover suggest that bullying has a negative impact on the health of LGBT persons but the social stigma surrounding LGBT issues has delayed concerted public health research in member states. School boards have a duty to provide a safe setting in which LGBT students and teachers are protected from bullying.

## Recommendations

### *General*

- 1) Take a strong public position against violations of the human rights of LGBT persons and promote respect on issues related to sexual orientation and gender identity, for example through human rights education and awareness-raising campaigns.
- 2) Take steps to encourage factual, objective and professional reporting by the media on LGBT persons and issues related to sexual orientation and gender identity.

### *Education*

- 1) Abolish outdated classification systems which portray homosexuality as an illness or disease.
- 3) Include in the education and training of health care professionals the importance of respecting the dignity of LGBT persons as well as their specific health care needs and choices.
- 5) Promote respect and inclusion of LGBT persons at school and foster objective knowledge on issues concerning sexual orientation and gender identity in schools and other educational settings.
- 6) Combat bullying and harassment of LGBT students and staff. Teachers should be provided with tools to respond effectively to bullying and harassment of LGBT students.

#### 4.13 The HRC Resolution (16/3), 2011

The Human Rights Council consists of a changing group of country government representatives which changes every year, so all UN countries can participate. NGOs are not part of the Council but are allowed to make comments. A resolution is a statement that was voted for by a majority of the member countries that are member of this Council. It is like a common opinion and is a guide towards future discussions on specific subjects.

Resolution 16/3 tasks the Advisory Committee to “prepare a *study* on how a better understanding and appreciation of *traditional values of dignity, freedom and responsibility* can contribute to the promotion and protection of human rights”.

#### 4.14 Quotes from the NGO Statement on Cultural Values, 2011

NGOs were not happy with this resolution. They were afraid it would be misused to stress that “traditional values” are more important than “human rights”. The following text is a summary of the NGO statement made by 65 organizations to the UN Human Rights Council Advisory Committee in August 2011. It is a reaction on Resolution 16/3.

“Tradition” is frequently invoked to justify maintaining the status quo, ignoring the fact that cultures and social norms have always evolved and will continue to change with time; by contrast, a human rights based approach often requires changes to the status quo in order to ensure compliance with international standards. Simply because a practice or belief has existed over a period of time or is practiced by a majority does not provide it with worth or validity. The obligation must always be to promote and protect human rights, which may require that traditional values and practices evolve in order to meet international standards.

Many practices that fall under “tradition” are of long-standing origin, but others that claim to be “traditional” are in fact relatively recent. Tradition itself changes over time and all cultures contain diverse and contradictory traditions. Most importantly, many “traditional values” may be inconsistent with international human rights, and “traditional values” are frequently invoked to justify human rights violations. In previous decades and centuries, mixed-race marriages, desegregation, women having the right to work, to vote, to hold public office, or to own property would have been thought by many to be inconsistent with “traditional values”.

As many marginalized groups have experienced, “traditional values” are frequently invoked to restrict access to human rights for those segments of society who, from the conservative viewpoint or perspective of those in authority, challenge the mainstream or fall outside the dominant norm. For example, a Government Minister of State for Ethics and Integrity defended a Bill that would have included the death penalty for certain forms of consensual same-sex conduct on the basis that it was needed to maintain “traditional Christian values as prescribed in the Bible.” (Ugandan MPs debate Bill proposing death penalty for gay sex, Times Online, December 18, 2009). UN Secretary General Ban Ki-moon recently noted that “deeply-rooted cultural sensitivities can be aroused when we talk about

sexual orientation” but underlined that “cultural considerations should not stand in the way of basic human rights”.

In light of the previous discussion and examples, it cannot be assumed that these “traditional values” will contribute to the promotion and protection of human rights. This is why the Advisory Committee has been requested to prepare a study which will fully explore the impact of these “traditional values” on human rights. This means understanding and appreciating both the positive and negative impacts. We urge the Advisory Committee to:

1. Form a drafting team that reflects appropriate regional and gender balance – this is particularly important for a subject matter relating so closely to cultures and traditions, and their impact on women’s rights;
2. Prepare a questionnaire to facilitate consultations with Member States, civil society, human rights experts such as Special Procedures mandate holders, UN organizations (such as UNAIDS and UNFPA) and all relevant stakeholders on both the positive and negative impacts of “traditional values” on human rights;
3. Ensure that the study focuses on the promotion and protection of universal human rights, underlines that “traditional values” may not detract from the international human rights framework and affirms that traditional values and practices may need to evolve to ensure conformity with international human rights standards