

HUMAN RIGHTS WATCH

350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
Tel: 212-290-4700
Fax: 212-736-1300

LESBIAN, GAY, BISEXUAL, AND TRANSGENDER RIGHTS PROGRAM

Graeme Reid, *Director*
Kyle Knight, *Senior Researcher*
Cristian González Cabrera, *Researcher*
Wendy Isaack, *Researcher*
Ryan Thoreson, *Researcher*
Rasha Younes, *Researcher*
Yasemin Smallens, *Coordinator*

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January 31, 2022

TO: The Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity

RE: The Independent Expert's report to be presented to the 50th Session of the United Nations Human Rights Council.

Dear Victor,

Please find below an annotated listing of relevant Human Rights Watch materials for your consideration in your upcoming report. Please do not hesitate to reach out if we can be of further assistance.

Sincerely,

Graeme Reid

Director, LGBT Rights Program

1. Access: ensuring that LGTBI and GNC people have access to health care

In 2016¹ and 2018², Human Rights Watch issued reports on the anti-LGBT crisis in Indonesia and its impact on LGBT people's access to health services. The police raids on private spaces popular with gay and bisexual men in 2017 dealt a devastating blow to the morale and safety of LGBT people in Indonesia. And because these private social spaces were also incorporated into HIV awareness and testing outreach programs, the raids also significantly disrupted crucial public health programming. HIV outreach workers in Jakarta told Human Rights Watch that one immediate impact of the raids and the subsequent closure of the venues—all of which were known “hot spots” for HIV prevention and testing outreach—was that public health workers like them no longer had their typical access points for education, condom distribution, and testing programs.

In 2018, Human Rights Watch issued a report documenting difficulties that prevent LGBT people from accessing healthcare services in the United States.³ In particular,

¹ Human Rights Watch, ““These Political Games Ruin Our Lives”: Indonesia’s LGBT Community Under Threat (August 10, 2016), <https://www.hrw.org/report/2016/08/10/these-political-games-ruin-our-lives/indonesias-lgbt-community-under-threat>.

² Human Rights Watch, “Scared in Public and Now No Privacy”: Human Rights and Public Health Impacts of Indonesia’s Anti-LGBT Moral Panic (July 1, 2018), <https://www.hrw.org/report/2018/07/01/scared-public-and-now-no-privacy/human-rights-and-public-health-impacts>.

³ Human Rights Watch, “You Don’t Want Second Best”: Anti-LGBT Discrimination in US Health Care (July 23, 2018), <https://www.hrw.org/report/2018/07/23/you-dont-want-second-best/anti-lgbt-discrimination-us-health-care>.

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the report highlighted a lack of accessible services, discrimination and mistreatment, refusals of service, and a reluctance to seek care as significant barriers.⁴

In 2021, Human Rights Watch issued a report expressing concern about the lack of inclusive services and shelters for transgender survivors of violence, including intimate partner violence, in parts of the United States.⁵ The absence of these services leaves LGBT survivors at greater risk of physical and mental violence, and less able to leave situations where they are at risk.

In 2021, Human Rights Watch published a report⁶ on the serious economic hardship and psychological stress faced by LGBT people subjected to arbitrary arrest and detention in Ho, Volta region, Ghana. On May 20, 2021 police in Ho, assisted by security forces, unlawfully arrested 21 people, including a technician, during a paralegal training workshop about how to document and report human rights violations against LGBT people. They were charged with unlawful assembly, a misdemeanor, detained for 22 days then released on bail. The case was later dismissed for lack of evidence. The arrest and detention had a severe impact on the individuals' access to basic services, including health care.

As you are aware, the political and legal circumstances in Ghana remain perilous. In July 2021 eight members of parliament introduced the *Promotion of Proper Human Sexual Rights and Ghanaian Family Values Bill (2021)*, which would proscribe and criminalize any advocacy of LGBT identity. It is an affront to dignity, privacy, and non-discrimination, and an assault on freedoms of speech, expression, association, and assembly. The bill is currently under review by the Parliamentary Select Committee on Constitutional, Legal and Parliamentary Affairs (Committee). The bill, if passed in its current form, will affect HIV programming by increasing HIV prevalence and reducing funding for HIV activities. The criminalization of key populations is one of the main reasons for the rise in HIV prevalence among them. Due to the criminalisation of key populations, they fear persecution or discrimination against them when they try to access HIV prevention and treatment services. Health professionals who would like to provide these services can also face penalties for providing services for persons who are criminalised. This will contribute to increased HIV prevalence. Most of the funding for HIV programming for key populations comes from donor funding. Section 14 (1) of the Bill prohibits donor funding for activities that supports LGBTIQ persons. Currently, gay men and bisexual men are all part of the MSM in the key population umbrella that government agencies like Ghana AIDS Commission, National AIDS Control Programme and Commission on Human Rights and Administrative Justice receive funding from donor agencies to implement HIV programming. Criminalising funding for such activities will mean there will be no financing for HIV programming for MSMs which is likely to fuel the prevalence, not because of the sexual orientation of these people but because of this law that prevents them from accessing HIV services. Section 12 (2)(a)(a) and (3) simply makes everyone who provides any service including healthcare to LGBTIQ persons a criminal and could face up to 10 years of imprisonment.

In 2020, Human Rights Watch documented how for several months, Egyptians living with HIV, including gay men, faced obstacles to accessing HIV treatment as they feared retrieving their

⁴ Ibid.

⁵ Human Rights Watch, *"I Just Try to Make it Home Safe": Violence and the Human Rights of Transgender People in the United States* (November 18, 2021), <https://www.hrw.org/report/2021/11/18/i-just-try-make-it-home-safe/violence-and-human-rights-transgender-people-united>.

⁶ "Ghana: LGBT Activists Face Hardships After Detention," Human Rights Watch news release, September 20, 2021, <https://www.hrw.org/news/2021/09/20/ghana-lgbt-activists-face-hardships-after-detention>.

medication from fever hospitals, the only centers where people living with HIV can access lifesaving medications, after the government designated them as treatment centers for Covid-19.⁷

Human Rights Watch has documented extensively how the lack of rights-based legal gender recognition procedures around the world are an impediment to transgender people accessing health care. This includes our research in Bangladesh⁸, Japan⁹, Kazakhstan¹⁰, Thailand,¹¹ Lebanon¹², and Malaysia.¹³

2. Training and Education: health care professionals and educational institutions

In the United States¹⁴, Russia¹⁵, the Philippines¹⁶, Japan¹⁷, Vietnam¹⁸, Thailand¹⁹, and South Korea²⁰, Human Rights Watch has expressed concern, based on our research, about the lack of

⁷ “Egypt: Covid-19 Threatens Treatment for HIV Patients,” Human Rights Watch news release, April 22, 2020, <https://www.hrw.org/news/2020/04/22/egypt-covid-19-threatens-treatment-hiv-patients>.

⁸ Human Rights Watch, “I Want To Live With My Head Held High”: Abuses in Bangladesh’s Legal Recognition of Hijras (December 23, 2016), <https://www.hrw.org/report/2016/12/23/i-want-live-my-head-held-high/abuses-bangladeshs-legal-recognition-hijras>.

⁹ Human Rights Watch, “A Really High Hurdle”: Japan’s Abusive Legal Gender Recognition Process (March 19, 2019), <https://www.hrw.org/report/2019/03/19/really-high-hurdle/japans-abusive-transgender-legal-recognition-process>; Human Rights Watch, “The Law Undermines Dignity”: Momentum To Revise Japan’s Abusive Legal Gender Recognition Process (May 25, 2021), <https://www.hrw.org/report/2021/05/25/law-undermines-dignity/momentum-revise-japans-legal-gender-recognition-process>.

¹⁰ Human Rights Watch, “That’s When I Realized I was Nobody”: A Climate of Fear for LGBT People in Kazakhstan (July 23, 2015), <https://www.hrw.org/report/2015/07/23/thats-when-i-realized-i-was-nobody/climate-fear-lgbt-people-kazakhstan>

¹¹ Human Rights Watch, “People Can’t Be Fit Into Boxes”: Thailand’s Need for Legal Gender Recognition (December 15, 2021), <https://www.hrw.org/report/2021/12/15/people-cant-be-fit-boxes/thailands-need-legal-gender-recognition>.

¹² Human Rights Watch, “Don’t Punish Me For Who I am”: Systemic Discrimination Against Transgender Women in Lebanon (September 3, 2019), <https://www.hrw.org/report/2019/09/03/dont-punish-me-who-i-am/systemic-discrimination-against-transgender-women-lebanon>

¹³ Human Rights Watch, “I’m Scared To Be A Woman”: Human Rights Abuses Against Transgender People in Malaysia (September 24, 2014), <https://www.hrw.org/report/2014/09/24/im-scared-be-woman/human-rights-abuses-against-transgender-people-malaysia>

¹⁴ Human Rights Watch, “Like Walking Through a Hailstorm”: Discrimination Against LGBT Youth in US Schools (December 7, 2016), <https://www.hrw.org/report/2016/12/08/walking-through-hailstorm/discrimination-against-lgbt-youth-us-schools>.

¹⁵ Human Rights Watch, *No Support: Russia’s Gay Propaganda Law Imperils LGBT Youth* (December 11, 2018), <https://www.hrw.org/report/2018/12/12/no-support/russias-gay-propaganda-law-imperils-lgbt-youth#5362>.

¹⁶ Human Rights Watch, “Just Let Us Be”: Discrimination Against LGBT Students in the Philippines (June 21, 2017), <https://www.hrw.org/report/2017/06/21/just-let-us-be/discrimination-against-lgbt-students-philippines>;

¹⁷ Human Rights Watch, “The Nail That Sticks Out Gets Hammered Down”: LGBT Bullying and Exclusion in Japanese Schools (May 5, 2016), <https://www.hrw.org/report/2016/05/05/nail-sticks-out-gets-hammered-down/lgbt-bullying-and-exclusion-japanese-schools>.

¹⁸ Human Rights Watch, “My Teacher Said I Had a Disease”: Barriers to the Right to Education for LGBT Youth in Vietnam (February 12, 2020), <https://www.hrw.org/report/2020/02/13/my-teacher-said-i-had-disease/barriers-right-education-lgbt-youth-vietnam>.

training on LGBT issues for teachers, counselors, and other professionals in school settings. The lack of training means that many mental health services are inaccessible, ineffective, or unsafe for LGBT youth. For example, students in South Korea said they did not trust counselors in schools and counseling hotlines to preserve their confidentiality or respect their identity.²¹ In Vietnam, students were told by their teachers that same-sex attraction was a “mental disorder” that needed psychiatric intervention.²² In Russia, teachers singled out students based on their gender expression and harassed them, and due to the “gay propaganda” law severely curtailing mental health providers’ abilities to provide support or interventions without risking legal sanction, services for these students are scarce.²³

In the United States, the Philippines, Japan, Vietnam, and South Korea, among other countries, young people described receiving sexuality education that was not LGBT-inclusive, and often fell short of being comprehensive and scientifically accurate in other respects.²⁴ In Guatemala²⁵ and Brazil,²⁶ lawmakers have proposed legislation that explicitly bans content related to LGBT people in schools.

In 2018, Human Rights Watch published a report²⁷ documenting the impact of sections 104(1)(b) of Ghana’s Criminal Offences Act that criminalizes adult consensual same-sex conduct on lesbian, gay, bisexual and transgender (LGBT) persons. In respect of access to health care, the report found that the Ghana Police Service, through the office of Chief Superintendent Jones Blantari, programme coordinator of Ghana Police AIDS Control Programme, regularly

¹⁹ Human Rights Watch, “People Can’t Be Fit into Boxes”: Thailand’s Need for Legal Gender Recognition (December 15, 2021), <https://www.hrw.org/report/2021/12/15/people-cant-be-fit-boxes/thailands-need-legal-gender-recognition>.

²⁰ Human Rights Watch, “I Thought of Myself as Defective”: Neglecting the Rights of LGBT Youth in South Korean Schools (September 14, 2021), <https://www.hrw.org/report/2021/09/14/i-thought-myself-defective/neglecting-rights-lgbt-youth-south-korean-schools>.

²¹ Human Rights Watch, “I Thought of Myself as Defective”: Neglecting the Rights of LGBT Youth in South Korean Schools (September 14, 2021), p. 29-43, <https://www.hrw.org/report/2021/09/14/i-thought-myself-defective/neglecting-rights-lgbt-youth-south-korean-schools>.

²² Human Rights Watch, “My Teacher Said I Had a Disease”: Barriers to the Right to Education for LGBT Youth in Vietnam (February 12, 2020), <https://www.hrw.org/report/2020/02/13/my-teacher-said-i-had-disease/barriers-right-education-lgbt-youth-vietnam>.

²³ Human Rights Watch, *No Support: Russia’s Gay Propaganda Law Imperils LGBT Youth* (December 11, 2018), <https://www.hrw.org/report/2018/12/12/no-support/russias-gay-propaganda-law-imperils-lgbt-youth#5362>.

²⁴ Human Rights Watch, “I Thought of Myself as Defective”: Neglecting the Rights of LGBT Youth in South Korean Schools (September 14, 2021), <https://www.hrw.org/report/2021/09/14/i-thought-myself-defective/neglecting-rights-lgbt-youth-south-korean-schools>; Human Rights Watch, “Just Let Us Be”: Discrimination Against LGBT Students in the Philippines (June 21, 2017),

<https://www.hrw.org/report/2017/06/21/just-let-us-be/discrimination-against-lgbt-students-philippines>;

Human Rights Watch, “Like Walking Through a Hailstorm”: Discrimination Against LGBT Youth in US Schools (December 7, 2016), <https://www.hrw.org/report/2016/12/08/walking-through-hailstorm/discrimination-against-lgbt-youth-us-schools>.

²⁵ “Guatemala: Anti-Trans Bill Threatens Rights,” Human Rights Watch news release, January 24, 2022, <https://www.hrw.org/news/2022/01/24/guatemala-anti-trans-bill-threatens-rights>.

²⁶ “Supreme Court Strikes Down Bigotry in Brazil’s Schools,” Human Rights Watch news release, May 19, 2020, <https://www.hrw.org/news/2020/05/19/supreme-court-strikes-down-bigotry-brazils-schools>.

²⁷ Human Rights Watch, “No Choice but to Deny Who I Am”: Violence and Discrimination against LGBT People in Ghana (January 8, 2018), <https://www.hrw.org/report/2018/01/08/no-choice-deny-who-i-am/violence-and-discrimination-against-lgbt-people-ghana>.

implements training programs for LGBT persons, and sensitivity training for police. However, the report found that other government agencies were calling for more punitive laws and policies. For instance, in February 2017, the Speaker of Parliament, Professor Mike Ocquaye, referred to homosexuality as an “abomination” and reportedly called for stricter laws against same-sex conduct equated homosexuality with bestiality.