

# 9 UNITED NATIONS HUMAN RIGHTS MECHANISMS

The United Nations system can be a useful tool in the fight for the rights of MSM worldwide. Most recently, a visit from the Secretary General of the United Nations, Ban Ki-moon, with Malawi's President Bingu wa Mutharika was followed by the 2 men being pardoned from their 14-year prison sentence, initially triggered by their engagement party. Other examples have shown that engaging with the UN can be a useful means to advocate for the rights of MSM.

Before engaging with the system, however, one should understand what the pros and cons of working at an international level are, and, more specifically, how working internationally affects local work. For example, groups are unaware that in addition to the UN's valuable contributions to securing human rights for MSM on an international scale, the global human rights mechanisms can also have a very positive effect and usage locally. Conversely, they can also drain a group's time and energy in some instances, and prove to be discouraging.

If a group decides to go forward with engaging with UN human rights committees or commissions, Special Rapporteurs, or Working Groups, there is a set of concrete actions relating to each that makes advocacy possible. Relevant to the discussion of MSM rights as they relate to HIV/AIDS, UNGASS<sup>1</sup> is another very important related mechanism organizations should consider engaging.

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<sup>1</sup> UNGASS, the United Nations General Assembly Special Session on HIV, held in 2001, formed the Declaration of Commitment, which states that HIV/AIDS is a "global emergency," and under which countries come under review on a regular basis.

This chapter is divided into 3 sections. The first explores the concept of advocacy at an international level and contains exercises and information to help organizations decide if this kind of advocacy is something they would like to try, and, if so, understand how it can be locally relevant. The second section relates to the elements within the UN system that are relevant to MSM rights and ways groups might begin engaging the system. The third section looks at UNGASS, which provides interesting opportunities for organizations to do advocacy around MSM and HIV. Please note that this chapter assumes a basic level of understanding among participants of human rights as they relate to MSM. In the event that this understanding has yet to be established, please see the resource section at the end of this chapter for some useful, interactive ways to do this.

### Key points:

- Groups should be empowered to make an informed choice about taking on international rights advocacy.
- International advocacy should benefit local work and not take energy away.
- Simply building networks with UN human rights people from your home country can be useful.
- UNGASS is something about which organizations should consider developing an understanding.

### Chapter goals:

Upon completing the exercises in this chapter, participants will be able to:

- Conduct a pros-and-cons analysis of engaging the UN system
- Understand local relevance of UN work
- Understand the basics of the UN human rights mechanisms as they relate to MSM
- Generate concrete ideas for engaging the UN system
- Understand basics of the UNGASS and the Declaration of Commitment on HIV/AIDS
- Generate concrete ideas for engaging UNGASS processes
- Cite a specific example of UN human rights advocacy

## EXERCISE 9.0

# INTERNATIONAL ADVOCACY — PROS AND CONS

### Purpose:

To allow groups to chart the pros and cons of working with the UN human rights mechanisms so they can make an informed choice about potential involvement. Facilitator should guide participants to appreciate the importance of the following question: *What results can potentially help with our local advocacy?*<sup>1</sup>

### Goals:

At the end of the exercise, participants will be able to:

- Understand pros and cons of engaging the UN system
- Understand local relevance of UN work
- Determine whether or not engaging the UN system is the right step at this time

### Process:

- ① Break into smaller groups and have participants make a list of pros and cons about engaging with the bureaucratic, sometimes slow-moving UN human rights mechanism that does not necessarily hold any guarantees for concrete action. Ask them to think about experiences they have had engaging with the system in the past, or just to think about the issue theoretically.
- ② Write in a visible place: *The UN and other international bodies can condemn human rights violations—but they cannot truly enforce their condemnations. In many cases the process is very slow and does not yield immediate results. UN condemnations can however serve as useful reference points for MSM communities to use to substantiate their claim to the right to health.*

Pros	Cons
Fresh perspectives	Heavy investment of time and energy
Local work bolstered by UN endorsement; having a “seal of approval” from a UN official can go a long way locally	Distraction from local issues
Sometimes the “international shaming” effect works to pressure national governments to change their laws, policies, or stances	May be too abstract for all community members to get excited
Alliances can form with other groups	
Pave the way for future work	
Can be meaningful for local communities to share their stories with an international audience	

- ③ Bring the group back together and compile their thoughts on the pros and cons. Ask them to come up with a list of criteria for an organization that could benefit from engaging with the UN system (eg, need new perspective on work, need international endorsement, need to forge alliances, story that would be therapeutic to tell for victims, time and skills, progress has stalled at a local and national level).
- ④ Facilitator should close the session reminding participants that the decision to engage the UN system is entirely up to them. Reiterate the fact that many groups have had good results with the system, but they are not guaranteed.

## EXERCISE 9.1

# INTRODUCTION TO THE UN HUMAN RIGHTS MECHANISMS

### Purpose:

To give a basic introduction to the UN human rights mechanisms, and clear ways for MSM groups to engage the UN human rights system.<sup>1</sup>

### Goals:

At the end of the exercise, participants will be able to:

- Understand basics of the UN human rights mechanisms as they relate to MSM
- Generate concrete ideas for engaging the UN system

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### FACILITATOR NOTE:

Prior to presenting this section to a particular group, please give a general introduction of the UN human rights treaty and non-treaty-based systems. This could also include a presentation on basic human rights as they relate to MSM. Please see the Human Rights Resources section at the end of this chapter for sources and information.

### Process:

Give a brief presentation covering the following:

Work with the UN can be divided into 2 action camps: urgent and non-urgent. Depending on the issue, time required, and resources available to an organization, they should decide accordingly which action route to take. They are described in detail as follows:

- For urgent action: *Special Rapporteurs* and *Working Groups*

## 9.1

When there is a pressing human rights concern, it is best for groups to approach the non-treaty-based sections of the UN system. Non-treaty-based systems afford a degree of flexibility, as countries are *not* required to have ratified a treaty with the UN in order to engage this part of the system. In addition to flexibility around eligibility, this section of the system is the “fastest” track; of course, speed is defined relatively, especially when one is working with bureaucracy. The main point of contact for this group are (a) individuals called Special Rapporteurs and (b) Working Groups. Of the 2, Special Rapporteurs are the most directly approachable. They present an annual report to the Human Rights Commission with recommendations for action, are in constant communication with governments and, when required, undertake fact-finding missions.

**Meet Mr. Anand Grover, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of health**

Anand Grover is a pioneer in the field of HIV and has handled several hundred HIV/AIDS-related litigations in India. He appeared in the first HIV case relating to the HIV activist Dominic D’Souza, The Lucy D’ Souza case, challenging the isolationist Goa Public Health Amendment Act. He also fought the first case on blood transfusion in the Calcutta High Court, P v. Uol as well as successfully arguing against the patenting of anti-AIDS drug Nevirapine Hemi-hydrate.

from: <http://www2.ohchr.org/english/issues/health/right/SRBio.htm>

The Working Groups are most useful for specialized cases such as disappearance and detention. The groups most relevant to MSM are: Working Group on Enforced or Involuntary Disappearances and Working Group on Arbitrary Detention. For a more detailed discussion of these groups, please see the resources section.

Steps to contacting Special Rapporteurs:

1. Determine who the relevant rapporteurs are:

<http://www.ohchr.org/EN/Issues/Pages/ListOfIssues.aspx>

2. Either arrange for a meeting or write a letter

Things to include in the letter:

- Your own name and address
- As much information as possible about the victim or victims (if you are writing about a law or government action that affects a large group, explain the way it affects them)

- Description of the violation (if it is a particular incident, give dates and locations; if you are writing about a law or policy, cite it and explain how it is employed)
- Any information you have about the persons who committed the violation
- Information about any steps the victims or their representatives may have taken to obtain a remedy
- Information about whether any official response or investigation has taken place
- Your own recommendation for a response, or for measures to prevent future violation
- What you want the Rapporteur or Working Group to do and why

In preparing reports, referral to the Yogyakarta Principles is recommended. In fact, referencing the principles can be useful for any writing.

Rapporteurs can communicate with the government, but can also visit countries to investigate serious situations directly. Working Groups ask governments for information and request release of the detained.

- Network directly with members of the treaty bodies from your country.

On the UN Web site you can find the names of members of all the treaty bodies. It is worthwhile to do some Internet research and determine which treaty body members are from your country. Try to meet them in person and speak with them about their stand on MSM, HIV, and human rights, and any other relevant items on your advocacy agenda. For example, members of the human rights commission are:

<http://www2.ohchr.org/english/bodies/hrc/members.htm>.

- Shadow reporting

Shadow reports are the mechanism whereby NGOs and CBOs from countries that have ratified treaties with the UN can contribute their analysis of their country's compliance with the treaty terms and conditions at the time the country submits its compliance report. Shadow reports can vary in length and depth. The steps for writing a shadow report are as follows:

- Determine whether or not your country meets the treaty ratification requirement between your country and the UN. This information can be found here:

<http://www2.ohchr.org/english/>

## 9.1

- Stay up to date in regards to which countries are up for compliance review and when your country will be reviewed next. It is a good idea to plan shadow reporting projects well in advance, as they take time. This information is available here:

<http://www2.ohchr.org/english/bodies/hrc/hrcs99.htm>

- There is a collection of shadow reports drafted by Global Rights that are available at the following link. Before beginning a shadow reporting project read through examples to get a sense for what they entail.

[http://www.globalrights.org/site/PageServer?pagename=res\\_country](http://www.globalrights.org/site/PageServer?pagename=res_country)

- There are useful guides for planning shadow reports. Please see the resource section of this chapter for more information.



## EXERCISE 9.2

# INTRODUCTION TO UNGASS

### Purpose:

To give groups action ideas for engaging with the UNGASS process.<sup>2</sup>

### Goals:

At the end of the exercise, participants will be able to:

- Understand basics of the UNGASS and the Declaration of Commitment on HIV/AIDS
- Generate concrete ideas for engaging UNGASS processes

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### FACILITATOR NOTE:

Like in Exercise 9.1, it is recommended that you prepare a presentation covering the basics of the United Nations General Assembly Special Session on HIV/AIDS (UNGASS) and the Declaration of Commitment on HIV/AIDS.

### Process:

Give a brief presentation covering the following:

Like the treaty-governed sections of the UN, countries make compliance reports relating to the UNGASS Declaration of Commitment on HIV/AIDS goals. The latest review and reporting process just occurred in March 2010; however, it is a good idea to think about planning action for 2012. Here is a list of 5 simple steps you can take:

- ① Review the “Coordinating with Communities” section of the UNGASS document and then **promote meaningful community involvement among your cohorts** in the civil society sector space.

## 9.2

- ② Identify the UNAIDS Country Coordinator (UCC) or Partnerships Officer in your country and assess what he or she is doing to involve community in the review process. **Request that UNAIDS facilitate an inclusive and participatory process** among all stakeholders, including advocates and allies working on MSM and HIV issues.
- ③ **Review relevant documents**, such as commitments made, etc.
- ④ **Contact the National AIDS Program (or equivalent) in your country** and ask how they plan to involve the community sector in the UNGASS review and reporting process. Meet the person who leads the preparation of the report.
- ⑤ **Share all the information you find** about these processes and the outcomes with community partners. This will increase accountability and transparency and will provide support for advocacy actions.

## EXERCISE 9.3

# SHADOW REPORT CASE STUDY

### Purpose:

To give participants a concrete example of the shape advocacy with the UN can take.

### Goals:

At the end of the exercise, participants will be able to:

- Cite a specific example of UN advocacy

### Materials:

- Handout 9.0

### Process:

- ① Break into small groups and distribute Handout 9.0, a shadow report from Zambia.

- ② Ask groups to answer the following questions:

How many pages is the shadow report?

Does it seem like it would be difficult or easy to produce?

Do you have experience engaging with the UN?

Do you know UN members in your country? Where is the office?

What are some issues you might consider including in a letter to a Special Rapporteur or in a shadow report?



# HUMAN RIGHTS RESOURCES

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## GUIDE TO SHADOW REPORTING

### Global Rights

[http://www.globalrights.org/site/PageServer?pagename=wwd\\_initiatives\\_lgbti](http://www.globalrights.org/site/PageServer?pagename=wwd_initiatives_lgbti)

The purpose of this short guide is to assist civil society groups and activists—also known as “non-governmental organizations” or NGOs—to participate effectively in the shadow reporting process to the U.N. Human Rights Committee (the Committee). The Committee is responsible for monitoring government compliance with the International Covenant on Civil and Political Rights (ICCPR), one of the eight core human rights treaties of the United Nations.

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## AMNESTY LGBT HUMAN RIGHTS PRIMER

### Amnesty International

<http://www.amnesty.org/en/library/info/IOR40/004/2005>

The purpose of this document is to provide basic guidance on how non-governmental organizations (NGOs) can use the United Nations (UN) Treaty Monitoring Bodies (referred to as the “Treaty Bodies”) and the Special Procedures of the UN Commission on Human Rights (the Commission) to raise cases concerning the promotion and protection of the human rights of people who are lesbian, gay, bisexual or transgender (LGBT).

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## TOGETHER, APART: ORGANIZING AROUND SEXUAL ORIENTATION AND GENDER IDENTITY

### Human Rights Watch (HRW)

<http://www.hrw.org/en/reports/2009/06/10/together-apart>

This 44-page report demonstrates that many groups defending LGBT rights—especially throughout the global South—still have limited access to funding, and courageously face sometimes-murderous attacks without adequate support from a broader human rights community.

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## HOW TO PROMOTE AND PROTECT THE HUMAN RIGHTS OF LGBT PEOPLE — A TOOLKIT FOR THE FCO (BRITISH FOREIGN AND COMMONWEALTH OFFICE)

**British Foreign and Commonwealth Office (FCO)**  
[www.msimgf.org/documents/GT\\_ta\\_lgbttoolkit.pdf](http://www.msimgf.org/documents/GT_ta_lgbttoolkit.pdf)

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## ILGA-EUROPE WEB GUIDE ON INTERNATIONAL HUMAN RIGHTS REFERENCES TO SEXUAL AND REPRODUCTIVE HEALTH AND RIGHTS

### International Lesbian and Gay Association

[http://www.soros.org/initiatives/health/focus/sharp/articles\\_publications/publications/ilgawebguide\\_20080112](http://www.soros.org/initiatives/health/focus/sharp/articles_publications/publications/ilgawebguide_20080112)

The reference guide will help advocates use international human rights instruments more effectively in their work domestically and regionally. At the same time it will increase their knowledge of the references and of their place within international human rights law and discourse.

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## MAKING THE MOUNTAIN MOVE: AN ACTIVIST’S GUIDE TO HOW INTERNATIONAL HUMAN RIGHTS MECHANISMS CAN WORK FOR YOU

### International Gay and Lesbian Human Rights Commission (ILGHRC)

<http://ihrc.digitopia.net/cgi-bin/iowa/article/publications/reportsandpublications/756.html>

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## INTERNATIONAL: TEACHING HUMAN RIGHTS & SEXUALITY (SYDNEY GAY GAMES MODULES 2002)

### International Gay and Lesbian Human Rights Commission (ILGHRC)

<http://www.iglhrc.org/cgi-bin/iowa/article/takeaction/resourcecenter/27.html>

Introduction to human rights principles and advocacy.

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**HUMAN RIGHTS AND SEXUAL ORIENTATION:  
INTERNATIONAL AND REGIONAL STANDARDS  
SEXUAL RIGHTS: MOVING BEYOND IDENTITY  
POLITICS – DOCUMENTING HUMAN RIGHTS  
VIOLATIONS HANDBOOK ON HIV AND HUMAN  
RIGHTS FOR NATIONAL HUMAN RIGHTS  
INSTITUTIONS (PUBLISHED JOINTLY WITH UNAIDS)**

**UN**

[http://www.ohchr.org/EN/PublicationsResources/  
Pages/HumanRightsBasics.aspx](http://www.ohchr.org/EN/PublicationsResources/Pages/HumanRightsBasics.aspx)

This Handbook is designed to assist national human rights institutions to integrate HIV into their mandate to protect and promote human rights. It provides a basic overview of the role of human rights in an effective response to the epidemic and suggests concrete activities that national institutions can carry out within their existing work.

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**HUMAN RIGHTS AND HIV/AIDS: NOW MORE THAN  
EVER 10 REASONS WHY HUMAN RIGHTS SHOULD  
OCCUPY THE CENTER OF THE GLOBAL AIDS  
STRUGGLE**

**Open Society Institute (OSI)**

[http://www.soros.org/initiatives/health/  
focus/law/articles\\_publications/publications/  
human\\_20071017](http://www.soros.org/initiatives/health/focus/law/articles_publications/publications/human_20071017)

Now more than ever, law and human rights should occupy the center of the global HIV/AIDS struggle. This booklet, published by OSI's Law and Health Initiative, presents 10 reasons why.

## CHAPTER 9

# REFERENCES

1. International Lesbian and Gay Human Rights Commission. Making the mountain move: an activist's guide to how international human rights mechanisms can work for you. <http://www.iglhrc.org/binary-data/ATTACHMENT/file/000/000/179-1.pdf>. Published 2000. Accessed June 23, 2010.
2. International Council of AIDS Service Organizations. AIDS advocacy alert. [http://www.icaso.org/publications/2010/aa\\_2010ungass.pdf](http://www.icaso.org/publications/2010/aa_2010ungass.pdf). Published 2010. Accessed June 23, 2010.