



SOGIESC FACT SHEET SERIES

Fact Sheet 7:

The APF's response to the Yogyakarta Principles

Introduction

The Yogyakarta Principles and Yogyakarta Principles Plus 10 each addressed an Additional Recommendation specifically to the role of national human rights institutions and their responsibilities regarding the realisation of human rights.

“ L. National human rights institutions promote respect for these Principles by State and non-State actors, and integrate into their work the promotion and protection of the human rights of persons of diverse sexual orientations or gender identities.”

“ Q. National human rights institutions ensure that in their programmes and activities they take action on human rights issues relating to sexual orientation, gender identity, gender expression and sex characteristics, mainstream those issues in all their functions, including complaint handling and human rights education, and promote the inclusion of persons of diverse sexual orientation, gender identity, gender expression and sex characteristics in their leadership and staff”.

The wording reflects the evolving nature of international human rights law, including the greater focus on gender expression and sex characteristics. The YP+10 recommendation also explicitly mentions increasing the diversity of NHRI leadership and staff and utilising NHRIs' complaint handling and human rights education functions.

NHRIs in the Asia Pacific region and the APF have responded positively to these recommendations.

Human rights issues relating to sexual orientation and gender identity had first been raised in an APF forum at its 11th Annual Meeting in 2006 in Fiji. In 2008, at the 13th Annual Meeting, APF Forum Councillors agreed to include sexual orientation and gender identity in the APF work plan, beginning with a regional workshop. Since then, the APF and its member NHRIs have been active in addressing human rights issues in relation to sexual orientation and gender identity and expression as well as sex characteristics.

These activities of the APF and its member NHRIs are also consistent with the recommendation of the High Commissioner for Human Rights in 2015 that: “... national human rights institutions address

violence and discrimination against LGBT and intersex persons in the context of their respective mandates to promote and monitor effective implementation of international human rights standards at the national level”.

1. The APF Yogyakarta workshop, 2009

At the APF Yogyakarta Workshop in 2009, representatives of APF member institutions affirmed the universality of all human rights and declared that NHRI mandates extended to those who suffer human rights violations based on their actual or perceived sexual orientation or gender identity. They agreed on a set of actions to promote and protect the human rights of lesbian, gay, bisexual and transgender people. They initiated the first APF program of work on these human rights issues.

2. The APF Advisory Council of Jurists advisory opinion, 2010

One of the recommendations from APF’s Yogyakarta Workshop was that APF request its Advisory Council of Jurists (ACJ) to review laws in States where an NHRI was an APF member. The ACJ was asked to advise whether these national laws were consistent with international human rights law in relation to sexual orientation and gender identity.

Members of the ACJ met to consider the reference and to present their interim findings during the APF’s 15th Annual Meeting in Bali from 3 - 5 August 2010. The final report of the ACJ was released in December 2010. It found many national laws in the countries of APF member institutions violated the human rights of lesbian, gay, bisexual and transgender people. While the scope of the ACJ’s reference was framed around sexual orientation and gender identity, its final report also included a small amount of material about the specific experiences of intersex people.

The ACT made 60 recommendations grouped around the functions common to Asia Pacific NHRIs (research, education, monitoring, and advocacy) or directed to the APF more generally. These recommendations focused on sexual orientation and gender identity with no reference to sex characteristics, largely reflecting the narrower focus of the original Yogyakarta Principles. However, the ACJ’s recommendations about research into legal gender recognition and awareness raising with health professional bodies both specifically mentioned intersex people too.

3. The APD- UNDP Programme of Action and Support, 2015

In February 2015, the APF, UNDP and the Asia Pacific Network on Male Sexual Health convened a workshop in Bangkok, Thailand, on the role of NHRIs in promoting and protecting the rights and health of lesbian, gay, bisexual, transgender and intersex people in Asia and the Pacific. That workshop confirmed an APF-UNDP Programme of Action and Support for APF member NHRIs.

This programme of action and support has provided the basis for APF’s work plan on human rights in relation to lesbian, gay, bisexual, transgender and intersex people, including its support for NHRIs to further develop their work in this area.

4. Release of a world-first publication, 2016

In June 2016, APF released a world-first publication, [*Promoting and Protecting Human Rights in relation to Sexual Orientation, Gender Identity and Sex Characteristics: A Manual for National Human Rights Institutions.*](#)

This manual was designed to support NHRIs to include human rights issues concerning lesbian, gay, bisexual, transgender and intersex people into their strategic plans and work programmes.

The manual was used to develop a blended learning course for NHRIS and civil society organisations through both an online course and in-person workshop. These three sub-regional workshops were held in South Asia, South East Asia and the Pacific from October 2016 to June 2017. Together they helped to strengthen consultation between NHRIs and LGBTI communities on human rights issues relating to sexual orientation, gender identity or expression, and sex characteristics.

5. The Yogyakarta Principles+10 Conference, 2017

In April 2017, representatives from NHRIs, NGOs, governments and UN agencies in the Asia Pacific region met in Bangkok to discuss the progress made in protecting the rights of LGBTI people and how to build on these efforts. The regional conference, hosted by the APF and UNDP, reflected on the impact of the Yogyakarta Principles in countries across the region over the ten years since their release in March 2007.

The conference drew on the expertise of participants to identify gaps in the Yogyakarta Principles, as well as practical steps to implement the Yogyakarta Principles in relation to:

- intersex people
- gender identity
- faith, culture and family
- violence and extremism
- legal protection
- legal oppression
- engagement with the international human rights mechanisms and
- the Sustainable Development Goals.

These discussions informed the development of the Yogyakarta Principles Plus 10.

6. UNDP-APF project, 2018

During 2018, five national human rights institutions from across the Asia Pacific collaborated with civil society organisations to address some of the pressing issues lesbian, gay, bisexual, transgender and intersex people faced.

The NHRIs of **Bangladesh, Fiji, the Philippines, Samoa and Timor Leste** each developed country-specific projects, building on their participation in the APF-UNDP training programme in 2016/17. Each NHRI received financial and mentoring assistance from the APF, as well as support and advice on data collection and research with LGTBI communities.

The Human Rights Commission of **Sri Lanka** had also been selected to undertake a project to advocate for the decriminalisation of same-sex relations and promote implementation of the Commission's guidelines on ethical media reporting of LGBTI issues. However, the project was unable to proceed as the Commission was not able to accept international funding.

At the time, the APF reported very positively on this programme of work:

"These projects show what NHRIs can achieve when they reach out and build partnerships with LGBTI individuals and organisations. It has been so inspiring to see these relationships develop, deepen and produce such tangible outcomes in countries across the region".

The following brief summaries convey the focus of each of these five national projects

a. Bangladesh

The National Human Rights Commission sought to identify the key challenges in achieving legal gender recognition of transgender people in Bangladesh.

Staff members from the hijra and transgender communities were employed to assist the Commission convene community consultations, gather data and help formulate recommendations to government authorities. The Commission also held a workshop, attended by the Social Welfare Minister and other government representatives, to discuss the changes to laws and policies needed to promote and protect the rights of the transgender community.

The Commission expressed its intention to carry on with this work, including following up on its recommendations and undertaking further advocacy with government authorities to press for concrete changes.

b. Fiji

The Fiji Human Rights and Anti-Discrimination Commission convened a two-day national consultation in July 2018 to discuss issues that contribute to LGBTI people feeling unsafe and marginalised, and where change could be pursued. The five main topics discussed included: addressing police intimidation of sex workers, violence, schools, health, and education and awareness raising on SOGIESC issues.

The outcome of the national consultation was a commitment for the Commission and a civil society working group to jointly develop a national plan of action on ways to better protect the rights of LGBTQI people. This would draw on the insights and experiences shared by the 70 participants at the national consultation.

c. Philippines

The Commission on Human Rights of the Philippines has sought to build the knowledge, skills and capacity of their staff and of civil society groups to better advocate for protection of the human rights of lesbian, gay, bisexual, transgender and intersex people.

The Commission partnered with OutRight Action International, an LGBTI civil society organisation, to lead training programmes in three cluster groups of islands in order to reach out to different LGBTI communities in those regions. A fourth training program was provided for Commission staff to help them better understand the human rights issues and priorities for LGBTI communities.

The Commission reported that this engagement helped it deepen its partnership with OutRight Action International and with other LGBTI groups across the Philippines.

d. Samoa

The Office of the Ombudsman of Samoa had two focus areas for their UNDP-APF project.

Firstly, the Office reviewed the government's progress in implementing recommendations made to it through the UN Universal Periodic Review, to improve the right to health of Fa'afafine and Fa'afatama

communities. The Office was involved in training of trainers to roll out the Asia Pacific Trans Health Blueprint to improve the health of the Fa'afafine community.

The second goal was to build relationships with a range of LGBTI communities. Representatives from the Office met the different groups separately in order to build ties and discuss the issues they were facing. These discussions also provided an opportunity to publicise the role of the NHRI and identify how they could work with civil society organisations to address the most pressing human rights challenges faced by LGBTI communities.

Building on these discussions, the Office intends to develop a human rights action plan that will include practical measures to address issues related to sexual orientation, gender identity and expression, and sex characteristics. A representative from the Office also attended the national consultation held in Fiji to build relationships with LGBTI communities across the region and to contribute a Samoan perspective to the discussions.

e. Timor Leste

The project by the Provedor for Human Rights and Justice focused on developing strategies to address bullying and discrimination of LGBTI children in schools. The issues were canvassed in community consultations, awareness raising programs and at a three-day national seminar involving teachers, students, government authorities and police officials.

All participants at the seminar noted that a key factor contributing to discrimination and harassment was the lack of clear and accessible information for the community on sexual orientation, gender identity and gender expression.

The Minister of Education, Youth and Sport pledged to develop an inclusive policy on school uniforms that would allow students to dress in a way that is most appropriate for them. Police commanders and community leaders also pledged to strengthen their relationships with LGBTI communities and involve them in their activities.

Key points

- The Yogyakarta Principles, published in late 2006, recommended that NHRIs promote respect by State and non-State actors for the Principles and that they integrate them into their work promoting and protecting the human rights of persons of diverse sexual orientations and gender identities.
- In 2017, the Yogyakarta Principles plus 10 expanded this focus to cover gender expression and sex characteristics explicitly too. They also recommended that NHRIs mainstream a SOGIESC focus in their work including through their complaint handling and human rights education functions, and by including LGBTI people in their leadership and staff.
- In 2016, APF developed a mainstreaming guide to support NHRIs to include human rights issues concerning LGBTI people into their strategic plans and work programmes.
- APF provided assistance to enable closer consultation between NHRIs and LGBTI communities through three sub-regional blended learning courses in South Asia, South East Asia and the Pacific between October 2016 and June 2017.
- In 2017, APF and UNDP hosted a regional conference to reflect on the impact of the Yogyakarta Principles in countries across the region over the ten years since 2007.

- During 2018, the NHRIs of Bangladesh, Fiji, the Philippines, Samoa and Timor Leste each developed country-specific projects, building on their engagement with the APF-UNDP training program on human rights and sexual orientation, gender identity and expression and sex characteristics.