

THE YOGYAKARTA PRINCIPLES *plus 10*

**ADDITIONAL PRINCIPLES AND STATE OBLIGATIONS
ON THE APPLICATION OF INTERNATIONAL HUMAN
RIGHTS LAW IN RELATION TO SEXUAL ORIENTATION,
GENDER IDENTITY, GENDER EXPRESSION AND
SEX CHARACTERISTICS TO COMPLEMENT THE
YOGYAKARTA PRINCIPLES**

As adopted on 10 November 2017, Geneva

TABLE OF CONTENTS

Introduction	4
Preamble	6
ADDITIONAL PRINCIPLES	
PRINCIPLE 30 The Right to State Protection	8
PRINCIPLE 31 The Right to Legal Recognition	9
PRINCIPLE 32 The Right to Bodily and Mental Integrity	10
PRINCIPLE 33 The Right to Freedom from Criminalisation and Sanction on the Basis of Sexual Orientation, Gender Identity, Gender Expression or Sex Characteristics	11
PRINCIPLE 34 The Right to Protection from Poverty	12
PRINCIPLE 35 The Right to Sanitation	12
PRINCIPLE 36 The Right to the Enjoyment of Human Rights in Relation to Information and Communication Technologies	13
PRINCIPLE 37 The Right to Truth	14
PRINCIPLE 38 The Right to Practise, Protect, Preserve and Revive Cultural Diversity	16
ADDITIONAL STATE OBLIGATIONS	
Relating to the Rights to Equality and Non-Discrimination (Principle 2)	17
Relating to the Right to Privacy (Principle 6).....	18
Relating to the Right to Treatment with Humanity while in Detention (Principle 9)	18
Relating to the Right to Freedom from Torture and Cruel, Inhuman or Degrading Treatment or Punishment (Principle 10)	19
Relating to the Right to Education (Principle 16)	19
Relating to the Right to the Highest Attainable Standard of Health (Principle 17).....	20
Relating to the Right to Freedom of Opinion and Expression (Principle 19)	21
Relating to the Right to Freedom of Peaceful Assembly and Association (Principle 20)	21
Relating to the Right to Seek Asylum (Principle 23)	22
Relating to the Right to Found a Family (Principle 24)	24
Relating to the Right to Participate in Public Life (Principle 25)	24
Relating to the Right to Promote Human Rights (Principle 27)	24
Additional Recommendations	25
Signatories to the Additional Principles and State Obligations	26

INTRODUCTION

Since the Yogyakarta Principles were adopted in 2006, they have developed into an authoritative statement of the human rights of persons of ‘diverse sexual orientations and gender identities’. The period since then, has seen significant developments both in the field of international human rights law and in the understanding of violations affecting persons of ‘diverse sexual orientations and gender identities’, as well as a recognition of the often distinct violations affecting persons on grounds of ‘gender expression’ and ‘sex characteristics’.

The Yogyakarta Principles plus 10 (YP+10) aims to document and elaborate these developments through a set of Additional Principles and State Obligations. YP+10 should be read alongside the original 29 Yogyakarta Principles. Together, these documents provide an authoritative, expert exposition of international human rights law as it currently applies to the grounds of sexual orientation, gender identity, gender expression and sex characteristics.

The YP+10 document supplements the original 29 Yogyakarta Principles and, in fact, derives its *raison d’être* from preambular paragraph 9 of those Principles:

“**ACKNOWLEDGING** that this articulation must rely on the current state of international human rights law and will require revision on a regular basis in order to take account of developments in that law and its application to the particular lives and experiences of persons of diverse sexual orientations and gender identities over time and in diverse regions and countries.”

This set of nine Additional Principles and 111 Additional State Obligations cover a range of rights whose articulation has emerged from the intersection of the developments in international human rights law with the emerging understanding of violations suffered by persons on grounds of sexual orientation and gender identity and the recognition of the distinct and intersectional grounds of gender expression and sex characteristics.

On the occasion of the tenth anniversary of the Yogyakarta Principles, the International Service for Human Rights and ARC International in consultation with experts and civil society stakeholders, established a Drafting Committee tasked with developing the YP+10 document.

The entire process was aided by a Secretariat comprised of civil society representatives and institutions. The Drafting Committee, once constituted, put out an open call for submissions in order to ensure that the output would be informed both by developments in international human rights law and by lived experience. Drawing both on the submissions received, as well as relevant research and expertise, the Drafting Committee prepared a Draft Document which was then discussed, substantially elaborated and adopted following an Experts' Meeting held in Geneva from 18-20 September 2017. The experts included persons from all regions, from multiple legal traditions, and of diverse sexual orientations, gender identities, gender expressions and sex characteristics.

The YP +10 document was thus informed by an open consultation among multiple stakeholders in the field and hence reflects some of the key issues and developments relating to the specific forms of rights violations experienced by persons on grounds of sexual orientation, gender identity, gender expression and sex characteristics.

The YP+10 document is an affirmation of existing international legal standards as they apply to all persons on grounds of their sexual orientation, gender identity, gender expression and sex characteristics. States must comply with these principles both as a legal obligation and as an aspect of their commitment to universal human rights.

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PREAMBLE

RECALLING that the Yogyakarta Principles on the application of international human rights law in relation to sexual orientation and gender identity, adopted in November 2006, provided in a preambular paragraph that the Yogyakarta Principles must rely on the current state of international law and will require revision on a regular basis in order to take account of developments in that law and its application to the particular lives and experiences of persons of diverse sexual orientations and gender identities over time and in diverse regions and countries;

NOTING that there have been significant developments in international human rights law and jurisprudence on issues relating to sexual orientation, gender identity, gender expression and sex characteristics, since the adoption of the Yogyakarta Principles;

RECALLING the Yogyakarta Principles' definitions of 'sexual orientation' and 'gender identity';

UNDERSTANDING 'gender expression' as each person's presentation of the person's gender through physical appearance – including dress, hairstyles, accessories, cosmetics – and mannerisms, speech, behavioural patterns, names and personal references, and noting further that gender expression may or may not conform to a person's gender identity;

NOTING that 'gender expression' is included in the definition of gender identity in the Yogyakarta Principles and, as such, all references to gender identity should be understood to be inclusive of gender expression as a ground for protection;

UNDERSTANDING 'sex characteristics' as each person's physical features relating to sex, including genitalia and other sexual and reproductive anatomy, chromosomes, hormones, and secondary physical features emerging from puberty;

NOTING that 'sex characteristics' as an explicit ground for protection from violations of human rights has evolved in international jurisprudence, and recognising that the Yogyakarta Principles apply equally to the ground of sex characteristics as to the grounds of sexual orientation, gender identity and gender expression;

INCLUDING, in sexual orientation, gender identity, gender expression and sex characteristics, actual, perceived and attributed sexual orientation, gender identity, gender expression and sex characteristics as the case may be;

RECOGNISING that the needs, characteristics and human rights situations of persons and populations of diverse sexual orientations, gender identities, gender expressions and sex characteristics are distinct from each other;

NOTING that sexual orientation, gender identity, gender expression and sex characteristics are each distinct and intersectional grounds of discrimination, and that they may be, and commonly are, compounded by discrimination on other grounds including race, ethnicity, indigeneity, sex, gender, language, religion, belief, political or other opinion, nationality, national or social origin, economic and social situation, birth, age, disability, health (including HIV status), migration, marital or family status, being a human rights defender or other status;

NOTING that violence, discrimination, and other harm based on sexual orientation, gender identity, gender expression and sex characteristics manifests in a continuum of multiple, interrelated and recurring forms, in a range of settings, from private to public, including technology-mediated settings, and in the contemporary globalised world it transcends national boundaries;

RECOGNISING that violence, discrimination and other harm based on sexual orientation, gender identity, gender expression and sex characteristics have an individual as well as a collective dimension and that acts of violence and discrimination which target the individual person are also an attack on human diversity, and on the universality and indivisibility of human rights;

ACKNOWLEDGING that the following Additional Principles, State Obligations and Recommendations are based on the current state of international human rights law and will require revision on a regular basis in order to take account of legal, scientific and societal developments and their application to the particular lives and experiences of persons of diverse sexual orientations, gender identities, gender expressions and sex characteristics over time and in diverse regions and countries.

**FOLLOWING CONSULTATION WITH EXPERTS AND AN
EXPERTS' MEETING HELD IN GENEVA, SWITZERLAND,
FROM 18 TO 20 SEPTEMBER 2017, HEREBY ADOPT THESE
PRINCIPLES AND, IN DOING SO:**

AFFIRM the continuing validity of the original 29 Yogyakarta Principles of 2006;
DECLARE these Additional Principles, State Obligations and Recommendations as
supplementary to the original Yogyakarta Principles.

ADDITIONAL PRINCIPLES

PRINCIPLE

30

THE RIGHT TO STATE PROTECTION

Everyone, regardless of sexual orientation, gender identity, gender expression or sex characteristics, has the right to State protection from violence, discrimination and other harm, whether by government officials or by any individual or group.

STATES SHALL:

- A. Exercise due diligence to prevent, investigate, prosecute, punish and provide remedies for discrimination, violence and other harm, whether committed by State or non-State actors;
- B. Take appropriate and effective measures to eradicate all forms of violence, discrimination and other harm, including any advocacy of hatred that constitutes incitement to discrimination, hostility, or violence on grounds of sexual orientation, gender identity, gender expression or sex characteristics, whether by public or private actors;
- C. Compile statistics and research on the extent, causes and effects of violence, discrimination and other harm, and on the effectiveness of measures to prevent, prosecute and provide reparation for such harm on grounds of sexual orientation, gender identity, gender expression and sex characteristics;
- D. Identify the nature and extent of attitudes, beliefs, customs and practices that perpetuate violence, discrimination and other harm on grounds of sexual orientation, gender identity, gender expression and sex characteristics, and report on the measures undertaken, and their effectiveness, in eradicating such harm;
- E. Develop, implement and support education and public information programmes to promote human rights and to eliminate prejudices on grounds of sexual orientation, gender identity, gender expression and sex characteristics;
- F. Ensure sensitivity training of judicial and law enforcement officers and other public officials on issues relating to sexual orientation, gender identity, gender expression and sex characteristics;
- G. Ensure that laws against rape, sexual assault and sexual harassment protect all persons regardless of their sexual orientation, gender identity, gender expression and sex characteristics;
- H. Establish support services for victims of rape, sexual assault and harassment, and other forms of violence and harm on grounds of sexual orientation, gender identity, gender expression, and sex characteristics;

- I. Ensure that human rights violations are vigorously investigated and, where evidence is found, those responsible are prosecuted and, if convicted, punished as appropriate;
- J. Ensure access to effective complaints procedures and remedies, including reparation, for victims of violence, discrimination and other harm on grounds of sexual orientation, gender identity, gender expression and sex characteristics.

THE RIGHT TO LEGAL RECOGNITION

PRINCIPLE 31

Everyone has the right to legal recognition without reference to, or requiring assignment or disclosure of, sex, gender, sexual orientation, gender identity, gender expression or sex characteristics. Everyone has the right to obtain identity documents, including birth certificates, regardless of sexual orientation, gender identity, gender expression or sex characteristics. Everyone has the right to change gendered information in such documents while gendered information is included in them.

STATES SHALL:

- A. Ensure that official identity documents only include personal information that is relevant, reasonable and necessary as required by the law for a legitimate purpose, and thereby end the registration of the sex and gender of the person in identity documents such as birth certificates, identification cards, passports and driver licences, and as part of their legal personality;
- B. Ensure access to a quick, transparent and accessible mechanism to change names, including to gender-neutral names, based on the self-determination of the person;
- C. While sex or gender continues to be registered:
 - i. Ensure a quick, transparent, and accessible mechanism that legally recognises and affirms each person's self-defined gender identity;
 - ii. Make available a multiplicity of gender marker options;
 - iii. Ensure that no eligibility criteria, such as medical or psychological interventions, a psycho-medical diagnosis, minimum or maximum age, economic status, health, marital or parental status, or any other third party opinion, shall be a prerequisite to change one's name, legal sex or gender;
 - iv. Ensure that a person's criminal record, immigration status or other status is not used to prevent a change of name, legal sex or gender.

PRINCIPLE

32

THE RIGHT TO BODILY
AND MENTAL INTEGRITY

Everyone has the right to bodily and mental integrity, autonomy and self-determination irrespective of sexual orientation, gender identity, gender expression or sex characteristics. Everyone has the right to be free from torture and cruel, inhuman and degrading treatment or punishment on the basis of sexual orientation, gender identity, gender expression and sex characteristics. No one shall be subjected to invasive or irreversible medical procedures that modify sex characteristics without their free, prior and informed consent, unless necessary to avoid serious, urgent and irreparable harm to the concerned person.

STATES SHALL:

- A. Guarantee and protect the rights of everyone, including all children, to bodily and mental integrity, autonomy and self-determination;
- B. Ensure that legislation protects everyone, including all children, from all forms of forced, coercive or otherwise involuntary modification of their sex characteristics;
- C. Take measures to address stigma, discrimination and stereotypes based on sex and gender, and combat the use of such stereotypes, as well as marriage prospects and other social, religious and cultural rationales, to justify modifications to sex characteristics, including of children;
- D. Bearing in mind the child's right to life, non-discrimination, the best interests of the child, and respect for the child's views, ensure that children are fully consulted and informed regarding any modifications to their sex characteristics necessary to avoid or remedy proven, serious physical harm, and ensure that any such modifications are consented to by the child concerned in a manner consistent with the child's evolving capacity;
- E. Ensure that the concept of the best interest of the child is not manipulated to justify practices that conflict with the child's right to bodily integrity;
- F. Provide adequate, independent counselling and support to victims of violations, their families and communities, to enable victims to exercise and affirm rights to bodily and mental integrity, autonomy and self-determination;
- G. Prohibit the use of anal and genital examinations in legal and administrative proceedings and criminal prosecutions unless required by law, as relevant, reasonable, and necessary for a legitimate purpose.

THE RIGHT TO FREEDOM FROM CRIMINALISATION AND SANCTION ON THE BASIS OF SEXUAL ORIENTATION, GENDER IDENTITY, GENDER EXPRESSION, OR SEX CHARACTERISTICS

Everyone has the right to be free from criminalisation and any form of sanction arising directly or indirectly from that person's actual or perceived sexual orientation, gender identity, gender expression or sex characteristics.

STATES SHALL:

- A. Ensure that legal provisions, including in customary, religious and indigenous laws, whether explicit provisions, or the application of general punitive provisions such as acts against nature, morality, public decency, vagrancy, sodomy and propaganda laws, do not criminalise sexual orientation, gender identity and expression, or establish any form of sanction relating to them;
- B. Repeal other forms of criminalisation and sanction impacting on rights and freedoms on the basis of sexual orientation, gender identity, gender expression or sex characteristics, including the criminalisation of sex work, abortion, unintentional transmission of HIV, adultery, nuisance, loitering and begging;
- C. Pending repeal, cease to apply discriminatory laws criminalising or applying general punitive sanctions on the basis of sexual orientation, gender identity, gender expression or sex characteristics;
- D. Expunge any convictions and erase any criminal records for past offences associated with laws arbitrarily criminalising persons on the basis of sexual orientation, gender identity, gender expression and sex characteristics;
- E. Ensure training for the judiciary, law enforcement officers and healthcare providers in relation to their human rights obligations regarding sexual orientation, gender identity, gender expression and sex characteristics;
- F. Ensure that law enforcement officers and other individuals and groups are held accountable for any act of violence, intimidation or abuse based on the criminalisation of sexual orientation, gender identity, gender expression and sex characteristics;
- G. Ensure effective access to legal support systems, justice and remedies for those who are affected by criminalisation and penalisation on grounds of sexual orientation, gender identity, gender expression and sex characteristics;
- H. Decriminalise body modification procedures and treatments that are carried out with prior, free and informed consent of the person.

PRINCIPLE

34

THE RIGHT TO PROTECTION FROM POVERTY

Everyone has the right to protection from all forms of poverty and social exclusion associated with sexual orientation, gender identity, gender expression and sex characteristics. Poverty is incompatible with respect for the equal rights and dignity of all persons, and can be compounded by discrimination on the grounds of sexual orientation, gender identity, gender expression and sex characteristics.

STATES SHALL:

- A. Take all necessary legislative, administrative, budgetary and other measures, including economic policies, to ensure the progressive reduction and elimination of all forms of poverty associated with or exacerbated by sexual orientation, gender identity, gender expression or sex characteristics;
- B. Promote social and economic inclusion of persons marginalised on the basis of sexual orientation, gender identity, gender expression and sex characteristics;
- C. Ensure the participation and inclusion of those experiencing poverty on grounds of sexual orientation, gender identity, gender expression and sex characteristics in the adoption and implementation of legislative, administrative, budgetary and other measures to combat poverty;
- D. Ensure appropriate institutional arrangements and data collection with the view to reduce poverty and social exclusion related to sexual orientation, gender identity, gender expression and sex characteristics;
- E. Ensure access to effective remedies for violations of human rights, including those caused by non-State actors, that result in poverty and exclusion, and that adversely affect persons on the grounds of sexual orientation, gender identity, gender expression and sex characteristics.

PRINCIPLE

35

THE RIGHT TO SANITATION

Everyone has the right to equitable, adequate, safe and secure sanitation and hygiene, in circumstances that are consistent with human dignity, without discrimination, including on the basis of sexual orientation, gender identity, gender expression or sex characteristics.

STATES SHALL:

- A. Ensure that there are adequate public sanitation facilities which can be accessed safely and with dignity by all persons regardless of their sexual orientation, gender identity, gender expression or sex characteristics;

- B. Ensure that all schools and other institutional settings provide safe access to sanitation facilities to staff, students and visitors without discrimination on grounds of sexual orientation, gender identity, gender expression or sex characteristics;
- C. Ensure that both public and private employers provide safe access to sanitation without discrimination on grounds of sexual orientation, gender identity, gender expression or sex characteristics;
- D. Ensure that entities offering services to the public provide adequate sanitation without discrimination, including on grounds of sexual orientation, gender identity, gender expression or sex characteristics;
- E. Ensure that places of detention have adequate sanitation facilities which can be accessed safely and with dignity by all detainees, staff and visitors without discrimination on grounds of sexual orientation, gender identity, gender expression or sex characteristics.

THE RIGHT TO THE ENJOYMENT OF HUMAN RIGHTS IN RELATION TO INFORMATION AND COMMUNICATION TECHNOLOGIES

PRINCIPLE 36

Everyone is entitled to the same protection of rights online as they are offline. Everyone has the right to access and use information and communication technologies, including the internet, without violence, discrimination or other harm based on sexual orientation, gender identity, gender expression or sex characteristics. Secure digital communications, including the use of encryption, anonymity and pseudonymity tools are essential for the full realisation of human rights, in particular the rights to life, bodily and mental integrity, health, privacy, due process, freedom of opinion and expression, peaceful assembly and association.

STATES SHALL:

- A. Take all necessary measures to ensure that all persons enjoy universal, affordable, open, safe, secure and equal access to information and communication technologies, including the internet, without discrimination based on sexual orientation, gender identity, gender expression or sex characteristics;
- B. Ensure the right of all individuals, without discrimination based on sexual orientation, gender identity, gender expression or sex characteristics, to seek, receive and impart information and ideas of all kinds, including those concerning sexual orientation, gender identity, gender expression and sex characteristics, through information and communication technologies;

- C. Ensure that any restrictions to the right to access and use information and communication technologies and the internet are provided for by law and are necessary and proportionate to protect the human dignity, equality and freedoms of others, without discrimination on the basis of sexual orientation, gender identity, gender expression or sex characteristics;
- D. Respect and protect the privacy and security of digital communications, including the use by individuals of encryption, pseudonyms and anonymity technology;
- E. Ensure that any restrictions on the right to privacy, including through mass or targeted surveillance, requests for access to personal data, or through limitations on the use of encryption, pseudonymity and anonymity tools, are on a case specific basis, and are reasonable, necessary and proportionate as required by the law for a legitimate purpose and ordered by a court;
- F. Take measures to ensure that the processing of personal data for individual profiling is consistent with relevant human rights standards including personal data protection and does not lead to discrimination, including on the grounds of sexual orientation, gender identity, gender expression and sex characteristics;
- G. Take all necessary legislative, administrative, technical and other measures, including ensuring private sector accountability, as outlined by relevant international standards, in consultation with relevant stakeholders, to seek to prevent, remedy and eliminate online hate speech, harassment and technology-related violence against persons on the basis of sexual orientation, gender identity, gender expression or sex characteristics under the framework of international human rights law.

PRINCIPLE

37

THE RIGHT TO TRUTH

Every victim of a human rights violation on the basis of sexual orientation, gender identity, gender expression or sex characteristics has the right to know the truth about the facts, circumstances and reasons why the violation occurred. The right to truth includes effective, independent and impartial investigation to establish the facts, and includes all forms of reparation recognised by international law. The right to truth is not subject to statute of limitations and its application must bear in mind its dual nature as an individual right and the right of the society at large to know the truth about past events.

STATES SHALL:

- A. Adopt legal provisions to provide redress to victims of violations on the basis of sexual orientation, gender identity, gender expression and sex characteristics, including public apology, expungement of relevant criminal convictions and records, rehabilitation and recovery services, adequate compensation and guarantees of non-recurrence;

- B. Ensure, in cases of violations of the right to mental and bodily integrity, effective access to remedies, redress, reparation and, where appropriate, psychological support and restorative treatments;
- C. Protect individuals' right to know the truth about their medical histories, including through full access to accurate medical records;
- D. Adopt and fully implement procedures to establish the truth concerning violations based on sexual orientation, gender identity, gender expression and sex characteristics;
- E. Establish a truth-seeking mechanism and process in regard to human rights violations based on sexual orientation, gender identity, gender expression and sex characteristics;
- F. Ensure that, in addition to individual victims and their families, communities and society at large can realise the right to the truth about systemic human rights violations based on sexual orientation, gender identity, gender expression and sex characteristics, while respecting and protecting the right to privacy of individuals;
- G. Preserve documentary evidence of human rights violations based on sexual orientation, gender identity, gender expression and sex characteristics, and ensure adequate access to archives with information on violations based on sexual orientation, gender identity, gender expression and sex characteristics;
- H. Ensure that the facts and truth of the history, causes, nature and consequences of discrimination and violence on grounds of sexual orientation, gender identity, gender expression and sex characteristics are disseminated and added to educational curricula with a view to achieving a comprehensive and objective awareness of past treatment of persons on grounds of sexual orientation, gender identity, gender expression and sex characteristics;
- I. Commemorate the suffering of victims of violations on the basis of sexual orientation, gender identity, gender expression and sex characteristics through public events, museums and other social and cultural activities.

PRINCIPLE

38

THE RIGHT TO PRACTISE, PROTECT, PRESERVE AND REVIVE CULTURAL DIVERSITY

Everyone, individually or in association with others, where consistent with the provisions of international human rights law, has the right to practise, protect, preserve and revive cultures, traditions, languages, rituals and festivals, and protect cultural sites of significance, associated with sexual orientation, gender identity, gender expression and sex characteristics. Everyone, individually or in association with others, has the right to manifest cultural diversity through artistic creation, production, dissemination, distribution and enjoyment, whatever the means and technologies used, without discrimination based on sexual orientation, gender identity, gender expression or sex characteristics. Everyone, individually or in association with others, has the right to seek, receive, provide and utilise resources for these purposes without discrimination on the basis of sexual orientation, gender identity, gender expression or sex characteristics.

STATES SHALL:

- A . Ensure the right to practice, protect, preserve and revive the diversity of cultural expressions of persons of all sexual orientations, gender identities, gender expressions and sex characteristics on the basis of the equal dignity of and respect for all.

ADDITIONAL STATE OBLIGATIONS

RELATING TO THE RIGHTS TO EQUALITY AND NON-DISCRIMINATION (PRINCIPLE 2)

STATES SHALL:

- G. Take all appropriate steps to ensure that reasonable accommodation is provided, where needed, in order to promote equality and eliminate discrimination on the basis of sexual orientation, gender identity, gender expression or sex characteristics, including in education, employment, and access to services;
- H. Ensure that HIV status is not used as a pretext to isolate, marginalise or exclude persons of diverse sexual orientations, gender identities, gender expressions or sex characteristics, or prevent them from accessing goods, commodities and services;
- I. Ensure that all individuals can participate in sport in line with the gender with which they identify, subject only to reasonable, proportionate and non-arbitrary requirements;
- J. Ensure that all individuals can participate in sport without discrimination on the grounds of sexual orientation, gender identity, gender expression or sex characteristics;
- K. Adopt legislative, policy and other measures in line with international human rights norms and standards to eliminate bullying and discriminatory behaviour at all levels of sports, on the basis of sexual orientation, gender identity, gender expression and sex characteristics;
- L. Combat the practice of prenatal selection on the basis of sex characteristics, including by addressing the root causes of discrimination against persons on the basis of sex, gender, sexual orientation, gender identity, gender expression and sex characteristics, and by carrying out awareness-raising activities on the detrimental impact of prenatal selection on these grounds;
- M. Take measures to address discriminatory attitudes and practices on the basis of sex, gender, sexual orientation, gender identity, gender expression and sex characteristics in relation to the application of prenatal treatments and genetic modification technologies.

RELATING TO THE RIGHT TO PRIVACY (PRINCIPLE 6)

STATES SHALL:

- G. Ensure that requirements for individuals to provide information on their sex or gender are relevant, reasonable and necessary as required by the law for a legitimate purpose in the circumstances where it is sought, and that such requirements respect all persons' right to self-determination of gender;
- H. Ensure that changes of the name or gender marker, as long as the latter exists, is not disclosed without the prior, free, and informed consent of the person concerned, unless ordered by a court.

RELATING TO THE RIGHT TO TREATMENT WITH HUMANITY WHILE IN DETENTION (PRINCIPLE 9)

STATES SHALL:

- H. Adopt and implement policies to combat violence, discrimination and other harm on grounds of sexual orientation, gender identity, gender expression or sex characteristics faced by persons who are deprived of their liberty, including with respect to such issues as placement, body or other searches, items to express gender, access to and continuation of gender affirming treatment and medical care, and "protective" solitary confinement;
- I. Adopt and implement policies on placement and treatment of persons who are deprived of their liberty that reflect the needs and rights of persons of all sexual orientations, gender identities, gender expressions, and sex characteristics and ensure that persons are able to participate in decisions regarding the facilities in which they are placed;
- J. Provide for effective oversight of detention facilities, both with regard to public and private custodial care, with a view to ensuring the safety and security of all persons, and addressing the specific vulnerabilities associated with sexual orientation, gender identity, gender expression and sex characteristics.

RELATING TO THE RIGHT TO FREEDOM FROM TORTURE AND CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (PRINCIPLE 10)

STATES SHALL:

- D. Recognise that forced, coercive and otherwise involuntary modification of a person's sex characteristics may amount to torture, or other cruel, inhuman or degrading treatment;
- E. Prohibit any practice, and repeal any laws and policies, allowing intrusive and irreversible treatments on the basis of sexual orientation, gender identity, gender expression or sex characteristics, including forced genital-normalising surgery, involuntary sterilisation, unethical experimentation, medical display, "reparative" or "conversion" therapies, when enforced or administered without the free, prior, and informed consent of the person concerned.

RELATING TO THE RIGHT TO EDUCATION (PRINCIPLE 16)

STATES SHALL:

- I. Ensure inclusion of comprehensive, affirmative and accurate material on sexual, biological, physical and psychological diversity, and the human rights of people of diverse sexual orientations, gender identities, gender expressions and sex characteristics, in curricula, taking into consideration the evolving capacity of the child;
- J. Ensure inclusion of comprehensive, affirmative and accurate material on sexual, biological, physical and psychological diversity, and the human rights of people of diverse sexual orientations, gender identities, gender expressions and sex characteristics, in teacher training and continuing professional development programmes.

RELATING TO THE RIGHT TO THE HIGHEST ATTAINABLE STANDARD OF HEALTH (PRINCIPLE 17)

STATES SHALL:

- J. Protect all persons from discrimination, violence and other harm on the basis of sexual orientation, gender identity, gender expression and sex characteristics in healthcare settings;
- K. Ensure access to the highest attainable standard of gender affirming healthcare, on the basis of an individual's free, prior and informed consent;
- L. Ensure that gender affirming healthcare is provided by the public health system or, if not so provided, that the costs are covered or reimbursable under private and public health insurance schemes;
- M. Take all necessary measures to eliminate all forms of sexual and reproductive violence on the basis of sexual orientation, gender identity, gender expression and sex characteristics, including forced marriage, rape and forced pregnancy;
- N. Ensure access, without discrimination on the grounds of sexual orientation, gender identity, gender expression, or sex characteristics, to pre and post-exposure prophylaxis (PrEP and PEP);
- O. Ensure access to a range of safe, affordable and effective contraceptives, including emergency contraception, and to information and education on family planning and sexual and reproductive health, without discrimination based on sexual orientation, gender identity, gender expression and sex characteristics;
- P. Take all necessary legislative and other measures to ensure access to quality post abortion care, and remove any barriers that may hinder timely access to affordable and quality abortion services, without discrimination based on sexual orientation, gender identity, gender expression or sex characteristics;
- Q. Prevent the disclosure of HIV status, as well as personal health and medical information related to sexual orientation, gender identity, gender expression and sex characteristics, such as gender affirming treatment, without the free, prior and informed consent of the person;
- R. Ensure that legal provisions, regulations or any other administrative measures on the donation of blood, gametes, embryos, organs, cells or other tissues do not discriminate on grounds of sexual orientation, gender identity, gender expression or sex characteristics;
- S. Ensure inclusion of affirmative material on sexual, biological, physical and psychological diversity and the human rights of people of diverse sexual orientations, gender identities, gender expressions and sex characteristics in medical curricula and continuing professional development programmes.

RELATING TO THE RIGHT TO INFORMATION (PRINCIPLE 19)

STATES SHALL:

- G. Take legislative, administrative, and other appropriate measures to ensure that all persons have access to information about their civil, political, economic, social and cultural rights, including how these rights apply in relation to sexual orientation, gender identity, gender expression and sex characteristics;
- H. Make freely available and accessible, both online and otherwise, international and regional treaties and instruments; the national constitution, national laws and regulations; research studies, reports, data, archives; reports and information submitted by the State to international and regional bodies and mechanisms; and all other information as may be necessary to secure or enable the exercise of any human rights or fundamental freedoms or access to remedy for a violation of any such right;
- I. Recognise that the needs, characteristics and human rights situations of populations of diverse sexual orientations, gender identities, gender expressions and sex characteristics are distinct from each other, and ensure that data on each population is collected and managed in a manner consistent with ethical, scientific and human rights standards and made available in a disaggregated form.

RELATING TO THE RIGHT TO THE FREEDOM OF PEACEFUL ASSEMBLY AND ASSOCIATION (PRINCIPLE 20)

STATES SHALL:

- F. Respect, protect and facilitate the formation of associations for the purpose of promoting the rights of all persons, including on the basis of sexual orientation, gender identity, gender expression or sex characteristics;
- G. Ensure that associations which seek to promote human rights related to sexual orientation, gender identity, gender expression or sex characteristics can seek, receive and use funding and other resources from individuals, associations, foundations or other civil society organisations, governments, aid agencies, the private sector, the United Nations and other entities, domestic or foreign;
- H. Ensure that requirements and procedures to register associations, where they exist, are not burdensome or impose unjustifiable limitations, including on grounds of morality and public order;

- I. Ensure that the right to freedom of association applies equally to associations that are not registered, including associations working on issues related to sexual orientation, gender identity, gender expression or sex characteristics;
- J. Take positive measures, including affirmative action measures, to overcome specific challenges to the enjoyment of the freedom of association of groups that are marginalised and made vulnerable on grounds of sexual orientation, gender identity, gender expression or sex characteristics;
- K. Take positive measures to protect the right to association of service providers working with those discriminated against on grounds of sexual orientation, gender identity, gender expression or sex characteristics.

RELATING TO THE RIGHT TO SEEK ASYLUM (PRINCIPLE 23)

STATES SHALL:

- D. Ensure that a well-founded fear of persecution on the basis of sexual orientation, gender identity, gender expression or sex characteristics is accepted as a ground for the recognition of refugee status, including where sexual orientation, gender identity, gender expression or sex characteristics are criminalised and such laws, directly or indirectly, create or contribute to an oppressive environment of intolerance and a climate of discrimination and violence;
- E. Ensure that persons seeking asylum are protected from violence, discrimination and other harm committed on grounds of sexual orientation, gender identity, gender expression or sex characteristics, including during the determination of their claims and in reception conditions;
- F. Ensure that no person is denied asylum on the basis that a person may conceal or change their sexual orientation, gender identity, gender expression or sex characteristics in order to avoid persecution;
- G. Accept the self-identification of a person seeking asylum on the basis of sexual orientation, gender identity, gender expression or sexual characteristics as the starting point for consideration of their asylum claim;
- H. Ensure that persons seeking asylum are not refused asylum because they did not set out their sexual orientation, gender identity, gender expression or sexual characteristics as a ground for persecution on the first occasion they were given to do so;
- I. Ensure sensitive and culturally appropriate guidelines and training on sexual orientation, gender identity, gender expression and sexual characteristics for agents involved in the process of determination of refugee status and in managing reception conditions;

- J. Ensure respect for the dignity and privacy of persons seeking asylum at all times, including by recording information about a person's sexual orientation, gender identity, gender expression and sex characteristics only where it is lawful, reasonable, necessary and proportionate to do so, by storing it securely and by prohibiting its release to any person other than a person directly involved in the refugee determination process;
- K. Develop and implement guidelines on assessing credibility in relation to establishing a person's sexual orientation, gender identity, gender expression and sex characteristics when seeking asylum, and ensure such assessments are determined in an objective and sensitive manner, unhindered by stereotyping and cultural bias;
- L. Ensure that inappropriate, invasive, unnecessary or coercive medical or psychological testing or evidence is not utilised to assess a person's self-declared sexual orientation, gender identity, gender expression or sex characteristics when seeking asylum;
- M. Provide access to medical care and counselling appropriate to those seeking asylum, recognising any particular needs of persons on the basis of their sexual orientation, gender identity, gender expression or sex characteristics, including with regard to reproductive health, HIV information and therapy, hormonal or other therapy, and gender affirming treatment;
- N. Ensure that the detention of asylum seekers is avoided, and is only used as a measure of last resort and for the shortest possible time;
- O. Ensure that placement in detention, where used, avoids further marginalising persons on the basis of sexual orientation, gender identity, gender expression or sex characteristics or subjecting them to violence, discrimination or other harm;
- P. Ensure that solitary confinement is not used to manage or to protect persons at risk of discrimination, violence or other harm on the basis of sexual orientation, gender identity, gender expression or sex characteristics, and release or refer asylum seekers to alternatives to detention, if effective protection cannot be provided.

RELATING TO THE RIGHT TO FOUND A FAMILY (PRINCIPLE 24)

STATES SHALL:

- H. Protect children from discrimination, violence or other harm due to the sexual orientation, gender identity, gender expression or sex characteristics of their parents, guardians, or other family members;
- I. Issue birth certificates for children upon birth that reflect the self-defined gender identity of the parents;
- J. Enable access to methods to preserve fertility, such as the preservation of gametes and tissues for any person without discrimination on grounds of sexual orientation, gender identity, gender expression, or sex characteristics, including before hormonal treatment or surgeries;
- K. Ensure that surrogacy, where legal, is provided without discrimination based on sexual orientation, gender identity, gender expression or sex characteristics.

RELATING TO THE RIGHT TO PARTICIPATE IN PUBLIC LIFE (PRINCIPLE 25)

STATES SHALL:

- D. Take measures to ensure that sexual orientation, gender identity, gender expression and sex characteristics are not used as grounds to prevent a person from exercising their right to vote;
- E. Develop and implement affirmative action programmes to promote public and political participation for persons marginalised on the basis of sexual orientation, gender identity, gender expression or sex characteristics.

RELATING TO THE RIGHT TO PROMOTE HUMAN RIGHTS (PRINCIPLE 27)

STATES SHALL:

- F. Enact a law, including to establish, designate or maintain an adequately resourced mechanism, for the protection of defenders of the rights of persons who experience or are at risk of violations on the basis of sexual orientation, gender identity, gender expression or sex characteristics;
- G. Ensure the participation of individuals and organisations working on human rights issues related to sexual orientation, gender identity, gender expression or sex characteristics in public and political decision-making processes that affect them.

ADDITIONAL RECOMMENDATIONS

All members of society and of the international community have responsibilities regarding the realisation of human rights. We therefore further recommend that:

- 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;
- R. Sporting organisations integrate the Yogyakarta Principles (2006) and these Additional Principles (2017), as well as all relevant human rights norms and standards, in their policies and practices, in particular:
 - i. Take practical steps to create welcoming spaces for participation in sport and physical activity, including installation of appropriate changing rooms, and sensitisation of the sporting community on the implementation of anti-discrimination laws in the sporting context for persons of diverse sexual orientations, gender identities, gender expressions, and sex characteristics;
 - ii. Ensure that all individuals who wish to participate in sport are supported to do so irrespective of sexual orientation, gender identity, gender expression and sex characteristics, and that all individuals are able to participate, without restriction, subject only to reasonable, proportionate and non-arbitrary requirements to participate in line with their self-declared gender;
 - iii. Remove, or refrain from introducing, policies that force, coerce or otherwise pressure women athletes into undergoing unnecessary, irreversible and harmful medical examinations, testing and/or procedures in order to participate as women in sport;
 - iv. Take measures to encourage the general public to respect diversity based on sexual orientation, gender identity, gender expression and sex characteristics in sports, including measures to eliminate hate speech, harassment, and violence at sports events.

THESE ADDITIONAL PRINCIPLES, STATE OBLIGATIONS AND RECOMMENDATIONS reflect the application of international human rights law to the lives and experiences of persons of diverse sexual orientations, gender identities, gender expressions and sex characteristics, and nothing herein should be interpreted as restricting or in any way limiting the rights and freedoms of such persons as recognised in international, regional or national laws or standards.

SIGNATORIES TO THE ADDITIONAL PRINCIPLES AND STATE OBLIGATIONS

Philip Alston (*Australia*), UN Special Rapporteur on extreme poverty and human rights

Ilze Kehris Brands (*Latvia and Sweden*), Member, UN Human Rights Committee; Senior research fellow, Raoul Wallenberg Institute of Human Rights and Humanitarian Law

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Mauro Cabral Grinspan (*Argentina*), Executive Director, GATE

Edwin Cameron (*South Africa*), Judge, Constitutional Court of South Africa

Morgan Carpenter (*Australia*), Founder, Intersex Day Project; Co-executive director, Organisation Intersex International Australia; Consultant, GATE

Kamala Chandrakirana (*Indonesia*), Urgent Action Fund for Women's Human Rights - Asia-Pacific; member of the UN Working Group on the issue of discrimination against women in law and practice (2011-2017)

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Julia Ehrh (*Germany*), Executive Director, Transgender Europe (TGEU)

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Maina Kiai (*Kenya*), InformAction and Human Rights Defender; UN Special Rapporteur on the rights to freedom of peaceful assembly and association (2011-2017)

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Victor Madrigal-Borloz (*Costa Rica*) Secretary- General of the International Rehabilitation Council for Torture Victims (IRCT)

Monica Mbaru (*Kenya*), Judge, Employment and Labour Relations Court

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