LESBIAN AND GAY RIGHTS

Protection from abuse remained elusive for lesbians, gay men, and bisexual and transgender people in 2000, despite the reaffirmation in the Universal Declaration of Human Rights that “All people are born free and equal in dignity and rights.” In virtually every country in the world, people suffered from de jure and de facto discrimination based on their actual or perceived sexual orientation or gender identity. Sexual minorities were persecuted in a significant number of countries and in many ways, including the application of the death penalty or long prison sentences for private sexual acts between consenting adults. In some countries, sexual minorities were targeted for extrajudicial execution. In many countries, police actively participated in the persecution. Pervasive bias within the criminal justice system in many countries effectively precluded members of sexual minorities from seeking redress.

These attacks on human rights and fundamental freedoms also occurred in international fora where states were supposedly working to promote human rights. For example, in New York in June at the five year review meeting for the Fourth World Conference on Women, many delegates refused to recognize women’s sexual rights and some states continued to defend violations of women’s human rights in the name of religious and cultural practices. Activists stressed the connection between the need for states to recognize women’s right to control their sexuality and enjoy physical autonomy if states were serious about wanting to reduce violence against women. Many delegates refused to acknowledge that discrimination against lesbian and single women created a climate in which attacks on such women were deemed justified.

Other intergovernmental bodies played a significant role in upholding the human rights of lesbian, gay, bisexual, and transgender individuals. In July, for example, the Council of Europe’s Parliamentary Assembly approved Armenia and Azerbaijan’s applications for membership with the understanding that each country would repeal legislation that discriminated against lesbian, gay, bisexual, and transgender persons. In a further debate the assembly voted to support recommendations that national governments recognize persecution on the grounds of sexual orientation for the purposes of asylum and grant bi-national same-sex couples the same residence rights as bi-national heterosexual couples. In September, the Parliamentary Assembly called upon its member states to include sexual orientation among the prohibited bases of discrimination, revoke sodomy laws and similar legislation criminalizing sexual relations between consenting adults of the same sex, and apply the same age of consent for all sexual relations.

Despite the council’s laudable efforts, the International Gay and Lesbian Association (IGLA) reported to the Parliamentary Assembly’s Legal Affairs and Human Rights Committee in March that “discrimination against lesbian, gay and bisexual persons remains endemic and extremely serious” in Europe and that “[h]omophobic violence is common, even in countries like Sweden which are world leaders in their support for lesbian and gay rights.”
Persecution

Lesbian, gay, bisexual, and transgender individuals were vilified by officials of several states. Their claims to equal enjoyment of rights and equal protection before the law were routinely denied in many states. State-sponsored hostility and entrenched bias toward lesbian, gay, bisexual, and transgender people not only placed them at risk of violence and persecution by agents of the state, but virtually guaranteed that they would face serious obstacles if they turned to the state for protection or redress when attacked by private actors.

World Pride 2000, an international event calling attention to human rights violations of lesbian, gay, bisexual, and transgender people, held in July in Rome, came under heavy criticism from the Vatican. In the wake of the Vatican’s criticism, Italy’s prime minister Guiliano Amato ordered the country’s minister for equal rights to cancel her ministry’s official sponsorship of World Pride. The pope went on to condemn the event as “an offense to the Christian values of the city.”

Leaders in Namibia, Uganda, and Zimbabwe continued to denounce lesbian, gay, bisexual, and transgender individuals during the year. Zimbabwean President Robert Mugabe continued his longstanding anti-gay campaign. At a New Year’s Day celebration, he characterized same-sex marriage as “an abomination, a rottenness of culture, real decadence of culture.” In Namibia, President Sam Nujoma was regularly quoted as calling lesbians and gays “unnatural” and against the will of God. State television reported in October 2000 that Home Affairs Minister Jerry Ekandjo urged new police officers to “eliminate” lesbians and gays “from the face of Namibia.”

Ugandan President Yoweri Museveni appeared to back away from his September 1999 directive to Criminal Investigations Division officers to “look for homosexuals, lock them up and charge them.” At a news conference in November 1999, he criticized lesbians and gays for “provoking and upsetting” society but suggested that they could live in Uganda as long they “did it quietly.”

In the month after President Museveni ordered the arrest of lesbian, gay, bisexual, and transgender Ugandans, the International Gay and Lesbian Human Rights Commission (IGLHRC) received reports that several students had been expelled from schools for their involvement in same-sex relationships. The offices of Sister Namibia, a magazine known for its strong support of gay and lesbian rights, was set on fire on July 10 in what appeared to be a deliberate attack; the Namibian National Society for Human Rights noted, “While the motive for the attack is not yet known, the attack occurred barely a week after Namibian President Sam Nujoma launched a verbal attack on the homosexual community.”

According to the Lebanese human rights organization Multi-Initiative on Rights: Search, Assist and Defend (MIRSAD), Beirut Morals Police (Police des Mœurs) officers entered the offices of Destination, a Lebanese internet service provider, in April to obtain information about the owners of a website for Lebanese gays and lesbians that was accessible to internet users in Lebanon but maintained in the United States. Later that month, officers questioned the general manager and another senior staff member at the Hobaich police station. When MIRSAD posted an urgent action message on several websites, the military prosecutor charged MIRSAD and Destination officials with “tarnishing the reputation of the Morals Police by distributing a printed flier,” in violation of article 157 of the Military Penal Code; their trial was scheduled for September 25. If convicted, they would face three months to three years of imprisonment.

Gay men, lesbians, and transgender people have been subjected to a campaign of terror, violence, and murder in El Salvador over the last several years. Governmental indifference to these offenses was
compounded by state agents’ active participation in violence. A person who identified himself as a member of the special Presidential Battalion used his weapon to threaten a transgender person who was participating in Lesbian and Gay Pride Day celebrations in the Constitution Plaza in San Salvador. Asociación “Entre Amigos” Executive Director William Hernández repeatedly received death threats. The Salvadorean police acknowledged that Hernández and “Entre Amigos” qualified for protection due to the repeated attacks and threats to which they had been subjected. Nevertheless, the chief of the National Civil Police initially refused to appoint any officers to provide protection because officers who “do not share the sexual tastes” of those they should protect would feel uncomfortable doing their work. Hernández was placed under special police protection following an international campaign.

In August, a longstanding prohibition against the use of a public park in Aguascalientes, Mexico, by “dogs and homosexuals” became the focus of public attention after a sign announcing the ban was repaired and reposted at the park entrance. Asked for his thoughts on the gay community in interviews broadcast on the Mexican network Televisa and in the national newspaper La Jornada, Aguascalientes Director of Regulations Jorge Alvarez Medina stated that he was against “this type of people” and declared that he “will not allow access to homosexuals” while he remained in charge of municipal regulations. In a welcome development, however, National Action Party (Partido de Acción Nacional, PAN) National President Luis Felipe Bravo Mena denied that Alvarez Medina’s remarks reflected the policy of the PAN, the governing party in Aguascalientes. Declaring that “we reject and repudiate” Alvarez Medina’s remarks, Bravo Mena stated, “If any doubt remains, I can say that I feel that this is absolutely reprehensible. We do not believe in any type of discrimination and reject it.”

At least four transgender persons in Valencia, in the Venezuelan state of Carabobo, were reportedly detained without judicial order by Carabobo police, according to Amnesty International. In July, police improperly detained two transgender persons for eight days; in August, officers forced two other members of Valencia’s transgender community to undress in the street, beat them, and then held them for several days in August without permitting them legal, medical, or family visits.

In September, the Brazilian GLBT Pride Parade Association of São Paulo (Associação da Parada do Orgulho GLBT de São Paulo) received a letter bomb, one day after several gay and lesbian rights organizations and other human rights NGOs received letters threatening to “exterminate” gays, Jews, blacks, and persons from Brazil’s northeast. There were an estimated 169 bias-motivated killings of sexual minorities in Brazil in 1999, according to a May report issued by the Grupo Gay de Bahia; the states of Pernambuco and São Paulo recorded the highest number of killings.

The Criminalization of Private Sexual Conduct

Over eighty countries continued to criminalize sexual activity between consenting adults of the same sex, according to the IGLHRC. Elsewhere, national or local legislation discriminated against lesbian, gay, bisexual, and transgender persons by imposing different standards for the legal age of consent. In addition, lesbian, gay, bisexual, and transgender persons were often targeted for arrest under provisions relating to “scandalous conduct,” “public decency,” loitering, and similar charges.

In Saudi Arabia, where sodomy was punishable by the death penalty, six men were executed for that crime in July. In April, nine men were sentenced to up to 2,600 lashes each for transvestism and “deviant sexual
behavior”; because the sentence could not be carried out in a single session without killing the men, it was to be carried out at fifteen-day-intervals over a period of two years.

Sri Lanka’s Press Council fined a gay rights activist in June for filing a complaint against a newspaper that had published a letter urging that lesbians be turned over to convicted rapists. The council declared that being a lesbian was an “act of sadism” and that the activist, rather than the newspaper, was guilty of promoting improper values.

At this writing, the Romanian Senate was considering the abolition of article 200, which criminalized all sexual relations between consenting adults of the same sex if “committed in public or if producing public scandal.” The article was interpreted to include casual gestures of intimacy such as holding hands and kissing. The measure passed the Chamber of Deputies, the Romanian Parliament’s lower house, on June 28. The measures under consideration did not address article 201, which continued to penalize “acts of sexual perversion” if “committed in public or if producing public scandal” with one to five years of imprisonment. A 1998 report jointly published by Human Rights Watch and the IGLHRC documented the human rights abuses suffered by lesbian, gay, bisexual, and transgender persons in Romania as a result of both provisions.

In response to a 1993 decision of the European Court of Human Rights, Cyprus amended its criminal laws in June to equalize the male age of consent, setting it at eighteen. Before the amendment, the age of consent for men engaging in heterosexual sex had been sixteen, while the age of consent for men engaging in homosexual sex had been eighteen. The age of consent for all women continued to be sixteen. Other European countries continued to maintain unequal ages of consent. A notable example was Austria, where the age of consent was fourteen for heterosexual males and eighteen for men who had sexual relations with other men.

In the United States, fifteen states retained laws prohibiting consensual sexual relations between adults of the same sex, classifying these acts as “sodomy,” “sexual misconduct,” “unnatural intercourse,” or “crimes against nature.” A Texas court overturned the state’s sodomy law in June, while the highest court of the neighboring state of Louisiana upheld the state’s “crimes against nature” statute in July. A challenge to Massachusetts’ sodomy law was pending at this writing. Massachusetts was the only state in New England to retain legislation prohibiting sexual relations between consenting adults of the same sex.

In August, former Malaysian Deputy Prime Minister Anwar Ibrahim and his adopted brother Sukma Dermawan were both convicted of sodomy. Anwar was sentenced to nine years in prison; Sukma received six years and four lashes with a rattan cane. The prosecution of Anwar was widely viewed inside and outside Malaysia as a case of political revenge against Anwar and his supporters, who had grown increasingly critical of Prime Minister Mahathir in the months prior to Anwar’s ouster and arrest. Anwar’s prosecution was also seen as undermining the integrity of the Malaysian judiciary, which had already been criticized widely for its lack of independence (see Malaysia chapter).

In May, the Zimbabwe Supreme Court upheld former President Canaan Banana’s 1998 conviction for sodomy and indecent assault. Banana was quoted in 1999 as describing homosexuality as “deviant, abominable, and wrong according to the scriptures and according to Zimbabwean culture.”

Even in countries where the laws criminalizing private consensual conduct between adults were not enforced, the existence of these laws provided the foundation for attacks on sexual minorities. Men and
women who identified as gay, lesbian, or bisexual were attacked as immoral and putative criminals. Thus, discrimination on the basis of this characterization was deemed justified.

The Military

In September 1999, the European Court of Human Rights ruled that the United Kingdom’s ban on lesbian and gay service members violated the Convention on Human Rights and Fundamental Freedoms. In July 2000, the court awarded four gay British service members compensation for their discharge.

Lesbian, gay, bisexual, and transgender individuals were not barred from military service throughout much of the rest of Europe. In remarks published in the French gay magazine Têtu in May, Gen. Alain Raevel declared of France’s policy with regard to lesbian, gay, bisexual, and transgender service members, “The army which we are building is an extension of society . . . . We need to recruit boys and girls for 400 different types of work. The fact that they may be homosexual does not concern us.” Similarly, lesbian, gay, bisexual, and transgender individuals served in Canada and Israel without official retaliation.

With most of its allies either allowing homosexuals to serve openly or having no policy on the subject they considered unrelated to job performance, the United States found itself increasingly isolated in maintaining restrictions on lesbian, gay, bisexual, and transgender servicemembers. Turkey was the only other member of the North Atlantic Treaty Organization (NATO) that continued to ban gays and lesbians from its armed forces. Six years after the U.S. military codified and implemented its “don’t ask, don’t tell” policy, its own investigations found that training on implementation of the law was lagging and that anti-gay comments and harassment were pervasive. Although the “don’t ask, don’t tell” policy was ostensibly intended to allow a greater number of gay, lesbian, or bisexual service members to remain in the military, discharges increased significantly after the policy’s adoption. From 1994 to 1999, a total of 5,412 service members were separated from the armed forces under the policy, with yearly discharge totals nearly doubling, from 617 in 1994 to 1,149 in 1998. In 1999, the number of separations dropped slightly, to 1,034; nevertheless, the discharge rate was still 73 percent higher than it was prior to the implementation of “don’t ask, don’t tell.” Women were discharged at a disproportionately high rate. In addition, the policy enabled male harassers to threaten to “out” women—and end their careers—if the women rejected their advances or threatened to report them.

Even more disturbing than the increase in the number of service members separated from the military under this policy was the continued failure of the U.S. Department of Defense to hold anyone accountable for violations of the policy. This lack of accountability spilled over to the murder case of Barry Winchell, a gay army private at Fort Campbell in 1999. A U.S. Army review, issued in July, of the circumstances surrounding the beating death of Winchell on the base, concluded that no officers would be held responsible for the killing and that there was no “climate” of homophobia on the base. This conclusion contradicted a Defense Department inspector general report issued in March which found that harassment based on perceived homosexuality was widespread in the military. It also contradicted numerous reports that Winchell was relentlessly taunted with anti-gay slurs in the months before he was murdered.

Marriage and Discrimination Based on Family Configuration

Barriers to the legal recognition of lesbian, gay, bisexual, and transgender families continued to crumble
slowly in a number of countries throughout the world. In March, the European Parliament, the legislative body of the European Union, called on its member states to “guarantee one-parent families, unmarried couples, and same-sex couples rights equal to those enjoyed by traditional couples and families.”

On September 13, the Dutch Parliament passed legislation permitting marriage between same-sex couples. The legislation, which was limited to Dutch citizens and to those with residency permits, also provided for adoption rights and access to the courts in cases of divorce. The law was expected to go into effect in early 2001, making the Netherlands the first country to allow same-sex couples to marry.

Denmark, Greenland, Iceland, Norway, and Sweden had provisions for registered partnerships, which did not provide all of the benefits of civil marriage—often according limited or no adoption rights, in particular—and were generally limited only to citizens or to residents who had lived in the country for several years. France’s civil pact of solidarity (pacte civile de solidarité, PACS) and Hungary’s cohabitation law had similar limitations. In June, Iceland expanded its registered partnership law to permit same-sex couples to adopt each other’s biological children. The law was also extended to cover Danes, Swedes, and Norwegians living in Iceland; other foreigners were permitted to enter into registered partnerships after they had resided in Iceland for two years.

A comprehensive same-sex partnership bill introduced in Germany on July 5 would grant same-sex couples spousal rights in taxation, inheritance, immigration, social security, child custody, health insurance, name changes, and other areas. The plan was expected to pass the Bundestag, the lower house of the German parliament; support in the Bundesrat, necessary to enact some aspects of the proposal, was not assured.

The U.S. state of Vermont enacted legislation in April providing for civil unions between same-sex couples. The law was passed in response to a December 1999 decision of the Vermont Supreme Court holding that the state’s constitution required Vermont “to extend to same-sex couples the common benefits and protections that flow from marriage under Vermont law.” Although civil unions carried virtually all of the state rights and responsibilities of marriage, they were not recognized by the federal government or any other U.S. state.

Brazil granted same-sex partners the same rights as married couples with respect to pensions, social security benefits, and taxation in June. This step was achieved by decree: legislation to provide for civil unions between persons of the same sex remained pending in the federal Chamber of Deputies.

In November 1999, the Latvian Parliament’s Human Rights and Public Affairs Commission rejected proposed legislation that would provide for registered partnerships for same-sex couples. In August, Slovak Justice Minister Jan Carnogursky announced that same-sex partnerships would not be registered in Slovakia, reportedly stating that such partnerships would “degrade” heterosexual families.

Israel’s Interior Ministry announced in July that it allowed same-sex partners to receive immigration benefits on equal terms with heterosexual common-law spouses. Under the ministry’s policy, the noncitizen partner is granted a renewable one-year tourist permit with employment authorization and may request temporary resident status after four years; eventually, the partner may seek permanent residence and then citizenship.

With the addition of Israel, at least fourteen countries offered immigration benefits to same-sex couples. Unlike most countries’ immigration policies with regard to married heterosexual couples, these policies typically required same-sex couples to demonstrate that they had had a committed relationship for one to two
years or more before they were eligible for any immigration benefits. Australia required same-sex couples to show “a mutual commitment to a shared life” for at least the twelve months preceding the date of application. In New Zealand, same-sex couples had to have been “living in a genuine and stable de facto relationship” for two years. The United Kingdom required applicants to show that they had had “a relationship akin to marriage” for two years or more. Belgium required a relationship of at least three and a half years’ duration. The other countries that offered same-sex immigration benefits were Canada, Denmark, Finland, France, Namibia, the Netherlands, Norway, South Africa, and Sweden.

Harassment and Discrimination Against Students

Lesbian, gay, bisexual, and transgender students in the United States and elsewhere were frequently targeted for harassment by their peers. Lesbian, gay, and bisexual youth were nearly three times as likely as their peers to have been involved in at least one physical fight in school, three times as likely to have been threatened or injured with a weapon at school, and nearly four times as likely to skip school because they felt unsafe, according to the 1999 Massachusetts Youth Risk Behavior Survey. Moreover, the survey found that those who identified as lesbian, gay, or bisexual were more than twice as likely to consider suicide and more than four times as likely to attempt suicide than their peers.

Efforts to provide a safe, supportive environment for lesbian, gay, bisexual, and transgender students in the United States were hampered by discriminatory legislation in several states. In addition, many students also faced hostile school administrations. In two particularly prolonged disputes, school districts in Utah and California attempted to deny students the right to form clubs known as gay-straight alliances, in violation of the federal Equal Access Act. Both school districts began to permit the student groups to meet in September 2000, doing so only after the students who sought to form the groups filed lawsuits against the districts. (See Children’s Rights).