



# The Human Rights of LGBT Persons

*A Collection of Op-Eds by  
UARizona Human Rights Practice  
Students*

*These ten op-eds were written by MA students in a UARizona Human Rights Practice Course on “The Human Rights of LGBT Persons” taught in summer 2021 by Prof. Raymond Smith. This collection was edited by students Kathy E. Bauer, Rachel Briggs, Aubry Eggers, Marsha Jewell McDowell, and Abby Nelson.*

[LGBT Inclusion in Schools: A Teacher’s Perspective](#) by Erin Willis

[Ongoing Violations of Transgender Youth’s Access to Gender-affirming Healthcare](#) by Jessica Ugstad

[Pronouns in Prison: A First Step for LGBT Prison Policy Reform](#) by Marsha Jewell McDowell

[Ohio is Not Open for Business: Pass the Ohio Fairness Act](#) by Meredith LeMoyne Hood

[“Being Gay Was Not My Choice...”](#) by Kathy E. Bauer

[Can Human Rights be at Odds with One Another?](#) by Rachel Briggs

[No Safe Space for LGBT Refugees: Addressing Sexual Violence Within Camps](#) by Abby Nelson

[The Purge of Chechnya](#) by Aubry Eggers

[Abuse of LGBT Migrants is Common in Detention](#) by Carlos Alberto Yanez Navarro

[Refugee Camps are Failing the LGBT Community](#) by Sharon Marie Berardino

---

---

# Education and Youth

---

## [LGBT Inclusion in Schools: A Teacher's Perspective](#)

by Erin Willis

"Kids... I don't know what I pictured when I thought of someone attempting suicide, but it wasn't a 15 year old." Those were the words of [Dr. Anne Hallward](#), a pediatric psychiatrist when she first learned that one of the highest rates of suicide is among LGBT youth. "Over 30% of all LGBT teenagers attempt suicide..." Hallward warns, "...Something serious is happening when that many children feel so hopeless that they want to die."

As a whole, youth who attend public education spend most of their waking time in schools, more than any other environment other than their home. The extent of exposure gives schools otherwise unparalleled influence on the physical and psychological well-being of kids and

teens. Unfortunately, many schools contribute to the abuse, exclusion, and harassment of the LGBT students, creating a toxic environment and perpetuating sexual orientation and gender identity discrimination.

As a teacher, parent, and academic in Education Policy and Leadership, I understand how the positive intentions of many adults often lead to policies that unintentionally harm our students and children. [Actions that are detrimental](#) to these vulnerable students such as physical aggression, threats, rejection, social isolation, the use of derogatory language, and the unwillingness to intervene in these occurrences are commonplace, insidious, and too often, tragic. [A 2018 study](#) which examined suicide in 10 countries found that "LGBTQ youth were 3.5 times as likely to attempt suicide as their heterosexual peers." While school can be challenging for many adolescents, lesbian,

**"...Something serious is happening when that many children feel so hopeless that they want to die."**

gay, bisexual, and transgender students experience bullying and violence in school at far greater rates than their peers. According to the [Human Rights Campaign](#):

- 38% of LGBT youth have been bullied at school
- 25% of LGBT youth have been threatened or injured with a weapon at school
- 33% of LGBT youth have skipped school because they felt unsafe going to school
- 58% of LGBT youth are experiencing depression

A particularly destructive pattern is when school staff who are charged with caring for our children turn a blind eye to the bullying of LGBT students. This takes the form of ignoring incidents of bullying or discrimination witnessed firsthand, declining to intervene when incidents are reported, disallowing gay-straight alliance or LGBT support clubs, and excluding LGBT students from participation in school activities such as dances. According to [The Trevor Project](#), "each episode of LGBT victimization, such as physical or verbal harassment or abuse, increases the likelihood of self-harming behavior by 2.5 times on average", meaning that it is critical for adults to take each incident reported or witnessed seriously. All children need supportive adults who will stand up for their right to a safe environment free from discrimination and violence; gender and sexually diverse students are no exception. When the very adults who are supposed to protect children are ignoring or contributing to abuses, a child's world becomes a very scary and lonely place. Ignoring bullying or exclusion of students in school by peers

or staff lead to [isolation, depression, reduced social support, death threats, and missed days of school, collectively contributing to higher rates of suicide by LGBT students](#) compared to their peers. Furthermore, by neglecting to intervene and respond appropriately to harassment or exclusion of sexually and gender diverse students, teachers and administrators are demonstrating that acts of discrimination against LGBT people are justifiable, perpetuating transphobia and homophobia through modeling.

Fortunately, such negative effects experienced by LGBT youth can be reduced by implementing [“inclusive, anti-bullying policies”](#) in schools. By adopting policies and curriculum that are supportive and representative of this vulnerable group, discrimination, isolation, and violence will gradually be replaced with belonging, empathy, and resilience among the entire school population.

Importantly, every person has a sexual orientation and gender identity (SOGI); they are essential components of one’s self. Providing support to LGBT students and including positive representations of SOGI-diverse people in schools cannot influence the sexual orientation or gender identity of other students. The accomplishments and contributions of LGBT people do not inherently relate to their

genitals or their intimate sexual behavior, as some seem to fear. On the contrary, [LGBT persons have contributed to STEM, civil rights, military, literature, and every other](#)

[subject already taught in schools](#). Thus, representation of people who identify as gay, lesbian, bisexual, or transgender are equally appropriate in school curriculum as persons from any other group.

**All children need supportive adults who will stand up for their right to a safe environment free from discrimination and violence; gender and sexually diverse students are no exception.**

All schools and their governing agencies should immediately adopt comprehensive policies that ensure equal access to education and well-being for LGBT youth and begin working toward implementing them this school year. Each school and district should:

- Require recurring professional development training for teachers on issues facing LGBT youth and how to support LGBT students
- [Support LGBT or Gay-Straight Alliance clubs](#) in schools
- [Adopt curriculum](#) which is inclusive of LGBT persons and rights
- Ensure students and teachers are fluent in the process for reporting bullying and are encouraged to do so
- Implement policies to hold teachers and administrators accountable for acting on all reports of discrimination, bullying, or violence toward LGBT students

In the United States, each school district adopts policies that govern their practices in schools and which curriculum is used for instruction. All

stakeholders, especially parents, students, and community members have a voice in this process. [School board members](#) are almost always elected by the public and are thus responsive to public opinion. Support students in your community’s schools by emailing your school governing board or attending a monthly public board meeting and ask that they immediately adopt these recommendations. Information

for how to email board members and dates for public board meetings can be found on your local school district’s website or by calling their office. Please act urgently; our kids need you.

---

## Ongoing Violations of Transgender Youth's Access to Gender-affirming Healthcare

by Jessica Ugstad

Many members and allies of the LGBT community hoped that with the election of President Biden the assault on the rights of transgender people would cease. In fact, Biden's win may have ignited more bigotry. As of July 2021, legislatures in 15 US states have attempted to introduce bills that violate Articles 2, 5, and 25(1) of the [UN's Universal Declaration of Human Rights](#) (UDHR) by denying and/or criminalizing gender-affirming healthcare for transgender youth. According to the [Trevor Project](#) 29% of high-school-age transgender students had attempted suicide while "57% of transgender and non-binary youth" subjected to conversion therapy reported a suicide attempt.

[Another study](#), released in 2021, demonstrated a positive "association between gender-affirming surgery and improved mental health outcomes" for transgender adults. Given these studies, it can be argued that [laws denying transgender youth access to gender-affirming healthcare](#) should be considered torture or "[cruel, inhuman or degrading treatment](#)," since they are based on sexual orientation or gender identity, and are therefore a violation of Articles 2 and 5. Legislation denying and/or criminalizing gender-affirming healthcare for transgender youth does not only impact the lives of those deciding to seek treatment, but those already receiving care. Denial of treatment is often under the [guise of protecting children](#) by conservatives that "[invoke scary words like 'sterilization' and 'mutilation' and 'castration'](#)" which have no bearing in medical reality. According to Articles 2 and 25(1), it is well within the human rights of transgender youth to have medically advised access to gender-affirming healthcare and all related decisions under the medical standards that are already in use including "[both parental consent and a medical diagnosis](#) of gender dysphoria before a minor can receive [puberty blockers](#) or [HRT \[hormone replacement therapy\]](#)."

Similarly, denying gender-affirming healthcare by demonizing and criminalizing physicians that provide it is a violation of all three Articles. [Bills attempting to ban "all medical professionals](#) in the state from administering puberty

blockers or HRT to, or performing gender-affirming surgery on, anyone under the age of eighteen" were introduced by legislators in fifteen states over a three-month period in 2020. None passed but the introduction of any one of these bills would amount to human rights violations of Articles 2, 5, and 25(1) since denying access to physicians that can provide gender-affirming healthcare has the potential to impact the "[health and well-being](#)" of the child, no matter their age, sex, or gender, and with denial of access equating to "[cruel, inhuman or degrading treatment](#)." [Conservative legislators](#) will argue that there are medical risks for transgender youth seeking gender-affirming healthcare such as the "[life-altering difficulties attending to these interventions](#)," that transgender youth "[lack the capacity for self-reflection](#) necessary to accurately perceive their gender identities," or that "[any gender affirmation of trans young people \[is\] a form of 'child abuse'](#)" but these scare tactics could not be further from the truth.

Providing access to gender-affirming healthcare: 1) protects the mental and physical health of transgender youth by medically treating their gender dysphoria rather than suppressing, ignoring, or delegitimizing it, 2) improves integration and socialization in school and social settings without transgender youth being forced to present "[as a gender with which they do not identify](#)" and without fear of bullying and discrimination by peers, teachers, and school administrators, and 3) transgender youth may have access to changes in legal status in relation to "[identity documents such as driver's licenses and birth](#)

**29% of high-school-age transgender students had attempted suicide while 57% of transgender and non-binary youth subjected to conversion therapy reported a suicide attempt.**

[certificates](#)" after they establish care with a medical professional.

Citizens, lawyers, legislators, and the [United States Department of the State](#) must call upon President Biden and the United States to [recommit to the UDHR](#) and then use these principles, especially Articles 2, 5, and 25(1), as the foundation for congressional legislation protecting the rights of transgender youth to have access to gender-affirming healthcare. A recommitment by the U.S. would reinforce the understanding that violating the declaration, though not legally binding, has the potential to lower our standing in the world when it comes to human rights and would deny the U.S. the opportunity to help set a global standard when it comes to protecting and upholding human rights for transgender youth.

“Everyone has the right to a standard of living adequate for the health and well-being of [themselves] and of [their] family, including food, clothing, housing and medical care” and these “equal and inalienable right[s]” protect all human beings “without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status” and “[n]o one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment,” including transgender youth. Anything less is a direct violation of the UDHR and a dark stain on the reputation of the United States.

---

---

## State and Local Policy

---

### Pronouns in Prison: A First Step for LGBT Prison Policy Reform

by Marsha Jewell McDowell

“The stakes are really high. Things that in the outside world may seem like just a matter of appearance -- it can be a matter of life and death.” Rodrigo Heng-Lehtinen, deputy executive director for policy and action at the National Center for Transgender Equality continues to argue that treating [gender dysphoria](#) goes beyond hormones and surgery. It includes having items such as makeup, hair

extensions, laser hair removal, and clothing as well as the use of chosen pronouns and names. Although the United States has made much progress towards acknowledging these needs for the LGBT community, the prison system lags far behind in policy for anti-discrimination and protection

against violence of LGBT people who are incarcerated. The implementation of prison policy requiring corrections staff to use chosen pronouns and names along with allowing for personal gender expression is a good first step to increasing respect and reducing risk of violence for LGBT people who are incarcerated. The debate surrounding gender pronouns and expression is not new. [As far back as the 17th century](#), the gender-neutral pronoun of *they* was used as a way

to label a person whose gender was unspecified. Possibly the most personal and respectful ways others refer to people is using their names and pronouns. [Being misgendered](#) or called by an incorrect name can be hurtful and invalidating, straining interpersonal connections for LGBT people and their communities.

Recently, the acceptance of pronouns other than gender specific ones and the freedom to dress

“The stakes are really high. Things that in the outside world may seem like just a matter of appearance -- it can be a matter of life and death.”

according to their gender identity has gained traction with [private businesses](#), [universities](#), and even the highest office in America enacting equality [policies](#) that allow for transgender, non-binary, and gender nonconforming people the respect they deserve. The continued practice of [misgendering](#), use of no longer used birth names or [deadnames](#), and the banning of cosmetics exasperates the struggle that those with gender dysphoria face while incarcerated.

[Karla Bello](#), a transgender woman imprisoned in a male facility remembers thinking of ending her life due to the mistreatment she received while incarcerated saying “It’s so stupid to cry about hair and makeup, but when they take who you say you are away -- oh my God.” A [study](#) completed in 2017 evaluating 21 states with the largest prisons showed that only one state, Delaware, had a robust policy in terms of protection and treatment for transgender people under their control. However, most state policies are lacking and penalties for noncompliance are scarce. Furthermore, facilities can provide unsubstantiated promises that they are working to become compliant but are not required to provide evidence or implementation timelines.

Basic rules for how people in prison should be treated has been set by the

“Sexual orientation and gender identity are integral to each person’s dignity.”

United Nations in their [Nelson Mandela rules](#) with the second rule stating “there shall be no discrimination on any grounds and that prison administrations shall take account of the individual needs of prisoners, in particular the most vulnerable categories in prison settings”. While these rules do not explicitly point to LGBT people, the [Yogyakarta Principles](#) published by the International Commission of Jurists in 2007 specifically state “sexual orientation and gender identity are integral to each person’s dignity” which is part of minimum standards of treatment. Following these guidelines, both the United Kingdom and Ontario, Canada implemented equity acts, in 2010 and 2012 respectively, that provide definitive protections for gender identity and expression. These rights extend to policies regarding LGBT people in prisons. The United States should take note of the policies of these similar countries to not only pass the [Equality Act](#) currently stalled in Congress but to also implement basic rules for respectful treatment of LGBT people in our prison systems.

Undoubtedly, implementing policy that flows evenly across the over [7,100 detention facilities](#) in the United States is a daunting task. There are many attitudes and practices based on masculine and heterosexual values

that have become the normal process of running a functional prison system. However, systemic change cannot happen if there is not an effective starting point. Honoring chosen pronouns, names, and gender expression is a relatively straightforward way to begin making changes for LGBT people in prison. Starting at the 110 federal facilities would begin the process that would provide evidence of best practices for state and local prisons to follow suit. Policy must include allowing the use of preferred pronouns and names not only by the LGBT person but all staff involved with that person. Additionally, the personal use of prosthetics and cosmetics products should be allowed and protected as a form of self expression. Where clothing options are

available, preferred clothing must be allowed regardless of gender. These basic needs are allowed for heterosexual people in prison therefore the rights must be extended to people with other identities.

A 2015 [study](#) completed in the UK found that staff often feel unprepared to deal with LGBT issues. Federal and state

policies must recognize the important role that staff play in determining the attitude toward LGBT people. It is fundamental that administrators inform correctional staff that policy is not about changing their personal beliefs but is a matter of public safety which is part of their professional obligations. Training must also include awareness of specific LGBT issues and their needs that must be implemented in everyday life. Training must not stop at correction staff. Anti-discrimination training programs must also be provided for other incarcerated individuals so they may better understand how these basic signs of respect are so important to the mental health and well-being of LGBT people.

Finally, a robust and safe grievance process must be available to allow for discrimination complaints with a process to follow-up and resolve those complaints. Enacting policy without enforcement is a wasted effort and only further penalizes the people being harmed. With [signs](#) that the LGBT population is expected to continue to increase, it is imperative that policy be enacted, implemented, and enforced to ensure that LGBT people are not further traumatized by the justice system in this country.

## Ohio is Not Open for Business: Pass the Ohio Fairness Act

by Meredith LeMoynes Hood

In Ohio it is still legal to discriminate against LGBT persons in employment practices. Because Ohio's non-discrimination employment law does not recognize sexual orientation, gender identity and gender expression as protected classes, [Ohio remains one of 27 states](#) where individuals can be denied jobs on these grounds. Even though it has been demonstrated that employers who follow nondiscriminatory procedures have access to a "larger, more diverse and higher quality workforce," Ohioans can still be refused promotions and training and be subjected to harassment due to their sexual orientation. Although former governor Ted Strickland previously signed an [executive order](#) banning discriminatory workplace practices against LGBT persons, the order only applies to people employed by the State of Ohio. Additionally, a number of municipalities have [ordinances](#) providing protections to LGBT persons in the workplace, but Ohio still lacks statewide legislation on this issue. In other words, Ohio is at higher risk for human rights violations of LGBT persons. Drawing

Ohioans can still be refused promotions and training and be subjected to harassment due to their sexual orientation.

upon international human rights law, the Ohio Fairness Act would clarify and affirm that such discrimination is illegal.

This legislation would rectify discriminatory labor practices in Ohio as it includes key values set forth by the International Labor Organization (ILO), a United Nations agency. The ILO's [Declaration on Fundamental Principles and Rights at Work](#) (1998) declares States have an obligation to the commitment of "the elimination of discrimination in respect of employment and occupation." Indeed, the [Ohio Fairness Act](#) would prohibit discrimination in employment, housing, and public accommodations on the basis of sexual orientation and gender identity. This legislation would demonstrate this commitment called for by the International Labor Organization. The Ohio Fairness Act would provide necessary protections for the human rights of LGBT persons, and follows current trends at the federal level.

Opponents of the Ohio Fairness Act assert statewide legislation is not necessary as recent federal legislative and executive actions have addressed workplace discrimination for LGBT persons. Last year three individuals alleged they were fired for simply being gay or transgender and their cases were taken to the U.S. Supreme Court. [Bostock v. Clayton County](#) (2020) held that "Title VII of the 1964 Civil Rights Act prohibits employers from discriminating on the basis of sexual orientation and gender identity." President Biden subsequently issued an [executive order](#) directing agencies to interpret the *Bostock* ruling to apply "not just to employment discrimination, but to other areas of law where sex discrimination is prohibited." Furthermore, the Equality Act (currently on Congress' agenda) would expand current civil rights law including the Civil Rights Act of 1964, to

recognize sexual orientation and gender identity as protected classes. While these actions signal progress regarding the human rights of LGBT persons, federal legislation still leaves vulnerabilities for LGBT persons in Ohio.

Future administrations may [interpret](#) the *Bostock* decision differently, challenging Biden's executive order. The Equality Act would apply only to businesses [with more than 50 employees](#), and has met resistance from the Republican Party. The Ohio Fairness Act would be comprehensive, applying to businesses with more than four employees and is more likely to garner support from across the aisle as it "[maintains critical religious freedoms including the ministerial exemption](#)." In fact, the Ohio Fairness Act has been co-sponsored by Senator Michael Rulli (R-Salem) and has the support of Senators Nathan Manning (R-North Ridgeville), and Matt Dolan (R-Chagrin Falls). The Ohio Fairness Act was [referred to Committees](#) in both the House and Senate in March, meaning the Ohio General Assembly now needs to hear from the public.

[Equality Ohio](#) has been an advocate for the passage of the Ohio Fairness Act since its inception. Their website features a legislation tracker following this bill as well as other related

pieces of legislation for the most up to date news. They also allow Ohioans to thank the sponsors of the bill by coordinating messages to their elected officials. Perhaps most importantly, Equality Ohio is calling for proponent testimonies organized by their public policy director, Kathryn Poe. In order for the Ohio Fairness Act to get to the [Senate floor](#), the assigned Committees need to place their recommendations. This is catalyzed by concerned

constituents. Equality Ohio has streamlined this process through the accessibility of their website.

Versions of the Ohio Fairness Act have been introduced to the Ohio General Assembly without success for more than ten years, but additional protections for LGBT persons in the workplace are [supported by a majority of Ohioans](#). Passing the Ohio Fairness Act is not only practical but vital for safeguarding the human rights of all Ohioans.

---

## “Being Gay Was Not My Choice”

by Kathy E. Bauer

“Being gay was not my choice. But not to accept it is a choice. Homophobia and [transphobia] are personal choices, and we must fight against them. Freedom of speech only goes as far as not harming other people.” As a proponent of free expression, the protections of the First Amendment, and the [Civil Rights Act](#), the speech by Luxembourg’s Prime Minister Xavier Bettel resonated with me. I agreed with his words, but I wanted more.

Into the quiet hall, the prime minister spoke, portraying a world seventy-five years ago where being [Jewish](#),

[disabled or gay](#) meant a death

“...Freedom of speech only goes as far as not harming other people.”

sentence, and reiterating how terrifying it was to see governments and political forces today acting in the same [manner](#). I could clearly see the people he described: the Jewish woman, yellow Star of David pinned to her thin coat, the gay man, hated and feared because of his same sex lover, the disabled person, born as I was, not the ‘perfect baby.’ Yet I knew they were more. Thinking about the gay man, I pictured Tom, his kindness in offering friendship during my divorce; his openness and terrible grief sharing about his former partner who died from AIDS but also his resilience and exquisite joy in his new husband. The person with a disability who might have been me. Prime Minister Bettel’s words resonated with me because I already knew some of

the beautiful souls he was describing.

Globally, discrimination and hate speech can lead to violence and hate crimes. Standing beside, and in partnership, not speaking **for** LGBT people, but speaking out against hatred, violence, and phobia is necessary to counteract this destructive mindset.

Staying silent in the face of violence is not only dangerous for people who are LGBT but is harmful to all of us. One of my favorite Pope Francis quotes says, “The grave danger is to disown our neighbors.

When we do so, we deny their humanity and our [own](#)...”

I believe many of the answers we are seeking with gender, racial, environmental, and economic inequality lie in those marginalized and oppressed, including people vilified for their sexual and gender identity. If we continue denying their humanity, not

only will we continue harming them, but we may never find the solutions to the world problems we so desperately need.

You might ask, as I listened to the prime minister, why didn’t I focus more on the atrocities he alluded to, both past and current? The violent acts committed against people merely because of their gender and sexual identity? Why was I concentrating on the humanity of LGBT people, when collectively, I already considered them more humane than their oppressors?

I did so, because while taking a stand against the horrific atrocities perpetrated against people who are LGBT is crucial, we as human rights

practitioners have already taken the first step towards believing that the human rights of LGBT people should be protected. Not just because they are LGBT, but because they are [human](#).

Unfortunately, not everyone is with us yet. Many are still afraid of difference or what they don't understand and instead of recognizing the benefits they could gain from not practicing homophobia, still persist in actions that ultimately hurt all of us. I believe the measures outlined below will help address that fear.

My three calls to action are taken from both the United Nations [Free and Equal Campaign](#) and [Stand Up For Human Rights](#) websites. If you have not visited their websites yet, I encourage you to do so, and check out the many resources, videos, blogs, and other information they have. Much of it is shareable on social media. I consolidated several of their actions together to form ones which spoke to me. They are:

- “Listen to your LGBT peers and co-workers and educate yourself about the issues they face. If you are provided with an opportunity or the medium to do so, speak out and give an objective and balanced picture of LGBT people, and their rights and concerns. If you work in the media, include the voice of LGBT people and groups in newspaper, TV and radio coverage or advocate for their [coverage](#).”
- “Speak out when you see any form of discrimination, hate speech or violence

perpetrated against LGBT people. Make sure you and those around you have zero tolerance for any form of homophobic or transphobic violence, including aggressive and threatening verbal abuse. If you or your friends or family members are a victim of hate-motivated [violence](#) alert UN human rights special procedures by sending an email to [urgent-action@ohchr.org](mailto:urgent-action@ohchr.org) .”

- “Take the pledge to be a Human Rights Champion: “I will respect your rights regardless of who you are. I will uphold your rights even when I disagree with you. When anyone’s human rights are denied, everyone’s rights are undermined, so I will [STAND UP](#). I will raise my voice. I will act. I will use my rights to stand up for your rights.”

Please help me share these actions and websites so we can bring more people together, and as Prime Minister Bettel said, make the choice to stand against homophobia. We need to quit wasting the resources and skills of LGBT persons by making them constantly defend themselves, and fight for what is already theirs. Imagine what lesbian, gay, bisexual, and trans people could do with their time, energy, and money, if that burden were lifted from their shoulders! Given our critical [code red climate crisis](#) and continuing [COVID](#) pandemic, **we need them**, and we need them thriving, not just surviving.

---

## Can Human Rights be at Odds with One Another?

by Rachel Briggs

Can human rights be at odds with one another? No, but the application of laws protecting human rights can show gaps in the protection of those most vulnerable. This is the experience in the United States and the fight for the rights of LGBT persons to be free from discrimination and the United States application of laws protecting religious freedom. Many states offer legal protections for specific groups within the LGBT

community, but they are insufficient, often limited in scope. Because of this, federal legislation must be enacted to protect the rights of all to be free from discrimination and draw a clear, legal line between religious liberty and where expression of said freedom interferes and impedes the rights of others.

U.S. history has shown that religion is often used to justify discrimination. Religious organizations argued

against civil rights stating it “was trying to impose an alien, anti-Christian, even communistic ideology that would [destroy the Christian racial order](#) of the South.” The Supreme Court ruled against using such justifications in [Bob Jones University v. United States](#). The plaintiff claimed religious freedom allowed him to segregate students and still have tax exempt status, despite violating federal laws. The court ruled otherwise. Similarly, a [U.S District court in California](#) ruled against a school who used biblical justification to give women less benefits and wages since men were the “head of the household”. Today, no one would accept a business or service provider refusing to serve women or people of color. Those same protections should be equally applied for LGBT persons.

Religious discrimination is not unique to the U.S. Versions of sharia law, [like those implemented by the Taliban in Afghanistan](#), limit the autonomy of women and carry out extreme punishments. The Israel-Palestine conflict is also steeped in religious conflict, with the Jewish interpretation of their biblical [right to return to the “holy land”](#) justification for conflict and the occupation of Palestine. Similar claims are made on the Islamic side,

paired with severe [anti-Semitic rhetoric](#). While the comparison of these conflicts alongside the fight for LGBT equality may seem extreme, the formula is the same in both: religious beliefs become actions that violate the rights of others.

While the U.S. has worked to enhance and protect religious freedom, including the bipartisan Religious Freedom Restoration Act (RFRA), it has been used as justification for religious discrimination, lessening the protection of LGBT persons. For example, [in Fulton v. Philadelphia](#), the Supreme Court sided with Catholic Social Services(CSS), agreeing that they had been discriminated against by the city in its attempt to mandate the agency’s approval of same-sex foster parents. While the ruling upheld the religious liberties and freedom for CSS, it did not address the broader implications of denying services to same-sex couples, violating [Title IX](#)’s mandate that no one “be subjected to discrimination under any education program or activity receiving Federal financial assistance,” on the basis of sex.

Similarly, the [Masterpiece Cakeshop v. Colorado Civil Rights Commission](#) sided with the cakeshop, allowing them to refuse making wedding cakes for

same-sex couples under the pretense that the owner had been discriminated against in the proceedings for his religious beliefs. Again, the ruling highlighted religious freedom without taking a stance on the rights of the couple denied goods and services.

While the application of the Religious Freedom Restoration Act helped highlight religious discrimination in both cases above, it effectively placed religious freedom rights above those of the LGBT persons involved instead of equally protecting both freedoms.

Although I agree with the importance of religious freedom and the RFRA, the vagueness when encroaching on the freedoms of others is problematic, especially when religious freedom continues to be used to discriminate. Both cases show a favoring of one right over the other; and when the LGBT community does not have the same protections of those outside the community, they do not have equal rights.

While the RFRA has blurred legal protections for LGBT persons, international human rights law has been clear. There is a specific distinction between where the application of one person’s rights stop, and the

**Federal legislation must be enacted to protect the rights of all to be free from discrimination and draw a clear, legal line between religious liberty and where expression of said freedom interferes and impedes the rights of others.**

necessity “to protect public safety, order, health, or morals or the fundamental rights and freedoms of others,” [\(Article 18 ICCPR\)](#). The international community understands the gravity of the situation with the [UN issuing a](#)

Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. More recently, UN Special Rapporteur [on freedom of religion or belief](#) stated he “firmly reject[s] any claim that religious beliefs can be invoked as a legitimate ‘justification’ for violence or discrimination against women, girls or LGBT+ people.” He continues that states have explicit obligations to protect the rights of all people, including LGBT. The U.S. must abide by the agreements made when it ratified the ICCPR and protect the rights of all persons equally.

Any imposed limitation on the restriction of freedom within the U.S. is vehemently opposed. Those

opposed to strengthening protections for LGBT state that it violates their “free exercise” of religion, but the U.S has consistently

made a separation between belief and action, even explicitly in cases like [Reynolds v. United States](#) that upheld a

polygamy ban: “Can a man excuse his [illegal] practices...because of his religious belief? To permit this would be to make the professed doctrines of religious belief superior to the law

The U.S. has consistently ruled that the rights of all cannot be negated or imposed upon by the expression of the rights of others. Why should it be any different for the rights of LGBT persons?

of the land, and in effect to permit every citizen to become a law unto himself. Government could exist only in name under such circumstances.”

There must be a line drawn between religious liberties and the violation of the rights of others, specifically, LGBT persons. To do so, congress must pass the Equality Act that adds sexual-orientation and gender to the definition of sex, thus enhancing the rights of LGBT

persons, and strengthening existing civil rights. The U.S. has consistently ruled that the rights of all cannot be negated or imposed upon by the expression of the rights of others. Why should it be any different for the rights of LGBT persons?

---

---

## International

---

### No Safe Space for LGBT Refugees: Addressing Sexual Violence Within Camps

by Abby Nelson

In refugee camps such as the Kakuma camp in Kenya, LGBT refugees have been beaten, raped, stabbed, robbed, and threatened by fellow refugees and host community residents. In [June of 2020](#), thirty LGBT refugees in this camp were taken to the hospital after an attack. Though I wish that this was a rare occurrence, it is just one of many examples of violence committed towards LGBT populations in refugee camps.

Many people flee their homes because of violence and persecution, resulting in approximately six million refugees living in camps around the world. While refugee camps exist to provide protection and assistance to displaced people, refugees are subject to danger within the camps. It is estimated that at least [five percent](#) of the world’s displaced population are LGBT, and refugees that identify as LGBT are even more exposed to security and safety risks. In many camps, sexual abuse and exploitation is a threat to LGBT refugees. The United Nations has recognized that sexual violence against refugees is a global problem. In

1995, the UNHCR published: [Sexual Violence Against Refugees: Guidelines on Prevention and Response](#). The guidelines “address ways to combat the occurrence of sexual violence and how to respond when incidents occur.” Unfortunately, the guidelines make no specific mention to LGBT people. Aside from the need for the United Nations to issue updated guidelines that are inclusive and specific to LGBT refugees that are victims of sexual violence, one may ask what can be done to help LGBT refugees that are at risk of sexual violence, or have been victims of sexual violence. We need to challenge host governments and field workers to prioritize implementing preventative measures and to provide adequate responses and services. Despite the 1995 UNHCR guidelines not mentioning LGBT refugees, the preventative measures that are specified can be executed to help protect LGBT refugees, [including](#): Ensuring that the physical design and location of the refugee camps enhance physical security; Providing frequent security patrols by law enforcement authorities and by the refugees themselves;

Installing fencing around the camps; Identifying and promoting alternatives to refugee camps where possible; and Organizing inter-agency meetings between UNHCR, other relief organizations and relevant government officials, as well as the refugees themselves, to develop a plan of action to prevent sexual violence. But, even if preventative measures are in place, it is still possible for sexual violence to occur. As such, appropriate response and adequate services are needed when thinking of ways to help LGBT refugees who have been victims of sexual violence. It has been [reported](#) that camp administrators (specifically at the Kakuma Camp), turn a blind eye to violence towards LGBT refugees, due to homophobia and transphobia. It must be ensured that staff and other relevant partners are trained on how to work with LGBT people, and there needs to be active efforts to eliminate discrimination against LGBT refugees. Additionally, having access to health care, and having improved health services is a key need to

**The actual magnitude of sexual violence that occurs to LGBT refugees is unknown, because incidents are often never reported.**

LGBT refugees who survive sexual violence. The Women's Refugee Commission's February of 2021 [manual](#) explains the short and long-term physical and mental health impacts for LGBT survivors of sexual assault, and notes that "health actors are in a key position to respond to men, boy, and LGBTIQ+ survivors and facilitate their access to additional services and support. Sexual and reproductive health providers may be particularly well positioned given their expertise in addressing sensitive issues related to sex and sexual well-being; many providers have experience in supporting survivors of violence." Lastly, it is worth mentioning the actual magnitude of sexual violence that occurs to LGBT refugees is unknown, because incidents are often never reported. Though refugee camps are often overwhelmed by sheer numbers and there are varying concerns to be addressed, as a double marginalized group, the safety of LGBT refugees needs to be a global priority. We must keep the pressure up for host governments and field workers to improve conditions within camps for LGBT refugees.

---

## The Purge of Chechnya

by Aubry Eggers

Rounded up like cattle, detained without a word as to why, starved for days, and tortured. Why? Because you are gay, suspected to be gay, or part of the LGBTIA+ community. You look for protection, but the people who you are supposed to go to for help and protection, are the perpetrators: law enforcement and your government. At the beginning of 2017, the [Chechen Russian](#) authorities began persecutions against LGBTQIA+ individuals, specifically gay men. "*They forcibly disappeared some of the men. Others were returned to their families barely alive from beatings. Their captors exposed them to their families as gay and encouraged their relatives to carry out honor killings.*" <sup>1</sup> The [government and authorities](#) deny all involvement of goings-on, however, the Human Rights Watch report indicates

that "*top-level local authorities in Chechnya sanctioned them.*"

*"They forcibly disappeared some of the men. Others were returned to their families barely alive from beatings. Their captors exposed them to their families as gay and encouraged their relatives to carry out honor killings."*

While homophobia in Chechnya has been an unremitting societal norm due to culture and religious fervor, authorities have recently been actively seeking out LGBTQIA+ individuals as if

they were on a mission to eradicate the entire population. It became clear what the leader of Chechnya's viewpoint was in an interview by Bryant Gumbel of HBO: Real Sports with Ramzan Kadyrov when he stated, "we don't have any gays...If there are any, take them to Canada. Praise be to God. Take them far away from us. To purify our blood, if there are any here, take them." At the very least, Ramzan Kadyrov wants to rid his province of these "devils" and "subhumans". At most, it is Chechnya, and by extension, the Russian government, who wants those they feel are a disgrace to their country to no longer exist within their borders.

Kadyrov's use of the terms devils, and subhumans, mirrors so many other genocides by using buzz words to dehumanize the victims of such acts. This language allows a broader population to justify their violent actions against their fellow human beings: most apparently seen in Rwanda. Once a group is dehumanized, in the public's eye, and made to be something so disgusting that they feel the need to get rid of it, the doors have been flung open to the most sadistic and heinous crimes.

While the hope might be that such horrendous tales would be relegated only to the pages of fiction, these stories are distressing and the horrific reality for many — a waking nightmare for those who have come to the attention of the Chechen authorities.

While the [current definition](#) does not include sexual orientation and gender identity, under the protected groups of the Genocide Convention, the actions of the perpetrators fall squarely under its definition. Chechen authorities' denial of LGBTQIA+ peoples' rights as human beings, their blatant intent to remove and destroy anyone who identifies within this group, and their call to families to promote "honor killings", is a genocide. To provide the most encompassing protections for all, the current definition of Genocide needs to be amended to include sexual orientation, gender identity, and gender.

Since 2017, Kadyrov has been sanctioned by the U.S. Department of the Treasury for his actions, and the actions of his organization, the Kadyrovtsy. The following is a portion of their [designation](#):

*Following Kadyrov's previous designation, the Kadyrovtsy, under the guidance of Kadyrov, continued these egregious activities, including kidnapping, torturing, and killing members of the LGBTI population in the Chechen Republic. The Kadyrovtsy are accused of illegal abductions, torture, extrajudicial executions, and other abuses, including the detention of journalists and activists. In addition to Kadyrov, OFAC is designating the following six companies registered in Russia that*

*continue to provide Kadyrov pride and significant profit:*

- *Absolute Championship Akhmat for being owned or controlled by Kadyrov.*
  - *Akhmat MMA for being owned or controlled by Kadyrov.*
  - *FC Akhmat Grozny for being owned or controlled by Kadyrov.*
  - *Akhmat Kadyrov Foundation for being owned or controlled by Kadyrov.*
  - *Megastroyinvest, OOO for being owned or controlled by the Akhmat Kadyrov Foundation.*
  - *Chechen Mineral Waters Ltd. for being owned or controlled by the Akhmat Kadyrov Foundation.*
- OFAC is also designating five individuals who are prominent members in Kadyrov's network:*
- *Vakhit Usmayev, the Deputy Prime Minister of Chechnya, has acted or purported to act for or on behalf of, directly or indirectly, Kadyrov.*
  - *Timur Dugazaev, a representative of Kadyrov in Europe, has acted or purported to act for or on behalf of, directly or indirectly, Kadyrov.*
  - *Ziyad Sabsabi, a representative of Kadyrov, has acted or purported to act for or on behalf of, directly or indirectly, Kadyrov.*
  - *Daniil Vasilievich Martynov, a personal security advisor for Kadyrov, has acted or purported to act for or on behalf of, directly or indirectly, Kadyrov.*
  - *Satish Seemar, a horse trainer for Kadyrov, has materially assisted, sponsored, or provided financial material, or technological support for, or goods and services to or in support of, Kadyrov.*

While there are sanctions placed on Kadyrov, his wife and daughters, and many high-ranking members of the Chechen government by the U.S. and other countries, thus far, they have faced no further repercussions for their continued attacks. Certainly, enforcing said sanctions would be the first step in taking action against these Chechen-Russian authorities. Although, increased sanctions from international governments and policymakers, such as changes in trade deals, supplies, or resources, are direly needed. Additionally, international governments should pressure the Russian government to perform the investigation they promised the international community. To date, no official investigation has happened.

It is also imperative that the international business community freeze all business with the above-listed organizations owned by Kadyrov and the individuals listed in the Department of the Treasury's report while they continue to commit these genocidal acts and human rights abuses against LGBTQIA+ and other peoples within their borders. These actions will hit perpetrators where it counts, in their bank accounts and own personal wealth, and in turn affect their power and position. When dealing with those who have shown no

empathy, sympathy, or remorse for their actions against humanity, it is the only language they seemingly understand and impels them. To those who can put this into action, take part in stopping a genocide from happening right before our eyes. Please, do not allow the suffering and death to continue. We all have an obligation to our fellow human beings to uphold human rights for all and the dignity of human life.

---

## Abuse of LGBT Migrants is Common in Detention

by Carlos Alberto Yanez Navarro

The United States has long held in its national discourse that it is the beacon of light for migrants and for peace. But as the world's largest jailer operating the world's largest migrant detention system, human rights abuses and violence have become normalized

for the over [50,000 individuals](#) detained within the 200 immigrant jails and prisons in the country. For

a country with so many jails and detention centers, the lack of Alternatives to Detention (ATD) programs is alarming and there must be a focus on creating and implementing ATD programs.

Although all people are susceptible to human rights abuses in detention, LGBT individuals are at heightened risk of physical and sexual violence, verbal and psychological abuse, solitary confinement, lack of

legal recognition, lack of access to medical care, and non-gender appropriate searches. Disturbing new data from [Immigration and Customs Enforcement](#) shows that LGBT immigrants held in

detention centers are 97 percent more likely to be assaulted versus other detainees. In *Fiscal Year 2017*, LGBT individuals accounted for 0.14% of detainees, but they accounted for 12% of victims of sexual abuse and assault within detention centers.

**LGBT individuals accounted for 0.14% of detainees, but they accounted for 12% of victims of sexual abuse and assault within detention centers.**

Individuals are also frequently segregated in abhorrent conditions and are subject to policies of solitary confinement that have severe mental and physical health consequences.

In many cases, detention is inappropriate for vulnerable populations, and it is difficult to understand situations in which the government would be justified in setting detention as the standard given the multiple viable alternatives to detention that exist. It is necessary to implement laws, policies, and practices that prevent LGBT individuals from

being detained, the [Yogyakarta Principles](#) reiterate that "Everyone has the right to be free from torture and from cruel, inhuman or degrading treatment or punishment, including for reasons relating to sexual orientation or gender identity", detention is a matter of Jus Cogens, and the current system is in violation of international standards of treatment.

**We must reduce the reliance on physical detention and instead invest in alternatives.**

The [idea coalition](#) has set out multiple ideas for creating LGBT sensitive

alternatives to detention, which are more humane and ensure compliance with migration processes. We must reduce the reliance on physical detention and instead invest in alternatives. In FY2018, the United States government spent an [estimated 3](#)

[billion](#) on custody arrangements, which is 8 million a day for immigrant detention. Costs to detain individuals will only continue to multiply, but the funding for detention programs are best utilized elsewhere for alternatives to detention.

One such alternative is community placement using the UCLA CAP model, describing multiple community placements for migrants who require living arrangements

but do not require intense supervision or conditions to participate in the migration process. Community placements can be described as private

arranged placements, living with community members, or living in shelters for individuals who are deemed more vulnerable. This would require the construction of massive Civil Society infrastructure to support release and housing programs for LGBT migrants, in collaboration with the department of homeland security to construct a new. Alternative to detention program. This is already being done in the United States, [Queer Detainee Empowerment Project](#) in New York is already assisting LGBT individuals with adjusting to life outside detention by providing case management support and referrals for housing, education, food, travel, employment, health care,

**We just need an expansion and creation of a collaborative program by the federal government to expand these types of services to create a national alternative to detention programs...**

legal advocacy, and mental health services. Other grassroots organizations are also expanding LGBT release programs but have no interaction or contracts with the federal government to facilitate releases or to provide official alternative programs.

This is just one example among hundreds of organizations doing the work, and it is already being done, we just need an expansion and

creation of a collaborative program by the federal government to expand these types of services to create a national alternative to detention programs that establishes community placements in partnership with Civil Society that ensure migrants are not subject to violence and are being cared for. The United States must end detention for LGBT migrants.

[According to the DOJ](#), 92 percent of Asylum seekers attend their asylum proceedings regularly, meaning there is no reason not to implement community placements that empower individuals to attend their hearings on their own versus physically forcing them to use detention. These appropriate, non-detention alternatives better protect LGBT migrants and empower individuals to regularly attend their own hearings to resolve their asylum status. We must call on the government to end LGBT detention and to create Alternative to Detention (ATD) programs using existing frameworks and civil society organizations.

---

## **Refugee Camps are Failing the LGBT Community**

by Sharon Marie Berardino

The historical planning of refugee camps has typically taken a [top-down approach](#), as they were designed to be temporary spaces. A bottom-up approach would likely be more beneficial for all, considering the number of refugees globally and the amount of time they are spending in camps, continues to grow. This is further supported by The UN Refugee Agency's report on [Addressing Refugee Security](#) which states, "The participation of refugees in the physical planning and management of a camp is thus as essential as their involvement in the mechanisms governing assistance and protection." When specifically thinking about the needs of the LGBT community, a [specialist in refugee](#)

[shelters](#) was quoted as saying "I can't think of ever having a discussion with someone about LGBT and shelter before."

You may ask why the specific needs of the LGBT community should be considered when camps are challenging for all residents due to overcrowding, poor environmental conditions, and lack of adequate security, food, and medical care... You may say that the focus should be on meeting these basic needs before the entire planning structure of refugee camps is overhauled... And while these critical issues are shared across the residents of camps, the LGBT community is the only group who experiences violence based solely

on their SOGI (sexual orientation and gender identity). Because these issues are not mutually exclusive, there are additional protections that can be put in place to help minimize anti-LGBT actions, while not diminishing the shared needs of the total camp population. Encouraging community leadership within camps, re-evaluating safety protocols, prioritizing prevention tactics, and introducing educational programs about integration are a few steps that can be taken to create a safer environment for all.

In the case of already established camps, camp leaders should encourage community leadership by empowering refugees to take an active role in area security with volunteer watch teams. Members of watch teams should encompass the full range of SOGI and age groups who are living in the camp to ensure full representation, and diversity mainstreaming. Re-evaluate physical safety protocols and camp design, with input from the camp population, and work to improve infrastructure based on their inputs. Improvements could include proper lighting set-up around common utilities such as showers and toilets to make walkways safer and reduce attacks, as well as shortening the distance needed to travel for toilets, showers, food, and supplies

where possible.

Prevention tactics should be prioritized with sensitivity trainings and education on the issues that LGBT members face, including signs of abuse (both physical and mental) for all staff members including camp guards, which has been an effective approach across other institutions such as [detention centers](#). On-staff counselors need to be available for all refugees, including non-LGBT members, to ensure regular check-ins with the most at-risk individuals are available and pro-actively scheduled.

For refugees already living in camps, and those who are about to settle in, educational programs should be held to teach about integration and to help foster awareness of SOGI tolerance, and the struggles that different communities face while trying to live together – an

approach that has been successfully used to integrate [religious minorities](#) into camp communities.

Perhaps a simpler and more obvious approach is to create LGBT-specific camps or centers to ensure safety- The [United Nations High Commissioner for Refugees](#) moved LGBT members from the [Kakuma Camp community](#) to a specialized area a few hundred miles away, and officials in [Berlin](#) established a safe house for LGBT asylum seekers from the Middle East. However, the opportunity to build on this bottom-up approach will improve conditions without requiring further segregation, except as a last resort.

Currently six million refugees live in camps across the globe. The latest Gallup Update finds 5.6% of U.S. adults identify as LGBT. If we apply these estimates across global populations, one can suggest that 336,000 refugees living in camps identify as LGBT and are at increased risk of violence. The Lesbian and Gay Federation of Berlin and Brandenburg receives three to six cases per week in which LGBT asylum seekers have

been [victims of physical and sexual assault](#) in camps across Europe, and we continue to see news stories of abuses such as the [Ugandan transgender](#) refugee who was attacked by other refugees and locals and left her with a stomach gash, scalp and forehead scars. And the [transgender teenager](#) who fled a military offensive in Myanmar to Cox's Bazar in Bangladesh and reported being sexually abused, having her hair cut, and being subjected to regular beatings. And [one person living in Kakuma Camp](#) reported that "perpetrators have burned down houses, raped lesbians, and threatened to kill us". And on, and on...

Everyone has the right to live free from violence and discrimination, and by encouraging community leadership, re-evaluating safety protocols, prioritizing prevention tactics, and introducing educational programs across camps, the environment that refugees fled home to find safety in could be safer and more inclusive for all.

Currently six million refugees live in camps across the globe. The latest Gallup Update finds 5.6% of U.S. adults identify as LGBT. If we apply these estimates across global populations, one can suggest that 336,000 refugees living in camps identify as LGBT and are at increased risk of violence.