

INTERNATIONAL CONFÉRENCE INTERNATIONALE on LGBT Human Rights / sur les droits humains des LGBT

Declaration of Montréal

Preamble

'All human beings are born free and equal in dignity and rights'. This famous first sentence of the Universal Declaration of Human Rights, adopted almost sixty years ago by the General Assembly of the United Nations, still contains in a nutshell our political agenda, as lesbian, gay, bisexual, transgender, transsexual, transitioned and intersexual persons.

The world has gradually accepted that individual human beings have different sexes, racial or ethnic origins, and religions, and that these differences must be respected and not be used as reasons for discrimination. But most countries still do not accept two other aspects of human diversity: that people have different sexual orientations and different gender identities; that two women or two men can fall in love with each other; and that a person's identity, as female or male or neither, is not always determined by the type of body into which they were born.

Refusal to accept and respect these differences means that oppression of LGBT people is still a daily reality in most parts of the world. In some countries, discrimination and violence against LGBT people are getting worse. But more and more, brave individuals and groups are standing up for LGBT human rights in every region of the world. In particular, LGBT individuals and groups in Asia, Africa, Latin America and Eastern Europe no longer accept prejudice and discrimination, and are becoming increasingly impatient to achieve freedom and equality. But progress is very uneven and is not automatic. Worldwide, we are seeing advances and setbacks.

Progress in realizing LGBT human rights demands multi-layered change in all parts of the world: rights must be secured, laws changed, new policies designed and implemented, and institutional practices adapted. LGBT individuals and groups are the prime agents of change. But we will only win if we enlist others as allies in our struggle. The purpose of this declaration is to list and explain the changes that we need, and build an agenda for global action.

1. ESSENTIAL RIGHTS

A first demand is to safeguard and protect the most basic rights of LGBT people, rights which are well established and not legally controversial.

(a) Protection against state and private violence

- Nine countries punish homosexuality with the death penalty – a human rights violation in itself, regardless of the reason for imposing the sentence.

- Extrajudicially, we witness in many countries torture and other violence against – and sometimes killings of – LGBT individuals simply because they are lesbian, gay, bisexual or transgender. These hate crimes are committed by private actors (with the active help or passive condonation of public officials, as at some pride marches), or by police, soldiers and other public officials themselves. These hate crimes against LGBT individuals are a subject of growing concern; many states are failing in their obligation to protect LGBT persons from this violence.
- In many parts of the world, LGBT individuals are still forced to marry a person of the opposite sex against their will, and risk heavy penalties (including violence and death at the hands of members of their families) if they try to escape such arrangements. Forced marriages are indisputably a human rights violation that must be combated.
- Intersexual individuals experience a particular form of violence, in the form of genital mutilation resulting from unnecessary post-birth surgery designed to make them conform to a rigid binary model of physical sex characteristics.

(b) Freedom of expression, assembly and association

- In a number of countries, LGBT human rights groups and courageous LGBT individuals see their rights to free expression, assembly and association blocked by hostile public authorities. Pride marches are denied permits, journalists are jailed, clubs are closed, and NGOs are refused registration. Without the essential right of LGBT non-governmental organisations to carry on their work, free of repressive and discriminatory restrictions, it can become impossible to campaign for the reform of discriminatory laws LGBT activists are entitled to protection and support, and to express themselves without fear of recrimination, just like other human rights defenders.

(c) Freedom to engage in (private, consensual, adult) same-sex sexual activity

- Seventy-five countries – over one third of the countries in the world – still have laws in place criminalizing same-sex sexual acts between consenting adults. Acts that harm nobody. Under international human rights standards, this violates the right to privacy, as recognised by the UN Human Rights Committee in its *Toonen* decision in 1994, and is also discrimination: a refusal to recognise the equal dignity and worth of LGBT individuals. Even where such laws are not enforced in practice, they stigmatise, perpetuate prejudices, encourage blackmail and intimidation, and serve as justifications for other forms of discrimination.
 - We urge the international community to put pressure on the governments of countries that keep violating the essential human rights of LGBT people.
 - We demand an immediate end to use of the death penalty worldwide—especially for the so-called “crime” of same-sex sexual activity between consenting adults.
 - We demand that national governments and international organisations develop and implement effective policies to prevent, investigate and punish hate crimes based on sexual orientation or gender identity.
 - We demand that genital surgery on intersexual persons be prohibited unless they are old enough to understand it and consent to it.
 - We demand that international organizations (at the global and regional levels) systematically monitor the human rights situation of LGBT people and widely publicize their findings.
 - We call on the international community to protect and give political and financial support to LGBT human rights defenders and organisations, in particular in those countries of the world where LGBT persons still have to fear for their lives or their safety on a daily basis.
 - We demand that national governments and international organisations make their international development aid conditional on real progress concerning respect for human rights, including the human rights of LGBT people.
 - We demand the repeal of all laws criminalizing private, consensual, adult, same-sex sexual activity.

2. GLOBAL ISSUES

A world where LGBT human rights are systematically violated, is a world where nobody can feel safe and free. ‘All human rights are universal, indivisible and interdependent and interrelated’ (World Conference on Human Rights, Vienna,1993).

LGBT identities or practices have existed and continue to exist in every culture and corner of the world; they are simply part of the human condition. Fighting ignorance and prejudice remains our first priority. More information about LGBT persons, and more openness on the part of LGBT persons (when this can be done safely), are conditions for further progress to be made.

- We therefore call for the preparation of a world-wide information campaign.
- We ask the organizers of the International Conference on LGBT Human Rights at the 2nd World Outgames in Copenhagen in 2009 to launch such a campaign.
- We demand the support of like-minded NGOs and sympathetic governments in the preparation and running of the campaign.

LGBT people do not live on an island, but form part of all societies, and rightly expect that their situations and their demands will be taken into account in formulating all public policies. Accordingly, LGBT human rights must be mainstreamed into global debates about social and political issues. This can only be achieved if the international LGBT human rights movement takes part in wider struggles, such as the fight for development and fair trade, worldwide social and economic rights, and international peace and stability. LGBT human rights may seem a far cry in those parts of the world where coping with poverty and violence top the daily agenda. Working to overcome these problems, however, should include working for better living conditions for LGBT individuals.

One crucial global issue is the HIV/AIDS pandemic. "*Halt and begin to reverse the spread of HIV/AIDS.*" That is UN Development Goal number 6, with a target date of 2015, endorsed by 189 Heads of State and Government in 2000. This goal can only be reached by deploying a human-rights-based approach that includes the human rights of LGBT individuals. Criminalizing sexual activity between men, and banning freedom of expression for LGBT groups, still common practices in some countries, have a directly detrimental effect on the prevention of HIV/AIDS. Access to information, adequate health services, and the elimination of violence and discrimination are crucial for both the prevention and treatment of HIV/AIDS.

- We urge governments to stop thwarting LGBT groups which spread information on the prevention and treatment of HIV/AIDS among LGBT individuals, but instead to make it their own responsibility to include LGBT people in their fight against HIV/AIDS.
- We urge donor countries and international institutions to step up their aid programmes for the prevention of HIV/AIDS, and work with local LGBT health groups to ensure that LGBT people are included in these programmes.
- We demand the removal of morality-based restrictions on HIV/AIDS education, prevention and treatment campaigns, including restrictions on promoting the use of condoms.

Another global issue is asylum. Our primary goal is to work for a safe environment in every country, so that LGBT people do not need to leave their countries because of fear for their lives. But every nation has an obligation to grant asylum to persons persecuted on the basis of their race, religion, political opinion and the like. LGBT persons who have a well-founded fear of persecution, by state or non-state actors, based on their sexual orientation or gender identity, must find similar protection within the framework of the 1951 Geneva Refugee Convention. A growing number of countries explicitly interpret this Convention in this way. And so does the United Nations High Commissioner for Refugees. We think that more countries should follow their example.

- We demand that national governments explicitly recognize in their national laws and practices a right to asylum based on a well-founded fear of persecution because of sexual orientation or gender identity.
- We demand that the UN High Commissioner for Refugees step up his actions to convince national governments to implement the Guidelines on Gender-related Persecution, adopted in 2002.

A third global issue: migration. The world is getting smaller and smaller; more and more people travel the world, make friends, and meet lovers who sometimes become partners. But most countries deny to bi-national same-sex couples the right of one partner to sponsor the other for immigration, which different-sex married couples take for granted. Even same-sex couples who have a marriage certificate or a registered partnership, recognized by the country of origin of one of the partners, cannot be sure of their status when they move somewhere else.

- We demand of our respective national governments residence rights for our partners from abroad under the same conditions as different-sex married couples, without discrimination based on sex, sexual orientation or gender identity.
- We demand that international treaties on these matters be reformed and grant same-sex couples the same rights as different-sex married couples.

The United Nations has so far been unwilling or unable to recognize that LGBT rights are human rights, and fully incorporate LGBT issues into its human rights work. Some specific UN treaty bodies and special rapporteurs have taken LGBT rights into account. But in 2005, the UN Commission on Human Rights refused for the third time to decide on a general resolution on 'Human Rights and Sexual Orientation', first tabled by Brazil in 2003. And in 2006, the Economic and Social Council of the UN for the third time refused to grant consultative status to ILGA – the International Lesbian and Gay Association – as in 1992, in 1994 (when the consultative status granted in 1993 was suspended) and in 2002.

We will continue knocking on the door of the United Nations. We do not accept that a world organisation can be closed to a specific part of the Earth's population, and can decide that it does not want to deal with their issues.

- We therefore urge governments to put LGBT human rights on the agenda of the new UN Human Rights Council, and to work for the adoption of a text, that will give a mandate to the Council and to other UN bodies to deal with LGBT human rights as a normal part of their work.
- We demand that ILGA and other LGBT organisations be granted the place they deserve among the many other NGOs that are entitled to consult with the Human Rights Council.
- We urge the Human Rights Committee and other UN treaty bodies to integrate the systematic monitoring of LGBT human rights into their work.
- We call upon lawyers, human rights institutions, and NGOs to continue studying which human rights of LGBT individuals are protected by existing international human rights treaties, and whether there are any gaps in the protection these treaties provide. This could lead to a discussion of the potential benefits of a UN Convention on the Elimination of all forms of Sexual Orientation and Gender Identity Discrimination (CESOGID).
- We urge all UN Special Procedures to address LGBT human rights issues within their relevant mandates.

3. THE DIVERSE LGBT COMMUNITY

Our demand that the heterosexual, non-transgender majority respect our human rights and our diversity does not stop at our own doorstep. We must also work to build an LGBT community that is open to all, and offers fair chances to everyone, regardless of their sex, race, religion, disability, age, economic status or other similar characteristic.

We must fight discrimination within our own ranks. We cannot tolerate sexism and racism inside our movement. We are Muslims, Christians, Jews, non-believers, Buddhists, Hindus, Sikhs, and humanists. Among us, we have every form of disability, members of every age group, and members of every social and economic class.

The growing visibility and activism of LGBT groups in the Global South must be taken into account. We must work as hard as we can to make it possible for LGBT activists from Asia, Africa, Latin America and Eastern Europe to participate in the global LGBT human rights movement on an equal footing. Our long-term goal, as resources permit, should be much more proportionate representation of the Global South at international LGBT conferences. We must remember that 88% of LGBT people live in Asia, Africa, Latin America and Eastern Europe.

The unequal position of women inside the our movement reflects the still unequal power relations between women and men in the world as a whole. Despite all the progress made over the last few decades, women are still *le deuxième sexe*, and lesbian women are no exception. We must therefore seek more co-operation with the women's movement, and stress our common ground. The commonality is our right to control our own bodies and to choose how we live our own lives. Our joint goal is to challenge the rigidity of the fixed roles allocated to women and men, and the dominance of heterosexual male norms and interests. This joint goal is not something marginal, but is part of the core business of the LGBT human rights movement.

Transgender, transsexual, transitioned and intersexual individuals have become a more and more visible part of our movement, and have seen some of their demands taken on board. Non-transgender lesbian, gay and bisexual

persons will have to recognise that questioning the meaning of sex, and challenging rigid gender roles, are in fact two sides of the same coin. Transgender issues therefore should be considered as part and parcel of our common struggle for equality and dignity.

- We recommend that international LGBT organisations expand their pools of candidates for leadership positions by offering training courses, information seminars and the like to new – female, male or transgender - activists from Asia, Africa, Latin America and Eastern Europe.
- We ask the organizers of the International Conference on LGBT Human Rights at the 2nd World Outgames in Copenhagen in 2009 to make an extra effort to realise an equal participation of women and men, to maximise participation from the Global South and from ethnic and cultural minorities, and to ensure full inclusion of transgender people and issues.
- We would also like to see at that conference more workshops on the role of women inside and outside our movement, and on increasing co-operation with the women's movement.

4. PARTICIPATION IN SOCIETY

(a) General

In many countries, the fight against discriminatory rules and practices, started more than fifty years ago, has brought success. We are proud of the victories of the international LGBT human rights movement. As such we count:

- the elimination of homosexuality from the official list of psychiatric diseases;
- the long list of countries that have abolished discriminatory criminal laws;
- new constitutional equality clauses that explicitly mention sexual orientation;
- the growing number of countries, states, provinces, territories, counties or cities that have outlawed discrimination on the basis of sexual orientation or gender identity;
- the still small, but growing, number of countries that have opened up legal marriage to same-sex couples;
- the more substantial increase in the number of countries that recognize registered same-sex partnerships;
- the increasing openness of LGBT people in public life in many countries, so that openly LGBT artists or politicians, for example, are no longer so unusual;
- the changes in public opinion that make it possible for LGBT individuals to be themselves and live their lives as they wish, without fear; and
- the growing number of public and private institutions, including human rights organisations, trade unions and other NGOs, that make it their responsibility to integrate the protection of LGBT human rights into their daily work

BUT, ...

These successes are only part of the story, and are valid for only a small part of the world. Much work still needs to be done. Over time, all sectors of society must be scrutinized for existing rules and practices that still hinder the free, open and equal participation of LGBT individuals. Among these sectors, specific priorities for action must be decided by the LGBT human rights movement in each country, depending on their local circumstances.

- We demand that all governments develop and implement a comprehensive policy against sexual orientation and gender identity discrimination in all sectors of society. This should preferably be done within the framework of an overall anti-discrimination policy designed to tackle all forms of discrimination in all spheres of life on all grounds - but without sweeping LGBT issues under the carpet.
- We demand that such an anti-discrimination policy focus on both legal equality, ending second-class treatment by the state, as well as on social equality, fighting discrimination and prejudice throughout society, including on the part of private parties.
- We demand that national parliaments hold their respective governments accountable; guaranteeing the rights of all citizens, including LGBT citizens.
- We demand that LGBT experts and organization be involved in the planning and execution of such policies and that the effects be properly monitored;
- We demand that LGBT human rights issues be mainstreamed in overall governmental policy-making. This means that, before decisions are taken, the effects of policy proposals on the situation of LGBT individuals must be identified and taken into account.

- We urge international LGBT organisations to
 - continue to monitor national policy-making on LGBT issues,
 - design comparable indicators of progress and improve their databases documenting legislation and practices in different countries around the world.
 - distribute information on best practices.

(b) By Sector

Fair chances in **employment or business** are essential for LGBT individuals to be economically independent, maintain self-esteem, and lead a fulfilling and productive life. Sexual orientation or gender identity discrimination in the workplace must be combated by all parties concerned, working together on the basis of well-designed programmes, that are properly monitored.

- We therefore endorse the Plans of Action adopted yesterday by the "Workers Out!" and "Out for Business!" conferences and will support the activities they have planned for the future.
- We demand that governments and public institution set a good example, by eliminating discrimination against their LGBT employees, and promoting their equality and safety in the workplace.

LGBT people are not isolated individuals. We fall in love, and establish **relationships and families** – however configured. For many of us, these relationships and families are the most important parts of our lives. Unless they are legally recognized, our rights to equality and dignity cannot be fully secured. Indeed, many countries are willing to grant us equality in every area of our lives except in relation to our relationships and families, to ensure that our relationships and families are stigmatized as inferior. As a matter of simple equality, same-sex couples are entitled to the full range of relationship options available to different-sex couples, including marriage for those who choose it. Similarly, LGBT individuals and same-sex couples who are parents, or wish to become parents, are entitled to equal rights, and to equal access to the full range of parenting options available to heterosexual individuals and different-sex couples, including adoption, fostering, and use of medically assisted procreation. Doing justice to the changing realities of family life also entails recognizing and granting equal rights to non-marital relationships, and extending this option to all couples, without discrimination based on sex, sexual orientation or gender identity.

- We therefore demand that all governments that have not yet done so reform family law in order to reflect the growing diversity of family life,
 - by opening-up legal marriage to same-sex couples,
 - introducing similar partnership rights for all unmarried couples, and
 - ensuring equal access for all to every option for parenthood.

Education, the media, health care, and religion are social institutions of crucial importance to the success or failure of the struggle for LGBT human rights. Each has its own role to play and its own contribution to make.

- We demand that the competent (national or local) government authorities in charge of education policies, including school boards
 - include lessons on LGBT human rights in the school curriculum; and
 - take action to combat intimidation and violence against LGBT pupils and teachers.
- We demand that the mainstream media contribute to breaking down stereotypes, and promote a realistic visibility of LGBT people.
- We demand that health care facilities and individual health care providers be open to the special health needs of LGBT people, fight prejudice, and supply relevant information on a non-discriminatory basis.
- We demand that governments permit all medical treatment necessary for gender reassignment, that they fund such treatment to the same extent that their resources permit them to fund other medically necessary treatment, and that they amend their legislation so as to permit a transgender person to change their legal sex to the one that corresponds to their gender identity.

- We urge religious institutions and non-confessional organisations to put into practice the principles of tolerance and equality towards LGBT individuals among their own ranks, and to contribute to the fight for LGBT human rights in the world at large.

5. CREATING SOCIAL CHANGE

The legal, political and social changes that will bring LGBT individuals equal rights do not serve our interests only. In a society where some people are oppressed, nobody can be free and equal. Bringing about the changes we want must therefore be the result of the combined efforts of the LGBT human rights movement and other groups and organisations, which share our vision and our goals.

- We call on LGBT organizations to continue their fight for LGBT human rights in all countries, as well as at the international level, by
 - mobilizing their rank and file, enlarging their constituencies and broadening their bases of financial support;
 - promoting better cooperation, coordination and solidarity among the LGBT communities within countries, and throughout the world;
 - making more LGBT and non-LGBT individuals aware of the need of further global action, and invoking their sense of solidarity;
 - building strategic alliances and co-operation between different organisations and institutions inside and outside of the LGBT human rights movement;
 - strengthening their knowledge and expertise and making their actions more professional;
 - encouraging LGBT cultural activities, so as to show a living reality and use culture to get the message of LGBT equality across.
- We call on trade unions, professional organisations and NGOs working for human rights and social welfare to participate in our fight against discrimination, to lend us their support, and to share resources.
- We call on national and international companies to grant equal opportunities to their LGBT workers, cater for the needs of their LGBT customers, and meet their social responsibility by supporting the global fight for LGBT human rights.
- We call on religious institutions and non-confessional organisations to help their LGBT members to overcome traditional prejudices and fight homophobia among their own ranks and in the outside world.
- We call on funders to ensure that funding programmes support NGOs in working towards legal and social equality for LGBT people, by advancing all of the objectives set out in this Declaration.
- We call on national governments to protect the rights and promote the interests and well-being of all their citizens, including their LGBT citizens.
- We call on the international community to include LGBT human rights in the international human rights agenda, and to support and protect LGBT human rights defenders.
- And – last but not least – we call on all countries in the world, and on the United Nations, to recognise and promote the 17th of May of each year as the International Day against Homophobia.

These are our demands. It will take tremendous courage, great personal sacrifice, and countless hours of hard work by many thousands of LGBT activists and friends of the global LGBT community. But our goal, equal rights for every LGBT person in every country of the world, can be and will be achieved.