

## Advocating for sexual rights at the UN: the unfinished business of global development

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**Abstract:** *Twenty years ago, governments agreed that the right to have control over and decide freely and responsibly on all matters related to one's sexuality, free from coercion, discrimination and violence, is a fundamental human right. Since then, many aspects of sexual rights have been agreed by consensus at the global level, but the term "sexual rights" itself continues to be removed from negotiated outcomes and left out of international agreements, often at the last stages of negotiations. This commentary represents our point of view on the unfinished business of the UN with regards to the fight for sexual rights. Our perspective draws from lessons learned in cross-movement organizing in various regional UN spaces and outlines some of the tactics by conservative forces to push sexual rights to the periphery. The article reaffirms the position that broadening the debate and concepts surrounding sexual rights to be more inclusive, has enormous transformational potential and should inform collective advocacy efforts moving forward. © 2015 Reproductive Health Matters. Published by Elsevier BV. All rights reserved.*

**Keywords:** sexual rights, sustainable development, sexual orientation and gender identity, United Nations, sexuality

It was late into the process of negotiating the outcome of the African Regional Conference on Population and Development at the United Nations Economic Commission for Africa (ECA) in October 2013 when a delegate from the government of Mali raised objections to paragraph 17. The paragraph in question seemed non-controversial:

*"Adopt and protect the human rights of all individuals, without distinction of any kind, and guarantee equality before the law and non-discrimination for all people."*

The Malian delegate had another view. The language "without distinction of any kind" contained a hidden agenda, he argued, and might force governments to protect the human rights of lesbians and gay men.

This caught the attention of other delegates in the room. One after the other, the governments of the Democratic Republic of the Congo, Benin, Congo Brazzaville, Egypt, Eritrea, Burundi, Niger, Togo, and Uganda, among others, spoke up to voice their opposition to "without distinction of any kind". Eritrea argued against what it saw as an "un-African agenda". Niger asserted that this language was clearly intended to divide them.

A delegate from Liberia pointed out that this was core human rights language from the Universal Declaration of Human Rights and African regional human rights instruments. The Tanzanian representative also tried to reason with her peers: "Whoever these people are that they are referring to, they surely still have rights as a human being."

With the conversation degenerating rapidly, delegates moved to a closed-door meeting. In the end, the language was watered down considerably, essentially gutting the essence of a longstanding human rights principle by making it subordinate to culture, religion and national law:

*"Adopt and protect the human rights of all individuals, without distinction of any kind, and guarantee equality before the law and non-discrimination for all people, in accordance with national policies, laws, religious, ethical values and cultural backgrounds."*<sup>1</sup>

Yet, even this did not placate many of the government representatives in the room. At the close of the meeting, 16 governments issued reservations on this paragraph, as well as two others that contained similar language, and the government of Chad disassociated itself from the text altogether.

Fortunately, all of them lifted their reservations in the months subsequent to the Conference after outreach by UNFPA. However, the reversals were not publicized on the ECA website and the sentiment behind the original reservations continued to be voiced at subsequent UN negotiations; most recently, during the negotiations on the political declaration for the post-2015 agenda.<sup>2</sup>

This story illustrates the nature of the current opposition to sexual rights in UN spaces. After slow but steady progress at the regional and global levels in furthering recognition of sexual rights and the rights of all people to control all matters related to their sexuality free from coercion, discrimination and violence, a more strident and overt opposition has mobilized. Variants of the arguments raised by African governments at the ECA in October 2013 are now raised regularly at UN headquarters. This opposition is centered on two key issues: the rights of people of diverse sexual orientations and gender identities (SOGI); and the rights of adolescents, particularly girls, to be able to control their bodies, sexualities and ultimately their lives.

### *Defining sexual rights as human rights*

The right to have control over and decide freely and responsibly on all matters related to one's sexuality free from coercion, discrimination and violence is a fundamental human right. In 2006, the WHO published a working definition of sexual rights centered on the right of all persons to fulfill and express their sexuality and enjoy sexual health, with due regard for the rights of others. The definition embraced a number of human rights already recognized in national laws, international human rights documents and other consensus statements, including:

- the rights to the highest attainable standard of health (including sexual health) and social security;
- the rights to equality and non-discrimination;
- the right to marry and to found a family and enter into marriage with the free and full consent of the intending spouses, and to equality in and at the dissolution of marriage;
- the right to be free from torture or cruel, inhuman or degrading treatment or punishment;
- the right to privacy;
- the right to decide the number and spacing of one's children;

- the rights to information, as well as education;
- the rights to freedom of opinion and expression; and the right to an effective remedy for violations of fundamental rights.<sup>3</sup>

Other organizations have put forward largely similar definitions (e.g. International Planned Parenthood Federation, World Association of Sexual Health);<sup>4,5</sup> in all cases sexual rights are meant to comprise all rights related to sexuality, whether civil, political, economic or cultural, and include rights related to reproduction. Sexuality Policy Watch, a global forum of researchers and activists, observed that the concept of sexual rights enables us to address the intersections between sexual orientation, discrimination and other sexuality issues – such as restrictions on all sexual expression outside marriage or abuses against sex workers – and to identify root causes of different forms of oppression.<sup>6</sup> Seen from this perspective, sexual rights have enormous transformational potential for both “sexual minorities” and “sexual majorities.”

One such sexual “majority” is women and girls. Indeed it is the attempts to control women's and girls' sexuality that result in many of the human rights abuses they face daily, from sexual violence to child, early and forced marriage or female genital mutilation and limitations on their mobility, education, health, employment and participation in public life. The same holds true for lesbian, gay, bisexual, transgender and intersex (LGBTI) people, sex workers, and others who transgress sexual and gender norms and who face greater risk of violence, stigma and discrimination as a result. Sexual rights underpin the enjoyment of many other human rights and are a prerequisite for equality and justice.

A sexual rights movement has emerged at the UN comprised of distinct civil society organizations, namely LGBTI groups, HIV and health groups, feminist and women's groups and reproductive health and rights groups.<sup>7</sup> As a result of sustained efforts by these groups, the phrase “sexual rights” has been used and defined in regional intergovernmental negotiations at the Economic Commission for Latin America and the Caribbean and the Economic and Social Commission for Asia and the Pacific.<sup>1</sup> At the global level, as discussed in the next section, many aspects of sexual rights have been agreed by consensus since the 1990s. However, the term “sexual rights” itself continues to be removed from global intergovernmental agreements, often at the last stages of negotiations.

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