

Sexual Orientation, Gender Identity and Intersex Rights Snapshot Report

BACKGROUND PAPER • 2014



**Australian
Human Rights
Commission**



SOGII Rights

Sexual Orientation, Gender Identity & Intersex Rights

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Sexual Orientation, Gender Identity & Intersex Rights Snapshot Report

BACKGROUND PAPER • 2014

Australia's Human Rights Commissioner, Tim Wilson is holding consultations to explore key rights issues affecting lesbian, gay, bisexual, transgender and intersex (LGBTI) people in Australia.

These consultations are conducted through an online survey and email submission process. The online consultation period will be supported by a number of targeted meetings and community forums with LGBTI groups, organisations and individuals across the country. The outcomes of this process will inform the work of the Commissioner in the area of Sexual Orientation, Gender Identity and Intersex (SOGII) Rights over his tenure.

This consultation will be held in parallel with *Rights & Responsibilities 2014*, a national consultation about how effectively we protect people's human rights and freedoms in Australia. The *Rights & Responsibilities 2014* consultation is focused on building understanding and improved protection of our fundamental human rights, freedoms and responsibilities.

A Note on Terminology

The Australian Human Rights Commission recognises that terminology can have a profound impact on a person's identity, self-worth and inherent dignity. The use of inclusive and acceptable terminology empowers individuals and enables visibility of important issues.

The Commission supports the right of people to identify their sexual orientation and sex and/or gender as they choose. The Commission also recognises that terminology is strongly contested, particularly terminology to describe sex and/or gender identity. Previous consultation work conducted by the Commission revealed there is no clear consensus on what is appropriate terminology in this area.¹

Some of the terminology used in our work is explained below:

LGBTI: An internationally recognised acronym which is used to describe lesbian, gay, bisexual, trans and intersex people collectively. Many sub-groups form part of the larger LGBTI movement.

SOGII: An internationally recognised acronym which is used to describe sexual orientation, gender identity, and intersex status collectively primarily for the purposes of law and policy, most often in human rights and anti-discrimination law.

Sexual orientation: The term 'sexual orientation' refers to a person's emotional or sexual attraction to another person, including, amongst others, the following identities: heterosexual, gay, lesbian, bisexual, pansexual, asexual or same-sex attracted.

Sex: The term 'sex' refers to a person's biological characteristics. A person's sex is usually described as being male or female. Some people may not be exclusively male or female (the term 'intersex' is explained below). Some people identify as neither male nor female.

Gender: The term 'gender' refers to the way in which a person identifies or expresses their masculine or feminine characteristics. Gender is generally understood as a social and cultural construction. A person's gender identity or gender expression is not always exclusively male or female and may or may not correspond to their sex.

Gender identity: The term 'gender identity' refers to a person's deeply held internal and individual sense of gender.

Gender expression: The term 'gender expression' refers to the way in which a person externally expresses their gender or how they are perceived by others.

Intersex: The term 'intersex' refers to people who have genetic, hormonal or physical characteristics that are not exclusively 'male' or 'female'. A person who is intersex may identify as male, female, intersex or as being of indeterminate sex.

Trans: The term 'trans' is a general term for a person whose gender identity is different to their sex at birth. A trans person may take steps to live permanently in their nominated sex with or without medical treatment.*

*Throughout different cultural contexts transgender identities have specific terms. For example in some Aboriginal and Torres Strait Islander communities some *Sistergirls* and *Brotherboys* are also trans people.

The Commission acknowledges that some community members have expressed concern about the appropriateness of some of the terms outlined above, including LGBTI as an umbrella term and 'gender identity'.

At times, our work refers to the broader LGBTI movement to describe people affected by discrimination on the basis of sexual orientation or sex and/or gender identity, and at other times our work refers to the broader collection of SOGII rights to describe relevant areas of law and policy.

Our work uses the phrase 'gender identity' in the context of both international and domestic law. While international human rights discourse often uses the phrase gender identity, many state and territory laws use a variation of this phrase. For consistency the Commission uses the phrase 'gender identity' when referring to either international treaties or state and territory laws.

The Commission also frequently uses the phrase 'sex and/or gender identity' in our work. This term is used to refer to the whole spectrum of sex and/or gender in our community. It aims to include all people regardless of whether they identify within or outside of the binary gender framework.²

Message from the Commissioner



Tim Wilson
Human Rights Commissioner
Australian Human Rights
Commission

In February 2014, I was appointed to the position of Australia's Human Rights Commissioner by the Australian Government. I was specifically appointed to take a classical liberal approach to human rights and focus on the rights of the individual.

At the Australian Human Rights Commission there are Commissioners responsible for age, disability, race and sex discrimination, as well as the Aboriginal and Torres Strait Islander Social Justice Commissioner and the Children's Commissioner. There is no Commissioner responsible for SOGII rights.

As Human Rights Commissioner I have enthusiastically taken on this important portfolio that goes to the heart of the dignity of the individual, personal freedom and bodily autonomy.

We have organised this consultation to establish what legal barriers remain, what services are being provided and what are not, and what needs to be done to improve the lives of LGBTI people. At the end of this consultation process, we will be publishing a report that provides a map of the challenges ahead and recommendations for pathways to change.

To have a truly inclusive society we need to promote a lived culture of rights, responsibility and mutual respect toward and from LGBTI people.

Further progress requires active consideration of how administrative practices, law, and religious and cultural attitudes impact LGBTI people, from changing paperwork to addressing gaps in health services, and navigating the tensions that exist in a pluralistic liberal democracy and secular state.

Many of these issues can only be resolved by engaging all levels of government, as well as academia, professional institutions and civil society.

This report will also canvas the human stories of individuals doing excellent work on the ground, and often in challenging environments.

In this work there is no room for despondency. Some of the best work is under-celebrated, but it is truly inspiring. We will be highlighting their leadership.

I look forward to your contribution to this consultation and subsequent reform.

A handwritten signature in black ink that reads "Tim Wilson". The signature is fluid and cursive, with the first name "Tim" and last name "Wilson" clearly legible.

Tim Wilson
Human Rights Commissioner

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What is the consultation about?

This project aims to build and expand on previous work on SOGII rights at the Commission. The project will include:

- a foundation of inclusive and empowering terminology³
- a stocktake of State and Federal laws that impact detrimentally on LGBTI people, including the identification of gaps and inconsistencies between laws at different levels of governments
- a stocktake of programs and services that benefit LGBTI people across Australia
- guidance on future government action in areas such as marriage equality and reform of the requirements for changing a person's legal sex
- guidance on improving access to appropriate programs and services for LGBTI people, for example in areas such as health care and education
- guidance on building a culture of respect for SOGII rights in Australia

The consultation will seek views from interested LGBTI individuals and organisations on three key areas:

1. How well SOGII rights are respected and protected in Australia.
2. Examples of legislation, policies and practices by government that unduly restrict SOGII rights.
3. What is being done, and what more should be done, to promote a culture of respect for SOGII rights.

A particular focus of the consultation will be on building a culture of respect for SOGII rights among the Australian community. The consultation is interested in learning about initiatives at a community level that advance SOGII rights and promote cultural change. Examples of this work could include developing voluntary codes of conduct and practice, art and cultural activities, service provision, sporting events or other community based education activities.

What are Human Rights?

What are human rights and freedoms?

Human rights and freedoms are basic standards of treatment that everyone enjoys. They are universal. Everyone has them. Human rights recognise the inherent value of each person, regardless of their background, sex, gender, where they live, what they look like, what they think or what they believe. They affect 'everyone, everywhere, everyday'.

Freedoms are focused on liberty and the ability to express your rights without external control or interference. The most commonly identified freedoms are:

- freedom of opinion or expression
- freedom of thought, conscience or religious worship
- freedom of association or peaceful assembly
- freedom from arbitrary detention

Rights and freedoms are based on principles of dignity, equality before the law and mutual respect, which are shared across cultures, religions and philosophies. They are about being treated fairly, treating others fairly and having the ability to make genuine choices in our daily lives. Respect for human rights underpins the democratic processes of our society and is the cornerstone of a society that respects individuals and voluntary community collaboration.

Human rights and freedoms have evolved from political, social and cultural movements over thousands of years. The idea of rights existed in ancient societies, but the modern understanding of human rights evolves from documents such as:

- The *Magna Carta* (the Great Charter) of 1215, which subjected King John to the rule of law.
- The 1688 *English Bill of Rights* that universalised many of the principles of the *Magna Carta* so they applied to all individuals.
- The United States of America's *Declaration of Independence* in 1776 that asserted that all people are created equal and have rights to 'life, liberty and the pursuit of happiness',⁴ and the subsequent *Constitution of the United States* (1787) and *Bill of Rights* (1791).
- The *Declaration of the Rights of Man and of the Citizen* in France in 1789, which proclaimed that all citizens are to be guaranteed the rights to liberty, property, security and resistance to oppression.⁵

The concept of human rights and freedoms also evolved through philosophical movements, such as the Enlightenment of the 17th and 18th centuries. This emphasised that people should be able to pursue their own opportunities, activities and enterprise free from unnecessary interference and free from the potential abuse of power by the monarchy or government.

The 1948 *Universal Declaration of Human Rights* internationalised the idea of human rights to all people in the world, particularly after the atrocities of the Nazi and fascist regimes and World War II. It provides that all people are born free and equal. Rights and freedoms are universal (held by everyone) and inalienable (exist whether they are recognised by governments or not).

Since 1948, human rights have also been expressed in the form of international treaties, customary international law, general principles and other sources of international law. International human rights treaties outline obligations of governments to act in certain ways or to refrain from certain acts, in order to promote and protect human rights and fundamental freedoms of individuals or groups.

Australia has agreed to uphold and respect the seven main international human rights treaties, namely the:

- *International Covenant on Civil and Political Rights*
- *International Covenant on Economic, Social and Cultural Rights*
- *Convention on the Elimination of All Forms of Racial Discrimination*
- *Convention on the Elimination of All Forms of Discrimination against Women*
- *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*
- *Convention on the Rights of the Child*
- *Convention on the Rights of Persons with Disabilities*

There is no dedicated international treaty that deals with the human rights concerns of LGBTI people. However, all human rights issues should concern LGBTI people. The human rights principle of equality before the law equally applies to LGBTI people and the requirement for equal treatment by government.

What are SOGII Rights?

At the heart of all human rights is the dignity of the individual to be free to pursue their lives, opportunities and enterprise without prejudice or discrimination by government. No person should be treated differently by government on the basis of their sexual orientation or gender identity.

We all have a sexual orientation and a gender identity, and this shared fact means that discrimination against members of the Lesbian, Gay, Bisexual and Transgender community, based on sexual orientation and/or gender identity, is an issue that transcends that community and affects all of us.

Amnesty International

Article 2 of the *Universal Declaration on Human Rights* makes it clear that human rights apply to all people in the world. It states:

Everyone is entitled to all the rights and freedoms set forth in this Declaration, 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.

SOGII rights are ultimately about the equal application of existing human rights to everyone. Specifically, the equality and non-discrimination requirements provided by international treaties apply to all people, regardless of sex, sexual orientation and gender identity or 'other status'.

There is no fine print, no hidden exemption clause, in any of the human rights treaties that might allow a State to guarantee full rights to some but withhold them from others purely on the basis of sexual orientation, gender identity or intersex status.

United Nations Office for the High Commissioner on Human Rights

Appendix A provides an overview of the key international treaties and how SOGII rights apply to them.

Over the last decade an increasing amount of work on SOGII rights has occurred within the United Nations system. In 2012 the United Nations Secretary-General Ban Ki-Moon addressed the Human Rights Council on SOGII rights for the first time:

Some say that sexual orientation and gender identity are sensitive issues. I understand. Like many of my generation, I did not grow up talking about these issues. But I learned to speak out because lives are at stake, and because it is our duty under the United Nations Charter and the Universal Declaration of Human Rights to protect the rights of everyone, everywhere.

UN Secretary-General Ban Ki-moon to the Human Rights Council, 7 March 2012

In 2012 the Human Rights Council also released the first United Nations global public education campaign for LGBTI equality.⁶ In addition, since the 1992 decision of the Human Rights Committee in *Toonen v Australia*,⁷ the United Nations human rights treaty bodies have confirmed that sexual orientation and gender identity are included amongst the prohibited grounds of discrimination in international treaties as defined under 'other status'.⁸

While these developments have been positive for SOGII rights as a whole internationally, it is important to acknowledge that LGBTI people are a diverse group and in this context, not all SOGII rights will be relevant to all members of the LGBTI communities. The Commission holds an awareness of, and respect for this diversity, while working within the collective umbrella term where relevant.

The Australian Context

Over the past decade Australia has celebrated significant progress in the realisation of SOGII rights. Extensive reforms to same-sex relationship recognition, anti-discrimination law, and myriad policies affecting LGBTI people have occurred at State, Territory and Commonwealth levels. Significant positive shifts in social attitudes towards SOGII have also been recorded in various public discourse including mainstream media and a range of social research initiatives.⁹

Since the publication of the Commission's last report on SOGII rights in 2011 a number of significant achievements have occurred in Australian Government law and policy.¹⁰ The Commission congratulates the Australian Government on its contribution to these achievements, including:

- The introduction of the *Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Act 2013* (Cth) extending Federal anti-discrimination protection coverage to SOGII.¹¹
- The introduction of the *Australian Government Guidelines on Sex and Gender Recognition (2013)*.¹²
- The establishment of the *Federal Safe Schools Coalition (2014)*.¹³

Despite these gains, people of diverse sexual orientations, sex and gender identities in Australia still experience discrimination in a number of areas of public life and infringements of their human rights, including:

- discriminatory recognition of relationships before the law
- discriminatory access to surrogacy or adoption arrangements
- lack of consistency in legal recognition of sex and/or gender
- inconsistent protection in some state and territory anti-discrimination laws on the basis of sexual orientation, sex and/or gender identity status
- lower outcomes across a range of health and social determinant indicators
- documented higher rates of violence, harassment and bullying¹⁴

The full realisation of SOGII rights in Australia will require a multi faceted strategy of reform to law and policy, as well as further cultural change.

SOGII Rights at the Australian Human Rights Commission

The Australian Human Rights Commission has been working on SOGII rights for over a decade. Most recently, in 2011 the Commission undertook a national public consultation to canvass the experiences and views of people who may have been discriminated against on the basis of their sexual orientation, gender identity or because they are intersex.¹⁵

The results of this consultation, as with the *Same Sex Same Entitlements Inquiry Report* in 2007¹⁶ and the *Sex Files Report* in 2009¹⁷ contributed to significant law reform in Australia spanning from relationship recognition to anti-discrimination protection.¹⁸

A key recommendation articulated in the 2011 *Addressing Sexual Orientation and Sex and/or Gender Identity Discrimination Consultation Report* was the appointment of an LGBTI representative at the Australian Human Rights Commission.¹⁹ While no specific Commissioner mandate for SOGII rights is currently articulated in Australian law, the Commission has maintained a formal SOGII spokesperson since 2009.

Since commencing his term in February 2014, the Human Rights Commissioner has performed the role of Commission spokesperson for SOGII issues in addition to his Human Rights Commissioner role. The appointment of a Commissioner with lived experience to this important portfolio goes some way to strengthening the Commission's commitment to SOGII rights.

How can you participate in the consultation?

Throughout December 2014 the Commissioner will be conducting a range of targeted stakeholder engagement meetings with interested LGBTI groups, organisations and individuals in key locations across the country to open discussions on the areas of focus raised in this paper.

Building on this foundational engagement, interested LGBTI individuals, groups and organisations are now invited to participate in an online consultation process.

The online survey is available at: www.humanrights.gov.au/sogiirights. Written contributions can be emailed to sogii@humanrights.gov.au.

Please note that when participating in the online survey, face to face meetings or making a written contribution, you are indicating that you have read and understood the Commission's Submission Policy which can be found at: <https://www.humanrights.gov.au/submission-policy>.

What will be the outcome from the consultation?

Information from the consultation process will be used to prepare the *Sexual Orientation, Gender Identity and Intersex Human Rights: Snapshot Report*. The report will outline key issues raised during the consultation process, identify best practice community based initiatives that promote SOGII rights, and set out recommendations for further advancing the protection and promotion of SOGII rights in Australia. The report will guide the priorities of the Human Rights Commissioner over the coming four years.

The report will aim to:

- enhance awareness of the key SOGII rights issues for civil society with a focus on NGOs, service providers and business
- enhance public awareness amongst government decision-makers of SOGII rights and options for reform
- strengthen the capacity of stakeholders to effectively advocate for SOGII rights in Australia

Who to contact if you have questions?

If you have any questions about the *SOGII Rights consultation* you can:

Email: sogii@humanrights.gov.au
Telephone: (02) 9284 9600
Fax: (02) 9284 9611

For detailed and up to date information about the Australian Human Rights Commission, please visit the website at: www.humanrights.gov.au.

Appendix A

Key International Treaties and SOGII Rights

Below is an outline of how international treaties have been interpreted to apply to people of all sexual orientations and sex and/or gender identities. Australia has committed to uphold these standards.

1.1 International Covenant on Civil and Political Rights

The *International Covenant on Civil and Political Rights* (ICCPR) enshrines the rights of all people to non-discrimination and equality before the law. Article 2(1) of the ICCPR sets out the principle of non-discrimination:

Each State Party to the present Covenant undertakes to respect and to ensure all individuals within its territory and subject to its jurisdiction the rights recognised in the present Covenant, 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.

Article 26 of the ICCPR sets out the principle of equality before the law:

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Other relevant rights set out in the ICCPR include the right to privacy (article 17) and the right to marry and found a family (article 23).

The ICCPR does not specifically refer to sexual orientation. However, the United Nations Human Rights Committee has found that the treaty includes an obligation to prevent discrimination on the basis of sexual orientation.

In *Toonen v Australia*, the Human Rights Committee held that the reference to 'sex' (ICCPR article 2) and the right to privacy (ICCPR article 17) include sexual orientation.²⁰ The Committee has also held in *Young v Australia* that distinctions made between same sex couples and opposite sex couples in relation to veterans entitlements were discriminatory, in breach of article 26 of the ICCPR.²¹

Within previous consultation work at the Commission, the Law Council of Australia noted it is likely that the principles of the ICCPR would extend to gender identity under its 'other status' grounds.²² The Human Rights Committee has, for instance, placed emphasis on the need to protect trans communities from violence, torture and harassment²³ and to recognise the right of trans people to change their gender by permitting the issuing of new birth certificates.²⁴

1.2 Other international treaties

United Nations Committees have recognised the right to non-discrimination on the basis of sexual orientation under the following international treaties:

- *International Covenant on Economic, Social and Cultural Rights*²⁵
- *Convention on the Rights of the Child*²⁶
- *Convention on the Elimination of All Forms of Discrimination against Women*.²⁷

The Committee on Economic, Social and Cultural Rights has specifically stated that gender identity is recognised as a prohibited ground of discrimination.²⁸

The Committee on the Rights of the Child has commented on the rights of young people who are 'transsexual' and recommended that the United Kingdom government provide adequate information and support to homosexual and transsexual young people.²⁹

The Committee is concerned that homosexual and transsexual young people do not have access to the appropriate information, support, and necessary protection to enable them to live their sexual orientation.³⁰

The Committee on the Elimination of Discrimination against Women has recognised that discrimination experienced by women is connected to discrimination on the basis of sexual orientation and gender identity.

The discrimination of women based on sex and gender is inextricably linked with other factors that affect women, such as race, ethnicity, religion or belief, health status, age, class, caste, and sexual orientation and gender identity.³¹

Australia is also a signatory to the *International Labour Organization Convention No. 111* (ILO 111). This international agreement prohibits discrimination in employment on the grounds of race, colour, sex, religion, political opinion, national extraction and social origin. Parties to this convention can include additional grounds for domestic purposes, and in 1989 Australia added several grounds including 'sexual preference'.³²

1.3 UN statements on sexual orientation and gender identity

Support for the view that international human rights standards apply to people of all sexual orientations and gender identities is found in several United Nations statements.

On 22 March 2011, the UN Human Rights Council issued a Joint Statement on Sexual Orientation and Gender Identity that was supported by 85 countries.³³ This builds on earlier statements in 2006 (supported by 54 countries) and in 2007 (supported by 66 countries).³⁴ These statements demonstrate the growing international support for and recognition of the rights of all people regardless of their sexual orientation or gender identity.

1.4 The Yogyakarta Principles

The *Yogyakarta Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity* were developed in 2006 by a group of international legal experts and adopted in March 2007 in Yogyakarta, Indonesia.³⁵

The Yogyakarta Principles are not legally binding themselves, but are an interpretation of already binding agreements from the viewpoint of sexual orientation and gender identity. Therefore, the Yogyakarta Principles are persuasive in shaping our understanding of how existing binding human rights obligations apply and relate to people who are sex and gender diverse.

In particular, Yogyakarta Principle 3 outlines the right to recognition before the law for all people regardless of gender identity:

Everyone has the right to recognition everywhere as a person before the law. Persons of diverse sexual orientations and gender identities shall enjoy legal capacity in all aspects of life. Each person's self-defined sexual orientation and gender identity is integral to their personality and is one of the most basic aspects of self-determination, dignity and freedom. No one shall be forced to undergo medical procedures, including sex reassignment surgery, sterilisation or hormonal therapy, as a requirement for legal recognition of their gender identity. No status, such as marriage or parenthood, may be invoked as such to prevent the legal recognition of a person's gender identity. No one shall be subjected to pressure to conceal, suppress or deny their sexual orientation or gender identity.

In addition, Yogyakarta Principle 3 details actions that countries such as Australia should undertake to ensure they are not in breach of their human rights obligations, including:

- embodying the principles of equality and non-discrimination on the basis of sexual orientation and gender identity into national constitutions or other appropriate legislation
- adopting appropriate legislative and other measures to prohibit and eliminate discrimination in the public and private spheres on the basis of sexual orientation and gender identity.³⁶

The Preamble recognises the historical human rights violations faced by people who are lesbian, gay, bisexual, trans or intersex. However, the Principles themselves do not use these terms. Instead, the Yogyakarta Principles are phrased in neutral language that aims to recognise the rights of all peoples.³⁷

- 1 Australian Human Rights Commission, *Sex Files: the legal recognition: Concluding paper of the sex and gender consultation* (2009). At: <https://www.humanrights.gov.au/sex-files-legal-recognition-concluding-paper-sex-and-gender-2009>.
- 2 Quinn, Sheila, ARC International and International Commission of Jurists, *An Activists Guide to the Yogyakarta Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity* (2010). At: http://www.ypinaction.org/content/activists_guide.
- 3 United Nations Office of the High Commissioner for Human Rights, *Free & Equal; A United Nations campaign for lesbian, gay, bisexual, and transgender equality*. At: <https://www.unfe.org/en/about>.
- 4 Declaration of Independence (US 1776), at: http://www.archives.gov/exhibits/charters/declaration_transcript.html.
- 5 Declaration of the Rights of Man and the Citizen (National Assembly of France, 1789), Art. 2, at: http://avalon.law.yale.edu/18th_century/rightsof.asp.
- 6 United Nations Office of the High Commissioner for Human Rights, above n3.
- 7 Human Rights Committee, *Toonen v Australia*, Communication No. 488/1992, UN Doc CCPR/C/50/D/488/92(1992).
- 8 United Nations Office of the High Commissioner for Human Rights, above n3.
- 9 NSW Gay and Lesbian Rights Lobby, *In Their Own Words: Lesbian, gay, bisexual, trans* and intersex Australians speak about discrimination*, (due for release in 2014).
- 10 *Addressing sexual orientation and sex and/or gender identity discrimination: Consultation report* (2011). At: http://www.humanrights.gov.au/human_rights/lgbti/lgbticonsult/index.html.
- 11 Australian Human Rights Commission, *New protection against discrimination on the basis of sexual orientation, gender identity and intersex status*. At: <https://www.humanrights.gov.au/new-protection>.
- 12 *Australian Government Guidelines on Sex and Gender Recognition* (2013). At: <http://www.ag.gov.au/Publications/Documents/AustralianGovernmentGuidelinesontheRecognitionofSexandGender/AustralianGovernmentGuidelinesontheRecognitionofSexandGender.PDF>.
- 13 *Foundation for Young Australians Safe Schools Coalition Australia* (2014). At: <http://www.fya.org.au/inside-fya/initiatives/safe-schools-coalition-australia>.
- 14 See for example, Australian Human Rights Commission (2011), above n10; Inner City Legal Centre, *Outing Injustice: Understanding the legal needs of the lesbian, gay, bisexual, transgender and intersex communities in New South Wales* (2011). At: <http://www.iclc.org.au/outinginjustice/>.
- 15 Australian Human Rights Commission (2011), above n10.
- 16 Australian Human Rights Commission, *Same-Sex: Same Entitlements, Final Report* (2007). At: <https://www.humanrights.gov.au/publications/same-sex-same-entitlements>.
- 17 Australian Human Rights Commission (2009), above n1.
- 18 Wilson, Tim. *SDA Amendments Speech for Australian Public Service Human Rights Network*, Monday 7 April 2014, Canberra. At: <https://www.humanrights.gov.au/news/speeches/sda-amendments>.
- 19 Australian Human Rights Commission (2011), above n10.
- 20 *Toonen v Australia*, above n7.
- 21 Human Rights Committee, *Young v Australia*, Communication No. 941/2000, UN Doc CCPR/C/78/D/941/2000 (2003). Manfred Nowak, *UN Covenant on Civil and Political Rights: CCPR Commentary* (2005), p 623.
- 22 Australian Human Rights Commission (2011), above n10; see also Michael O'Flaherty and John Fisher, 'Sexual Orientation, Gender Identity and International Human Rights Law: Contextualising the Yogyakarta Principles' (2008) 8(2) *Human Rights Law Review* 207.
- 23 See, for example, Human Rights Committee, *Consideration of Reports Submitted by States Parties Under Article 40 of the Covenant: Concluding Observations of the Human Rights Committee, Russian Federation*, 24 November 2009, UN Doc CCPR/C/RUS/CO/6; Human Rights Committee, *Consideration of Reports Submitted by States Parties Under Article 40 of the Covenant: Concluding Observations of the Human Rights Committee, Colombia*, 4 August 2010, UN Doc CCPR/C/CO/6.
- 24 See, for example, Human Rights Committee, *Consideration of Reports Submitted by States Parties Under Article 40 of the Covenant: Concluding Observations of the Human Rights Committee, Ireland*, 30 July 2008, UN Doc CCPR/C/IRL/CO/3.
- 25 See, for example, Committee on Economic, Social and Cultural Rights, *General Comment No. 20 – Non-Discrimination in Economic, Social and Cultural Rights*, UN Doc E/C.12/GC/20 (2009).
- 26 See, for example, Committee on the Rights of the Child, *General Comment No. 4: Adolescent health and development in the context of the Convention on the Rights of the Child*, 1 July 2003, UN Doc CRC/GC.2003/4.
- 27 See, for example, Committee on the Elimination of Discrimination Against Women, *Concluding Observations of the Committee on the Elimination of Discrimination Against Women regarding Kyrgyzstan*, 5 February 1999, UN Doc A/54/38.
- 28 Australian Human Rights Commission (2011), above n10.
- 29 See, for example, Committee on Economic, Social and Cultural Rights, *General Comment No. 20 – Non-Discrimination in Economic, Social and Cultural Rights*, UN Doc E/C.12/GC/20 (2009); Committee on the Rights of the Child, *Concluding Observations of the Committee on the Rights of the Child regarding the United Kingdom*, 9 October 2002, UN Doc CRC/C/15/Add.188.
- 30 Committee on the Rights of the Child, *Concluding Observations of the Committee on the Rights of the Child regarding the United Kingdom*, 9 October 2002, UN Doc CRC/C/15/Add.188, p 11.
- 31 Committee on the Elimination of Discrimination Against Women, *General Recommendation No. 28 on the Core Obligations of State Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women*, 19 October 2010, UN Doc CEDAW/C/2010/47/GC.2.
- 32 *Australian Human Rights Commission Act 1986* (Cth), Schedule 1.
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