



Facilitator Notes

Sexual Rights in Pursuit of Sexual Justice

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This module was created by Dr Sean Slavin and adapted by the Advancing Sexuality Studies short course team at the Australian Research Centre in Sex, Health and Society, La Trobe University, Melbourne, Australia.

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Background

This module offers a critical overview of sexual rights and examines how sexual rights are currently understood, discussed and used. Questions are raised on whether sexual rights are sufficient to achieve sexual justice and whether the use of rights-based discourses have unintended consequences. What are the best strategies for using a rights-based discourse while avoiding negative consequences?

The aims of this module are:

- To critically examine the concept of sexual rights, as enunciated by the WHO and the Yogyakarta principles;
- To unpack some of the implicit assumptions within sexual rights discourses;
- To provide a theoretical underpinning for further pursuit of sexual justice.

Participants will:

- Build skills in analysing sexual rights definitions and key texts;
- Be able to assess the political and strategic usefulness of the discourse of sexual rights;
- Explore how sexual rights may be used as a strategy to pursue sexual justice, while understanding the advantages and disadvantages of such an approach;
- Participate in active learning.

Module approach

While the module does contain some lecture material, the overall aim is that participants should be involved in active learning. Group work will be undertaken, and time is given for review and discussion of issues raised after each of the lecture segments. The short course team advises that any review or amendment of the module maintains a focus on active learning wherever possible.

Overview

Introduction

This sets the framework for the module's approach to sexual rights, and provides opportunity to review participants' understandings of the pre-readings. The module structure and aims will also be covered.

Session 1. What are sexual rights?

This session introduces participants to the UN definition of human rights, as well as unpacking some of the complexities of the explicit and implicit assumptions behind the definition. In addition, this session introduces participants to two key documents in relation to sexual rights: the WHO working definition of sexual rights, and the Yogyakarta Declaration. Participants will discuss the merits of each and compare their strengths and weaknesses.

Session 2: Problems in defining the bearers of sexual rights

Session 2 begins to unpack some of the implicit assumptions within sexual rights discourses. To critically engage with the notion of rights bearers, examples of women and homosexual men as rights bearers are introduced. The session aims to reveal some of the problems with these categories as the basis for deciding who should have sexual rights.

Session 3: How do sexual rights work?

This session encourages participants to examine use of a sexual rights framework in practice; either through taking part in a hypothetical debate of the UN Committee on Human Rights or through developing their own strategy for promoting an issue of sexual rights. The debate allows participants to start to work with the notion of sexual rights, also to hear some of the common criticisms or objections to sexual rights and develop arguments in response. The case study enables participants to work on a real life issue of sexual rights relevant to their local context.

Conclusion

Outputs of module activities will be reviewed, and the overall conclusion reached that while a rights framework is useful, it is not unproblematic.

Required pre-reading (for use in module group work)

Correa, S., Petchesky, R. & Parker, R. (2008) On the Indispensability and Insufficiency of Human Rights. In Correa, S., Petchesky, R. & Parker, R. (Eds.) *Sexuality, Health and Human Rights*. Milton Park, Routledge. Ch7 p.151-163.

Petchesky, R. (2000) Sexual Rights: Inventing a Concept, Mapping an International Practice. In Parker, R., Barbosa, R. M. & Aggleton, P. (Eds.) *Framing the Sexual Subject: The Politics of Gender, Sexuality and Power*. Berkeley, University of California Press.

Materials required

Flipchart paper or whiteboard; marker pens

For Session 1:

Both of the following documents are provided in the Resources folder.

Defining sexual health: Report of a technical consultation on sexual health 28–31 January 2002, Geneva WHO (2006)

(Also available from

http://www.who.int/reproductivehealth/topics/gender_rights/defining_sexual_health.pdf)

Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity (2006) (Also available from <http://www.yogyakartaprinciples.org/>)

For Session 3 (legal hearing option):

Legal hearing handout (in Resources folder)

Module structure, materials and timing

| Session | | PowerPoint | Other materials (provided or required) | Est. timing |
|---|-----------------------------|------------|---|-----------------|
| Introduction, objectives, schedule | | | | |
| Introduction, objectives, schedule | | 2-5 | | 5 mins |
| Pre-reading | Pairs review | 6 | Pre-readings: Correa et al. (2000); Petchesky, R. (2000). NB: Instruct participants to <i>either</i> read both articles <i>or</i> half read one article and half the other | 20 mins |
| | Review feedback | 6 | Flipchart paper or whiteboard, marker pens | 10 mins |
| Session 1. What are sexual rights? | | | | |
| Session 1. What are sexual rights? | | 7 | | 145 mins |
| Expectations and understandings | Small group work | 8 | Flipchart paper or whiteboard, marker pens | 10 mins |
| Defining rights | Unpacking the UN definition | 9-10 | | 20 mins |
| | Brainstorming sessions | 11-12 | Flipchart paper or whiteboard, marker pens | 25 mins |
| | Mini lecture + brainstorm | 13-14 | | 5 mins |
| WHO 'working definition' on sexual rights & Yogyakarta Principles | In-class reading | 15 | Defining sexual health: Report of a technical consultation on sexual health, Geneva WHO (2006), Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity (2006) | 10 mins |
| Three generations of rights | Mini lecture | 16-20 | | 5 mins |
| Examining WHO and Yogyakarta | Group work + feedback | 21-22 | WHO and Yogyakarta documents Flipchart paper or whiteboard; marker pens | 70 mins |

| | | | | |
|---|--------------------------------------|-------|--|--------------------------------------|
| Session 2. Problems in defining the bearers of sexual rights | | | | 115 mins |
| Sexual rights bearers | Whole group discussion | 24-25 | Flipchart paper or whiteboard; marker pens | 15 mins |
| | Whole group discussion | 26 | Flipchart paper or whiteboard; marker pens | 15 mins |
| | Small group work | 27-30 | Flipchart paper or whiteboard; marker pens | 85 mins |
| Session 3. How do sexual rights work? | | | | 80 mins |
| | Hypothetical legal hearing <i>OR</i> | 32-33 | Legal hearing handout (in module pack) | 80 mins |
| | Case study | 34-39 | Flipchart paper or whiteboard; marker pens | 80 mins |
| 1. Conclusion | | | | 10 mins |
| TOTAL | | | | 385 mins (about 6.5 hours) |

Key to symbols and formatting

Throughout these notes, the following symbols and formatting ‘clues’ have been used:

⇒ This symbol marks an instruction to the facilitator.

- Use of a bullet point indicates steps to be followed in completing an instruction.

|| This symbol, plus a different font which is larger and more widely spaced, indicates text to be read aloud. The end of the text to be read aloud will be indicated with the following symbol. ||

We have also indicated the points where a slide transition occurs on the PowerPoint presentation by inserting:

SLIDE

Module instructions

SLIDE 1 = Title page

SLIDE 2

Introduction

⇒ Read the text below, or amend / change as you see fit:

|| Discourses of human rights have permeated the politics of many social justice struggles, including the movement against the oppression of diverse sexualities. There has been a significant expansion over the last decade of research, writing and discussion about the concept of sexual rights, the primary concept that links sex and sexuality with the broader human rights agenda.

This module offers a critical overview of sexual rights. It asks how sexual rights are currently understood, discussed and used, and asks whether sexual rights are sufficient to achieve sexual justice or whether the use of rights-based discourses can have unintended consequences. Further, it examines strategies for using a rights-based discourse while identifying and working to avoid negative consequences. ||

SLIDE 3

Module aims

⇒ Read the aims from the slide (reproduced below):

|| This module aims to:

- Critically examine the concept of sexual rights, as enunciated by the WHO and the Yogyakarta principles
 - Unpack some of the implicit assumptions within sexual rights discourses
 - Provide a theoretical underpinning for further pursuit of sexual justice
- ||

SLIDE 4

|| Participants will:

- Build skills in analysing sexual rights definitions and key texts
- Be able to assess the political and strategic usefulness of the discourse of sexual rights
- Explore how sexual rights may be used as a strategy to pursue sexual justice, while understanding the advantages and disadvantages of such an approach
- Participate in active learning ||

SLIDE 5

Schedule

- ⇒ For session 3, decide whether you are following either the hypothetical legal hearing activity or the case study activity and amend the PowerPoint presentation accordingly. Alternatively, you may choose to leave the schedule as is and ask the participants which activity they wish to follow.
- You will also see that, currently, the module schedule does not include tea/coffee or lunch breaks. Discuss with the group and insert as required.

SLIDE 6

Pre-reading pairs review

(20 mins)

- ⇒ Check: Did all participants read both articles prior to the module, or did half the participants read Correa et al. and the other half read Petchesky?
- Divide into pairs, based on the instructions given to participants regarding pre-readings. (If everyone read both articles, divide randomly into pairs but ask one person in each pair to report back on one article and the other person in the pair to report back on the second article. If half were asked to read one and half asked to read the other, pair up accordingly.)
 - Everyone has 10 mins to summarise their allocated pre-reading to their partner (total time: 20 mins per pair).
 - Their summaries to each other should be guided by the relevant focus question (on slide):
 - For Correa et al.: why are rights insufficient?
 - For Petchesky: what *are* sexual rights?

Pre-reading review feedback

(10 mins)

- ⇒ Bring everyone back together.
- Ask for one volunteer to summarise the Correa et al. article. Does anyone else have any questions / anything to add? (**5 mins**).
 - Ask for one volunteer to summarise the Petchesky article. Does anyone else have any questions / anything to add? (**5 mins**).

SLIDE 7

Session 1. What are sexual rights?

(120 mins total)

⇒ Read:

|| This session introduces you to the two main documents relevant to sexual rights: the WHO working definition and the Yogyakarta Declaration. During the session, we will discuss the merits of each and compare their strengths and weaknesses. ||

SLIDE 8

Small group work

(10 mins)

⇒ Divide participants into groups of 5-8 participants.

- Tell them that before beginning to examine sexual rights documents, you will begin by asking them to discuss together their current understandings and expectations of human rights.
- Each group should appoint a notetaker and rapporteur.

⇒ Ask the groups to consider these questions:

- What are human rights?
- Who or what has rights?
- Human rights arise from where?
- Who or what has the responsibility to uphold human rights?
- What other kinds of people or things might also be involved?

⇒ Tell everyone that the responses to these questions will be returned to later in the session.

SLIDE 9

⇒ Read (on slide):

|| According to the United Nations:

Human rights are commonly understood as being those rights which are inherent to the human being and that every single human being is entitled to enjoy his or her human rights without distinction as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Human rights are legally guaranteed by *human rights law*, protecting individuals and groups against actions which interfere with fundamental freedoms and human dignity. They are expressed in treaties, customary international law, bodies of principles and other sources of law.

SLIDE 10

Human rights law places an obligation on States to act in a particular way and prohibits States from engaging in specified activities. However, the law does not establish human rights.

Human rights are inherent entitlements which come to every person as a consequence of being human. Treaties and other sources of law generally serve to *protect* formally the rights of individuals and groups against actions or abandonment of actions by Governments which interfere with the enjoyment of their human rights. ||

[From: United Nations (undated). Human Rights: a basic handbook for UN staff. Available at <http://www.ohchr.org/Documents/Publications/HRhandbooken.pdf>]

SLIDE 11

Brainstorming

(25 mins)

- ⇒ Ask participants if anyone is willing to try and give an explanation for the following terms (on slide), in the light of the UN quote:
- Rights bearers
 - Duty holders
 - Other actors (**5 mins max**)
- Return to the last group work exercise on ‘What are human rights?’ (carried out before provision of the UN definition). Did any of the groups have answers that differed substantially from the definitions in the UN document? (**5 mins**)

SLIDE 12

- ⇒ Repeat the following phrases taken from the UN definition (on slide):
- ‘Human rights are inherent entitlements which come to every person as a consequence of being human’
 - ‘... the law does not establish human rights’

⇒ Read:

|| We could re-word these statements thus:

Human beings are born with human rights ‘attached’; rights are an inextricable element of being human.

Human rights pre-exist our attempts to codify them.

Human rights rely on natural law, and therefore they include a claim to ahistoricism. On the other hand, the current human rights architecture has

been developed since the Second World War in response to the atrocities that occurred there. ||

⇒ Ask the group to brainstorm: does this mean that human rights are ahistorical? What do you think of this? **(10 mins)**

SLIDE 13

Mini lecture (5 mins)

⇒ Read (or rewrite / amend):

|| In seeking to explore how sexual rights work, it is worth unpacking some taken-for-granted assumptions. We have seen how human rights discourse positions 'human beings' as the bearers of rights. Initially this may seem like common sense, after all we probably all think we know what a human being is and we are probably pretty sure that others in our communities would agree with us. However, as with so much knowledge that seems like common sense, once we start to ask questions and unpack it, we can begin to see how it is put together: what it assumes and what it implies.

This is quite a complicated point so let's think about some of the things involved in being human that are more than simply an individual body: the mind or the soul for example.

Even among atheists who don't believe in souls it is possible to reach some agreement on the fact that humans are more than simply a collection of organs and chemicals and electrical impulses firing in the brain. There are

some capacities like language, education, creativity and culture that cannot be understood through biology alone. So when we ask, ‘what is a human being?’, we should take into account these other dimensions. But getting agreement on which capacities are constitutive of humanity and which not is much harder.

For example if we regard language as a fundamental aspect of being human, then do we think that pre-lingual children are fully human? Or is it the *potential* for language that is important. In many tribal cultures babies are not yet human because they do not participate in the culture of the group. In Western culture there are passionate debates about whether unborn foetuses are human and can therefore be aborted, or whether people who have suffered severe brain damage are no longer human and can be euthanised.

More obviously the category of human being does exclude non-human animals and other living things with which we share the Earth. Whether animals or even ecosystems have rights is an increasingly important question in this age of biological and environmental destruction.

These are all questions about the ontology or the nature of being that is implied when we talk of humans.

An additional dimension here is that of citizenship, and the connection between rights and the responsibility of the state. ||

SLIDE 14

|| Historically, some categories of people have been regarded as not human or only part human. ||

⇒ Ask the group: Can anyone think of some examples here? (**2 mins**).

- The facilitator can offer the following examples, if participants find this exercise difficult:
 - Ancient Greece – slaves, women, foreigners were non citizens
 - Colonial subjects
 - Jews under the Nazi regime
 - Black people in the United States or South Africa under apartheid
 - Prisoners in Guantanamo Bay
 - Accused terrorists

⇒ Read (on slide):

|| Despite the rhetoric of rights as being both universal and ahistorical, the reality is that many people have been excluded from human rights protection because they have been seen as not human, and/or they were not regarded as citizens of states that would uphold their rights. ||

SLIDE 15

In-class reading: WHO & Yogyakarta Principles (10 mins)

⇒ Read:

|| Remembering some of these basic issues and concepts discussed this far, let's turn to some recent examples that attempt to locate a discussion about sexual rights within a broader and older discourse of human rights.

One example of this is the World Health Organization's Department of Reproductive Health and Research working definition of sexual rights, which is indebted to an international push to incorporate human rights within approaches to 'sexual health'. The working definition comes from the document 'Defining sexual health: Report of a technical consultation on sexual health 28–31 January 2002', Geneva, WHO (2006).

A second example is the 'Yogyakarta Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity'. The Yogyakarta Principles were developed in 2007 and seek to put the question of sexuality and gender identity firmly into the existing international human rights framework. These documents are going to be our focus for the rest of this session. ||

⇒ Tell participants they have 10 mins to read the WHO working definition and the Yogyakarta principles, and make notes of key terms and ideas.

- With the WHO document, tell participants to begin by reading pages 1, 4 and 21.
- With the Yogyakarta document, tell participants to begin by reading pages 6-9 and 32-33. **(10 mins)**

SLIDE 16

Mini lecture

(5 mins)

⇒ Read:

|| We will now look at three broad generations of rights. First generation rights are fundamentally civil and political in nature, and serve to protect

the individual from excesses of the state. These rights were enshrined globally with the 1948 UN Declaration of Universal Human Rights.

The Declaration combines negative rights—freedom from something, for example freedom from torture, unjust detention and so on—with positive rights, or freedom *to*, for example freedom to education, to rest and leisure, to form and join trade unions and so on.

According to Article 2, the rights defined in the Declaration are applicable to all ‘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 2). Sex is used here only to refer to sex at birth. Sexuality is not explicitly covered, which is a reflection of the period in which the Declaration was developed.

SLIDE 17

Further, the Declaration contains highly normative assumptions on gender and sexuality that clearly pre-date the gender and sexual rights movements. For example there is a clear assumption that men and women who wish to have children will marry, and an associated assumption that ‘family’ is defined as man, woman and biological children. According to the Declaration, marriage is a right that, once fulfilled, guarantees the right to ‘found a family ... The family is the natural and fundamental group unit of society’ (Article 16).

SLIDE 18

Second generation rights are considered to be predominantly positive rights; freedom *to*. With second generation rights, the Declaration of Human Rights began to become codified in international law through two covenants which, together with optional protocols, form the International Bill of Human Rights. These two covenants are the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Both covenants were adopted by the UN General Assembly in 1966 and finally passed into international law in 1976.

Based as they are on the Universal Declaration, it is no surprise that both the ICCPR & the ICESCR adopted the same ‘without distinction’ article as the Universal Declaration of Human Rights.

SLIDE 19

Third generation rights have been explained as ‘rights of solidarity’ (Vasek, Karel, (1977) cited in Oros-Espeell, Hector (1978), *The Right to Development as a Human Right*). Again, third generation rights have a positive rights focus; freedom *to*... They also seek to establish new social and cultural norms, which results in much greater conflict and opposition.

Examples include women’s rights and sexual rights; in terms of women’s rights, one key document is the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (1979).

SLIDE 20

In relation to sexual rights, when the UN General Assembly was presented with a proposed Declaration on Sexual Orientation in December 2008, opponents immediately tabled an opposing document that said the statement ... could lead to ‘the social normalization, and possibly the legitimization, of many deplorable acts including paedophilia’, adding that this could ‘seriously jeopardize the entire international human rights framework.’ No vote was taken. ||

[From: <http://www.reuters.com/article/worldNews/idUSTRE4BH7EW20081218>]

SLIDE 21

Group work: examining WHO and Yogyakarta (70 mins total)

- ⇒ Tell participants that, having spent time examining the WHO working definition and the Yogyakarta Principles, they will now begin to critically analyse and debate these two key sexual rights documents.
- Divide participants into small groups.
 - Tell participants they will remain in these groups to examine two sets of questions.
- ⇒ Ask group members to compare the WHO working definition and the Yogyakarta Principles, and discuss them based on the following focus questions (on slide):
- Who are the rights bearers in each document?
 - What other actors are implicated?
 - How would these rights be promoted and upheld? (This is usually incumbent on states. Is this the case here?)
- (20 mins)**
- ⇒ Ask for a volunteer from each group to provide feedback on the documents, using the focus questions as their guide.

- Summarise the responses to the focus questions on flipchart paper or whiteboard as volunteers give feedback. **(15 mins)**

SLIDE 22

⇒ Mix participants up to form new small groups, then ask them to discuss the following questions (on slide):

- What do you think are the main differences between the two documents?
- What do you think are the strengths and weaknesses of the two?
- Are there comparable notions of sexual rights in your country, either in law or public discourse? **(15 mins)**

⇒ Ask for a volunteer from each group to provide feedback on the documents, using the focus questions as their guide.

- Summarise the responses to the focus questions on flipchart paper or whiteboard as volunteers give feedback. **(15 mins)**

⇒ Tie together the feedback from both sets of questions, referring back to the different generations of human rights and foregrounding any discussion points that arose regarding the challenge of using rights documents to try and change social and cultural norms. **(5 mins)**

SLIDE 23

Session 2. Problems in defining the bearers of sexual rights

(105 mins total)

⇒ Read:

|| Let's now turn to thinking about the bearers of sexual rights.

This session begins to critically unpack some of the implicit assumptions within sexual rights discourses.

SLIDE 24

We will look at two examples, homosexual men and heterosexual women, to critically engage with the notion of 'rights bearers'. It aims to reveal some of the problems with these categories as the basis for deciding who should have sexual rights.

As we've discussed, 'human beings' are the bearers of human rights. But what or who we include within the category of human beings is not as simple as it may initially seem. Throughout history certain kinds of people have been positioned outside this category and this continues today. We have also talked about the importance of citizenship if we consider that the primary responsibility for upholding human rights lies with states. We will now think about two examples of sexual rights bearers: homosexual men, and heterosexual women. ||

Whole group discussion

(15 mins)

⇒ Brainstorm, drawing on the following questions (on slide):

(10 mins)

- What do we understand by a homosexual man?
- How do we determine the criteria for deciding who gets sexual rights?
- Would the subject of homosexual rights be defined through self identification? If so, self-identification as what? As gay? Does this imported, Western term have relevance elsewhere?
- Would the subject of homosexual rights be defined through identification of sexual practices? Which ones? How often would they need to be practised, to qualify under such identification?
- Would the subject of homosexual rights be defined through possession of a gay gene? (Do genetic explanations mean the possibility of eugenics?)
- Are there people left outside when we make these decisions?

⇒ Conclude the discussion by summarising the main points.

(5 mins)

SLIDE 25

⇒ Read the quote from Joseph Massad (on slide):

|| When the Gay International incites discourse on homosexuality in the non-Western world, it claims that the ‘liberation’ of those that it defends lies in the balance. In espousing this liberation project, the Gay International is destroying social and sexual configurations of desire in the interest of reproducing a world in its own image...Its missionary achievement, however, will be the creation not of a *queer* planet but rather a *straight* one. ||

[From: Massad, J. 2002. Re-orienting desire: the gay international and the Arab world. *Public Culture* 14(2): 361-385]

⇒ Tell participants:

|| This quote gives a flavour of some of the criticisms of rights-based approaches from a writer about homosexuality in Egypt.

As you can see, Massad argues that attempts to assert gay rights in the Arab world have had a negative effect. First, he says that this intervention has raised the issue, in a negative way, of male-male sex in countries such as Egypt, where previously it was unremarked upon. Second, he says that the ensuing public and legal attention paid to MSM has frightened many homosexually active men, with the effect that they reorient their sexual interests towards women exclusively. Thus, there has been a diminishment of sexual choice and a bolstering of heteronormativity. ||

SLIDE 26

Whole group discussion

(15 mins)

- ⇒ Tell participants they will now examine women as bearers of sexual rights, and brainstorm: when defining women (in relation to rights), do we revert to:
- Biology or genes?
 - Hormones? What about transsexuals?
 - Shared experience of oppression?
 - Shared psychology?
 - Those who are 'not men'?
 - Reproductive (i.e. mothers), in which case what about post-menopausal women without children?
 - How does the international discourse of women's rights categorise what a woman is?
 - Who is left out?
 - Do international definitions work in participants' social and cultural context?
- ⇒ Ask which participants heard about the World Champion 800m Caster Semenya, the South African runner who has been reported as having both male and female sex characteristics? Is she a woman, or not a woman, when it comes to sexual rights?

⇒ Conclude the discussion by summarising the main points. **(5 mins)**

SLIDE 27

Small group work (85 mins total)

⇒ Ask participants to divide into small groups, and explain that in this exercise they will be examining three sets of questions.

- The first set of questions will be discussed for 15 mins, with 5 mins feedback
- The second set of questions will be discussed for 25 mins, with 10 mins feedback.
- The third set of questions will be discussed for 15 mins, with 10 mins feedback.

SLIDE 28

⇒ Read questions from slide:

- Do sexual rights produce and promote particular kinds of rights bearers and not others? If yes, give examples.
- Are there people who fall outside the categories of bearers for sexual rights? (e.g. people with disabilities, the asexual, ill people, old people, children, young people)
- What are some of the possible implications of this?
- Should we worry? **(15 mins)**

⇒ Ask one group to provide feedback on the first question, then check to see if other groups had similar discussions or if any additional points arose. The facilitator should summarise responses on flipchart paper or the whiteboard.

- Ask another group to provide feedback on the second question, check with the others, summarise on flipchart paper or whiteboard.
- Continue until all questions have been covered. **(5 mins total)**

SLIDE 29

- ⇒ Form new groups, and ask that while participants examine the second set of questions, they specifically keep in mind the following sexual rights from the WHO guidelines: the right to choose one's partner; the right to decide to be sexually active or not; the right to experience consensual sexual relations; and the right to enter consensual marriage.
- ⇒ Ask group members to discuss these rights in relation to the following issues:
- Arranged marriage
 - Polygamy
 - Sex work
 - Abstinence (as a religious doctrine)
- ⇒ Ask for a volunteer from each group to provide feedback. **(10 mins)**

SLIDE 30

- ⇒ Tell participants that the third set of questions is intended to stimulate thinking about some of the difficulties associated with rights-based approaches.
- Emphasise that there does not need to be any resolution of the questions.
- ⇒ Ask participants to discuss (on slide):
- Do men and women have different sexual rights?
 - In what circumstances are they contradictory or complementary? **(15 mins)**
- ⇒ Bring the whole group back together again.
- Call for a show of hands: who thinks men and women have the same sexual rights? Who thinks men and women have different sexual rights? Who is willing to explain why they think as they do? **(5 mins)**
 - Brainstorm examples from the group work of circumstances where men's and women's sexual rights are complementary, and contradictory. **(5 mins)**
- ⇒ Wrap-up by acknowledging the complexity of who has what rights, and whose rights take precedence?
- For example what happens when the right to religious freedom conflicts with sexual rights? Or when a man's rights conflict with a woman's?

- Despite the seeming clarity of the various rights documents, there are inherent but unrecognised and, frequently, seemingly unresolvable conflicts; particularly when what is being challenged are regarded as social and cultural norms.

SLIDE 31

Session 3. How do sexual rights work?

(80 mins)

- ⇒ There are two activity options for this session. Either, decide in advance which activity you want to follow (a hypothetical legal hearing or a case study), or let participants decide for themselves which option they want to follow.
- If you decide on one of the activities in advance, remember to adjust the relevant PowerPoint slides accordingly (schedule slide plus activity slides).

SLIDE 32

Option one: hypothetical legal hearing

- ⇒ Tell participants that the purpose of this exercise is to allow them to see how sexual rights might play out in a real world, albeit hypothetical, situation.
- Emphasise that any debate must be respectful.
 - Encourage participation by all team members.
 - Distribute the legal hearing instructions (provided in the module pack) as a handout that participants can follow while you take them through the exercise instructions.
- ⇒ Read through the legal hearing background; check for understanding. (The first two points below are on the slide. All the information is also on the handout.): **(10 mins)**

|| The hearing will centre on the appointment by the President of the Islamic Republic of Qumar of a new ambassador to the United Nations in New York. The Ambassador has four wives, who are all legally recognised in Qumari law.

The United Nations, however, will only recognise one wife for the purposes of deciding spousal benefits and the United States will only issue one residence visa, to the first wife. The Ambassador decides to take his case to the UN Committee on Human Rights.

He argues that his human rights have been breached by the United Nations and the US, and that both the UN and the US should recognise all his wives. His legal team also seeks to use the new concepts of sexual rights to persuade the committee even though their legal standing is dubious. ||

SLIDE 33

- ⇒ Ask participants to form into four teams (either self-selected or directed).
- As well as the teams, you need one volunteer discussion moderator and timekeeper.
- ⇒ Make sure everyone is clear about what their team is supposed to do:
- The first team is the legal team representing the Ambassador
 - The second is the legal team representing the UN
 - The third is the legal team representing the US
 - The fourth team is the UN Committee on Human Rights
- (This information is also covered in the handout and on the PowerPoint slide).
- ⇒ Give the legal teams (teams 1-3) 15 mins to prepare their arguments. Encourage the teams to use elements of the WHO definition of sexual rights and the Yogyakarta Principles in arguing their case. Instruct the members of the Committee on Human Rights that their job will be to listen to these arguments carefully and make good notes, because they will need to adjudicate once the debate is over. While the teams are preparing their arguments, the Committee members can review the WHO and Yogyakarta documents. **(15 mins)**
- Each legal team then has 5 mins to present its arguments in front of the UN Committee on Human Rights. **(15 mins)**
- ⇒ After each legal team has presented, give everyone 5 mins to prepare a very brief response to the arguments of the other teams. **(5 mins)**
- One volunteer from each team then gets no more than a few minutes to put their rebuttal argument. **(15 mins total)**

⇒ Ask the Committee for Human Rights to ‘adjourn’ for 10 minutes to consider its response.

- The Committee returns, delivers its decision and explains how it reached this decision. Which arguments did Committee members find most persuasive? Which were least persuasive? Was it a unanimous or split decision? **(10 mins)**

⇒ Ask everyone to brainstorm their personal responses to the exercise:

- What emotions did it elicit in them?
- Did they find themselves having to confront any of their personal opinions and attitudes? **(10 mins)**

SLIDE 34

Option two: case study

⇒ Tell participants that this session will give them the opportunity to work on a real life issue of sexual rights relevant to their local context.

- The activity has three stages (on slide):
 - Identification and clarification of a real life issue of sexual rights
 - Exploration of the issue in depth
 - Development of a strategy for promotion of the issue & pursuit of rights

SLIDE 35

⇒ Read the text below, then provide the following instructions: **(5 mins)**

|| First, here is a brief example of a real-life sexual rights campaign from India, 2009. The Pink Chaddhi Campaign began after right-wing Hindu groups launched physical and verbal attacks on women who ‘violated traditional Indian values’ by being in a pub, or wearing jeans and sleeveless tops.

A leading right-wing cleric also threatened that his followers would attack unmarried couples found together on Valentine's Day.

Women's rights activists used the internet and media to urge women to send new or old pink underwear to the cleric, in protest at attacks on women's sexual and gender rights. The Pink Chaddhi Facebook group has more than 48,000 members. ||

- ⇒ Decide (or ask participants) whether to undertake this activity in small groups or as one group.
 - Remind everyone that the first stage of the activity is identification and clarification of a real life issue of sexual rights.

SLIDE 36

- ⇒ Give the group (or small groups) 15 mins to brainstorm about the sexual rights issues that are important for group members in their local context.
 - If this is done in one large group, write the brainstorm responses on a whiteboard or flipchart paper.
 - If people are working in small groups, get them to make their own flipchart paper lists. **(15 mins)**
- ⇒ After the brainstorming, ask the group(s) to begin prioritising the issues listed. Rank the issues which people feel are most important. **(5 mins)**
 - This should be a reflexive exercise so when someone proposes that one issue is the most important, explore why. Is priority attributed to an issue on ethical, practical, or strategic grounds? Are people prioritising from the grounds of personal involvement?
 - If you are working with small groups, bring them back together and see if everyone can reach consensus on two (or more) most important issues. (The number of issues will depend on how many people you have in the overall group.)

⇒ Divide everyone into small groups of 10 people maximum. Ask people to choose the issue they want to work on, then allocate the top-ranked issues to groups on a random basis (ignoring their stated preferences).

- This is a deliberate ploy to demonstrate that effective organising often requires individuals to put aside their personal passions for the greater cause.

SLIDE 37

⇒ Tell the groups they are now moving on to activity stage two: exploration of the issue in depth.

- Each group will spend 20 minutes considering the issue of sexual justice they have been allocated, focusing on the following questions (on slide):
 - Who is affected by this issue? Are they mobilised around the issue?
 - Who are the other pertinent players and what power and resources do they have?
 - How is public discourse on this issue shaped?
 - What opposing arguments (or actions) are you likely to face, and how might you respond?
 - What role might there be for human rights on this issue?
 - What might be a starting place for action? **(20 mins)**

SLIDE 38

⇒ The next step is for groups to begin to develop a strategy for addressing the issue they have identified. Encourage participants to be as creative as possible and think laterally.

⇒ Tell them to prepare engaging, visually attractive feedback material for presentation at a ‘community meeting’ where the community (all participants) must vote on which strategy to follow.

⇒ Groups can use the following questions (on slide) as discussion starters:

- How would you begin to build a strategy around this issue?
- Who would you involve?
- How would you involve the rights bearers?

- What resources would you need? How would you go about obtaining them?
- What sort of events would assist?
- Where would the strategy roll out (geographically, places, internet)
- When would it be best timed for maximum effect? **(20 mins)**

SLIDE 39

Case study report back (20 mins)

- ⇒ Each group has to make a presentation. **(15 mins)**
 - While each group makes their presentation, everyone else should be listening and thinking critically about the presentation.
- ⇒ Run a vote; you can use a show of hands, a mock ‘ballot’ or any other approach that seems appropriate.
- ⇒ After the vote, run a quick brainstorming check-in with the participants:
 - During the presentations, could you see any ‘elephant traps’ in your own or other people’s arguments?
 - Was it easy to build a case for your issue and to rebut any possible opposition, or more complicated than you may first have thought?
 - During this activity, did you identify potential problems or gaps in using a rights-based approach? If yes, did you find any constructive remedies? **(5 mins)**

SLIDE 40

Conclusion

(10 mins)

- ⇒ Begin this concluding session by referring back to outputs from previous activities, and showing how these outputs contribute to an overall conclusion that a rights framework can be useful, but is not unproblematic.
- ⇒ The following notes (on slides) can either be read as they are, amended or replaced as the facilitator sees fit:

|| The concept (and application) of human rights is not unproblematic.

Rights are presented as an inalienable part of being human, but they rely on the *recognition of rights* and *implementation* of international and local laws on rights by states and governments.

What happens when rights are denied, or when there is a conflict of rights, for example when cultural rights can be claimed to support polygamy?

Rights that are seen to challenge norms need to be hard fought-for, the example here is the proposed UN Declaration on Sexual Orientation, which caused such uproar and dissent.

SLIDE 41

Rights can be, and have been, both won and protected through civil action. Using a rights framework can be an effective way of bringing issues to broader public attention, but only if we are reflective, strategic and well-prepared. ||

SLIDE 42

Optional assessment exercise

⇒ Ask participants to write on the following:

There is a need to make a distinction between global human rights, the rights attaching to citizens within nation states and the rights attaching to members of particular minorities of sub-cultures.

What might be the effects of deploying a sexual rights discourse in these different arena?

SLIDE 43

Short course acknowledgments.

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(includes lecture bibliography)

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