

A hate crime and human rights violation

THE STATUS OF CORRECTIVE RAPE UNDER INTERNATIONAL HUMAN RIGHTS LAW

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CORRECTIVE RAPE

“Sexual violence perpetrated for the purpose of supposedly ‘curing’ a person of their real or perceived sexual orientation and / or gender identification” (Isaack 2007)

- Perpetrators are private actors
- Victims can be of any gender
- Victims can be of any sexual minority

VICTIMS

- Cases have been reported in countries such as South Africa, Uganda, Honduras, El Salvador and Kyrgyzstan
- Documented cases often include serious physical abuse and even death
- Most incidents go unreported
- Victims likely to be isolated in society, with limited access to legal and health services



HATE CRIME

A criminal offense committed against a person, property, or society because of his or her actual or perceived membership in any particular group or identifying class

- Motivated by hatred towards particular groups
- Harms the victim
- Sends a message to the victim's group and wider society

INTERSECTIONALITY



- Coined by professor Kimberle Crenshaw in 1991
- Various forms of oppression are interconnected
- Various parts of one's identity are linked
- Multiple forms of discrimination

WHEN DOES IT HAPPEN?

Caution:

- Limited data available and difficult to research
- Universal definition yet country and community specific contexts

In general:

- When gender-based violence and / or violence against sexual minorities is condoned
 - Bias and discrimination within the police and judicial system
 - Legislation?
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HUMAN RIGHTS AND DUE DILIGENCE

- States under an obligation to respect, protect and fulfil human rights
- 1988 *Velásquez Rodríguez v. Honduras* case at Inter-American Court of Human Rights: states under the responsibility to prevent, investigate and punish violence by private actors and provide compensation
- Endorsed by Human Rights Committee, Human Rights Council, Commission on Elimination of Racial Discrimination and Commission on the Elimination of Discrimination against Women

CORRECTIVE RAPE AND DUE DILIGENCE

Two ways to invoke States' responsibility through due diligence:

- 1) Equality and non-discrimination
- 2) Protection, prosecution and prevention of violence

Note:

- Most case law and communications deal with violence against women
- No legal definition of (corrective) rape in international human rights law

RECOMMENDATIONS FOR POLICY & PRACTICE

Three key recommendations:

- Strengthen the current international human rights framework
- Work with state officials on domestic law enforcement and legislation
- Comprehensive sexuality education and human rights education



CURRENT INTERNATIONAL FRAMEWORK

UN:

“All human beings are born free
& *equal in dignity and rights*”

– Article 1 of the Universal Declaration of Human Rights.”



Goal: to enhance States’ responsibility under existing treaties

- Yogyakarta Principles
- 2011 Human Rights Council Resolution 17 / 19
- Due diligence

WORK WITH STATE OFFICIALS

Goal: safe environment for victims to report acts of sexual violence,
Including expulsion orders and victim protection procedures

- Work with legislators on eradication of domestic laws that criminalise homosexuality and creating effective hate crime legislation
 - Train police and judiciary to adequately address corrective rape
 - Provision of health and legal services to victims
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SEXUALITY AND HUMAN RIGHTS EDUCATION

Goal: elimination of attitudes that condone violence against LGBTI individuals and communities

- Education in schools and for the general public
- Providing information and addressing stereotypes
- Sustainable Development Goals 3.7 and 5

The difference between **gender identity** & **sexual orientation** is the difference between **who you are** & **whom you love**.

CONCLUSION

Corrective rape is

- A human rights violation
- A hate crime
- A practice at the intersections of various identity components
- A matter of State responsibility
- An issue for NGOs to work on

Any questions?



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