



The Yogyakarta Principles: *The “Magna Carta” of the Sexual Rights Movement*

The Yogyakarta Principles, issued in November 2006 and expanded in November 2017,¹ constitute one of the greatest current threats to the institution of the family. These radical Principles seek to redefine gender and promote governmental and societal recognition, legal protection, and broad promotion of any kind of voluntary and consensual sexual behavior—no matter how harmful. Even more concerning, those who promote the Yogyakarta Principles are seeking to enforce them globally as fictitious human rights.

I. Overview

A group of 30 sexual rights activists, calling themselves “The International Commission of Jurists and the International Service for Human Rights” and defining themselves as “experts” came together in Yogyakarta, Indonesia, in November 2006 to develop the Yogyakarta Principles. The Principles are a wish list of alleged “sexual rights” relating to sexual orientation and gender identity. In 2017, some of the same activists gathered in Geneva to expand the Principles to include sexual rights relating to gender expression and sex characteristics.

The new document includes 9 additional Principles and 111 new state obligations, which are known as the Yogyakarta Principles plus 10 (“YP+10”). These 2017 Principles are an attempt to cover alleged rights violations that supposedly have occurred in the last decade.² One of the other key objectives of the 2017 Principles, or YP+10, is to vest apparent authority in, and additional vitality to, the original 2006 Yogyakarta Principles. The introduction to YP+10 states: “*Together, these [two] documents provide authoritative, expert exposition of international human rights law as it currently applies to the grounds of sexual orientation, gender identity, gender expression and sex characteristics.*” The YP+10 also add onerous state obligations to 12 of the original 29 Principles, so now there are a total of 38 Principles and 239 state obligations.

The drafters claimed in 2006 that the original Principles “*affirm binding international legal standards with which all States must comply.*” Yet, not surprisingly, the drafters failed to identify the “*binding legal standards*” on which the Principles supposedly are based. Similarly, the introduction to the 2017 Principles, or YP+10, falsely claims without any legal support that the expanded Principles are “an affirmation of existing international legal standards” that States must comply with both “as a legal obligation” and a “commitment to universal human rights.”

¹ Both *The Yogyakarta Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity* (November 2006) and *The Yogyakarta Principles plus 10* (November 2017), collectively referred to as Yogyakarta Principles (or Principles), are available at www.yogyakartaprinciples.org.

² Statement of Mauro Carbral Grinspan, a drafter of the committee for the YP+10 who also was a signatory of the original 2006 Principles; accessible at <http://yogyakartaprinciples.org/principles-en/press-release/>.

International human rights emanate from legally binding international treaties expressly adopted by United Nations Member States. International human rights also can develop over time from norms, customs and laws that are uniform across many nations and are evidenced by long standing common practice. But international human rights are *not* developed by a few dozen “self-proclaimed experts” with specific agendas to advance. To date, “sexual orientation,” “gender identity,” and the newest concept “gender expression,” are not mentioned in *any* UN treaty. Nor are they mentioned in UN consensus documents that collectively might illustrate a common understanding and application of those controversial concepts.

In fact, every time sexual orientation and gender identity provisions have been proposed during negotiations for inclusion in UN consensus documents, they have been flatly rejected by a majority of UN Member States. This means that the Yogyakarta Principles, which purport to “*reflect the existing state of international human rights law in relation to issues of sexual orientation and gender identity,*” have actually been created out of thin air. The YP+10 make the same wild and unsupported claim about their expanded sexual rights. Yet, activists who know full well the Yogyakarta Principles are not binding international law, relentlessly push them as a flawed interpretation of international law in a number of venues.³ This activism needs to be severely curtailed to prevent uninformed governments from adopting the Principles.

II. Key Principles and State Obligations

The following is an analysis of a few of the radical provisions in the Yogyakarta Principles:

- **All Forms of Sexual Expression Declared a “Human Right”**

The Yogyakarta Principles begin by declaring that: “*Sexual orientation and gender identity are integral to every person’s dignity and humanity and must not be the basis for discrimination or abuse.*” The Principles further assert that the expression of one’s “*sexual orientation*” or “*gender identity*” is a human right, and therefore, States cannot limit or restrict the voluntary expression of sexuality or gender identity in any way—whether through customs, norms, stereotyped roles for men and women, or otherwise.

Principle 38 of the YP+10 is more specific, declaring that everyone has the right to “*practice, preserve and revive cultures, traditions, languages, rituals and festivals ... associated with sexual orientation, gender identity, gender expression and sex characteristics*” (**collectively “SOGIESC”**), and to “*manifest cultural diversity through artistic creation, production, dissemination, distribution and enjoyment, whatever the means and technologies used, without discrimination based on [SOGIESC] ...*” These provisions may prevent any kind of reasonable restriction on lewd gay or transsexual parades, obscene sexual expressions in parks and other public places, and other kinds of festivities and traditions. Never mind that such “cultural events” may undermine the “cultural values” of a nation that the UN is supposed to protect.

³ For example, Stephen Whittle, who is a trans-activist and one of the drafters of the 2006 Principles, admits that they are “not an official document of the United Nations,” but simply “a guiding set of principles” that “would never be binding unless adopted by an organization like the UN.” Caroline Ausserer, “Stephen Whittle: ‘The Yogyakarta Principles provide guidance and are a constant reference point,’” 21 July 2016; accessible at <https://www.boell.de/en/2016/07/20/yogyakarta-principles-provide-guidance-and-are-constant-reference-point>.

- **Sexual Anarchy**

Although most people think of homosexuality when they see the term “sexual orientation,” the Principles do not strictly limit the definition of sexual orientation to homosexuality. A footnote to the Introduction of the 2006 Principles defines sexual orientation as a person’s “*sexual attraction to, and intimate and sexual relations with, individuals of a different gender or the same gender or more than one gender.*” In other words, someone may have a sexual orientation or attraction towards the same gender, the opposite gender, both genders, or many genders at the same time. In addition to heterosexuality and homosexuality, the American Psychological Association recognizes 28 other sexual orientations or behaviours—including pedophilia, voyeurism and bestiality.

Conceivably, if given the force of law, the Principles could be used to promote and protect a number of deviant and harmful sexual behaviors. Certainly, there would not be any legal deterrent to such behaviours because, as part of Principle 33 in the YP+10, States cannot criminalize sexual orientation and must repeal the “*criminalisation of sex work, abortion, unintentional transmission of HIV, [and] adultery.*” In fact, based on Principle 33, States cannot restrict or penalize in any way “*acts against nature, morality, public decency [and] sodomy.*”

These Principles also apply to gender identities and gender expressions. Indeed, the sexual anarchy that would result from affirmatively protecting and promoting all sexual orientations or behaviours, as the Principles demand, would only be compounded by affirmatively protecting and promoting all types of gender identities and expressions. The term “gender identity” is defined in the 2006 Principles to “*refer to each person’s deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body (which may involve, if freely chosen, modification of bodily appearance or function by medical, surgical or other means) and other expressions of gender, including dress, speech and mannerism.*” The 2006 and 2017 Principles are intended to create an environment where someone would be treated equally in *all* respects no matter what their choice of gender identity or sexual orientation, and irrespective of his or her biological sex.

But how does a government grant rights in light of the confusion that the Principles attempt to legalize and mainstream? For example, maternity rights generally are granted based on biological sex; would they now also be granted to a male who believes he is a woman? And, is a person who has undergone gender treatment entitled to both male and female related rights?

- **Government Mandated Indoctrination**

One of the obligations under Principle 2 calls upon governments to take “*appropriate action, including programmes of education and training, with a view to achieving the elimination of prejudicial or discriminatory attitudes or behaviours which are related to the idea of the inferiority or the superiority of any sexual orientation or gender identity or gender expression.*” This would appear to eliminate any ability of governments to distinguish between heterosexuality and other forms of sexuality.

Indeed, based on the right to education without discrimination contained in Principle 16, states must, among other requirements, “*ensure that education responds to the needs of students of all*

sexual orientations and gender identities”; “*education methods, curricula and resources serve to enhance understanding of and respect for, inter alia, diverse sexual orientations and gender identities”;* and that “*all forms of social exclusion”* are eliminated. The YP+10 also require states to “*Ensure inclusion of comprehensive, affirmative and accurate material on sexual ... and psychological diversity, and the human rights of people of diverse sexual orientations, gender identities, gender expressions and sex characteristics, in curricula, taking into account the evolving capacity of the child.*”

In brief, the Principles mandate implementation of comprehensive sexuality education programs, which should be opposed at all costs given that they rob children of their innocence and induce them to experiment sexually. See www.comprehensivesexualityeducation.org.

- **Right to Change One’s Gender at Society’s Cost**

Obligations related to the 3rd and 17th Principles call for States to ensure that “*identity papers ... reflect the person’s profound self-defined gender identity”;* “*facilitate access by those seeking body modifications related to gender reassignment to competent, nondiscriminatory treatment, care and support”* and “*undertake targeted programmes to provide social support for all persons experiencing gender transitioning or reassignment.*” This would grant individuals the right to change their driver’s license and passport to reflect any gender they choose. Governments also would have the responsibility to facilitate sex change operations and to provide programs to help people transition into a new gender.

Obligations in the YP+10 related to the 17th and 31st Principles go further and would require states to “*end the registration of the sex and gender of the person in identity documents such as birth certificates, identification cards, passports and driver licenses.*” But while sex or gender continues to be registered, States need to “*Ensure that no eligibility criteria, such as ... minimum or maximum age ... shall be a prerequisite to change one’s name, legal sex or gender.*” Thus, a child of any age would have the right to change his or her gender on identity documents, even without parental consent. States must also “*Guarantee and protect the rights of everyone, including all children, to bodily and mental integrity, autonomy and self-determination.*” States must also “*Ensure access to the highest attainable standard of gender affirming healthcare.*” making it their obligation to provide the most effective sex change operations available.

- **Reparative Therapy for Sexual Identity Disorders Prohibited**

As part of Principle 18, governments are required to “*ensure that any medical or psychological treatment or counseling does not, explicitly or implicitly, treat sexual orientation and gender identity as medical conditions”* and that these conditions are “*not to be treated, cured or suppressed.*” In other words, if the Principles were adopted as law, it would be illegal for professionals to treat patients for unwanted same-sex attraction or gender identity disorder.

- **Freedom of Speech Trampled On**

The Principles seek to (1) “*Ensure that the exercise of freedom of opinion and expression does not violate the rights and freedoms of persons of diverse sexual orientations and gender identities”* and (2) “*Ensure that the expression, practice and promotion of different opinions,*

convictions and beliefs with regard to issues of sexual orientation or gender identity is not undertaken in a manner incompatible with human rights.” The Yogyakarta Principles could make it illegal to hold a negative opinion or express a negative belief about a specific sexual orientation. Censorship of religious texts, speech or even scientific research that says anything negative about any sexual orientation could follow. In fact, as part of Principles 30 and 31 of the YP+10, states must identify and eradicate “*attitudes, beliefs, customs and practices*” that perpetuate discrimination and other undefined harm; “*eliminate prejudice on grounds of [SOGIESC]*”; and “*address stigma, discrimination and stereotypes based on sex and gender.*”

- **Special Privileges Based on SOGIESC**

One of the main premises of the Principles is that those who struggle with their sexual orientation or gender identity should be treated equally in all respects with those who do not, “whether or not the enjoyment of another human right is also affected” (Principle 2). This prioritization of fictitious SOGIESC rights over well-established universal human rights is not equality because, if adhered to, it would enable the grant of special SOGIESC related privileges.

For instance, Principle 25 would require States to “*Develop and implement affirmative action programmes to promote public and political participation for persons marginalized on the basis of [SOGIESC].*” And Principle 34 claims that “*Everyone has the right to protection from all forms of poverty and social exclusion associated with [SOGIESC].*” Thus, States must “*Take all necessary legislative, administrative, budgetary and other measures ... to ensure ... the elimination of all forms of poverty associated with and exacerbated by [SOGIESC].*” These alleged requirements would promote politicians sympathetic to sexual freedom and empowered to grant welfare for anyone claiming their economic problems resulted from their sexual issues.

Moreover, pursuant to Principle 35, States would need to ensure “*that there are adequate public sanitation facilities which can be accessed safely and with dignity by all persons regardless of their [SOGIESC],*” and that “*all schools and other institutions*” provide such facilities without discriminating on grounds of SOGIESC. If implemented, such proposed mandates likely would be used by some to request access to bathrooms and locker rooms of the opposite gender for reasons that have nothing to do with safety—that is, claiming that, without such access, their dignity would be impacted. And with regard to transgenders, these Principles might require cross sex use of public bathrooms or showers.

- **Government Mandated Support for Sexual Rights Activists**

The YP+10 also aggressively support sexual right activists with the intent that the Principles are more thoroughly implemented. For instance, in relation to Principle 20, States now must “*Ensure that associations which seek to promote human rights related to [SOGIESC] can seek, receive and use funding and other resources from individuals, associations, foundations or other civil society organisations, governments, aid agencies, the private sector, the United Nations and other entities, domestic or foreign.*” And as part of Principle 27, relating to the ability or right to promote human rights, States must “*Ensure the participation of individuals and organisations working on human rights issues related to [SOGIESC] in public and political decision-making processes that affect them.*”

III. Attempts to Advance the Principles at the United Nations

- **UN Rapporteurs**

Although the task clearly was outside of their assigned mandates, nine UN rapporteurs were part of the team that drafted the Yogyakarta Principles. And these rapporteurs continue to seek adoption of the Principles, as revised by YP+10, in UN programs.⁴ Fortunately, in 2009, the Third Committee of the UN General Assembly voted to reject a report from one of these rapporteurs,⁵ which sought to promote the Principles and radically redefine gender in a manner counter to UN consensus documents.

- **UN High Commissioners**

In November 2007, the Principles were formally launched at the UN by a panel sponsored by a coalition of NGOs and the governments of Argentina, Brazil and Uruguay. Participants on the panel included Mary Robinson, the former UN High Commissioner for Human Rights. Her successor, Louise Arbour, also wrote a statement in support of the Principles for the occasion.⁶

In 2008, the UN High Commissioner for Refugees issued guidance on refugee claims related to SOGI, which claimed: “The Yogyakarta Principles reflect binding international legal standards with regard to sexual orientation which are derived from key human rights instruments.”⁷ The only support for this statement were citations to regional instruments addressing sexual orientation.

- **Universal Periodic Reviews**

Sexual rights activists are using the Universal Periodic Reviews (UPRs) to advance the Yogyakarta Principles. NGOs that promote sexual rights have made a number of submissions to the UPR Committee outlining what they consider are human rights violations relating to sexual

⁴ For example, one of the drafters of the YP+10 who is the UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of health, stated: “Discrimination on the grounds of SOGIESC needs to be addressed globally, in the spirit of the 2030 Agenda for Sustainable Development, ensuring there is no one left behind.” <http://yogyakartaprinciples.org/principles-en/press-release/>. See also Additional Recommendations to the original Yogyakarta Principles, which recommend that the UN High Commissioner for Human Rights, the UNHRC, UN Human Rights Treaty Bodies, WHO, regional human rights courts, and other bodies vigorously integrate and implement these Principles into national laws and policies.

⁵ See https://www.ishr.ch/sites/default/files/article/files/hrm_2009_general_assembly_forweb.pdf https://www.ishr.ch/sites/default/files/article/files/hrm_2009_general_assembly_forweb.pdf (citing to A/C.3/64/L.43/REV.1).

⁶ “Addressing Human Rights Violations Based on Sexual Orientation & Gender Identity at the 7th Session of the Human Rights Council,” p. 10, ARC (March 2008); accessible at <http://arc-international.net/wp-content/uploads/2011/09/SOGI-initiatives-HRC7.pdf>.

⁷ Guidance Note on Refugee Claims Relating to Sexual Orientation And Gender Identity, United Nations High Commissioner for Refugees, Geneva, 21 November 2008, p.7.

orientation and gender identity.⁸ Many of the NGOs are relying on the Yogyakarta Principles to justify their grievances to the UPR Committee. The Principles are also referenced in the reports of the Office of the High Commissioner for Human Rights (OHCHR) on the interactions between the OHCHR and the countries under review, and in the outcome report and recommendations of the Working Group.

IV. Pushback Against the Principles Must Be Clear and Consistent

Activists claim that the Yogyakarta Principles are universal legal standards that have obtained the status of customary international law because of their alleged widespread acceptance. This can easily be refuted by the fact that most UN Member States have laws that run counter to one or more of the Principle's provisions. The fact that sexual rights activists are fighting to get the Principles recognized as internationally accepted norms also indicates that they are *not* the norm.

However, the Principles could soon become the norm if sexual rights activists can convince enough governments to accept them as binding legal standards that they must enforce or even if the activists can just convince countries to adopt part or all of the Principles as national policy.⁹

According to the UN Charter, all UN agencies, employees, staff, special rapporteurs, committees, offices, UN accredited NGOs, etc. are supposed to be accountable to UN Member States. Yet somehow the tables have turned, and many UN-created or UN-affiliated entities are trying to make UN member states accountable to them as they overstep their mandates to promote the sexual rights agenda. In fact, sexual rights activists aggressively seek appointments to all UN entities so they can manipulate various parts of the UN system to pressure UN member

⁸ See, e.g., *Submission in the UPR Review of: Benin*, submitted jointly by ILGA, ILGA-Europe, Pan African ILGA, International Gay and Lesbian Human Rights Commission, and ARC International; available at http://lib.ohchr.org/HRBodies/UPR/Documents/Session2/BJ/ILGA_BEN_UPR_S2_2008_InternationalLesbianandGayAssociation_uprsubmission_JOINT.pdf#search=yogyakarta%20principles (arguing to the UN Human Rights Council that Benin “bring its legislation into conformity with its international human rights obligations [including those that stem from several provisions in the Yogyakarta Principles] by repealing all provisions which criminalise consensual same-sex activity.”)

⁹ According to Andrew Park, a sexual rights activist at the University of California Los Angeles Law School, “the Czech Republic, Finland, and Slovenia all agreed during their Universal Periodic Reviews to look to the Yogyakarta Principles as the standard for developing future policy”; “[n]ational legislatures in Argentina, Brazil, Canada, Uruguay, the Netherlands, Germany and Mexico have introduced or passed bills citing the Yogyakarta Principles as among the documents outlining international human rights law”; and “Brazil’s Ministry of Education, Bolivia’s Justice Ministry, Ecuador’s Ministry of Public Health, Spain’s Social Affairs Ministry, and the Foreign Ministries of Belgium, the Netherlands and the United Kingdom, and the National Human Rights Institutions of several countries in the Asian Pacific Forum have actively engaged in a process of examining whether domestic law in their respective countries fulfills the standards set out in the Yogyakarta Principles.” *Implementation of the Yogyakarta Principles: Key Factors for Implementation in Montenegro and Achievements in Implementation in Other Parts of the World*, Andrew Park, Director of International Programs The Williams Institute, University of California Los Angeles School of Law Presentation at Roundtable on “Promotion and Importance of Yogyakarta Principles,” Ministry of Foreign Affairs and European Integration,” Podgorica, Montenegro (July 17, 2014); accessible at <https://williamsinstitute.law.ucla.edu/wp-content/uploads/IntegratingYYPMontenegro.pdf>. For a more thorough, but older, summary of the governmental entities that have cited the Principles, see Paula L. Ettlbrick, Esq. and Alia Trabucco Zerán, “The Impact of the Yogyakarta Principles on International Human Rights Law Development—A Study of November 2007-June 2010,” Final Report (September 10, 2010); accessible at http://ypinaction.org/wp-content/uploads/2016/10/Yogyakarta_Principles_Impact_Tracking_Report.pdf.

states into adopting laws and policies that advance their agenda, with the Yogyakarta Principles as one of their key guiding documents.

It is time for UN member states to reverse this encroachment on their national sovereignty and cultural values, and make sure that groups of so called human rights experts no longer try to impose novel obligations on them (see UN Charter, Articles 2.7, 13, 55). UN member states should use the recently published YP+10 as an opportunity to (1) clearly denounce the Yogyakarta Principles, as revised in 2017, in a General Assembly resolution, and (2) ensure that whenever any references to the Principles are proposed in UN negotiations, they are decisively rejected as overreaching, inconsistent with UN treaties and consensus documents, and developed outside of the confines of the General Assembly. It is not enough simply to make occasional reservations or reject references to the Principles without giving a clear reason for doing so. Sexual rights activists will never stop trying to advance uses of and references to the Principles.