Introduction

This book was conceived in response to the 2008 celebration of the sixtieth anniversary of the Universal Declaration of Human Rights. Despite this Declaration, which was adopted in 1948, sexual minorities around the world are routinely subjected to flagrant human rights violations (particularly by governments) that range from subtle discrimination to imprisonment, torture, the death penalty and murder. There are still countries where gays and lesbians are not considered human and human rights are not, therefore, considered applicable. In this book the problem is summarized in these words: 'Homophobia appears to be the last accepted prejudice, where racism is rejected, anti-Semitism is condemned and hatred of women has lost its legitimacy.'

Why the slogan 'Gay and lesbian rights are human rights'? Amnesty International provides the answer. 'Sexual orientation and gender identity touch the innermost affairs of the heart, the deepest desires of the spirit and the most intimate physical expressions', Amnesty has noted. Sexual orientation and gender identity are part of the essence of one's being, concerning one's right to physical and mental integrity and the right to self-realization. These rights imply that individuals themselves determine their sexual orientation and gender identity and express them - based on equality with others - free of fear and with no risk of discrimination and suppression. Sexual orientation and gender identity form a fundamental aspect of the being, of the individual. That is what human rights are all about.

Terminology

This book speaks not only about gays and lesbians, but also about 'LGBT persons' - the acronym for 'Lesbian, Gay, Bisexual and Transgender'. (1) This has become the accepted international acronym used within social movements of lesbians, gays, bisexuals, transvestites, transsexuals and all other transgender individuals. Halfway through the nineties, the broad gay movement joined forces with bisexuals and by 2000 included the transgender movement as well. This collaboration has led to successes, including consensus at the European Union (EU) that LGBT rights are human rights and must be guaranteed. This recognition expressed itself in a variety of legislation, including anti-discrimination laws, the right to change gender, revoked transvestite prohibitions, equal rights in the area of labour, healthcare and housing and, in some countries, legal marriage for same-sex couples.

We also refer to 'LGBTIQ persons', adding categories of 'Intersex' and 'Queer'. 'Intersex' means people with gender characteristics of both sexes, who include themselves in the LGBT movement. The term 'queer' needs some elaboration. 'Queer' is used as an umbrella term to cover all lesbians, gays, bisexuals, transsexuals, transgender-persons, intersexuals, asexuals, autosexuals and all other non-heterosexuals or non-mainstream heterosexuals, either due to their anatomy, their sexual orientation or their gender identity. In that sense, the term 'queer' is really a synonym for everything that could be included in the broad acronym 'LGBT'.

However, 'queer' also has a more political meaning. Some LGBT activists call themselves 'queer' to indicate that they reject traditional identities - such as gay, lesbian, bisexual and

heterosexual, since these are based on a categorizing resulting from the dominant hetero-normative culture. From the *queer-point-of-view,* such categorization does not leave any room for the fluidity and ambiguity of sexuality. Will a gay man never fall in love with a woman? Perhaps not, but can it be ruled out? And vice versa, of course. With that, queer protagonists let go of sexual boundaries, labels and identities, but a new identity is developed, the one of the queer who views it all that way.
With that, 'queerness' is at the same time an *LGBT statement* against hetero-normativeness, fitting into the collective acronym 'LGBTIQ persons', and also a denial and rejection of LGBT identities (as 'fixed' orientations of people). From this perspective, 'queer' is not a synonym for the term 'LGBT', because the word 'queer' creates distance from certain strategies of the LGBT movement (the fixed 'other' identity, the theory of the third gender, etc.) and because alliance is sought with heterosexuals who also consider sexuality as fluid and cannot find themselves within a fixed sexual identity.
Most of the articles in this book use the terms 'lesbian' and 'gay' sparingly. These terms indicate a love for the same sex as though it concerns a fixed identity. However, the people being discussed often demonstrate a varied range of behaviour and identity, so it is not accurate to assign to them labels that do not cover all aspects of their sexuality. Are you a lesbian if you also have sex with men or don't have sex at all? Are you gay if you do not call yourself gay, but had sex exclusively with men during a certain period of your life? Perhaps it is better not to speak of identities but of same sex relationships and sexual orientation, although these terms also have their limitations. The terms 'lesbian' and 'gay' only fit with the women and men that identify themselves as such.

Two Steps

It is commonly known that the Netherlands was the first country to recognize marriage among same-sex couples in 2001. Belgium, Spain, Canada, South Africa, Norway and Sweden followed, as did the American states of Massachusetts, Connecticut, Iowa, Vermont and Maine. It is only in these countries and states that gays and lesbians have virtually the same rights as heterosexuals.
Recognizing marriage is - albeit not without problems - an important reference point for gay and lesbian liberation. Even in the countries and states that recognize same-sex marriage, not all goals have been reached. With the current legislation in these countries, adopting children sometimes remains difficult. Recently in the Netherlands, the question arose if it would be better to explicitly state in article 1 of the constitution that discrimination based on sexual orientation is prohibited. Another problem that has to be resolved is that in the Netherlands, civil officials are allowed to refuse to marry same-sex couples by citing conflict with their conscience, while it would be considered objectionable if they would do the same with couples of a different religion, race or ethnic background.

The fact is that the human rights of LGBT persons in the rest of the world are not necessarily that much worse than in the above-mentioned countries and states. In a number of countries where marriage has not been made available to same-sex couples, they can enter a cohabitation agreement (registered partnership/civil union), which often entails rights that

are comparable to those of married hetero couples. In any case, sex among persons of the same sex is no longer criminalized in those countries. There, the struggle focuses on equal treatment.

On the other hand there are countries where same-sex relationships are prohibited and punishable. In some eighty nations worldwide, gays, and often lesbians as well, are considered criminals. In countries such as Bangladesh, the Maldives, Singapore and Uganda, people can be imprisoned for years or even for life if it is discovered that they have a relationship with a person of the same sex. In countries such as Iran, Yemen, Mauritania, Saudi Arabia, Sudan and the United Arabic Emirates they can be sentenced to death for their sexual orientation. Images that emerged in 2005 of the hanging of young gay men in Iran speak for themselves. Such images create a sense of urgency in the gay and lesbian struggle - even sixty years after the Universal Declaration of Human Rights.
In countries such as Pakistan and Kenya, the gay and lesbian liberation struggle focuses firstly on decriminalizing same-sex relationships. Equal treatment can only be the next step. So the struggle entails two steps: decriminalization and, when that has been accomplished, equal treatment.

The Yogyakarta Principles

A leap forward was made with the establishment of the *Yogyakarta Principles*. At the end of 2006, a group of internationally renowned experts in the area of human rights gathered in the Indonesian city of Yogyakarta to speak about sexuality, gender and human rights. They discussed all international treaties that touched on human rights and shaped these human rights towards people belonging to sexual minorities. The result was a document titled: 'The Yogyakarta Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity'.
The primary premise of this document is that gay and lesbian rights are human rights. The explanation contains 29 principles in the area of human rights that (also) apply to LGBT individuals, which countries must obey because these principles have been laid down in older, general, internationally accepted human rights treaties. It is not only the individual states that signed the treaties that have the responsibility to maintain and protect human rights for LGBT persons. Non-governmental organisations, intergovernmental organisations, the United Nations (UN), the media and others can also play a role. The Yogyakarta Principles state that effective protection of human rights is a responsibility of all people.
The first three principles of the Yogyakarta Principles include the universality of human rights and the non-discrimination principle. Consequently, laws that criminalize gays and lesbians contravene the right to protection against discrimination. Principles four through eleven deal with the rights to personal safety, privacy and protection against violence and torture, as well as access to the legal system and indemnity against arbitrary imprisonment. This includes arbitrary arrests in gay bars where those arrested are held for long periods and abused without charge, as occurs in some African countries and elsewhere.
Economic, social and cultural rights are dealt with in principles twelve through eighteen, including the right to protection against discrimination in the workplace, in housing, education,

healthcare and social security. This means that medical procedures desired by transsexuals are not to be refused. Such principles would prevent situations such as that of two nineteen year old boys from the Romanian city of Timisoara who were imprisoned in 1992-1993 due to their sexual relationship and who were subsequently not allowed to return to school or find a job because of their sexual orientation. (One of them committed suicide in 1995 and the other found asylum abroad.) (2)
Principles nineteen through 21 organize freedom of speech and freedom of assembly and association. These rights dictate that governments cannot prohibit peaceful assemblies of LGBT groups struggling against their criminalization and for equal treatment. The police are not allowed to intimidate these groups but must protect them against homophobic extremists and/or nationalists.
Principles 22 and 23 focus on people seeking asylum outside of their country due to prosecution as a result of their sexual orientation or gender identity. According to the guidelines of the United Nations High Commission for Refugees, refugee status must be provided to them. (3)
Principles 24 through 26 stipulate that everybody must be allowed to participate in the social life of their community and may not be excluded from that based on sexual orientation or gender identity. The rights of the human rights defenders are covered in principle 27. Defending and promoting human rights, including those of LGBT persons, is recognized as a right, and states are required to guarantee the safety of human rights defenders. The special representative of the United Nations Secretary-General in this field has stated that the safety of human rights defenders of LGBT persons is poor, and that the concerned governments neglect the situation. Finally, principles 28 and 29 include holding those who have violated human rights responsible. They must be held accountable and be punished and those whose rights have been violated must obtain redress.

The Yogyakarta Principles illustrate how broad the LGBT human rights are. The Netherlands has adopted them as a starting point for its gay human rights policy and encourages their international acceptance. The aim is the abolition of penalization for consensual sex between people of the same sex, the end of government discrimination of LGBT people, as well as their social acceptance. In countries where LGBT human rights are violated, the Netherlands lodges protests against these actions. In addition, the Netherlands supports civil society organisations that promote LGBT rights as human rights including at the international level. (4)

Urgency is Required

The starting point for the creation of this book has been the recognition that urgency is required in the LGBT struggle for equal rights and equal treatment. We open with a number of articles that address the urgency in the Dutch context from a historical perspective. In the Netherlands, discrimination between gays and heterosexuals was concretely anchored in the penal code between 1911 and 1971. Article 248bis stated that adult sex among persons of the same sex was punishable under the age of 21, whilst this age limit for heterosexuals was sixteen. Lord Jacob Anton Schorer, founder of and driving force behind the first Dutch gay

movement, personifies the battle against this discrimination and criminalization before World War II. The process of decriminalization of gays and lesbians was subsequently followed by the struggle for equal treatment. An important strategy of the gay and lesbian movement (5) of those days was seeking out and cooperating with allies. The first part of this book also describes a new urgent problem in this country: the fact that homosexuality is unacceptable for many people with an islamic religious and cultural background. This has led to targeted molestations of gays in Amsterdam, and it also means that many LGBT persons from this circle are afraid to come out of the closet and lead a difficult-to-maintain double life.
The next part of the book discusses concepts and key questions such as 'What is gay?' 'What is homophobia?' 'What is a lesbian identity?' 'What is transgender and what are transsexuals?' 'What are the implications of the queer theory?' What does globalization mean for LGBT persons and their rights?' After this, the book focuses on LGBT experiences and movements in Africa, Asia and Latin America.
Part three discusses Africa. There, a visible gay and lesbian movement opens up, the youngest in the world and one that needs a lot of support, as illustrated by the articles about Cameroon and Kenya. At the same time, South Africa was the first country in the world to prohibit discrimination based on sexual sex, gender and sexual orientation in its constitution. Amongst others, Simon Tseko Nkoli, gay, fighter against apartheid and against suppression of gays, understood that discrimination against blacks is no different from discrimination against LGBT persons. The two forms of discrimination were strongly linked to one another. Whether that equal treatment really exists in the social realities of today's South Africa is, of course, an entirely different question. In any case, there are positive initiatives: the website called Behind the Mask, which attracts and brings together numerous LGBT visitors, and the muslims in South Africa who seek an interpretation of the Koran that allows sexual diversity.
In part four and five of the book attention is paid to developments in Asia and Latin America. In Latin America the gay and lesbian struggle has moved from decriminalization to equal treatment; even the right to adopt children is a current topic there.
Part six discusses strategies for furthering gay and lesbian rights and equality. First, strategies in development cooperation, particularly those of Hivos, the Humanist Institute for Cooperation with Developing Countries, and in education. Subsequently, the strategies of the actual formulation of gay and lesbian rights in the Declaration of Montreal and in the abovementioned Yogyakarta Principles are discussed. For the strategy of gay and lesbian liberation, it is also important what trade unions can do and have done for LGBT persons. In the United States, christian fundamentalism and neo-conservatism pose a big problem. On the one hand, same-sex couples can enter a marriage in the states of Massachusetts, Connecticut, Iowa, Vermont and Maine. On the other, in the state of Utah the gay movie 'Brokeback Mountain' could not be freely screened. Then there is Eastern Europe: these countries have reached a point of no return, even though some people, in Poland and Lithuania for example, really would like to return. The European Union requires Eastern European countries that have joined the EU to conform to the decision that LGBT rights are human rights.

Throughout this book you will find a number of self-portraits of LGBT persons. They are mostly gay and lesbian activists in the global South and East whose organisations are supported by Hivos. These self-portraits illustrate that LGBT persons are also organizing them-

selves strongly in the global South and East. Both the self-portraits and the articles show that the struggle is beginning to move, and that concrete progress in Latin America and India has been made.
The greater parts of the illustrations in this book are related to the themes 'Gay pride', 'Visibility' and 'South Africa'. Chris Carter, former minister of education of New Zealand and openly gay, was so kind to provide a Foreword by discussing aspects of his life as a gay and a politician.

Ireen Dubel and André Hielkema

Notes

(1) A few times in this book 'LBT persons' or 'GBT persons' are metioned. Where the 'G' is omitted, the text does not apply to gays and where the 'L' is omitted the text does not apply to lesbians. There are more variations that are self-explanatory.

(2) The story of these two boys can be found in: Scott Long, 'Two Novembers. Movements, Rights, and the Yogyakarta Principles', in: Human Rights Watch, Human Rights Watch World Report 2008 - http://hrw.org/wr2k8/

(3) The Dutch Asylum Policy with regard to LGBT refugees does raise some questions. See, for example: http://www.jokeswiebel.nl/publicaties.php.

(4) See for an example the opening speech of the Dutch minister of Foreign Affairs M. Verhagen during the seminar about human rights and sexual orientation op 25 April 2008 in The Hague, on http://www.minbuza.nl/nl/actueel/speeches,2008/04/Opening-seminar-mensenrechten-en-seksuele-geaardhe.html.

(5) Part of the movement is COC Nederland, a Dutch organisation for LGBT men and women. COC originally stood for Cultuur en Ontspanningscentrum (Center for Culture and Leisure), which was intended as a 'cover' name for its real purpose. Founded in 1946, it is the oldest LGBT organisation in the world. On 7 December 1946, the 'Shakespeareclub' was founded in Amsterdam. The founders were a number of gay men who were active with Levensrecht (Right To Live). This magazine was founded a few months before the German invasion in 1940, and re-appeared after the war. The Shakespeareclub was renamed in 1949 to 'Cultuur- en Ontspanningscentrum' (C.O.C.). The goals of the C.O.C. were twofold: they wanted to contribute to social emancipation, and also wanted to offer culture and recreation for gay men and lesbian women.