



Family Policy Brief

ICESCR Committee General Comment 20

This policy brief outlines considerations for the African Group regarding the amendment to OP10 of the resolution on International Covenants on Human Rights that would delete references to General Comments 19 and 20 issued by the Economic, Social and Cultural Rights Committee. Comment 20 seeks to reinterpret the term “other status” in the ICESCR to include “sexual orientation” and “gender identity,” thereby making them protected classes like race and religion.

- **All individuals are entitled to the same fundamental human rights** regardless of fixed characteristics such as race, color, sex or national origin; however, rights should never be granted based on sexual behavior or preferences.
- **“Sexual orientation” provisions have been specifically rejected by UN Member States** every time they have been proposed in UN negotiations. To allow a UN committee to reinterpret a UN treaty to protect “sexual orientation” when it has been specifically opposed by and rejected by member states **undermines the entire UN negotiation process and is an assault on national sovereignty**. “Gender identity” is a brand new concept that has never even been considered or defined.
- **“Sexual orientation” and “gender identity” have not been defined in General Comment 20**. Certainly, all 30 known sexual behaviors (for example sadomasochism, pedophilia, and bestiality—see American Psychiatric Association’s (APA) Diagnostic and Statistical Manual) should not be entitled to special legal protections. It is unknown which orientations General Comment 20 considers are entitled to be protected. Some people are sexually oriented toward children. Would this orientation be protected?
- **Requiring member states to protect “sexual orientation” and “gender identity” conflicts with the laws of at least 33 African countries** that restrict “sexual orientation.”
- **When “sexual orientation” is protected by law, it is much easier for a national court to then impose same-sex marriage** as a matter of non-discrimination in marriage (i.e., as happened in California until its people amended their state constitution). Protecting “sexual orientation” is the first step in the path to legalizing same-sex marriage, and once sexual orientation is protected, it is difficult for countries *not* to go down that path.
- **For the General Assembly to consider endorsing General Comments 19 and 20 of the ICESCR Committee would violate UN procedure**, since these Comments have not yet been edited as is customary, nor have they been first reported to ECOSOC by the Committee as required by General Assembly Resolution 1985/17.

- **Generally, where sexual orientation is protected, schools have begun to promote homosexuality, usually without regard to religious or moral values.** Historically, such education has been very graphic and highly inappropriate for children. In Germany, some parents are now being jailed for refusing to allow their children to receive explicit sex education. (See Policy Brief on UNESCO International Guidelines on Human Sexuality Education.)
- **There are other ways to protect homosexuals and transgenders from violence and abuse.** Instead of establishing overbroad protection rights for “sexual orientation” and “gender identity,” nations can establish laws that specifically condemn killing, torture, or violence, against people with nontraditional sexual orientations or identities. This should satisfy both sides on this issue and prevent the multiple negative consequences above.