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The Hon. Michael Kirby AC CMG*

THE PAST

It all goes back to the Bible. In the Book of *Leviticus* the Old Testament contains the following declaration[1]:

> "If a man ... lie with mankind, as he lieth with a woman, both of them have committed an abomination: they shall surely be put to death; their blood shall be upon you".

This is one of a series of stern commandments. A man who lies with his daughter-in-law shall be put to death as must his victim, seemingly however innocent she might be[2]. The penalty is stepped up for a man who takes a wife and her mother. They are to be "burnt with fire" so that "there be no wickedness among you"[3]. A man that lies with a beast is to be put to death. As well as the poor animal[4]. There is similar offence of a woman connecting with a beast[5]. The punishments and these offences portray an early, primitive, patriarchal society where the

* Justice of the High Court of Australia (1996-2009); Commissioner of the UNDP Global Commission on HIV and the Law (2010-12); Member of the Eminent Persons Group of the Commonwealth of Nations (2010-11); Co-Chair of the Human Rights Institute of the international Bar Association (2018-).

1 *Leviticus*, 20, 13.

2 *Ibid*, 20, 12.

3 *Ibid*, 20, 14.

4 *Ibid,* 20, 15.

5 *Ibid*, 20, 16.

powerful force of sexuality was seen as a danger to be held in the closest possible check.

According to those who have studied these things[6], the early history of England incorporated into its common law, an offence of "sodomy" in the context of providing protection against those who endangered Christian principles. The Church had its own courts to try and to punish ecclesiastical offences, those that defiled the kingdom and disturbed the racial or religious order of things[7].

A survey of the English laws, written in Latin in 1290, during the reign of Edward I[8], mentions "sodomy", usually sexual intercourse. It was so described because the crime was attributed to the men of Sodom who thereby attracted the wrath of the Lord and the destruction of their city[9]. Sodomy was perceived as an offence against God's will, which thereby attracted society's sternest punishments. The offence was reinforced by a Christian instruction that associated the sexual act with shame and excused it only as it fulfilled the procreative function[10].

In the sixteenth century, following Henry VIII's separation of the English church and Rome, the common law crimes were revised so as to provide for their trial in the King's courts. A statute of 1533, provided for the crime of sodomy, under the description of the "detestable and

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6 An excellent review of the legal developments collected in this article appears in Human Rights Watch *This Alien Legacy: The Origins of "Sodomy" Laws in British Colonialism*, New York, December, 2008 ("HRW"), and D. Saunders, "377 – And the Unnatural Afterlife of British Colonialism", unpublished paper for 5th Asian Law Institute Conference, National University of Singapore, May 22, 2008.

7 HRW, 13.

8 Fleta, *Seu Commentarius Juris Angicani* was a survey of English law produced in the Court of Edward I in 1290 (Ed. and trans. H.G. Richardson and G.O. Sayles, London, Quaritch, 1955). See HRW, 13.

9 *Genesis*, 13, 11-12, 19, 5.

10 Cf. J.A. Brundidge, *Sex, Law and Marriage in the Middle Ages: Collected Studies*, Aldershot, Variorum, 1993.

abominable Vice of Buggery committed with mankind or beast". The offence was punishable by death. Although that statute was repealed in the brief reign of Mary I, it was re-enacted by Parliament in the reign of Elizabeth I in 1563[11]. The statutory offence, so expressed, survived in England until 1861. The last recorded execution of "buggery" in England took place in 1836[12].

The great text writers of the English law, exceptionally, denounced sodomy and all its variations in the strongest language[13]. When William Blackstone, between 1765-9, wrote his *Commentaries on the Laws of England*, he too included the "abominable crime" amongst the precious legacy that English law bequeathed to its jurisdiction. Everywhere the British took their Empire, language, and trade, they brought with them the crimes against the "order of nature". Astonishingly, these crimes remain in force in many countries to this day. The offences spread like a pestilence. They have proved difficult to eradicate.

In France, Napoleon's codifiers undertook a complete revision and re-expression of the criminal law. This was an enterprise which Napoleon, correctly, predicted would long outlive his imperial battle honours. In the result, the sodomy offence, which had existed in France and had been repealed in 1791, was removed from the French Penal Code of 1810. This repeal proved profoundly influential and quickly spread to more countries even than Britain ruled. It did so through derivative codes adopted, following conquest or example, in the Netherlands, Belgium,

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11 M. Hyde, *The Love That Dared Not Speak Its Name: A Candid History of Homosexuality in Britain*, Boston, Little Brown, 1970. The *Buggery Act* 1533, after its original repeal, was re-enacted as the *Buggery Act* 1563 during the reign of Elizabeth I.

12 Hyde, supra, at 142. See HRW, 13-14.

13 E. Coke, *The Institutes of the Laws of England* (3rd part), cap. X *Of Buggery, or Sodomy*, 1797, 58.

Spain, Portugal, Scandinavia, Germany, Russia, China, Japan and their respective colonies and dependencies.

Just as the Napoleonic codifiers brought change, and the termination of the prohibition on same-sex activities in France and its Empire, so in England a movement for codification of the criminal law, gained momentum in the early nineteenth century. A great proponent of this movement was Jeremy Bentham. He strongly criticised Blackstone for his complacency about the content of the criminal law of England. He demanded reform of the law's treatment of what later became named as homosexual acts. However, reform was opposed by the judges. Consequently, no relevant reforms were enacted in England.

Encouraged by contemporary moves for legal reform in France, Bentham urged a reconsideration of only those forms of conduct which should, on utilitarian principles, be regarded as punishable offences under the law of England. He continued to urge the acceptance of the utilitarian conception of punishment as a necessary evil, justified only if it was likely to prevent, at the least cost in human suffering, greater evils arising from putative offences. Somewhat cautiously, he also turned his attention to the law's treatment of what later became named as homosexuality[14]. He favoured de-criminalisation.

What could not be achieved in England, however, became an idea and a model that could much more readily be exported to, or imposed on, the British colonies, provinces and settlements overseas. So this is what happened. There were five principal criminal codes on offer. They all included various reforms. However, the homosexual offences were

[14] *Ibid,* 45.

common to them all. They were exported to all countries of the British Empire – including to all of the colonies of far away Australia.

Ruling the world's largest Empire was a very demanding activity. The rules could never appear weak. They exuded a very masculine air of dominance. Same-sex activity was morally unacceptable to the British rulers and their societies. The local populations were not consulted in respect of the imposition of such laws. At the time, the settlers, if they ever thought about it, would probably have shared many of the prejudices and attitudes of the rulers. But in many of territories in Asia, Africa and elsewhere where English law was imposed and enforced, there was no (or no clear) pre-existing culture that required such grim punishments for all such offences. They were simply imposed to stamp out the "vice" and "viciousness" feared to be present amongst native peoples which the British rulers found, or assumed, to be intolerable in a properly governed society.

The most copied of the colonial criminal codes was the *Indian Penal Code* (IPC) of Thomas Babington Macaulay. The relevant provision appeared in Ch.XVI, titled "Of Offences Affecting the Human Body". Within this chapter, section 377 appeared under the subtitle "Of Unnatural Offences". Originally, it provided for the death penalty. But at the time of India's independence in 1947 it declared[15]:

> "377. Unnatural Offences – Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to 10 years and shall also be liable to fine.

[15] *Naz Foundation v Union of India* [2009] 4 LRC 846 at 847 [3].

> Explanation – Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this section."

This provision of the IPC was copied in a large number of British territories from Zambia to Malaysia, and from Singapore to Fiji. The acts specified were punishable, irrespective of consent or resistance, because more than the individual's will or body was at stake. Legally, same-sex activities were linked and equated to the conduct of violent sexual criminal offences such as we treat paedophilia today.

I can recall clearly the day in my first year of instruction at the Law School of the University of Sydney when I was introduced to this branch of the law as it applied in New South Wales. In the last year of the reign of Queen Victoria, the colonial Parliament of New South Wales, enacted the *Crimes Act* 1900 (NSW). It is still in force though parts have been amended. Part III of that Act provided for the definition of "Offences against the Person". A division of those offences was headed "Unnatural Offences". The first of these provided, in section 79 read:

> "79. *Buggery and Bestiality*: Whosoever commits the abominable crime of buggery, or bestiality, with mankind, or with any animal, shall be liable to penal servitude for 14 years."

As I listened to the law lecturer explaining peculiarities of the unnatural offences, including the fact that, in law, full age and consent were no defence and both parties were equally guilty[16]; the availability of propensity evidence to prove the particular offence charged and evidence of similar facts[17]; and the heavy penalties imposed upon

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16 *R v McDonald* (1878) 1 SCR(NS) 173.

17 *O'Leary v The King* (1947) 20 *Australian Law Journal* 360; cf. (1942) 15 *Australian Law Journal* 131.

conviction[18], I knew that these provisions were targeted directly and specifically at me as a gay man. I could never thereafter share an unqualified belief that the inherited criminal law of Australia was flawless. A growing body of public opinion came to see the need for modernisation and reform. However, it was to take the period between 1974 (in South Australia) and 1997 (in Tasmania) to secure the abolition of all the laws in Australia that punished gay people for following the feelings of their nature. However, the criminal laws, introduced into so many jurisdictions by the British Imperial authorities, remained in force in virtually all of them long after the Union Jack was hauled down and the Britannic viceroys departed, one by one, from their Imperial domains.

As the centenary of the formulation of the IPC approached in the middle of the twentieth century, moves began to emerge for the repeal of the same-sex criminal offences, commencing in England itself. Reform gradually followed in all of the settler dominions and later in many other jurisdictions.

THE REFORMS

The forces that gave rise to the movement for reform were many. They included the growing body of scientific research into the common features of human sexuality. This research was undertaken by several scholars, including Richard Krafft-Ebing (1840-1902) in Germany; Henry Havelock Ellis (1859-1939) in Britain; Sigmund Freud (1856-1939) in Austria; and Alfred Kinsey (1894-1956) in the United States. The last, in particular, secured enormous public attention because of his unique sampling techniques and widespread media coverage of his successive

[18] *Veslar v The Queen* (1955) 72 WN(NSW) 98.

reports on variation in sexual conduct on the part of human males and females[19].

The emerging global media and the sensational nature of Kinsey's revelations ensured that they would become known to informed people everywhere. Even if the sampling was partly flawed, it demonstrated powerfully that the assumption that same-sex erotic attraction and activity was confined to a tiny proportion of wilful anti-social people was false. Moreover, experimentation, including acts described in the criminal laws as "sodomy" and "buggery", treated by law as amongst the gravest crimes, were relatively commonplace both amongst same-sex and different-sex participants. If such acts were so common, the questions posed more than a century earlier by Bentham and Mill were starkly revived. What social purpose was secured in exposing such conduct to the risk of criminal prosecution, particularly where the offences applied irrespective of consent, age and circumstance and the punishments were so severe?

A number of highly publicised cases in Britain, where the prosecution of aristocratic "offenders" appeared harsh and unreasoning, set in train widespread public debate. Eventually, committees were formed throughout the United Kingdom to support parliamentary moves for reform. A royal commission of enquiry was established in 1956 chaired by Sir John Wolfenden, a university vice-chancellor[20]. The Commission's report recommended substantial modification and confinement of homosexual offences, deleting adult, consensual, private

[19] A. Kinsey et al, *Sexual Behaviour in the Human Male*, (1948); Kinsey et al, *Sexual Behaviour in the Human Female*, (1953).

[20] Report of the Committee on Homosexual Offences and Prostitution (Wolfenden Report), CMND247, HMSO, 1957. See also M.D. Kirby, "Lessons From the Wolfenden Report" (2008) 34 *Commonwealth Law Bulletin* 551.

conduct. The Wolfenden Committee expressed the principle that they embraced in terms that would have gladdened the heart of Jeremy Bentham[21]:

> "Unless a deliberate attempt is made by society, acting through the agency of the law, to equate the sphere of crime with that of sin, there must remain a realm of private morality and immorality which is, in brief and crude terms, not the law's business".

Ultimately, private members' Bills were introduced into the House of Commons and the House of Lords, by lending proponents of reform, neither of whom was homosexual. Within a decade of the Wolfenden Report, the United Kingdom Parliament changed the law for England and Wales[22]. At first, the age of consent was fixed at 21 years and there were a number of exceptions (relating to the Armed Forces and multiple parties). Reforming laws were soon also enacted for Scotland and Northern Ireland. The last mentioned reform was achieved only after a decision of the European Court of Human Rights held that the United Kingdom was in breach of its obligations under the *European Convention on Human Rights* by continuing to criminalise the adult private consenting sexual conduct of homosexuals in that Province[23].

Within a remarkably short time, the influence of the legislative reforms in the United Kingdom resulted, in the legislative modification of the same-sex prohibition in the penal laws of Canada, New Zealand (1986), South Australia (1974), Hong Kong (1990) and Fiji (2005 by a High Court decision). Likewise, a decision of the Constitutional Court of South Africa in 1998[24] struck down the same-sex offences in that country as

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21 Wolfenden Report, *ibid*, 187-8.

22 *Sexual Offences Act* 1967 (UK).

23 *Dudgeon v United Kingdom* (1981) 4 EHRR 149.

24 *National Coalition for Gay and Lesbian Equality v Minister of Justice* [1998] 3 LRC 648; 1999(1) SA 6 (SACC).

incompatible with the values of the post-Apartheid Constitution. In that decision, Ackermann J said[25]:

> "The way in which we give expression to our sexuality is the core of this area of private intimacy. If, in expressing our sexuality, we act consensually and without harming one another, invasion of that precinct will be a breach of our privacy."

To the same effect, the Supreme Court of the United States of America (another country which, with few exceptions, had inherited its state criminal laws from the British template), eventually[26], by majority, held that the offence enacted by the State of Texas, as expressed, was incompatible with the privacy requirements inherent in the United States Constitution[27]. Kennedy J, writing for the Court, declared[28]:

> "... [A]dults may choose to enter upon this relationship in the confines of their homes and their own private lives… The liberty protected by the Constitution allows homosexual persons the right to make this choice. ... When homosexual conduct is made criminal by the law of the state, that declaration, in and of itself, is an invitation to subject homosexual persons to discrimination both in the public and the private spheres."

In Australia, the journey to reform was slow and difficult. It began with removal of the law in the Australian Capital Territory, a federal responsibility (1975). One by one, the States of Australia, by parliamentary action, amended their respective criminal laws to remove the "unnatural offences". Amongst the last to make the change were Western Australia (1989) and Queensland (1990). In each of those States, the distaste at having to repeal the templates of the Criminal Codes then applicable, was given voice in parliamentary preambles which expressed the legislature's discomforture.

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25 *Ibid*, at 32.

26 After a false start in *Bowers v Hardwick* 478 US 186 (1986).

27 *Lawrence v Texas* 539 US 558 (2003).

28 *Ibid*, 567, 575.

In Queensland, where the legislators were called upon to repeal the provision from Griffith Code, a preamble was enacted that was very condescending[29]:

> "Whereas Parliament neither condones nor condemns the behaviour which is the subject to this legislation ... [but] reaffirms its determination to enforce its laws prohibiting sexual interference with children and intellectually impaired persons and non-consenting adults."

Only one Australian jurisdiction held out, in the end, against repeal and amendment, Tasmania. In that State, a variation of the QPC continued to apply[30]. Endeavours to rely on arguments, including the dangers of HIV/AIDS, to attain reform, failed to gain traction. Eventually, immediately after Australia subscribed to the First Optional Protocol to the *International Covenant on Civil and Political Rights* (ICCPR), a communication was sent to the United Nations Human Rights Committee in Geneva. This argued that, by criminalising private same-sex conduct between consenting adults in private, the law of Tasmania brought Australia, in that jurisdiction, into breach of its obligations under the ICCPR.

In March 1994, the Human Rights Committee of the United Nations in *Toonen v Australia*[31] upheld the complaint and found Australia in breach. The majority of the Committee did so on the basis of a breach of Article 17 of the ICCPR (privacy). A minority report suggested that there were other breaches in relation to discrimination on the "grounds of sex",

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29 *Criminal Code and Another. Act Amendment Act* 1990 (Qld), Preamble.

30 *Criminal Code Act* 1924 (Tas), s122.

31 *Toonen v Australia* (1994) 1 *Int Hum Rts Reports* 97 (No.3).

thereby anticipating by 26 years the 2020 US Supreme Court decision in *Bostock v Clayton County*.

Reliant upon the Human Rights Committee's determination, the Australian Federal Parliament enacted a law to override the Tasmanian same-sex criminalisation purporting to act under the external affairs power in the Australian Constitution[32]. The validity of the law so enacted[33] was then challenged by Tasmania in the High Court of Australia. That court, in *Croome v Tasmania*[34], dismissed an objection to the standing of one of the successful complainants to Geneva, in seeking relief against the Tasmania challenge. With this decision, the Tasmanian Parliament surrendered. It repealed the anti-sodomy offence of that State. It was not therefore necessary for the High Court to rule on the constitutional validity of the federal law. In all Australian jurisdictions, the old British legacy had been removed by legislation and the democratic process. It had taken 20 years.

For a long time, no further significant moves were made in non-settler countries of the Commonwealth of Nations to follow the lead of the legislatures in the old dominions and the courts in South Africa and Fiji. On the contrary, when a challenge was brought to the Supreme Court of Zimbabwe in *Banana v The State*[35], seeking to persuade that court to follow the privacy and equality reasoning of the South African Constitutional Court, the endeavour, by majority, failed.

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32 Australian *Constitution*, s51 (xxix).

33 *Human Rights (Sexual Conduct) Act* 1994 (Cth), s4. The section relied on and recited Art.17 of the ICCPR.

34 *Croome v Tasmania* (1998) 191 CLR 119.

35 [2004] 4 LRC 621 (ZimSC) (Gubbay CJZ dissenting).

Another setback was suffered in Singapore, which, like Hong Kong, was a small common law jurisdiction with a prosperous Chinese community unencumbered by majority cultural norms of Judeo-Christian origin, except as imposed on them by their now departed British colonial rulers. In Hong Kong, the then territory's law reform commission supported the Wolfenden principles and favoured their introduction in that colony[36]. The change was effected in 1990 after vigorous advocacy by the local homosexual community and its friends. However, the course of reform in Singapore was less favourable.

In 2006, the Law Society of Singapore delivered a report proposing repeal of s377A of the *Singapore Penal Code*. However, a fiery debate ensued in the Singapore Parliament Members supported the retention of the colonial provision on the basis that it contributed to "social cohesiveness". The reform bill was rejected, although the Prime Minister made it clear that the laws "would not generally be enforced", so long as victims preserved a low profile and observed the requirements of 'don't ask don't tell'.

THE FUTURE

The last decade, throughout the world (but mainly in Commonwealth countries) has seen progress in fits and starts to abolish the inherited criminal laws against LGBTIQ people. Undoubtedly, the most important move came in India. It began in 2009 when the Delhi High Court found that the provisions of section 377 of the IPC, in so far as they purported to criminalise adult consensual sexual conduct in private, were invalid under the *Indian Constitution*.[37] The judges found that the provisions

[36] Law Reform Commission of Hong Kong, *Laws Governing Homosexual Conduct*, (1982).

[37] *Naz Foundation v Union of India* [2009] 4 LRC 846 (Delhi HC).

violated the constitutional guarantees of equality and privacy. The decision was immediately appealed to the Supreme Court of India. Initially, that court upheld the appeal. It set aside the declaration of invalidity.[38] This outcome was a great shock in India and the world. However, in its turn, it was challenged in fresh proceedings in the Supreme Court.

In September 2018, that court unanimously restored the declaration of invalidity basically on the same constitutional principles.[39] Misra CJ declared that everyone had the right to live with dignity. This was upheld by international human rights law and by the Constitution of India. The right to enter into private sexual adult relationships had to be secured against undue intrusion by the state.[40] The importance of the Indian decision rested not only on the protection of the rights of sexual minorities in India. Many criminal codes in other countries followed the Indian provision. The constitutional requirements invoked had parallels in many newly independent states.

A momentum was built up following the line of authority in India. In Belize the Court of Appeal, headed by Benjamin CJ, found that the relevant provisions of the criminal code were unconstitutional and inapplicable to the consenting sexual conduct of adults in private.[41]

Favourable court decisions followed in Seychelles, Botswana, and in the matter of equal marriage rights, in Taiwan, China. On the other hand, a number of test cases challenging criminal offences on constitutional

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38 *Suresh Kumar Koushal v Naz Foundation* [2014] 2 LRC 555 (SCI).

39 *Johar v Union of India* [2020] 1 LRC 1 (SCI).

40 [2020] 1 LRC 1 at [196].

41 *Caleb Orozco v Attorney-General* (Court of Appeal of Belize).

grounds, failed. This occurred in Uganda; Kenya; Singapore; and in Zambia (although in some of these cases appeals were brought and are pending).

Marriage equality litigation has also enjoyed mixed success. In the United States, the Supreme Court (by majority) upheld the constitutional right to equal marriage.[42] However, an attempt in Australia to secure judicial intervention to mandate marriage equality, failed.[43] That decision was later reversed after a voluntary survey on marriage equality resulted in a large majority in favour of marriage equality, leading to amendment to the *Marriage Act* by the Australian Parliament.[44] What began as a truly exceptional legislative measure in the Netherlands in 2000, expanded to the widespread adoption of marriage equality, either by legislation or judicial decisions. Today equal rights to marriage for LGBTIQ couples are enshrined in law in 29 countries. A similar indication of changing attitudes can be seen in the successive votes in favour of the continuance of the office of the United Nations Independent Expert on Sexual Orientation and Gender Identity. Despite vigorous opposition to the retention of the office, the successive votes in the Human Rights Council; and the General Assembly of the United Nations have been increasingly in favour of the retention of the office.[45]

By the same token, hostility towards LGBTIQ status remains strong in Africa, the Caribbean and parts of Asia. A particularly disappointing feature has been the drift of Indonesia, formerly regarded as tolerant on

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42 *Obergefell v Hodges* 576 US 644 (USSC).

43 *The Commonwealth v Australian Capital Territory* (2013) 250 CLR 441.

44 *Marriage Amendment (Definition and Religious Freedoms) Act* 2017 (Cth).

45 M.D. Kirby, "A Close and Curious Vote Upholds the New UN Mandate on Sexual Orientation and Gender Identity" [2017] EHRLR Issue 1201, 2017.

this issue, into serious opposition.[46] The repeated refusal of the courts in Singapore to interpret constitutional norms broadly has demonstrated the frustrating failure of "democracy" in that city state to respect a minority, despite other features of modernism and communitarianism.[47]

Civil society organisations[48] and initiatives of Commonwealth[49]; United Nations[50] and academic leadership continue to struggle in support of full legal equality for all LGBTIQ people. Every month or so a legislative or judicial breakthrough is celebrated.[51] However, this is then counterbalanced by defeat in a legislature or an appellate court.[52]

The journey of human rights and justice is a long one. It is accompanied by tears and disappointments. However, if LGBTIQ minorities have proved anything about themselves over the past 50 years it must be their resilience, determination and commitment to equality where that matters. Many achievements in the law have been noted. More remain to be secured. The law which was, for centuries, an oppressor of sexual minorities, is now increasingly seen as a protector and guardian. But the road is long, and the fears, shame and violence remain prevalent. No

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46 Sharyl Graham Davies, "Indonesian 'tolerance' under strain as anti-LGBT furore grows", Asian Studies Association of Australia.

47 K. Ya Lan Chang, "The Communitarian Case for Decriminalising Male Homosexuality for Singapore's Common Good" (2019) 20 *Asia Pacific Journal of Human Rights and the Law,* 90.

48 Such as APCOM, based in Bangkok.

49 Commonwealth of Nations, Eminent Persons Group, *A Commonwealth of the People – Time for Urgent Reform* (Perth), October 2011, 102 (Rec 60). See also *Charter of the Commonwealth* (2013), para II ("Human Rights"): "We are committed to the Universal Declaration of Human Rights… We are committed to equality and respect for the protection and promotion of civil, political economic, social and cultural rights… for all without discrimination on any grounds as the foundation of peaceful, just and stable societies. … These rights are universal, indivisible, interdependent and interrelated and cannot be implemented selectively."

50 United Nations Development Programme, Global Commission on HIV and the Law, *Risks, Rights & Health* (July 2012,) 47.

51 Such as the recent decision of Gabon to decriminalise homosexuality: https://qnews.com.au/african-nation-of-gabon-decriminalises-homosexuality/.

52 Asian Jurist: "Concern about Brunei Laws – Statement issued on the Syariah Penal Code in Brunei" (November 2019), 92. See also L. Wakefield, "A gay couple in Zambia have been sentenced to 15 years in prison for the crime of loving one another." *Pink News*, December 2, 2019.

one can be satisfied until equality, justice and human rights for all have been attained.